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Federal Register

Thursday
December 20, 1979

NOTE:

Due to a shortage of newsprint, today's **Federal Register** is printed on a higher quality paper. As supplies become available, the **Federal Register** will resume the use of newsprint.

Highlights

- 75405 Improving Government Regulations** PBGC publishes semiannual agenda of significant regulations under development
- 75384 Natural and Other Gas** DOT/MTB establishes the monitoring requirements for testing short sections of transmission pipelines on a sampling basis to determine effectiveness of cathodic protection in controlling corrosion; effective 12-20-79
- 75535 Nuclear Industry** NRC and Justice/FBI issue memorandum of understanding for cooperation regarding threat, theft, or sabotage
- 75393 Banks and Banking** FRS proposes policy statement for assessing financial factors in the formation of small one-bank holding companies; comments by 1-31-80
- 75379 Federal Credit Unions** NCUA adopts maximum dividend rates for share accounts and share certificate accounts; effective 1-1-80
- 75399 Securities** SEC proposes filing and disclosure requirements relating to beneficial ownership; comments by 2-15-80

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Highlights

- 75558 Aircraft Operating Noise Limits** DOT/FAA issues compliance plans and expanded definition of replacement airplanes; effective 12-20-79 (Part III of this issue)
- 75385 Lamps, Reflective Devices, and Associated Equipment** DOT/NHTSA amends safety standards
- 75522 Women's Educational Equity Act Program** HEW/OE withdraws closing date for general and small grants applications
- 75408 Disaster Assistance** FEMA proposes guidelines for State and local governments and qualifying private nonprofit institutions; comments by 2-19-80
- 75519 Age Discrimination Prohibition** EPA gives notice of July 1, 1979 effective date under all programs receiving EPA assistance
- 75576 Temporary Housing** FEMA issues rules prescribing pre-termination procedure; effective 12-20-79 (Part V of this issue)
- 75382 Exports to Rhodesia** Commerce/ITA lifts embargo on exports; effective 12-17-79
- 75552 Negotiated Contracts** DOT/FHWA amends rules regarding procedures for administration; effective 1-21-80 (Part II of this issue)
- 75546 Privacy Act** DOD/Uniformed Services University of the Health Sciences issues notice of amended system of records
- 75530 Privacy Act** Justice Department publishes document affecting systems of records
- 75528, 75392 Privacy Act** Japan-U.S. Economic Relations Group publishes documents affecting systems of records and access regulations (2 documents)
- 75612 High Cost Natural Gas** DOE/EIA issues alternative fuel price ceilings and incremental price threshold (Part VIII of this issue)
- 75549 Sunshine Act Meetings**

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Rules and Regulations

Federal Register

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75355

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 16

[Amdt. 14]

Restrictions on the Importation of Meat from Nicaragua, Honduras, Australia, and New Zealand

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the final rules published on December 10, 1979 (44 FR 70707) regarding limitations on the importation of certain meats from Nicaragua, Honduras, Australia, and New Zealand, respectively. Imports of such meat from Nicaragua, Honduras, Australia, and New Zealand were previously limited to 67.9, 49.7, 873.8, and 358.8 million pounds, respectively, for calendar year 1979 in order to carry out the 1979 restraint program, including the agreements entered into by the United States with Nicaragua, Honduras, Australia, and New Zealand pursuant to Section 204 of the Agricultural Act of 1956 limiting the export from Nicaragua, Honduras, Australia, and New Zealand and the importation into the United States of certain meats. This amendment increases this limitation to 68.4 million pounds for Nicaragua, 50.1 million pounds for Honduras, 880.7 million pounds for Australia, and 361.7 million pounds for New Zealand for calendar year 1979 in view of the changes which have been made in the restraint levels for various countries participating in the 1979 restraint program. The global level of imports has not been changed.

EFFECTIVE DATE: December 20, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

Bryant Wadsworth (FAS), 202-447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.). 12044.

Effective Date

Meat released under the provisions of sections 448 (b) and 484(a)(1)(A) of the Tariff Act of 1930 19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484 (A)(1)(A) (entry)) prior to (December 20, 1979) shall not be denied entry.

Accordingly, Section 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended as follows:

§ 16.5 [Amended]

1. In paragraph (a), imports from Nicaragua, "67.9 million pounds" is deleted and "68.4 million pounds" is inserted in lieu thereof.

2. In paragraph (b), imports from Honduras, "49.7 million pounds" is deleted and "50.1 million pounds" is inserted in lieu thereof.

3. In paragraph (c), imports from Australia and New Zealand, "873.8 and 358.8 million pounds", respectively, is deleted and "880.7 and 361.7 million pounds", respectively, is inserted in lieu thereof.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733))

Issued at Washington, D.C. this 18th day of December, 1979.

Dale E. Hathaway,

Acting Secretary.

[FR Doc.79-39207 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-10-M

7 CFR Part 16

[Amdt. 13]

Restrictions on the Importation of Meat From Costa Rica, Dominican Republic, and Guatemala

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The regulation set forth in this Subpart is amended to limit imports of certain meats from Costa Rica, Dominican Republic, and Guatemala to no more than 71.1, 3.5, and 33.0 million pounds, respectively, during calendar year 1979. Such action is necessary to carry out the 1979 restraint program, including the agreement entered into by the United States with Costa Rica, Dominican Republic, and Guatemala pursuant to Section 204 of the Agricultural Act of 1956, limiting the export from Costa Rica, Dominican Republic, and Guatemala and the importation into the United States of certain meats.

EFFECTIVE DATE: December 20, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

Bryant Wadsworth (FAS), 202-447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

This regulation establishes quantitative restrictions applicable to meat imported from Costa Rica, Dominican Republic, and Guatemala which may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly, at the level of 71.1, 3.5, and 33.0 million pounds, respectively, during calendar year 1979.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore this regulation falls within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and Executive Order 12044.

Effective Date

Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484(a)(1)(A) (entry)) prior to December 20, 1979 shall not be denied entry.

Accordingly, § 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended to add paragraphs (d), (e) and (f) which read as follows:

§ 16.5 Quantitative restrictions.

(d) Imports from Costa Rica. During calendar year 1979, no more than 71.1 million pounds of meat, exported for Costa Rica in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Costa Rica to the United States.

(e) Imports from the Dominican Republic. During calendar year 1979, no more than 3.5 million pounds of meat, exported from the Dominican Republic in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from the Dominican Republic to the United States.

(f) Imports from Guatemala. During calendar year 1979 no more than 33.0 million pounds of meat, exported from Guatemala in the form in which it would fall within the definition of meat TSUS 106.10 or 106.20 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Guatemala to the United States.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733))

Issued at Washington, D.C. this 18th day of December, 1979.

Dale E. Hathaway,

Acting Secretary.

(FR Doc. 79-39208 Filed 12-19-79, 8:45 am)

BILLING CODE 3410-10-M

Federal Crop Insurance Corporation

7 CFR Parts 401 and 434

Tobacco (Dollar Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring tobacco under the "Dollar Plan" effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring tobacco in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the Federal Register on October 25, 1979 (44 FR 61352), outlining prescribed procedures for insuring tobacco under the "Dollar Plan" effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 434 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring tobacco under the "Dollar Plan" effective with the 1980 crop year to be known as 7 CFR Part 434 Tobacco (Dollar Plan) Crop Insurance.

All previous regulations applicable to insuring tobacco crops under the "Dollar Plan" as found 7 CFR 401.101-401.111, and 401.141, will not be applicable to 1980 and succeeding tobacco crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) tobacco insurance policies issued under the "Dollar Plan" for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring tobacco crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 434 provides: (1) For a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) That any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (3) That the time period for submitting a notice of loss be extended from 15 days to 30 days, (4) That the 60-day time period for filing a claim be eliminated, (5) That three coverage level options be offered in each county, (6) That the cancellation date be changed to December 31 in all tobacco insurance counties under this plan to coincide with all other spring crops in these tobacco areas, and (7) For an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 434.5 of these regulations, wherein

the Manager of the Corporation is authorized to take action to grant relief.

Under the provisions of Executive Order No. 12044, and the Administrative Procedures Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where tobacco crop insurance is available in accordance with the provisions of 7 CFR 434.1 outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the rulemaking process would be impracticable, unnecessary, and contrary to the public interest.

Therefore, Appendix "B" is issued without compliance with such procedure.

Final Rule

PART 401—FEDERAL CROP INSURANCE

§ 401.141 [Reserved]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.141, with the provisions contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 434 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 434) to be known as the Tobacco (Dollar Plan) Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 434—DOLLAR PLAN OF TOBACCO CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

- 434.1 Availability of the Dollar Plan of Tobacco Insurance.
 - 434.2 Premium rates, amounts of insurance, and coverage levels.
 - 434.3 Public notice of indemnities paid.
 - 434.4 Creditors.
 - 434.5 Good faith reliance on misrepresentation.
 - 434.6 The contract.
 - 434.7 The application and policy.
- Appendix B—Counties Designated for Dollar Plan of Tobacco Crop Insurance.
Authority: Secs. 506, 516, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516)

§ 434.1 Availability of the dollar plan of tobacco insurance

Insurance shall be offered under the provisions of this subpart on tobacco in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which the dollar plan of tobacco insurance will be offered.

§ 434.2 Premium rates, amounts of insurance, and coverage levels.

(a) The Manager shall establish premium rates, amounts of insurance, and coverage levels for tobacco which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level from among those levels shown on the actuarial table for the crop year.

§ 434.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 434.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 434.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the dollar plan of tobacco insurance

contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 434.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the amounts of insurance, coverage levels, premium rates, insurable and uninsurable acreage, and applicable dates. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 434.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the tobacco crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of

applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and the Dollar Plan of Tobacco Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Dollar Plan of Tobacco Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application For 19— and Succeeding Crop Years

Dollar Plan of Tobacco Crop Insurance Contract

(Contract Number) _____
(Identification Number) _____
(Name and Address) _____
(Zip Code) _____
(County) _____
(State) _____
(Type of Entity) _____
Applicant is over 18 Yes— No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the tobacco planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level. THE PREMIUM RATES AND AMOUNTS OF INSURANCE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.
LEVEL ELECTION _____

Example: For the 19— Crop Year Only (100% Share)

Location/ Amount of Premium
Farm No. Insurance Per \$100** Practice
Per Acre*

*Your guarantee will be based on the unit (acres x dollar amount x share).
**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following dollar plan of tobacco insurance policy, the attached appendix, and the provisions of the county actuarial table showing the amounts of insurance, coverage levels, premium rates, insurable and uninsurable acreage, and applicable dates shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./Witness To Signature) _____

(Signature of Applicant) _____

(Date) _____, 19____

Address of Office for County: _____

Phone _____

Location of Farm Headquarters: _____

Phone _____

Dollar Plan of Tobacco Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss that are shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not

specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be tobacco of the type shown as insurable on the actuarial table and which is grown on insured acreage and for which the actuarial table shows an amount of insurance and premium rate.

(b) The acreage insured for each crop year shall be that acreage planted to an insurable tobacco type on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) on which it is determined by the Corporation the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture, (3) which is destroyed and after such destruction it was practical to replant to tobacco and such acreage was not replanted, (4) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (5) planted to tobacco of a discount variety under the provisions of the tobacco price support program, (6) planted to a type or variety of tobacco not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) planted for experimental purposes.

3. *Responsibility of Insured To Report Acreage and Share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of insurable types of tobacco planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Amounts of Insurance and Coverage Levels.* (a) For each crop year of the contract, the dollar amounts of insurance and coverage levels shall be those shown on the actuarial table.

(b) In addition to the provisions contained in section 10 of the appendix, if for any crop year the support price per

pound is reduced 10 percent or more below the support price per pound for the previous crop year, the dollar amounts of insurance per acre for the current crop year shall be adjusted by multiplying the support price per pound (rounded to the nearest cent, less warehouse charges as determined by the Corporation) for the current crop year by the amount in pounds per acre shown on the actuarial table for this purpose: *Provided, however*, That where a tobacco price support program is not in effect for the kind of tobacco which includes the insured type for any crop year, the amounts in pounds per acre shown on the actuarial table will be multiplied by the market price for that crop year to determine the amount of insurance per acre for such crop year.

5. *Annual Premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the dollar amount of insurance per acre, times the applicable premium rate, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14 15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year														
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55 50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65 60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75 70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85 80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100 100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14 15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year														
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124 126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148 152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196 204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222 232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248 260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274 288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300 300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300 300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300 300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300 300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period*. Insurance on insured acreage shall attach at the time the tobacco is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) weighing in at the tobacco warehouse, (c) removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse), (d) total destruction of the insured tobacco crop, (e) the applicable date set forth below, according to type of tobacco, immediately following the normal harvest period:

Type of tobacco:	
11	Dec. 31.
12	Nov. 30.
13	Oct. 31.
14	Sept. 30.
31, 35 and 36	Feb. 28.
All other types	Mar. 31.

7. *Notice of Damage or Loss*. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the tobacco on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the

consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to tobacco. Notice shall also be given when such acreage has been put to another use.

(c) Notice shall be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(d) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice shall be given to allow the Corporation sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(e) For any unit of tobacco of type 11, 12, 13 or 14 on which an indemnity is to be claimed and the tobacco stalks are to be destroyed before such notice would otherwise be required under the contract, notice of loss shall be given the Corporation upon completion of harvest. The tobacco stalks shall not be destroyed until consent is given by the Corporation.

(f) In addition to the notices required in subsections (b), (c), (d), and (e) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date marketing or other disposal of the insured tobacco is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire tobacco crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(g) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed, shall be left intact until inspected by the Corporation.

(h) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity*. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of tobacco on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the corporation.

(b) indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of tobacco on the unit by the applicable amount of insurance per acre, which product shall be the amount of insurance for the unit, (2) subtracting therefrom the value of the total production to be counted for the unit as provided further in this section, and (3) multiplying the remainder by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The value of the total production to be counted for a unit shall be determined by the Corporation and shall include the value of all harvested and appraised production.

(1) The value of appraised production to be counted shall include: (i) the value of any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (ii) not less than the applicable amount of insurance for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause and (iii) not less than 35 percent of the amount of insurance for all other unharvested acreage.

(2) Production to count shall be valued as follows: (i) The gross returns (less actual warehouse charges) from tobacco sold on the warehouse floor, (ii) The fair market value, as determined by the Corporation, of the tobacco sold other than on the warehouse floor, (iii) The fair market value, as determined by the Corporation, of the tobacco harvested and not sold, (iv) The fair market value, as determined by the Corporation, of any unharvested tobacco as if such tobacco were harvested and cured, and (v) The current year's support price per pound (less warehouse charges as determined by the Corporation) for appraisals made by the Corporation for poor farming practices or uninsured causes of loss: *Provided, however*, That if a price support program is not in effect, such appraised production shall be valued at the market price for the current crop year.

(d) To enable the Corporation to determine the fair market value of tobacco not sold through auction warehouses, the Corporation shall be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of by the

insured and, if the best offer received by the insured for any such tobacco is considered by the Corporation to be inadequate, to obtain additional offers therefor on behalf of the insured.

(e) The stalks on any insured acreage of tobacco types 11, 12, 13, or 14 shall not be destroyed until consent is given by the Corporation. For any such acreage on which the stalks have been destroyed prior to such consent, the Corporation reserves the right to make an appraisal on such acreage of not less than the amount of insurance per acre.

(f) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of indemnity under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of tobacco becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Other Insurance Against Fire*. If the insured has other insurance, whether valid or not, against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of either (a) the amount of indemnity determined pursuant to this contract without regard to any other insurance, or (b) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before the fire and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

10. *Misrepresentation and Fraud*. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Insured Share*. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the

transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

12. *Records and Access to Farm*. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

13. *Life of Contract: Cancellation and Termination*. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

States	Cancellation date	Termination Date for Indebtedness
All States.....	Dec. 31	Mar. 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—Additional Terms and Conditions

1. *Meaning of Terms*. For the purposes of tobacco crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the amounts of insurance, coverage levels, premium rates, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period within which the tobacco crop is normally grown and shall be designated by the calendar year in which the tobacco crop is normally harvested.

(e) "Harvest" mean cutting or priming of at least 20 percent of the amount of tobacco in pounds per acre shown on the actuarial table for such purpose.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "Market price," for a crop year in the case of tobacco (1) types 11, 12, 13, 14, 21, 22, 23, 31, 32, 35, and 36, means the average auction price for the applicable type (less warehouse charges) in the belt or area as determined by the Corporation, and (2) types 41, 54, and 55, means the average price for the applicable type in the belt or area as determined by the corporation. The market price when determined by the corporation shall be filed in the office for the county with the actuarial table.

(i) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(j) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(k) "Planting" means transplanting the tobacco plant from the bed to the field.

(l) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured tobacco crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(m) "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program: *Provided, however*, That for any crop year in which a price support for the insured type is not in effect, the market price for that crop year shall be used in lieu thereof.

(n) "Tenant" means a person who rents land from another person for a share of the tobacco crop or proceeds therefrom.

(o) "Unit" means all insurable acreage in the county of an insurable type of tobacco planted on a farm or farms for which a single

farm acreage allotment and/or a single poundage marketing quota for the insurable type of tobacco is established and at the time of planting (1) the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis: *Provided, however*, That where a tobacco price support program is not in effect for the insurable type of tobacco for any crop year, the above words "planted on a farm or farms for which a single farm acreage allotment and/or a single poundage marketing quota for the insurable type of tobacco is established" shall be disregarded. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of tobacco to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of tobacco.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where acreage is insurable on an irrigated basis, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

(c) Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated by such practice at the time the acreage is reported.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the

contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured tobacco acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force

through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level.* (a) If the insured has not elected on the application a coverage level from among those shown on the actuarial table, the coverage level which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 13 of the policy.

Appendix "B"

Counties Designated for Dollar Plan Crop Insurance—7 CFR Part 434

In accordance with the provisions of 7 CFR 434.1, the following counties are designated for Dollar Plan tobacco insurance:

State and county	Type(s)
Georgia:	
Appling.....	14
Atkinson.....	14
Bacon.....	14
Ben Hill.....	14
Bornien.....	14
Brantley.....	14
Bulloch.....	14
Candler.....	14
Coffee.....	14
Colquitt.....	14
Cook.....	14
Decatur.....	14
Emanuel.....	14
Evans.....	14
Grady.....	14
Inwin.....	14
Jeff Davis.....	14
Lincoln.....	14
Mitchell.....	14
Pierce.....	14
Tattnall.....	14
Tift.....	14
Toombs.....	14
Turner.....	14
Ware.....	14
Wayne.....	14
Wheeler.....	14
Worth.....	14

State and county	Type(s)	State and county	Type(s)
Kentucky:		Virginia:	
Adair.....	31	Amelia.....	11a, 21
Allen.....	35	Appomattox.....	11a, 21
Caldwell.....	22, 35	Brunswick.....	11a, 21
Calloway.....	23, 35	Campbell.....	11a, 21
Christian.....	22, 35	Charlotte.....	11a, 21
Daviess.....	36	Cumberland.....	11a, 21
Graves.....	23, 35	Dinwiddie.....	11a, 21
Henderson.....	36	Franklin.....	11a
Hopkins.....	36	Greensville.....	11a
Logan.....	22, 35	Halifax.....	11a
McLean.....	36	Henry.....	11a
Marshall.....	23, 35	Lunenburg.....	11a, 21
Muhlenburg.....	22, 35	Mecklenburg.....	11a
Ohio.....	36	Patrick.....	11a, 21
Simpson.....	22, 35	Nottingham.....	11a
Todd.....	22, 35	Pittsylvania.....	11a
Trigg.....	22, 35	Prince Edward.....	11a, 21
Warren.....	31	Prince George.....	11a
Webster.....	35	Southampton.....	11a
North Carolina:		Suffolk.....	11a, 21
Alamance.....	11a	Sussex.....	11a
Alexander.....	11a	Wisconsin:	
Beaufort.....	12	Crawford.....	55
Bertie.....	12	Dane.....	54
Bladen.....	13	Lacrosse.....	55
Brunswick.....	13	Monroe.....	55
Carteret.....	12	Richland.....	55
Caswell.....	11a	Trempealeau.....	55
Chatham.....	12	Vernon.....	55
Chowan.....	12		
Columbus.....	13		
Craven.....	12		
Cumberland.....	13		
Davidson.....	11a		
Davie.....	11a		
Duplin.....	12		
Durham.....	11b		
Edgecombe.....	12		
Forsythe.....	11a		
Franklin.....	11b		
Gates.....	12		
Granville.....	11b		
Greene.....	12		
Guilford.....	11a		
Halifax.....	12		
Harnett.....	11b		
Hartford.....	12		
Hoke.....	13		
Iredell.....	11a		
Johnston.....	12		
Jones.....	12		
Lee.....	11b		
Lenoir.....	12		
Martin.....	12		
Montgomery.....	11b		
Moore.....	11b		
Nash.....	12		
Northampton.....	12		
Onslow.....	12		
Orange.....	11b		
Pamlico.....	12		
Pender.....	12		
Person.....	11a		
Pitt.....	12		
Randolph.....	11a		
Richmond.....	11b		
Robeson.....	13		
Rockingham.....	12		
Sampson.....	12		
Scotland.....	13		
Stokes.....	11a		
Surrey.....	11a		
Vance.....	11b		
Wake.....	11b		
Warren.....	11b		
Washington.....	12		
Wayne.....	12		
Wilkes.....	11a		
Wilson.....	12		
Yadkin.....	11a		
South Carolina:			
Colleton.....	13		
Tennessee:			
Dickson.....	22		
Henry.....	23, 35		
Macon.....	35		
Montgomery.....	22		
Robertson.....	22, 35		
Stewart.....	22		
Sumner.....	22, 35		
Weakley.....	23, 35		

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the Federal Register on October 25, 1979 (44 FR 61366), outlining prescribed procedures for insuring tobacco under the "Guaranteed Production Plan" effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 436 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring tobacco under the "Guaranteed Production Plan" effective with the 1980 crop year to be known as 7 CFR Part 436 Tobacco (Guaranteed Production Plan) Crop Insurance.

All previous regulations applicable to insuring tobacco crops under the "Guaranteed Production Plan" as found 7 CFR 401.101-401.111, and 401.145, will not be applicable to 1980 and succeeding tobacco crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) tobacco insurance policies issued under the "Guaranteed Production Plan" for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring tobacco crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 436 provides: (1) For a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) That any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (3) That the time period for submitting a notice of loss be extended from 15 days to 30 days, (4) That the 60-day time period for filing a claim be eliminated, (5) That three coverage level options be offered in each county, (6) That the insurance will be offered as a guaranteed production with a poundage guarantee per acre and a price election per pound, (7) That adjustments for quality will be made when the price received is less than the market price, (8) That the cancellation date shall be

These regulations have been reviewed under the USDA Criteria established to implement Executive Order No. 12044, "Improving Government Regulations". A determination has been made that this action should not be classified as "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A-40.

Dated: December 12, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38883 Filed 12-19-79; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Parts 401 and 436

Tobacco (Guaranteed Production) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring tobacco under the "Guaranteed Production Plan" effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring tobacco in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

December 31 to coincide with all other spring crops in the tobacco areas, and (9) For an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 436.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

Under the provisions of Executive Order No. 12044, and the Administrative Procedures Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where tobacco crop insurance is available in accordance with the provisions of 7 CFR 436.1 outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the rulemaking process would be impracticable, unnecessary, and contrary to the public interest.

Therefore, Appendix "B" is issued without compliance with such procedure.

Final Rule

PART 401—FEDERAL CROP INSURANCE

§ 401.145 [Reserved]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.145, with the provisions contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 436 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 436) to be known as the Tobacco (Guaranteed Production) Crop Insurance Regulations, which shall remain in effect, until

amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 436—GUARANTEED PRODUCTION PLAN OF TOBACCO / CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

- 436.1 Availability of Guaranteed Production Plan of Tobacco Insurance.
436.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
436.3 Public notice of indemnities paid.
436.4 Creditors.
436.5 Good faith reliance on misrepresentation.
436.6 The contract.
436.7 The application and policy.

Appendix B. Counties Designated for Guaranteed Production Plan of Tobacco Crop Insurance

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

§ 436.1 Availability of guaranteed production plan of tobacco insurance.

Insurance shall be offered under the provisions of this subpart on tobacco in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which the guaranteed production plan of tobacco insurance will be offered.

§ 436.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for tobacco which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 436.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 436.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 436.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the guaranteed production plan of tobacco insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 436.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 436.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such

person's insurable share in the tobacco crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and the Guaranteed Production Plan of Tobacco Crop Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Guaranteed Production Plan of Tobacco Insurance Policy are as follows:

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years

Guaranteed Production Plan of Tobacco Crop Insurance Contract

(Contract Number) _____
(Identification Number) _____
(Name and Address) _____
(ZIP Code) _____
(County) _____
(State) _____

Type of Entity—Applicant Is Over 18
Yes—No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the tobacco planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant effects from the actuarial table the

coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

LEVEL ELECTION—

PRICE ELECTION—

Example: For the 19— crop year only (100% share).

Location/ farm no.	Guarantee per acre*	Premium per acre**	Practice
-----------------------	------------------------	-----------------------	----------

* Your guarantee will be on a unit basis (acres x per acre guarantee x share).

** Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following guaranteed production plan of tobacco insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./Witness to Signature)

(Signature of Applicant)

_____, 19—

(Date)

Address of office for county:

Phone

Location of Farm Headquarters:

Phone

Guaranteed Production Plan of Tobacco Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period,

subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be tobacco of the type shown as insurable on the actuarial table and which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage planted to an insurable tobacco type on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) on which it is determined by the Corporation that the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture, (2) planted to tobacco of a discount variety under the provisions of the tobacco price support program, (3) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (4) which is destroyed and after such destruction it was practical to replant to tobacco and such acreage was not replanted, (5) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (6) planted to a type or variety of tobacco not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) of tobacco grown for experimental purposes.

3. *Responsibility of Insured To Report Acreage and Share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of insurable types of tobacco planted in the county

(including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by 35 percent for any unharvested acreage.

5. *Annual Premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

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% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio ^{1/} Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Number of Loss Years Through Previous Year ^{2/}															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio ^{1/} Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

^{1/} Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

^{2/} Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

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(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach at the time the tobacco is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) weighing-in at the tobacco warehouse or removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse), (c) March 31 immediately following the normal harvest period, or (d) total destruction of the insured tobacco crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the tobacco on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to tobacco. Notice shall also be

given when such acreage has been put to another use.

(c) Notice shall be given immediately if any insured tobacco is destroyed or damaged by fire during the insurance period.

(d) In addition to the notices required in subsections (b) and (c) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date marketing or other disposal of the insured tobacco is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire tobacco crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(e) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed, shall be left intact until inspected by the Corporation.

(f) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of tobacco on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of tobacco on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of tobacco to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Any production which, due to insurable causes occurring during the insurance period, has a value of less than the market price for tobacco of the same type shall be adjusted by (i) dividing the value per pound of such damaged tobacco by the market price and (ii) multiplying the result by the number of pounds of such damaged tobacco.

(2) Appraised production to be counted shall include: (i) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (ii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iii) only the appraisal in excess of 35 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of tobacco becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Other Insurance Against Fire.* (a) If the insured has other insurance against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of (1) the amount of indemnity determined pursuant to this contract without regard to any other insurance or (2) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance.

(b) For purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

10. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such

voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

12. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

13. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State	Cancellation Date	Termination Date For Indebtedness
All States	Dec. 31	March 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—(Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of tobacco crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the tobacco crop is normally grown and shall be designated by the calendar year in which the tobacco crop is normally harvested.

(d) "Harvest" means cutting or priming of at least 20 percent of the production guarantee per acre shown on the actuarial table.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Market price" means the average price for the applicable type of tobacco as determined by the Corporation.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Planting" means transplanting the tobacco plant from the bed to the field.

(k) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured tobacco crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit

is destroyed, as determined by the Corporation.

(1) "Tenant" means a person who rents land from another person for a share of the tobacco crop or proceeds therefrom.

(m) "Unit" means all insurable acreage of an insurable type of tobacco in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage insured.* (a) The Corporation reserves the right to limit the insured acreage of tobacco to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of tobacco.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable on an irrigated basis, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure

or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

(c) Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated by such practice at the time the acreage is reported.

4. *Annual Premium.* If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured tobacco acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c); *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the

tobacco is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; However, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change

any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 13 of the policy.

Appendix "B"

Counties Designated for Guaranteed Production Plan Crop Insurance—7 CFR Part 436

In accordance with the provisions of 7 CFR 436.1, the following counties are designated for Guaranteed Production Plan tobacco insurance:

State and county	Type(s)
Pennsylvania Lancaster.....	41

These regulations have been reviewed under the USDA Criteria established to implement Executive Order No. 12044, "Improving Government Regulations". A determination has been made that this action should not be classified as "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A-40.

Dated: December 12, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38882 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 420

[Amendment No. 1]

Grain Sorghum Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Grain Sorghum Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where grain sorghum crop insurance is available

effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Thursday, September 20, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring grain sorghum effective with the 1980 crop year (44 FR 54453-54459, September 20, 1979) listing counties where grain sorghum crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where grain sorghum crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where grain sorghum crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 533 (b) and (c)), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Grain Sorghum Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 420), is amended effective for the 1980 crop year by adding the following list of counties where grain sorghum crop insurance is available:

Autauga	ALABAMA Perry
Cochise	ARIZONA Graham
Clay	ARKANSAS Lawrence
Greene	Miller
Independence	CALIFORNIA Glenn
Butte	ILLINOIS Pulaski
Franklin	Union
Massac	

Decatur	KANSAS Hamilton
Edwards	Kiowa
Gove	Norton
Graham	
Ballard	KENTUCKY
Noxubee	MISSISSIPPI
Audrain	MISSOURI Pettis
Carroll	St. Clair
Moniteau	Warren
Osage	
Boyd	NEBRASKA Valley
Greeley	
Luna	NEW MEXICO
Pasquotank	NORTH CAROLINA
Beaver	OKLAHOMA Wagoner
Huges	
Buffalo	SOUTH DAKOTA
Henry	TENNESSEE
Brazoria	TEXAS Howard
Colorado	Jackson
Cottle	Martin
Dickens	Runnels
Fisher	Tom Green

Note.—This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: December 10, 1979.

Approved by:

George F. Vohs,

Acting Manager.

[FR Doc. 79-38874 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 421

[Amendment No. 1]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Cotton Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where cotton crop insurance is available effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Friday, September 28, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring cotton effective with the 1980 crop year (Federal Register, 44 FR 55792-55800), listing counties where cotton crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where cotton crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where cotton crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Cotton Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 421), is amended effective for the 1980 crop year by adding the following list of counties where cotton crop insurance is available:

Autauga	ALABAMA Monroe
Marengo	Perry
Cochise	ARIZONA Graham
Drew	ARKANSAS Pulaski
Miller	
Burke	GEORGIA Pulaski
Emanuel	Screven
Jefferson	Washington
Macon	
East Carroll	LOUISIANA
Lowndes	MISSISSIPPI Noxubee
Marshall	Tate
Luna	NEW MEXICO
Custer	OKLAHOMA Green
Cottle	TEXAS Jackson
Dickens	Martin
Fisher	Runnels
Howard	Tom Green

This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 10, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38875 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 424

[Amendment No. 1]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Rice Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where rice crop insurance is available effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Monday, November 26, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring rice effective with the 1980 crop year (44 FR 67349-67355, November 26, 1979) listing counties where rice crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where rice crop insurance may be offered. This amendment, as outlined

below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where rice crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Rice Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 424), is amended effective for the 1980 crop year by adding the following list of counties where rice crop insurance is available:

	ARKANSAS
Drew	Miller
Independence	Pulaski
Lawrence	
Butte	CALIFORNIA
	Glenn
Allen	LOUISIANA
	East Carroll
	TEXAS
Chambers	Jackson
Colorado	Jefferson
Harris	Liberty

Note.—This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 10, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38876 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 425

[Amendment No. 1]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Peanut Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where peanut crop insurance is available effective with the 1980 crop year. The counties listed in

this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Wednesday, November 28, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring peanuts effective with the 1980 crop year (44 FR 67953-67960, November 28, 1979), listing counties where peanut crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where peanut crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where peanut crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Peanut Crop Insurance Regulations for the 1980 and succeeding Crop Years (7 CFR Part 425), is amended effective for the 1980 crop year by adding the following list of counties where peanut crop insurance is available:

State and County and Type(s) of Peanuts Insured

Alabama: Butler.....	Runner, Southeast Spanish, Virginia.
Florida:	
Holmes.....	Do.
Jefferson.....	Do.
Georgia:	
Burke.....	Do.
Dougherty.....	Do.
Emanuel.....	Do.
Evans.....	Do.
Jefferson.....	Do.
Jenkins.....	Do.
Macon.....	Do.
Marion.....	Do.
Pulaski.....	Do.
Scriven.....	Do.
Washington.....	Do.
Webster.....	Do.
Wheeler.....	Do.

State and County and Type(s) of Peanuts Insured—Continued

North Carolina: Perquimans	Runner, Virginia.
Oklahoma: Hughes.....	Southwest Spanish.
Texas: Harris	Runner, Southwest Spanish.

Note.—This amendment has been reviewed under the USDA criteria established to implement Executive Order No 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 10, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38877 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 427

[Amendment No. 1]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Oat Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where oat crop insurance is available effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Monday, October 22, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring oats effective with the 1980 crop year (44 FR 60701-60709, October 22, 1979) listing counties where oat crop

insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where oat crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where oat crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Oat Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 427), is amended effective for the 1980 crop year by adding the following list of counties where oat crop insurance is available:

Michigan	
Isabella	Lapeer
Kent	Montcalm
Minnesota	
Kanabec	Pine
Montana	
Phillips	Valley
Nebraska	
Boyd	
New York	
Cayuga	Wayne
Genessee	
Ohio	
Coshocton	Lorain
Holmes	Stark
Pennsylvania	
Berks	Northumberland
Crawford	
South Dakota	
Buffalo	Ziebach
Harding	
Texas	
Colorado	Fisher
Cottle	Harris
Wisconsin	
Door	Shawano
Green Lake	Washington
Juneau	Waupaca
Marquette	Waushara
Oconto	

Note.—This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 12, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-39070 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 428

[Amendment No. 1]

Sunflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Sunflower Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where sunflower crop insurance is available effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Monday, November 26, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring sunflowers effective with the 1980 crop year, (Federal Register) 44 FR 67355-67361), listing counties where sunflower crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where sunflower crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where sunflower crop insurance is available, and since

producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Sunflower Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 428), is amended effective for the 1980 crop year by adding the following list of counties where sunflower crop insurance is available:

MINNESOTA	
Chippewa	Pope
Douglas	Roseau
Lac Qui Parle	Stevens
Lincoln	Swift
Lyon	Yellow Medicine
NORTH DAKOTA	
Adams	McLean
Benson	Mountrail
Burke	Pierce
Burleigh	Ramsey
Cavalier	Renville
Divide	Rollette
Grant	Sheridan
Hettinger	Towner
Kidder	Ward
McHenry	Williams
McIntosh	
SOUTH DAKOTA	
Brookings	Edmunds
Brown	Grant
Clark	Marshall
Codington	Spink
Deuel	Sully

This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 10, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38878 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 431

[Amdt. No. 1]

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Soybean Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where soybean crop insurance is available effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Thursday, November 8, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring soybeans effective with the 1980 crop year (Federal Register, 44 FR 64786-64794), listing counties where soybean crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where soybean crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where soybean crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), and Executive Order No. 12044.

Final Rule.

Accordingly, Appendix "B" of the Soybean Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR 431), is amended effective for the 1980 crop year by adding the following list of counties where soybean crop insurance is available:

Alabama	
Autauga	Mobile
Cherokee	Monroe
Cullman	Perry
Marengo	Pickens
Arkansas	
Drew	Miller
Independence	Pulaski

Florida	
Holmes	Okaloosa
Jefferson	
Georgia	
Brooks	Marion
Burke	Peach
Crawford	Pulaski
Dougherty	Screven
Emanuel	Sumter
Evans	Thomas
Floyd	Washington
Jefferson	Webster
Jenkins	Wheeler
Macon	

Illinois	
Alexander	Lake
Calhoun	Massac
DuPage	Pope
Edwards	Pulaski
Franklin	Saline
Gallatin	Union
Jackson	Wabash

Indiana	
Clark	Pike
Dubois	Porter
Harrison	St. Joseph
Jefferson	Spencer
Jennings	Starke
Lake	Steuben
Lawrence	Vanderburgh
Orange	Warrick
Owen	Washington

Kansas

Edwards

Kentucky

Ballard	Logan
Breckinridge	Todd
Christian	Warren
Hardin	Webster
Hickman	

Louisiana

Allen	St. Martin
East Carroll	Vermilion

Maryland

Carroll	Dorchester
Cecil	

Michigan

Isabella	Montcalm
Midland	

Mississippi

Alcorn	Noxubee
Lowndes	Tate
Marshall	

Missouri

Moniteau	St. Clair
Osage	Warren

North Carolina

Duplin	Perquimans
Franklin	Rowan
Lenoir	Sampson
Nash	Tyrrell
Pasquotank	Wake

Ohio

Adams	Ross
Brown	Stark
Clermont	Warren
Lorain	

Oklahoma

Hughes	Wagoner
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Pennsylvania

Berks

South Carolina

Colleton

Tennessee

Coffee	Lawrence
Hardin	McNairy
Henderson	Robertson
Henry	

Texas

Brazoria	Jackson
Chambers	Jefferson
Colorado	Liberty
Floyd	Matagorda
Hale	Swisher
Harris	Wharton

This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 12, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-39071 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 432

[Amendment No. 1]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Corn Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where corn crop insurance is available effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department

of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Monday, November 26, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring corn effective with the 1980 crop year (Federal Register, 44 FR 67361-67369), listing counties where corn crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where corn crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where corn crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Corn Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 432), is amended effective for the 1980 crop year by adding the following list of counties where corn crop insurance is available:

ALABAMA	
Autauga	Marengo
Butler	Mobile
Cherokee	Monroe
Cullman	Perry
Madison	
ARIZONA	
Cochise	Graham
CALIFORNIA	
Butte	San Joaquin
Glenn	
FLORIDA	
Holmes	Okaloosa
Jefferson	
GEORGIA	
Brooks	Marion
Burke	Peach
Crawford	Pulaski
Dougherty	Screven
Emanuel	Sumter
Evans	Thomas
Jefferson	Washington
Jenkins	Webster
Macon	Wheeler
IDAHO	
Elmore	
ILLINOIS	
Alexander	Lake
Calhoun	Massac
DuPage	Pope
Edwards	Pulaski
Franklin	Saline
Gallatin	Union
Jackson	Wabash

Clark	Pike
Dubois	Porter
Harrison	St. Joseph
Jefferson	Spencer
Jennings	Starke
Lake	Steuben
Lawrence	Vanderburgh
Orange	Warrick
Owen	Washington

KANSAS

Stafford

KENTUCKY

Ballard	Hickman
Breckinridge	Logan
Calloway	Ohio
Graves	Warren
Hardin	Webster

MARYLAND

Carroll	Frederick
Cecil	Washington
Dorchester	

MICHIGAN

Allegan	Lapeer
Bay	Midland
Huron	Montcalm
Isabella	Sanilac
Kent	

MINNESOTA

Kanabec

MISSISSIPPI

Lowndes

Marshall

MISSOURI

Moniteau

Osage

MONTANA

Big Horn

Custer

Richland

NEBRASKA

Boyd

Box Butte

Brown

Cheyenne

Deuel

Garden

Greeley

Hayes

Jefferson

NEW MEXICO

Curry

Luna

Roosevelt

NEW YORK

Cayuga

Genesee

Livingston

Seneca

NORTH CAROLINA

Craven

Duplin

Franklin

Johnston

Jones

Lenoir

OHIO

Adams

Brown

Clermont

Coshocton

Holmes

TENNESSEE
Carroll Henry
Coffee Lawrence
Dyer McNairy
Gibson Robertson
Hardin Weakley
Henderson

TEXAS
Brazoria Jackson
Colorado Sherman
Floyd Swisher
Harris Wharton
Hartley

VIRGINIA
Halifax

WISCONSIN
Door Shawano
Green Lake Washington
Juneau Waupaca
Marquette Waushara
Oconto

This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 10, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38879 Filed 12-19-79; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 433

[Amendment No. 1]

Dry Bean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Dry Bean Crop Insurance Regulations for the 1980 and Succeeding Crop Years by adding additional counties where dry bean crop insurance is available effective with the 1980 crop year. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Thursday, November 29, 1979, the Federal Crop Insurance Corporation published regulations prescribing provisions for insuring dry beans effective with the 1980 crop year (Federal Register, 44 FR 68435-68443), listing counties where dry bean crop insurance is available in accordance with the provisions of such regulations.

On November 23, 1979, the Board of Directors approved additional counties where dry bean crop insurance may be offered. This amendment, as outlined below, amends such regulations by adding those approved counties. Since this final rule merely adds approved counties where dry bean crop insurance is available, and since producers need to be informed of these additions immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), and Executive Order No. 12044.

Final Rule

Accordingly, Appendix "B" of the Dry Bean Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR 433), is amended effective for the 1980 crop year by adding the following list of counties where dry bean crop insurance is available:

State and county	Class(es) of dry beans insured
Michigan:	
Isabella.....	Pea and medium white, light and dark red kidney, cranberry, turtle, and pinto.
Lapeer.....	Do.
Midland.....	Do.
Montcalm.....	Do.
Nebraska:	
Chase.....	Great Northern, pink, and pinton.
Keith.....	Do.
Kimball.....	Do.

This amendment has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria.

Approved by the Board of Directors on November 23, 1979.

Issued in Washington, D.C., on December 10, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: December 10, 1979.

Approved by:

George F. Vohs,
Acting Manager.

[FR Doc. 79-38880 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 471]

Navel Oranges Grown in Arizona and Designated Part of California; Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation specifies minimum and maximum size requirements for shipments of fresh navel oranges grown in Arizona and a designated part of California. The action is needed to assure shipment of navel oranges of acceptable size thereby promoting orderly marketing in the interest of producers and consumers.

DATES: Effective December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and a designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The regulation is based upon recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

These size requirements reflect the Department's appraisal of current and prospective supply and demand factors and the need for limiting the sizes of navel oranges during the period December 21, 1979, through February 14, 1980.

The 1979-80 navel orange crop is forecast at 58,000 carloads, about one-third larger than the 43,496 carloads produced in 1978-79. The committee reports that under 10 percent of the crop will be 3.70 inches in diameter or larger, and less than one percent smaller than 2.32 inches in diameter. These sizes characteristically are discounted in the markets, and tend to depress overall fresh orange prices.

The committee has estimated that about 36,500 carloads of the 58,000 carload crop will be needed to fill demand in regulated fresh market outlets. Hence, more than ample supplies of the more desirable sizes, i.e., those smaller than 3.70 inches in diameter and larger than 2.32 inches in diameter, are available to fill such demand. Oranges of the restricted sizes may be disposed of in processing and export markets.

It is concluded that the size limitations hereinafter set forth are necessary to establish and maintain orderly marketing conditions in the interest of producers and consumers pursuant to the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting on December 4, 1979. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447-5975.

Accordingly, the requirements for the handling of navel oranges are established as follows:

§ 907.771 Navel Orange Regulation 471.

(a) During the period December 21, 1979, through February 14, 1980, no handler shall handle any navel oranges grown in District 1, 2, 3, or 4 which are of a size larger than 3.70 inches in diameter or which are of a size smaller than 2.32 inches in diameter, such diameter to be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the

fruit: *Provided*, That not to exceed 5 percent, by count, of oranges in any type of container may measure larger than 3.70 inches in diameter and not to exceed 5 percent, by count, of oranges in any type of container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," and "District 4" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: December 17, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-39007 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Regulation 472; Navel Orange Regulation 470, Amendment 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 21-27, 1979, and increases the quantity of such oranges that may be so shipped during the period December 14-20, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective December 21, 1979, and the amendment is effective for the period December 14-20, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend

to effectuate the declared policy of the act.

The committee met on December 18, 1979 to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is reasonably good on larger sizes but weaker on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447-5975.

§ 907.772 Navel Orange Regulation 472.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 21, 1979, through December 27, 1979, are established as follows:

- (1) District 1: 598,000 cartons;
- (2) District 2: 49,504 cartons;
- (3) District 3: 39,000 cartons;
- (4) District 4: 13,000 cartons.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," "District 4" and "carton" mean the same as defined in the marketing order.

§ 907.770 [Amended]

2. Paragraph (a)(1), (a)(3), and (a)(4) in § 907.770 Navel Orange Regulation 470

(44 FR 72571), is hereby amended to read:

- (1) District 1: 913,000 cartons;
- (3) District 3: 105,000 cartons;
- (4) District 4: 32,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 19, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-39284 Filed 12-19-79; 12:02 pm]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Time Deposits of Insured Nonmember Commerical and Mutual Savings Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation has, in coordination with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the National Credit Union Administration, and the Department of the Treasury, decided to take the following actions with respect to the interest rate regulations:

1. The rate on deposits with maturities of ninety days or more, but less than one year, will be increased.

2. A new variable rate deposit category will be established, and

3. The IRA/Keogh deposit and public unit time deposit categories will be substantially modified.

EFFECTIVE DATE: These amendments will be effective on January 1, 1980.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney, Bank Regulation Section, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. (202-389-4324).

SUPPLEMENTARY INFORMATION: After consultation with the Board of Governors of the Federal Reserve System and with the Federal Home Loan Bank Board, the National Credit Union Administration, and the Department of the Treasury, the Board of Directors of the Federal Deposit Insurance Corporation ("Board", "FDIC") has decided to take the following actions with respect to the interest rate regulations:

The rate on time deposits with maturities of ninety days or more, but less than one year, will be increased from the present commercial bank rate of 5½ percent to 5¾ percent and from

the present mutual savings bank rate of 5¾ percent to 6 percent.

A new two and one-half year certificate of deposit with a rate indexed to the two and one-half year average rate on Treasury securities has been established. In the case of mutual savings banks, the maximum rate payable will be fifty basis points (one half of one percent) below the two and one-half year average. In the case of commercial banks, the maximum permissible rate will be seventy-five basis points (three quarters of one percent) below the Treasury average, thus, preserving the differential for this category of deposit. The new category with its shorter maturity and narrower spread between the Treasury average and the maximum rate will replace the four-year, variable rate certificate authorized by the agencies last summer. The method for establishing the rate will be the same as the method employed for the former four-year, variable rate deposit. The ceiling rate on the deposit will be established monthly for new deposits received during the month. Beginning the first day of every month, a bank will be permitted to pay interest at the applicable rate described above. That ceiling rate will remain in effect for instruments issued during that month. The ceiling rate of interest established at the time of issue will not change during the period the deposit is outstanding. Banks are permitted to compound and compute interest on the new deposit category in any manner consistent with § 329.3 of FDIC's regulations (12 CFR 329.3). The average yield will be announced three business days prior to the effective date (the first day of the month) and will represent an average of the two and one-half year yields for the previous five business days. The minimum withdrawal penalty imposed will be a forfeiture of six months' interest at the rate being paid on the deposit. While the new instrument replaces the four-year, variable rate instrument, it does not replace any fixed ceiling time deposit.

Finally, FDIC has substantially modified the IRA/Keogh and public unit deposit categories. Under the modified IRA/Keogh category, banks may, as before, pay the maximum rate of interest payable on any fixed ceiling time deposit issued by any insured nonmember bank, including a mutual savings bank, on IRA and Keogh and public unit deposits. However, banks will now be permitted to pay interest on IRA and Keogh and public unit deposits at the same rate permitted thrift institutions on six months' money market time deposits and, the new two

and one-half year variable rate deposit where such funds are deposited in that category.

The terms of existing IRA/Keogh and public unit deposits to which the amendments are applicable may not be modified until their maturity.

Pursuant to its authority under Sections 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828), 12 CFR Part 329 is amended as follows:

1. Sections 329.6(b) (1), (5) and (6) are amended as follows:

§ 329.6 Maximum rates of interest payable on time and savings deposits by insured nonmember banks other than mutual savings banks.¹³

(b) *Deposits of less than \$100,000.* (1) Except as provided in paragraphs (b) (2), (3), (4), (5), and (6) of this section, no insured nonmember bank shall pay interest on any time deposit of less than \$100,000 at a rate in excess of the applicable rate under the following schedule:

Maturity:	Maximum percent per annum
30 days or more, but less than 90 days	5¼
90 days or more, but less than 1 year	5¾
1 year or more, but less than 30 months	6
30 months or more	6½

(5) *Variable rate time deposits of less than \$100,000.* Nonmember banks may pay interest on any nonnegotiable time deposit of \$10,000 or more with a maturity of six months (26 weeks), at a rate not to exceed the rate (auction average on a discount basis) established for the most recently issued six-month Treasury bills. Rounding such rate to the next higher rate is not permissible. Nonmember banks may not compound interest during the term of this deposit. A nonmember bank may offer this category of time deposit to all depositors. However, as to deposits entered into, or renewed after January 1, 1980, a nonmember bank may pay interest on any nonnegotiable time deposit of \$10,000 or more with a maturity of 26 weeks which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(i) The United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(ii) An individual pursuant to an Individual Retirement Account

¹³ * * *

agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) sections 408, 401, at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured mutual savings bank or savings and loan association.

(6) *Variable rate time deposits with maturities of two and one half years or more.* A nonmember bank may pay interest on any nonnegotiable time deposit of two and one half years or more that is issued on or after the first day of every month at a rate not to exceed three quarters of one percent below the average two and one-half year yield for United States Treasury securities as determined and announced by the United States Treasury three business days prior to the first day of such month. The average two and one-half year yield will be rounded by the United States Department of the Treasury to the nearest five basis points. A bank may offer this category of deposit to all depositors. However, as to deposits entered into, or renewed after January 1, 1980, a nonmember bank may pay interest on any nonnegotiable time deposit with a maturity of two and one-half years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(i) The United States, a State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(ii) An individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) sections 408, 401, at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured mutual savings bank or savings and loan association.

2. Sections 329.7(b) (3) and (10) are amended as follows:

§ 329.7 Maximum rates of interest payable on deposits of insured nonmember mutual savings banks.¹⁴

(b) *Maximum rates payable.* * * * (3) *Time deposits of less than \$100,000.* Except as provided in paragraphs (b) (4), (5), (6), (7), (8), and (10) of this section, no insured nonmember mutual savings bank may pay interest or dividends on any time deposit of less than \$100,000 at a rate in

¹⁴ * * *

excess of the applicable rate under the following schedule:

Maturity:	Maximum percent per annum
90 days or more but less than 1 year	6
1 year or more but less than 30 months	6½
30 months or more	6¾

(10) *Variable rate time deposits with maturities of two and one half years or more.* A nonmember mutual savings bank may pay interest on any nonnegotiable time deposit of two and one half years or more that is issued on or after the first day of every month at a rate not to exceed one half of one percent below the average two and one-half year yield for United States Treasury securities as determined and announced by the United States Treasury three business days prior to the first day of such month. The average two and one-half year yield will be rounded by the United States Department of the Treasury to the nearest five basis points. A nonmember mutual savings bank may offer this category of deposit to all depositors.

The provisions of sections 553(b) and 553(d) of the Administrative Procedure Act (5 U.S.C. 553(b) and 553(d)) were not followed in connection with the issuance of this regulation because the regulation is essentially non-restrictive, expands rights conferred by prior regulation and the public interest is best served by its immediate issuance with a January 1, 1980 effective date.

By Order of the Board of Directors.

Dated: December 14, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-39027 Filed 12-19-79; 8:45 am]

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Unions; Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration Board has, after consulting with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the Department of Treasury, adopted the following amendments to

the maximum dividend rates payable by Federal credit unions:

(1) On a share certificate account, the maximum dividend rate is the greater of 7¼% (existing fixed rate) or 50 basis points (½%) below the average 2½-year yield for United States Treasury securities; and

(2) On a share certificate account which represents an investment of retirement account funds or of public unit funds, the maximum dividend rate is 8% (existing fixed rate) or 50 basis points (½%) below the average 2½-year yield for United States Treasury securities.

Further, the National Credit Union Administration has made a technical amendment to § 701.35(g)(3) to clarify existing policy that retirement account funds and public unit funds may be invested in a money market certificate or a share certificate account of \$100,000 or more.

EFFECTIVE DATE: January 1, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Deputy General Counsel, Office of General Counsel, at the above address. Telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: The National Credit Union Administration Board (Board) is amending its regulations governing the maximum dividend rates that may be paid on share certificate accounts. Sections 701.35(g) (2) and (3) (12 CFR 701.35(g) (2) and (3)) presently provide that Federal credit unions may pay on share certificate accounts the greater of a fixed rate (7¼% or 8%, depending on the nature of the share certificate account) or a variable rate which is structured to the average 4 year yield on United States Treasury securities. Effective January 1, 1980, Federal credit unions will be authorized to pay the greater of the same fixed rates, or 50 basis points (½%) below the average 2½-year yield on United States Treasury securities. This ceiling rate will be determined monthly and will apply to all newly issued share certificates during that month. Once issued, the ceiling rate for outstanding share certificates cannot be modified. This action compares to the new variable time deposit with a minimum maturity of 2½ years authorized for banks and savings and loan associations with a ceiling rate based on the average 2½-year yield for United States Treasury Securities in lieu of the variable time deposit currently offered and based on the average 4-year yield on United States Treasury

securities. On this new variable time deposit commercial banks are authorized a ceiling rate of 75 basis points (¾%) below the established average rate and thrifts are authorized a ceiling rate of 50 basis points (½%) below the established average rate.

This new ceiling rate will be established each month for new share certificates issued during that month. Beginning the first day of every month, Federal credit unions will be permitted to pay this new ceiling rate. The ceiling rate will remain in effect for all share certificates issued during the month. On the first day of the next month a new ceiling rate will go into effect for share certificates issued on or after that date. Federal credit unions are permitted to compound and compute interest on these share certificates in accordance with any of the methods presently authorized. The average 2½-year yield will be announced three business days prior to the effective date (the first day of the month) and will represent an average of the 2½-year yields on U.S. Treasury securities for the previous five business days.

The Board anticipates that this action will stabilize share capital flows by providing Federal credit unions with increased latitude to maximize the return on members' savings. It will enhance Federal credit unions' ability in competing for members' funds with market instruments which are not subject to interest rate limitations.

The Board has also made a technical amendment to § 701.35(g)(3) (12 CFR 701.35(g)(3)) to clarify existing policy that funds placed in IRA or Keogh accounts are not limited to the greater of 8% or the established variable ceiling rate. These funds may also qualify for the maximum dividend rates authorized for money market certificates and certificates of \$100,000 or more. The Board further amended § 701.35(g)(3) (12 CFR 701.35(g)(3)) to include public unit accounts. Banks and savings and loan associations are authorized to pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, a governmental unit at a ceiling rate of 8 percent. This amendment simply provides Federal credit unions similar latitude should the variable rate ever fall low enough to make 8 percent the more attractive rate. IRA and Keogh accounts and public unit accounts, therefore, are subject to the same maximum dividend rates.

The Board's decision to adopt the above discussed amendments was done after plenary discussion with the other financial regulatory agencies. It represents a further adjustment of

overall interest rate ceilings that began earlier this year. In order to facilitate the achievement of the stated objectives, that is, latitude for Federal credit unions to provide a greater return on members' savings and to stabilize share capital flows as soon as feasible, the Board finds that application of the public notice and participation provisions of 5 U.S.C. 553 to these actions are not necessary and would be contrary to the public interest. For the same reasons, the procedures set forth in the National Credit Union Administration's Final Report on Implementation of Executive Order 12044 were not followed in connection with this amendment. The official responsible for that determination is J. Leonard Skiles, Deputy General Counsel.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

December 14, 1979.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

§ 701.35 [Amended]

Section 701.35(g) (2) and (3) is amended to read as follows:

• • • • •

(g) • • •

(2) On a share certificate account, except as otherwise provided in this subsection, that is issued on or after the first day of every month, up to the greater of 7¾% or 50 basis points (½%) below the average 2½-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury three business days prior to the first day of each month, during the month of issuance of the account;

(3) Except as otherwise provided in paragraphs (g) (4) and (5) of this subsection, on a share certificate account which represents an investment of retirement account funds pursuant to § 721.4 of this chapter or of public unit funds pursuant to § 701.32 that is issued on or after the first day of every month, up to the greater of 8% or 50 basis points (½%) below the average 2½-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury three business days prior to the first day of each month, during the month of issuance of the account;

[FR Doc. 79-39032 Filed 12-19-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-NW-12-AD; Amdt. 39-3638]

Airworthiness Directives; Boeing Model 737-200 (Advanced) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive to require a flap position switch setting of greater than 25° to sense the ground proximity warning (GPWS) computer to a landing configuration on all Boeing Model 737-200 (ADV) airplanes. A flap position switch setting of greater than 25° will provide ground proximity warning modes 2A and 4B, until normal landing flaps are selected, as required by TSO-C92a or TSO-C92b.

At the present time, the flap position switch is set at 15° to sense a landing configuration on many 737-200 airplanes. With the flaps set at 15°, GPWS Mode 4B is inhibited far out in the approach and not just prior to touchdown, as intended by TSO requirements. With "Mode 4B— inadvertent terrain" inhibited, the GPWS will not provide warning of inadvertent terrain closure to the flight crew. In addition to the loss of Mode 4B, Mode 2A is suppressed to Mode 2B. With Mode 2A suppressed to Mode 2B, "Mode 2—excessive terrain closure rate" warning time is significantly decreased.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Mackal, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION:

History

The ground proximity warning system (GPWS) is designed to provide required warnings to the flight crew of impending hazardous flight conditions. The required aural and visual warnings to the flight crew are automatic without input from the flight crew. Mode 1 provides warning of excessive rate of descent. Mode 2 provides warning of excessive terrain closure rate. Mode 3 provides warning of altitude loss after takeoff. Mode 4A provides warning of inadvertent proximity to the ground when the airplane landing gear has not

been lowered. Mode 4B provides warning of inadvertent proximity to the ground if the airplane flaps have not been lowered to landing position. Mode 5 provides warning of inadvertent flight below the glideslope guidance beam during the approach to land.

Landing flap position input to the GPWS computer is necessary to provide the required logic to the computer that the proximity to the ground is safe because the airplane is about to land. The approved landing flap positions for landing in the Boeing 737-200 airplane (advanced) are 15°, 30°, and 40°. However, the 15° position is normally used on approach and is only approved as a landing flap position for a very small percentage of Boeing 737-200 operations. The 25° flap position is not approved for landing in this aircraft.

At present, the GPWS computer will not provide the Mode 4B warning with a 15° flap position because it senses the airplane is ready to land when in fact it is not.

The same thing happens to the GPWS computer in Mode 2, when the computer senses that the airplane is ready to land. The result is that the Mode 2 warning time is significantly reduced and pilots may not have the time necessary to make safe flight path corrections.

This potentially unsafe condition can be corrected by changing the flap position switch to sense that the airplane is ready to land when a flap position of greater than 25° (i.e. 30° or 40°) is selected, rather than the present 15°.

Public Participation

This Amendment is based upon a Notice of Proposed Rulemaking (NPRM) (44 FR 28824, May 17, 1979). All interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. Seven comments were received.

Discussion of Comments

Three of the seven commenters support the NPRM and concur with the FAA that the approach terrain at the majority of the non-precision approach airports dictates the need for the increased protection the GPWS will provide, when modified as proposed in the NPRM.

One of the commenters who did not support the NPRM submitted examples of assumed flight profiles calculated to show that the existing flap switch setting provides equivalent safety. The FAA disagrees because even small increases in warning time enhance

safety on non-precision approach landings.

Commenters concerned that the few 15° flap or even no flap landings, for whatever cause, such as an engine out, would result in nuisance warnings, are advised that a proper installation would have a "flap override" switch for use by the crew. An "all mode inhibit" switch, however, is not an acceptable alternative to a "flap override" switch.

One commenter stated that the GPWS computer may not be compatible with the greater than 25° flap switch setting. Any computer complying with the TSO-C92 design requirements should not be affected by the flap switch setting. The same commenter stated that 25% of the airports on its routes are at elevations above 3,000 feet MSL and thus eligible for landings at flaps 15° when the OAT reaches 84°F. They acknowledge that the 15° land flap setting is seldom used. The FAA estimates that the use of 15° flap for landing at such airports with OAT of 84°F could not even approach .1% of all Boeing 737-200 landings. This estimate is based on the fact that only 74 airports out of 620 air carrier airports in the continental U.S. meet the 3,000 feet MSL criteria, and the 84°F OAT occurs for short time periods only.

Another commenter thought the NPRM required changes in flap procedures, and would cause increased noise and fuel consumption. This AD will result in no changes in flap settings, and therefore, the concern over a possible increase in noise and fuel consumption is without merit.

Adoption of the Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to all Model 737-200 (advanced) airplanes with GPWS flap position switches sensing less than 30° as landing flaps, certificated in all categories. Compliance required as indicated. Accomplish the following:

Within the next 1,200 hours time-in-service or six (6) months, whichever comes first, after the effective date of this AD, change the ground proximity warning system flap position switch to sense flaps 30° and 40° as the landing flap positions, and provide a flap override switch for landings that must proceed with flap position of 25° or less. This modification may be accomplished in accordance with modifications approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of

Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979).

Issued in Seattle, Washington, on December 10, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-38798 Filed 12-19-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-62]

Alteration of Transition Area; Marks, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will redesignate an extension, add an extension, and correct the geographical location of the Marks RBN in Marks, Mississippi, Transition Area. This action will provide controlled airspace required to protect instrument flight operations at the Sells Airport.

EFFECTIVE DATE: March 20, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Carl F. Stokoe, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register on Monday, October 22, 1979 (44 FR 60750) which proposed the alteration of the Marks, Mississippi, Transition Area. This action is necessary to provide the required controlled airspace to protect aircraft executing the instrument approach procedures. No objections were received as a result of this notice.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., March 20, 1980, as follows:

Marks, Miss.

All after "within 3 miles" is deleted and "... each side of the 195° bearing from the Marks, Mississippi, RBN (latitude 34°13'53" N., longitude 90°17'25" W.), extending from the 6.5-mile radius area to 8.5 miles south of

the RBN; within 3 miles each side of the 096" bearing from the Marks, Mississippi, RBN extending from the 6.5-mile radius area to 8.5 miles north of the RBN," is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1938, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on December 13, 1979.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 79-38942 Filed 12-18-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration and Office of the Secretary

15 CFR Parts 11, 368, 370, 385, 386

Termination of the Embargo on Exports to Rhodesia

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule amends 15 CFR Parts 368-399 and deletes Part 11 to reflect the lifting of the embargo on exports to Rhodesia (Zimbabwe) imposed pursuant to Executive Orders 11322 of January 5, 1967, 11419 of July 29, 1968, and 11978 of March 18, 1977. These orders were revoked by the President under Executive Order 12183 of December 16, 1979.

EFFECTIVE DATE: 12:01 AM, EST, December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Tel. (202) 377-4738.

SUPPLEMENTARY INFORMATION: These regulations are exempt from the public participation in rulemaking and delay in effective date procedures of the Administrative Procedure Act.

Furthermore, because these regulations deal with a foreign affairs function they are not subject to Department of Commerce Administrative Order 218-7 (44 FR 2082 et seq., January 9, 1979), which implement Executive Order 12044 (43 FR 12661 et seq., March 23, 1978). "Improving Government Regulations." Accordingly, these regulations are issued in final form and are effective as of 12:01 AM EST December 17, 1979. In view of the fact that this action is dictated by the decision announced in Executive Order No 12183 no formal comment period will be provided; however, interested persons are invited to submit comments on a continuing basis.

This revision shall not affect any compliance or enforcement actions, either completed, pending or to be taken in the future, or any sanctions imposed pursuant thereto, which are based on violations of any rules, regulations, orders, licenses or other forms of administrative action occurring prior to the effective date.

Accordingly:

I. The Export Administration Regulations (15 CFR Parts 368 *et seq.*) are amended as follows:

§ 368.2 [Amended]

1. Footnote 1 to § 368.2(a)(9)(i) is amended to delete the fourth and fifth paragraphs;

Part 370 [Amended]

2. Southern Rhodesia is deleted from Country Group S in Supplement No. 1 to Part 370 (thus placing it in Country Group V);

§ 385.3 [Deleted]

3. Section 385.3 is deleted and reserved;

§ 385.6 [Amended]

4. The Destination Control Statements in § 386.6(d)(2)(i)(b) and 386.6(d)(3) are amended by inserting the word "or" before "Cuba" and by deleting the phrase "or Southern Rhodesia,".

Part 11 [Deleted]

II. 15 CFR Part 11 "Prohibition of Transportation by Vessel of Commodities and Products from and to Southern Rhodesia" is deleted and reserved.

(E.O. 12183; Sec. 6 and 21, Pub. L. (96-72) to be codified at 50 U.S.C. app. 2401 *et seq.*; Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977), as amended; and Industry and Trade Administration Organization and Function

Order 45-1, dated December 4, 1977, 42 FR 64716 (1977), as amended).

Robin B. Schwartzman,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79-39068 Filed 12-18-79; 11:56 am]

BILLING CODE 3510-25-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33-6165, 34-16418, IC-10979, IA-709]

Review by the Commission of Determinations at a Delegated Level

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules of practice to state that petition for review by the Commission of a decision made at a delegated level may be made by any party in accordance with 15 U.S.C. 78d-1(b), as amended.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Larry R. LaVoie, Attorney, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-3087.

SUPPLEMENTARY INFORMATION: Section 201.26(b) of the Commission's rules of practice currently permits a "petition for review by the Commission (to) be made by any party to or intervenor in any matter in which there is a determination at a delegated level * * * if the determination is made pursuant to certain enumerated rules under which the Commission has delegated its decision-making authority to the staff.

Section 201.26(b) was originally adopted by the Commission pursuant to 15 U.S.C. 78d-1 (76 Stat. 394 (1962)) which provides the Commission with authority to delegate certain of its functions. In 1975, 15 U.S.C. 78d-1(b) was amended to provide for review by the Commission of any determination at a delegated level where such determination "is pursuant to any provision of this chapter in a case of adjudication as defined in Section 551 of Title 5 (5 U.S.C. 551), not required by this chapter to be determined on the record after notice and opportunity for hearing * * *."

The Commission has determined that § 201.26(b) should be updated in view of the amendment to 15 U.S.C. 78d-1(b). This amendment does not attempt to define those determinations which

would constitute adjudications under 15 U.S.C. 78d-1(b), nor does it alter the procedures for petitioning for review, § 201.26(c). The Commission has also determined that § 201.26(a) of the Commission's rules of practice should be updated.

Accordingly, 17 CFR Part 201 is amended by revising paragraphs (a) and (b) of § 201.26 to read as follows:

§ 201.26 Review by the Commission of determinations at a delegated level.

(a) *Scope of rule.* This rule is applicable to determinations at a delegated level made pursuant to authority delegated in Article 30-1 *et seq.* of Subpart A of the Commission's Statement of Organization and Program Management, § 200.30-1 *et seq.* of this chapter.

(b) *Petition for review; when available.* Commission review of any matter determined at a delegated level in accordance with 15 U.S.C. 78d-1, as amended, shall be available as therein provided.

The Commission finds that the foregoing action relates solely to rules of agency procedure or practice and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act are unnecessary. See 5 U.S.C. 553(b).

By the Commission.
George A. Fitzsimmons,
Secretary.

December 12, 1979.

[FR Doc. 79-39050 Filed 12-19-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 4

[Docket No. RM79-36]

Regulations Governing Applications for License for Major Projects— Existing Dams; Erratum Notice

Issued: December 12, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Erratum notice.

SUMMARY: The preamble to the Commission's final regulation (Order No. 59) contains a partial sentence at 44 FR 67647, November 27, 1979 (p. 14 *mimeo.*) that is completed to read:

We believe that section is sufficiently clear and detailed and that the changes proposed by EPA therefore need not be made.

FOR FURTHER INFORMATION CONTACT: James Hoecker, Office of the General Counsel, Regulatory Development, Room 8106-A, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8161.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39059 Filed 12-19-79; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 284

[Docket No. RM79-75]

Certain Sales and Transportation of Natural Gas; Order on Rehearing of Order No. 46; Erratum

December 12, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Erratum Notice.

SUMMARY: This notice corrects the zip code given in § 284.6 as it was published in the Order on Rehearing of Order No. 46, Docket No. RM79-75 (44 FR 66789, November 21, 1979). The zip code is corrected to read "20426".

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8400.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39060 Filed 12-19-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-79-742]

Section 8 Housing Assistance Payments Program—Fair Market Rents and Contract Rent Automatic Annual Adjustment Factors; Publication of Factors by Notice

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim Rule; Request for Comments.

SUMMARY: HUD is changing the publication method of the Contract Rent Automatic Annual Adjustment Factors. This list is presently referred to in Schedule C of Part 888. HUD will publish the Contract Rent Automatic

Annual Adjustment Factors as a Notice in the Federal Register. HUD will also delete the specific list of Section 8 programs which use the factor. HUD requests comments.

DATES: Effective date: February 11, 1980. Comments due: February 19, 1980.

ADDRESS: Written comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Comments should be identified by the above title, docket number and date of publication. A copy of each such communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Director, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410. (202) 755-4977. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The purpose of this interim rule is to amend §§ 888.201 and 888.202 to reflect the fact that the factors are used in all the Section 8 Programs and to permit the Automatic Annual Adjustment Factors to be published by Notice in the Federal Register rather than as Schedule C to Part 888.

HUD has made a Finding of Inapplicability respecting the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of the Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk.

Accordingly, 24 CFR, Part 888, Subpart B, is amended as follows:

1. Revise § 888.201 to read as follows:

§ 888.201 Purpose.

Automatic Annual Adjustment Factors are used to adjust rents under the Section 8 Housing Assistance Payments Programs.

2. Amend the first sentence of § 888.202 to read as follows:

§ 888.202 Manner of publication.

Adjustment Factors will be published in the Federal Register at least annually by Notice. * * *

(Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 16, 1979.

Marilyn Melkonian,
Acting Assistant Secretary for Housing—
Federal Housing Commissioner.

[FR Doc. 79-38954 Filed 12-19-79; 8:45 am]

BILLING CODE 4210-01-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 73, 74****Reregulation of Radio and TV Broadcasting; Correction**

AGENCY: Federal Communications Commission.

ACTION: Correction to Final Order.

SUMMARY: In the Broadcasting Reregulation Order, FCC 79-609, published in the Federal Register on October 11, 1979, at 44 FR 58729, a typographical error showing the power tolerance maximum for TV stations as 105% is corrected to read "110%."

EFFECTIVE DATE: October 22, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Reiser, Philip Cross, Steve Crane, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: Released: December 18, 1979.

In the matter of reregulation of Radio and TV Broadcasting.

In the above-captioned Order, FCC 79-609, released October 5, 1979, and published in the Federal Register on October 11, 1979, at 44 FR 58729, a typographical error showed the power tolerance maximum for TV stations as 105% in lieu of 110%. Paragraph (c) of § 73.1560 (Appendix paragraph 35) should read as follows:

§ 73.1560 Operating power tolerance.

(c) TV stations. Except as provided in paragraph (d) of this section, the aural and visual transmitter output power of a TV station, as determined by the procedures specified in § 73.633, must be maintained as near as practicable to the authorized transmitter output powers and may not be less than 80% nor more than 110% of the authorized powers. The FCC may specify deviation from the power tolerance requirements for subscription TV operations to the extent it deems necessary to permit proper operation.

Federal Communications Commission.

William J. Tricarico.

Secretary.

[FR Doc. 79-39931 Filed 12-19-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Materials Transportation Bureau****49 CFR Part 192**

[Amdt. 192-35; Docket No. PS-52]

Transportation of Natural and Other Gas by Pipeline; Cathodically Protected Transmission Lines

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Final Rule.

SUMMARY: This amendment establishes the monitoring requirements for testing short sections of transmission pipelines on a sampling basis to determine the effectiveness of cathodic protection in controlling corrosion.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: George L. Mocharko, (202) 426-2392.

SUPPLEMENTARY INFORMATION: On August 28, 1978, MTB issued a notice of proposed rulemaking to amend the requirements contained in § 192.465 to permit the monitoring of short sections of transmission lines on a sampling basis (43 FR 39401, September 5, 1978). The deadline for comments was October 15, 1978.

Justification for this Rulemaking: Beyond the support cited in the original notice, 14 commenters responded to the notice. In summary: All commenters agreed with MTB's proposal and stated that it reflected good technical judgement since the present more stringent annual monitoring requirement for short sections of transmission lines is not warranted on a public safety basis. They also believe that the economic burden upon industry would be reduced without reducing safety.

Other significant comments and their disposition: Based on one commenter's experience of monitoring short sections of distribution pipelines, it was suggested that the monitoring frequency should be once every 10 years or one-half of the design life of the cathodic protection system, whichever is more frequent. MTB believes that the proposed sampling procedure adequately covers such cases since the preponderance of gas operators use a 20-year design life for cathodic protection systems. Furthermore, MTB believes that use of a sliding scale for monitoring based on design life would increase operator's costs relative to monitoring and create compliance and recordkeeping problems resulting from subjective personal opinions of the operators and enforcement officials as to what date tests must be made. MTB

wished to emphasize, however, that if the sampling method is used, the operator must assure that the design life of the cathodic protection system is not less than the period of sampling.

One commenter stated that MTB's proposed wording does not make it clear that "short sections" would include "hot spot" protection on bare transmission lines. The final regulation applies to pipelines that are separately protected by the "hot spot" method.

Beyond the scope of the notice: One commenter proposed wording that would permit service lines of any length to be monitored on a sampling basis.

One commenter proposed that for transmission lines, MTB should define short sections as 500 feet in Class 1 and 2 locations.

No further Technical Pipeline Safety Standards Committee (TPSSC) consideration is needed, since the TPSSC recommended that the Office of Pipeline Safety Regulation institute rulemaking action concerning this specific amendment at its January 1978 meeting.

MTB has determined that this amendment would not result in a major economic impact (\$100 million or greater) under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034). Also, MTB has determined that this amendment does not require a full Final Regulatory Evaluation under those procedures because the amendment establishes an equivalent safety requirement and imposes no added compliance burdens and, therefore, has a minimal cost impact upon the industry. In fact, it could result in an estimated cost savings of \$1 million per year to the industry.

MTB has made the effective date immediate upon publication so that operators can take advantage of the economic relief provided by the amendment.

Based on the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

By revising § 192.465(a) to read:

§ 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected sections of pipeline not in excess of 100 feet, these pipeline sections may be surveyed on a sampling basis. At least 10 percent of these separately protected sections,

distributed over the entire system, must be surveyed each calendar year with a different 10 percent checked each subsequent year, so that all separately protected pipeline sections are tested in each 10-year period.

(49 U.S.C. 1672; 18 U.S.C. 1804 for offshore gathering lines; 49 CFR 1.53, Appendix A of Part 1)

Issued in Washington, D.C., on December 13, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-38872 Filed 12-19-79; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration**49 CFR Part 571**

[Docket No. 78-08; Notice 2]

Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration, (DOT).

ACTION: Final rule.

SUMMARY: This notice amends Motor Vehicle Safety Standard No. 108 to increase the maximum permissible candlepower for single compartment taillamps while extending requirements for contrast between stop (signaling) and tail (marking) functions at test points below the horizontal. This action is taken in response to a petition for rulemaking from industry. The effect of the increase will be to relieve a burden on manufacturers who must monitor production closely to insure continuing compliance of existing lamp designs with the existing limitation.

EFFECTIVE DATES: The amendment is effective immediately but compliance with the contrast requirements is not mandatory until July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. (202-426-2720).

SUPPLEMENTARY INFORMATION: A limit of 15 candlepower on photometric output at test points on or above the horizontal is imposed on single compartment taillamps by 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment. The intent of this limitation is to eliminate the possibility of excessive glare, and to insure that the ratio between stop lamps and taillamp output offers sufficient contrast that the

stop function can be readily identified when it is actuated.

On February 18, 1977, Truck Safety Equipment Institute (TSEI) petitioned for rulemaking to amend Standard No. 108 to increase the permissible maximum output of single compartment taillamps to 18 candlepower. This figure is derived from SAE Recommended Practice J256a Service Performance Requirements for Motor Vehicle Lighting Devices and Components, June 1972, which permits taillamp output to be 120 percent of the maximum value specified in SAE Standard J585d, Tail Lamps (Rear Position Light) August 1970. The reason for TSEI's request is that the 15 candlepower limitation has become "an unnecessary burden on manufacturers who must attempt to monitor their productions in an attempt to insure a strict compliance with this maximum output". TSEI argued that an increase would have no detrimental effect upon safety because there has been no limitation on candlepower output below the horizontal and it was reasonable to assume that there must be countless driving situations every day "where the following driver is exposed to lamp candlepower outputs from approximately 15 cp to 22 cp" without any evidence of hazardous driving conditions because of glare. The basis of the petition, therefore, was that a restriction should be relaxed for economic reasons, and that the relaxation will have a neutral effect upon safety. The NHTSA granted TSEI's petition for rulemaking and proposed that the maximum output of single compartment taillamps be raised to 18 candlepower, and that the current ratio of candlepower output by stop and taillamps in combination lamps be maintained at test points above the horizontal and extended to test points below the horizontal to minimize problems of glare. NHTSA proposed the extension of the ratio to tests points below the horizontal to provide protection equivalent to that at points above the horizontal. Standard No. 108 allows combination stop and taillamps to be mounted as high as 72 inches above the road surface while in today's passenger cars the driver's eye point is much lower, only 38 inches to 48 inches above the road surface.

A notice of proposed rulemaking was published on this subject on May 4, 1978 (43 FR 19250), and an opportunity afforded for comment.

Twenty-seven comments were submitted on the proposal. There was one objection to the increase in candlepower, and two to extension of

contrast ratios. All other comments supported it.

An important suggestion made was that NHTSA adopt SAE Standard J585e, September 1977 as the referenced standard on taillamps since the SAE revision encompassed both of NHTSA's proposals. NHTSA concurred with this recommendation and is amending the standard in this fashion. J585e is otherwise identical to J585d except for the addition of a final sentence to Note 4 which prescribes an alternative way for computing the candlepower ratio for combination lamps when certain conditions are met.

The Japanese Automotive Manufacturers Ass'n. Inc. (JAMA), objected to the extension of the contrast ratio, principally because of its effect upon the motorcycle industry. In JAMA's opinion there is no need for the requirement to cover motorcycles as lamps are not mounted at a height greater than 38 inches. NHTSA does not concur with this comment. The amendment will insure that there is no confusion when the driver's eye reference point is lower than the average 38 to 48 inches above the road surface. This situation could occur when a motorcycle is on a hill in front of the driver of another vehicle. The mandatory compliance date of the requirement, July 1, 1980, should afford sufficient time for tooling of new lamps if needed.

Chrysler Corporation commented that it saw no need to adopt intensity ratio requirements for the test points below horizontal since photometric requirements for tail and stop lamps are the same, whether above or below horizontal. While the requirements are the same, the values prescribed are minimal and a manufacturer may establish its own values above the minimum level. NHTSA has concluded that the amendment would assure that the ratio now required above the horizontal would also be maintained below. It would also avoid use of the wrong replacement lamps or lens.

California Highway Patrol suggested that test point 5 D-V should be added to those at which not less than a 5 to 1 ratio is required. The NHTSA cannot add it at this time since it was not part of the rulemaking proposal, but consideration will be given to it in future rulemaking.

American Motors Corporation supported the proposal but commented that the 120 percent value specified in J256a should apply to all taillamps and not just single compartment designs. This suggestion is beyond the scope of the proposal and NHTSA will consider it in future rulemaking.

Dry Launch suggested an increase from 15 to 20 and 25 candela. This suggestion was also considered beyond the scope of the proposal. Those values are permitted for two and three compartment lamps because the light sources are distributed, and NHTSA does not believe that excessive glare should be risked by increasing the maximum from 18 to 20 or 25 candela for single compartment lamps.

The proposal was objected to by G. F. Meese in whose opinion the upper limit should be 10 candela because excessive brightness irritates following drivers. The NHTSA did not agree with this comment. There appear to be instances in which the upper limit of 10 candela, which is being proposed by Mr. Meese, has been exceeded, and there is no indication that this causes any hazardous driving conditions because of glare.

In consideration of the foregoing 49 CFR 571.108, Motor Vehicle Safety Standard No. 108 is amended as follows:

1. Paragraph S4.1.1.28 is revised to read:

S4.1.1.28 Each taillamp on any motor vehicle manufactured before June 1, 1980 may be designed to conform to SAE Standard J585d, Tail Lamps, August 1970.

2. Table I and Table III are amended so that the applicable SAE Standard for taillamps in the final column of each Table is "J585e, September 1977."

In accordance with Department of Transportation policy encouraging adequate analysis of the cost and other consequences of regulatory actions (41 FR 16201, April 16, 1976), the NHTSA has evaluated the economic and other consequences of this amendment on the public and private sectors and has concluded that there is no cost increase required by an allowance of an increase in candle power in single compartment taillamps. While there should be no increase associated with maintenance of contrast ratios at test points below the horizontal in combined lamp configurations, the NHTSA requested comments on this factor and received none.

The program official and lawyer responsible for the development of this proposal are Marx Elliott and Taylor Vinson, respectively.

[Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.]

Issued on December 13, 1979.

Juan Claybrook,
Administrator.

[FR Doc. 79-38919 Filed 12-19-79; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1112

[Ex Parte No. 260 (Sub-No. 1)]

Revised Regulations Governing Officers

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: We are amending 49 CFR 1112.9 to permit officers or directors to hold positions with more than one carrier if the carriers were commonly controlled as the result of a transaction which the Commission exempted from its authority under 49 U.S.C. 10505. Because railroads may be commonly controlled through the use of our exemption power, it is appropriate to expand the exemption of 49 CFR 1112.9. We have stated that applications and individual orders of authorization to hold interlocking positions with carriers in a lawfully established system cast an unnecessary and expensive paperwork load on the carriers involved and our staff.

DATES: This amendment of 49 CFR 1112.9 shall be effective on December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Advance approval from the Commission is required for a person to serve as an officer or director of more than one common carrier under 49 U.S.C. 11322(a). However, where carriers are under common control through either Commission approval granted under 49 U.S.C. 11344 or were jointly controlled before June 16, 1933, the Commission need not approve a person holding a position as an officer or director with more than one of these carriers.

The Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210 (4R Act), gave the Commission the power to exempt certain transactions. This power is found in 49 U.S.C. 10505. The Commission has used this power to exempt the common control of two carriers which were geographically unconnected. (See Finance Docket No. 29022), *Southwest Forest Industries, Inc. and SW Gulf Coast, Inc.-Control-The Atlanta & St. Andrews Bay Railway Company* (not printed) decided August 21, 1979. Because railroads may be commonly controlled through the use of our exemption power, it is appropriate to expand the exemption of 49 CFR 1112.9. We have stated that applications and

individual orders of authorization to hold interlocking positions with carriers in a lawfully established system cast an unnecessary and expensive paperwork load on the carriers involved and our staff. We know of no current regulatory purpose being served by this process. *Revised Regulations Governing Officers*, 336 I.C.C. 679, 683. (1970).

We will amend our regulations by redesignating 49 CFR 1112.9(b) as paragraph (c), and inserting a new paragraph (b) which will read as follows:

§ 1112.9 [Amended]

*(b) Pursuant to an exemption authorized by the Commission under 49 U.S.C. 10505, or

This notice is issued under the authority of 5 U.S.C. 552, 553(b),* and 559 and 49 U.S.C. 11322(a).

For good cause found notice and public procedures on this rule making is unnecessary.

This is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: December 5, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal absent and not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39072 Filed 12-19-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Kirwin National Wildlife Refuge, Kans., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing on the

* Notice or hearing is not required by 49 U.S.C. 11322(a). Notice and public proceedings on this proposal are unnecessary because similar exemptions were favorably commented on before enactment of 49 U.S.C. 10505. See *Id.* above. Pursuant to 5 U.S.C. 553: Rulemaking—(b)—Except when notice or hearing is required by statute, this subsection does not apply * * * (b) when the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

Kirwin National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Keith S. Hansen, Kirwin, Kansas 67644. Telephone: 913/646-2373.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established.

In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Kirwin National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

Sport fishing on the Kirwin National Wildlife Refuge, Kansas, is permitted from January 1 through December 31, 1980, inclusive, on all areas not designated by signs as closed to fishing. These open areas, comprising 5,000 acres, are delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kansas, and from the Area Manager, Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, MO 64116. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1980. The public is invited

to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: December 13, 1979.

Keith S. Hansen,
Refuge Manager.

[FR Doc. 79-39045 Filed 12-19-79; 8:45 am]
BILLING CODE 4310-55-M

50 CFR Part 33

Sport Fishing; National Wildlife Refuges in Colorado, Utah, and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening of certain National Wildlife Refuges to sport fishing in Colorado, Utah, and Wyoming is compatible with the objectives for which the areas were established, will utilize a natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below.

Robert H. Shields, Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, Salt Lake City, UT 84138. Telephone: 801-524-5630.

Eugene C. Patten, Refuge Manager, Arapaho/Pathfinder National Wildlife Refuge, P.O. Box 457, Walden, CO 80460. Telephone: 303-723-4717.

James A. Creasy, Refuge Manager, Browns Park National Wildlife Refuge, Maybell, CO 81640. Telephone: 303-365-3695.

Ned I. Peabody, Refuge Manager, Bear River Migratory Bird Refuge, P.O. Box 459, Brigham City, UT 84302. Telephone: 801-744-2488.

Herb G. Troester, Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, UT 84078. Telephone: 801-789-0351.

SUPPLEMENTARY INFORMATION:

General

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Special conditions applying to

individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The provisions of this special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The Refuge Recreation Act of 1962 (16 U.S.C. 160k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition the Refuge Recreation Act requires that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing; for individuals wildlife refuge areas.

Colorado

Arapaho National Wildlife Refuge

Effective Dates: January 1 through May 31 inclusive and August 1 through December 31, 1980 inclusive.

Sport fishing is permitted on the Arapaho National Wildlife Refuge, Colorado only on areas designated by signs as being open to fishing. Information may be obtained from the refuge office and from the Office of the Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

Browns Park National Wildlife Refuge

Effective Dates: January 1 through February 29, inclusive and June 16 through December 31, 1980 inclusive.

Sport fishing is permitted on the Browns Park National Wildlife Refuge, Colorado, only on the areas designated by signs as being open to fishing. These

open areas, Beaver Creek and the Green River, comprise 1,000 acres. Information may be obtained from the refuge office and from the Office of the Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

Utah

Bear River Migratory Bird Refuge

Effective Dates: January 1 through December 31, 1980 inclusive.

Sport fishing is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to fishing. These areas comprising 10 acres are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, Fish and Wildlife Service, 1311 Federal Building, Salt Lake City, UT 84138. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

- (1) The use of boats is prohibited below the river control gate at refuge headquarters.
- (2) Fishermen are required to register at the refuge office upon entering the refuge.

Ouray National Wildlife Refuge

Effective Dates: January 1 through December 31, 1980 inclusive.

Sport fishing on the Ouray National Wildlife Refuge, Utah, is permitted in the Green River only. The Green River comprises 360 acres within the refuge. Information may be obtained from the refuge office and from the Office of the Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

Wyoming

Pathfinder National Wildlife Refuge

Effective Dates: January 1 through December 31, 1980 inclusive.

Sport fishing is permitted on all areas of the Pathfinder National Wildlife Refuge, Wyoming. These areas comprising 16,807 acres are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, 1311 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

The provisions of these special regulations, supplement the regulations which govern sport fishing in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

Note.—The U.S. Fish and Wildlife Service has determined that the document does not

contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: December 14, 1979.

John A. Gill,

Acting Area Manager, Area 5.

[FR Doc. 79-39026 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Sport Fishing; Opening of Seney National Wildlife Refuge, Michigan, to Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to fishing of Seney National Wildlife Refuge, Michigan, is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Effective December 20, 1979 for duration of season noted below for Seney National Wildlife Refuge.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

John Popowski, Area Manager, U.S. Fish and Wildlife Service, 1405 S. Harrison Rd., Room 202, East Lansing, Michigan 48823. Telephone (517) 372-1910 ex 208.

John R. Frye, Refuge Manager, Seney National Wildlife Refuge, Seney, MI 49883. Telephone (906) 586-9851.

SUPPLEMENTARY INFORMATION: Fishing on portions of the Seney National Wildlife Refuge shall be in accordance with all applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of the refuge which is open to fishing are designated by signs and/or delineated on maps. Special conditions apply to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (address listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the

primary purpose for which the area was established and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations, sport fishing (1980).

Michigan

Seney National Wildlife Refuge

Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

1. Stream and ditches, open only during the regular State trout fishing season are:

- a. Driggs River from Highway M-28 south to the Division Ditch.

- b. Walsh Creek and Ditch from Highway M-28 south to C-3 Pool.

- c. Creighton River—entire length through refuge.

2. Manistique River, entire length through refuge, open from January 1, 1980 through December 31, 1980.

3. Pools are open to fishing, daylight hours only as follows:

- a. All Pools—January 1, 1980 through February 29, 1980.

- b. Show Pools (located west of Highway M-77 one-half mile north of the Headquarters entrance road) from Memorial Day (May 26, 1980) through Labor Day (September 1, 1980).

- c. C-3 Pool—July 1, 1980 through Labor Day (September 1, 1980).

4. Night fishing, boats and the use of minnows for bait are prohibited except on the Creighton and Manistique Rivers.

5. Snowmobiles, All-Terrain Vehicles or motorized bikes are not permitted on the refuge.

Dated: December 13, 1979.

Richard O. Winters,

Acting Area Manager.

[FR Doc. 79-39064 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Sport Fishing; Opening of Certain National Wildlife Refuges to Sport Fishing; Maryland, Virginia, and North Carolina

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Maryland, Virginia and North Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1980 through December 31, 1980.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617-965-5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the

Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia 23336. Contact J. C. Appel, Refuge Manager, at 804-336-6122. Special conditions: Sport fishing, crabbing, and clamming (shellfishing) is permitted on areas designated by signs as open. Open areas: (a) Surf fishing—the entire beach including Tom's Cove is open except as posted; (b) Other fishing is permitted from banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other portions of the refuge including bay side waters as posted; (c) Shellfishing (clams, oysters, mussels, whelks, etc.)—the area between high and low tide marks in Tom's Cove, except as posted closed; (d) Crabbing—from the banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other areas including bay side waters as posted. Commercial fishing operations or methods are not permitted. A permit is required for fishing from 10:00 PM to 4:00 AM during the period April 1 through November 30 and from one-half hour after sunset to one-half hour before sunrise during the period December 1 through March 31. At least one member of the fishing party must be actively engaged in fishing at all times. Open fires and sleeping are not permitted. No permit is required at other times.

Blackwater National Wildlife Refuge, RFD #1, Box 121, Cambridge, Maryland 21613. Contact John Schroer, Refuge Manager, at 301-228-2677. Special conditions: Sport fishing and crabbing is permitted during daylight hours on areas designated by signs from April 15 through October 15, 1980. Boat launching from refuge lands is not permitted. The use of airboats is prohibited. All fish and crab lines must be attended. No set tackle may be used.

Mackay Island National Wildlife Refuge, Knotts Island, North Carolina, under administration of Back Bay National Wildlife Refuge, Pembroke #2 Building, South 218, 287 Pembroke Office Park, Virginia Beach, Virginia 23462.

Contact Glen Bond, Refuge Manager, at 804-490-0505. Special conditions: Sport fishing is permitted during daylight hours on the areas designated by signs as open. Corey's Ditch and the canal adjacent to the Knotts Island Causeway are open year round to bank fishing only. The remainder of the refuge areas are open from March 15 to October 14, 1980. There is no horsepower limitation on outboard motors used for boat fishing. Airboats are prohibited.

Dismal Swamp National Wildlife Refuge, 680B Carolina Road, Suffolk, Virginia 23434. Contact Ralph Keel, Refuge Manager, at 804-539-7479. Special conditions: Boat fishing is permitted during daylight hours in Lake Drummond. Public access is limited to boats entering Lake Drummond from the Feeder Ditch on the east side of the lake. Commercial fishing operations or methods are not permitted. Fishing will be with hand held line or rod and reel.

Prime Hook National Wildlife Refuge, R.D. #1, Box 195, Milton, Delaware 19968, under administration of Bombay Hook National Wildlife Refuge. Contact George O'Shea, Assistant Refuge Manager, at 302-684-8419. Special conditions: Pond fishing in boats propelled by electric motors or manually are permitted on Fleetwood or Turtle Ponds. Those portions of these ponds having wood duck nesting boxes are closed to public entry from March 1 through June 30, 1980. Boats may be launched from designated access points, or public roads. Bank fishing and crabbing is permitted only at designated access points and public road rights-of-way.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

December 11, 1979.

[FR Doc. 79-39065 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Opening of Certain National Wildlife Refuges to Sport Fishing: New York, New Jersey, and Pennsylvania

AGENCY: United States Fish and Wildlife Service, Department of the Interior.
ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in New York, New Jersey and Pennsylvania is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1980 through December 31, 1980.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617-965-5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the

Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Erie National Wildlife Refuge, RD 2, Box 191, Guys Mills, Pennsylvania 16327. Contact William McCoy, Refuge Manager, at 814-789-3585. Special conditions: Refuge areas designated by signs are open to fishing during daylight hours. Boats are permitted in Lake Creek above Sugar Lake and boats without motors are permitted above the Pool 9 dike where designated by signs. Fishing in Pools 9 and K is permitted from the second Saturday in June to September 15 only. Pools 9 and K will be open to ice fishing at the discretion of the refuge manager. Daily ice fishing permits must be secured at refuge headquarters.

Iroquois National Wildlife Refuge, RFD 1, Basom, New York 14013. Contact Edwin H. Chandler, Refuge Manager, at 716-948-9154. Special conditions: Refuge areas designated by signs are open to fishing during daylight hours only. All areas, except the Feeder Canal and Oak Orchard Creek, are closed to fishing from March 1 through July 14, 1980, and from October 1 through November 30, 1980. Ice fishing will be permitted only on Ringneck, Schoolhouse and Center Marshes. Ice fishing will only be permitted during the period December 15 through the last day of February. No boats or other flotation devices will be permitted, except that boats without motors may be used on Oak Orchard Creek from Knowlesville Road to a wire two miles westward. Firearms are not permitted in boats March 1 through September 30, 1980. With the exception of ice fishing, fishing on refuge impoundments will be limited to posted areas on dikes and roads. No wading or swimming is permitted. Leaving boats, structures, or other equipment overnight on the refuge is not permitted.

Montezuma National Wildlife Refuge, RD 1, Box 1411, Seneca Falls, New York 13148. Contact Gene Hocutt, Refuge Manager, at 315-568-5987. Special conditions: Sport fishing in state waters is permitted from the refuge at locations designated by signs.

Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, New Jersey 08231. Contact Gaylord Inman, Refuge Manager, at 609-

652-1665. Special conditions: Saltwater sport fishing is permitted from the beach on Holgate Peninsula and Little Beach Island, except from those areas posted as closed. Saltwater sport fishing from the auto tour route is prohibited. Freshwater sport fishing from the South Dike of the William Vogt Pool is permitted during daylight hours from July 20 through September 21, 1980. The possession of fish or minnows for use as bait is not permitted. Freshwater fishermen may park at the headquarters and South Tower parking areas only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larsen,
Regional Director, U.S. Fish and Wildlife Service.

December 11, 1979.

FR Doc. 79-39066 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Opening of Certain National Wildlife Refuges to Sport Fishing: Massachusetts, Maine, and Vermont

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Massachusetts, Maine, and Vermont is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1980 through December 31, 1980.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617-965-5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the

following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager, at 617-443-4661. Special conditions: Sport fishing is permitted during daylight hours along the Concord River, Sudbury River, Harvard Pond and ponds in the West Bedford area. Foot access for this purpose is permitted.

Monomoy National Wildlife Refuge, Chatham, Massachusetts, under administration of Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager at 617-443-4661. Special conditions: Sport fishing in tidal and fresh waters is permitted 24 hours per day from refuge lands. Boats may be beached on refuge and wilderness areas.

Oxbow National Wildlife Refuge, Harvard, Massachusetts, under administration of Great Meadows

National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager, at 617-443-4661. Special conditions: Sport fishing is permitted during daylight hours along the Nashua River. Foot access for this purpose is permitted.

Parker River National Wildlife Refuge, Northern Boulevard, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617-465-5753. Special conditions: Saltwater sport fishing is permitted only on the ocean beach as follows:

Walk-in Fishermen:

Entire year: Day only, no permit required.
 May 1 through October 31: Day and night.
 Night permit required.

Over-the-sand surf fishing vehicles:

May 1 through October 31 only, permit required.

May 1 through May 22, day and night.
 May 23 through September 1, night (6:00 PM to 8:00 AM) only.

No vehicle shall be operated on the beach between the hours of 8:00 AM to 6:00 PM. During these hours all permit vehicles shall remain in the designated over-the-sand fishing vehicle parking area in the unvegetated area between the dunes at the east end of Beach Access Trail #2 or exit from the beach area. This same designated daytime parking area must, however, be vacated by 8:00 PM each evening not to be reoccupied before 6:00 AM the next morning.

September 2 through October 31, day and night.

No fishing is permitted on the northern one-quarter mile of beach east of Lot 1 from 8:00 AM to 6:00 PM.

Permit requirements are as follows:

Night permittees may enter the refuge only until dusk except they may enter until 10:00 PM from May 23 through September 1. Night permittees may remain on the refuge, or may exit through a one-way gate at any time. Vehicles with the special permit may be on the ocean beach only when the occupants over 12 years old are actively engaged in surf fishing and each have at least one fishing rod. Permission to inspect vehicle, sanitary facilities, and all fishing equipment must be granted to refuge agents upon request. Vehicles with sleeping compartment interiors not visible for inspection are prohibited from all refuge lots between 8:00 PM and 6:00 AM. All vehicle permits must be affixed to the vehicles as instructed at the time of issuance. Motorcycles, or any vehicle deemed improper by refuge agents, may not receive the permit. "Light Truck" type traction treads designed primarily for use in snow and mud are not permitted. Over-the-sand surf fishing vehicles must be equipped with spare tire, shovel, jack, tow rope, or

chain, board or similar support for jack, and low-pressure tire gauge. Vehicles, under the terms of an over-the-sand surf fishing permit, may drive only on designated beach access routes and on the unvegetated beach east of the line formed by the eastern base of the dunes. The maximum speed limit in these areas is 15 miles per hour. No vehicle is permitted on the northern one-quarter mile of beach east of Lot 1 at any time. Ruts or holes resulting from freeing a stuck vehicle shall be promptly filled in by the operator. Tires must be properly deflated to permit sufficient flotation while vehicle is operated over sand. Riding on fenders, tailgates, roof, or any other position outside of the vehicle is prohibited. Failure to comply with any regulation shall be grounds for immediate cancellation of all permits.

Moosehorn National Wildlife Refuge, Box X, Calais, Maine 04619. Contact Douglas Mullen, Refuge Manager, at 207-454-3521. Special conditions: Sport fishing is permitted during daylight hours on areas designated by signs as open. The use of boats without motors is permitted on Bearce, Conic and Cranberry Lakes.

Missisquoi National Wildlife Refuge, Swanton, Vermont 05488. Contact Thomas Mountain, Refuge Manager, at 802-868-4781. Special conditions: Sport fishing is permitted in Lake Champlain, and the Missisquoi River from refuge lands. The use of firearms to take fish is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larsen,
Regional Director U.S. Fish and Wildlife Service.

December 11, 1979.

[FR Doc. 79-39067 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

JAPAN-UNITED STATES ECONOMIC RELATIONS GROUP

1 CFR Part 490

Privacy Act of 1974; Proposed Regulations for Implementation

AGENCY: Japan-United States Economic Relations Group.

ACTION: Proposed rule.

SUMMARY: The following proposed regulations drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. The purposes of these regulations are to establish procedures by which an individual can determine if the Group maintains a system of records¹ which included a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction. **DATE:** Comments are due on or before January 21, 1980.

ADDRESS: Send comments to the Executive Director, Japan-United States Economic Relations Group, 11 Dupont Circle, N.W., Suite 802, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Jack B. Button, (202) 673-6157.

Signed this 10th day of December 1979.

Jack B. Button,
Executive Director.

It is proposed to add the following Part 490 to Title 1 of the CFR.

PART 490—PRIVACY ACT IMPLEMENTATION

Sec.
490.1 Purpose and scope.
490.2 Definitions.

¹ For the systems of records maintained by the Japan-U.S. Economic Relations Group, see the "Notices" section of this issue of the Federal Register.

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Sec.

490.3 Procedures for requests pertaining to individual records in a records system.
490.4 Times, places, and requirements for the identification of the individual making a request.

490.5 Disclosure of requested information to the individual.

490.6 Request for correction or amendment to the record.

490.7 Agency review of request for correction or amendment of the record.

490.8 Appeal of an initial adverse agency determination of correction or amendment of the record.

490.9 Disclosure of record to a person other than the individual to whom the record pertains.

490.10 Fees.

Authority: 5 U.S.C. 552a; Pub. L. 93-579.

§ 490.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Japan-United States Economic Relations Group hereafter known as the Group maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 490.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Group, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number.

(d) The term "system of records" means a group of any records under control of the Group from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 490.3 Procedures for requests pertaining to individual records in a records system.

An individual shall submit a request to the Director of Administrative and Fiscal Services to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Group which states the individual's desire to review his or her record.

§ 490.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Director of Administrative and Fiscal Services of the Group pursuant to § 490.3 shall present the request at the Group offices, 11 Dupont Circle, NW., Suite 802, Washington, D.C. 20036, on any business day between the hours of 9 a.m. and 5:30 p.m. The individual submitting the request should present himself or herself at the Group's offices with a form of identification which will permit the Group to verify that the individual is the same individual as contained in the record requested.

§ 490.5 Disclosure of requested information to the individual.

Upon verification of identity the Group shall disclose to the individual the information contained in the record which pertains to that individual.

§ 490.6 Request for correction or amendment to the record.

The individual should submit a request to the Director of Administrative and Fiscal Services which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 490.4.

§ 490.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Director of Administrative and Fiscal Services will acknowledge in

writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, and the procedures established by the Group for the individual to request a review of that refusal.

§ 490.8 Appeal of an initial adverse agency determination of correction or amendment of the record.

An individual who disagrees with the refusal of the Director of Administrative and Fiscal Services to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, Japan-United States Economic Relations Group, 11 Dupont Circle, NW., Suite 802, Washington, D.C. 20036. The Executive Director will, not later than thirty working days from the date on which the individual request such review, complete such review and make final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Group a concise statement setting forth the reasons for his or her disagreement with the refusal of the Group and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 490.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Group will not disclose a record to any individual other than the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Group's notices of its systems of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 490.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc. 79-38910 Filed 12-19-79; 8:45 am]

BILLING CODE 6820-AT-M

FEDERAL RESERVE SYSTEM 12 CFR Chapter II

[Docket No. R-0265]

Policy Statement for Assessing Financial Factors in the Formation of Small One-Bank Holding Companies Pursuant to the Bank Holding Company Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed policy statement.

SUMMARY: In the interest of helping to maintain the safety and soundness of the banking system and, in particular, of small community banks, as well as to improve the transferability of ownership of such institutions and facilitate local ownership of these banks, the Federal Reserve Board is proposing for public comment a policy statement for assessing financial factors in the formation of small one-bank holding companies.

DATE: Comments must be received on or before January 31, 1980.

ADDRESS: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted should include the Docket Number R-0265.

FOR FURTHER INFORMATION: James I. Garner, Division of Banking Supervision and Regulation (202-452-2415), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Policy Statement of the Board of Governors of the Federal Reserve System for Assessing Financial Factors in the Formation of Small One-Bank Holding Companies Pursuant to the Bank Holding Company Act

In acting on applications filed under the Bank Holding Company Act, the Board has adopted, and continues to follow, the cardinal principle that bank holding companies should serve as a source of strength for their subsidiary banks. When bank holding companies incur debt and rely upon the earnings of their subsidiary banks as the means of repaying such debt, a question arises as to the probable effect upon the financial condition of the company and its subsidiary bank or banks. Incurring debt under these circumstances is of particular concern when the debt proceeds are used for acquisitions rather than for internal purposes such as meeting the capital needs of a subsidiary bank.

The Board believes that a high level of acquisition debt impairs the ability of a bank holding company to come to the aid of its subsidiary bank in times of

need and in some cases the servicing requirements on such debt may be a drain on the bank's resources. For these reasons, the Board has not favored the use of acquisition debt in bank holding company formations. Nevertheless, the Board has recognized that the transfer of ownership of small community banks and the maintenance of local ownership in those banks often requires the use of acquisition debt. The Board, therefore, has permitted the formation of small one-bank holding companies with debt levels higher than would be permitted for larger or multi-bank holding companies. Approval of these applications has been given on the condition that the small one-bank holding companies demonstrate the ability to service the acquisition debt without straining the capital of their subsidiary bank and, further, that such companies restore their ability to serve as a source of strength for their subsidiary bank within a relatively short period of time.

The Board continues to subscribe to these principles. In the interest of furthering its policy of encouraging local transfer and ownership of banks in the one-bank holding company format, without diluting bank safety and soundness, the Board has reexamined the analytical frame-work and the criteria it applies when considering small one-bank holding company formations. To these ends, it proposes certain revisions in its procedures and standards described below.

The proposed criteria shift the focus from debt repayment contained in existing criteria to the relationship between debt and equity at the parent holding company. The holding company would have the option of improving the relationship of debt to equity by either repaying the principal amount of its debt or through the retention of earnings. Under these procedures, newly organized small one-bank holding companies would be expected to reduce the relationship of their debt to equity over a reasonable period of time to a level comparable to that maintained by many large and multi-bank holding companies.

In general, this policy is intended to apply only to one-bank holding companies that do not have significant leveraged nonbank activities and whose subsidiary bank would have total assets of approximately \$100 million or less at the time the application is filed.

The proposed criteria are as follows: *General.* In evaluating applications filed pursuant to Section 3(a)(1) of the Bank Holding Company Act, as amended, where the applicant intends to incur debt to finance the acquisition of a

small bank, the Board will take into account a full range of financial and other information, including the recent trend and stability of earnings of the bank; the past and prospective growth of the bank; the quality of the bank's assets; the ability of the applicant to meet debt servicing requirements without placing an undue strain on the bank's resources; and the record and competency of management of the applicant and the bank. In addition, the Board will use the following criteria in assessing acquisition debt:

(1) *Minimum Down Payment.* The amount of acquisition debt should not exceed 75 percent of the purchase price of the bank to be acquired.

(2) *Maintenance of Adequate Capital.* An applicant proposing to use acquisition debt must demonstrate to the satisfaction of the Board that any debt servicing requirements to which the bank holding company may be subject would not cause the bank's ratio of gross capital to assets to fall below 8.0 percent during the 12-year period following consummation of the acquisition.¹ Gross capital is defined as the sum of total stockholders' equity, the allowance for possible loan losses and subordinated capital notes and debentures.

(3) *Reduction in Parent Company Leverage.* The applicant must demonstrate to the satisfaction of the Board that the holding company's ratio of debt to equity would decline to 30 percent within 12 years after consummation of the acquisition.

The term "debt",² as used in the ratio of debt to equity, means any borrowed funds (exclusive of short-term borrowings which arise out of current transactions, the proceeds of which have been or are to be used for current transactions), and any securities issued by, or obligations of, the holding company that are the functional equivalent of long-term debt.

The term "equity",² as used in the ratio of debt to equity, means the total stockholders' equity of the bank holding company adjusted to reflected the

¹ The applicant will be required to submit projected financial statements covering the 12-year period for the bank holding company (parent only) and the bank to be acquired. Such financial statements may be condensed but should identify principal groups of balance sheet and income statement items.

² Redeemable preferred stock will be treated as equity if, by its terms, it is not redeemable until after the ratio of debt to equity at the holding company is below 30 percent and would remain at 30 percent or less subsequent to the redemption. If the preferred stock is redeemable under other conditions, it will normally be treated as the functional equivalent of debt. Preferred stock that is convertible into common stock of the holding company will be treated as equity.

periodic amortization of "goodwill" (i.e., the excess of cost of any acquired company over the sum of the amounts assigned to identifiable assets acquired less liabilities assumed) in accordance with generally accepted accounting principles. In determining the total amount of stockholders' equity, the bank holding company should account for its investments in the common stock of subsidiaries by the equity method of accounting.

(4) *Dividend Restrictions.* The bank holding company is not expected to pay any corporate dividends until such time as its debt to equity ratio is below 30 percent.

Board of Governors of the Federal Reserve System, December 13, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-38970 Filed 12-19-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-GL-15-AD]

Airworthiness Directives; Hamill Manufacturing Company TSO-C22f Seat Belt Assembly Models GA-4 and GA-5

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require the removal from service within the next 120 days of the GA-4 and GA-5 safety belt assemblies manufactured by Hamill Manufacturing Company and marked as meeting the standards of FAA TSO-C22f.

The proposed AD is needed since it was determined that the criteria of TSO-C22f and previously accepted deviation criteria for push-button release mechanisms are not met by these safety belt assemblies. The high release forces required to release the latch mechanism under certain conditions are considered unsatisfactory.

DATES: Comments must be received on or before January 21, 1980.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (AGL-7) Docket No. 79-GL-15-AD, 2300 East Devon Avenue, Des Plaines, IL 60018.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that the above identified Hamill Manufacturing Company safety belt assemblies do not meet the requirements of TSO-C22f or acceptable deviation criteria for push-button release mechanisms. This latter criteria requires that the release force under a 250 pound load be no greater than 8 pounds on the push-button and under no conditions should the release force be less than 2.5 pounds on the push-button. Since this condition exists in the other safety belts of the noted models, the proposed AD would require that these safety belts be removed from service.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Hamill Manufacturing Company. Applies to Model GA-4 and GA-5 safety belt assemblies marked as meeting the standards of FAA TSO-C22f. These safety belts are installed in, but not limited to, the following aircraft operated by General Motors Corporation and Firestone Tire and Rubber Company: Grumman American 1159, Rockwell International NA265, Convair 580 and Hawker Siddeley DH125.

These safety belts can no longer be considered to meet the standards prescribed by FAA TSO-C22f and the approved special criteria for push-button release mechanisms which requires the push-button release force to be between 2.5 and 8 pounds when using

the loading conditions specified in FAA TSO-C22f (section 4.3.2.2 of NAS 802).

Within 120 days from the effective date of this AD, these safety belts shall not be used in type certificated aircraft.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85).

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Mr. Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

Issued in Des Plaines, Illinois on November 30, 1979.

James M. Dermody,
Director, Great Lakes Region.

[FR Doc. 79-38795 Filed 12-19-79; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed Rule.

SUMMARY: This proposed amendment of Subparts 1214.1 and 1214.2 updates the existing regulations in order for users to plan more effectively their use of the Space Transportation System (STS) and for NASA to charge the users properly for STS services.

DATE: Comments or suggestions should be submitted in writing not later than February 19, 1980.

ADDRESS: Comments may be mailed to the Office of Space Transportation System Operations, NASA Headquarters, Washington, DC 20546 or delivered to Room 425, 600 Independence Avenue, Washington, DC between 8:00 a.m. and 4:30 p.m. Comments received may also be inspected at Room 425 between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Jon M. Smith, Office of Space Transportation System Operations, National Aeronautics and Space

Administration, Washington, DC 20546, (202-755-2344).

SUPPLEMENTARY INFORMATION: This proposed amendment clarifies and changes existing STS policies in several respects. The more significant amendments are the definition of standard mission orbits; the deletion of certain launch options; and the provision of clarified and changed standards for the calculation and payment of earnest money. It gives users the right to cancel services if there is a NASA delay beyond a specified point and gives to all users the right to apportion and assign STS services under certain conditions. It also provides launch scheduling procedures and emphasizes the NASA Administrator's discretion to provide STS services.

(Sec. 203, Pub. L. 85-568, 72 Stat. 429, as amended (42 U.S.C. 2473); sec. 201(b), Pub. L. 87-624, 76 Stat. 421 (47 U.S.C. 721(b)))

1. Subpart 1214.1 Table of Contents is revised to read as follows:

Subpart 1214.1—Reimbursement for Shuttle Services Provided to Non-U.S. Government Users

Sec.	Scope.
1214.100	Definitions.
1214.101	Reimbursement policy.
1214.102	Apportionment and assignment of services.
1214.103	Scheduling.
1214.104	Refight guarantee.
1214.105	Patent and data rights.
1214.106	Revisit and/or retrieval services.
1214.107	Damage to payload.
1214.108	Provision of STS services.
1214.109	Responsibilities.
1214.110	Appendix A—Costs for which NASA shall be reimbursed.
Appendix B	Standard Shuttle services.
Appendix C	Optional Shuttle services.
Appendix D	Shared flight charge and graph.
Appendix E	Occupancy fee schedule.

2. § 1214.101 is revised to read as follows:

§ 1214.101 Definitions.

(a) For the purpose of this Subpart, the term "Non-U.S. Government Users" means:

(1) Private persons or private organizations of the United States, including its territories, the District of Columbia, Panama Canal Zone, and Puerto Rico.

(2) Public organizations of the United States that are not part of the Government of the United States.

(3) Foreign governments or private persons and private or public organizations of foreign countries, except for the government of Canada and governments of the European Space Agency (ESA) member or observer

nations participating in Spacelab development when conducting experimental science or experimental applications missions, with no near-term commercial implications, undertaken on behalf of government agencies. The NASA Administrator shall determine the missions which qualify for this exception.

(4) International organizations, except the ESA when conducting experimental science or experimental applications missions with no near-term commercial implications.

(5) Other U.S. government agencies, Canadian government agencies and the ESA, requesting Shuttle services from NASA in connection with launch and other services being performed by such agencies for users listed in paragraphs (a) (1) through (4) of this section.

(b) For the purpose of this Subpart, the term "standard mission orbits" means:

(1) With respect to dedicated flights: (i) Launch from Kennedy Space Center (KSC) into the user's choice of two standard mission orbits: 160 NM circular orbit, 28.5° inclination (nominal), or 160 NM circular orbit, 57° inclination (nominal).

(ii) Launch time selected by NASA from a launch window of not less than five minutes (a more restrictive launch window may be provided as an optional service).

(2) With respect to shared flights to the standard mission orbit of 160 NM circular orbit, 28.5° inclination (nominal):

(i) Launch from KSC.

(ii) A launch time selected by NASA from either of two launch windows, one near noon and one near midnight, Greenwich Mean Time (GMT). (NASA shall publish a schedule of nominal launch windows as a function of time of year).

(iii) For those payloads for which NASA has received both earnest money and an STS Form 100 prior to publication of this amendment, the total width of the launch windows shall be approximately twenty minutes. For all other payloads, the total width of the launch windows shall be approximately two hours.

(3) With respect to shared flights to the standard mission orbit of 160 NM circular orbit, 57° inclination, with certain NASA-determined launch constraints: The nominal launch window and launch time will be determined by NASA in consultation with the users.

§ 1214.102 [Amended]

3. § 1214.102(b)(2)(iv) is deleted and reserved.

4. § 1214.102(b)(2)(vi) is revised to read as follows:

(vi) The prices of optional Shuttle services are being developed and shall be set forth in a published Space Transportation System Reimbursement Guide. A summary of the optional services is set forth in Appendix C to this subpart.

5. § 1214.102(b)(2)(viii) is deleted and reserved.

6. § 1214.102(c)(2) is revised to read as follows:

(2) A 20% discount on the standard flight price will be given to shared flight users who will fly at the convenience of NASA on a space-available (standby) basis within a prenegotiated period of one year.

7. § 1214.102(c)(3) is deleted and reserved.

8. § 1214.102(d) is revised to read as follows:

(d) *Small self-contained payloads.* Shuttle services may be provided to a user for small (200 pounds or less and 5 cubic feet or less) scientific, research and development payloads, flown on a space-available basis in a NASA-supplied container.

9. § 1214.102(e)(1) is revised to read as follows:

(1) Fixed price options for flights in a given year beyond the three-year fixed price period may be made available by NASA. These fixed price options, when offered, will be negotiated separately with the user.

10. § 1214.102(e)(3) is deleted and reserved.

11. § 1214.102(g) is revised to read as follows:

(g) *Earnest money.* (1) Earnest money will be paid to NASA prior to launch agreement negotiations. The earnest money required shall be \$100,000; however, if the payload is a small self-contained payload, the earnest money shall be \$500. The earnest money shall be applied to the first payment made by the user, or shall be retained by NASA if a Launch Services agreement is not signed.

(2) Users requesting changes to submitted requirements due to changes in payload design or for the purposes of adding new payloads may be required to make an additional earnest money payment.

12. § 1214.102(i) is amended by adding a new paragraph (9) reading as follows:

(9) The short-term call-up option will be made available at the discretion of the NASA Administrator and is dependent upon the ability of the flight schedule to support such an option. Users are therefore encouraged to include future payloads in their early flight requests and/or design future

payloads for on-orbit storage rather than expect to be able to successfully obtain a short-term call-up option.

13. § 1214.102(1) is amended by adding a new paragraph (4) reading as follows:

(4) The user may cancel with no fees under this paragraph if NASA delays a launch, excluding delays for reasons beyond NASA's control, for a period of nine months or more beyond the following:

(i) The firm launch date (or planned launch date if no firm launch date has been established) of a nonstandby payload.

(ii) The end of the prenegotiated one-year period for a standby payload.

§ 1214.107 Redesignated as § 1214.110

14. Subpart 1214.1 is amended by redesignating § 1214.107 as § 1214.110.

§§ 1214.103-1214.106 Redesignated as §§ 1214.105-1214.108

15. Subpart 1214.1 is amended by redesignating §§ 1214.103 through 1214.106 as §§ 1214.105 through 1214.108.

16. Subpart 1214.1 is amended by adding new §§ 1214.103, 1214.104, and 1214.109 reading as follows:

§ 1214.103 Apportionment and assignment of services.

(a) Subject to NASA approval, a user may apportion and assign STS services to third parties within the user's payload. No apportionment and assignment of STS services may take place outside the user's payload.

(b) Integration of apportioned/assigned payload elements within the user's payload is the responsibility of the user. Any NASA assistance in such integration shall be provided as an optional service.

(c) Users intending to apportion and assign services shall designate the maximum amount of services desired at the time the Launch Services Agreement is signed. Actual required services shall be designated not later than the time a firm launch date is established.

(d) If more than one pricing policy (e.g., Subpart 1214.1, Subpart 1214.2) applies to components of an apportioned/assigned payload, the appropriate use fees shall be computed separately for each component according to the applicable policy.

§ 1214.104 Scheduling.

(a) *Establishment of launch-related dates prior to the signing of a Launch Services Agreement.* (1) No scheduling commitments shall be made prior to the establishment of a booking date.

(2) The user's booking date shall be defined to be the date, on or after the payment of earnest money but prior to the signing of a Launch Services

Agreement, of NASA's receipt of (i) the user's request for a desired launch date, or (ii) the user's request for a change in the desired launch date.

(3) As soon as practical after establishment of the user's booking date, NASA, in consultation with the user, shall establish the following:

(i) Tentative launch date.

(ii) Date for initiation of progress payments.

(iii) Date for signing of the Launch Services Agreement.

(b) *Protection of booking dates and tentative launch dates prior to signing of a Launch Services Agreement.* NASA shall protect the user's booking date and tentative launch date as long as the user's obligations to meet the progress payments and Launch Service Agreement signing dates are met.

(c) *Launch and delivery scheduling.*

(1) Dedicated flights. At the time the Launch Service Agreement is signed, NASA and the user shall establish a planned launch date which marks the beginning of a 90-day period. Approximately one year prior to launch, a firm launch date and a payload delivery date shall be established. The firm launch date will be within the first 60 days of the original 90-day period. Launch will occur on the firm launch date or within a period of 30 days thereafter.

(2) Shared nonstandby flights. (i) Flights to the standard mission orbit. At the time the Launch Service Agreement is signed, NASA and the user shall establish a planned launch date which marks the beginning of a 90-day period. Approximately one year prior to launch, a firm launch date and a payload delivery date will be coordinated among all users on the shared flight. The firm launch date will be within the first 30 days of the 90-day period. Launch will occur on the firm launch date or within a period of 60 days thereafter.

(ii) Flights to nonstandard orbits. Prior to the signing of the Launch Services Agreement, NASA and the user shall negotiate the price and schedule for the flight based on NASA's forecast ability to manifest other payloads compatible with the user's mission destination and schedule.

(3) Shared standby flights. (i) Standby flights are offered only to shared flight users.

(ii) Flights to the standard mission orbit. NASA will provide launch services within a prenegotiated period of one year.

(iii) Flights to nonstandard orbits. NASA may accept standby payloads for flights to nonstandard orbits. If NASA accepts such a payload the period within which launch services shall be

provided shall be established by NASA prior to the signing of the Launch Services Agreement.

(iv) The user shall make provisions to deliver a standby payload to the launch site to support a launch on the first day of the prenegotiated period and shall sustain that capability throughout the one-year period. NASA will assign the payload to a Shuttle flight and will notify the user of the firm launch date and the required date for delivery of the payload to the launch site not less than sixty calendar days prior to the payload delivery date. Launch will occur on the firm launch date or within a period of 60 days thereafter.

(d) *Scheduling priorities.* NASA shall use its best efforts to meet scheduling commitments pursuant to this policy and the United States Policy Governing the Provision of Launch Assistance of October 9, 1972. Should events arise which require rescheduling of payloads, NASA shall, in consultation with all affected users, attempt to meet the needs of users in an equitable manner. In doing so, NASA shall be guided by, but not constrained to, the following priority list:

(1) Payloads urgently required for the U.S. national defense or national security.

(2) Significant experimental or exploratory scientific payloads which have critical launch opportunities or payloads critical to the establishment or functioning of the STS.

§ 1214.109 Provision of STS services.

NASA shall provide, solely at its discretion, STS services to the extent consistent with United States' obligations, law, policy, and capability.

Appendix B [Amended]

17. Subpart 1214.1 is amended by revising the first service listed in Appendix B, which reads:

"Two standard mission destination:
(1) 160 NM Altitude; 28.5° Inclination.
(2) 160 NM Altitude; 56° Inclination."
to read "Launch of the Shuttle into the defined standard mission orbit."

Appendix C [Amended]

18. Subpart 1214.1 is amended by revising the last service listed in Appendix C, which reads:
"Two standard mission destinations are available from the Western Test Range site:

(1) 160 MN Altitude; 90.0° inclination.
(2) 160 NM Altitude; 104.0° inclination.

to read: "Standard mission orbits from the Western Test Range are not available. Mission orbits will be negotiated individually with users requesting a launch from the Western

Test Range and users will share any costs incurred."

Appendix D [Amended]

19. Subpart 1214.1, Appendix D, Figure 1, is amended by revising Shuttle Capability to show an inclination of 57° vice 56°.

20. Subpart 1214.2 Table of Contents is revised to read as follows:

Subpart 1214.2—Reimbursement for shuttle services provided to civil U.S. Government users and foreign users who have made substantial investment in the STS program

Sec.	Scope.
1214.200	Definitions.
1214.201	Reimbursement policy.
1214.202	Apportionment and assignment of services.
1214.203	Scheduling.
1214.204	Refight guarantee.
1214.205	Patent and data rights.
1214.206	Revisit and/or retrieval services.
1214.207	Damage to payload.
1214.208	Provision of STS services.
1214.209	Responsibilities.

Appendix A—Costs for which NASA shall be reimbursed.

Appendix B—Occupancy fee schedule.

21. § 1214.201 is revised to read as follows:

§ 1214.201 Definitions.

(a) For the purpose of this Subpart, the term "users" means:

(1) All civil U.S. Government agencies who request Shuttle services from NASA, and

(2) Foreign users who have made substantial investment in the STS program, i.e., European Space Agency (ESA), ESA member or observer nations participating in Spacelab development, and Canada, when conducting experimental science or experimental applications missions with no near-term commercial implications.

(b) For the purpose of this Subpart, the term "standard mission orbits" means:

(1) With respect to dedicated flights:
(i) Launch from Kennedy Space Center (KSC) into the user's choice of two standard mission orbits: 160 NM circular orbit, 28.5° inclination (nominal), or 160 NM circular orbit, 57° inclination (nominal).

(2) With respect to shared flights to the standard mission orbit of 160 NM circular orbit, 28.5° inclination (nominal):

(i) Launch from KSC.

(ii) A launch time selected by NASA from either of two launch windows, one near noon and one near midnight, Greenwich Mean Time (GMT). (NASA shall publish a schedule of nominal launch windows as a function of time of year).

(iii) For those payloads for which NASA has received earnest money or a letter of intent (as applicable) and an STS Form 100 prior to publication of this amendment, the total width of the launch windows shall be approximately twenty minutes. For all other payloads, the total width of the launch window shall be approximately two hours.

(3) With respect to shared flights to the standard mission orbit of 160 NM circular orbit, 57° inclination, with certain NASA-determined launch constraints. The nominal launch window and launch time will be determined by NASA in consultation with the users.

§ 1214.202 [Amended]

22. § 1214.202(b) (2)(iv) is deleted and reserved.

23. § 1214.202(b) (2)(vi) is revised to read as follows:

(iv) The prices of optional Shuttle services are being developed and shall be set forth in a published Space Transportation System Reimbursement Guide. A summary of the optional service is set forth in Appendix C to Subpart 1214.1.

24. § 1214.202(b) (2)(viii) is revised and reserved.

25. § 1214.202(c) (2) is revised to read as follows:

(2) A 20% discount on the standard flight price will be given to shared flight users who will fly at the convenience of NASA on a space-available (standby) basis within a prenegotiated period of one year.

26. § 1214.202(c) (3) is revised and reserved.

27. § 1214.202(d) is revised to read as follows:

(d) *Small self-contained payloads.* Shuttle services may be provided to a user for small (200 pounds or less and 5 cubic feet or less) scientific, research and development payloads, flown on a space-available basis in a NASA-supplied container.

28. § 1214.202(e) is revised and reserved.

29. § 1214.202(g) is revised to read as follows:

(g) *Earnest money.* (1) Earnest money will be paid to NASA by ESA and ESA member or observer nations participating in Spacelab development and government agencies of Canada prior to launch agreement negotiations. The earnest money required per contract shall be \$100,000; however, if the payload is a small self-contained payload, the earnest money shall be \$500. The earnest money shall be applied to the first payment made by the user, or shall be retained by NASA if a Launch Service Agreement is not signed.

(2) Users requesting changes to submitted requirements due to changes in payload design or for the purposes of adding new payloads may be required to make an additional earnest money payment.

30. § 1214.202(i) is amended by adding a new paragraph (4) reading as follows:

(4) The short-term call-up option will be made available at the direction of the NASA Administrator and is dependent upon the ability of the flight schedule to support such an option. Users are therefore encouraged to include future payloads in their early flight requests and/or design future payloads for on-orbit storage rather than expect to be able to successfully obtain a short-term call-up option.

31. § 1214.202(l) is amended by adding a new paragraph (4) reading as follows:

(4) The user may cancel with no fees under this paragraph if NASA delays a launch, excluding delays for reasons beyond NASA's control, for a period of nine months or more beyond the following:

(i) The firm launch date (or planned launch date if no firm launch date has been established) of a nonstandby payload.

(ii) The end of the prenegotiated one-year period for a standby payload.

§ 1214.207 Redesignated as § 1214.210.

32. Subpart 1214.2 is amended by redesignating § 1214.207 as § 1214.210.

§ 1214.203-1214.206 Redesignated as §§ 1214.205-1214.208.

33. Subpart 1214.2 is amended by redesignating §§ 1214.203 through 1214.206 as §§ 1214.205 through 1214.208.

34. Subpart 1214.2 is amended by adding new §§ 1214.203, 1214.204, and 1214.209 reading as follows:

§ 1214.203 Apportionment and assignment of services.

(a) Subject to NASA approval, a user may apportion and assign STS services to third parties within the user's payload. No apportionment and assignment of STS services may take place outside the user's payload.

(b) Integration of apportioned/assigned payload elements within the user's payload is the responsibility of the user. Any NASA assistance in such integration shall be provided as an optional service.

(c) Users intending to apportion and assign services shall designate the maximum amount of services desired at the time the Launch Services Agreement is signed. Actual required services shall be designated not later than the time a firm launch date is established.

(d) If more than one pricing policy (e.g., Subpart 1214.1, Subpart 1214.2)

applies to components of an apportioned/assigned payload, the appropriate use fees shall be computed separately for each component according to the applicable policy.

§ 1214.204 Scheduling.

(a) *Establishment of launch-related dates prior to the signing of a Launch Services Agreement.* (1) No scheduling commitments shall be made prior to receipt of an official launch request and/or payment of earnest money as applicable, in accordance with § 1214.202(g).

(2) The user's booking date shall be defined to be the date, on or after payment of earnest money or submission of a letter of intent (as applicable), of NASA's receipt of (i) the user's request for a desired launch date, or (ii) the user's request for a change in the desired launch date.

(3) As soon as practical after establishment of the user's booking date, NASA, in consultation with the user, shall establish the following:

(i) Tentative launch date.

(ii) Date for initiation of progress payments.

(iii) Date for signing of the Launch Services Agreement.

(b) *Protection of booking dates and tentative launch dates prior to signing of a Launch Services Agreement.* NASA shall protect the user's booking date and tentative launch date as long as the user's obligations to meet the progress payments and Launch Services Agreement signing dates are met.

(c) *Launch and delivery scheduling.*

(1) *Dedicated flights.* At the time the Launch Service Agreement is signed, NASA and the user shall establish a planned launch date which marks the beginning of a 90-day period. Approximately one year prior to launch, a firm launch date and a payload delivery date shall be established. The firm launch date will be within the first 60 days of the original 90-day period. Launch will occur on the firm launch date or within a period of 30 days thereafter.

(2) *Shared nonstandby flights.* (i) Flight to the standard mission orbit. At the time the Launch Service Agreement is signed, NASA and the user shall establish a planned launch date which marks the beginning of a 90-day period. Approximately one year prior to launch, firm launch date and a payload delivery date will be coordinated among all users on the shared flight. The firm launch date will be within the first 30 days of the 90-day period. Launch will occur on the firm launch date or within a period of 60 days thereafter.

(ii) *Flights to nonstandard orbits.* Prior to the signing of the Launch Services Agreement, NASA and the user shall negotiate, as an optional service, the price and schedule for the flight based on NASA's forecast ability to manifest other payloads compatible with the user's minimum destination and schedule.

(3) *Shared standby flights.* (i) Standby flights are offered only to shared flight users.

(ii) *Flights to the standard mission orbit.* NASA will provide launch services within a prenegotiated period of one year.

(iii) *Flights to nonstandard orbits.* NASA may accept standby payloads for flights to nonstandard orbit. If NASA accepts such a payload, the duration of the period within which launch services shall be provided shall be established by NASA prior to the signing of the Launch Services Agreement.

(iv) The user shall make provisions to deliver a standby payload to the launch site to support a launch on the first day of the prenegotiated period and shall sustain that capability throughout the one-year period. NASA will assign the payload to a Shuttle flight and will notify the user of the firm launch date and the required date for delivery of the payload to the launch site not less than sixty calendar days prior to the required payload delivery date. Launch will occur on the firm launch date or within a period of 60 days thereafter.

(d) *Scheduling priorities.* NASA shall use its best efforts to meet scheduling commitments pursuant to this policy and the United States Policy Governing the Provision of Launch Assistance of October 9, 1972. Should events arise which require rescheduling of payloads, NASA shall, in consultation with all affected users, attempt to meet the needs of users in an equitable manner. In doing so, NASA shall be guided by, but not constrained to, the following priority list:

(1) Payloads urgently required for the U.S. national defense or national security.

(2) Significant experimental or exploratory scientific payloads which have critical launch opportunities or payloads critical to the establishment of functioning of the STS.

§ 1214.209 Provision of STS services.

NASA shall provide, solely at its discretion, STS services to the extent

consistent with United States' obligations, law, policy, and capability.

Robert A. Frosch,

Administrator.

December 13, 1979.

[FR Doc. 79-39006 Filed 12-19-79; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 239, 240 and 249

[Release Nos. 33-5167, 34-16420, IC-10981
File No. S7-815]

Filing and Disclosure Requirements Relating to Beneficial Ownership

AGENCY: Securities and Exchange Commission.

ACTION: Publication of inquiries to be considered in connection with preparation of a report to Congress

SUMMARY: The Commission is requesting comment in connection with the preparation of a report which is required to be submitted to Congress in June of 1980. The report will address the effectiveness of reporting requirements relating to disclosure of the beneficial ownership of equity securities contained in the Securities Exchange Act of 1934 and the desirability and feasibility of reducing or otherwise modifying the five percent reporting threshold in sections 13(d)(1) and 13(g)(1) of that Act.

DATE: Comments must be received on or before February 15, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-815. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: John Granda or Scott Cooper (202-272-2589), Office of Disclosure Policy, Division of Corporate Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Section 13(h) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. (1976 and Supp. I 1977)) requires the Commission to submit a report to Congress in June of 1980. The report is required to address the effectiveness of the requirements imposed by the Exchange Act for the reporting of beneficial ownership of certain equity

securities as well as the desirability and feasibility of reducing or otherwise modifying the five percent reporting threshold used in sections 13(d)(1) and 13(g)(1) of that Act. In addressing these matters, the Commission is required to give appropriate consideration to nine criteria specified in the statute which are discussed below.

In connection with the preparation of the report, the Commission is seeking the benefit of public comment with respect to the inquiries set forth below. In order to facilitate understanding of the issued presented by these inquiries, a brief overview of the applicable reporting requirements follows. However, attention is directed to the requirements themselves for a more complete understanding.

I. Overview of Reporting Requirements

A. Sections 13(d) and 13(g)

Section 13(d) was added to the Exchange Act in 1968 as part of the Williams Act amendments.¹ Section 13(d) requires any person who acquires the direct or indirect beneficial ownership of more than five percent of a class of equity securities described in that section to send to the issuer and each exchange where the security is traded and to file with the Commission a statement containing specified information within ten days after such acquisition. The legislative history of that section indicates that it was intended to provide information to the public and the issuer with respect to the rapid accumulation of equity securities by persons who would have the ability to change of influence control.² By providing information to investors with respect to potential changes in or influences upon the control of an issuer, the market could appropriately adjust its evaluation of the issuer's worth.

Because section 13(d) attempts to deal with the more limited concern of rapid shifts in control, acquisitions unrelated to that purpose were exempted therefrom. Thus, persons who acquire not more than 2 percent of a class of securities within a 12-month period are exempted by section 13(d)(6)(B) from disclosing their ownership. In addition, persons who acquired their ownership prior to the enactment of the 5-percent threshold on December 22, 1970 (Pub. L. 91-567) are not subject to section 13(d) since section 13(d) is keyed to making an "acquisition" of the requisite amount

of securities. An acquisition of securities through a stock-for-stock exchange which is registered under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 24, 1975)] is exempted by section 13(d)(6)(A) because Congress apparently believed, at that time, that shareholders of the subject issuer would, through the receipt of the required prospectus, receive all the material facts necessary to make an informed decision whether to hold their stock or exchange it for the stock of the company making the exchange offer.³

In June 1975 Congress enacted section 12(m) of the Exchange Act which directed the Commission to conduct a study and investigation of the practice of recording the ownership of securities in the records of the issuer in other than the name of the beneficial owner, commonly referred to as "nominee" and "street" name registration, to determine whether the practice is consistent with, *inter alia*, the purpose of section 13(d). In its final report to Congress on December 3, 1976 (Street Name Study),⁴ the Commission concluded that the practice limits the amount of information readily available to the public regarding beneficial owners of substantial amounts of an issuer's securities and therefore may not provide the disclosure contemplated by Congress.⁵ In particular, the Commission noted the gaps in section 13(d), discussed above, which permit persons whose ownership exceeds five percent to avoid reporting such ownership.⁶ The Commission therefore recommended that a comprehensive system for disclosure of ownership interests be established and requested legislation to require ownership reports from those persons owning beneficially more than 5 percent of an issuer's securities who were not then required to report under the Exchange Act.⁷

¹ See S. Rep. No. 550, 90th Cong., 1st Sess. 3 (1967); H.R. Rep. No. 1711, 90th Cong.

² Nominee name registration refers to arrangements used by institutional investors and financial intermediaries for the registration of securities held by them for their own account or for the account of their customers who are the beneficial owners of the securities.

³ Street name registration, a specialized type of nominee registration, refers to the practice of a broker registering in its name, or in the name of its nominee, securities left with it by customers or held by it for its own account.

⁴ Final Report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities, 94th Cong., 2d Sess. (Comm. Print 1976) (hereinafter the "Street Name Study").

⁵ *Id.* at 5.

⁶ *Id.* at 48.

⁷ *Id.* at 52.

¹ Pub. L. 90-439 (July 29, 1968).

² S. Rep. No. 550, 90th Cong., 1st Sess. 7 (1967); H.R. Rep. No. 1711, 90th Cong., 2d Sess. 8 (1968); and Hearings on S. 510 before the Subcom. on Securities of the Senate Com. on Banking and Currency, 90th Cong., 1st Sess. (1967).

The Commission's recommendation was implemented by the enactment of the Domestic and Foreign Investment Improved Disclosure Act of 1977 (Title II of Pub. L. 95-213) which, among other things, added Section 13(g) to the Exchange Act. Section 13(g)(1) requires any person who is directly or indirectly the beneficial owner of more than 5 percent of a class of equity securities specified in section 13(d)(1) of the Exchange Act to send to the issuer and file with the Commission a statement setting forth, in such form and at such time as the Commission may, by rule, prescribe: such person's identity, residence, citizenship, the number and description of the shares in which such person has an interest and the nature of such interest.

Taken literally, section 13(g)(1) would require the filing of a report even though a report containing similar ownership information was also required under other sections of the Exchange Act. Section 13(g)(5), however, directs the Commission to take such steps as are necessary and appropriate in the public interest and for the protection of investors to achieve centralized reporting of the information, to avoid unnecessary duplicative reporting, and to minimize the compliance burden on persons required to report. Moreover, the legislative history is clear that section 13(g) was intended to "supplement the current statutory scheme by providing legislative authority for certain additional disclosure requirements that in some cases could not be imposed administratively."¹⁰ The principal effect of section 13(g), therefore, is to provide the authority necessary to close the gaps previously described in the disclosure requirements under Section 13(d).¹¹

By adding a separate subsection to the Exchange Act rather than eliminating the exceptions to section 13(d) and by making the disclosure requirements under section 13(g) less extensive than those under section 13(d), Congress was able to establish a comprehensive system for reporting large accumulations of stock ownership while at the same time minimizing the compliance burden on persons whose interests had not been acquired rapidly. It is important to note, however, that, unlike the limited Congressional purpose underlying section 13(d), reasons in addition to the protection of investors were advanced in support of establishing this comprehensive reporting system through the adoption of section 13(g). Most significantly, the legislative history is

replete with references to the need for such information by Congress, the executive branch and Federal agencies upon which to base reasoned public policy, especially with regard to foreign investment in American companies.¹²

B. Regulation 13D-G

The rules implementing sections 13(d) and 13(g) are set forth in Regulation 13D-G. That Regulation establishes specific filing and disclosure requirements and provides standards for determining what constitutes an "acquisition" and "beneficial ownership" for purposes of these provisions.

Any person who is a beneficial owner of more than five percent of a class of equity securities is required by Rule 13d-1 to file a statement containing the information required by either Schedule 13D or Schedule 13G depending upon whether such person is subject to paragraph (a), (b) or (c) of the Rule. Schedule 13D is primarily aimed at obtaining information concerning potential changes in control of an issuer. It calls for disclosure with respect to: the class of the security and the issuer; the identity and background of the beneficial owner, and, if the statement is filed by a partnership, syndicate, group or corporation, certain related persons; the source and amount of funds or other consideration used in making the acquisition; the purpose of the acquisition and any plans or proposals with respect to the acquisition or disposition of the securities, material changes in the issuer's business or corporate structure and other specified matters; the number of shares beneficially owned and transactions in the securities during the prior 60 days; and any contracts, arrangements, understanding or relationships with respect to the securities. Schedule 13G calls for an abbreviated statement which must include the identity, residence and citizenship of the beneficial owner as well as the number of shares beneficially owned.

Under paragraph (a) of Rule 13d-1, a person who makes an acquisition of certain equity securities which results in that person becoming the beneficial owner of more than five percent of a class of securities is required to file with the Commission and send to the issuer and each exchange where the security is traded a Schedule 13D within 10 days after such acquisition. Paragraph (b) of Rule 13d-1 permits a Schedule 13G to be filed and sent within forty-five days after the end of the calendar year by

persons who would otherwise be required to file a Schedule 13D if the conditions specified in the Rule are met. Generally, the securities must have been acquired in the ordinary course of the filing person's business and without the purpose or the effect of changing or influencing control of the issuer and the filing person must be among a specified class of institutional-type investors. These conditions are based on the criteria set forth in section 13(d)(5) to guide the Commission in allowing abbreviated statements to be filed as well as the legislative history of that section. While the filing of Schedule 13G by the persons encompassed by Rule 13d-1(b) is voluntary, in that it may be filed in lieu of a Schedule 13D, Schedule 13G is required to be filed under Rule 13d-1(c) by any beneficial owner of more than five percent of a class of securities who is not subject to Section 13(d). Generally, such persons are those who: (1) Acquired beneficial ownership of their securities prior to December 22, 1970; (2) acquired not more than 2% of the class acquired within a twelve-month period; or (3) acquired the securities through a stock-for-stock exchange registered under the Securities Act.

Rule 13d-2(a) requires the filing of an amendment to Schedule 13D promptly after any material change occurs in the facts set forth therein. Schedule 13G, on the other hand, is merely required by Rule 13d-2(b) to be updated within forty-five days of the end of each calendar year to reflect any changes in the previous filing.

The obligation to file a Schedule 13D depends in part upon whether there has been an "acquisition" of securities. Rule 13d-5(a) deems a person who has become a beneficial owner of securities to have acquired the securities. Thus, the Rule makes clear that the obligation to file extends to situations where beneficial ownership of securities has been obtained otherwise than by purchase, such as through gift, bequest or inheritance.

The standards for determining what constitutes "beneficial ownership" are set forth in Rule 13d-3. Rule 13d-3(a) provides that a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares either voting power or investment power with respect to such security. Voting power includes the power to vote or to direct the voting of such security and investment power includes the power to dispose or to direct the disposition of such security. In addition, a person is

deemed to be the beneficial owner of a security if such person has the right to acquire voting or investment power within 60 days or, at any time, if the right to acquire those powers was obtained with the purpose or with the effect of changing or influencing control. To ensure that a complete picture of a person's potential to affect control is presented, Rule 13d-3(c) requires that all securities beneficially owned by a person, regardless of the form which such beneficial ownership takes, are to be aggregated in calculating the number of shares beneficially owned.

An analysis of all relevant facts and circumstances in a particular case is necessary to determine who has voting or investment power. Moreover, since the determination of whether a person is a beneficial owner is based on who has the power, as distinguished from merely the legal right, to vote or dispose of the security, the interpositioning of multiple holders of record or other artifices cannot be used by a person holding either of the requisite powers to avoid his filing obligation. The integrity of the filing system is further reinforced by Rule 13d-3(b) which provides that Rule 13d-3(a) cannot be circumvented by a contract, arrangement or other device to divest a person of beneficial ownership or prevent the vesting of beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) or 13(g).

C. Section 16

Another provision of the Exchange Act which requires disclosure of the beneficial ownership of equity securities is section 16. Section 16(a) provides that every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of equity security (other than an exempted security) registered pursuant to section 12, or who is an officer or director of the issuer of such security, shall file with the Commission an initial report disclosing the amount of all equity securities of such issuer of which he is the beneficial owner and a further report within 10 days after the close of each calendar month in which there has been any change in his holdings. Rule 16a-1 (17 CFR 240.16a-1) implements this authority by providing Form 3 for initial reports of beneficial ownership and Form 4 for statements of changes in such beneficial ownership.

Section 16(b) provides that for the purpose of preventing the unfair use of information by such beneficial owner, officer or director by reason of his special relationship to the issuer, any profit realized by him from any purchase and sale, or sale and purchase, of any

equity security of such issuer (other than an exempted security) within any period less than six months, unless such security was acquired in connection with a debt previously contracted, shall inure to and be recoverable by the issuer.

Thus, section 16 is a prophylactic provision designed to prevent the use of inside information to derive windfall profits by certain insiders. The overriding concern under section 16 is therefore with the economic incidents of ownership. Because the purpose to be accomplished by section 16 is different from that under sections 13 (d) and (g), the Commission has not applied the standards for determining beneficial ownership set forth in Rule 13d-3 to reporting under section 16.

D. Section 13(f)

In 1975, as part of the Securities Acts Amendments of 1975, Congress adopted section 13(f) of the Exchange Act. The reporting system required by section 13(f) is intended to create in the Commission a central repository of historical and current data about the investment activities of institutional investment managers, and thereby to advance certain objectives. First, the reporting system is designed to improve the body of factual data available and thus facilitate consideration of the influence and impact of institutional investment managers on the securities markets and the public policy implications of that influence. Second, by making the Commission responsible for all gathering, processing, and dissemination of the data, Congress intended to permit establishment of uniform reporting standards and a uniform centralized data base.¹³

Section 13(f) of the Exchange Act empowers the Commission to adopt rules which would create a reporting and disclosure system to collect specific information concerning section 13(d)(1) equity securities held in accounts over which certain institutional investment managers exercise investment discretion. It gives the Commission broad rulemaking authority to determine the size of the institutions required to file reports, the format and frequency of the reporting requirements, and the information to be disclosed in each report. The statute directs the Commission to make available to the public a list of all equity securities described in section 13(d)(1) of the Exchange Act and to disseminate to the public the information contained in the reports. The Commission is also directed

to consult with other regulatory agencies to attempt to achieve uniform, non-duplicative reporting by, and minimize the compliance burden on, institutional investment managers.

On June 15, 1978, the Commission announced the adoption of Rule 13f-1 (17 CFR 240.13f-1) and related Form 13F (17 CFR 249.325) which implemented the institutional disclosure program mandated by Congress in section 13(f).¹⁴ Under the rule, as amended effective February 5, 1979,¹⁵ an institutional investment manager exercising investment discretion (as defined in section 3(a)(35) of the Exchange Act (15 U.S.C. 78(c)(a)(35)) with respect to accounts having \$100,000,000 or more in exchange-traded or NASDAQ-quoted equity securities on the last trading day of any of the twelve months of a calendar year must file five copies of Form 13F with the Commission and, if a bank, with the appropriate agency. The form must be filed within 45 days after the last day of such calendar year and within 45 days after the last day of the first three calendar quarters of the subsequent year. The form requires the reporting of the name of the issuer, and the title of class, CUSIP number, number of shares (or principal amount in the case of convertible debt), and aggregate fair market value of each such equity security held. The form also requires information concerning the nature of investment discretion and voting authority possessed.

E. Section 13(h)

Section 13(h) was also added to the Exchange Act by the Domestic and Foreign Investment Improved Disclosure Act of 1977. As noted above, section 13(h) directs the Commission to report to Congress in June 1980 with regard to the effectiveness of the ownership reporting requirements of the Exchange Act and the desirability and feasibility of reducing or otherwise modifying the 5 percent reporting threshold provided in sections 13(d) and 13(g). In addressing these matters, the Commission is required to give appropriate consideration to:

- (1) The incidence of avoidance of reporting by beneficial owners using multiple holders of record;
- (2) The cost of compliance to persons required to report;
- (3) The cost to issuers and others of processing and disseminating the reported information;

¹⁰Release No. 34-14052 (June 15, 1978) (43 FR 26700).

¹¹See, S. Rep. No. 94-75, 94th Cong., 1st Sess. 65 (1975).

¹²Release No. 34-15461 (January 5, 1979) (44 FR 3033).

¹³S. Rep. No. 114, 95th Cong., 1st Sess. 13 (1977).
¹⁴*Id.*

¹⁵See, e.g., Cong. Rec. S923 (daily ed. January 18, 1977) (remarks of Senator Williams).

(4) The effect of such action on the securities markets, including the system for the clearance and settlement of securities transactions;

(5) The benefits to investors and to the public;

(6) Any bona fide interests of individuals in the privacy of their financial affairs;

(7) The extent to which such reported information gives or would give any person an undue advantage in connection with activities subject to sections 13(d) and 14(d) of the Exchange Act;

(8) The need for such information in connection with the administration and enforcement of the Exchange Act; and

(9) Such other matters as the Commission may deem relevant, including the information obtained pursuant to section 13(f) of the Exchange Act.

Insight into the Congressional concerns underlying the enactment of Section 13(h) can be gleaned from prior bills which were considered during the 94th Congress¹⁶ as well as the original version of the bill which was finally enacted.¹⁷ These bills would have required a report to be filed with the Commission no more frequently than quarterly by any holder of record of, and any other person having an interest in, 2% or more of any equity security of a class of security described in section 13(d)(1). The reporting threshold would have been reduced under these bills to as little as 1/2 of 1% within a specified period after adoption, subject to the exercise of discretion vested in the Commission to shorten or lengthen the period if it found that such change was not inconsistent with the public interest or the protection of investors after giving appropriate consideration to and receiving public comments on specified criteria which closely resemble those found in Section 13(h). In addition, the Commission would have been directed to submit a report to Congress similar to that required by Section 13(h) with respect to the feasibility and desirability of reducing the reporting threshold to 1/10 of 1%.

Congress was apparently of the view that by enlisting the aid of record holders and reducing the reporting threshold it would minimize the potential for avoidance of the reporting requirements under Section 13(d)

through the interpositioning of multiple holders of record.¹⁸ However, there appears to have been a recognition that such an approach should not be adopted until there had been opportunity to determine the efficacy of the then recently adopted rules under Section 13(d) as well as to further study the matter.¹⁹

II. Scope of Inquiry

In view of the Congressional concerns underlying the enactment of Section 13(h), the Commission is considering whether to recommend legislation which would, among other things, reduce the reporting threshold below the present level of five percent of a class. Since the reporting threshold would have been progressively lowered by the prior bills to 2 percent, 1 percent and 1/2 of 1 percent and since the Commission would have been required to report with respect to a threshold of 1/10 of 1 percent, the following inquiries seek comment with respect to reporting at those levels. The inquiries also address the effectiveness of the current reporting requirements, including the rules adopted thereunder. The views of interested members of the public will be useful to the Commission in formulating any legislative recommendations and rulemaking action.

In responding to the following inquiries commentators are requested to furnish, to the extent feasible, detailed empirical data in support of their suggestions for any proposed modifications in the applicable statutory provisions and the rules thereunder. With respect to costs, the Commission requests detailed information on direct and indirect costs as well as start-up and continuing costs.

A. Incidence of Avoidance or Reporting by Beneficial Owners Using Multiple Holders of Record

One of the concerns which appears to have prompted the introduction of bills to lower the reporting threshold to as low as 1/2 of 1% is the possibility that reporting under section 13(d) could be avoided through the use of multiple holders of record to fragment the ownership in individual accounts to less than five percent. However, the introduction of these bills as well as the

¹⁶See, e.g., S. 953, 94th Cong., 1st Sess. (1975); S. 3084, 94th Cong., 2d Sess. (1976); S. 3084 was adopted by the Senate on August 27, 1976 but no action was taken by the House of Representatives. See 122 Cong. Rec. 28249 (1976) and Cong. Rec. S. 922 (daily ed. January 18, 1977) (remarks of Senator Williams).

¹⁷S. 305, 95th Cong., 1st Sess. (1977), Cong. Rec. S. 919 (daily ed. January 18, 1977).

¹⁸In this regard, S. Rep. No. 114, 95th Cong., 1st Sess. 14 (1977) states: While the Committee believes that such measures may ultimately be necessary, it has determined that statutory provisions of this nature may be deferred at this juncture, particularly in light of the Commission's mandate under section 203 of S. 305 to study the effectiveness of current reporting levels.

enactment of section 13(h) occurred prior to the adoption of the present standards for determining who is a beneficial owner for purposes of sections 13(d) and 13(g). As noted above, by imposing the filing obligation on the person who has or shares voting or investment power, the reporting requirements cannot, as a legal matter, be avoided through the use of multiple holders of record. The use of multiple holders of record could, however, make detection of violations of the reporting requirements more difficult.

In light of the foregoing the Commission invites public comment with respect to the following areas of inquiry:

(1) Are the standards set forth in Rule 13d-3 for determining who is a beneficial owner, together with the aggregation requirement in Rule 13d-3(c), effective in preventing the avoidance of the reporting requirements of sections 13(d) and 13(g) through the use of multiple holders of record? Are there more effective methods of doing so and, if so, what are they?

(2) How and to what extent are multiple holders or record being used to avoid the reporting requirements under sections 13(d) and 13(g)? How can the detection of such violations be enhanced?

(3) Would a reduction in the reporting thresholds under sections 13(d) and 13(g) be effective in dealing with the matters raised in inquiries 1 and 2?

B. Cost of Compliance to Persons Required to Report

In addition to the extent of required disclosure, an assessment of the cost of compliance with the reporting requirements must take into consideration the question of who should be required to report, the overlap among the reporting requirements, and the burden imposed by these requirements.

In order to cover the persons who have the potential to affect control, Rule 13d-3 deems a person to be a beneficial owner if he has or shares, directly or indirectly, either voting or investment power or, in certain cases, the right to acquire either of those powers. As a consequence, there can be more than one beneficial owner of the same securities. The Commission has attempted to reduce the compliance burden in such situations by permitting the joint filing of a Schedule 13D or 13G where the conditions in Rule 13d-1(f) are satisfied. The Commission has nevertheless been criticized for the breadth of the definition and the attendant costs of compliance.

In view of the differences between the purposes underlying sections 13(d) and 13(g) and those underlying sections 13(f) and 16(a), as well as certain technical differences between these provisions, the Commission has determined that it is not feasible to adopt a system of centralized reporting which will encompass all of these provisions. The commission has been able to a limited extent to integrate the reporting requirements under section 13(f) with those under sections 13(d) and 13(g). Thus, information contained in a Form 13F can be incorporated by reference in response to any of the items of Schedule 13D or 13G.

The Commission has attempted to minimize the cost of compliance to persons filing Schedule 13G. The disclosure has, in the Commission's judgment, been abbreviated to the minimum amount necessary to satisfy the Congressional purpose. In addition, the Schedule is required to be filed only once a year to show the beneficial ownership as of the last day of the calendar year. Thus, the expense of monitoring ownership throughout the year is avoided since ownership generally needs to be computed only as of the last day of the year for this purpose.

The Commission has also reduced the scope of Regulation 13D-G by limiting its application to voting equity securities. In the Commission's view, non-voting securities are outside the Congressional purpose since they do not enable the beneficial owner to change or influence control of the issuer.

In view of the foregoing, the Commission invites comment with respect to the following areas of inquiry:

(4) Do the costs of compliance under the present reporting requirements outweigh the benefits to investors and the public of the information obtained thereunder? If so, how can the costs of compliance be reduced consistently with the purposes of the reporting requirements?

(5) What effect would lowering the reporting threshold to the following percentages have on the cost of compliance: 2%? 1%? 0.5%? 0.1%? Which, if any, of these thresholds would cause the costs of compliance to exceed the benefits of the information to investors and the public?

(6) Is it feasible to integrate the present reporting requirements into a centralized system of reporting? If so, how can this be accomplished in a manner consistent with the purposes of the reporting requirements?

C. Costs to Registrants and Others of Processing and Disseminating the Reported Information

The Street Name Study concluded that ownership information gathered under the then existing Commission rules was not disseminated as widely as might be desirable.²⁰ Congress has also emphasized the need for public availability of information in enacting sections 13(f)²¹ and 13(g).²²

The Commission has attempted to promote the dissemination and public availability of the ownership information obtained under sections 13(d) and (g) in two ways. First, the Commission has enlisted the aid of registrants required to file periodic reports under section 13 of the Exchange Act. Second, the Commission is in the process of implementing a computer system to enhance public access to certain key information abstracted from the Schedules.

Item 5 of Schedule 14A (§ 240.14a-101) and Item 13 of Form 10-K (§ 249.310) impose an obligation on registrants to disclose the information called for by Item 6 of Regulation S-K (§ 229.20.6).²³ Item 6 of Regulation S-K requires disclosure of the name, address, number of shares owned, and the percent of class represented by such shares for each person who beneficially owns more than 5 percent of a class of a registrant's voting securities. In responding to this item the registrant may rely upon information set forth in Schedules 13D or 13G unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not. Thus, shareholders, members of the public and government agencies are able to consult the ownership information prepared by the registrant and filed in its annual report or proxy statement for the purpose of identifying the substantial beneficial owners of a particular issuer. If further information is necessary with respect to such persons, the Schedules upon which the registrant based its disclosure are

available in the Commission's public files as soon as they are filed.

The cover pages to Schedule 13D, Schedule 13G and Schedule 14D-1²⁴ require certain data²⁵ to be abstracted from the Schedules for entry into a computer retrieval system. Two tabulations of this information will be publicly available. One tabulation is classified by registrant and will show the beneficial owners of over 5 percent of each registrant's stock. The other tabulation is classified by reporting person and will show the beneficial ownership for each registrant in which the person has a reportable interest. In addition, special tabulations will be available through a private vendor for a fee.

Forms 3 and 4 filed pursuant to section 16 of the Exchange Act are available in the Commission's public files as soon as they are filed. In addition, The Official Summary of Securities Transactions, which is published monthly, condenses certain information in those forms. This publication may be ordered from the Superintendent of Documents.

In furtherance of its obligation to disseminate to the public the information in the reports filed pursuant to section 13(f), the Commission has made available for public inspection a copy of each report in its Public Reference Room in Washington. In addition, the Commission has arranged through a private vendor for tabulation of the results of all the reports for each filing period. Copies of the tabulations for each filing period have been made available for public inspection in the Commission's Public Reference Room in Washington.

In light of the foregoing, the Commission invites comments on the following areas of inquiry:

(7) Do the costs of compliance to registrants and others of processing and disseminating the reported information outweigh the benefits to investors and the public therefrom? If so, how can the costs of compliance be reduced consistently with the Congressional purpose of securing adequate dissemination of the information?

(8) What effect would lowering the reporting threshold to the following percentages have on the cost of compliance to registrants and others of processing and disseminating the information: 2%? 1%? 0.5%? 0.1%? Which, if any, of these thresholds would cause

²⁰Schedule 14D-1, in certain specified circumstances, may be used to satisfy the reporting requirements under section 13(d).

²¹Notably, the cover pages call for the identity of the reporting person, his citizenship, and the amount and nature of his beneficial ownership.

²²Street Name Study at 50.

²³Section 13(f)(3) requires the Commission to make reports filed pursuant thereto available in a way "which will . . . maximize the usefulness of the information to other Federal and State authorities and the public."

²⁴Section 13(g)(5) directs the Commission to tabulate and promptly make available the information contained in any report filed thereunder in a manner which will, in the view of the Commission, maximize the usefulness of the information.

²⁵Item 19 of Form S-1 (§ 239.11), Item 18 of Form S-11 (§ 239.18) and Item 5 of Form 10 (§ 249.210) also require the disclosure called for by Item 6 of Form S-K.

the costs of compliance to exceed the benefits of dissemination to investors and the public?

(9) Should the disclosure required by Item 6 of Regulation S-K be given solely with respect to voting power, particularly with regard to the disclosure of beneficial ownership in proxy statements?

D. Effect of Lowering the Reporting Threshold on the Securities Markets, Including the System for the Clearance and Settlement of Securities Transactions

The Street Name Study found that nominee name registration benefits investors and the securities industry by facilitating the transfer of record ownership and the clearance and settlement of securities transactions.²⁶ It also concluded that nominee name registration is consistent with the purposes of the Exchange Act, with particular reference to sections 12(g), 13, 14, 15(d), 16 and 17A.²⁷ Consistent with this conclusion, the Commission has attempted to avoid interfering with this practice under the present rules adopted pursuant to Sections 13(d) and 13(g). Thus, under Rule 13d-3(d)(2) a member of a national securities exchange is deemed not to be a beneficial owner of securities which are held on behalf of another person if the member's only interest in the securities is that of record ownership and he is precluded by rules of the exchange from voting without instruction on other than certain routine matters.²⁸

With a reporting threshold of 5 percent of the outstanding securities, relatively few investors are required to report. As the reporting threshold is lowered the number of investors who become subject to the requirements necessarily increases. Because of the intrusion in the privacy of their financial affairs as well as the costs of compliance attendant to such reporting, the lowering of the reporting threshold could act as a disincentive to investment in equity securities of reporting companies.

In light of the foregoing, the Commission invites comments on the following areas of inquiry:

(10) What effect do the present reporting requirements have on the securities markets, including the clearance and settlement of securities transactions?

(11) What effects would lowering the reporting threshold to the following

percentages have on the securities markets, including the system for the clearance and settlement of securities transactions: 2%? 1%? 0.5%? 0.1%? How can any adverse effects be mitigated consistently with the purposes of the reporting requirements?

(12) To what extent would lowering the reporting threshold act as a disincentive to investment in the equity securities of reporting companies?

E. The Benefits to Investors and to the Public

In assessing the benefits to investors and the public of the disclosure obtained under the present reporting requirements as well as under requirements with reduced reporting thresholds, it is important to focus on the purpose being served by such disclosure. As noted previously, the information obtained under sections 13(d) and 13(g) is intended to provide information to investors with respect to potential changes in or influences upon the control of an issuer. With this information, the market is able to adjust appropriately its evaluation of the issuer's worth. The legislative history of section 13(g) reveals, however, that the benefits of a comprehensive system of disclosure of securities ownership are not limited to investor protection. Such information is needed by Congress, the executive branch and Federal agencies to make reasoned public policy,²⁹ especially with regard to foreign investment in American companies.

The Street Name Study noted in this regard that:

The touchstone of the national disclosure policy in this area is the concept of control or potential control. Control is, however, an elusive concept. Because shareholder influence is not exercised in an open fashion, its incidence and effect are not readily subject to determination. The result is that the appropriate threshold [for] disclosure is essentially a matter of judgment.³⁰

Thus, at least insofar as investor protection is concerned, the task is one of identifying a reporting threshold which in most instances will elicit disclosure only from those persons who have the potential to affect control.

²⁹ Similarly, Congress expected that federal and state agencies could make extensive use of data collected pursuant to section 13(f) in fulfilling their responsibilities to consider and develop standards designed to protect the public interest and that the data may prove useful to the public in making informed investment decisions as well as providing a basis for consideration of the public policy implications of institutional investment activities. See, Rep. No. 94-75, 94th Cong., 1st Sess. 77-88 (1975).

³⁰ Street Name Study at 50.

In light of the foregoing, the Commission invites comments on the following areas of inquiry:

(13) In addition to the benefits noted above, how do investors and the public benefit from the information obtained under the present reporting requirements?

(14) How would investors and the public benefit from reducing the reporting threshold to the following percentages: 2%? 1%? 0.5%? 0.1%? Do the benefits to investors cease at a reporting threshold different from that for the public in general?

(15) What percentage ownership will in most instances enable the holder of securities of that amount to have the potential to change or influence control?

F. Bona Fide Interest of Individuals in the Privacy of Their Financial Affairs

Concern has been expressed that a lowering of the threshold for the reporting of beneficial ownership might constitute an unwarranted limitation on an individual's right to privacy. The Commission therefore invites comment on the following areas of inquiry:

(16) Do the present reporting requirements for the disclosure of beneficial ownership accomplish the purposes for which they were established without unnecessary intrusions into the financial affairs of private investors?

G. The Extent to Which Such Reported Information Gives or Would Give Any Person an Undue Advantage in Connection With Activities Subject to Sections 13(d) and 14(d)

In passing the Williams Act, Congress recognized that although "takeover bids should not be discouraged,"³¹ the regulation of tender offers and other acquisitions which may cause a change in control was necessary for the purpose of disclosure of material information.³² However, in adopting this approach, Congress was aware of the positions of the bidder and the company whose securities are being sought and therefore took.

* * * extreme care to avoid tipping the balance of regulation either in favor of management or in favor of the person making the takeover bid. The bill is designed to require full and fair disclosure for the benefit of investors while at the same time providing the offeror and management equal opportunity to fairly present their case.³³

Purchases made prior to the determination to make a tender offer permit a potential bidder to test the

³¹ S. Rep. No. 559, 90th Cong., 1st Sess. 3 (1967).

³² *Id.* at 1.

³³ *Id.* at 3.

market and to determine the appropriate consideration to be offered. Obtaining a significant position in the subject company's securities may also be of assistance in negotiating an acquisition with management, demonstrating to shareholders the seriousness of one's interest in acquiring the company, and deterring others from making a competing bid.

In light of the foregoing, the Commission invites comment on the following areas of inquiry:

(17) To what extent do the present reporting requirements give any person an undue advantage in connection with the activities subject to section 13(d) or 14(d)?

(18) To what extent would a lowering of the reporting threshold to the following percentages give any person an undue advantage in connection with activities subject to Sections 13(d) or 14(d): 2%? 1%? 0.5%? 0.1%?

H. The Need for Such Information in Connection With the Administration and Enforcement of the Exchange Act

One of the concerns which prompted the introduction of legislation to lower the reporting threshold and to make the reporting system comprehensive was that the perceived inadequacies of the reporting requirements masked violations thereof as well as other activities which could entail civil or criminal penalties.³⁴ The Commission therefore invites comment on the following areas of inquiry:

(19) Would a lowering of the reporting threshold to the following percentages be of assistance to the Commission in detecting and enforcing violations of the reporting and other requirements of the Exchange Act as well as in administering the provisions of the Exchange Act: 2%? 1%? 0.5%? 0.1%?

(20) Would the benefits to the public from any enhanced enforcement and administration of the provisions of the Exchange Act which might result from a lowering of the reporting threshold outweigh the attendant costs of compliance and other burdens imposed by such action?

I. Other Matters

Acquisitions during filing period

The Commission is becoming increasingly concerned by an abuse of the present notification system under Section 13(d). It is an increasingly prevalent practice to make significant acquisitions of securities during the ten-day period between the occurrence of the event which triggers the obligation

³⁴ Cong. Rec. S923 (daily ed. January 18, 1977) (remarks of Senator Williams).

to file a Schedule 13D and the time the Schedule is required to be filed. A similar practice is followed in connection with the filing of amendments under section 13(d)(2) and Rule 13d-2(a) which require an amendment to be filed promptly if any material change takes place in the facts set forth in the Schedule 13D. Significant additional acquisitions are made between the time the obligation to amend arises and the time the amendment is filed. Thus, instead of learning of the acquisition of securities which may give the beneficial owner the potential to affect control, investors and the public may be confronted with the acquisition of an interest which is sufficiently great to enable the owner to exercise control.

In view of the foregoing, the Commission requests comment on the following areas of inquiry:

(21) Should persons making acquisitions which result in them becoming the beneficial owner of five percent of the class of securities be prohibited from making any additional acquisitions until a specified period after they have filed a schedule 13D to report the triggering acquisition? If so, should the prohibition be limited to certain types of additional acquisitions and/or to additional acquisitions of certain percentages of the class? Should a similar prohibition be applicable to acquisitions which require the filing of an amendment to Schedule 13D?

(22) Would such a prohibition be necessary if the reporting threshold were lowered to the following percentages: 2%? 1%? 0.5%? 0.1%?

(23) Are there alternative ways in which the reporting requirements can be modified to prevent the abusive practices discussed above? If so, explain how the modified reporting requirements would operate and describe the benefits to investors and to the public, as well as the burdens to the reporting persons, that the modified reporting requirements would involve.

Institutional disclosure

Section 13(h)(2)(I) provides the Commission with the opportunity to supply information on other matters it may deem relevant to beneficial ownership reporting, including the information obtained pursuant to section 13(f). Certain of the foregoing questions will afford an opportunity to comment on the interrelationship of the beneficial ownership reporting requirements of section 13(d) and 13(g) and the institutional disclosure requirements of section 13(f). However, in order to enable the Commission better to decide what information it

might be appropriate to supply in its report under section 13(h), the Commission believes it might be useful to obtain comments specifically on the operation of the institutional disclosure program.

In view of the foregoing, the Commission requests comment on the following areas of inquiry:

(24) Do the costs and burdens of compliance with the reporting requirements outweigh the benefits of the program? If so, in what specific ways could they be reduced without significantly compromising the purposes of the program?

(25) In what ways, if any, should the information required to be reported be expanded, contracted or altered so as best to effectuate the purposes of the program?

Statutory Authority

The foregoing action has been ordered by the Commission pursuant to the authority set forth in sections 7, 10 and 19(a) of the Securities Act and sections 3(b), 12, 13, 14 and 23 of the Exchange Act.

By the Commission,
December 12, 1979.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-39051 Filed 12-19-79; 8:45 am]

BILLING CODE 8010-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Improving Quality of Regulations; Semiannual Agenda of Significant Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Semiannual agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's semiannual agenda of significant regulations under development. This agenda was developed pursuant to the President's Order on improving government regulations (Executive Order 12044, 43 FR 12661 (March 24, 1978)) and the Pension Benefit Guaranty Corporation's Statement of Policy and Procedures implementing the Order (43 FR 58237 (December 13, 1978)).

ADDRESS: Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact J. R. Goldstein, Special Counsel, Office of the General Counsel, 202-254-4895. For information about a

particular item on the agenda, contact the person designated for each regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on improving government regulations (Executive Order 12044, 43 FR 12661 (March 24, 1978)), each Executive Agency is required to publish semiannually an agenda of significant regulations under development or scheduled to be reviewed by the agency. This is the third semiannual agenda of the Pension Benefit Guaranty Corporation ("PBGC") of its significant regulations under development. (For the reasons set forth in PBGC's Statement of Policy and Procedures implementing the Executive Order [43 FR 58237 (December 13, 1978)], the PBGC does not plan to schedule any regulations for review until some time in 1980.)

Since publishing its last agenda (44 FR 36433), the PBGC has begun development of a new significant regulation that deals with partitioning pension plans under § 4063(d) of the Employee Retirement Income Security Act of 1974 ("ERISA"). That regulation is listed as item No. 9 on the agenda set forth below.

In addition, two regulation projects (items 8 and 9 on the previous agenda) have been dropped by the PBGC. The first was a regulation dealing with the valuation and allocation of group insurance contracts. Group insurance contracts are already covered under the PBGC's regulations on valuing plan assets and allocating plan assets, 29 CFR Parts 2611 and 2608 respectively. While the application of these rules to group insurance contracts is somewhat cumbersome, PBGC staff was unable to develop a more satisfactory regulatory approach. Accordingly, the project has been discontinued, and PBGC will continue to apply its existing regulations in this area.

The second regulation would have set forth rules for distinguishing between a single pension plan and an aggregate of single plans. At the time this project was started, PBGC was faced with a large number of cases that presented this issue, and it had established a special task force to handle these cases. The governing legal principles on which PBGC decides these cases have been published in agency opinion letters. The experience of the task force has shown that each of these cases presents a different combination of relevant facts, and therefore that it is not useful to develop broad rules applicable to all the cases. Moreover, the number of new cases involving this issue has decreased substantially. For these reasons, the

PBGC has dropped this regulation project.

In addition to the description of the new significant regulation under development, the agenda set forth below contains a status report on the eight on-going projects listed in the prior agendas. Interested members of the public with questions or comments concerning these regulations are invited to write or telephone the PBGC contact designated for each regulation. The PBGC's mailing address is 2020 K Street, N.W., Washington, D.C. 20006.

1. Notification Requirements for Reportable Events and Establishment of New Reportable Events

Status. Part of this regulation project involved proposing the establishment of new reportable events pursuant to ERISA section 4043(b)(9). However, the PBGC has learned that the information that it would have obtained under these proposed new reportable events can be obtained from the Internal Revenue Service ("IRS"). Since this procedure would lessen the reporting requirements on the public, the PBGC has elected to get the information from the IRS and has dropped its plans to propose new reportable events at this time.

Development of the main portion of the project—the final reportable events regulation—is continuing. A draft of the final rule was reviewed by PBGC's Advisory Committee, and the Committee suggested several changes. PBGC staff has been analyzing the Advisory Committee's recommendations, and the draft final rule is being revised. When this draft is completed, it will be reviewed by the Advisory Committee.

PBGC Contact. Mr. David Weingarten, Special Counsel, Office of the General Counsel, 202-254-3010.

2. Proposed Rules for Determining and Collecting Employer Liability

Status. The draft proposed regulation was reviewed by the PBGC's Advisory Committee, and it recommended a number of changes. PBGC staff have analyzed those recommendations, and the draft proposed rule is being revised.

PBGC Contact. Mr. J. R. Goldstein, Special Counsel, Office of the General Counsel, 202-254-4895.

3. Proposed Rules for Establishing Prospective Interest Rates for Valuing Plan Benefits (Proposed Amendment to Interim Regulation on Valuing Plan Benefits)

Status. A draft of the proposal has been circulated for review within the PBGC, and this review has raised significant new issues. Work has begun

on the issues, and the draft proposal will be revised in the near future.

PBGC Contact. Ms. Nina Hawes, Attorney, Office of the General Counsel, 202-254-4895.

4. Proposed Rules Governing the Reversion of Excess Plan Assets

Status. A draft of the proposed rule was reviewed by PBGC's Advisory Committee. The Committee suggested certain changes, and these suggestions are currently being analyzed by PBGC staff. It is expected that work will begin shortly on revising the draft proposal.

PBGC Contact. Ms. Renae Hubbard, Attorney, Office of the General Counsel, 202-254-4895.

5. Proposed Rules on the Allocation of Employer Liability Among Employers in a Multiple Employer or Multiemployer Plan

Status. The development of specifications for this proposed regulation has been delayed in part because of the need to coordinate the policies to be embodied in this regulation with those contained in other related regulations currently under development. The specifications should be completed and drafting of the proposed rule should begin in the near future.

PBGC Contact. Mr. William Seals, Attorney, Office of the General Counsel, 202-254-4895.

6. Proposed Rules for Multiemployer Mergers, Spinoffs and Transfers of Assets or Liabilities Under Section 208 of ERISA

Status. A draft of the proposed regulation has been circulated for review within the PBGC, and the draft is currently being revised in light of the comments received. The new draft will be reviewed by PBGC's Advisory Committee.

PBGC Contact. Ms. Karen Clark, Attorney, Office of the General Counsel, 202-254-3010.

7. Rules for Determining Plan Sufficiency and for Terminating Sufficient Plans

Status. The proposed regulation was published at an early stage in PBGC's development, before extensive experience in case handling had been acquired. It contained two alternative approaches which involved different degrees of direct PBGC involvement. Implementation of either alternative would require creation of new systems and procedures and the allocation of significant resources. These necessary preparations had a lower priority than other tasks, and therefore did not reach

a stage where preparation of final regulatory language would be appropriate for some time. When the final regulation preparation became imminent, the PBGC's Policy Committee reviewed the decisions that had been made shortly after publication of the proposed regulation. It recommended a significant change from the earlier policy, and this recommendation was adopted by the Executive Director. Accordingly new specifications for the regulation have been prepared. The specifications will be reviewed by the PBGC's Advisory Committee.

PBGC Contact. Ms. Joan Segal, Attorney, Office of the General Counsel, 202-254-3010.

8. Amendments to the Notice of Intent to Terminate Regulation

Status. The proposed amendments were published for public comment in the *Federal Register* on July 24, 1979. A number of comments were received. These comments are being reviewed by PBGC staff, and specifications for the final amendments are currently being prepared.

PBGC Contact. Mr. William Seals, Attorney, Office of the General Counsel, 202-254-4895.

9. Proposed Rules for Partitioning a Plan to Which More Than One Employer Contributes and Determining Employer Liability

Description. Pursuant to ERISA section 4063(d), upon the withdrawal of a contributing employer from a plan to which more than one employer contributes, the PBGC may, under certain circumstances, partition the plan into two plans, treating one as a terminated plan (the "partitioned plan") and the other as a separate, on-going plan (the "surviving plan"). The PBGC is currently developing a proposed regulation setting forth the circumstances under which it will partition a pension plan. The regulation will also: prescribe the method for allocating assets and liabilities between the partitioned plan and the surviving plan; set forth rules and procedures pertaining to the termination of the partitioned plan; and prescribe rules for determining the employer liability of the withdrawing employer and the other employers with respect to the partitioned plan and the surviving plan.

Need. A number of cases have been before the PBGC in which the issue of plan partitioning has been raised, and thus the PBGC finds that there is a need to provide guidance to plan administrators and employers as to the circumstances under which PBGC will partition a plan and on how employer

liability will be determined when a plan is partitioned.

Legal Basis. ERISA sections 4002(b)(3), 4063(d) and 4064; 29 U.S.C. 1302(b)(3), 1363(d) and 1364.

Regulatory Analysis. Not required.

PBGC Contact. Mr. David Weingarten, Special Counsel, Office of the General Counsel, 202-254-3010.

Issued in Washington, D.C., this 14th day of December, 1979.

Robert E. Nagle,
Executive Director, Pension Benefit Guaranty Corporation.

(FR Doc. 79-33915 Filed 12-19-79; 8:45 am.)

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 207

Navigation Regulations; Hood Canal, Bangor Naval Restricted Areas

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish a restricted area in the Hood Canal, Washington, adjacent to the Bangor Naval Submarine Base. The amendment is necessary to assure unhampered navigation in and around new piers and to provide increased physical security to submarines, supporting small craft and the magnetic silencing range.

DATE: Comments must be received by February 1, 1980.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, telephone number (202) 272-0200.

SUPPLEMENTARY INFORMATION: Regulations have been promulgated in 33 CFR 207.750(e) establishing and governing the use of a naval restricted area in the Hood Canal at the Bangor Naval Submarine Base, Washington. The Commanding Officer of the Bangor Naval Submarine Base has requested that portions of the existing restricted area be expanded channelward and an additional restricted area be established as Area No. 2 for security around the magnetic silencing range. These changes are essential for increased physical security for TRIDENT submarines and for operations around the new piers.

Accordingly, the U.S. Army Corps of Engineers proposes to amend 33 CFR 207.750(e) by revising subparagraph (1),

amending subparagraph (2) in its entirety and redesignating it as subparagraph (3) and establishing a new subparagraph (2) as set forth below.

§ 207.750 Puget Sound Area, Washington:

(e) Hood Canal, Bangor Naval Restricted Areas—(1) Area No. 1. That area bounded by a line commencing on the east shore of Hood Canal at latitude 47°43'28"N; thence 270° true to latitude 47°43'28"N, longitude 122°44'40"W; thence to latitude 47°43'50"N, longitude 122°44'40"W; thence to latitude 47°44'24"N, longitude 122°44'22"W; thence to latitude 47°45'47"N, longitude 122°43'22"W; thence to latitude 47°46'23"N, longitude 122°42'42"W; thence to latitude 47°46'23"N, longitude 122°42'20"W; thence 125° true to the high tide line; thence southerly along the shoreline to the point of beginning.

(2) Area No. 2. Waters of Hood Canal within a circle of 1,000 yards diameter centered on a point located at latitude 47°46'26"N, longitude 122°42'49"W.

(3) The Regulations—(i) Area No. 1. No vessel shall enter this area without permission of the Commandant, Thirteenth Naval District, or his/her authorized representative.

(ii) Area No. 2. (a) The area will be used intermittently by the Navy for magnetic silencing operations.

(b) Use of any equipment such as anchors, grapnels, etc., which may foul underwater installations within the restricted area, is prohibited at all times.

(c) Dumping of any nonbuoyant objects in this area is prohibited.

(d) Navigation will be permitted within that portion of this circular area, not lying within Area No. 1 at all times except when magnetic silencing operations are in progress.

(e) When magnetic silencing operations are in progress, use of the area will be indicated by display of quick flashing red beacons on the pier located in the southeast quadrant of the area.

(f) The regulations in this paragraph shall be enforced by the Commandant, Thirteenth Naval District, or his/her authorized representative.

(40 Stat. 266; 33 U.S.C. 1).

Note.—The Chief of Engineers has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and therefore, is not significant for the purposes of EO 12014. A regulatory analysis is not required.

Dated: December 7, 1979.
Forrest T. Gay III,
*Colonel, Corps of Engineers, Executive
Director, Engineer Staff.*
[FR Doc. 79-39068 Filed 12-19-79; 8:45 am]
BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1378-3]

Standards of Performance for New Stationary Sources Continuous Monitoring Performance Specifications; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: The deadline for submittal of comment on the proposed revisions to the continuous monitoring performance specifications, which were proposed on October 10, 1979 (44 FR 58602), is being extended from December 10, 1979, to February 11, 1980.

DATES: Written comments and information must be received on or before February 11, 1980.

ADDRESSES: *Comments.* Written comments and information should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), Attention: Docket Number OAQPS-79-4, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Docket. Docket Number OAQPS-79-4, containing material relevant to this rulemaking, is located in the U.S. Environmental Protection Agency Central Docket Section, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711; telephone (919) 541-5271.

SUPPLEMENTARY INFORMATION: On October 10, 1979 (44 FR 58602), the Environmental Protection Agency proposed revisions to the Continuous Monitoring Performance Specifications 1, 2, and 3. The notice of proposal requested public comments on the standards by December 10, 1979. Due to delay in the shipping of copies of the performance specifications publication, a sufficient number of copies have been

unavailable for distribution to all interested parties in time to allow their meaningful review and comment by December 10, 1979. An extension of this period is justified as this delay has resulted in about a 5-week delay in processing requests for the document.

Dated: December 12, 1979.
Edward F. Tuerk,
*Acting Assistant Administrator for Air, Noise,
and Radiation.*

[FR Doc. 79-39062 Filed 12-19-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Parts 122 and 123

Health Systems Agencies, State Health Planning and Development Agencies, and Health Facilities Discontinuance and Conversion

AGENCY: PHS, Health resources Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: In order to implement the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96-79), the Department is proposing to amend the regulations for the health planning program and to add regulations for the health facilities discontinuance and conversion program. The proposed amendments to health planning regulations would govern: (1) the designation and funding of State health planning and development agencies, (2) the designation and funding of health systems agencies, (3) certificate of need reviews by planning agencies, (4) Federal funds reviews by health systems agencies (including proposed uses for research and training) and by Statewide health coordinating councils, (5) appropriateness reviews by planning agencies, and (6) the redesignation of health service areas. In addition, the Department proposes to issue regulations to implement a new program of grants for voluntary discontinuance and conversion of unneeded hospital services (sections 1641-4 of the PHS Act). The Secretary has reviewed the issues pertinent to these regulations and has decided that they are policy significant.

With the exception of regulations for certificate of need, proposed regulations for the health planning program will include both a Preamble and a proposed regulation-itself. Because of the statutory requirement that the

Department issue final regulations for certificate of need reviews within 180 days of enactment of the amendments (April 1, 1980), the Secretary has chosen to present the Notice of Proposed Rulemaking for certificate of need programs in issue paper format.

FOR FURTHER INFORMATION CONTACT:

For further information on health planning regulations contact: Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, Center Building, Room 6-22, Hyattsville, Maryland (301) 436-6850.

For further information on health facilities regulations contact: Florence B. Fiori, Dr. P. H., Director, Bureau of Health Facilities, Financing, Conversion and Closure, Center Building, Room 6-27, Hyattsville, Maryland (301) 436-7700.

Date: November 7, 1979.

Charles Miller,
Acting Assistant Secretary for Health.

[FR Doc. 79-39182 Filed 12-19-79; 8:45 am]
BILLING CODE 4110-83-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. FEMA-DR-205]

Disaster Assistance; Proposed Subpart H (Project Administration)

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This subpart provides guidance for the administration of Federal disaster assistance for State and local governments and qualifying private nonprofit institutions under the Disaster Relief Act of 1974, Pub. L. 93-288, as amended. It describes procedures to be used by grantees and recipients of assistance in applying for Federal disaster relief for governmental bodies and eligible private nonprofit facilities. The procedures include those relating to project applications, advance of funds, inspection, audit and final payment.

COMMENTS: February 19, 1980.

ADDRESS: Federal Emergency Management Agency, Washington, D.C. 20472.

SEND COMMENTS TO: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 1725 I Street, N.W., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Laurie Dove, Office of Public Assistance, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, DC 20472; Telephone: (202) 634-7835.

SUPPLEMENTARY INFORMATION: A notice issued in the Federal Register on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Chapter I, Federal Emergency Management Agency, with Subchapters A-E) indicated that Disaster Assistance would be Subchapter D, Parts 200-299.

On September 28, 1979, FEMA published a Notice of Transfer and Redesignation that transferred the Federal Disaster Assistance Regulations from 24 CFR Parts 2200-2205 to 44 CFR Part 200 *et seq.*

The regulations implementing the Disaster Relief Act of 1974 (44 CFR Part 205) are in the process of reorganization and revision. The proposed rule revises and recodifies the material in the existing 44 CFR Part 205, §§ 205.7, 205.10, 205.11, 205.19, 205.33(a), 205.52, 205.54(part), and 205.60 as a new Subpart H. The proposed rule is expanded to implement the requirements of OMB Circular A-102 and to incorporate material published previously in the FEMA Handbook for Applicants 3300.5 (Rev.). Portions of the material have been revised to clarify existing administrative policy and procedures.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472. Each person submitting a comment should identify this notice, and give reasons for any recommendations. All submissions received on or before February 19, 1980. Copies of all written comments received will be available for examination by interested persons at the Office of the Rules Docket Clerk. This proposal may be changed in light of the comments received.

A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Interested parties may inspect and obtain copies of this Finding of Inapplicability of Environmental Impact at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency, Washington, D.C. 20472.

Accordingly, it is proposed that the Federal Disaster Assistance Regulations, 44 CFR part 205, be amended by deleting §§ 205.7, 205.10, 205.11, 205.17, 205.19, 205.33(a), 205.52, 205.54(part), and 205.60 and revising a new Subpart H as follows.

§§ 205.7, 205.10, 205.11, 205.17, 205.19, 205.33(a), 205.52, 205.54 and 205.60 [Deleted]

Subpart H—Project Administration

Sec.
205.110 General.
205.111 Definitions.
205.112 Implementation of OMB Circular A-102 (Rev.).
205.113 Federal grant assistance.
205.114 Project applications.
205.115 Documentation.
205.116 Project performance.
205.117 Final inspections.
205.118 Claims for reimbursement.
205.119 Federal funding.
205.120 Appeals.
205.121 Direct Federal assistance.
205.122 Availability of materials.

Subpart H—Project Administration

§ 205.110 General.

This subpart provides guidance for administration of Federal assistance for State and local governments, and qualifying private nonprofit institutions under Pub. L. 93-288, as amended. The basic policies and procedures are provided for (a) Federal grants to eligible applicants, including the notice of interest, damage survey report, project application, advance of funds, inspection, audit, and final payment; and (b) direct Federal assistance by a Federal agency as the result of a mission assignment. The requirements of OMB Circular A-102, Revised, are applicable and have been incorporated either directly or by appropriate cross reference.

§ 205.111 Definitions.

(a) "Advance of funds" means a sum of money provided to a State, local government, or other Federal agency prior to audit and/or final settlement of its claim.

(b) "Applicant" means the State, local government, or eligible private nonprofit facility submitting a project application or request for direct Federal assistance under the Act or on whose behalf the Governor's Authorized Representative takes such action.

(c) "Associate Director" means the Associate Director for Disaster Response and Recovery, FEMA.

(d) "Bid guarantee" means a firm commitment, such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(e) "Bill for collection" means a bill issued to an applicant by the Regional Director to collect excess funds that

were over-advanced or paid in error to the applicant.

(f) "Damage Survey Report (DSR)" means a report of damages or requirements caused by a major disaster or emergency including a description and estimate of required work.

(g) "Emergency work" means that work which must be done immediately to save lives and to protect property and public health and safety, or to avert or lessen the threat of a major disaster.

(h) "FEMA" means the Federal Emergency Management Agency.

(i) "Force account" means an applicant's own labor forces consisting of its regular and extra employees.

(j) "Grant-in-lieu" means all or part of a categorical grant which, when approved by the Regional Director, is used by the applicant to fund the construction of an improved replacement facility, rather than to repair or replace the damaged facility.

(k) "Line item" means a DSR under one category of work attached to a project application.

(l) "Notice of Interest" means an identification of each potential applicant and the categories of disaster requirements each has identified which may be eligible for Federal disaster assistance.

(m) "Offset" means a collection procedure whereby FEMA withholds funds due an applicant or the State in an amount to satisfy an uncollectible debt owed by the applicant on a bill for collection.

(n) "Performance bond" means a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

(o) "Permanent work" means the restorative work that must be done, through repairs or replacement, to restore an eligible facility on the basis of its predisaster design and in conformity with current applicable codes, specifications, and standards.

(p) "Public assistance" means the Federal financial assistance provided to State and local governments or to eligible private nonprofit organizations for disaster-related requirements.

(q) "Standards" means codes, specifications, and standards which were in general use and locally enforced at the time of the major disaster, plus those additional standards authorized as deviations or prescribed by the Associate Director in accordance with these regulations.

§ 205.112 Implementation of OMB Circular A-102 (Rev.).

(a) [Reserved]

(b) *Bonding and insurance.* A State or local unit of government receiving a grant under the Act for construction or facility improvement which requires contracting shall follow its own requirements relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding \$100,000. For contracts exceeding \$100,000, the minimum requirements are as follows:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price.

(2) A performance bond on the part of the contractor for 100 percent of the contract price.

(3) A payment bond on the part of the contractor for 100 percent of the contract price.

(c) *Property management standards.* Uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds by State and local governments are applicable as stated in Attachment N, OMB Circular A-102, Revised.

(d) *Procurement standards.* State and local governments are required to apply uniform standards, as stated in Attachment O, OMB Circular A-102, Revised, in establishing procedures for the procurement of supplies, equipment, construction, and other services with Pub. L. 93-268 grant funds. Additionally, the following standards are required:

(1) *State and local statutes.* The State, local government, or other organization issuing a contract shall assure that procurement of work and services authorized under project applications complies with provisions of the Act, and with State or local statutes, regulations, and ordinances not in conflict with Federal policies or procedures.

(2) *Contingent payment.* Contracts entered into by an applicant under the Act or the regulations will not contain a provision which makes the payment for such work contingent upon reimbursement under this Act.

(3) The cost-plus-percentage-of-cost and percentage-of-construction-cost method of contracting shall not be used. Any CPFC contracts entered into by applicants in violation of this prohibition will be reviewed carefully by the Associate Director or his designee and rejected or reimbursed on a reasonable cost basis at his discretion, depending on the policy considerations involved in the particular case.

(4) *Competitive bidding.* Contracting for construction work shall be based on competitive bids wherever possible. Any negotiations shall be in accordance with Attachment O, OMB Circular A-102, Revised.

(5) *Debarred contractors.* The applicant may not enter into any contract with parties whose names appear on the FEMA Consolidated List of Debarred, Suspended and Ineligible Contractors. The Regional Director may approve the use of debarred contractors on a case-by-case basis if he determines such activity to be in the public interest.

(6) *Use of local firms and individuals.* In the expenditure of funds for eligible disaster assistance activity which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the affected political subdivisions in which such activity is being performed.

Contracting procedures should be designed to give local contractors the opportunity to participate in maximum free and open competition with other contractors. Local preference should be mentioned in the invitations for bids and requests for proposals and also included in the provisions of the contract. Contracting officers may assure the use of local firms and individuals in various ways, such as:

(i) Advertising in the local disaster area.

(ii) Including local contractors in negotiations.

(iii) Subdividing some large contracts down into smaller sized contracts.

(iv) Stressing that a contractor shall give first priority to utilizing resources in the disaster area when procuring supplies and equipment, awarding subcontracts, and employing workmen.

(v) When it is necessary for competitive negotiation, the applicant may permit a local contractor to revise his proposal to meet a lower offering received from a non-local contractor if the original proposal from the local contractor does not exceed 130 percent of the lower non-local proposal.

(vi) When a low bid is received from a non-local contractor under competitive bidding procedures, the applicant may offer a local contractor the opportunity of accepting the work at the low bid amount, provided that the original bid from the local contractor does not exceed 130 percent of the low bid.

(e) Audit requirements, as stated in OMB Circular A-102, Attachment P, are applicable to grants to eligible applicants and other grantees, as implemented by appropriate FEMA regulations and handbooks.

§ 205.113 Federal grant assistance.

(a) *General.* Federal grant assistance is provided on the basis of a project application submitted by or on behalf of

an applicant and approved by the Governor's Authorized Representative and the Regional Director. When the Regional Director approves a project application, Federal funds are obligated and the approval is final unless appealed in accordance with 44 CFR 205.102. When assistance is authorized under the Act and a State is unable to assume the responsibilities prescribed in these regulations, an Indian tribe or authorized tribal organization acting as a local government may submit a project application directly to the Regional Director who may provide Federal assistance to such applicant without State participation.

(b) Types of Federal grants.—(1)

Categorical grant. (i) The terms of this type of grant require that the work shall be performed as approved in the project application.

(ii) It shall be used in all cases for:

(A) Facilities under construction; and
(B) Private nonprofit facilities.

(iii) Reimbursement to the applicant under categorical funding is limited to the actual reasonable cost of performing work approved by the Regional Director as eligible under the Act. It shall not exceed the net eligible cost not restoring a facility, based on the predisaster design of such facility and on the current applicable standards.

(iv) *Grants-in-lieu.* If a grantee desires to construct a larger or more elaborate facility as a replacement for a damaged facility, it may apply for a grant equal to that approved for repair or replacement of the damaged facility. Such replacement facility may be of a design, size or type, or composed of materials significantly different from those of the eligible damaged facility. A grant-in-lieu is available only under a categorical grant.

(A) Separate requests based on Damage Survey Reports are submitted for each grant-in-lieu.

(B) The line item in the application to which the grant-in-lieu applies is segregated from the other line items.

(C) The Regional Director's conditions of approval are stated separately for each grant-in-lieu.

(2) Flexible funding grant (sec. 402(f) of the Act.).

(i) If the estimated cost of permanently repairing, restoring, reconstructing, or replacing all damaged public facilities exceeds \$25,000, an applicant may elect to receive a grant equal to 90 percent of the Federal estimate for such permanent work instead of a categorical grant. This election allows flexibility in the use of the Federal grant. When an applicant determines that restoration of certain disaster-damaged facilities would not be in the public interest, it may choose not to

restore those facilities, but to build new public facilities, for other purposes. The applicant shall determine that any new facilities constructed are necessary to meet its needs for governmental services and functions in the disaster-affected area. Construction of all federally-assisted facilities, including any new or modified construction projects on the applicant's listing of flexibly funded projects, shall be in conformity with current applicable Federal, State, and local standards, including requirements imposed by floodplain management, environmental clearance, hazard mitigation, protection of wetlands, and insurance.

(ii) The applicant shall declare the election of flexible funding, through the Governor's Authorized Representative, to the Regional Director before the project application is approved.

(iii) A request by the applicant for a change in the type of funding after the project application has been approved shall be referred by the Regional Director to the Associate Director for decision.

(iv) Within 90 days after the date of the Regional Director's approval of the project application, the applicant shall furnish a listing of the public facilities to be repaired, restored, or constructed with the flexible funding grant; the estimated cost of each; and a proposed schedule of initiation and completion, including estimated quarterly fund requirements. The listing shall also itemize those disaster-damaged public facilities that are not being restored.

(v) Promptly after the completion of all work for which FEMA reimbursement is requested, the applicant shall submit to the Regional Director through the State, an updated listing of completed work. This listing shall contain a description of each completed project and a certification by the Applicant's Authorized Representative of the actual cost of each project involved.

(3) Small-project grant (sec. 419 of the Act).

(i) In any case in which the Federal estimate of an applicant's eligible costs for restoration under section 402 of the Act of damaged or destroyed facilities owned by the applicant, and debris removal and emergency protective work under sections 403 and 306 of the Act, respectively, total less than \$25,000, the Regional Director may approve the applicant's project application for a small-project grant. This approval is in lieu of approval by the Regional Director of any other grant under section 306, 402, or 403 of the Act.

(ii) The grant approved by the Regional Director is based on 100

percent of the estimated eligible costs. Funds approved for debris removal or emergency protective work must be expended for that approved work. Funds approved for permanent restorative work may be expended (A) to perform all approved projects on the Damage Survey Reports or (B) to perform certain of these approved projects, and with the balance of the approved grant to construct or restore certain other public facilities which the applicant determines to be necessary to meet the community's needs for public services and governmental functions in the disaster-affected area.

(iii) This type of grant may not be approved for private nonprofit facilities under section 402(b) of the Act.

(iv) Upon approval of a project application, the Regional Director furnishes the applicant, through the State, with a listing of approved projects. This listing includes a description and approved estimate of cost for each project.

(v) One hundred percent reimbursement to the applicant follows within 30 days after the Regional Director's approval of the project application.

(vi) Within 30 days following completion of all work performed under a small project grant, the applicant shall complete the above listing by showing the cost of the completed projects, including any alternate projects substituted for those originally approved. This listing shall also include the applicant's certification that all work listed is completed and that all funds were expended in accordance with the purposes of section 419 of the Act, and these regulations. Any funds which remain unused after the applicant has exercised the available options shall be returned to the Regional Director.

(vii) The only permissible basis for increasing Federal funding in a small project grant is a substantive error or omission in defining the approved scope of work or in the approved estimated reasonable costs of such work. Federal funding may be reduced where the applicant fails to comply with applicable laws or FEMA regulations and procedures including noncompliance with assurances, illegal contracting methods, duplication of benefits and nonconformity with applicable standards. If a supplement to a project application is warranted, and it would increase the small project grant to an amount exceeding \$25,000, the entire grant shall revert to a categorical grant or a flexible funding grant, as approved by the Regional Director.

§ 205.114 Project applications.

(a) *General.* This section describes the basic policies and procedures for processing project applications. The Governor's Authorized Representative is responsible for providing technical advice and assistance when required by an applicant in order to obtain eligible Federal grant assistance. All project applications, advances of funds, claims, appeals, payments, refunds, and other related correspondence between a local government or other applicant and the Regional Director, shall be forwarded through the office of the Governor's Authorized Representative for that official's review and appropriate action. This applies to all applicants for public assistance unless otherwise stated. (Refer also to 44 CFR 205.113(a)).

(b) *Applicants' briefing.* As soon as possible following the President's declaration of an emergency or a major disaster, the Regional Director and the Governor's Authorized Representative jointly schedule and conduct meetings for all potential applicants for public assistance. Requirements and procedures for requesting and obtaining available public assistance are explained at these meetings. Applicants are furnished informative material, including handbooks and a fact sheet.

(c) *Notice of interest.* Each applicant submits a Notice of Interest which provides the basis for scheduling the damage surveys.

(d) *Damage Survey Reports.* Damage surveys are usually conducted by a Federal-State inspection team. An authorized local representative accompanies the Federal/State inspection team and is responsible for representing the applicant and assuring that all damage and needs for assistance are inspected. The inspectors record pertinent information on a Damage Survey Report, including a description of the damage, proposed repairs or replacement, and the inspectors' best estimate of the cost of the recommended work. These reports also cover work performed prior to these surveys, but which occurred within the eligible time period and the designated area.

(e) *Project applications.* Project applications for Federal funding are prepared for the signature of the applicant's authorized agent and submitted through the Governor's Authorized Representative to the Regional Director for approval. The scope of work and amount of funding requested in the project application are based on Damage Survey Reports, plus such additional documentation as the Regional Director considers necessary. In applying for assistance, the applicant

certifies to certain assurances as part of the project application.

(1) *Time limitations for submittal.* Project applications and supplements for all projects requested by each applicant shall be submitted as promptly as possible within 60 days after a declaration of a major disaster or within 30 days after declaration of an emergency. When circumstances beyond the applicant's control warrant such action, the Regional Director may at the State's request extend these time limitations. Supplements that cover changes in scope of work or increases in estimates of eligible costs for projects previously approved shall be submitted within 60 days after determination by the applicant that such changes in scope or cost increases are necessary.

(2) *Funding option.* When the total estimated costs requested in the project application exceed \$25,000, the applicant has a choice of the type of funding that best suits its needs, either a categorical or flexible funding grant. (See § 205.113(b)(1) and (2)). This choice is made on the project application by the applicant. If the applicant chooses flexible funding, then the basic project application shall include only debris clearance, emergency protective measures, and other eligible emergency work and shall be handled as a categorical grant. Permanent work that is otherwise eligible for flexible funding assistance will be included in a supplement(s) to the basic project application.

(f) *Advances of funds.* (1) Final settlement does not occur until the applicant completes all approved work for which a claim is made, and pays all related bills. At the applicant's request, funds may be advanced to meet the current obligations for eligible work and those anticipated for the coming 60 days. An advance does not constitute final approval by FEMA of a grant; advances are discretionary and are designed to the convenience of the applicant. Further advances of funds may be made as necessary; however, the total of advanced funds may not exceed the percentage agreed upon by the Regional Director and the Governor's Authorized Representative. The advance of funds is based on a project application approved either as a categorical or flexible funding grant. The applicant may request an advance of funds at the time its project application is submitted or after the project application is approved, depending upon the applicant's need.

(2) States, as well as applicants for categorical or flexible funding grants, shall adopt procedures which minimize the time elapsing between the transfer

of funds from the United States Treasury to the State or grantee and their subsequent disbursement by the grantee for authorized program purposes.

(g) *Supplemental project applications.* Supplemental project applications under a categorical grant may be submitted by or on behalf of an applicant for new or additional work, or for other increases in funding found to be necessary after the basic project application was submitted.

(h) *State review and approval.* The Governor's Authorized Representative(s) shall review all project applications and supplemental project applications and shall recommend approval or disapproval. Every project application shall contain a certification by the Governor's Authorized Representative that (1) Federal funds requested will be, or have been, expended in accordance with applicable law and regulations, and (2) the project application meets all the requirements and conditions of the Federal-State Agreement and other terms established by the Regional Director. In addition, the State agrees to take any necessary action to require compliance by the applicant with its assurances and agreements, or to assume responsibility to the Federal Government for any deficiencies not resolved to the satisfaction of the Regional Director.

(i) *Regional Director's review and approval.* The Regional Director reviews the project application and supplemental project applications for eligibility of work, reasonableness of costs, and other considerations. He/she then notifies the applicant through the Governor's Authorized Representative of the approval or disapproval, and conditions, if any. Funds are obligated upon the Regional Director's approval, and advances may be made any time after obligation of funds. In the case of a small-project grant, final reimbursement is made when the Regional Director approves the project application.

§ 205.115 Documentation.

All recipients of Federal grants must maintain adequate disbursement and accounting records of the costs incurred on approved disaster work so that the documentation required by State or Federal audit can be made available. The requirement for auditable records applies to categorical, flexible funding, and small-project grants. Original or source documents must be available for audit purposes, and documentation must be available to auditors at one central office of record.

§ 205.116 Project performance.

(a) The primary responsibility for managing the approved projects rests with the applicant.

(1) *Force account.* Eligible work may be performed under force account. The applicant may use its own equipment or other publicly owned equipment. The applicant may rent privately-owned equipment to perform eligible disaster-related work. Each applicant using force account should maintain adequate, auditable records for each line item of eligible work.

(2) *Contract.* Eligible work may be performed partially or totally by contract.

(b) *Time limitations for completion of work.* (1) *Emergencies.* Federal emergency assistance shall terminate no later than one month after the determination that an emergency exists, except:

(i) Based on extenuating circumstances beyond the control of the applicant, the Regional Director may extend the time limitation not to exceed an additional two months.

(ii) Based on a determination that such action is warranted, the Associate Director may extend the time limitation completion date beyond three months when requested to do so by the State.

(2) *Major disasters.* (i) Eligible time periods for public assistance begin with the President's declaration of a major disaster and, except for the situations described in subparagraph (ii) below, shall terminate upon expiration of these prescribed deadlines:¹

	Completion [*] deadlines
(A) Debris clearance	6 months
(B) Emergency work	6 months
(C) Permanent work	18 months

^{*} These time limitations apply to categorical grants and to grants involving flexible funding under sections 402(f) and 419 of the Act. The Regional Director may require an applicant to submit a completion schedule through the State for this approval.

(ii) *Exceptions.* (A) Based on extenuating circumstances or unusual project requirements beyond the control of the grantee, the Regional Director may extend any of these deadlines for a period not to exceed 180 days on a project-by-project basis.

(B) Based on a determination that such action is warranted, the Associate Director may extend any of the deadlines prescribed by this action.

(iii) The Regional Director may impose lesser deadlines for completion of work under paragraph (b)(2)(i) of this section if considered appropriate.

(iv) When an applicant fails to make a timely start of work approved under the

¹ The Regional Director may also impose deadlines under this subparagraph for initiation of work.

Act, the Regional Director shall review the project approval and may suspend or withdraw his approval of Federal funding.

(c) *Progress reports.* For any permanent projects that the applicant does not expect to complete within 18 months from the date of the disaster declaration, the applicant shall submit work schedules with the application or supplement for approval by the Governor's Authorized Representative and by the Regional Director. When required by the Regional Director or the Governor's Authorized Representative, the applicant shall provide the Governor's Authorized Representative with periodic progress reports of scheduled work, outlining any problems and unforeseen circumstances that are expected to result in a slippage in the schedule. The Governor's Authorized Representative may use such reports to take action to eliminate the causes of delays and to identify projects that may require time extensions. The Governor's Authorized Representative shall provide the Regional Director with copies of these progress reports together with comments and a report of actions taken. Any changes in approved schedules must be justified by the applicant and approved by the Governor's Authorized Representative and by the Regional Director.

(d) *Requests for time extensions.* If an applicant finds that an approved project cannot be completed within the time limit prescribed by the Regional Director, the applicant shall forward promptly to the State a request in writing for additional time, together with justification for delay in completion of the project. The Governor's Authorized Representative shall forward the request with a recommendation to the Regional Director. The Regional Director shall notify the applicant, through the State, of approval or denial. Requests for time extensions beyond the Regional Director's authority are forwarded by the Regional Director to the Associate Director for his action.

(e) *Cost overruns.* During the execution of approved work under categorical grants, the applicant may find that overruns are occurring on the actual costs of certain projects, compared to the approved estimates on the Damage Survey Reports. Such cost overruns fall into two main categories: (1) Overruns because of variations in unit prices and (2) overruns because of change in scope of eligible work. The applicant should report these situations to the Governor Authorized Representative immediately so that appropriate actions can be taken to

verify eligibility of the overruns. An interim inspection by a Federal inspector may be necessary. Upon verification of eligibility documented by amended Damage Survey Reports, a supplemental project application to cover the overrun may be submitted.

§ 205.117 Final inspections.

(a) For any categorical grant, flexible funding grant, or small project grant, the Regional Director or the Associate Director, may require such Federal or State inspections, not otherwise required by these regulations, as he/she deems necessary.

(b) The following requirements for Federal final inspection are applicable to categorical grants and to flexible funding grants:

(1) For any project of completed work for which the claimed amount of FEMA reimbursement exceeds \$10,000, a Federal final inspection is required.

(2) For any project of completed work for which the claimed amount of FEMA reimbursement does not exceed \$10,000, the Regional Director may accept a certification by the applicant's Authorized Representative, describing the project and certifying the claimed actual costs in sufficient detail to permit a desk review by the Governor's Authorized Representative and by the Regional Director. For those projects not adequately certified, the Regional Director shall require a State or Federal final inspection.

(c) Reference 44 CFR 205.113(b)(3)(vi), the Regional Director shall require a State or Federal final inspection of any project of work completed under a small project grant as he/she deems necessary.

(d) The Governor's Authorized Representative shall arrange for and schedule final inspections, and interim inspections, which he/she deems necessary, plus those additional inspections required by the Regional Director. The Governor's Authorized Representative shall assure that all of these inspections are conducted and completed effectively and in a timely manner.

§ 205.118 Claims for reimbursement.

(a) *Submittal.* To receive reimbursement for funds expended under a categorical grant or flexible funding grant, the applicant shall submit a claim to the State within 60 days after the completion of approved work, including a listing of actual costs for each line item. All costs claimed shall be paid by the applicant prior to approval of final settlement by the Regional Director. Under a small project grant, the applicant shall submit a

request for reimbursement with the project application. If the applicant completes the work approved under a categorical grant for an amount less than \$25,000, the Regional Director may, at his/her discretion, approve a change in funding to a small project grant, and reduce the amount originally approved to the amount of the actual cost.

(b) *Audit.* (1) Reference 44 CFR 205.112(e), the Governor's Authorized Representative shall arrange for State audit to be made for each categorical or flexible funding grant as soon as possible after receiving the applicant's claims. Audit of small project grants is not normally required. Documentation must be available to auditors at the grantee's central office of record. The Regional Director or the Associate Director may request a Federal audit of any claim, regardless of amount or type of funding.

(2) The FEMA or State auditors, the Governor's Authorized Representative, the Regional Director, the Associate Director, and the Comptroller General of the United States or their duly authorized representatives shall for the purpose of audit and examination have access to any books, documents, papers, and records that pertain to Federal funds, equipment, and supplies received under these regulations.

(3) *Federal audit.* The FEMA Inspector General and the General Accounting Office have audit responsibility. Thus, a Federal audit may be performed on any claim if deemed necessary by the FEMA Inspector General and/or the General Accounting Office.

(c) *Partial payments.* In any case where an applicant has completed part of the approved work, has received the maximum advance of funds available, and still lacks funds to satisfy all project-related obligations, the Regional Director may approve partial payments. The basis for approval of such payments are urgent financial need, satisfactory inspection reports, and audit of the applicant's records upon which the partial payment is based.

(d) *Review and approval.* (1) *State.* Following audit, the Governor's Authorized Representative reviews the claim and, based on the audit report and related documents, approves a certain amount on the claim to be submitted to the Regional Director for approval. The State shall submit the claim and the audit report to the Regional Director within 60 days of the date that the applicant submitted the claim to the Governor's Authorized Representative.

(2) *Regional Director.* Following his/her review of the claim and audit report, the Regional Director may approve or disapprove it. An approved claim will

then be processed for payment. If the Regional Director does not agree with the State audit recommendations, he/she may request a Federal audit. If he/she does not agree with the Federal audit recommendations and the matter cannot be resolved at the Regional level, the case is forwarded to the Associate Director for resolution. The Regional Director or the Associate Director may require additional Federal audits as he/she deems necessary.

§ 205.119 Federal funding.

(a) *Management of Federal funds.* The State shall properly account for all Federal funds made available to the State under these regulations as Federal funds in the accounts of the State. In each case, the State agency concerned shall provide such authenticated reports as the Associate Director or the Regional Director may require, covering the status and application of the funds, the liabilities and obligations on hand, and other pertinent information.

(b) *Release of Federal funds for State or local governments.* Requests for advance of funds or reimbursement that are approved by the Regional Director are forwarded to the FEMA National Office, where they are processed to the U.S. Treasury for payment.

(c) *Recovery of excess advances from State or local governments.* (1) A bill for collection will be issued to the State immediately upon verification that the applicant has received funds in excess of the amount approved by the Regional Director as final settlement of its claim. In the event that there is an appeal by the applicant pending, the bill for collection may not be issued until the appeal is settled by the Regional Director or the Associate Director. The States shall advise applicants that the bills for collection are due upon receipt and that any appeals of the bills must be filed with the Regional Director within the time limits established in 44 CFR 205.120.

(2) If by the expiration of the period for appeals the Regional Director has not received payment for the full amount of the bill for collection, he/she shall notify the appropriate State official in writing for transmittal to the applicant that the amount owed is past due, and that the claim is being referred to the Claims Collection Officer for further action. This action may include offset against future claims for disaster relief from the applicant or the State.

(d) *Disposition of interest earned on advances for funds.* (1) From the time that the State disburses advances of Federal funds to local applicants or to applicant State agencies, any interest

earned on those funds must be paid to the Federal Government.

(2) If an applicant incurs disaster-related obligations, discharges those obligations with its own funds, and uses the advanced funds to reimburse its own accounts, the applicant does not have to remit any interest earned to the Federal Government.

(3) States do not have to remit interest earned on advanced funds that are held briefly pending disbursement for immediate program purposes, i.e., to advance to eligible applicants for their disaster-related expenses.

(e) *Return of overadvanced funds by other Federal agencies.* Other Federal agencies shall promptly return to FEMA any advances of funds which are excess to their requirements in carrying out assignments made to them by FEMA.

§ 205.120 Appeals.

(a) An applicant may request the Governor's Authorized Representative to submit an appeal to the Regional Director for reconsideration of any determinations that the Regional Director made related to Federal Assistance for that applicant. The applicant's written request shall be made within 60 days of the date of the Regional Director's action that is being appealed and shall include such additional information as is appropriate for justification. However, in the event that the additional information is not immediately available, the applicant shall within the 60-day period notify the State in writing of its intention to appeal, and shall then follow up with the required documentation.

(b) The State shall forward such appeals within 30 days of receipt of the appeal from the applicant, together with the State's comments, recommendations, and any additional information it may have.

(c) Upon receipt of an appeal, the Regional Director shall review the material submitted and make such additional investigation as he/she deems appropriate. Following the review and investigation, the Regional Director shall notify the State, in writing, of his/her decision to grant or deny the appeal. If the decision is to grant the appeal, the Regional Director shall take such additional action as is necessary to implement his/her decision.

(d) If the Regional Director denies the appeal, the applicant may request the State to submit a second appeal to the Associate Director. Such appeal shall be made in writing through the Regional Director, and shall be submitted not later than 60 days after receipt of notice of the Regional Director's denial of the

appeal. Action by the Associate Director is final.

(e) If an applicant requests the State to make an appeal to the Regional Director or to the Associate Director in accordance with this section and the State declines, or takes no action on the request, the applicant may make an appeal directly to the Regional Director. The appeal by the applicant shall be made in writing within 60 days after receipt from the State of the notice of determination by the Regional Director, or notification by the State, that it will not make an appeal.

(f) Based on a determination that such action is warranted, the Associate Director or the Regional Director may extend any of the time periods prescribed by this section.

§ 205.121 Direct Federal assistance.

(a) Neither eligible emergency work, nor eligible permanent work under the provisions of section 402 of the Act, may be performed by or under the direct supervision of a Federal agency except in certain circumstances. When in rare cases the State or local government lacks the capability to perform or to contract for the eligible work, the applicant may request that the work be accomplished by a Federal agency. Such assistance is subject to eligibility criteria for proposed work contained in Subpart E—Public Assistance—of these regulations.

(b) *Requests.* (1) *The applicant shall* submit requests for direct Federal assistance through the Governor's Authorized Representative for the Regional Director's approval.

(2) Requests must be made within 90 days after a major disaster declaration, and within 30 days after an emergency declaration, unless those periods are specifically extended or shortened by the Regional Director.

(3) The request shall be in the form of a resolution by the governing body of an eligible applicant, and shall include its agreement to—

(i) Provide without cost to the United States all lands, easements, and rights-of-way necessary to the accomplishment of the approved work; and

(ii) Hold and save the United States free from damages due to the requested work, and shall indemnify the Federal Government against any claims arising from such work.

(4) The request shall be accompanied by—

(i) A statement of the reasons why the emergency work cannot be performed by the applicant, by any other local government, or by the State; and

(ii) Assurance by the applicant of compliance with Title VI of the Civil

Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 (42 U.S.C. 2000d-2000d-4), and section 311, Pub. L. 93-288.

(c) *Approval.*—(1) *State.* If the Governor's Authorized Representative concurs that the emergency work is necessary and cannot be accomplished by the applicant, by another local government, or by the State, he/she shall endorse the applicant's request for direct Federal assistance and forward it to the Regional Director.

(2) *Regional Director.* (i) If the Regional Director approves the request, he/she shall issue a mission assignment to the appropriate Federal agency. The assignment letter to the agency shall define the scope of eligible work. Prior to execution of work on any project, the Federal agency shall submit a Damage Survey Report to the Regional Director for review and approval to establish the scope of eligible work and approved cost limitations. The Federal agency shall not exceed the limit on funding approved by the Regional Director without obtaining prior approval of supplemental funding.

(ii) If all or any part of the requested work falls within another Federal agency's statutory authorities and capabilities, the Regional Director shall not approve it. Instead, he/she shall refer the request to the other Federal agency for action.

(d) *Project management.*—(1) *Federal agency responsibilities.* The performing Federal agency shall ensure that the work is performed and completed in accordance with the Regional Director's approved scope of work, costs, time limitations, and applicable standards. The performing Federal agency shall also keep the Regional Director, the Governor's Authorized Representative, and the applicant advised of work progress and other developments. The Federal agency is also responsible for obtaining any necessary permits or licenses; for compliance with applicable State and local laws or other requirements; and for compliance with these regulations and other applicable handbooks or guidance by the Regional Director. The Federal agency shall also provide a final inspection report signifying completion of the approved work which has been signed by the Federal agency's inspector and the applicant's authorized agent.

(2) *Applicant responsibilities.* The applicant shall assist the performing Federal agency in all support and local jurisdictional matters that a private owner would assume in a relationship to a performing contractor. These matters include securing local building permits

and rights of entry, control of traffic and pedestrians in the interest of safety and public welfare, and compliance with local building ordinances.

§ 205.122 Availability of materials.

For the purposes of this section, "construction materials" shall include building materials and materials required for repair or replacement of housing, public facilities, or normal farm and business facilities.

The Regional Director may, at the request of the Governor of an affected State, provide for a survey of construction materials needed in the disaster affected area on an emergency basis for housing repair, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and may take appropriate action to assure the availability and the fair distribution of needed materials. Where possible, such action may include the voluntary allocation of such materials for a period of not more than 180 days after the major disaster. The Regional Director shall implement any allocation program to the extent possible by working with and through those companies that traditionally supply construction materials in the affected area.

(Sec. 601, Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 163 (42 U.S.C. 5201); Executive Order 12146 (44 FR 43239); and Delegation of Authority (44 FR 44792)).

Issued at Washington, D.C., December 10, 1979.

Thomas R. Casey,
Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Health Services Administration

45 CFR Part 3

Conduct of Persons and Traffic on Certain Federal Enclaves; Proposed Rulemaking

AGENCIES: National Institutes of Health (NIH) and Health Services Administration (HSA), Public Health Service.

ACTION: Proposed Rule.

SUMMARY: The National Institutes of Health and Health Services Administration of the U.S. Public Health

Service are proposing to revise the regulations governing the conduct and traffic on the National Institutes of Health reservation in Bethesda, Maryland, to (1) simplify the language (2) make minor additions and (3) to extend coverage to the U.S. PHS Hospital on Staten Island, over which the United States has exclusive criminal jurisdiction. These changes are necessary to make the regulations more understandable to the public, and to implement delegations of authority to protect persons and property at the Staten Island facility.

DATES: Comments must be received on or before February 19, 1980, in order to assure that PHS will be able to consider such comments in preparing the final regulations.

ADDRESS: Send written comments on the proposed regulations in duplicate to Mr. Lowell D. Peart, Regulations Officer, National Institutes of Health, Bethesda, Maryland 20205.

FOR FURTHER INFORMATION CONTACT: William G. Ketterer, Senior Attorney, NIH, Office of the General Counsel, Room 2B-50, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205.

SUPPLEMENTARY INFORMATION: Notice is hereby given that NIH and HSA of the U.S. Public Health Service propose to amend 45 CFR Part 3 to improve readability by simplifying the language and to make minor changes, including (1) addition of a provision governing lost money and other personal property, and (2) an amendment of the nondiscrimination provision by adding reference to handicap and age. In addition, it is proposed to extend applicability of these regulations to the U.S. Public Health Service Hospital, Staten Island, over which the United States has exclusive criminal jurisdiction. This is necessary in order to implement the delegation of authority under 40 U.S. Code 318 from the Administrator of General Services, to the Secretary (41 FR 34346), and redelegated to the Administrator, Health Services Administration (44 FR 15774), to make needful rules and regulations for the protection of persons and property at that hospital. Amending Part 3 to apply to the Staten Island facility will obviate necessity to promulgate a separate set of regulations.

It is therefore proposed to revise 45 CFR Part 3 to read as set forth below:

Dated: October 11, 1979.
Donald S. Fredrickson,
Director, National Institutes of Health.

Dated: November 9, 1979.
George I. Lythcott,
Administrator, Health Services
Administration.

PART 3—CONDUCT OF PERSONS AND TRAFFIC ON CERTAIN FEDERAL ENCLAVES

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- Authority: Sec. 1-5, 62 Stat. 261, as amended, 75 Stat. 574 (40 U.S.C. 316-316d); sec. 203, 63 Stat. 389, as amended, 64 Stat. 551, 76 Stat. 414 (40 U.S.C. 456); Delegations of Authority, 33 FR 604, 41 FR 19162, 34346, 44 FR 15774.

Subpart A—General

§ 3.1 Definitions.

As used in this part—
"Department" means the Department of Health, Education, and Welfare.
"Director" means the officer immediately in charge of the respective enclaves covered by this part.

"Enclave" means, respectively—
(a) the area, containing about 307 acres, comprising the National Institutes of Health (NIH) located in Montgomery County, Maryland, over which the United States acquired exclusive criminal jurisdiction under Chapter 158 of the Laws of Maryland 1953; Article 96, Section 34, Maryland Code Annotated (1964).

(b) the area, containing about 24 acres, comprising the U.S. Public Health Service Hospital located in Staten Island, Richmond County, New York, over which the United States acquired exclusive criminal jurisdiction under Chapter 57, State Law, of the Consolidated Laws of New York, by virtue of a deed of cession dated October 13, 1931, (Laws of New York 1932, Appendix, page 1493).

"Law enforcement office" means a uniformed guard or a U.S. Special Policeman appointed under a delegation of authority under 40 U.S. Code 318; any other Federal law enforcement officer; and any other person whose law enforcement services are secured by contract or upon request from a State or local law enforcement agency.

§ 3.2 Applicability.

(a) The regulations in this part apply to all areas in the enclave and to all persons on or within the enclave, except as otherwise provided. They provide penal sanctions as prescribed in § 3.41, and are in addition to administrative rules such as those prescribed by Directors for their respective enclaves pursuant to 5 U.S. Code 301. They supplement those penal provisions of Title 18, U.S. Code, relating to Crimes and Criminal Procedure, which apply without regard to the place of the offense and those penal provisions which are applicable in areas under the special maritime and territorial jurisdiction of the United States, as defined in 18 U.S. Code 7. However, they supersede those provisions of State law which are made Federal criminal offenses by virtue of the Assimilative Crimes Act (18 U.S. Code 13) to the extent that they are in conflict with the regulations in this part. State and local criminal laws are applicable as such only to the extent that authority in that regard has been reserved to the State by State cession statute or vested the ring by Federal statute.

(b) The following provisions of this part do not apply to occupants, their visitors and other authorized persons in areas of the enclave used as living quarters: § 3.24 Parking permits; § 3.26 Servicing of vehicles; § 3.33(e) Pets and animals; and § 3.33(c) Hobbies and sports.

§ 3.3 Compliance.

A person must comply with the regulations in this part; with all official signs; and with the lawful directions or directory orders of a law enforcement officer or other authorized person, including traffic and parking directions.

§ 3.4 False reports and reports of injury or damage.

A person may not knowingly give any false or fictitious report concerning an accident or violation of the regulations in this part to any person properly investigating such an accident or alleged violation. All incidents resulting in injury to persons or damage to property must be reported by the persons involved as soon as possible to the law enforcement office.

§ 3.5 Identification.

At the request of a law enforcement officer, a person must provide identification by exhibiting satisfactory credentials (such as a driver's license) to the law enforcement officer.

§ 3.6 Lost and found articles.

Lost articles, which are found on the enclave, including money and other personal property, and including any identifying information, must be deposited at the law enforcement office or with an office which may likely have some knowledge of ownership. If the article is deposited with an officer other than the law enforcement office and the owner does not claim it within 30 days, it shall be deposited at the law enforcement office for further disposition as provided by law.

§ 3.7 Nondiscrimination.

To the extent not otherwise prohibited by 18 U.S. Code 245, a person may not discriminate by segregation or otherwise against any other person(s) because of age, color, creed, handicap, national origin, race or sex, in furnishing or by refusing to furnish to that person(s) the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided within the enclave.

Subpart B—Traffic Regulations

§ 3.21 Emergency vehicles.

A person must yield the right of way to an emergency vehicle operating its siren or flashing lights.

§ 3.22 Inspection of driver's license and registration.

A motor vehicle operator must exhibit for inspection a valid operator's license and valid motor vehicle registration upon the request of a law enforcement officer.

§ 3.23 Parking.

(a) No person may stand (vehicle stopped with or without an occupant) or park a motor or other vehicle:

- (1) In a lane, space, or area not designated by sign for parking, except that vehicles may be left standing in

areas where parking, but not standing, is specifically prohibited;

- (2) On a sidewalk;
 - (3) Within an intersection or crosswalk;
 - (4) Within 10 feet of a fire hydrant, 5 feet of a driveway or 30 feet of a stop sign or traffic control signal;
 - (5) In a double-parked position;
 - (6) At a curb painted yellow;
 - (7) On the side of a street facing oncoming traffic;
 - (8) In a position that would obstruct traffic;
 - (9) For a period in excess of 24 hours, except at living quarters or with specific permission of the law enforcement office.
- (b) Bicycles, motorbikes, and similar vehicles must be parked only in designated areas and may not be brought inside buildings.
- (c) Visitors must park in areas identified for that purpose by posted signs or similar instructions such as "visitor parking" and "reserved for visitors."
- (d) A person may not drive or park an unauthorized motor vehicle on a grassy area without the approval of the law enforcement office.

§ 3.24 Parking permits.

Except for visitors parking in visitor parking areas, a person may not park a motor vehicle without displaying a parking permit valid for that location. The Director may revoke any parking permit for violation of this section, or any provision of this part.

§ 3.25 Pedestrian traffic.

A driver must yield the right-of-way to a pedestrian crossing a street in a marked crosswalk or intersection.

§ 3.26 Servicing of vehicles.

A person may not wash, polish, change oil, lubricate, or make nonemergency repairs on privately-owned vehicles.

§ 3.27 Signs.

A driver of a vehicle must comply with posted traffic and parking signs.

§ 3.28 Speed limit.

The speed limit is 20 miles per hour, unless otherwise posted.

§ 3.29 Unattended vehicles.

A person may not leave a motor vehicle unattended with the engine running, the ignition unlocked or locked with the key in a readily accessible place in the vehicle, or the brakes ineffectively set.

Subpart C—Buildings and Grounds

§ 3.31 Admission to grounds or facilities.

The enclave is officially closed to the public except during normal working and visitation hours or for approved public events. In emergency situations and at such other times as the Director deems necessary to ensure the orderly conduct of Government business, the enclave may also be officially closed. When the enclave is closed to the public, admission is restricted to authorized persons who may be required to display Government credentials or other identification when requested by a law enforcement officer and may be required to sign a register.

§ 3.32 Nuisances and disturbances.

The following acts by a person are prohibited: any unwarranted loitering, disorderly conduct, littering, or disposal of rubbish in an unauthorized manner; the creation of any hazard to persons or property; the throwing of articles of any kind from or at a building; the climbing upon any part of a building for other than an authorized purpose; the loud playing of radios or other similar devices; and rollerskating, skateboarding, sledding or similar activities, except in officially designated areas.

§ 3.33 Other restricted activities.

(a) *Explosives and weapons.* A person, other than a law enforcement officer, may not carry, transport, or otherwise possess, firearms, other dangerous or deadly weapons, explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or covertly. The Director may grant specific approval for such purposes as the possession of firearms for collections or hunting, the delivery or removal of money, or the protection of a display of valuable materials.

(b) *Gambling.* A person may not operate gambling devices, conduct a lottery or pool, sell or purchase numbers tickets, or take or place bets, except that participation in living quarters in games for money or otherwise for incidental recreational purposes is authorized.

(c) *Hobbies and sports.* Hobbies and sports may be undertaken only in designated areas or as approved by the Director.

(d) *Intoxicants and narcotics.* A person may not sell, consume, or use intoxicating beverages, narcotics or other similar drugs, except in connection with official duties, in the course of professional treatment, or, in the case of consumption or use of intoxicating beverages, in living quarters, or as

otherwise authorized by the Director. A person may not operate a motor vehicle while under the influence of an intoxicating beverage or drug.

(e) *Pets and other animals.* A person may not bring on the enclave any cat, dog, or other animal except for authorized purposes. This prohibition does not apply to bringing on the enclave and the retention of domestic pets at living quarters or to the exercise of such pets under leash or other appropriate restraints. The use of a dog by a handicapped person to assist that person is authorized.

(f) *Photography.* Photography for personal or news purposes is permissible without prior approval on the grounds of the enclave or in entrances, lobbies, foyers, corridors, and auditoriums of facilities when used for public meetings, except when contrary to security regulations, or where prohibited by appropriate signs. Photographs for advertising or commercial purposes are subject to the advance written permission of the Director. A person may take photographs of a patient only with the informed consent of the patient (or a natural or legal guardian) and of the Director, or, with respect to NIH, the Director, Clinical Center, NIH.

§ 3.34 Removal of property.

A person may not remove Federal property from the enclave or any building thereon without a property pass, signed by an authorized property custodian, which specifically describes the items to be removed. In an emergency, when the property custodian is not available, a law enforcement officer may approve removal of such property if, after consulting with the administrative officer or other appropriate official, the law enforcement officer is authorized by that official to do so. Privately-owned property, other than that ordinarily carried on one's person, may be removed only under the property pass procedure described above or by properly establishing ownership of the property to a law enforcement officer. Packages, briefcases, or other containers brought within the enclave are subject to inspection while on, or being removed from, the enclave.

Subpart D—Penalties

§ 3.41 Penalties.

A person found guilty of violating any provision of the regulations in this part is subject to a fine of not more than \$50 or imprisonment of not more than thirty

days, or both, for each such violation (40 U.S. Code 312c).

[FR Doc. 79-33063 Filed 12-19-79; 8:45 am]
BILLING CODE 4110-08-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-326; RM-3305; RM-3341]

FM Broadcast Stations in Fayette and Port Gibson, Miss.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes, in the alternative, the assignment of a first Class A FM channel to either Fayette, Mississippi, or Port Gibson, Mississippi, in response to conflicting petitions filed by Fayette Broadcasters and Donald G. Manuel, respectively. The proposed channel could provide one of the communities with its first fulltime local aural broadcast service.

DATES: Comments must be filed on or before February 8, 1980, and reply comments must be filed on or before February 28, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak or Mark Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: December 10, 1979.

Released: December 18, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Port Gibson and Fayette, Mississippi), BC Docket No. 79-326, RM-3305, RM-3341.

1. The Commission herein considers two separate petitions, each requesting the institution of rule making toward the assignment of a first FM assignment. Although they deal with separate communities, Port Gibson and Fayette, Mississippi, the proposals are mutually exclusive because the communities are only 32 kilometers (20 miles) apart, whereas 105 kilometers (65 miles) is required. We will therefore consider them together.

Port Gibson, Mississippi (RM-3305)

2. On December 29, 1978, Donald G. Manuel ("Manuel"), filed a petition proposing the assignment of FM

Channel 249A to Port Gibson.¹ No responses to the petition were filed.

3. Port Gibson (pop. 2,589),² seat and largest city of Claiborne County (pop. 10,086), is situated approximately 84 kilometers (52 miles) southwest of Jackson, Mississippi. It is served locally by daytime-only AM Station WKPG, licensed to petitioner.

4. Manuel asserts that the proposed assignment would provide Port Gibson and Claiborne County with a needed first local nighttime aural service. He states that a fulltime facility would provide a continuously available source of storm and flood warnings in addition to entertainment programming, local news and public affairs especially during the evening and nighttime hours. Manuel has submitted demographic data in order to demonstrate the need for a first FM assignment to Port Gibson.

Fayette, Mississippi (RM-3341)

5. On February 5, 1979, Fayette Broadcaster ("FB") filed a petition requesting the assignment of FM Channel 249A to Fayette, Mississippi. An opposition to the proposal was filed by Manuel.

6. Fayette (pop. 1,725), the seat of and largest city in Jefferson County (pop. 9,295), is located approximately 32 kilometers (20 miles) south of Port Gibson. It has no local aural broadcast service.

7. FB states that the proposed station would provide Fayette with a local station which could be used to broadcast news, weather bulletins, and discussion of local public issues. FB has submitted a community profile of Fayette in order to show a need for a first local service to the community.

8. In opposing comments, Manuel contends that Fayette and surrounding Jefferson County are significantly less populous than Port Gibson and Claiborne County. He disagrees with FBI's claim that Fayette is beginning to experience development, citing slight gains in population and employment estimates. He states that there has been only a slight population increase in Fayette and a significant drop of 53% in Jefferson County's population since 1970, according to the Census Bureau's

¹Manuel had previously requested that its petition be considered as a part of Docket 78-367 in which an FM channel was assigned to Clinton, Louisiana. Manuel argued that the proceedings were related because the same preclusion area was involved. By *Report and Order* released July 13, 1979, the Commission indicated that since no interest had been expressed for a channel in any of the precluded communities and the Port Gibson petition could not be considered a counterproposal, it would be acted on separately.

²Population figures are taken from the 1970 U.S. Census.

current estimates for 1970-1976. The estimate for Claiborne County for the same period is an 11.4% increase. Manuel asserts that in light of Port Gibson-Claiborne County's location near the Grand Gulf nuclear plant, plus recent flooding along the nearby Pearl River, a fulltime local station is needed to broadcast news and information in the event of safety problems. He contends that because of Port Gibson-Claiborne County's greater public safety needs, the significantly larger population, and its rapid recent growth, the assignment of Channel 249A to Port Gibson would be more in the public interest than a Fayette assignment.

9. We have determined that there is no other FM channel available for assignment to either community. It has been our policy in comparing conflicting requests for first FM assignments to favor those communities seeking a first local aural service, particularly when the competing requests involve communities of comparable size. See *South Pittsburg, Tenn.* and *Stevenson, Alabama*, Docket 20339, 40 FR 51040 (1975), *aff. on recon.* Mimeo No. 64632 (1976). In that case, we stated that Stevenson (1970 pop. 2,390) was the clear choice over South Pittsburg (1970 pop. 3,613) since Stevenson would otherwise be deprived of an opportunity for a local radio outlet whereas South Pittsburg already had a daytime-only AM station. In the present case this would call for the assignment of the channel to Fayette. Nevertheless, we shall provide Manuel with the opportunity to demonstrate that there is another option, for example, an AM frequency which could provide Fayette with its first local aural service or that the other factors should weigh more heavily. Therefore, we shall propose, in the alternative, the assignment of Channel 249A to Port Gibson or Fayette, Mississippi.

10. In view of the foregoing, it is proposed to amend the FM table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Fayette and Port Gibson, Mississippi, as follows:

City	Channel No.	
	Present	Proposed
Fayette, Mississippi.....		249A
or		
Port Gibson, Mississippi.....		249A

11. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Interested parties may file comments on or before February 8, 1980, and reply comments on or before February 28, 1980.

13. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division,
Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. The will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 79-39026 Filed 12-19-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-368; RM-3155]

FM Broadcast Stations in Rio Grande City, Tex., and Roma-Los Saenz, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Second further notice of proposed rule making.

SUMMARY: Action taken herein proposes the substitution of Class A FM channels at Rio Grande City, Texas, and proposes the assignment of a Class A FM channel to Roma-Los Saenz, Texas. Petitioner, Tele-View, Inc., states the proposed assignments could provide both Roma-Los Saenz and Rio Grande City with a first local aural broadcast service.

DATES: Comments must be filed on or before February 8, 1980, and reply comments must be filed on or before February 28, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Second Further Notice of Proposed Rule Making

Adopted: December 10, 1979.

Released: December 18, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rio Grande City and Roma-Los Saenz, Texas), BC Docket No. 78-368, RM-3155.

1. On July 18, 1979, the Commission adopted a *Further Notice of Proposed Rule Making*, 44 FR 44574, proposing the deletion of FM Channel 249A from Rio Grande City, Texas, and its reassignment to Roma-Los Saenz, Texas, in response to a petition filed by Tele-View, Inc. Supporting comments were filed by petitioner. Opposing comments were filed by Hispanic Media Enterprises ("Hispanic") to which petitioner responded.

2. Previously the Commission had proposed in a *Notice of Proposed Rule Making*, 43 FR 54111, to assign Channel 285A to Roma-Los Saenz, and thereby avoid the deletion of the Rio Grande City channel. However, the Mexican authorities from whom concurrence was required, advised that the assignment of Channel 285A to Roma-Los Saenz would conflict with their proposed use of the same channel at San Rafael de las Torillas.

3. Roma-Los Saenz (pop. 2,154),¹ in Starr County (pop. 17,707), is located on the Rio Grande River, approximately 129 kilometers (80 miles) south of Laredo, Texas. It has no local aural broadcast service. Rio Grande City (pop. 5,676), the seat of Starr County, also has no local aural service. Channel 249A (unoccupied and unapplied for) is the only FM channel assignment in Rio Grande City.

4. Petitioner claims that the population of Roma-Los Saenz is rapidly increasing due to the legal immigration of Mexican nationals into the community. It asserts that there are no AM, FM, or television stations in Starr County.

5. Hispanic opposes the deletion of Channel 249A from Rio Grande City, stating that it is in the process of preparing an application for its use in that community.

6. In reply, petitioner asserts that it is reluctant to contest the interest expressed for the use of Channel 249A at Rio Grande City. In an effort to provide both communities with a first FM assignment, petitioner submitted an engineering study which indicates that Channel 276A can be substituted for Channel 249A at Rio Grande City, thus making Channel 249A available for reassignment to Roma-Los Saenz. Channel 276A can be assigned to Rio Grande City provided the transmitter site is located approximately 1.6

¹Population figures are taken from the 1970 U.S. Census.

kilometers (1 mile) north of the community.

7. We recognize that petitioner's counterproposal has been advanced in reply comments, contrary to § 1.420(d) of our rules. However, the Commission believes it would be in the public interest to issue a Second Further Notice of Proposed Rule Making proposing the substitution of Channel 276A for Channel 249A at Rio Grande City, and the reassignment of Channel 249A to Roma-Los Saenz. In doing so, it will provide both parties an opportunity to comment on these proposals which could result in bringing a first local aural broadcast service to both communities. No additional delay is expected from this extra step in soliciting comments since, in any event, concurrence in both proposed assignments must be obtained from Mexico.

8. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with respect to the cities listed below, as follows:

City	Channel No.	
	Present	Proposed
Rio Grande City, Texas	249A	276A
Roma-Los Saenz, Texas		249A

9. Since both Rio Grande City and Roma-Los Saenz are located within 320 kilometers (199 miles) of the United States-Mexico border, the proposed assignments are subject to concurrence by the Mexican Government.

10. Authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before February 8, 1980, and reply comments on or before February 28, 1980.

12. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time the notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at

the Commission or oral presentation required by the Commission.

Federal Communications Commission,
Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 79-39050 Filed 12-19-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-327; RM-3487]

FM Broadcast Station in Warsaw, Ky.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Proposed assignment of a first Class A FM channel to Warsaw, Kentucky, in response to a petition filed by Charles N. Cutler. The proposed channel would provide for a station which could render a first local aural broadcast service to the community.

DATES: Comments must be filed on or before February 8, 1980. Reply comments must be filed on or before February 28, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: December 10, 1979.

Released: December 18, 1979.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations, (Warsaw Kentucky), BC Docket No. 79-327, RM-3487.

1. Petitioner, Proposal, Comments:

(a) A petition for rulemaking¹ was filed by Charles N. Cutler ("petitioner"), proposing the assignment of Channel 288A to Warsaw, Kentucky, as its first FM assignment. No responses to the petition were received.

(b) The channel can be assigned in compliance with the minimum distance separation requirements provided the transmitter site is located approximately 12.8 kilometers (7 miles) southwest of Warsaw.

(c) Petitioner states that he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Warsaw, in Gallatin County, is located approximately 48 kilometers (30 miles) southwest of Cincinnati, Ohio.

¹ Public Notice of the petition was given on September 19, 1979, Report No. 1192.

(b) *Population.* Warsaw—1,232²; Gallatin County—4,134.

(c) *Local Aural Broadcast Service.* There is no local aural broadcast service in Warsaw.

3. Since it is necessary to impose a transmitter site limitation of 7 miles to comply with the Commission's mileage separation requirements to Station WUBE-FM, Channel 286, Cincinnati, Ohio, petitioner should furnish information demonstrating that a city grade signal to Warsaw can be provided. See § 73.315(a) of the Commission's rules. This showing should include information indicating the nature of the terrain between the transmitter site and the community.

4. Since Warsaw is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 288A to Warsaw requires coordination with the Canadian Government before it can be assigned.

5. In view of the apparent need for a first aural broadcast service in Warsaw, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, as it pertains to Warsaw, Kentucky, as follows:

City	Channel No.	
	Present	Proposed
Warsaw, Kentucky		288A

6. Authority to institute rulemaking proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before February 8, 1980, and reply comments on or before February 28, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the

² Population figures are taken from the 1970 U.S. Census. Petitioner states that there has been a 25% population increase in Warsaw between 1960-1970.

Commission or oral presentation required by the Commission.

Federal Communications Commission,
Henry L. Baumann,
Acting Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 79-39029 Filed 12-19-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-101; FCC 79-778]

Multiple Ownership of Television Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action refused to adopt rules restricting the acquisition of a third VHF or fourth TV station in the top-fifty television markets. The proceeding, begun on the Commission's motion, was intended to explore whether there was a trend toward concentration in ownership which necessitated such rules. Since the feared trend toward concentration could not be substantiated, the Commission decided rules were not needed. It also decided to discontinue use of a policy of giving special scrutiny to applications involving such acquisitions.

EFFECTIVE DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 29, 1979.

Released: December 18, 1979.

By the Commission: Chairman Ferris issuing a separate statement in which Commissioners Fogarty and Brown join.

In the Matter of Amendment of § 73.636(a) of the Commission's Rules (Multiple Ownership of Television Stations); BC Docket No. 78-101, (43 FR 40888, September 13, 1978).

1. We have before us our joint *Notice of Inquiry and Notice of Proposed Rule Making* ("Notice") in this proceeding, 68 F.C.C. 2d 837 (1978), 43 FR 17982 (1978), and the comments and reply comments filed in response to it. The parties which filed comments and reply comments are listed in the Appendix.

Background

2. This proceeding was begun to consider the multiple ownership implications of group ownership of stations in the top fifty television markets. In fact, the Commission already has a series of rules limiting the multiple ownership of broadcast

stations. These rules are found at 47 CFR 73.35 (AM), 73.240 (FM), 73.636 (TV), and 78.501 (CATV-broadcast cross ownership). The rules are premised on a concern for insuring diversity in sources of programming and information, and for fostering economic competition. Both goals are thought to be served by limiting the ownership of the media of communications—broadcast stations, daily newspapers, and CATV systems—which a single entity could have. Although both are important, the Commission has placed principal reliance on insuring diversity in sources of information because of the part such diversity serves in reaching First Amendment goals.

3. The Commission already has a rule (§ 73.636) which limits TV ownership to seven stations, not more than five of which can be VHF. Thus, the present "Top-Fifty" Policy was intended to supplement this rule by countering any possible trend toward the concentration of ownership of TV stations in the larger markets into fewer hands.¹

As adopted in 1968, the policy requires those seeking to acquire a fourth TV station (either UHF or VHF) or third VHF station in the top fifty television markets to make a "compelling public interest showing" of "the benefits in detail that are relied upon to overcome the detriment with respect to the policy of diversifying the sources of mass media communications to the public." *Multiple Ownership of TV Broadcast Stations*, 22 F.C.C. 2d 693, 700 (1968).

4. As described in the present *Notice*, the "Top-Fifty" Policy represented a compromise position between no rule at all and a rule which would disallow the creation of common ownership of more than three TV stations or more than two VHF stations in the top fifty markets.² Since then the Commission has considered a number of cases subject to the policy. In each case, the Commission

has been persuaded by the applicant's "compelling showing" and has granted the application without a hearing.³

5. Our *Notice* suggested that, in light of this history of the application of the "Top-Fifty" Policy, it might be appropriate to eliminate the policy as unnecessary. On the other hand, the document also requested comments on whether the policy should be retained, strengthened or otherwise modified. To help gather useful information, the *Notice* posed several questions, the most important being directed to determining if there had been a continued trend toward concentration of ownership of TV stations in the top fifty markets. Questions in paragraph 14 of the *Notice* invited the submission of economic analyses of the effects of concentrated ownership. Then, in paragraph 15, we asked whether, if the policy were to be retained, the factors considered should be changed, for example, to include the market share of an applicant as a criterion.

Comments

6. Comments were filed by various TV group owners, urging that the "Top-Fifty" Policy be abolished, and by Citizens Communications Center ("Citizens") and by the National Black Media Coalition ("NBMC"), urging that it be enforced and indeed strengthened. Although the parties did not discuss all of the questions raised in our *Notice*, they did comment extensively on whether concentration of ownership of major market TV stations was increasing, and whether top fifty market multiple owners provided more and better news, public affairs, and local programming. We will briefly summarize the issues raised in the comments to set the stage for our discussion of how to resolve these issues.

Concentration

7. In arguing that there is either more or less concentration now than in the past, the parties focused on the numbers of top fifty market stations said to be group owned now and at some earlier date. However, the counts of different parties often differed. This led them to reach different conclusions about the trend in ownership patterns.

8. Opponents of the "Top-Fifty" Policy told us that there is less concentration of ownership now than there was in 1968, when the policy was adopted, or in 1964,

when it had its beginnings. For example, the Evening News Association says that in 1968, there were 224 commercial TV stations in the top fifty markets, compared with 232 today. There had been an increase in the number of groups owners and the number of stations held by them. In 1968, thirty-one group owners (with two or more stations in the top fifty markets) held 104 stations but in 1978, thirty-four owners held 121 stations. However the increase in group owners has been almost entirely in groups with two or three stations. In fact, we were told, the percentage of stations owned by groups with four or more stations had decreased 2% since 1968. Also, the average number of stations held by a group owner in 1968 was 3.61, but in 1978, the figure had dropped to 3.53. At the same time the average number of stations per market increased from 4.18 to 4.88. Going beyond overall numbers of stations and owners, parties argued that the potential for concentration in the top fifty markets is not very great because of our seven station rule, and it is even less now than it had been earlier. Corinthian Broadcasting Corporation says that in 1964, the top ten markets included almost 40% of all TV households, and the top fifty almost 75%. By 1978, those percentages had dropped to 33% and 67%, respectively. According to NBC, even if one entity acquired the most popular (VHF) stations in the top five markets and the most popular UHF stations in the next two markets, it would have no more than 4.99% of the prime time audience in the country, based on the market shares of those stations.⁴

9. On the other hand, Citizens supports a "Top-Fifty" Policy, arguing that there is more concentration now. It says that in 1965, there were 170 commercial stations in the top fifty markets, of which 119 (70%) were group owned, and that in 1978, there were 223, of which 151 (68%) were group owned. It points out that there were 51 group owners in 1965, and 45 in 1978, so each owns more stations now. In 1965, it asserts that there were 20 multiple owners whose holdings violated the "Top-Fifty" Policy but that in 1978, the number was 27. It says ten group owners have market shares jointly making up half the top fifty audience and that the top fifty markets have 67% of the TV households. Citizens argues that allowing this amount of group ownership drives up the sale prices for stations, making it impossible for local and minority companies to purchase the

⁴In fact, no licensee has such a group of stations, so the actual figure is below 4.99%.

stations, since they cannot afford to pay as much as larger owners.

10. Citizens, in discussing concentration and the degree of competition, says that the relevant geographic market⁵ is the national TV market in the fifty largest population centers, and the product market is the potential advertising revenue for each station's owners. It offered a showing that TV stations controlled by groups violating the "Top-Fifty" Policy limits collected more advertising income in 1976 than competing stations controlled by non-multiple owners. It says this creates substantial barriers to entry. Thus it believes minority owners, if not priced out of TV transfers, may have a difficult time sustaining successful operation of their stations.

11. A contrary viewpoint is expressed by group owners. They argued that there are no problems of anticompetitive practices or concentration for which a "Top-Fifty" Policy would be needed. For one thing, they question the idea that the top fifty markets together could be one geographic market for the purpose of analyzing concentration. They say that advertisers seek audiences in specific markets, not simply in fifty unrelated markets. If an advertiser wants national exposure, it buys from a network. If it wants to reach one city, it does not matter that a station there may be group owned. If an advertiser desires to make a regional buy in several markets which are in some way related, it is unlikely that it would want to purchase the particular cities in which a group owner happened to have stations. As to the product market, even at the level of individual cities, they said that, both in competing for advertising revenues and for audience, station owners face more competition in the larger markets than the smaller markets, because the larger markets have more TV stations, as well as other media.

Programming

12. Group owners say they offer the only challenge to network domination of programming, and offer more and better programming than individually owned stations. Group owners claim to have organized Operation Prime Time⁶ to provide alternative programming. The groups also cite examples of programs

and series they produced for their own stations and then offered to other stations by syndication. Metromedia points to the large production facility it constructed, which gives producers an alternative to using network facilities. These things, we are told, can only be financed through the financial resources of using economies of scale available to the group owner.

13. NBC analyzed the programming of groups with five stations and found they provided substantially more news, public affairs, and local programming than the average station. ABC examined EMMY awards given for programming in such areas as public affairs, news, children's shows, documentaries or specials and found that 221 or 96% went to commercial group-owned stations, seven to noncommercial stations, and two to single-owned stations. Metromedia stated that, due to the unwillingness of the networks to sell independent stations their tapes of national and international news, it and some other groups and single stations organized the Independent Television News Association,⁷ as an alternative source for national and international news. Also, we are told that group owners are better able to resist local political and economic pressures in their investigative reporting and editorializing.

14. NBMC responded that, contrary to what group owners said, there is no difference in the amount of local programming done by group owned stations and single stations. When market size of stations owned by groups and non-groups is considered, it said that there are no significant differences in percentage of time for local news and public affairs and the level of parity of Black employment. In fact, WCVB, a single-owned station, leads the Boston market in local programming, according to Citizens. NBMC rejected the fourth network argument, insisting that there has been group ownership of TV stations for years, and yet no fourth network has developed.

Miscellaneous

15. NBMC says that the "Top-Fifty" Policy encourages minority programming and employment even if it has no effect on concentration of ownership. To qualify for waiver, they assert, an applicant must propose something extra. NBMC indicates that it has used the policy as a bargaining chip.

⁷The Independent Television News Association ("ITNA") is an organization of individual stations which pay a weekly fee in exchange for taped news stories from its Washington bureau, from member stations, and outside sources.

16. Group owners argued that group ownership is necessary for successful UHF development, alleging that Metromedia, Field, Taft, and Storer acquired failing UHF stations and improved them with massive infusions of money. On the other hand, Citizens says that most UHF stations are built by single owners and only bought by groups if they become profitable.

Discussion

17. There are three basic courses open to us: (1) Adopt a "Top-Fifty" rule, (2) continue some form of "Top-Fifty" Policy, or (3) reject both as not justified. We believe that continuing top fifty ownership restrictions in effect is not appropriate unless it can be established that there is a concentration problem and that the present multiple ownership rules are inadequate to deal with this problem. For the most part, the following discussion concentrates on whether a rule should be adopted. Although the policy approach option is available, experience gained during the more than 10-year existence of the present policy argues against this choice. First of all, the feared trend toward concentration has not developed even though on each of the 19 occasions when the issue arose, the Commission agreed to permit a group owner to acquire the top fifty stations it sought. Contrary to the expectations of 1968, many new licensees entered the field, and as discussed more extensively below, thus lessened the level of concentration in these markets. In considering the subject, the Commission has also been able to benefit from the experience gained through enforcement of the policy. During this period the Commission acted on 19 requests which were governed by the current "Top-Fifty" Policy. In each instance, the Commission was able to find that important benefits⁸ could be expected to flow from the proposed acquisition, and on that basis it approved each of the requests. Clearly, then, the Policy did not have a practical effect on the ownership of these stations. As to any possible effect elsewhere, it is impossible to be absolutely certain. Nonetheless, it is important to recognize that there is no data whatever to indicate that the Policy worked to deter the filing of any additional top fifty proposal. In fact, no party suggested, much less proved, that the Policy had an

⁸These benefits varied from case to case but typically involved enhanced service to the area. Often this included additional programming directed to local needs generally or to serve the minority community specifically. Likewise, on occasion, additional efforts in the area of equal employment activities were involved as well.

¹Although the Commission at that time concluded that the available data did not support adoption of a rule to limit "Top-Fifty" acquisitions, it did decide to continue a "Top-Fifty" policy so that it could better follow ownership developments.

²When it began the rule making proceeding, *Television Multiple Ownership Rules*, 5 R.R. 2d 1699 (1965), the Commission had proposed to follow an "Interim Policy" of designating for hearing any application in conflict with the proposed rule "(a)bsent a compelling affirmative showing to the contrary." *Interim Policy on Television Multiple Ownership*, 5 R.R. 2d 271, 272 (1965). For a short time prior to the commencement of the rule making, the Commission had a more stringent Interim Policy of designating for hearing an application to acquire a second VHF station in the top fifty markets "(a)bsent a compelling affirmative showing." *Hearings on applications for Second VHF Stations*, 3 R.R. 2d 909, 911 (1964). No applications were ever designated for hearing pursuant to either of the two Interim Policies; several "showings" were accepted.

effect on anyone's investment decision. With these facts in mind, we have no basis to believe that continuing with a policy approach is likely to be productive.⁹

18. To determine whether the adoption of a rule is appropriate, we must focus on the two central questions: Have the developments in ownership patterns in the top fifty markets borne out the concerns of increased concentration which provided the basis for the "Top-Fifty" Policy in 1968; and have the existing multiple ownership rules been shown to be inadequate to respond to any valid concerns which might arise. The goals to be achieved by our multiple ownership rules (and the "Top-Fifty" Policy) are the preservation of the diversity of sources of news and information and the prevention of undue economic concentration. We shall examine the record in the light of these concepts to determine whether there are any gaps in our present rules which a "Top-Fifty" or similar rule would rectify.

Local Diversity

19. We generally think of diversity in terms of program voices in the community. For an extended discussion of diversity, see the *First Report and Order* in Docket No. 18110, where we adopted the one-to-a-market rule, 22 F.C.C. 2d 310-314 (1970). Diversity of program voices or sources of information available to any particular audience or individual viewer is affected by the number of owners of media in the city in which the audience is located, but the "Top-Fifty" Policy offers no benefit in this regard as it applies only to ownership of stations in different cities. Thus, a "Top-Fifty" Policy or rule would not be expected to affect the number of voices anyone received off the air. In fact, it is largely irrelevant to diversity on the local level. This is the case because the viewer usually can receive only one station of a particular group owner.¹⁰ Thus, in any local sense, the "Top-Fifty" Policy is not going to alter the number of voices available. In fact, it has been argued that group ownership can contribute to the diversity in the kind or amount of information received by viewers in that

⁹Even without a policy, the Commission retains the authority to designate for hearing any application which raises substantial public interest issues. Thus, the Commission would be in a position to deal with any such situation should it arise in connection with a proposed top fifty acquisition.
¹⁰It is possible to imagine a situation in which the "Top-Fifty" Policy might have some small impact if it affected the ownership of additional outside stations that are brought to a cable TV subscriber, but the impact is minimal at best and this alone does not form the proper basis for adoption of a rule.

a station with out-of-town resources may be more likely to pursue vigorous investigative reporting.¹¹

20. It is also important to bear in mind that we have taken a number of actions directly related to enhancing local diversity. At the same time the Commission terminated the original "Top-Fifty" rule making and decided to deal with any top fifty problems on an *ad hoc* basis, it commenced a comprehensive rule making proceeding on broadcast multiple ownership, Docket No. 18110.¹² As a result, important new multiple ownership rules were adopted which restrict cross ownership in the same market to one AM-FM combination or one TV station, or one daily newspaper. While most existing combinations were grandfathered, we required divestiture in certain egregious newspaper/broadcast combination situations. *Multiple Ownership*, 50 F.C.C. 2d 1046 (1975), *reconsideration denied*, 53 F.C.C. 2d 589 (1975). Our regional ownership rule, adopted in 1977, takes the concept of local diversity a step further to restrict a party to two stations within a 100 mile radius. *Multiple Ownership Rule*, 40 F.C.C. 2d 23, *reconsidered*, 41 R.R. 1525 (1977). In addition, we have started a proceeding looking toward the possibility of applying multiple ownership rules to noncommercial educational stations, *Multiple Ownership-Educational FM and TV Stations*, 68 F.C.C. 2d 831 (1978). Just recently we started a proceeding¹³ proposing to eliminate the multiple ownership exceptions permitting case-by-case treatment of applications involving UHF stations which would otherwise violate the one-to-a-market or regional concentration rules. In addition, we have taken or are considering a series of actions which look toward the creation of new, competitive outlets. These include the Low Power Television proceeding in BC Docket 78-253 (43 FR 38436, August 28, 1978), and the additional VHF assignments in larger markets proposed in the "VHF Drop-in" proceeding in Docket 20418 (40 FR 17321,

¹¹Moreover, local diversity has also been helped by a series of technical and business developments. The 2.8 million cable TV households in 1968 grew to 13.6 million by January 1, 1979, according to the National Cable Television Association. These and other developments suggest that the trend is toward an increased variety of programming available to the individual viewer.
¹²The Commission adopted the *Notice of Proposed Rule Making*, 33 FR 5315, April 3, 1968, on March 27, 1968. Another proceeding, Docket No. 18397 (*Notice of Proposed Rule Making*, 15 F.C.C. 2d 417 (1969)) resulted in multiple ownership rules for CATV, including cable/broadcast cross ownership rules.
¹³*Notice of Proposed Rule Making* in BC Docket 79-233, 44 FR 55603, published September 27, 1979.

March 18, 1975), as well as the Clear Channel (AM) proceeding which has a similar approach suggested in the *Notice of Proposed Rule Making* in Docket 20642 (40 FR 58467, December 17, 1975).

National Diversity

21. Apart from diversity available to any particular audience, we have expressed our concern about the possibility of increased concentration of media ownership resulting in a reduction of diversity on a national level. Here, too, rules directly addressing the matter exist and are strictly enforced. A single owner is limited to five VHF stations and a total of seven TV stations (§ 73.636). This places a considerable limit on the holdings of an owner and, as NBC pointed out, effectively limits a group's share of the total national audience to under 5%, no matter what stations are included in the seven station total. It is also true that the actual situation has never reached this theoretical level. Likewise it is important to recognize the fact that network news and public affairs programming presently blankets the country more thoroughly than any group of seven stations could.

22. While we agree that maximizing the diversity of viewpoints is an important goal, we cannot agree that the "Top-Fifty" Policy or rule would offer a meaningful contribution beyond that provided by the present multiple ownership rules. If we think of diversity in terms of concentration of power over national opinion, it does not appear that a "Top-Fifty" Policy is really necessary in view of the large number of stations in the top fifty markets and nationwide, ownership of which is in many hands. This is especially true in the face of the promise of even more program voices in the future and with the reliance which can be placed on the already existing protections, including the five VHF/seven TV station limit.

Economic Concentration

23. The common thread running throughout all of the Commission's deliberations on the "Top-Fifty" Policy and its predecessors has been the concern about what was thought to be a trend toward increasing ownership concentration.¹⁴ Thus, the first question to be addressed is whether and to what extent there had been an increase in concentration in the top fifty markets. If there has not been a significant increase, then the basis for this concern will have disappeared, and the need for a policy or rule will have been called into question.

¹⁴See for example the discussion in the *Report and Order* in Docket No. 18668 [22 FCC 2d 696 (1968)] in which we decided against a "Top-Fifty" rule and implemented the present policy instead.

24. Because commenting parties, using various statistical tabulations, were able to reach different conclusions about the trend in concentration,¹⁵ the Commission staff undertook its own data compilation. Further, because many of these differences stem from the use of different bases or definitions, it is appropriate to specify the way in which we believe concentration should be viewed. For purposes of comparison over time, we will use 1968 as the base since that was the year in which the Commission decided that an *ad hoc* application of a policy was a sufficient means to address whatever potential existed for increased concentration.

25. We believe that concentration is appropriately viewed along three dimensions: the number of different owners in the top fifty markets, the percentage of singly-owned outlets in the top fifty markets and the degree to which access to the nation's television households is concentrated in a few owners. The percentage of singly owned outlets in the top fifty markets provides us with an indication of whether group owners are gaining a larger share of an increasing number of outlets. The number of different owners in the top fifty markets indicates whether ownership of the increasing number of operating stations is falling into fewer and fewer hands. Finally, access to audience is the critical dimension in terms of diversity of viewpoint. Since the "Top-Fifty" policy is an extension of the seven station rule, rather than the "duopoly" or regional concentration rules, the question of diversity must be framed in terms of access to the nation rather than to a specific local market or region.

26. The following tabulation summarizes the data gathered by our staff relating to the number and percent of singly-owned outlets:

	1968	1978
Number of stations in top fifty markets ¹⁶	230	242
Number of singly-owned stations in top fifty markets ¹⁷	94	91
Percent of singly-owned stations in top fifty markets	40.9	37.6

¹⁶Stations include those operating with CP's, as well as those licensed. The top fifty markets are ranked by Arbitron's prime time household in February 1979. The same markets are used for 1968 data for consistency although some markets in the 1968 Arbitron top fifty ranking were replaced by others in the 1978 ranking.
¹⁷"Singly-owned" in this tabulation includes stations that are owned by group owners who own only one station in the top fifty markets. In 1968, there were 21 such owners included here; in 1978, there were 23.

¹⁵We should point out that there is little dispute over the accuracy of most of the figures submitted. The differences in conclusions appear to arise from the use of different sets of data or from different measures of concentration.

Thus, there has been a slight drop, by three stations or 3.3 percentage point, in the singly-owned stations over the last decade.

27. The data relating to the number of owners in the top fifty markets is summarized in the following tabulations:

Number of TV stations owned in the top 50 markets	Number of different owners		Percent of total owners	
	1968	1978	1968	1978
1.....	94	91	69.6	67.4
2.....	16	17	11.9	12.6
3.....	10	9	7.4	6.7
4.....	4	5	3.0	3.7
5.....	8	9	5.9	6.7
6.....	3	3	2.2	2.2
7.....	0	1		
Total.....	135	135	100.0	100.0

28. Thus, over 10 years, the number of owners in the top fifty markets remained the same. Further, although the number of owners with only one station in the top fifty markets decrease by three, the percentage of owners with three or more stations (*i.e.*, those of concern in terms of the "Top-Fifty" Policy) has only increased slightly since 1968. That is, in 1968, 25 owners (18.5%) had 3 or more stations, but, in 1978, 27 owners (20.0%) had 3 or more stations. Therefore, there does not appear to be any significant increase in major group owners and only a minor reduction in owners of one station in the top fifty markets over the last 10 years.

29. Also, in terms of potential audience reach, the data collected by our staff does not present a convincing picture of national concentration resulting from group ownership in the top fifty markets.¹⁸ The top fifty markets in 1978 encompassed about 67% of the television households in the United States and about the same percentage in 1968. Given the limit set by our seven station rule, a group owner with one station in each of the top seven markets would potentially reach only 28% of the nation's households. Furthermore, the top fifty markets are the very markets with the greatest number of competing voices, so that each owner's expected share of that potential audience will be much less.

30. The actual experience with group ownership reveals figures much lower

¹⁸The television industry is nevertheless concentrated nationally because each of the three major networks reach virtually 100% of the U.S. homes. However, the question of network domination of the industry is the subject of a separate proceeding. See *Network Inquiry*. Neither a "Top-Fifty" Policy nor a rule would alter this situation.

than the hypothetical 28% limit mentioned. Thus, excluding the stations owned by the three major television networks,¹⁹ the potential audience reached by the 50 largest group owners (which includes stations and audiences outside the top fifty markets) is indicated in the following tabulation.²⁰

Percent of TV households:	Number of groups
20 to 25.....	1
15 to 20.....	1
10 to 15.....	2
5 to 10.....	9
1 to 5.....	37
Less than 1.....	0
Total.....	50

Thus, 74% of the largest groups reach less than 5 percent of U.S. households, 96% reach less than 15 percent and none reaches more than 25 percent.

31. As a practical matter, therefore, in terms of national program diversity, we do not see that ownership of more than one station in the top fifty markets creates a problem that is so substantial as to require either a retroactive or proscriptive prohibition of such ownership.

32. In economic terms as well, potential access to less than 25% of the nation's households does not lead us to expect to find barriers to competition in either the program or advertising markets, especially since actual share of this potential audience is not likely to exceed 5% of the nation's households. Further, no factual evidence was submitted in this proceeding that supports any allegation of economic harm resulting from the present level of concentration in the top fifty markets.

33. We wish to emphasize that, although many of the comments received in this proceeding addressed themselves to the pros and cons of group ownership in general, we have viewed this proceeding not as one addressing multiple ownership *per se*, but as one addressing only the question of whether a policy or rule relating to group ownership in the largest markets is appropriate.

34. In summary, we find no substantial trend over the past decade toward increasing concentration of ownership in the top fifty markets. Nor do we find evidence of substantial harm to either diversity of viewpoint or economic competition that warrants a rule or policy as an adjunct to our other multiple ownership rules which would

¹⁹Because the networks, as program distributors through their owned stations and non-owned affiliates, reach virtually all U.S. homes.

²⁰This tabulation is reproduced from the tabulation presented in the Network Inquiry Special Staff report: "An Analysis of the Network Affiliate Relationship in Television," October 1979, p. 1-9.

be aimed solely at ownership in the top fifty markets. Moreover, we believe that this action today is in keeping with the dictates of the Court's opinion in the *Home Box Office* case²¹ where the Court of Appeals emphasized that we must state clearly the harm we seek to remedy and the reasons for supposing that such harm exists. Without such harm, it follows that a rule or policy would be inappropriate.

Procedural Matters

35. Finally, we need to consider one procedural issue which has been raised. Metromedia filed a motion to strike Citizens' reply comments. Citizens opposed it, and Metromedia filed a reply to the opposition. Metromedia's argument is that Citizens' reply comments contained new matter and falsehoods, relating to a private antitrust suit against Metromedia, and therefore that the reply comments should be stricken. Citizens disputes Metromedia's characterization of its reply comments and argues that the alleged new matter was relevant to statements made in the comments by group owners concerning the competitive environment of the industry. Metromedia cites precedents striking new matter in reply pleadings filed in adjudicatory proceedings, pursuant to § 1.45(b) of the Rules.

36. Reply comments in rule making proceedings, however, are governed by § 1.415(c), which does not specifically forbid new matter, unlike § 1.45(b), which provides, "The reply shall be limited to matters raised in the oppositions. . . ." Section 1.415(c) contains no such limitation, merely providing, "a reasonable time will be provided for filing comments in reply to the original comments" While we would not ordinarily expect new and controversial matter to be introduced in reply comments, rule making proceedings are different from adjudicatory proceedings. The purpose of a rule making is to gather all relevant information to formulate a rule of general applicability rather than resolving rights, and wrongs vis-a-vis a particular party. If necessary, we can, of course, authorize additional pleadings where requested by parties. At to any possible falsehoods, Metromedia had an opportunity to and did respond to the alleged new matter. Since these pleadings were filed just a short time after the due date for reply comments,

they did not delay the proceeding. For these reasons we will not strike Citizens' reply comments.

Conclusions

37. After examining and reflecting on the record, we have concluded that a "Top-Fifty" Policy or rule would not significantly contribute to the goals of the multiple ownership rules—increased diversity of sources of information and increased competition beyond what is now contributed by the seven station "duopoly" and regional concentration rules. Further, there does not seem to be any significant problem of concentration of ownership of top fifty television stations in fewer and fewer hands, which such a policy or rule would be designed to remedy or forestall. For these reasons, too, we have decided to eliminate the use of the current policy.²²

38. Therefore, it is ordered, That the "Top-Fifty" Policy is deleted, and it is further ordered, That this proceeding is terminated.

39. It is further ordered, That the Motion to Strike filed by Metromedia is denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment: Appendix.

J. Warren Binnis, Jr.

Larry C. Seeley

Alan L. Weiser

WLTX Television, Inc.

Hubbard Broadcasting, Inc.

Field Communications Corporation

American Broadcasting Companies, Inc.

AST Station Companies

Viacom International, Inc.

Belo Broadcasting Corporation

General Electric Broadcasting Company, Inc.

National Association for the Advancement of

Colored People; Office of Communication

of the United Church of Christ; National

Council of La Raza; National Organization

for Women; National Media Committee;

and Citizens Communications Center

Post-Newsweek Stations, Inc.

Wometco Enterprises, Inc.

National Broadcasting Company, Inc.

CBS, Inc.

National Black Media Coalition

Evening News Association, Gaylord

Broadcasting Company and Lee

Enterprises, Inc.

²² Nonetheless, here as elsewhere, the Commission encourages broadcasters and community groups to cooperate in efforts to better serve the community.

²³ See attached Separate Statement of Charles D. Ferris, Chairman in which Commissioners Joseph R. Fogarty and Tyrone Brown join.

Channel Five Television Company; Channel Two Television Company; Cosmos Broadcasting Corporation; Cox Broadcasting Corporation; Guy Gannet Broadcasting Services; Multimedia, Inc.; Newhouse Broadcasting Corporation; Providence Journal Company, United Television, Inc.

Metromedia, Inc.

Corinthian Broadcasting Corporation

Rene Anselmo

Allen Parkman

Separate Statement of Charles D. Ferris, Chairman in Which Commissioners Joseph R. Fogarty and Tyrone Brown join

Re: Top 50 Market Policy.

When this inquiry started, I said that I felt we should either reaffirm the original rationale for this policy—preventing national concentration of media control—and codify it in a rule, or eliminate our unenforced "policy."

After considerable staff study, the only conceivable rationale for our Top 50 policy appears to be that during the last decade local citizens have benefitted from the assurances broadcasters have made to give an extra boost to their affirmative public interest showing for increased group ownership in the Top 50 markets. This has resulted in additional minority and female participation in ownership, employment and programing, and programing for children and other specialized audiences in those communities.

There are several reasons why eliminating the Top 50 policy as a "bargaining chip" for the local community does not disturb me.

First, I believe that the Commission must under Section 310 of the Communications Act affirmatively find that the public interest is served by any transfer of a television license, whether or not it is of a fourth station or third VHF station in the Top 50 markets.

In "Top 50" cases we have required a "compelling public interest showing" of the benefits to be served by the transfer. But I believe that in the future local citizens can continue to raise public interest questions if they believe a multiple owner proposing to enter a new community in a Top 50—or any other—market is not providing adequate EEO and programing commitments. I trust the FCC will give serious consideration to such objections. I know that I will.

Second, I believe that the FCC is moving more aggressively to enforce across the board, as to all licensees, obligations formerly scrutinized most carefully when multiple owners applied for Top 50 market stations. We have, for example, toughened our EEO reviews on a national basis. We have created tax certificate incentives to minority ownership that apply to any transfer. And we have moved generally to reexamine television station obligations in the children's programing area. I believe this is preferable to *ad hoc* efforts to apply a stringent public interest standard only when a licensee is jumping through the hoop of our Top 50 policy.

Finally, I think the Top 50 policy is on its face irrational. It makes no distinction between acquiring four stations in the top 10 markets or four stations in markets 40-50. It left grandfathered the largest accretions of concentrated group ownership power in the industry—the network owned stations, but places roadblocks in the way of new group owners who might seek to produce or acquire programing in competition with the networks.

For these reasons, I think that to retain this policy simply because it provides additional negotiating leverage to local citizens in Top 50 market station acquisitions would be unwise. If we do become concerned in the future about national concentration of control in the Top 50 markets, I am certain that we could fashion policies that would make far more sense, but we should do so only when we are ready to codify those policies in a rule.

[FR Doc. 79-39057 Filed 12-19-79 8:15 am]

BILLING CODE 6712-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Avalon Borough Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Avalon Borough Critical Area Treatment RC&D Measure, Allegheny County, Pennsylvania.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include conservation practices to stabilize the natural waterway with rock riprap, gabions, and 1 acre of seeding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data

developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 12, 1979.

Edward E. Thomas, Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 79-38990 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Coal Hollow Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

AGENCY: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Coal Hollow Critical Area Treatment RC&D Measure, Elk County, Pennsylvania.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

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The measure concerns a plan for critical area treatment. The planned works of improvement include conservation practices on approximately 2 acres of eroding land and reduction of sediment pollution delivered to Little Toby Creek and its receiving streams.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 12, 1979.

Edward E. Thomas, Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 79-38991 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Dunbar Creek Watershed Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not

being prepared for the Dunbar Creek Watershed Critical Area Treatment RC&D Measure, Fayette County, Pennsylvania.

The environmental assessment of this Federal assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include diversions, debris basins, subsurface drains, grading, seeding, and mulching on approximately 25 acres of strip mined area.

The notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17103, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 13, 1979.

Victor H. Barry, Jr., Deputy Administrator for Programs.

[FR Doc. 79-38989 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Eagle Creek Watershed Flood Prevention R.C. & D. Measure, Kansas

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. John W. Tippie, State Conservationist, Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, telephone 913-825-9535.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service

Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Eagle Creek Watershed Flood Prevention RC&D Measure, Lyon County, Kansas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. John W. Tippie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include four single purpose flood prevention reservoirs.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. John W. Tippie, State Conservationist, Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, telephone 913-825-9535. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 13, 1979.

Victor H. Barry, Jr., Deputy Administrator for Programs.

[FR Doc. 79-38988 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Foster Township Community Park Land Drainage R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500);

and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Foster Township Community Park Land Drainage RC&D Measure, McKean County, Pennsylvania.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

These measure concerns a plan for control of surface water and seasonal high water table. The planned works of improvement include land treatment measures affecting approximately 5 acres.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 17, 1979.

Edward E. Thomas, Assistant Administrator for Land Resources, Soil Conservation Services.

[FR Doc. 79-38992 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Marianna Borough Park Area Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228

Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Marianna Borough Park Area Critical Area Treatment RC&D Measure, Washington County, Pennsylvania.

The environmental assessment of this Federally assisted action indicate that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for erosion and sediment control. The planned works of improvement include land grading and revegetating 1.5 acres.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are in file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 12, 1979.

Edward E. Thomas,
*Assistant Administrator for Land Resources,
Soil Conservation Service.*

[FR Doc. 79-38993 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

McGuffey Community Park Land Drainage R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Graham T. Munkittrick, State

Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the McGuffey Community Park Land Drainage RC&D Measure, Washington County, Pennsylvania.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage. The planned works of improvement include subsurface drains, waterways, diversions, streambank protection, grading, and critical area seeding. Total estimated construction cost is \$33,800.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 12, 1979.

Edward E. Thomas,
*Assistant Administrator for Land Resources,
Soil Conservation Service.*

[FR Doc. 79-38994 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Mount Pleasant Township Park Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mt. Pleasant Township Park Critical Area Treatment RC&D Measure, Washington County, Pennsylvania.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for erosion and sediment control. The planned works of improvement include stabilization and conservation practices affecting 15 acres.

The Notice of a Finding of No Significant Impact (FNSI) had been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 12, 1979.

Edward E. Thomas,
*Assistant Administrator for Land Resources,
Soil Conservation Service.*

[FR Doc. 79-38995 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Oak Street Recreation Area Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oak Street Recreation Area Critical Area Treatment RC&D Measure, Warren County, Pennsylvania.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for erosion and sediment control. The planned works of improvement include streambank stabilization and land treatment measures.

The Notice of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Edward E. Thomas,
*Assistant Administrator for Land Resources,
Soil Conservation Service.*

[FR Doc. 79-38997 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-16-M

Pumpkin Run Park Public Water-Based Recreation Development R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717-782-2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pumpkin Run Park Public Water-Based Recreation Development RC&D Measure, Greene County, Pennsylvania.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for installation of a public water-based recreation development. The planned works of improvement include recreation facilities for fishing, boating and picnicking affecting approximately 6 acres of upland wildlife habitat presently supporting limited recreation uses.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108,

telephone 717-782-2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87-703, 16 U.S.C. 590a-f, q.)

Dated: December 12, 1979.

Edward E. Thomas,
*Assistant Administrator for Land Resources,
Soil Conservation Service.*

[FR Doc. 79-38997 Filed 12-19-79; 8:45 a.m.]

BILLING CODE 3410-16-M

Water Resources Project Type Activities; Nonstructural Measures

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of interim Soil Conservation Service (SCS) policy and procedures for cost sharing and implementing nonstructural measures in watershed projects, authorized flood prevention projects, and resource conservation and development measure projects.

SUMMARY: This notice provides interim instructions concerning policies and procedures for implementing nonstructural measures. They become effective on the date of this publication. Refined instructions will be developed after policies concerning nonstructural measures are finalized under President Carter's water policy directive regarding this matter.

DATES: Comments and suggestions should be on or before February 19, 1980.

ADDRESS: Interested persons are invited to submit written comments to Joseph W. Haas, Assistant Administrator for Water Resources, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202-447-4527).

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, Director, Watersheds Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202-447-3527).

SUPPLEMENTARY INFORMATION: In response to President Carter's water policy directives of June 1978, the Water Resources Council has prepared proposed revisions of its Principles and Standards for Planning Water and Related Land Resource Projects and has developed proposed rules for procedures for evaluating national economic development (NED) benefits and costs

in water resource projects. The procedural manual specifies that a primarily nonstructural plan will be prepared and included as one alternative whenever structural project or program alternatives are considered.

Section 73 of the Water Resources Development Act of 1974 (Pub. L. 93-251, March 7, 1974) established a policy consistent with President Carter's water policy directives that full consideration be given to nonstructural measures for flood plain management. Section 73(a) states that:

"In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternatives to prevent or reduce flood damages including, but not limited to, floodproofing of structures; flood plain regulation; acquisition of flood plain lands for recreational, fish and wildlife, and other public purposes; and relocation with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages."

Section 73(b) specifies the cost sharing requirements for nonstructural measures as follows:

Where a nonstructural alternative is recommended, non-Federal participation shall be comparable to . . . structural protection measures, but in no event shall exceed 20 per centum of the project cost.

The President also proposed cost sharing reforms in his water policy directives which, if adopted, would require 20 percent cost sharing for nonstructural measures from non-Federal interests. The cost sharing provisions in the interim instructions are consistent with section 73 of Pub. L. 93-251 and those of the President.

This notice has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved draft impact analysis is available from James W. Mitchell, Director, Watersheds Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202-447-3527).

Dated: December 12, 1979.

Verne M. Bathurst,

Deputy Administrator for Administration.

Accordingly, the following interim instructions for implementing nonstructural measures are published for informational purposes.

National Programs Instructions No. 10-304; Subject: Nonstructural Measures

Section 304.0 Purpose.

This instruction sets forth interim SCS policy and procedures for cost sharing and implementing nonstructural measures in watershed projects, authorized flood prevention projects, and RC&D measure projects.

Section 304.1 Introduction.

(a) Nonstructural measures for flood protection are those means of alleviating flood losses by modifying the susceptibility of land, people, and property to flood damage. In accordance with the Water Resources Council's revised Principles and Standards and its procedures for evaluating benefits and costs, a primarily nonstructural plan is to be prepared and included as one alternative whenever structural project alternatives are considered for flood protection. Nonstructural measures for flood prevention should also be considered in planning in combination with land treatment and structural measure alternatives. Nonstructural measures for flood damage reduction should be planned to the same degree of intensity and level of protection as structural measures and land treatment measures.

(b) Nonstructural alternatives are to be consistent with SCS rules and regulations for implementing Executive Orders 11988 and 11990, and procedures developed by the Water Resources Council for evaluation of beneficial and adverse effects of water and related land resource projects. All other existing policies for implementation of Pub. L. 566, Pub. L. 534, and RC&D programs not specifically addressed apply to nonstructural measures.

Section 304.2 Measures eligible for Federal cost sharing.

The following nonstructural measures are eligible for Federal cost sharing and may be used individually or in combination to solve a flood problem:

(a) *Relocation of existing flood plain properties.* Relocation of residential, commercial, industrial, and farm buildings may be the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages. Relocation of existing flood plain properties is intended to reposition buildings on flood-free areas of the landowners' property or on other flood-free land. Any upgrading of relocated property is considered to be a benefit for well-being; therefore, the cost of the upgrading are not eligible for cost sharing assistance.

(b) *Flood warning system.* Wherever properties remain in a flood-prone area, a flood warning system may be used in conjunction with other measures to reduce flood damages. A flood warning system may include monitoring of weather or stream conditions coupled with a projection of anticipated flood depths. An alert or warning system may be included to notify flood plain occupants in time to protect property from damage and/or to evacuate the area. Federal cost sharing assistance could include such items as design of the system, stream and rain gauges, the communications network, and the warning system. The costs of monitoring the flood warning system, training personnel, and testing are to be included as part of the operation and maintenance of that system. Cost sharing is not applicable to streams receiving forecasting and warning assistance from another State or Federal agency.

(c) *Flood proofing.* Flood proofing consists of work on individual buildings such as blocking off low-level entrances and windows, installing one-way valves in drains, strengthening walls and foundations, installing protective walls, and elevating the building or contents above the base flood elevation to minimize flood losses. A ring dike or levee protecting an individual property is considered a nonstructural measure. Diking around groups of properties is considered a structural measure.

(d) *Flood plain acquisition.* (1) Flood-prone lands in developed areas may be acquired with program cost sharing assistance. Developed land is defined as areas with existing residential and/or commercial development. Land that has been improved for urban use with existing streets, sewers, waterlines, or where local authorities have granted permits for such improvements prior to an application for assistance under Pub. L. 566, is considered developed land. Undeveloped flood-prone lands cannot be acquired with program financial assistance unless an exception is granted by the Administrator in such cases where this is the most cost effective and environmentally acceptable means of attaining project objectives consistent with the President's water policy directives and the Water Resources Council's revised Principles and Standards.

(2) Tracts of land acquired as a nonstructural measure may be used for public benefit such as recreation and fish and wildlife habitat preservation or improvement. Such land should be acquired by fee title or perpetual easement. Facilities for public use on

this land may be eligible for Federal cost sharing if they are consistent with existing program requirements. Land acquired as a nonstructural measure may also be used for other public purposes if the following conditions are met:

(i) The land is unsuitable for public recreation or fish and wildlife habitat, or additional public land for these purposes is not needed.

(ii) The proposed use is compatible with remaining flood hazards and project purposes, and land use regulations will be adopted to maintain such use.

(iii) Federal cost sharing will be limited to the value of the development rights. This value is defined as the difference between the current appraised value and the value under restricted use.

Section 304.3 Preconditions.

Other forms of flood plain management such as land use regulation through zoning, building codes, or flood insurance, which represent primarily administrative actions, do not lend themselves to cost sharing under section 73(b). In order to keep land use compatible with the level of protection or remaining flood hazard, the sponsoring local organizations must adopt or have adopted land use regulations that meet the standards established for the regular National Flood Insurance Program as a prerequisite to financial assistance. These flood plain management features should be included as nonproject features of the plan.

Section 304.4 Cost sharing rates.

Section 73(b) of Pub. L. 93-251 established a local share not to exceed 20 percent for the installation of nonstructural measures for flood protection. Accordingly, the local share for the installation of nonstructural measures for flood protection will be 20 percent composite cost sharing rate considering installation cost, technical or engineering assistance, landrights, relocation payments, and administration and overhead costs.

Section 304.5 Operation and maintenance.

Operation and maintenance is the responsibility of the sponsoring local organizations and is not eligible for Federal cost sharing. Operation, maintenance, inspections, and replacement will be conducted

consistent with established rules and regulations.

[FR Doc. 79-38078 Filed 12-18-79; 8:45 am]
BILLING CODE 3410-16-M

Forest Service

Extension of Highland Scenic Highway U.S. 219—U.S. 250; Monongahela National Forest, Pocahontas and Randolph Counties, W. Va.; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for the Highland Scenic Highway from U.S. 219 to U.S. 250 on the Monongahela National Forest.

Public Law 93-87 authorized the Secretary of Agriculture to develop and construct the Highland Scenic Highway from U.S. 250 near Barton Knob as a parkway on the Federal-Aid secondary system. The Act also authorizes acquisition of lands, rights-of-way, and interest in land to carry out the purposes of a scenic highway, as well as protection of water quality in Shavers Fork River, and permits use of parkway funds for reclamation of lands within a scenic corridor. All lands and rights-of-way are to be managed as part of the Monongahela National Forest for scenic values and recreation.

Slightly over 22 miles of the Highland Scenic Highway (West Virginia Route 150) have been constructed or are under construction between West Virginia Route 39 east of Richwood and U.S. 219 north of Marlinton, West Virginia.

The alternatives under consideration address extension of the Highland Scenic Highway from the present intersection with U.S. 219 to U.S. 250 in one of four apparently feasible location corridors. These range in length from 34.75 miles to 39.51 miles, and have been identified for study by Region 15 of the Federal Highway Administration.

The scoping process will be initiated early in the study and consist of an evaluation of known issues and concerns, as well as a public meeting or series of small meetings. Preliminary issues and concerns have resulted from public interest expressed during planning and construction of the highway, and from National Forest land management planning. These include: private developments of condominiums and resort complexes, livestock grazing, coal deposits and mining activities, land ownership, fisheries quality of the Shavers Fork River and several native

trout streams, black bear and turkey habitat, and aesthetic, social, and economic values.

Steve Yurich, Regional Forester of the Eastern Region, is the responsible official, and Harry Mahoney, Forester on the Monongahela National Forest (304-636-1800), will be the coordinator for the Highland Scenic Highway Environmental Impact Statement.

The draft environmental impact statement will be available in February 1981, and the final environmental impact statement is scheduled for filing in October 1981.

Comments on this Notice of Intent or on the project should be sent to the Forest Supervisor, Monongahela National Forest, Elkins, West Virginia 26241.

James H. Freeman,
Director, Planning, Programming and Budgeting.

December 10, 1979.

[FR Doc. 79-39953 Filed 12-19-79; 8:45 am]
BILLING CODE 3410-11-M

Northern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council; Meeting

The Northern California subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 10:00 a.m. on Friday, January 18, 1980. The meeting location will be room 539, Appraiser's Building, 630 Sansome Street, San Francisco, California.

The purpose of the meeting is to suggest and discuss issues and concerns from which to develop the Pacific Crest National Scenic Trail Comprehensive Plan for acquisition, management, development, and use of the trail.

The meeting will be open to the public. Persons who wish additional information should contact Alan Lamb, Recreation Staff, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California, 94111. Phone (415) 553-6983.

Dated: December 13, 1979.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-38087 Filed 12-19-79; 8:45 am]
BILLING CODE 3410-11-M

Oregon Subcommittee of the Pacific Crest National Scenic Trail Advisory Council; Meeting

The Oregon subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 9:00 a.m. Friday, February 8, 1980. The meeting location will be room 690, Multnomah

Building, 319 S.W. Pine Street, Portland, Oregon.

The purpose of the meeting is to suggest and discuss issues and concerns from which to develop the Pacific Crest National Scenic Trail Comprehensive Plan for acquisition, management, development, and use of the trail.

The meeting will be open to the public. Persons who wish additional information should contact Roger Long, In-Care-of Regional Forester, Pacific Northwest Region, Forest Service, P.O. Box 3623, Portland, Oregon, 97208. Phone (503) 221-3611.

Dated: December 13, 1979.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-38994 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-11-M

Southern California Subcommittee Pacific Crest National Scenic Trail Advisory Council; Meeting

The southern California subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 8:30 a.m. Thursday and Friday on January 24 and 25, 1980. The meeting location will be the 2nd Floor Conference Room, Angeles National Forest Headquarters, 150 South Los Robles Street, Pasadena, California.

The purpose of the meeting is to suggest and discuss issues and concerns from which to develop the Pacific Crest National Scenic Trail Comprehensive Plan for acquisition, management, development, and use of the trail. Also there will be a comprehensive review of the status of the trail in southern California.

The meeting will be open to the public. Persons who wish additional information should contact Alan Lamb, Recreation Staff, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California, 94111. Phone (415) 556-6983.

Dated: December 13, 1979.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-38993 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-11-M

Washington Subcommittee of the Pacific Crest National Scenic Trail Advisory Council; Meeting

The Washington subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 9:00 a.m. to 7:00 p.m. on Thursday, January 31, 1980. The meeting location will be Anderson Hall, College of Forest Resources, University of Washington, Seattle, Washington, 98105.

The purpose of the 9:00 a.m. meeting is to suggest and discuss issues and concerns from which to develop the Pacific Crest National Scenic Trail Comprehensive Plan for acquisition management, development, and use of the trail. The 7:00 p.m. meeting will be a general review of the status of the trail in Washington.

The meeting will be open to the public. Persons who wish additional information should contact Roger Long, In-Care-of Regional Forester, Pacific Northwest Region, Forest Service, P.O. Box 3623, Portland, Oregon, 97208. Phone (503) 221-3611.

Dated: December 13, 1979.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-38996 Filed 12-19-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 30662]

The Flying Tiger Line Inc. v. Scandinavian Airline System; Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-titled matter now assigned to be held on December 18, 1979 (44 FR 65426, November 13, 1979), is hereby postponed to January 29, 1980 at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., December 14, 1979.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 79-38997 Filed 12-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-12-84; Dockets 34802 and 37165]

Wien Air Alaska, Inc., and Great Northern Airlines, Inc.; Order Fixing Temporary Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of December, 1979.

In the matter of the petition of Wien Air Alaska, Inc. for the establishment of fair and reasonable service mail rates for the transportation of mail pursuant to section 406 of the Federal Aviation Act of 1958, as amended.

Great Northern Airlines Service Mail Rates Investigation.

By Order 79-11-22, served November 7, 1979, we proposed to establish new final service mail rates for Wien Air Alaska, Inc. (Wien) of \$2.5752 per ton-mile for priority mail and \$1.0944 per

ton-mile for nonpriority mail to be effective on and after February 24, 1979. On November 15, 1979, the United States Postal Service (Postal Service) filed a notice of objection to our order to show cause. Subsequently, on November 20, 1979, Wien filed an emergency motion requesting the Board to issue a final order fixing temporary service mail rates effective on and after February 24, 1979, of \$2.2162 per ton-mile for priority mail and \$1.0352 per ton-mile for nonpriority mail; and that such final order be issued promptly and without issue of an intervening show-cause order.

In support of its motion, Wien states that the requested temporary service mail rates are the same rates proposed by the Postal Service in its answer of July 30, 1979, in this proceeding, and that it is authorized by counsel for the Postal Service to state that the Postal Service has no objection to the prompt establishment of the temporary service mail rates set forth here by immediate issuance of a final order and waiving and dispensing with an order to show cause. Wien also notes that since the answer of the Postal Service is not due until December 7, 1979, it cannot reasonably be anticipated that this proceeding will be concluded until after January 1, 1980.

Furthermore, Wien states that its financial position continues to decline (see Order 79-11-15) and that the inadequate level of its current service mail rates is a major factor for its working capital deficiencies. The temporary rates requested here would produce an additional \$3.7 million on an annual basis and would convert the report net loss of \$185,000 for the first nine months of 1979 into a significant net profit. As a result of the financial decline in its reported results, Wien alleges that it has been and continues to be in a condition of default of the conditions and requirements under its loan agreements which exceed \$48 million and that such condition of default must be cured prior to December 31, 1979. Moreover, Wien believes that the retroactive amounts due it under the temporary rates requested here, and concurred in by the Postal Service, will contribute substantially to minimizing, if not removing, its working capital deficiencies.

Since the requested temporary rates are the same as those rates mutually agreed upon earlier by the parties to this proceedings, we believe that no one will be prejudiced by our departing from our usual temporary rate procedures as set forth in the Board's Rules of Practice, 14 CFR 302.310. The purpose of those

procedures is to give opportunity for comment and hearing on temporary rates before they take effect. However, the Board hearing on temporary rates before they take effect. However, the Board has waived these procedures in circumstances where they are not required.¹ We believe that this is such a case. Furthermore, these rates will be subject to retroactive adjustment when we establish final rates.

In Order 79-11-203, adopted November 28, 1979, we determined that the fair and reasonable temporary service mail rates for Great Northern Airlines (GNA) were the rates then in effect for Wien which were established by Order 76-2-63. We stated that since GNA would be providing the same mail services that Wien is presently providing we saw no reason why Wien's rates should not apply as temporary rates for GNA's certificated mail services as well. Since this order establishes temporary service mail rates for Wien, we believe the same temporary rates also should be applicable to GNA.

Accordingly, we waive the procedural requirements of Rule 310, and find and conclude that the temporary service mail rates requested by Wien, and concurred in by the Postal Service, are the fair and reasonable rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, to Wien on and after February 24, 1979, and to GNA on and after the commencement of certificated mail operations, for the transportation of mail by aircraft over their intra-Alaska routes, the facilities used and useful therefor, and with services connected therewith, until issuance of orders establishing final mail service rates in these investigations.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302.

1. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General to Wien Air Alaska, Inc. on and after February 24, 1979, and to Great Northern Airlines, Inc. on and after the commencement of certificated mail operations, pursuant to section 406 of the Federal Aviation Act of 1958, as amended, for the transportation of mail by aircraft over their intra-Alaska routes, the facilities used and useful

therefor, and the service connected therewith, per nonstop great-circle ton-mile are \$2.2162 for priority mail and \$1.0352 for nonpriority mail.

2. The temporary service mail rates established by this order are subject to retroactive adjustment to February 24, 1979, for Wien Air Alaska, Inc. and to the date of commencement of certificated mail operations for Great Northern Airlines, Inc. as may be required by the orders establishing final service mail rates in these investigations.

3. We shall serve this order upon the Postmaster General, Wien Air Alaska, Inc. and Great Northern Airlines, Inc.

We will publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor.

Secretary.

[FR Doc. 79-38972 Filed 12-19-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 12:00 p.m. and will end at 3:30 p.m., on January 15, 1980, at the Central Conference Room, State Administration Building, Route 113 (opposite Blue Hen Mall), Dover, Delaware 19901.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to plan 1980 activities with special reference to Forum on Minority and Women Entrepreneurs; review of continuing SAC business; and status of State prison system.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 17, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-39052 Filed 12-19-79; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 10:00 p.m., on January 14, 1980, at the Indianapolis Hilton, 31 W. Ohio Street, Indianapolis, Indiana 46204.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is review of the minutes by the Chairperson; a report by staff on the employment project; regional council staff explanation of the procedures in a fact-finding hearing to be held in March 1980; and staff up-date on the status of Klan in Indiana.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 17, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-39053 Filed 12-19-79; 8:45 am]

BILLING CODE 6335-01-M

Kentucky Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kentucky Advisory Committee (SAC) of the Commission will convene at 12:00 p.m. and will end at 5:00 p.m., on January 22, 1980, at the Executive West Hotel, Freedman Way at the Fairgrounds, Edinborough Room, 830 Phillips Lane, Louisville, Kentucky 40209.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this meeting is program planning for FY 1980.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 17, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-39054 Filed 12-19-79; 8:45 am]

BILLING CODE 6335-01-M

¹ Order 77-12-157, *Priority and Nonpriority Domestic Service Mail Rates Investigation*, Docket 25099-2.

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 (revised), and after consultation with GSA, it has been determined that a 2-year renewal of the Census Advisory Committee on Agriculture Statistics is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was established July 16, 1962, and its current charter is to terminate on December 14, 1979. It was initially chartered under the Federal Advisory Committee Act in January 1973. The Committee's purpose is to advise the Director, Bureau of the Census, on the conduct of periodic censuses of agriculture and related surveys, and the kind of information that should be obtained from respondents associated with agricultural production; and to present the data needs of major suppliers and users of agriculture statistics. The Committee plays a vital role in advising the Census Bureau concerning the structuring and planning of the agriculture censuses and surveys.

The Committee will continue with a balanced representation of 21 member organizations, each appointing a person to the Committee subject to the concurrence of the Director, Bureau of the Census. The Committee is chaired by a member of its own selection, and will function solely as an advisory body in compliance with the Federal Advisory Committee Act, as amended, and Office of Management and Budget Circular A-63 (revised).

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Orvin L. Wilhite, Chief, Agriculture Division, Federal Building 4, U.S. Department of Commerce, Bureau of the Census, Washington, D.C. 20233, Telephone 301/763-5230, or to the Department's Committee Management Analyst, Mrs. Yvonne Barnes, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-4217.

Dated: December 12, 1979.

Guy W. Chamberlin, Jr.,
Assistant Secretary for Administration.

[FR Doc. 79-38940 Filed 12-19-79; 8:45 am]

BILLING CODE 3510-17-M

Census Advisory Committee on Housing for the 1980 Census; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 (revised), and after consultation with GSA, it has been determined that a one-year renewal of the Census Advisory Committee on Housing for the 1980 Census is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was established in 1976 by the Secretary of Commerce under the Federal Advisory Committee Act (Pub. L. 92-463). Its present charter is scheduled to expire December 22, 1979. The present objective of the Committee is to provide technical advice and guidance in planning the census and post-census activities of the decennial census of housing to ensure that the major statistical requirements of decisionmakers are met. The Committee provides advice on housing subject-matter concepts, questionnaire content, tabulations, data dissemination plans and other relevant aspects of the overall 1980 census program. The Committee is strictly advisory. In renewing the Committee, no significant change of objectives or emphasis is planned.

The Committee will continue to consist of 18 members including a representative from each of nine major national organizations with different interests, and nine members appointed by the Secretary of Commerce. These represent as widely as possible the data users vitally concerned with the many aspects of the Nation's housing. The Chairperson and Chairperson-Elect will continue to be elected for a 1-year term by the Committee which will operate in compliance with the Federal Advisory Committee Act.

Copies of the Committee's charter will be filed with the appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Arthur F. Young, Housing Division, Room 1731, Federal Office Building #3, Bureau of the Census, Washington, D.C. 20233, telephone (301) 763-2863, or to the Department's Committee Management Analyst, Mrs. Yvonne Barnes, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-4217.

Dated: December 12, 1979.

Guy W. Chamberlin, Jr.,
Assistant Secretary for Administration.

[FR Doc. 79-38941 Filed 12-19-79; 8:45 am]

BILLING CODE 3510-17-M

Economic Development Administration

Notice of Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Grayslake Gelatin Company, P.O. Box 248, Grayslake, Illinois 60030, a producer of edible gelatin, milk, grain, and hay (accepted December 3, 1979); (2) Millicent Sportswear Corporation, 133 West 21st Street, New York, New York 10011, a producer of women's skirts, dresses, tops and suits (accepted December 3, 1979); (3) Coastline Sportswear, Inc., Highway 264 West, Belhaven, North Carolina 27810, a producer of men's and children's shirts, jackets, tops and jogging suits (accepted December 4, 1979); (4) Rite-Way Meat Processing, Inc., 7968 Ridge Road, Gasport, New York 14067, a producer of meat (accepted December 4, 1979); (5) Schatz Federal Bearings Company, Inc., Fairview Avenue, Poughkeepsie, New York 12602, a producer of ball bearings (accepted December 5, 1979); (6) Connecticut Consolidated Industries, Inc., 85 Tremont Street, Meriden, Connecticut 06450, a producer of telephone sets (accepted December 5, 1979); (7) HMS Sports, Incorporated, 1 Railroad Avenue, Epping, New Hampshire 03042, a producer of footwear (accepted December 5, 1979); (8) Berkeley Electrical Supply, Inc., 300 West Water Street, Toms River, New Jersey 08753, a producer of electrical equipment and fixtures (accepted December 6, 1979); (9) Forsyth Industries, Inc., P.O. Box 305, Cumming, Georgia 30130, a producer of women's slacks, jackets and blouses (accepted December 7, 1979); (10) Robton Process, Inc., 198 Madison Street, Paterson, New Jersey 07501, a producer of tanned rabbit skins (accepted December 7, 1979); (11) Hedson Manufacturing Company, 11 Wellington Road, Lincoln, Rhode Island 02865, a producer of costume jewelry (accepted December 7, 1979); (12) Springles, Inc., P.O. Box 308, Black Mountain, North Carolina 28711, a producer of artificial flower arrangements and Christmas ornaments (accepted December 7, 1979); (13) Christopher Dyeing and Finishing Company, 36 Ryle Avenue, Paterson,

New Jersey 07509, a producer of dyed fabric (accepted December 10, 1979); (14) Grace Coat Company, Inc., 553 8th Street, Hoboken, New Jersey 07030, a producer of women's coats (accepted December 10, 1979); (15) Kris, Inc., One Echo Plaza, Cedarburg, Wisconsin 53012, a producer of C.B. radio transceivers and accessories (accepted December 10, 1979); (16) Lehigh Trouser Company, 514 South Main Street, Wilkes-Barre, Pennsylvania 18703, a producer of women's slacks and skirts (accepted December 19, 1979); (17) Mayfield Dress Company, 606 Poplar Street, Mayfield, Pennsylvania 18433, a producer of women's dresses and sportswear (accepted December 10, 1979); (18) Bergen Point Brass Foundry, Inc., 179 West 5th Street, Bayonne, New Jersey 07002, a producer of lighting fixtures, antique reproductions and other brassware (accepted December 10, 1979); (19) RCR Sportswear, 183 Monroe Street, Passaic, New Jersey 07055, a producer of women's coats and jackets (accepted December 10, 1979); (20) Qual Fashion Contractors, Inc., 16 Main Street, Newark, New Jersey 07105, a producer of women's coats and dresses (accepted December 10, 1979); (21) Scientific Antennas Corporation, 2732 Wisconsin Avenue, Downers Grove, Illinois 60515, a producer of C.B. radio antennas (accepted December 12, 1979); (22) Body Fashions, Inc., 601 Kennedy Boulevard, North Bergen, New Jersey 07047, a producer of women's body supporting garments (accepted December 12, 1979); (23) Speed Tex Corporation, 1500 Hudson Street, Hoboken, New Jersey 07030, a producer of printed fabric (accepted December 2, 1979).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales of production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of

Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-38901 Filed 12-19-79; 8:45 am]

BILLING CODE 3510-24-M

Industry and Trade Administration

University of California, et al.; Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before January 9, 1980.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street NW, Washington, D.C.

Docket No. 79-00462. Applicant: University of California, San Diego, Department of Biology, B-022, La Jolla, CA 92093. Article: Microtec Warm Stage, Injection Syringe and Microforge. Manufacturer: Micro Instruments, United Kingdom. Intended use of article: The article is intended to be used as

part of a system in which blastocysts and cells will be injected with various other cells and parts of cells. While these materials are being manipulated they must be kept at 37°C since they are living and T° sensitive, hence the warm stage. These cells will be injected for the purpose of making chimeric mice. Their size necessitates a very tiny tip on the injection pipet. These are made with the microforge. The injection syringe is used to inject the very tiny amounts of material. The experiment involves making chimeric mice and studying their behavior, including alcohol drinking behavior. Application received by

Commissioner of Customs: October 18, 1979.

Docket No. 80-00022. Applicant: Electric Power Research Institute, 3412 Hillview Avenue, P.O. Box 10412, Palo Alto, CA 94303. Article: Real Time Digital Data Acquisition System. Manufacturer: Institute de recherche de l'Hydro-Quebec, Canada. Intended use of article: The article is intended to be used for studies of the dynamic changes in the power system voltage and current wave forms caused by the loads on the power system when voltage ranges between 50 and 120 percent of its nominal value and the frequency ranges between 57 and 63 hertz. The experiments conducted in support of this research are field measurements at actual distribution system substations in New York. Application received by Commissioner of Customs: November 20, 1979.

Docket No. 80-00037. Applicant: National Jewish Hospital and Research Center, National Asthma Center, 3800 E. Colfax Avenue, Denver, Colorado 80206. Article: Electron Microscope, Model EM 400 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of bacteriological specimens, human and animal tissues and cell blocks, cell components and DNA molecules. Investigations will include ultrastructural studies on normal and pathologic human and animal tissues and cells, histochemical studies on enzyme and subcellular organelle localization in cells and tissue, membrane-membrane interactions, and ultrastructural changes in cells induced by changes in their biochemical and physical environments. DNA molecules will also be examined. The article will also be used for preceptor training of postdoctoral research fellows within three departments. Application received by Commissioner of Customs: November 19, 1979.

Docket No. 80-00039. Applicant: University of North Carolina—CH, Physics Department, 170 Phillips Hall, Chapel Hill, NC 27514. Article: Crossed Field Spin Precessor System, Model 2170. Manufacturer: ANAC, Inc. New Zealand. Intended use of article: The article is intended to be used in connection with a tandem Van de Graaff accelerator and an ion source which produces beams of spin-polarized proton and deuteron beams. These beams will pass from the ion source, through the spin precessor, through the accelerator, and to the experimental area where studies are to be made of the spin-dependent part of the force which

holds atomic nuclei together. The article will also be used to train graduate students working on their Masters and Ph.D. degrees, in front-line nuclear physics research techniques.

Application received by Commissioner of Customs: November 19, 1979.

Docket No. 80-00040. Applicant: University of Southern CA, Department of Chemistry, University Park, Los Angeles, CA 90007. Article: High Intensity Light Source Equipment. Manufacturer: Photochemical Research Assoc., Canada. Intended use of article: The article is intended to be used for research in inorganic photochemistry. More specifically, for measurements of the heat of photochemical reactions. Application received by Commissioner of Customs: November 19, 1979.

Docket No. 80-00041. Applicant: Ames Laboratory, Iowa State University, 126 Metallurgy Bldg., Ames, Iowa 50011. Article: Energy Analyzer Accessory for Electron Microscope. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used for studies of metals, ceramics and semi-conductors with major emphasis on metals in different research projects in materials science. The properties of these materials to be studied will be assessment of microstructure as regards morphology, crystallography and chemical composition. Application received by Commissioner of Customs: November 19, 1979.

Docket No. 80-00042. Applicant: Arizona State University, Tempe, Arizona 85281. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used for the investigation of the structure of thin solid specimens of non-biological materials by direct visualization of the arrangements of the atoms. The features of the structure of crystals to be studied include the arrangements of atoms in near-perfect regions of crystals and in regions of crystals having faults or disorders. For poorly crystalline or amorphous materials studies will be made of the nature of the short-range ordering of atoms and of the size and shape of the regions having any particular form of short-range ordering. Investigations will be carried out to extend the knowledge of the structure of solid matter beyond the limits which have been set by the resolution of the electron microscopes previously used in this type of investigation and also to develop further the techniques for the high resolution study of solids by electron microscopy. Application

received by Commissioner of Customs: November 19, 1979.

Docket No. 80-00043. Applicant: University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, CA 94720. Article: 2 each, Type TH-515, 200 MHZ R.F. Amplifier Electron Tubes. Manufacturer: Thomson-CSF Electron Tubes, France. Intended use of article: The article is intended to be used as spares to identical tubes now in service in a proton-deuteron accelerator complex (the Bevatron) to furnish power at approximately 200 MHz for the second of three stages of acceleration, a 50 MeV linear accelerator. The ultimate goal of the Bevatron is to provide protons or deuterons to high energy physics experiments involved in the exploration of the nuclear structure of matter. Application received by Commissioner of Customs: November 19, 1979.

Docket No. 80-00045. Applicant: The Ohio State University, Research Foundation, 1334 Kinnear Road, Columbus, Ohio 43212. Article: Mass Spectrometer, MS-9. Manufacturer: AEI, Ltd, United Kingdom. Intended use of article: The article is intended to be used to analyze environmental pollutants, skin pigments, aromatic hydrocarbons, and other related organic compounds. In addition, the article will be used in the courses CH693 and CH699 Graduate research. Application received by Commissioner of Customs: November 20, 1979.

Docket No. 80-00046. Applicant: Ames Laboratory, Department of Energy, Iowa State University, Ames, Iowa 50011. Article: Excimer Laser. Manufacturer: Lambda-Physik, West Germany. Intended use of article: The article is intended to be used for analytical spectroscopy. Typical applications include (1) quantitation of ultratrace levels of uranium (parts per trillion) and (2) the detection of parts per billion level organic carcinogens in by-products of coal liquefaction and gasification and combustion. The article will also be used in several research programs in photochemistry. Application received by Commissioner of Customs: November 20, 1979.

Docket No. 80-00047. Applicant: University of Rochester, Department of Biology, Hutchison Hall, River Campus, Rochester, N.Y. 14627. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for carrying out studies on: 1) genome sequence organization and DNA replication in prokaryotes and eukaryotes; 2) bacterial chromosome structure; 3) the regulation of cellular

microtubule assembly; and 4) the development of the immune system. The standard procedures used for such studies include heteroduplex mapping of nucleic acids, high resolution microscopy of protein nucleic-acid complexes, and analyses of microtubule formation and distribution using negative staining, thin sectioning and immunoelectron microscopy. Application received by Commissioner of Customs: November 21, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc. 79-38966 Filed 12-19-79; 8:45 am]

BILLING CODE 3510-25-M

Duty-Free Entry of Scientific Articles; Applications

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-631; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before January 9, 1980.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 735 at 666-11th Street NW., Washington, D.C.

Docket Number: 80-00051. Applicant: The Pennsylvania State University, Department of Chemistry, Whitmore Laboratory, University Park, PA 16802. Article: Laser, TEA-103-2 CO₂. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for investigations of the infrared multiphoton decomposition of monosilane, disilane and halogenated derivatives thereof. Application received by Commissioner of Customs: December 3, 1979.

Docket Number: 80-00054. Applicant: University of Michigan, Biological Station, 4053 Natural Science Bldg., Ann Arbor, MI 48109. Article: Gas Exchange Apparatus. Manufacturer: Heinz Walz Mess-und Regeltechnik, West Germany.

Intended use of article: The article is intended to be used to study the gas exchange (particularly of carbon dioxide) of leaves and stems of forest trees under both ambient and artificial conditions. The rate of carbon dioxide exchange between plant parts (leaves, stems) will be measured through 24 hour periods to get daily time-course of net photosynthesis or respiration. Measurements will also be made in which light intensity, temperature, and carbon dioxide and oxygen concentrations will be varied. These latter experiments will provide a means for determining important plant properties which will be used to model photosynthetic and respirator response. Application received by Commissioner of Customs: December 3, 1979.

Docket Number: 80-00056. Applicant: Department of Health, Education & Welfare, PHS, FDA/National Center for Toxicological Research, Jefferson, AR 72079. Article: NMR Spectrometer, Model WM500 with Accessories. Manufacturer: Bruker Analytische Messtechnik, CMBH, West Germany. Intended use of article: The article is intended to be used to analyze toxic substances, metabolites and regulatory samples primarily to determine structure and purity. Typical examples are as follows: aminofluorenes; aminonaphthalene-nucleosides; benzantracenes; benxopyrenes. Application received by Commissioner of Customs: December 4, 1979.

Docket Number: 80-00061. Applicant: University of California, San Diego, Mail Code M-023, Department of Medicine, La Jolla, CA 92093. Article: 2 Bicycle Ergometers. Manufacturer: Northwick Park Hospital, United Kingdom. Intended use of article: The article is intended to be used for the study of human subjects exercising at high altitude. These subjects will be studied during a 1981 Expedition to Mt. Everest to determine their ability to adapt to severe hypoxic stress. Subjects will exercise at present work loads on the bicycle ergometer to determine their maximal work capacity and oxygen consumption at 20,000 ft. elevation and 26,090 ft. elevation. Application received by Commissioner of Customs: December 4, 1979.

Docket Number: 80-00052. Applicant: University of Arkansas, Department of Chemistry, Fayetteville, AR 72701. Article: NMR Spectrometer, Model FX-90Q and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the following research projects:

(1) Carbon-13 NMR Isotope Effect Studies

(2) Carbon-13 NMR Studies of Ion Transport in Biological Membranes by Antibiotics

(3) Catalytic Hydrogenation. (1) Elementary Steps in the Conversion of Alkynes to Alkenes. (2) Molecular Probes to characterize the "Dissociation" and "Associative" Mechanisms of Alkene Isomerization and Exchange

(4) Conformational Analysis of Cyclic Tetrapeptides. Application received by Commissioner of Customs: December 4, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-38967 Filed 12-19-79; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

Commerce Technical Advisory Board; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Thursday, January 10, 1980 from 9:00 A.M. until 5:00 P.M. and on Friday, January 11, 1980 from 9:00 A.M. until 12 o'clock Noon at the Southwest Fisheries Center, National Oceanic and Atmospheric Administration, 8604 La Jolla Shores Drive, La Jolla, California.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

Tentative agenda items include:

1. Implementation of Selected Industrial Innovation Initiatives
2. Management of Innovation in Other Countries; e.g., China and the European Community
3. Status Report on Cooperative Technology
4. Progress Report on Development of Human Resources for Technological Innovation
5. Briefing on the National Marine Fisheries Service.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the

Federal Advisory Committee Act, in Room 3867, U.S. Department of Commerce, Washington, D.C. 20030.

Further information may be obtained from Mrs. Florence Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377-5065.

Dated: December 13, 1979.

Jordan J. Baruch,

Assistant Secretary for Science and Technology.

[FR Doc. 79-38981 Filed 12-19-79; 8:45 am]

BILLING CODE 3510-17-M

National Oceanic and Atmospheric Administration

Decision to Deny Petition for Amendment of Rule

Notice is given that, on December 6, 1979, the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), denied a petition for regulatory amendments filed by the Coastal Zone Management Interaction Committee and the Edison Electric Institute. Pursuant to 5 U.S.C. 553 and NOAA Directive 21-24, Petitioner requested amendments to certain NOAA regulations implementing section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)(3)(A)). In particular, Petitioner sought to exempt Federal license and permit "renewals" from the application of the consistency provisions of the Act. The Assistant Administrator concluded that the petition did not establish an adequate basis for modifying the existing regulations. As required by section 14.08 of NOAA Directive 21-24, notice of the petition denial is being published in the Federal Register.

The nature of the petition is described fully in 44 FR 173, September 5, 1979, at pages 51835-36. On November 9, 1979, the Natural Resources Defense Council (NRDC) filed with the Assistant Administrator a response to the petition. On November 27, 1979, Petitioner filed a reply to the NRDC response. The Assistant Administrator considered these submissions in arriving at his decision.

Copies of the decision and of all filings may be obtained from, and questions with regard to this matter may be directed to, Mr. Harry Feehan, Office of General Counsel, NOAA, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235 (202-254-7512).

Dated: December 13, 1979.
Francis J. Balint,
*Acting Director, Office of Management and
Computer Systems.*

[FR Doc. 79-36069 Filed 12-19-79; 8:45 am]
BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton, Wool and Man- Made Fiber Textile Products From Singapore Effective January 1, 1980

December 14, 1979.

AGENCY: Committee for the
Implementation of Textile Agreements.

ACTION: Establishing import restraint
levels for certain cotton, wool and man-
made fiber textile products imported
from Singapore, effective on January 1,
1980.

SUMMARY: The Bilateral Cotton, Wool
and Man-Made Fiber Textile Agreement
of September 21 and 22, 1978, as
amended, between the Governments of
the United States and the Republic of
Singapore, establishes specific levels of
restraint for cotton and man-made fiber
textile products in Categories 333/334/
335, 340, 347/348 and 638/639, produced
or manufactured in Singapore and
exported to the United States during the
twelve-month period beginning on
January 1, 1980. It also provides
consultation levels for certain
categories, such as categories 315, 320,
331, 341, 445/446, 602, 604, 613 and 641,
among others, which are not subject to
specific ceilings and which may be
increased during the year upon
agreement between the two
governments. The letter published below
from the Chairman of the Committee for
the Implementation of Textile
Agreements to the Commissioner of
Customs directs that entry into the
United States for consumption, or
withdrawal from warehouse for
consumption, of cotton, wool and man-
made fiber textile products in Categories
315, 320, 331, 333/334/335, 340, 341, 347/
348/ 445/446, 602, 604, 613, 638/639 and
641 be limited to the Designated levels of
restraint during the twelve-month period
which begins on January 1, 1980 and
extends through December 31, 1980. The
level for Category 347/348 has been
adjusted to account for 1978
overshipments amounting to 61,163
dozen in the overall category ceiling and
26,267 dozen in the sublimit for Category
348.

(A detailed description of the textile
categories in terms of T.S.U.S.A. numbers

was published in the *Federal Register* on
January 4, 1978 (43 FR 884), as amended on
January 25, 1978 (43 FR 3421), March 3, 1978
(43 FR 8828), June 22, 1978 (43 FR 26773),
September 5, 1978 (43 FR 39408), January 2,
1979 (44 FR 94), March 22, 1979 (44 FR 17545),
and April 12, 1979 (44 FR 21843))

This letter and the actions taken
pursuant to it are not designed to
implement all of the provisions of the
bilateral agreement, but are designed to
assist only in the implementation of
certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Ross Arnold, International Trade
Specialist, Office of Textiles, U.S.
Department of Commerce, Washington,
D.C. 20230 (202/377-5423).

Arthur Garel,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

December 14, 1979.

Committee for the Implementation of Textile
Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C. 20229.

Dear Mr. Commissioner: Under the terms of
the Arrangement Regarding International
Trade in Textiles done at Geneva on
December 20, 1973, as extended on December
15, 1977; pursuant to the Bilateral Cotton,
Wool and Man-Made Fiber Textile
Agreement of September 21 and 22, 1978, as
amended, between the Governments of the
United States and the Republic of Singapore;
and in accordance with the provisions of
Executive Order 11651 of March 3, 1972, as
amended by Executive Order 11951 of
January 6, 1977, you are directed to prohibit,
effective on January 1, 1980, for the twelve-
month period extending through December
31, 1980, entry into the United States for
consumption, and withdrawal from
warehouse for consumption of cotton, wool
and man-made fiber textile products,
exported from Singapore in the following
categories in excess of the indicated twelve-
month levels of restraint:

Category	Twelve-month level of restraint
315.....	1,000,000 square yards.
320.....	6,000,000 square yards.
331.....	221,429 dozen pairs.
333/334/335.....	165,375 dozen of which not more than 9,509 dozen shall be in Category 333; not more than 50,208 dozen shall be in Category 334; and not more than 130,464 dozen shall be in Category 335.
340.....	385,875 dozen.
341.....	48,276 dozen.
347/348.....	490,088 dozen of which not more than 474,764 dozen shall be in Category 347 and not more than 188,034 dozen shall be in Category 348.
445/446.....	20,000 dozen.
602.....	85,207 pounds.
604.....	700,000 pounds.
613.....	1,000,000 square yards.
638/639.....	2,885,648 dozen of which not more than 360,706 dozen shall be in Category 638.
641.....	77,276 dozen.

In carrying out the directive, entries of
cotton, wool and man-made fiber textile
products in the foregoing categories, except
Categories 333/334/335, 340 and 602,
produced or manufactured in Singapore,
which have been exported to the United
States prior to January 1, 1980, shall, to the
extent of any unfilled balances, be charged
against the levels of restraint established for
such goods during the twelve-month period
beginning on January 1, 1979 and extending
through December 31, 1979. In the event the
levels of restraint established for that period
have been exhausted by previous entries,
such goods shall be subject to the levels set
forth in this letter.

Cotton and man-made fiber textile
products in Categories 333/334/335, 340, and
602 which have been released from the United
States prior to January 1, 1980 shall not be
subject to this directive.

Textile products in Categories 333/334/335,
340, 602 which have been released from the
custody of the U.S. Customs Service under
the provisions of 19 U.S.C. 1448(b) or
1484(a)(1)(A) prior to the effective date of this
directive shall not be denied entry under this
directive.

The levels set forth above are subject to
adjustment in the future according to the
provisions of the bilateral agreement of
September 21 and 22, 1978, as amended,
between the Governments of the United
States and the Republic of Singapore which
provide, in part, that: (1) within the aggregate
and applicable group limits, specific limits
and sublimits, may be exceeded by
designated percentages; (2) specific levels
may be increased for carryover and
carryforward up to 11 percent of the
applicable category limit; (3) administrative
arrangements or adjustments may be made to
resolve minor problems arising in the
implementation of the agreement. Any
appropriate adjustments under the provisions
of the bilateral agreement, referred to above,
will be made to you by letter.

A detailed description of the textile
categories in terms of T.S.U.S.A. numbers
was published in the *Federal Register* on
January 4, 1978 (43 FR 884), as amended on
January 25, 1978 (43 FR 3421), March 3, 1978
(43 FR 8828), June 22, 1978 (43 FR 26773),
September 5, 1978 (43 FR 39408), January 2,
1979 (44 FR 94), March 22, 1979 (44 FR 17545),
and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry
into the United States for consumption shall
be construed to include entry for
consumption into the Commonwealth of
Puerto Rico.

The actions taken with respect to the
Government of the Republic of Singapore and
with respect to imports of cotton, wool and
man-made fiber textile products from
Singapore have been determined by the
Committee for the Implementation of Textile
Agreements to involve foreign affairs
functions of the United States. Therefore, the
directions to the Commissioner of Customs,
which are necessary for the implementation
of such actions, fall within the foreign affairs
exception to the rule-making provisions of 5
U.S.C. 553. This letter will be published in the
Federal Register.

Sincerely,
Arthur Garel,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

[FR Doc. 79-36839 Filed 12-19-79; 8:45 am]
BILLING CODE 3510-25-M

Changes in the Textile Category System

AGENCY: Committee for the
Implementation of Textile Agreements.

ACTION: Changes in the Textile Category
System.

SUMMARY: *The Correlation: Textile and
Apparel Categories with Tariff
Schedules of the United States,*
Annotated provides for placement of
Tariff Schedules of the United States,
Annotated (TSUSA) numbers in the
Textile Category System. Amendments
to the TSUSA as a result of the
Multilateral Trade Negotiations and
other Administrative actions in 1979
necessitated amendments to the
Correlation. These changes and
corrections to previous Correlations are
cited in the list which follows this
notice.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Ronald I. Levin, Director, International
Agreements and Monitoring Division,
Office of Textiles, U.S. Department of
Commerce, Washington, D.C. 20230.
(202-377-4212).

Arthur Garel,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

January 1, 1980, Changes to Correlation
Category and Type of Change

315—Delete TSUSA numbers 320.—34, 321.—
34, 322.—34, 328.—34, 327.—34, 328.—34.
334—Delete TSUSA 380.0611.
334—Add TSUSA 380.0609.
334—Add TSUSA 380.0612.
335—Delete TSUSA 380.0614.
335—Add TSUSA 382.0617.
335—Add TSUSA 382.0619.
336—Delete TSUSA 380.0024.
343—Add TSUSA 382.6912.
347—Delete TSUSA 380.0650.
347—Add TSUSA 380.0662.
347—Add TSUSA 380.0665.
348—Add TSUSA 382.0687.
348—Change TSUSA 382.0686 to 382.0689.
348—Change TSUSA 382.0692 to 382.0691.
359—Delete TSUSA 373.0510.
359—Delete TSUSA 380.0651.
359—Change TSUSA 380.0695 to 380.0696.
359—Delete TSUSA 373.0540.
359—Change TSUSA 380.3987 to 380.3989.
359—Delete TSUSA 380.5116.
359—Change TSUSA 380.5128 to 380.5129.
359—Change TSUSA 702.1220 to 702.1200.
400—Add TSUSA 307.6690.
400—Change TSUSA 307.6403 to 307.6810.
400—Change TSUSA 307.6406 to 307.6820.
400—Change TSUSA 307.6409 to 307.6830.

400—Change TSUSA 307.6412 to 307.6840.
400—Change TSUSA 307.6415 to 307.6850.
410—Delete TSUSA numbers 336.6038,
336.6040, 336.6042, 336.6044, 336.6045,
336.6046, 336.6048, 336.6050, 336.6052,
336.6054, 336.6056, 336.6058, 336.6060,
336.6062, 336.6064, 336.6065, 336.6066,
336.6068, 336.6070, 336.6072, 336.6074,
336.6076.
431—Change TSUSA 704.4000 to 704.7000.
434—Delete TSUSA 380.6320.
434—Add TSUSA 380.6324.
434—Add TSUSA 380.6322.
434—Delete TSUSA 380.6618.
434—Add TSUSA 380.6618.
434—Add TSUSA 380.6619.
434—Delete TSUSA 380.5710.
438—Delete TSUSA 380.5720.
459—Delete TSUSA 373.0520.
459—Delete TSUSA 373.0550.
465—Change TSUSA 350.1000 to 360.1015.
465—Change TSUSA 360.1500 to 360.1515.
465—Change TSUSA 361.2025 to 361.2225.
469—Delete TSUSA numbers 349.3040,
356.0800, 358.0900, 372.0840.
600—Delete TSUSA 310.6025.
600—Delete TSUSA 310.6035.
600—Add TSUSA 310.6029.
602—Change TSUSA 310.2060 to 310.2050.
604—Add TSUSA 310.4027.
604—Change TSUSA 310.4048 to 310.4050.
605—Add TSUSA 310.6034.
605—Change TSUSA 310.6035 to 310.6038.
605—Change TSUSA 310.6010 to 316.6010.
625—Delete TSUSA numbers 345.5084,
345.5085, 345.5086, 345.5087, 345.5088,
345.5090.
632—Change TSUSA 382.7827 to 382.7837.
634—Add TSUSA 380.8106.
634—Change TSUSA 380.8111 to 380.8112.
634—Add TSUSA 380.5167.
634—Change TSUSA 380.5168 to 380.5169.
634—Add TSUSA 380.8418.
634—Change TSUSA 380.8417 to 380.8419.
634—Change TSUSA 781.7470 to 791.7471.
635—Add TSUSA 382.7813.
635—Change TSUSA 382.7808 to 382.7823.
635—Change TSUSA 382.7810 to 382.7828.
636—Change TSUSA 382.7817 to 382.7832.
636—Change TSUSA 382.7818 to 382.7833.
636—Change TSUSA 382.7820 to 283.7834.
637—Change TSUSA 362.0414 to 380.0414.
638—Add TSUSA 380.8131.
636—Change TSUSA 380.8139 to 380.8140.
639—Change TSUSA 362.7851 to 382.7843.
639—Add TSUSA 382.7844.
639—Change TSUSA 382.7853 to 382.7845.
639—Change TSUSA 382.7855 to 382.7847.
641—Change TSUSA 382.9459 to 382.0459.
642—Change TSUSA 382.7815 to 382.7831.
647—Add TSUSA 376.5618.
647—Add TSUSA 380.8164.
647—Change TSUSA 380.8166 to 380.8168.
647—Change TSUSA 380.8167 to 380.8169.
648—Add TSUSA 376.5623.
648—Add TSUSA 382.7869.
648—Change TSUSA 382.7881 to 382.7892.
648—Change TSUSA 382.7883 to 382.7893.
650—Change TSUSA 382.7821 to 382.7835.
651—Change TSUSA 382.7825 to 382.7836.
659—Delete TSUSA 373.0530.
659—Change TSUSA 372.2500 to 373.2500.
659—Change TSUSA 382.7811 to 382.7829.
659—Change TSUSA 382.7890 to 382.7894.
659—Delete TSUSA 373.0500.
659—Change TSUSA 376.5620 to 376.5630.

659—Change TSUSA e80.0472 to 380.0472.
659—Change TSUSA 703.1510 to 703.1515.
660—Change TSUSA 363.8520 to 363.8512.
665—Change TSUSA 365.8460 to 365.8640.

[FR Doc. 79-38905 Filed 12-19-79; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Army Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement for St. Louis Harbor, Mo. and Ill.

AGENCY: St. Louis District, U.S. Army
Corps of Engineers.

ACTION: Notice of Intent to Prepare a
Draft Environmental Impact Statement for
St. Louis Harbor, Missouri and
Illinois.

SUMMARY: 1. *Proposed Action:* The
proposed action is to prepare a Draft
Environmental Impact Statement for the
St. Louis Harbor, Missouri and Illinois,
General Investigation Study regarding
improved commercial harbor facilities in
the vicinity of St. Louis, Missouri. The
project features will consist of fleeting
areas, off-channel harbors, and
dredging. Nonstructural measures will
address sedimentation problems and
dredging requirements. Structural
measures will provide a means for barge
mooring and off-channel harbors.
2. *Alternatives:* Alternatives will
include nonstructural and structural
measures such as: dredging throughout
the harbor; dredging at selected sites;
and regulating works.

3. *Scoping Process:*
a. *Public Involvement Program:* The
public involvement program began with
a public meeting which was held on 15
March 1967. Input in the form of
sedimentation problems was received
from interested individuals and
organizations at this meeting. A second
public meeting was held on 11 February
1972 in which local interest views on
providing improved commercial harbor
facilities were received. Throughout the
study, interviews have been held with
all parties known to be interested in the
development and problems associated
with the project. Numerous field
reconnaissances have been made to
determine the use of the existing area,
evaluate areas suitable for development,
and obtain other information for
evaluation purposes. Public meetings
will be scheduled throughout the
remainder of the study as plans become
better defined through more detailed
studies and incorporation of the public's
impact. The scoping process, as outlined
by the Council of Environmental Quality
(29 November 1978), will be

incorporated in the existing planning process.

b. *Significant Issues:* Significant issues addressed in the Draft Environmental Impact Statement will include: an inventory of existing environmental characteristics in the study area; sections dealing with geology, soils, hydrology, climatology, air quality, biology, water and sediment quality, land uses and land use plans, environmental use and natural resource management areas, and archeological and historical survey; relationships attributable to implementing each of the alternative project plans; and an analysis of the effects on the environment regarding the economically justified alternatives.

c. *Lead Agency and Cooperating Agency Responsibilities:* The St. Louis District, U.S. Army Corps of Engineers, is the lead agency responsible for preparing the Draft Environmental Impact Statement. Coordination will be maintained with the St. Louis East-West Gateway Coordinating Council, Bi-State Development Agency (Regional Port Coordinator), St. Louis Regional Commerce and Growth Association, interested Federal agencies, relevant Missouri and Illinois state departments, and local municipal and county governmental units.

d. *Environmental Review and Consultation Requirements:* The completed Draft Environmental Impact Statement will be made available to appropriate Federal, state, and local agencies; representatives of environmental and development groups; commercial and industrial interests; and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. *Scoping Meeting:* During the early stage of preparing the Draft Environmental Impact Statement, coordination meetings will be scheduled with Federal agencies, state agencies and organizations, local governmental agencies, and private organizations. Public meetings have been a part of the planning process and will continue at scheduled intermediate points throughout the duration of the study.

5. *Draft Environmental Impact Statement Preparation:* The Draft Environmental Impact Statement is tentatively scheduled to be completed in the first quarter of FY 81 (November 1980).

ADDRESS: Questions concerning the proposed action and the Draft Environmental Impact Statement can be

answered by: Mr. Jack. F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St. Louis, 210 N. 12th Street, St. Louis, Missouri 63101.

Dated: December 11, 1979.

John S. Wilkes, III,
LTC, CE, Acting District Engineer.

[FR Doc. 70-38982 Filed 12-19-79 8:45 am]

BILLING CODE 3710-GS-M

Office of the Secretary

[DoD Directive 4165.62]

DoD Implementation of Personnel Parking Facilities Program

AGENCY: Office of the Secretary of Defense.

ACTION: Directive regarding Personnel Parking Facilities Program.

SUMMARY: This directive implements the requirements of OMB Circular A-118, Federal Employee Parking Facilities, August 13, 1979, and General Services Administration Temporary Regulation D-65, September 6, 1979, regarding the acquisition and allocation of Federal administrative parking facilities; and the establishing of charges to be paid for the use of these facilities. The intent of the directive is to support the Administration's policy to conserve energy and protect the environment by encouraging use of public transportation and car pooling.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Francis B. Roche, Director, Real Property and Natural Resources, Office of the Deputy Assistant Secretary of Defense (Installations and Housing), Room 3D761, The Pentagon, Washington, D.C. 20301, telephone 202-697-7227.

DoD Implementation of Personnel Parking Facilities Program

Sec.

1. Purpose.
2. Applicability and Scope.
3. Policy.
4. Exemptions.
5. Collective Bargaining Agreements.
6. Acquisition and Analysis of Parking Facilities.
7. Allocation and Assignment of Parking Facilities.
8. Charges for Parking.
9. Responsibilities.
10. Appeals.
11. Definitions.
12. Cost Factors and Secretary of Defense Authority for Military Installation.

Authority: OMB Circular A-118 and 5 U.S.C. 301.

Section 1. Purpose.

This directive outlines policies and procedures and assigns responsibilities for DoD implementation of OMB Circular A-118, "Federal Employee Parking Facilities," August 13, 1979 and the applicable portions of GSA's regulations Subchapter "D", Federal Property Management Regulations of the General Services Administration (GSA) (41 C.F.R. 101-17 *et seq.* (1978)) and Temporary Regulation D-65, September 6, 1979, General Services Administration (44 FR 53161 (1979)) that govern the acquisition and allocation of Federal administrative parking facilities and the establishment of charges to be paid for the use of these facilities.

Sec. 2. Applicability and scope.

(a) This directive applies to the Office of the Secretary of Defense (OSD), the Organization of the Joint Chiefs of Staff, the Military Departments, and the Defense Agencies (hereafter referred to as "DoD Components"). As used herein, the term "Military Services" means the Army, Navy, Air Force, and Marine Corps.

(b) Its provisions encompass all military installations, facilities, and properties, whether owned or leased, in the United States, its territories and possessions and the Commonwealth of Puerto Rico. Further, its provisions apply to all space in Government-owned or leased buildings assigned to DoD Components by the GSA or to buildings leased by DoD Components.

(c) It does not apply to civil works projects of the Department of the Army that will be covered by regulations issued by the Secretary of the Army.

Sec. 3. Policy.

It is the policy of the Department of Defense to support the President's program, as specified in OMB Circular A-118, for energy conservation and a cleaner environment through the encouragement of a greater use of public transportation and car pooling. This effort shall be aided by a program that:

(a) Limits Federal installation parking facilities to the minimum necessary to administer those facilities in full compliance with car pooling regulations; and

(b) Assesses personnel who are provided parking in Government-controlled space a charge equivalent to the fair monthly rental value for the use of comparable commercial space, subject to the terms, exemptions, and conditions stated in this directive.

Sec. 4. Exemptions.

The following classes of personnel and vehicles are exempt from payment of parking fees.

(a) Personnel: (1) Shift workers and those on weekend duty.

(2) In and outpatients and inpatient visitors in medical facilities, including Dental Clinics.

(3) Patrons of commissaries; exchanges; thrift shops; military banks or credit unions; theaters; enlisted, noncommissioned officer, or officer clubs; or similar Military Service facilities.

(4) Visitors to cemeteries or chapels.

(5) Those military personnel exempted by the Secretary of Defense under sec. 12 of this directive for reasons of military readiness.

(6) Residents of or visitors to military family housing or unaccompanied personnel military quarters. Such residents or visitors are subject to charge at a work location.

(7) Handicapped personnel as defined at sec. 11.

(8) Personnel on temporary duty not to exceed 2 weeks.

(9) Reserve component personnel in drill status or during annual 2-week active duty. This exemption does not include full-time civilian technicians working at reserve component facilities on military installations.

(10) Part-time volunteers, such as Red Cross or Travelers Aid personnel, Gray Ladies, or thrift shop helpers.

(11) Official visitors, including employment applicants, parking up to a limit of 3 hours.

(12) Personnel assigned to or visiting walk-in recruiting stations. Main recruiting stations are not exempted.

(13) Personnel visiting Armed Forces Entrance and Examining Stations (AFEES). Personnel assigned to AFEES located in GSA-provided space or on military installations are not exempt.

(b) *Vehicles:* (1) Government-owned or leased vehicles, including Government-owned or leased administrative-type vehicles, when contractor-operated.

(2) Two-wheeled vehicles.

(3) Van pool vehicles, as defined in sec. 11. This exemption expires September 30, 1981. This exemption does not apply to buses or commercially-operated van pools.

(4) Specifically equipped vehicles used by handicapped employees.

(5) Vehicles of Members of Congress and judges, appointed under Article III of the Constitution, assigned parking spaces for security reasons.

(6) Stored vehicles of military personnel in a deployed status.

(7) Privately owned trailers, recreation vehicles or boats, when stored in designated areas.

(8) Vehicles assigned to morale, welfare, and recreation programs.

(c) *Shared Facilities:* At locations where DoD Components occupy a portion of a privately owned facility where no specific parking areas are assigned to the DoD Component for its employees' use and where all personnel are provided free parking, the DoD personnel are exempt from a requirement to pay for parking.

Sec. 5 Collective bargaining agreements.

Any valid, negotiated agreement between management and a union covering any provision of employee parking in effect on August 13, 1979, shall remain in effect until the expiration, renegotiation, or renewal of the agreement. The provisions of this directive shall apply to new agreements and to existing agreements upon expiration. Labor organizations with national consultation rights, pursuant to 5 U.S.C.A. 7113 (Supp. 1979), must be consulted before the issuance of any implementing policies and regulations that affect DoD civilian employees.

Sec. 6. Acquisition and analysis of parking facilities.

The acquisition of parking facilities shall be permitted consistent with the limitations and objectives of OMB Circular A-118, Federal Property Management Regulations, and Temporary Regulation D-65. An analysis of available public transportation and car pooling feasibility shall be made by GSA for both leased and Government-owned buildings to determine the amount of parking facilities to be provided. Generally, parking facilities on military installations shall be in accordance with the criteria contained in DoD 4270.1M, "Construction Criteria," June 1, 1978.

However, the amount of parking facilities to be provided through new construction or the conversion, of excess pavement, such as airfield ramps, shall be dependent upon an analysis of the public transportation and car pooling projected to be reasonably available or feasible at the site of the new construction. This analysis shall be conducted by the Regional Office of GSA, upon request, and shall accompany all projects submitted for approval to the Deputy Assistant Secretary of Defense (Installations and Housing).

Sec. 7. Allocation and assignment of parking facilities.

(a) *GSA-Assigned Space:* (1) *General Services Administration.* GSA shall equitably allocate parking facilities at Federal buildings, including leased buildings, in accordance with Federal Property Management Regulations.

(2) *DoD Components.* The designated DoD Administering Component shall be responsible for the allocation and assignment of parking spaces allocated by GSA, to include allocation of spaces for personnel parking in accordance with the provisions of Temporary Regulation D-65. The designated DoD Administering Component in the National Capital Region (NCR) is the Washington Headquarters Services (WHS), a field activity of the OSD. Outside and inside parking facilities shall be identified and assigned according to the following priorities, which are based on convenience, in the case of inside parking, and on the shortest walking distance to the building, in the case of outside parking.

- (i) Official vehicles.
- (ii) Handicapped persons and those drivers who regularly provide transportation to the handicapped.
- (iii) Van pools.
- (iv) Car pools with four or more members.
- (v) Car pools with three members.
- (vi) Car pools with two members.
- (vii) Single-occupant vehicles, space permitting.

(3) A limited number of convenient parking spaces not to exceed more than 10 percent of the total spaces available for employee parking at the installation, facility, or property, may be assigned to certain executive personnel and to personnel with unusual hours in accordance with the provisions of Federal Property Management Regulations.

(4) In urban areas, where several GSA-controlled facilities are within easy walking distance of each other, parking spaces may be pooled by GSA on a zonal allocation basis rather than on an agency by agency basis to ensure that an equitable number of spaces exist among all personnel and to maximize car pooling opportunities. Pooled allocations shall be administered primarily on the basis of car pool membership.

(b) *Military Installations:* (1) Installation commanders shall allocated parking spaces on their individual installations. To maximize the efficient use of available parking spaces, assignments of spaces to personnel shall be on the basis of the Federal Property Management Regulations. At locations

with large, outside parking facilities, commanders shall identify and reserve parking areas according to the following priorities and based on the shortest walking distance to work areas.

(i) Official vehicles used during the day.

(ii) Handicapped personnel and those drivers who provide transportation for handicapped personnel.

(iii) Van pools.

(iv) Car pools with four or more occupants.

(v) Other car pools.

(vi) Single-occupant cars.

(2) Commanders may assign a limited number of parking spaces, not to exceed 10 percent of the total spaces available, for personnel parking at each installation, facility, or property to certain executives and employees with unusual hours, in accordance with Federal Property Management Regulations.

(c) *General:* (1) To encourage and facilitate the use of car and van pools and public transportation, heads of DoD Components, and commanders should develop the following kinds of incentives: stabilizing and enforcing official duty hours, when possible; providing special parking privileges for those car pools using compact and subcompact cars; matching work schedules to available public transportation; assisting installation personnel in forming car and van pools; making fair assignment, use, and enforcement of parking regulations; and arranging and controlling parking areas, as provided for in this directive. Such incentives should be used regardless of whether or not parking fees are required to be charged or an exemption has been granted.

(2) If necessary for operational purposes, a limited number of parking permits may be issued on a fee basis to individuals who regularly use their privately owned vehicles for Government business. These are vehicles used 12 or more workdays per month for Government business for which the individual receives reimbursement for mileage and parking fees under Government travel regulations.

Sec. 8. Charges for parking.

(a) *Establishment of Charges.* Charges for use of Government-owned or leased parking facilities shall be assessed at all locations except when the rate, as determined in Sec. 171.12, is less than \$10.00 per month, for the initial period of November 1, 1979, through September 30, 1981, the charges to be collected shall be 50 percent of the full rate. If the monthly rate is calculated to be between

\$10.00 and \$19.99, the monthly charge between November 1, 1979, and September 30, 1981, shall be \$10.00. the full charge shall be collected beginning October 1, 1981.

(b) *Authority for Charges.* Authority to establish charges for the use of parking spaces is contained in the Federal Property and Administrative Services Act, as amended (40 U.S.C. 490).

Sec. 9. Responsibilities.

(a) The *Deputy Assistant Secretary of Defense (Administration)*, or designee, for DoD-occupied GSA buildings in the NCR, the *Secretaries of the Military Departments and Directors of Defense Agencies*, for GSA buildings outside the NCR, and the *Secretaries of the Military Departments and Directors of Defense Agencies*, for military installations, facilities, and properties shall, whether or not parking fees are charged or an exemption has been granted under the provisions of this Part.

(1) Appoint before November 1, 1979, an Employee Transportation Coordinator at each installation, facility, and property to operate or participate in a system for car pool and van pool matching among personnel, and to maintain current information about public transit service to the installation, facility, or property.

(2) Operate, control, and issue instructions for military, civilian, contractor, and nonappropriated fund personnel privately owned vehicle parking programs at all military installations and at all DoD-occupied, GSA-controlled buildings in accordance with the provisions of OMB Circular A-118, Federal Property Management Regulations, and Temporary Regulation D-65 and this Directive.

(3) Assess charges consistent with the provisions of Sec. 8, as applicable.

(4) Implement an effective mechanism for deterring abuse of parking space assignments made to handicapped persons, van pools and car pools.

(b) The *Administrator of the General Services Administration*, under the authority of OMB Circular A-118, shall:

(1) Issued regulations implementing the provisions of OMB Circular A-118 concerning the determination of commercially equivalent parking rates for GSA-controlled, DoD-utilized parking facilities and the issuance of procedures for collection of fees from military, civilian, contractor personnel, nonappropriated fund personnel, DoD tenant personnel, and others, as required.

(2) Revise regulations and priorities, as necessary, for the assignment of parking spaces.

(3) Arrange for contractor-operated parking facilities in GSA-controlled buildings, as required.

Sec. 10. Appeals.

Formal appeal of the rates established for personnel parking at GSA-controlled locations may be filed by DoD Components in accordance with Federal Property Management Regulations. An appeal of the parking rates for military installations, facilities, and properties may be made through command channels to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

Sec. 11. Definitions.

(a) *Military Installation Parking.*

Vehicle parking spaces under the control of a DoD Component that are used for Government vehicles, other official vehicles, visitor vehicles, and privately owned vehicles (military, civilian, contractor, nonappropriated).

(b) *Car Pool.* A group of two or more people using a motor vehicle for transportation to and from work.

(c) *Personnel Parking.* The parking spaces assigned for the use of privately owned vehicles, other than those classified as official parking.

(d) *Handicapped Employee.* An employee who has a severe, permanent physical or mental impairment which, for all practical purposes, precludes use of public transportation. Employees unable to operate a car as a result of a permanent impairment (such as, the blind) and are driven to their place of employment by someone else shall receive a parking space assignment without charge. Individuals who temporarily qualify for a handicapped parking space (for example, due to a strained back, during convalescence from an illness or a broken leg) are not exempt. Justification for this priority requires certification by a DoD Component medical unit, the Veterans Administration, or the Public Health Service.

(e) *Official Parking.* Parking spaces reserved for Government-owned or leased vehicles, which do not include spaces for privately owned vehicles used for official business or contractor operated and nonappropriated fund vehicles.

(f) *Parking Space.* The area allocated in a parking facility for the temporary storage of one passenger-carrying motor vehicle.

(g) *Regular Member of a Car Pool.* A person who travels daily (leave excepted) in a car pool for a minimum distance of 1 mile each way.

(h) *Van Pool.* A group of 8 to 15 persons using a van, specifically

designed to carry passengers, for transportation to and from work in a single, daily round trip. This vehicle excludes automobiles, buses, or commercially operated van pools.

(i) *Visitor Parking.* Parking spaces reserved for the exclusive use of visitors to a military installation, facility, or property, or GSA-provided spaces.

(j) *Shift Worker.* An employee whose scheduled duty hours are established as a shift starting or ending outside his or her organization's normal duty hours. This term includes an employee on swing or midnight shifts; but it does not include an employee on overtime or flexitime, or an executive who works hours beyond the usual 8-hour work day.

(k) *Military and Civilian Personnel.* All U.S. and foreign military personnel and all civilian, contractor, and nonappropriated fund personnel assigned for duty at GSA-controlled, DoD-utilized facilities or at military installations, facilities, and properties.

Sec. 12. Cost Factors and Secretary of Defense Authority for Military Installations

(a) *Rate Determinations and Procedures (GSA Space):* (1) The Administrator of GSA shall determine the rates to be charged for Government-furnished personnel parking at each facility it controls.

(2) The rates established by GSA shall approximate the price of comparable commercial property in the vicinity, and shall be based on the fair rental value of such comparable property used in calculating GSA Standard Level User Charges.

(3) Rates shall be reviewed annually by GSA and may be adjusted to reflect increases or decreases in the fair rental value of the parking facility.

(4) For parking spaces under the control of GSA, the charging system shall overlay the existing Federal Buildings Fund procedures. That is, GSA shall assign blocks of parking spaces, both official and employee, to the DoD Components and assess the appropriate Standard Level User Charge. One exception is the NCR where all space is assigned to the WHS. DoD Components (WHS in the NCR) shall make assignments to their own personnel consistent with Federal Property Management Regulations and Temporary Regulation D-65 and shall ensure that fees have been collected in a timely manner for each assignment, or that the assignment has been revoked, if necessary. The normal method for assigning personnel parking spaces shall be through sale of a monthly permit. For convenience and efficiency, advance

sales of permits for periods of up to 12 months may also be arranged.

Arrangements for daily rate permits may also be made to accommodate personnel who, for official or personal reasons, may require the use of their private vehicle and to accommodate visitors requiring parking for more than 3 hours. The use of a parking management contract, where the operator is responsible for these arrangements and for fee collection, is permissible. Permits must be used to identify those who are authorized to park. Only one permit shall be issued to a vehicle, van pool or car pool. Parking fees shall be collected in advance and DoD Components shall be required to have adequate documentary evidence that the monthly fees for each permit have been collected and deposited in accordance with this section.

(b) *Rate Determinations and Procedures (Military Installations):* (1) The Department of Defense shall accomplish all appraisals on military installations using professional appraisers of the Office, Chief of Engineers, and the Commander, Naval Facilities Engineering Command. These appraisals shall be conducted in accordance with GSA guidelines and shall use the form provided by GSA. Where one Military Service is predominant in a geographical area, the appraisal function shall be handled by one of the two cited appraisal staffs on a single manager concept.

(2) The rates to be established shall approximate the price of commercial parking in the vicinity and shall be reviewed annually to reflect increases or decreases in values. GSA shall review and approve all rates in accordance with 40 U.S.C. 490.

(3) When the appraisal indicates a parking fee is required under sec. 8(a), installation commanders shall institute a permit system and fee collection program similar to sec. 12(a), above, for GSA-controlled space.

(c) *Management and Other Costs (GSA Space and Military Installations):*

(1) Fair rental value includes an allowance for the costs of parking facility management. When a parking management company or other contractor is engaged to operate the facility, issue permits, provide attendants, or collect fees, the cost of such management services are included in the fair market value fees paid by individual users for the use of such parking facilities.

(2) Fees for personnel parking spaces shall not include any share of the costs attributable to spaces exempted from the fees under sec. 4.

(3) Maintenance, markings, lighting, and security of parking areas for which personnel parking rates are charged shall be commensurate with local comparable civilian parking areas. In this regard, action must be taken to ensure that the parking areas are periodically swept, well-maintained, lighted, as necessary, and, in the winter, kept clear of ice and snow.

(4) Enforcement of parking regulations for GSA space shall be the responsibility of the GSA (Federal Protective Service) and for military installations, facilities, and properties, the cognizant military commander.

(d) *Secretary of Defense Authority for Military Installations:* OMB Circular A-118 recognizes the unique problems involved in administering and charging for the use of parking spaces at dispersed facilities on certain military installations and under specified conditions. It has authorized the Secretary of Defense to establish parking regulations and adjust fee schedules consistent with the intent of the circular to conserve energy through greater reliance on public transportation and car or van pooling. The exemptions depend on practical considerations of installation geography and conditions of military readiness.

(1) *Installation Geography.* Exemptions for reason of installation geography are those military installations, facilities, and properties in remote, usually inaccessible areas. Examples include, but are not limited to: radar stations or communication stations on mountain tops, survival camps, experimental stations in arctic or tropic locales, or portions of large installations that are remote from the cantonment or main built-up area of the base.

(2) *Conditions of Readiness.* For purposes of this Directive, readiness is related to the working hours of military personnel. Military personnel assigned to DoD activities fall generally into two categories: those who maintain regular hours and those who do not, such as those assigned to rotating watchstanding functions, periodical standby or alert functions, and, during certain periods, personnel on operational trials or maneuvers. These latter functions, due to their unpredictable patterns, may not fully lend themselves to car pooling or the payment of parking fees. Conversely, those with regular hours are better able to establish car pooling habits and, where rates are required, to pay those rates. The Secretaries of the Military Departments and Directors of Defense Agencies shall establish such regulations and policies for military

installations, facilities, and properties that are designed to encourage use of car and van pooling, public transportation, and installation shuttle buses to the maximum extent practicable, while providing exemptions to those individuals discussed above whose work schedules are not predictable.

(3) *Limitations.* The granting of the above exemptions applies only to the payment of parking fees and does not apply to the other provisions of this directive, particularly those contained in sections H. and J. relating to allocation and assignment of parking spaces, use of car and van pools, public transportation, and official responsibilities.

(e) *Collection and Deposit of Fees:* (1) Fees collected for the use of parking facilities at GSA-controlled locations shall be separately identified and applied to parking management costs and to the Standard Level User Charges paid by DoD Components to GSA for parking spaces subject to fee charges. As such, the need for appropriated funds to pay for parking spaces used by personnel should be reduced.

(2) Fees collected for the use of parking facilities at military installations net of the DoD Components' total direct costs of personnel parking management, operation, and maintenance shall be deposited ultimately to Miscellaneous Receipts of the Treasury.

(3) Appropriated funds for parking that are in excess of the DoD Component's direct parking costs net of parking fee receipts shall be applied towards supplemental appropriation requirements that the DoD Component intends to submit to OMB for review under OMB Circular A-11, "Preparation and Submission of Budget Estimates," May 25, 1978. Appropriated funds not so applied shall be recommended to the Congress for rescission.

(4) Collection of parking fees by DoD Components shall be handled in accordance with GAO Policy and Procedure Manual, Title 7, Fiscal Procedures, Chapter 3 that provides the regulations and instructions applicable to all classes of funds collected by officers and employees of the U.S. Government.

(5) The fees collected shall be accounted for and deposited in accordance with Treasury Fiscal Requirements Manual, Volume 1, Part 5, which prescribes the forms and procedures to be observed by the Government with respect to deposits for credit to the account of the U.S. Treasury.

(6) Proceeds collected from the sale of parking permits shall be turned over to

the servicing DoD accounting and finance officer for deposit to the following General Fund Receipt Clearing Accounts: Army—21F3875; Navy and Marine Corps—17F3875; Air Force—57F3875; OSD and Defense Agencies—97F3875.

Proceeds shall be kept separately in a specific subaccount by fiscal year and used only to reimburse expenses of parking management and operation incurred in that fiscal year. Within 60 days after the end of the fiscal year, the balance of proceeds shall be deposited in the U.S. Treasury General Fund Miscellaneous Receipts Account.

(7) The accounting and reporting principles and standards in the DoD 7220.9-H, "DoD Accounting Guidance Handbook," shall be applied. Especially pertinent are the cost accounting, accrued revenue, cost and the appropriation reimbursement and requirements in Chapter 2 as well as the related reporting requirements in Chapter 3.

H. E. Lofdahl,

*Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.*

December 13, 1979.

[FR Doc. 79-39085 Filed 12-19-79; 8:45 am]

BILLING CODE 3810-70-M

Uniformed Service University of the Health Sciences Privacy Act of 1974; Amended System of Records

AGENCY: Uniformed Services University of the Health Sciences (USUHS).

ACTION: Notice of an amended system of records.

SUMMARY: The USUHS is proposing to alter an existing system of records subject to the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a). The specific changes in the record system being altered is set forth below followed by the record system published in its entirety, as amended.

DATES: This altered record system shall be effective as proposed without further notice on January 21, 1980, unless comments are received on or before January 21, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system. **FOR FURTHER INFORMATION CONTACT:** Mr. James S. Nash, Chief, Records Management Division, Room 5C-315 Pentagon, Washington, D.C. 20301, Telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The USUHS system of records notices inventory as prescribed by the Privacy

Act of 1974 have been published in the Federal Register as follows:

FR Doc. 79-37052 (44 FR 73702) December 17, 1979

The USUHS has submitted an altered system report dated November 9, 1979 to the Office of Management and Budget (OMB) as required by section (c) of the Privacy Act of 1974 (5 U.S.C. 552a) and under guidelines established by OMB Circular A-108, Transmittal Memorandum No. 1 dated September 30, 1975 and Transmittal Memorandum No. 3, dated May 17, 1976. The guidelines provide guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

H. E. Lofdahl,

*Director Correspondence and Directives
Washington Headquarters Services
Department of Defense.*

December 11, 1979.

WUSU03

System name:

Uniformed Services University of the Health Sciences (USUHS) Student Record System (44 FR 38992, July 3, 1979).

Changes:

Categories of records in the system:

At the end of the paragraph under this heading, change the period to a comma, then insert: "which includes records containing personal data e.g., name, rank, Social Security Number (SSN), undergraduate school, academic degree(s), current addresses, course grades, and grade point average from undergraduate work, and other information as furnished by non-Government agencies such as the American Medical College Admission Service which verifies all information prior to its being submitted to the University."

Routine uses of records maintained in the system, including categories of uses, and the purposes of such uses:

Delete the entry and insert:

Internal users, uses, and purposes:

The system will be used for: recording internships, residencies, types of assignment and other career performance data on USUHS graduates; providing academic data to each student upon request, e.g., transcripts, individual course grades, grade point average, etc.; providing academic data within the Uniformed Services University of the

Health Sciences for official use only purposes; and providing data to the respective Surgeons General when a specific and authorized need requires it.

External users, uses, and purposes:

Academic data may be provided to other educational institutions upon the written request of a student.

For other external uses, see Uniformed Services University of the Health Sciences (USUHS) Blanket Routine Uses at the head of this Component's published system notices."

Storage:

Delete the period after the word "folders", and insert: "are stored at USUHS, supported by automated copies of subsets of each student's folder which are maintained on magnetic tape and disk at the Air Force Data Services Center in the Pentagon, Washington, D.C."

Retrievability:

Delete "SSAN", and insert: "Social Security Number (SSN). Also, any combination of data in the file can be used to select individual records. Only personnel in the Office of the Registrar will be provided with the password that allows access to the data, and those individuals are authorized access to all data in the file."

Safeguards:

Delete the entry and insert: "a. Current hard copies of records prior to processing for computer storage are retained in a safe located in a limited access area at the University. The initial source of automated data on each student is transferred directly from the admission system, WUSU04, when each new class is admitted. Only data for enrolled students is transferred. Teaching facility, instructor, course, and grade information are entered by Registrar personnel as they are received. Transcripts, Course Rosters and Grade reports are produced at the terminal upon request by the Registrar's personnel. Approved special requests for data can be supported by ad hoc inquiry. Any combination of data can be used to select individual records for special processing.

b. The computer facility is operated by the Air Force Data Services Center, the Pentagon, Washington, D.C. The computer hardware, disks, tapes and other materials, are secured in an alarmed controlled and guarded area. Outside access is via access list, escort, or controlled dial-in to the unclassified computers located in the center. Dial-in access for all system users is password controlled.

c. All access to AFDSC computer is via user identification and sign-on password, whether from a hardwired terminal or dial-in terminal. Computer software ensures that only properly identified users can access the Privacy Act files on this system. Passwords are changed semiannually, or upon the departure of any person knowing the password.

d. Hardcopy files are stored at the University, and computer files are stored on magnetic tape and disk at the Air Force Data Services Center in the Pentagon, Washington, D.C. The remote terminal retains no data.

e. The automated system is operated by a Data Base Management System. In addition to the sign-on password, this system allows a user to access only those specific files authorized that user. Only Registrar personnel will be given the password and user identification information needed to access the computer system. Those persons are authorized access to all fields in the data base. While the file is primarily indexed on Social Security Number (SSN), and name, any combination of fields and data within fields can be used to select individual records."

Notification procedures:

Delete the entry under this heading, and insert:

"Information may be obtained from: Mr. Peter J. Stavish, Registrar, USUHS, Bethesda, Maryland 20014, Telephone: 202-295-2295/6".

Record source categories:

Change the period after the word "personnel" to a semicolon, and insert: "the individual concerned; the National Board of Medical Examiners; and the Applicant File System".

WUSU03

SYSTEM NAME:

Uniformed Services University of the Health Sciences (USUHS) Student Record System.

SYSTEM LOCATION:

The file will be maintained in the Registrar's Office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20014. Supplemental files consisting of student evaluation forms, grades, and course examinations pertaining to their department will be maintained in each department by departmental chairmen, as well as in the Registrar's office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records will be maintained on all students who matriculate to the University.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grade reports and instructor evaluations of performance/achievement; transcripts summarizing by course title, grade, and credit hours; records of awards, honors, or distinctions earned by students; and data carried forward from the Applicant File System, which includes records containing personal data e.g., name, rank, Social Security Number (SSN), undergraduate school, academic degree(s), current addresses, course grades, and grade point average from undergraduate work and other information as furnished by non-Government agencies such as the American Medical College Admission Service which certifies all information prior to being submitted to the University.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 92-426, Chapter 104, Section 2114.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND PURPOSE OF SUCH USES:

INTERNAL USERS, USES, AND PURPOSES:

The system will be used for: recording internships, residencies, types of assignment and other career performance data on USUHS graduates; providing academic data to each student upon request, e.g., transcripts, individual course grades, grade point average, etc.; providing academic data within the Uniformed Services University of the Health Sciences for official use only purposes; and providing data to the respective Surgeons General when a specific and authorized need requires it.

EXTERNAL USERS, USES, AND PURPOSES:

Academic data may be provide to other educational institutions upon the written request of a student.

For other external uses, see Uniformed Services University of the Health Sciences (USUHS) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS ON THE SYSTEM:

STORAGE:

Paper records in file folders are stored at USUHS, supported by automated copies of subsets of each student's folder, which are maintained on magnetic tape and disk at the Air Force Data Services Center in the Pentagon, Washington, D.C.

RETRIEVABILITY:

The system will be indexed by name and Social Security Number (SSN). Also any combination of data in the file can be used to select individual records. Only personnel in the Office of the Registrar will be provided with the password that allows access to the data, and those individuals are authorized access to all data in the file.

SAFEGUARDS:

a. Current hardcopy records, prior to processing for computer storage are retained in a safe located in a limited access area at the University. The initial source of automated data on each student is transferred directly from the admission system, WUSU04, when each new class is admitted. Only data for enrolled students is transferred.

Teaching facility, instructor, course, and grade information are entered by Registrar personnel as they are received. Transcripts, Course Rosters, and Grade reports are produced at the terminal upon request by the Registrar's personnel. Approved special requests for data can be supported by ad hoc inquiry. Any combinations of data can be used to select individual records for special processing.

b. The computer facility is operated by the Air Force Data Services Center, the Pentagon, Washington, D.C. The computer hardware, disks, tapes and other materials are secured in an alarmed controlled and guarded area. Access is via access list, escort, or controlled dial-in to the unclassified computers, located in the center. Dial-in access for all system users is password controlled.

c. All access to AFDSC computers is via user identification and sign-on password, whether from a hardwired terminal or dial-in terminal. Computer software ensures that only properly identified users can access the Privacy Act files on this system. Passwords are changed semiannually, or upon the departure of any person knowing the password.

d. Hardcopy files are stored at the University, and computer files are stored on magnetic tape and disc at the Air Force Data Services Center in the Pentagon, Washington, D.C. The remote terminal retains no data.

e. The automated system is operated by Data Base Management System. In addition to the sign on password, this system allows a user to access only those specific files authorized that user. Only Registrar personnel will be given the password and identification information needed to access the computer system. Those persons are authorized access to all fields in the

data base. While the file is primarily indexed on Social Security Number (SSN), and name, any combination of fields and data within fields can be used to select individual records.

RETENTION AND DISPOSAL:

Records will be maintained permanently.

SYSTEM MANAGER(S) AND ADDRESSES:

The Registrar, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

NOTIFICATION PROCEDURE:

Information may be obtained from: Mr. Peter J. Stavish, Registrar, USUHS, Bethesda, Maryland 20014, Telephone: 202-295-2295/6.

RECORD ACCESS PROCEDURES:

Requests to review individual student's records may be made by telephone or visit to the Registrar's office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

Written requests should include name, Social Security Number (SSN), and dates attended.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is furnished by instructor personnel; the individual concerned; the National Board of Medical Examiners; and the Applicant File System.

None.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT: None.

[FR Doc. 79-38912 Filed 12-19-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY**Economic Regulatory Administration**

[ERA Cases Nos. 55023-9053-01-12 and 55023-9053-02-12; Docket No. ERA-FC-79-001]

Anheuser-Busch, Inc: Order Granting Exemptions From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Order Granting Exemptions from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

SUMMARY: On June 15, 1979, Anheuser-Busch, Incorporated (Anheuser-Busch),

petitioned the Economic Regulatory Administration (ERA), of the Department of Energy for an order which would permanently exempt two planned major fuel burning installations (MFBIs) at the Company's Los Angeles Brewery from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), relating to the use of petroleum or natural gas in new MFBIs. ERA accepted the petition on July 11, 1979, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemptions, in the **Federal Register** on July 19, 1979 (44 FR 42307). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. Interested parties were also afforded an opportunity to request a public hearing. The comment period ended September 4, 1979. No comments were submitted. No hearing was requested.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Determination was made which recommended that ERA issue an order which would grant Anheuser-Busch permanent exemptions to use natural gas or petroleum in the two planned MFBIs. A notice of availability of the Tentative Staff Determination was printed in the **Federal Register** on November 20, 1979 (44 FR 66652). The publication of the Notice of Availability opened a 14 day public comment period which ended December 4, 1979. No comments were received.

This order grants Anheuser-Busch permanent exemptions to use, in the aggregate, for the two boilers not more than 1,323 billion Btu's per year of either natural gas or the petroleum as specified in the terms and conditions contained in this order.

DATES: This order will not take effect prior to the 60th calendar day after publication of this order in the **Federal Register** or until ERA has approved the compliance plan required by the terms and conditions contained in this order, whichever occurs later.

ADDRESSES: For Further Information Contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Constance L. Buckley, Chief, New MFB Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW.,

Room 3128, Washington, D.C. 20461, Phone (202) 254-7814.

G. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6C-087, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION:

Anheuser-Busch, Incorporated (Anheuser-Busch or the Petitioner) plans to install two 143,700,000 Btu/hr (heat input rate) oil or natural gas fired boilers to expand its Los Angeles, California brewery.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28930) to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations (MFBIs) unless an exemption for such use has been granted. On June 15, 1979, Anheuser-Busch petitioned ERA for an order which would permanently exempt the two planned MFBIs from the prohibitions of Title II of FUA.

Anheuser-Busch's June 15, 1979, petition requested the following permanent exemptions from the prohibitions of Title II of FUA for the reasons noted:

1. *Permanent exemption due to inability to comply with applicable environmental requirements.*

For each of the planned units a permanent exemption pursuant to Section 212(a)(1)(c) of the Act based upon an asserted inability to comply with applicable environmental requirements by using coal, petroleum coke, or RDF.

2. *Permanent exemption due to lack of alternate fuel supply.*

For each of the planned units a permanent exemption pursuant to Section 212(a)(1)(A)(ii) of the Act based upon an asserted lack of supply of low Btu gas derived from coal at a cost which does not substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

3. *Permanent exemption due to site limitations.*

For each of the planned units, a permanent exemption pursuant to Section 212(a)(1)(B) of the Act based upon an asserted inability to use solar energy due to site limitations.

Anheuser-Busch met the general requirements for exemptions by demonstrating, in accordance with Section 213(a)(1) of the Act, that (1) the

use of a mixture of coal, petroleum coke, or RDF and petroleum is not technically feasible because such mixtures cannot be burned without violating applicable environmental requirements, and (2) that use of a mixture of solar energy and petroleum is not economically feasible.

ERA's decision to grant exemptions to Anheuser-Busch from the prohibitions of FUA was based on an analysis of the entire record of the proceeding. ERA, by this notice, grants Anheuser-Busch the following permanent exemptions from the prohibitions of FUA, subject to the terms and conditions stated below:

1. *A permanent exemption due to inability to comply with applicable environmental requirements.*

For each of the two planned units, a permanent exemption is granted to use a low sulfur residual oil or natural gas based upon Anheuser-Busch's demonstration, pursuant to Section 212(a)(1)(c) of the Act, of an inability to burn coal, petroleum coke or RDF without violating applicable environmental requirements.

2. *A permanent exemption due to lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.*

For each of the two planned units, a permanent exemption is granted to use a low sulfur residual oil or natural gas based upon Anheuser-Busch's demonstration, pursuant to Section 212(a)(1)(A)(ii) of the Act, that the cost of using a low Btu gas derived from coal would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

3. *A permanent exemption due to site limitations.*

For unit No. 5 a permanent exemption is granted to use a low sulfur residual oil or natural gas based upon Anheuser-Busch's demonstration, pursuant to Section 212(a)(1)(B) of the Act, that site limitations, which cannot be overcome within five years after commencement of operations, preclude the use of solar energy.

4. *A permanent exemption due to a lack of alternate fuel at a cost which does not substantially exceed the cost of using imported petroleum.*

Petitioner's request for a permanent exemption for unit No. 6 due to site limitations is denied since ERA has determined that such site limitations as do exist would not preclude the use of solar energy. However, a permanent exemption is granted to use a low sulfur residual oil or natural gas based upon data supplied by the Petitioner and pursuant to Section 212(a)(1)(A)(ii) of the Act, based on the lack of an

alternate fuel supply since the cost of using solar energy would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the unit.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to include in any order granting an exemption appropriate terms and conditions. Based upon information submitted by Anheuser-Busch and upon the results of the staff analysis, this order is granted on the following terms and conditions:

A. The Company shall incorporate the following conservation measures into its brewery expansion:

1. Installation of wort cooler process heat recovery in the expansion area.
2. Installation of economizers on all boilers.
2. Installation of flue gas analyzers and trim controls on all boilers.
4. Installation of blowdown heat recovery systems with respect to all boilers.
5. Incorporation into the heating, ventilating, and air conditioning system in the expansion area a provision to use cold cellar exhaust air to cool incoming fresh air.
6. Provision for the recovery of fluid sensible heat utilized in the chip washer in the expansion area.
7. Installation of a system to recover brew kettle vent stack heat.
8. Redesign of the ammonia refrigeration system to permit operation of two suction pressures.
9. Installation of high pressure sodium indoor lighting in the expansion area wherever possible.
10. Installation of time and photocell controls on outside lighting.
11. Installation of switching to provide for two levels of lighting and installation of additional circuit switches in branch circuits to encourage the turning off of lights when not needed.
12. Installation of a cold deaerator process for water treatment.
13. Conduct of a field survey of the piping in the existing brewery to determine what, if any, piping should be reinsulated to meet the Company's specification (TP-66) and the reinsulation of piping so identified to which physical access can be had for practical reinsulation.
14. Evaluation of the feasibility of increasing a brew kettle vent stack heat recovery system into the existing portion of the brewery.
15. In addition to the above conditions, the Company has voluntarily agreed to the installation of a solar energy system for hot water and heating

and cooling at either the present administration building at the Los Angeles brewery or a new hospitality center should Anheuser-Busch decide to build such a facility at the Los Angeles brewery. Such installation shall have the following specifications:

a. Utilization of 2,000 square feet of roof area or its equivalent of high efficiency flat plate collectors so as to deliver water at from 175 F. to 220 F.

b. The hot water shall be used to drive an absorption air conditioning system in the summer and provide space heating in the winter, together with supplying hot water for internal building use.

The Company shall notify ERA of its decision concerning selection of the building in which the solar energy system will be installed within one year from the effective date of this order, and will complete the project within three years from the effective date of this final order.

B. The permanent exemptions granted by this order, pursuant to Section 212(a)(1)(c) of the Act, are based on petitioner's demonstration that coal, petroleum coke or RDF cannot be used in the boilers without violating applicable environmental requirements within five years after the projected date of commencement of operation of the units. Specifically, Anheuser-Busch demonstrated that the use of coal, petroleum coke or RDF could not be used in the boilers without violating Prohibitory Rule 476 promulgated by the South Coast Air Quality Management District pursuant to the laws of the State of California. Prohibition Rule 476 establishes an absolute limitation of 225 parts per million on the amount of oxides of nitrogen (NO_x) emissions from a new industrial steam boiler. Anheuser-Busch has further demonstrated that no administrative relief from this requirement, in the form of a variance, the acquisition of emission offsets, or a change in the State Implementation Plan, is available.

In the event that the new boilers cannot comply with the 225 parts per million standard for NO_x emissions, the permanent exemptions granted herein will be subject to termination. Anheuser-Busch is required to report to the ERA within 15 days any violation of the NO_x standard resulting from the operation of these units.

C. The petroleum fuel used in these boilers shall not exceed the limits of the following control specifications:

Gravity, API deg.—Maximum, 22.1.
Viscosity, SSU at 100 deg. F.—Minimum, 60.
BTU, per gallon—Minimum, 140,000.
Sulfur, percent by wt.—Maximum, 0.25.

D. The two new boilers shall, in the aggregate, burn no more than 1,323 billion Btu's in any consecutive 12 month period of either the petroleum defined in C above or natural gas. If during any consecutive 12 month period the fuel consumed by the boilers exceeds the amount of fuel permitted to be consumed under this term and condition, such excess consumption shall be reported to ERA within 30 days after the close of such consecutive 12 month period. The petitioner shall provide to ERA, in its compliance plan required to be submitted to ERA pursuant to Section E below, the method by which it intends to keep accurate and complete fuel consumption records so as to enable petitioner to monitor its compliance with this term and condition and to report any violation thereof.

E. The Company shall submit an acceptable compliance plan with respect to the foregoing conditions within thirty days from the date of this order. This order shall not take effect until ERA has approved, in writing, the compliance plan submitted by Anheuser-Busch, or earlier than the 60th calendar day after publication of the order in the Federal Register, whichever occurs later.

Issued in Washington, D.C., on December 14, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39074 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

Fuel Oil Marketing Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Fuel Oil Marketing Advisory Committee.

Date and time: Monday, January 21, 1980—9:00 a.m.

Place: Jack Tar Hotel, Cathedral Hill—A. Van Ness at Geary, San Francisco, California.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy—Room 8G087, 1000 Independence Avenue, SW., Washington, D.C. 20565, Telephone—202-252-5187.

Purpose of committee: The Committee was established to provide the Secretary of Energy with expert and technical advice concerning the marketing of fuel oil as it relates to the development and implementation of policies and programs by the Department of Energy.

Tentative agenda: Old Business, Status report: Low-Income Energy Assistance, Distillate supply situation, Fuel oil

marketer credit and storage problems. New Business. Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on December 14, 1979.

Georgia Hildreth,
Director, Advisory Committee Management.

FR Doc. 39007 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

Ozona Gas Processing Plant, a Partnership; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Proposed Consent Order an opportunity for Comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides and opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: November 26, 1979.

COMMENTS BY: January 21, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [Phone] (214) 767-7745.

SUPPLEMENTARY INFORMATION: On November 26, 1979, the Office of Enforcement of the ERA executed a proposed Consent Order with Ozona Gas Processing Plant, A Partnership, of Tyler, Texas. Under 10 CFR 205.199)(b), a proposed Consent Order which

involves a sum of \$500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. Consent Order

Ozona Gas Processing Plant, A Partnership, is a firm engaged in the processing of natural gas and sale of natural gas liquid products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of natural gas liquid products, the Office of Enforcement, ERA, and Ozona Gas Processing Plant, A Partnership, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Consent Order was September 1973 through December 1974 and it included all sales of natural gas liquid products which were made during that period.

2. Ozona Gas Processing Plant, A Partnership, did not apply in a manner acceptable to the DOE the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart E, when determining the prices to be charged for its natural gas liquid products; and, as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Ozona Gas Processing Plant, A Partnership, have agreed to a settlement in the amount of \$814,000.00. The terms of the refund consist of \$203,500 to be refunded within 90 days of the effective date of the Consent Order, with the balance of the refundable amount divided into three equal installments to be paid 90 days from first and each other. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Ozona Gas Processing Plant, A Partnership.

4. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Ozona Gas Processing Plant, A Partnership, agrees to refund, in full settlement of any civil

liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$814,000.00 in the manner specified in I.3. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199)(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of

Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Ozona Gas Processing Plant, A Partnership, Consent Order." We will consider all comments we receive by 4:30 pm, local time, on January 21, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 29th day of November, 1979.

Wayne I. Tucker,
District Manager, Southwest District
Enforcement, Economic Regulatory
Administration.

[FR Doc. 79-39084 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of ERA Forms and Notification of Their Mandatory Use in Petitioning for Exemptions From Prohibitions of Title II the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Issuance of ERA Forms and Notification of their Mandatory Use in Petitioning for Exemptions from the Prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of the issuance of the below listed ERA forms to be used by owners or operators of new powerplants and new major fuel burning installations (MFBI or installation) to petition for exemptions from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*) In accordance with the provisions of the Federal Reports Act, these ERA forms have been approved by the Office of Management and Budget.

Form No. and Title

ERA-301A General Form for New Powerplant Exemption Petition
ERA-301B General Form for New Installation Exemption Petition
ERA-302 Temporary Exemption for Future Use of Synthetic Fuels for New Powerplants and New Installations
ERA-304 Exemption Due to a Lack of Alternate Fuel for New Powerplants and New Installations

- ERA-305 Temporary and Permanent Site Limitation Exemption for New Powerplants and New Installations
- ERA-307B Permanent Exemption for New Installations Due to Inability to Obtain Adequate Capital
- ERA-309 Permanent Exemption for Cogeneration for New Powerplants and New Installations
- ERA-312 Permanent Exemption for New Powerplants Necessary to Maintain Reliability of Service
- ERA-313 Permanent Exemption for Peakload Powerplants
- ERA-314 Permanent Exemption for Intermediate Load Powerplants
- ERA-315 Permanent Exemption for New Installations Necessary to Meet Scheduled Outages
- ERA-317 Schedule A—General and Special Cost Tests for New Powerplants
- ERA-318 Schedule B—General and Special Cost Tests for New Installations
- ERA-319 Schedule C—No Alternative Power Supply
- ERA-320 Schedule D—Use of Mixtures: General Requirement for New Installations and Powerplants
- ERA-321 Schedule E—General Requirement for Alternative Sites (Powerplants)

Title II of FUA prohibits the use of natural gas and petroleum as a primary energy source in new powerplants and MFBI's unless an exemption has been granted by ERA. Procedures and criteria for petitioning for exemptions from the prohibitions of FUA are contained in ERA's Interim Rules published in the Federal Register at 44 FR 28530 (May 15, 1979) and at 44 FR 28950 (May 17, 1979).

The ERA forms announced herein are based upon the procedures and criteria outlined in the Interim Rules and are designed to facilitate the preparation of requests for exemptions by petitioners and ERA's analyses of those requests. The forms consist of: (a) General forms which serve to identify the petitioning facility and to provide information required by ERA that is common to all types of exemptions, (b) forms delineating the eligibility and evidentiary requirements of specific exemptions, and (c) schedules designed to provide in a specific format the data and analyses required in the Fuels Decision Report (Issuance Notice at 44 FR 28974, May 17, 1979) in addressing certain general requirements for exemptions.

ERA has decided not to issue forms for the purposes of addressing the eligibility and evidentiary requirements for the following exemptions:

- Public Interest Exemption (§§ 503.25 and 505.15 of the Interim Rules)
- State or Local Requirements (§§ 503.36 and 505.26 of the Interim Rules)
- Emergency Purposes (§§ 503.39 and 505.29 of the Interim Rules)

The required showings for these exemptions are not conducive to condensation within the confines of a form. Persons requesting any of these exemptions should address the eligibility and evidentiary requirements in their Fuels Decision Report in a manner consistent with the requirements stipulated in the applicable sections of the Interim Rules and the circumstances upon which the exemption request is predicated.

MANDATORY USE: Effective January 15, 1980, the use of the ERA forms indicated herein is mandatory for requesting exemptions from the prohibitions of Title II of FUA. After that date, petitions filed with ERA which do not contain completed ERA forms applicable to the exemption or exemptions being requested, will be considered incomplete and returned to the petitioner under the provisions of § 501.3(d) of the Interim Rules. ERA feels that this effective date will allow sufficient lead time to obtain the appropriate ERA forms.

OBTAINING OF FORMS:

The ERA FUA forms may be obtained at: ERA, Room B-110, 2000 M Street, NW, Washington, D.C.—Monday–Friday, 8 a.m.–4:30 p.m.

The forms also may be requested by telephoning or writing to: Office of Public Information, Economic Regulatory Administration, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

INFORMATION CONTACT: For information and guidance in determining the ERA forms required for specific exemption requests and for assistance in their completion, contact:

New Powerplants: Louis Krezanosky, Chief, New Powerplant Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 254-7442.

New Installations: Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 254-7814.

SUPPLEMENTARY INFORMATION: Proposed forms for petitioning for exemptions from the prohibitions of FUA, developed to implement the procedures and criteria promulgated in ERA's proposed rules implementing the provisions of FUA, were published for public comment on February 12, 1979, at 44 FR 9053. The OMB-approved ERA forms which are the subject of this notice incorporate pertinent comments received on the proposed forms and contain revisions necessitated by substantial changes to the procedures and criteria established

by the subsequently issued Interim Rules.

ERA has previously issued other OMB-approved forms for use in conjunction with other provisions of FUA. These are:

Form Number and Title

- ERA-300A Transitional Powerplant Request for Existing Facility Classification
- ERA-300B transitional Installation Request for Existing Facility Classification
- ERA-300C Powerplant and Installation Certification for Operational Facilities—*(Issuance noticed at 44 FR 28040, May 14, 1979)*
- ERA-316 Temporary Public Interest Exemption for Use of Natural Gas by Existing Powerplants—*(Issuance noticed at 44 FR 46676, August 8, 1979)*

The ERA-316 may be obtained at the same addresses cited for Title III FUA exemption forms. The ERA-300A, ERA-300B and ERA-300C are currently being revised. A Notice of Availability will be published in the Federal Register as soon as the revisions are completed and the forms have been approved by OMB.

Issued in Washington, D.C., on December 14, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39076 Filed 12-19-79; 8 45 am]

BILLING CODE 6450-01-M

Tesoro Petroleum Corp.'s Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Application and Request for Comments.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that on November 9, 1979, Tesoro Petroleum Corporation (Tesoro), in accordance with the provisions of 10 CFR 205.90 *et seq.* and § 211.10(b), filed an application for permission to use separate motor gasoline allocation fractions for the marketing areas served by its wholly owned subsidiaries, Tesoro Petroleum Distributing Company, doing business as Tesoro Marketing Company, and Tesoro Refining, Marketing and Supply Company.

A copy of Tesoro's application, with proprietary material deleted may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, NW., Room 6222-C, Washington, D.C. 20461.

DATE: Interested firms may submit comments on Tesoro's application until close of business, January 25, 1980.

ADDRESS: Send comments to: Economic Regulatory Administration, Office of Petroleum Operations, Room 6222, 2000 M Street, NW., Washington, D.C. 20461, Attn: Alan T. Lockard.

FOR FURTHER INFORMATION CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222-C, 2000 M Street, NW., Washington, D.C. 20461, Telephone: (202) 254-3330.

Joel M. Yudson, Office of the General Counsel, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20461, Telephone: (202) 252-6744.

Issued in Washington, D.C., on the 17th day of December 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-39073 Filed 12-19-79; 8:45 am]

BILLING CODE 6450-01-M

Parman Oil Co.; Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Settlements.

Firm name and address	Settlement amount	Product	Period covered	Recipients of settlement
Parman Oil Company, Nashville, Tennessee.	\$45,000	Middle Distillates/Motor Gasoline.	11/73-2/76	Unidentified Customers.

Issued in Atlanta on the 11th day of December 1979.

James C. Easterday,
District Manager.

Approved for Signature.

Len Bittner,
Chief Enforcement Counsel.

[FR Doc. 39079 Filed 12-19-79; 8 45 am]

BILLING CODE 6450-01-M

Texas Oil & Gas Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of September 1979. The Consent Order represents resolution of an outstanding enforcement proceeding by the DOE and the firm involving a sum of less than \$500,000 in the aggregate, excluding any penalties and interest. For a Consent Order involving a sum of \$500,000 or more, Notice will be separately published in the Federal Register. This Consent Order is concerned exclusively with payment of the refunded amount for alleged overcharges made by this firm during the time period indicated. In full settlement of any and all civil liability, a refund by certified check has been made to the U.S. Department of Energy for distribution in a just and equitable manner in accordance with applicable laws and regulations.

For further information regarding this Consent Order, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, telephone number (404) 881-2661.

Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On November 26, 1979 the Office of Enforcement of the ERA executed a Consent Order with Texas Oil & Gas Corporation of Dallas, Texas. Under 10 CFR 205.199j(b), the Consent Order which involves a sum of \$500,000 or more in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Texas Oil and Gas Corporation, with its office located in Dallas, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Texas Oil and Gas Corporation, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through August 31, 1978, and it included all sales of crude oil which were made during that period.

2. Allegedly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Texas Oil and Gas Corporation have agreed to a settlement in the amount of \$1,718,800. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Texas Oil and Gas Corporation.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199j, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Texas Oil and Gas Corporation agrees to refund, in full settlement of any civil liability with

respect to actions which might be brought by the Office of Enforcement, ERA arising out of the transactions specified in I(1) above, the sum of \$1,718,800 shall be refunded within thirty (30) days from the effective date of this Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submissions of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District

Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Consent Order." We will consider all comments we received by 4:30 p.m., local time on January 21, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 30th day of November 1979.

Herbert F. Buchanan,
Deputy District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-39075 Filed 12-19-79; 8:45 am]

BILLING CODE 6450-01-M

Union Oil Co. of California's Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Application and Request for Comments.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that on November 15, 1979, Union Oil Company of California (Union), in accordance with the provisions of 10 CFR 205.90 *et seq.* and § 211.10(b), filed an application for permission to use multiple allocation fractions for the sale of motor gasoline in its eastern marketing and refining region and its western marketing and refining region.

A copy of Union's application, with proprietary material deleted may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, N.W., Room 6222-C, Washington, D.C. 20461.

DATE: Interested firms may submit comments on Union's application until close of business, January 18, 1980.

ADDRESS: Send comments to: Economic Regulatory Administration, Office of Petroleum Operations, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461, Attn: Alan T. Lockard.

FOR FURTHER INFORMATION:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum

Operations, Room 6222-C, 2000 M Street, N.W., Washington, D.C. 20461, Telephone: (202) 254-3330.

Joel M. Yudson, Office of the General Counsel, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20461, Telephone: (202) 252-6744.

Issued in Washington, D.C., on the 17th day of December 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-39063 Filed 12-19-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[No. 121]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

December 10, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Alabama Oil and Gas Board

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-06250/11-2-795FDA
2. 01-075-20155-0000
3. 102 000 000
4. Grace Petroleum Corp
5. McGill 33-1
6. Cut Bank Creek
7. Lamar AL
8. 180.0 million cubic feet
9. November 10, 1979
10. Tenn Gas Pipeline Co

1. 80-06251/11-2-794PDA
2. 01-075-20147-0000
3. 102 000 000
4. Grace Petroleum Corp
5. Ogden 4-6
6. Beaverton
7. Lamar AL
8. 180.0 million cubic feet
9. November 10, 1979
10. Northwest Alabama Gas District

1. 80-06252/11-2-791PD
2. 01-075-20012-0000
3. 102 000 000
4. Grace Petroleum Corp
5. Barnes 3-13
6. Bankston
7. Fayette AL
8. 36.0 million cubic feet

9. November 10, 1979
10. Warrior Drilling and Expl Co Inc
1. 80-06253/7-6-7916PDB
2. 01-075-20117-0000
3. 102 000 000
4. Skelton Operating Co Inc
5. Orlan Lucas No 1
6. Fairview
7. Lamar AL
8. 100.0 million cubic feet
9. November 10, 1979
10. Northwest Alabama Gas Dist
1. 80-06254/7-6-7917PDA
2. 01-075-20121-000
3. 102 000 000
4. Skelton Operating Co Inc
5. F C Hollis No 2
6. Fairview
7. Lamar AL
8. 100.0 million cubic feet
9. November 10, 1979
10. Northwest Alabama Gas Dist

Colorado Oil and Gas Conservation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

Michigan Department of Natural Resources

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name

7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06345
2. 21-137-32821-0000
3. 103 000 000
4. Amoco Production Company
5. State Charlton A 3-28
6. Charlton 28A-31N-1W
7. Otsego, MI
8. 113.0 million cubic feet
9. November 14, 1979
10. Consumers Power Co.
1. 80-06346
2. 21-137-32605-0000
3. 103 000 000
4. Amoco Production Company
5. State Charlton C 3-30
6. Charlton 31-31N-1W
7. Otsego, MI
8. 36.0 million cubic feet
9. November 14, 1979
10. Consumers Power Co.

1. 80-06347
2. 21-079-32502-0000
3. 102 000 000
4. Amoco Production Company
5. Simpson Unit W 4-25
6. Coldsprings 25-28N-6W
7. Kalkaska, MI
8. 740.0 million cubic feet
9. November 14, 1979
10. Consumers Power Co.
1. 80-06348
2. 21-079-32193-0000
3. 102 000 000
4. Amoco Production Company
5. Simpson S 2-36
6. Coldsprings 36-28N-6W
7. Kalkaska, MI
8. 1270.0 million cubic feet
9. November 14, 1979
10. Consumers Power Co.

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06246
2. 30-045-00041-0000
3. 108 000 000
4. Fay Greer
5. Winger State No. 1
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 9.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-06247
2. 30-039-06169-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Canyon Largo Unit No. 109
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 21.0 million cubic feet

9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-06248
2. 30-025-26108-0000
3. 103 000 000
4. John S. Goodrich
5. Mathers No. 2
6. Bagley Penn North
7. Lea, NM
8. 50.0 million cubic feet
9. November 9, 1979
10. Warren Petroleum Co.

1. 80-06249
2. 30-039-20251-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Canyon Largo Unit No. 147
6. Otero Chacra Gas
7. Rio Arriba, NM
8. 23.7 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-06327
2. 30-005-20685-0000
3. 103 000 000
4. Flag-Redfern Oil Company
5. Southard A No. 2
6. Tom-Tom (San Andres)
7. Chaves, NM
8. 11.0 million cubic feet
9. November 13, 1979
10. Natural Gas Pl Co of America

1. 80-06328
2. 30-005-20676-0000
3. 103 000 000
4. Flag-Redfern Oil Company
5. Southard A No. 1
6. Tom-Tom (San Andres)
7. Chaves, NM
8. 16.4 million cubic feet
9. November 13, 1979
10. Natural Gas Pl Co of America

1. 80-06329
2. 30-005-30660-0000
3. 103 000 000
4. Flag-Redfern Oil Company
5. Southard 26 No. 3
6. Tom-Tom (San Andres)
7. Chaves, NM
8. 16.4 million cubic feet
9. November 13, 1979
10. Natural Gas Pl Co of America

1. 80-06330
2. 30-005-20675-0000
3. 103 000 000
4. Flag-Redfern Oil Company
5. Southard 26 No. 4
6. Tom-Tom (San Andres)
7. Chaves, NM
8. 9.1 million cubic feet
9. November 13, 1979
10. Natural Gas Pl Co of America

1. 80-06331
2. 30-015-22600-0000
3. 103 000 000
4. Yates Petroleum Corporation
5. Johnson Jt Com No. 1
6. Wildcat Cisco
7. Eddy, NM
8. .0 million cubic feet
9. November 13, 1979
10. Transwestern Pipeline Co.
1. 80-06332
2. 30-005-20569-0000

3. 103 000 000
4. Flag-Redfern Oil Company
5. Southard 26 No. 1
6. Tom-Tom (San Andres)
7. Chaves, NM
8. 7.3 million cubic feet
9. November 13, 1979
10. Natural Gas Pl Co of America
1. 80-06333
2. 30-025-26166-0000
3. 103 000 000
4. John S. Goodrich
5. Amerada State No. 2
6. Bagley Penn North
7. Lea, NM
8. 50.0 million cubic feet
9. November 13, 1979
10. Warren Petroleum Co.
1. 80-06334
2. 30-025-26233-0000
3. 103 000 000
4. Phillips Petroleum Company
5. East Vacuum GB/SA TR 3456 No. 005
6. Vacuum BB/SA
7. Lea, NM
8. 59.0 million cubic feet
9. November 13, 1979
10. El Paso Natural Gas Company
1. 80-06335
2. 30-025-26319-0000
3. 103 000 000
4. Lewis B Burleson Inc.
5. Horner No. 3
6. Jalmat
7. Lea, NM
8. 75.0 million cubic feet
9. November 13, 1979
10. El Paso Natural Gas Company
1. 80-06336
2. 30-015-22968-0000
3. 103 000 000
4. Sol West III
5. Turkey Track Com. No. 1
6. Undes N Turkey Track (Morrow Gas)
7. Eddy, NM
8. 900.0 million cubic feet
9. November 13, 1979
10. El Paso Natural Gas Company
1. 80-06337
2. 30-015-22984-0000
3. 103 000 000
4. Southland Royalty Company
5. State 30 Comm No. 1
6. Angell Ranch
7. Eddy, NM
8. 150.0 million cubic feet
9. November 13, 1979
10. El Paso Natural Gas Company
1. 80-06338
2. 30-005-20569-0000
3. 103 000 000
4. Flag-Redfern Oil Company
5. Southard 26 No. 2
6. Tom-Tom (San Andres)
7. Chaves, NM
8. 12.8 million cubic feet
9. November 13, 1979
10. Natural Gas Pl Co of America
1. 80-06339
2. 30-025-26022-0000
3. 102 000 000
4. Morris R Antwell
5. Landlady No. 1
6. N Caprock-Mississippian Pool
7. Lea, NM

8. 274.0 million cubic feet
9. November 13, 1979
10. El Paso Natural Gas Company
North Dakota Geological Survey
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06308/158-NGPA
2. 33-007-00269-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 1-14 Franks Creek St
6. T R Field
7. Billings ND
8. 82.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06309/157-NGPA
2. 33-007-00287-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 4-23 Franks Creek St
6. T R Field
7. Billings ND
8. 49.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06310/156-NGPA
2. 33-007-00285-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 2-23 Franks Creek St
6. T R Field
7. Billings ND
8. 78.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06311/155-NGPA
2. 33-007-00261-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 1-23 Franks Creek St
6. T R Field
7. Billings ND
8. 207.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06312/159-NGPA
2. 33-007-00000-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 2-14 Franks Creek St
6. T R Field
7. Billings ND
8. 108.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06313/160-NGPA
2. 33-007-00274-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 1-21 Franks Creek St
6. T R Field
7. Billings ND
8. 12.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd

1. 80-06314/161-NGPA
2. 33-007-00273-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 1-22 State
6. T R Field
7. Billings ND
8. 25.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06315/162-NGPA
2. 33-007-00280-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 2-22 Mosser
6. T R Field
7. Billings ND
8. 48.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06316/163-NGPA
2. 33-007-00279-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 1-15 State
6. T R Field
7. Billings ND
8. 9.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06317/164-NGPA
2. 33-007-00313-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 2-15 State
6. T R Field
7. Billings ND
8. 7.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06318/165-NGPA
2. 33-007-00302-0000
3. 102 000 000
4. Jerry Chambers-Oil Producer
5. 1-26 Mosser
6. T R Field
7. Billings ND
8. 14.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06319/148-NGPA
2. 33-007-00315-0000
3. 102 000 000
4. Tenneco Oil Company
5. Burlington Northern #3-29
6. Four Eyes
7. Billings ND
8. 79.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06320/149-NGPA
2. 33-007-00230-0000
3. 102 000 000
4. Dixie Oil Company
5. Burlington Northern #1-29 (Duperow)
6. Four Eyes
7. Billings ND
8. 113.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
1. 80-06321/150-NGPA
2. 33-053-00805-0000
3. 102 000 000
4. Tenneco Oil Company
5. Rivet #1

6. Polker Jim
7. McKenzie ND
8. 29.0 million cubic feet
9. November 13, 1979
10.
1. 80-06322/151-NGPA
2. 33-053-00805-0000
3. 103 000 000
4. Tenneco Oil Company
5. Rivet #1
6. Poker Kim
7. McKenzie ND
8. 29.0 million cubic feet
9. November 13, 1979
10.
1. 80-06323/152-NGPA
2. 33-105-00783-0000
3. 102 000 000
4. Tenneco Oil Company
5. Clark 1-5—Red River
6. Missouri Ridge
7. Williams ND
8. 34.0 million cubic feet
9. November 13, 1979
10. Montana-Dakota Utilities Company
1. 80-06324/153-NGPA
2. 33-105-00783-0000
3. 102 000 000
4. Tenneco Oil Company
5. Clark 1-5—Stonewall
6. Missouri Ridge
7. Williams ND
8. 45.0 million cubic feet
9. November 13, 1979
10. Montana-Dakota Utilities Company
1. 80-06325/154-NGPA
2. 33-007-00230-0000
3. 102 000 000
4. Tenneco Oil Company
5. Burlington Northern #1-29 (Red River)
6. Four Eyes
7. Billings ND
8. 294.0 million cubic feet
9. November 13, 1979
10. Western Gas Processors Ltd
Tennessee Oil and Gas Board, Division of Geology
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06027/A-8
2. 41-151-20125-0000
3. 102 000 000
4. Dixie Oil Company
5. C L Criscillis #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06028/A-10
2. 41-151-20148-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone #3
6. Low Gap-Reuben Hollow
7. Scott TN

8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06029/A-11
2. 41-151-20135-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone #2 Permit No 1248
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06030/A-12
2. 41-151-20338-0000
3. 102 000 000
4. Dixie Oil Company
5. Fred Walker #3
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06031/A-13
2. 41-151-20316-0000
3. 102 000 000
4. Dixie Oil Company
5. Criscillis #2
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06032/A-14
2. 41-151-20324-0000
3. 102 000 000
4. Dixie Oil Company
5. Fred Walker #2
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06033/A-15
2. 41-151-20316-0000
3. 102 000 000
4. Dixie Oil Company
5. Fred Walker #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06034/A-16
2. 41-151-20276-0000
3. 102 000 000
4. Dixie Oil Company
5. Bowling Carson #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06035/A-17
2. 41-151-20270-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone-Bowling #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06036/A-18

2. 41-151-20263-0000
3. 102 000 000
4. Dixie Oil Company
5. Bowling-Brimstone et al #1
6. Low Gap-Reuben Hollow
7. Scott
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-060037/A-19
2. 41-151-20252-0000
3. 102 000 000
4. Dixie Oil Company
5. R Henry Bowling #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-06038/A-20
2. 41-151-20201-0000
3. 102 000 000
4. Dixie Oil Company
5. Bowling-Radseck-Burress #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. 0 million cubic feet
9. November 9, 1979
10.
1. 80-060039/A-50
2. 41-133-20045-0000
3. 102 000 000
4. Energy Resource Corp
5. W Mansell & E Fleming Unit #1
6. Flat Creek
7. Overton TN
8. 10.9 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas
1. 80-060040/A-51
2. 41-133-20048-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. James Meadows #1 Permit #1948
6. Flat Creek
7. Overton TN
8. 11.6 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas
1. 80-06041/A-52
2. 41-133-20047-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. D Dailey et al #1 Permit #1947
6. Flat Creek
7. Overton TN
8. 103.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas
1. 80-06042/A-53
2. 41-133-20046-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. Carl Gilpatrick #1 Permit #1932
6. Flat Creek
7. Overton TN
8. 123.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas
1. 80-06043/A-54
2. 41-133-20053-0000

3. 102 000 000 denied
4. Energy Resource Corp
5. Bob Upchurch #4 Permit #1981
6. Flat Creek
7. Overton TN
8. 149.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06044/A-55
2. 41-133-200-0000
3. 102 000 000 denied
4. Energy Resource Corporation
5. Ed Fleming #2 Permit #1884
6. Flat Creek
7. Overton TN
8. 162.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-0604556/A-
2. 41-133-20027-0000
3. 102 000 000 denied
4. Energy Resource Corporation
5. W E Smith #1 Permit #1699
6. Flat Creek
7. Overton TN
8. 344.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06046/A-57
2. 41-133-20038-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. Bob Upchurch 1 Permit #1842
6. Flat Creek
7. Overton TN
8. 44.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06047/A-58
2. 41-133-20049-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. Bob Upchurch #3 Permit #1949
6. Flat Creek
7. Overton TN
8. 45.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06048/A-59
2. 41-133-20037-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. W E Smith #3 Permit #1837
6. Flat Creek
7. Overton TN
8. 60.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06049/A-60
2. 41-133-20031-0000
3. 102 000 000 denied
4. Energy Resource Corp
5.
6. Flat Creek
7. Overton TN
8. 162.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06050/A-61
2. 41-133-20051-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. Wells Thomas #1 Permit #1140
6. Flat Creek
7. Overton TN
8. 22.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06051/A-62
2. 41-133-20055-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. Nell Ogletree #1 Permit #2028
6. Flat Creek
7. Overton TN
8. 3.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06052/A-63
2. 41-133-20052-0000
3. 102 000 000 denied
4. Energy Resource Corporation
5. Carl Gilpatrick #2 Permit #1978
6. Flat Creek
7. Overton TN
8. 30.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06053/A-64
2. 41-133-20044-0000
3. 102 000 000 denied
4. Energy Resource Corp
5. Bob Upchurch #2 Permit #1899
6. Flat Creek
7. Overton TN
8. 45.0 million cubic feet
9. November 9, 1979
10. City of Livingston, East Tennessee Natural Gas

1. 80-06054/A-65
2. 41-133-20041-0000
3. 102 000 000 denied
4. Energy Resource Corporation
5. W E Smith #4 Permit #1869
6. Flat Creek
7. Overton TN
8. 75.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas, City of Livingston TN

1. 80-06055/A-66
2. 41-133-20040-0000
3. 102 000 000 denied
4. Energy Resource Corporation
5. Ed Fleming #1 Permit #1868
6. Flat Creek
7. Overton TN
8. 30.0 million cubic feet
9. November 9, 1979
10. City of Livingston East Tennessee Natural Gas

1. 80-06056/A-67
2. 41-133-20050-0000
3. 102 000 000 denied
4. Energy Resource Corporation
5. Permit No 1959
6. Flat Creek
7. Overton TN
8. 30.0 million cubic feet
9. November 9, 1979

10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06057/A-68
2. 41-133-20043-0000
3. 102 000 000 denied
4. Energy Resource Corporation
5. Hubert Pigg #1 Permit #1885
6. Flat Creek
7. Overton TN
8. 45.0 million cubic feet
9. November 9, 1979
10. City of Livingston TN, East Tennessee Natural Gas

1. 80-06058/A-69
2. 41-129-20094-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc Energy Resource Corporation
5. Needham Et Al Unit #1
6. Unnamed
7. Morgan TN
8. 36.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06059/A-70
2. 41-129-20299-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Burghardt #1
6. Unnamed
7. Morgan TN
8. 18.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06060/A-71
2. 41-129-20119-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Melton #1A
6. Unnamed
7. Morgan TN
8. 36.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06061/A-74
2. 41-129-20111-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Plateau-Aytes Unit #1
6. Frankfort Ne
7. Morgan TN
8. 15.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06062/A-110
2. 41-133-20005-0000
3. 102 000 000
4. Tartan Oil Company
5. Bob Upchurch #1 Permit #640
6. Flat Creek
7. Overton TN
8. 21.5 million cubic feet
9. November 9, 1979
10. Energy Resource Corporation

1. 80-06063/A-28
2. 41-129-20048-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Plateau Prop #1 (Harrison)
6. Frankfort Ne
7. Morgan TN
8. 15.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06064/A-29

2. 41-129-10043-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Plateau Prop #2A (Markham)
6. Frankfort Ne
7. Morgan TN
8. 10.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06065/A-30
2. 41-129-10042-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Plateau Prop #2 (Markham)
6. Frankfort Ne
7. Morgan TN
8. 10.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06066/A-76
2. 41-129-10038-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. O Cole #1
6. Douglas Branch
7. Morgan TN
8. 1 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06067/A-78
2. 41-129-10039-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. J Bye #2
6. Douglas Branch
7. Morgan TN
8. 5 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06068/A-79
2. 41-129-20091-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Plateau Prop #2 (Harrison)
6. Frankfort Ne
7. Morgan TN
8. 15.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06069/A-80
2. 41-129-20039-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. L Duncan #1
6. Douglas Branch
7. Morgan TN
8. 7.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06070/A-81
2. 41-129-10041-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. J D Mize #1
6. Frankfort NE
7. Morgan TN
8. 7.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06071/A-82
2. 41-129-10033-0000
3. 102 000 000 Denied

4. Cumberland Oil Producing Co Inc
5. A Bigoness et al Unit #1
6. Douglas Branch
7. Morgan TN
8. 3.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06072/A-83
2. 41-129-00084-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. J Bye #1
6. Douglas Branch
7. Morgan TN
8. 5 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06073/A-84
2. 41-129-10034-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. S Luchin #1
6. Douglas Branch
7. Morgan TN
8. 5 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06074/A-85
2. 41-129-20104-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. M Branstetter #1
6. Douglas Branch
7. Morgan TN
8. 10.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06075/A-88
2. 41-129-20290-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. W W Ivey #1
6. Douglas Branch
7. Morgan TN
8. 5 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06076/A-89
2. 41-129-20131-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Plateau Prop #3 (Harrison)
6. Frankfort NE
7. Morgan TN
8. 15.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06077/A-90
2. 41-129-20120-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. E Howard #1
6. Douglas Branch
7. Morgan TN
8. 16.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06078/A-91
2. 41-129-10035-0000

3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. S Luchin #2
6. Douglas Branch
7. Morgan TN
8. 3.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06079/A-93
2. 41-129-20190-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. E Scott #1
6. Douglas Branch
7. Morgan TN
8. 10.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co Uniroyal Inc Eaton Corp

1. 80-06080/A-35-R1
2. 41-129-20314-0000
3. 108 000 000
4. Cumberland Oil Producing Co Inc
5. G Barnett #1
6. Douglas Branch
7. Morgan TN
8. 6.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06081/A-98-R1
2. 41-129-20344-0000
3. 103 000 000
4. Universal Land & Mineral Leasing Co
5. David Summer #2
6. Sunbright Gas Field
7. Morgan TN
8. 36.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp

1. 80-06082/A-100-R1
2. 41-129-20128-0000
3. 108 000 000
4. Universal Land & Mineral Leasing Co
5. William Summer #1
6. Sunbright Gas Field
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp

1. 80-06083/A-106-R1
2. 41-129-20258-0000
3. 108 000 000
4. Universal Land & Mineral Leasing Co
5. Stringfield #1
6. Sunbright Gas Field
7. Morgan County TN
8. 20.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp

1. 80-06084/A-109-R1
2. 41-129-20399-0000
3. 103 000 000
4. Universal Land & Mineral Leasing Co
5. David Summer #3
6. Sunbright
7. Morgan TN
8. 18.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp

1. 80-06085/A-111
2. 41-129-20007-0000
3. 103 000 000 Denied
4. Tartan Oil Company
5. Gus Young #1

8. Union Hill Southwest
7. Morgan TN
8. 3.6 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District
1. 80-06086/A-111-R1
2. 41-129-20007-0000
3. 108 000 000
4. Tartan Oil Company
5. Gus Young #1
6. Union Hill
7. Morgan TN
8. 4.0 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District
1. 80-06087/A-112
2. 41-129-20276-0000
3. 102 000 000
4. Tartan Oil Company
5. Conway Johnson #1-C Permit #1150
6. Little Clear Creek Northeast
7. Morgan TN
8. 18.0 million cubic feet
9. November 9, 1973
10.
1. 80-06088/A-113
2. 41-129-20330-0000
3. 102 000 000
4. Tartan Oil Company
5. Langford-Hartin No. 1 Permit No. 1596
6. Sunbright
7. Morgan, TN
8. 20.0 million cubic feet
9. November 9, 1979
10.
1. 80-06089/A-114
2. 41-129-20369-0000
3. 102 000 000
4. Tartan Oil Company
5. Robt D. Parten et al Unit No. 1
6. Sunbright
7. Morgan, TN
8. 20.0 million cubic feet
9. November 9, 1979
10.
1. 80-06090/A-115
2. 41-129-20286-0000
3. 102 000 000
4. Tartan Oil Company
5. Conway Johnson No. 2-C Permit No. 1219
6. Little Clear Creek Northeast
7. Morgan, TN
8. 18.0 million cubic feet
9. November 9, 1979
10.
1. 80-06091/A-116
2. 41-049-20280-0000
3. 103 000 000
4. S. Thomas Burnett
5. Elbert W. Wilson No. 3
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06092/A-117
2. 41-049-20267-0000
3. 103 000 000
4. S. Thomas Burnett
5. Elbert W. Wilson No. 2
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979

10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06093/A-118
2. 41-049-20266-0000
3. 103 000 000
4. S. Thomas Burnett
5. Elbert W. Wilson No. 1
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06094/A-119
2. 41-049-20200-0000
3. 102 000 000
4. S. Thomas Burnett
5. Gary Rodgers No. 1
6. Unnamed
7. Fentress, TN
8. 4.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co.
1. 80-06095/A-120
2. 41-049-20195-0000
3. 102 000 000
4. S. T. Burnett
5. Emery-Walker No. 1
6. Unnamed
7. Fentress, TN
8. 2.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co.
1. 80-06096/A-121
2. 41-049-20313-0000
3. 108 000 000
4. S. Thomas Burnett
5. Bowden Williams Unit No. 1
6. Big Branch (Dev.)
7. Fentress, TN
8. 2.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06097/A-122
2. 41-049-20203-0000
3. 108 000 000
4. S. Thomas Burnett
5. Gernt No. 2
6. Big Branch (Dev.)
7. Fentress, TN
8. 4.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06098/A-123
2. 41-049-20199-0000
3. 108 000 000
4. S. Thomas Burnett
5. Gernt No. 1
6. Big Branch (Dev.)
7. Fentress, TN
8. 4.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06099/A-124
2. 41-049-20193-0000
3. 108 000 000
4. S. Thomas Burnett
5. Cookeville Production Credit No. 2
6. Big Branch (Dev.)
7. Fentress, TN
8. 6.0 million cubic feet
9. November 9, 1979

10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06100/A-125
2. 41-049-20120-0000
3. 108 000 000
4. S. Thomas Burnett
5. Cookeville Production Credit No. 1
6. Big Branch (Dev.)
7. Fentress, TN
8. 3.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06101/A-126
2. 41-049-20118-0000
3. 108 000 000
4. S. Thomas Burnett
5. Arnold Colditz et al No. 2
6. Big Branch (Dev.)
7. Fentress, TN
8. 7.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06102/A-127
2. 41-049-20105-0000
3. 108 000 000
4. S. Thomas Burnett
5. Arnold Colditz No. 1
6. Big Branch (Dev.)
7. Fentress, TN
8. 7.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06103/A-128
2. 41-049-20218-0000
3. 108 000 000
4. S. Thomas Burnett
5. Guy Williams No. 5
6. Big Branch (Dev.)
7. Fentress, TN
8. 7.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06104/A-129
2. 41-049-20116-0000
3. 108 000 000
4. S. Thomas Burnett
5. Guy Williams No. 4
6. Big Branch (Dev.)
7. Fentress, TN
8. 7.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06105/A-130
2. 41-049-20101-0000
3. 108 000 000
4. S. Thomas Burnett
5. Guy Williams No. 2
6. Big Branch (Dev.)
7. Fentress, TN
8. 7.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06106/A-131
2. 41-049-20100-0000
3. 108 000 000
4. S. Thomas Burnett
5. Guy Williams No. 1
6. Big Branch (Dev.)
7. Fentress, TN

8. 7.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06107/A-132
2. 41-049-20255-0000
3. 103 000 000
4. S. Thomas Burnett
5. Troy Conatser No. 8
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06108/A-133
2. 41-049-20172-0000
3. 108 000 000
4. S. Thomas Burnett
5. Troy Conatser No. 7
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06109/A-134
2. 41-049-20162-0000
3. 108 000 000
4. S. Thomas Burnett
5. Troy Conatser No. 5
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06110/A-135
2. 41-049-20156-0000
3. 108 000 000
4. S. Thomas Burnett
5. Troy Conatser No. 4
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06111/A-136
2. 41-049-20147-0000
3. 108 000 000
4. S. Thomas Burnett
5. Troy Conatser No. 3
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06112/A-137
2. 41-049-20141-0000
3. 108 000 000
4. S. Thomas Burnett
5. Troy Conatser No. 2
6. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06113/A-138
2. 41-049-20134-0000
3. 108 000 000
4. S. Thomas Burnett
5. Troy Conatser No. 1

8. Big Branch (Dev.)
7. Fentress, TN
8. 8.0 million cubic feet
9. November 9, 1979
10. City of Jamestown, TN. East Tennessee
Natural Gas Co.
1. 80-06114/A-139
2. 41-049-20293-0000
3. 102 000 000
4. Dixie Oil Company
5. Bruno Gernt #3
6. Unnamed
7. Fentress TN
8. 36.5 million cubic feet
9. November 9, 1979
10.
1. 80-06115/A-140
2. 41-049-20291-0000
3. 102 000 000
4. Dixie Oil Company
5. Bruno Gernt #2
6. Unnamed Field
7. Fentress TN
8. 56.5 million cubic feet
9. November 9, 1979
10.
1. 80-06116/A-141
2. 41-049-20289-0000
3. 102 000 000
4. Dixie Oil Company
5. Bruno Gernt #1
6. Unnamed Field
7. Fentress TN
8. 134.8 million cubic feet
9. November 9, 1979
10.
1. 80-06117/A-142
2. 41-151-20353-0000
3. 102 000 000
4. Dixie Oil Company
5. Estel Bond et al #1
6. Unnamed Field
7. Scott TN
8. 1.6 million cubic feet
9. November 9, 1979
10.
1. 80-06118/A-143
2. 41-049-20233-0000
3. 102 000 000
4. Dixie Oil Company
5. Hardeman-Williams-Gernt #1
6. Unnamed Field
7. Fentress TN
8. 12.4 million cubic feet
9. November 9, 1979
10.
1. 80-06119/A-144
2. 41-129-20130-0000
3. 102 000 000
4. Dixie Oil Company
5. Hiwassee Land Company #6
6. Rugby
7. Morgan TN
8. 142.1 million cubic feet
9. November 9, 1979
10.
1. 80-06120/A-145
2. 41-129-20428-0000
3. 102 000 000
4. Dixie Oil Company
5. Hiwassee Land Company #5
6. Rugby
7. Morgan TN
8. 9.0 million cubic feet
9. November 9, 1979

10.
1. 80-06121/A-146
2. 41-129-20421-0000
3. 102 000 000
4. Dixie Oil Company
5. Hiwassee Land Company #3
6. Rugby
7. Morgan TN
8. 4 million cubic feet
9. November 9, 1979
10.
1. 80-06122/A-147
2. 41-129-20414-0000
3. 102 000 000
4. Dixie Oil Company
5. Hiwassee Land Company #2
6. Rugby
7. Morgan TN
8. 4 million cubic feet
9. November 9, 1979
10.
1. 80-06123/A-148
2. 41-151-20333-0000
3. 102 000 000
4. Dixie Oil Company
5. Sam Keener III #1
6. Unnamed Field
7. Scott TN
8. 4.5 million cubic feet
9. November 9, 1979
10.
1. 80-06124/A-149
2. 41-151-20119-0000
3. 102 000 000
4. Dixie Oil Company
5. Payne-Baker #1
6. Unnamed Field
7. Scott TN
8. 1.6 million cubic feet
9. November 9, 1979
10.
1. 80-06125/A-150
2. 41-151-20205-0000
3. 102 000 000
4. Dixie Oil Company
5. Young-Stevenson Unit #1
6. Glenmary
7. Scott TN
8. 1.3 million cubic feet
9. November 9, 1979
10.
1. 80-06126/A-151
2. 41-151-20320-0000
3. 102 000 000
4. Dixie Oil Company
5. Jimmie Young #2
6. Glenmary
7. Scott TN
8. 32.9 million cubic feet
9. November 9, 1979
10.
1. 80-06127/A-152
2. 41-151-20416-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone #15
6. Low Gap-Reuben Hollow
7. Scott TN
8. 60.8 million cubic feet
9. November 9, 1979
10.
1. 80-06128/A-153
2. 41-151-20403-0000
3. 102 000 000

4. Dixie Oil Company
5. Brimstone #13
6. Low Gap-Reuben Hollow
7. Scott TN
8. 1.8 million cubic feet
9. November 9, 1979
10.
1. 80-06129/A-154
2. 41-151-20394-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone Company #12
6. Low Gap-Reuben Hollow
7. Scott TN
8. 1.8 million cubic feet
9. November 9, 1979
10.
1. 80-06130/A-155
2. 41-151-20390-0000
3. 102 000 000
4. Dixie Oil Company
5. The Brimstone Company #11
6. Low Gap-Reuben Hollow
7. Scott TN
8. 3.6 million cubic feet
9. November 9, 1979
10.
1. 80-06131/A-156
2. 41-151-20389-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone #10
6. Low Gap-Reuben Hollow
7. Scott TN
8. 13.5 million cubic feet
9. November 9, 1979
10.
1. 80-06132/A-157
2. 41-151-20373-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone #9
6. Low Gap-Reuben Hollow
7. Scott TN
8. 9.0 million cubic feet
9. November 9, 1979
10.
1. 80-06133/A-158
2. 41-151-20382-0000
3. 102 000 000
4. Dixie Oil Company
5. Brimstone #2
6. Low Gap-Reuben Hollow
7. Scott TN
8. .0 million cubic feet
9. November 9, 1979
10.
1. 80-06134/A-159
2. 41-151-20364-0000
3. 102 000 000
4. Dixie Oil Company
5. Flora Bowling et al #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. .4 million cubic feet
9. November 9, 1979
10.
1. 80-06135/A-160
2. 41-151-20215-0000
3. 102 000 000
4. Dixie Oil Company
5. Criscillis-Walker-Burress #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. .8 million cubic feet

9. November 9, 1979
10.
1. 80-06136/A-161
2. 41-151-20343-0000
3. 102 000 000
4. Dixie Oil Company
5. Draughn-Honey Creek #1
6. Hurricane Ridge
7. Scott TN
8. 34.0 million cubic feet
9. November 9, 1979
10.
1. 80-06137/A-162
2. 41-151-20342-0000
3. 102 000 000
4. Dixie Oil Company
5. Lawrence Draughn #1
6. Hurricane Ridge
7. Scott TN
8. .0 million cubic feet
9. November 9, 1979
10.
1. 80-06138/A-164
2. 41-151-20364-0000
3. 102 000 000
4. Dixie Oil Company
5. J F Baker-Brimstone #1
6. Low Gap-Reuben Hollow
7. Scott TN
8. 26.7 million cubic feet
9. November 9, 1979
10.
1. 80-06139/A-165
2. 41-129-20432-0000
3. 102 000 000
4. Dixie Oil Company
5. Hiwassee et al #1
6. Rugby
7. Morgan TN
8. 1.4 million cubic feet
9. November 9, 1979
10.
1. 80-06140/A-166
2. 41-129-20425-0000
3. 102 000 000
4. Dixie Oil Company
5. Hiwassee Land Company #4
6. Rugby
7. Morgan TN
8. 47.0 million cubic feet
9. November 9, 1979
10.
1. 80-06141/A-167
2. 41-151-20335-0000
3. 102 000 000
4. Dixie Oil Company
5. Keener-Baker #1
6.
7. Scott TN
8. 32.4 million cubic feet
9. November 9, 1979
10.
1. 80-06142/A-168
2. 41-151-20303-0000
3. 102 000 000
4. Dixie Oil Company
5. Jane L Stevenson #1
6. Glenmary
7. Scott TN
8. 72.0 million cubic feet
9. November 9, 1979
10.
1. 80-06143/A-169
2. 41-129-20189-0000

3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Lenore C Carter #1
6. Douglas Branch
7. Morgan TN
8. 5.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06144/A-170
2. 41-129-20080-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Charley Cooper #1
6. Deer Lodge North
7. Morgan TN
8. 5.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06145/A-171
2. 41-129-20426-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Taylor Adkins #1
6. Glades East
7. Morgan TN
8. 70.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06146/A-172
2. 41-129-20074-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Hiwassee Land Co #2
6. Frankfort NE
7. Morgan TN
8. 9.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06147/A-173
2. 41-129-20271-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. P L Branstetter #1
6. Douglas Branch
7. Morgan TN
8. 2.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06148/A-174
2. 41-129-20024-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Hiwassee Land Co #1
6. Frankfort NE
7. Morgan TN
8. 4.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06149/A-175
2. 41-129-20302-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Burke Adkins #1
6. Douglas Branch
7. Morgan TN
8. 4.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06150/A-176
2. 41-129-20412-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Phillips Heirs #1
6. Glades East
7. Morgan TN

8. 73.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06151/A-177
2. 41-129-20015-0000
3. 102 000 000 Denied
4. Cumberland Oil Producing Co Inc
5. Domino-Pelc #1
6. Douglas Branch
7. Morgan TN
8. 4.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06152/A-178
2. 41-129-20397-0000
3. 103 000 000
4. Universal Land & Mineral Leasing Co
5. Andes #1 Rex Andes Etal #1
6. Sunbright
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp
1. 80-06153/A-179
2. 41-129-20396-0000
3. 103 000 000
4. Universal Land and Mineral Leasing
5. W E Monday Estate #1
6. Sunbright Gas Field
7. Morgan TN
8. 18.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp
1. 80-06154/A-180
2. 41-129-20438-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. S Luchin et al Unit #1
6. Douglas Branch
7. Morgan TN
8. 550.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06155/A-181
2. 41-129-20163-0000
3. 102 000 000 Denied
4. Petroleum Development Corporation
5. Burress-Stewart Unit #1—#1299
6. Low Gap-Reuben Hollow
7. Scott TN
8. 60.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN
1. 80-06156/A-181-R1
2. 41-151-20163-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Burress-Stewart Unit #1—#1299
6. Low Gap-Reuben Hollow
7. Scott TN
8. 60.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN
1. 80-06157/A-182
2. 41-129-20354-0000
3. 102 000 000 Denied
4. Petroleum Development Corp
5. Branstetter-Branstetter #1
6. Douglas Branch
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06158/A-182-R1

2. 41-129-20354-0000
3. 102 000 000
4. Petroleum Development Corp
5. Branstetter-Branstetter #1
6. Douglas Branch
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06159/A-183
2. 41-129-20347-0000
3. 108 000 000 Denied
4. Petroleum Development Corp
5. Lindsey-Steele et al #1
6. Douglas Branch
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06160/A-184
2. 41-049-20187-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Alex Stephens Heirs #1
6. Glenobey
7. Fentress TN
8. 3.7 million cubic feet
9. November 9, 1979
10.
1. 80-06161/A-185
2. 41-049-20210-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Shelly V Bowden #1
6. Glenobey
7. Fentress TN
8. 36.5 million cubic feet
9. November 9, 1979
10.
1. 80-06162/A-186
2. 41-049-20185-0000
3. 102 000 000
4. Tennessee Drilling Company
5. John Choate Heirs #1
6. Glenobey
7. Fentress TN
8. 22.3 million cubic feet
9. November 9, 1979
10.
1. 80-06163/A-187
2. 41-049-20238-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Everett Evans #2
6. Glenobey
7. Fentress TN
8. 41.1 million cubic feet
9. November 9, 1979
10.
1. 80-06164/A-188
2. 41-049-20190-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Wilburn Tipton #1
6. Glenobey
7. Fentress TN
8. 34.5 million cubic feet
9. November 9, 1979
10.
1. 80-06165/A-189
2. 41-049-20174-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Arthur Stephens #1
6. Glenobey

7. Fentress TN
8. 38.3 million cubic feet
9. November 9, 1979
10.
1. 80-06166/A-190
2. 41-049-20216-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Danny Smith #1
6. Glenobey
7. Fentress TN
8. 42.0 million cubic feet
9. November 9, 1979
10.
1. 80-06167/A-191
2. 41-049-20180-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Everett Evans #1
6. Glenobey
7. Fentress TN
8. 31.9 million cubic feet
9. November 9, 1979
10.
1. 80-06168/A-192
2. 41-049-20276-0000
3. 102 000 000
4. Tennessee Energy Corporation
5. Barna Youngs #1
6. Glenobey
7. Fentress TN
8. 14.4 million cubic feet
9. November 9, 1979
10.
1. 80-06169/A-193
2. 41-049-20273-0000
3. 102 000 000
4. Tennessee Energy Corporation
5. Payne Land Co #1
6.
7. Fentress TN
8. 29.9 million cubic feet
9. November 9, 1979
10.
1. 80-06170/A-194
2. 41-129-20062-0000
3. 108 000 000
4. Cumberland Oil Producing Co Inc
5. Louis Howard #1
6. Douglas Branch
7. Morgan TN
8. 5.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06171/A-195
2. 41-129-20419-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Plateau Properties #4
6. Douglas Branch
7. Morgan TN
8. 18.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06172/A-196
2. 41-151-20211-0000
3. 102 000 000
4. Tartan Oil Company
5. Oneida Wood Industries #1 Per #1384
6. Huntsville North
7. Scott TN
8. 4.0 million cubic feet
9. November 9, 1979
10.
1. 80-06173/A-197

2. 41-151-20229-0000
3. 102 000 000
4. Tartan Oil Company
5. Oneida Wood Industries #2-(Permit #1)
6. Huntsville North
7. Scott TN
8. 10.0 million cubic feet
9. November 9, 1979
10.

1. 80-06174/A-198
2. 41-049-20114-0000
3. 102 000 000 denied
4. S Thomas Burnett
5. Elbert Reed #1
6. Roslin South
7. Fentress TN
8. 11.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co

1. 80-06175/A-202
2. 41-151-20224-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Clayton Newport #6-#1408
6. Low Gap-Reuben Hollow
7. Scott TN
8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN

1. 80-06176/A-203
2. 41-151-20209-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Sexton-Newport Unit #1-#1379
6. Low Gap-Reuben Hollow
7. Scott TN
8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN

1. 80-06177/A-204
2. 41-151-20304-0000
3. 102 000 000
4. Petroleum Development Corp
5. Mamie Pemberton #2-#1615
6. Low Gap-Reuben Hollow
7. Scott TN
8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN

1. 80-06178/A-205
2. 41-151-20267-0000
3. 102 000 000
4. Petroleum Development Corp
5. Mamie Pemberton #1-#1570
6. Low Gap-Reuben Hollow
7. Scott TN
8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN

1. 80-06179/A-206
2. 41-141-20334-0000
3. 102 000 000 denied
4. Petroleum Development Corp
5. Burress-Stewart Unit #3-#1734
6. Low Gap-Reuben Hollow
7. Scott TN
8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN

1. 80-06180/A-207
2. 41-151-20173-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Brimstone #3-#1311
6. Low Gap-Reuben Hollow

7. Scott TN
8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN
1. 80-06181/A-208
2. 41-151-20129-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Brimstone Company #1-#1237 amended
6. Low Gap-Reuben Hollow
7. Scott TN

8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN
1. 80-06182/A-209
2. 41-151-20172-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Arzo Carson #1-#1310
6. Low Gap-Reuben Hollow
7. Scott TN

8. 146.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp of TN
1. 80-06183/A-214
2. 41-133-20052-0000
3. 102 000 000
4. Energy Resource Corporation
5. Carl Gilpatrick #2 Permit #1978
6. Flat Creek
7. Overton TN

8. 30.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Natural Gas
1. 80-06184/A-216
2. 41-133-20051-0000
3. 102 000 000
4. Energy Resource Corporation
5. Wells Thomas #1 Permit #1967
6. Flat Creek
7. Overton TN

8. 22.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Natural Gas Co
1. 80-06185/A-217
2. 41-133-20048-0000
3. 102 000 000
4. Energy Resource Corporation
5. James Meadows #1 Permit #1948
6. Flat Creek
7. Overton TN

8. 116.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tennessee Natural Gas
1. 80-06186/A-219
2. 41-133-20045-0000
3. 102 000 000
4. Energy Resource Corporation
5. Wesley Mansell & Edward Fleming Unit
6. Flat Creek
7. Overton TN

8. 110.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tennessee Natural Gas
1. 80-06187/A-220
2. 41-133-20047-0000
3. 102 000 000
4. Energy Resource Corporation
5. D Dailey Etal Unit #1 Permit #1947
6. Flat Creek
7. Overton TN

8. 103.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Nat Gas

1. 80-06188/A-221
2. 41-133-20053-0000
3. 102 000 000
4. Energy Resource Corporation
5. Bob Upchurch #4 Permit #1981
6. Flat Creek
7. Overton TN

8. 149.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Natural Gas
1. 80-06189/A-222
2. 41-133-20049-0000
3. 102 000 000
4. Energy Resource Corporation
5. Bob Upchurch #3 Permit 1949
6. Flat Creek
7. Overton TN

8. 45.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Natural Gas
1. 80-06190/A-223
2. 41-133-20050-0000
3. 102 000 000
4. Energy Resource Corporation
5. BFN Vaughn Etal Unit #1
6. Flat Creek
7. Overton TN

8. 30.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Natural Gas
1. 80-06191/A-224
2. 41-133-20043-0000
3. 102 000 000
4. Energy Resource Corporation
5. Hubert Pigg #1 Permit #1885
6. Flat Creek
7. Overton TN

8. 45.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tennessee Natural Gas
1. 80-06192/A-225
2. 41-133-20040-0000
3. 102 000 000
4. Energy Resource Corporation
5. Ed Fleming #1 Permit #1868
6. Flat Creek
7. Overton TN

8. 30.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Natural Gas
1. 80-06193/A-226
2. 41-133-20041-0000
3. 102 000 000
4. Energy Resource Corporation
5. W E Smith #4 Permit #1869
6. Flat Creek
7. Overton TN

8. 75.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn East Tenn Natural Gas
1. 80-06194/A-227
2. 41-133-20044-0000
3. 102 000 000
4. Energy Resource Corporation
5. Bob Upchurch #2 Permit #1899

6. Flat Creek
7. Overton TN

6. Flat Creek
7. Overton TN
8. 45.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn
1. 80-06195/A-228
2. 41-133-20038-0000
3. 102 000 000
4. Energy Resource Corporation
5. Bob Upchurch #1 Permit #1842
6. Flat Creek
7. Overton TN

8. 44.0 million cubic feet
9. November 9, 1979
10. Stones River
1. 80-06196/A-229
2. 41-133-20042-0000
3. 102 000 000
4. Energy Resource Corporation
5. Ed Fleming #2 Permit #1884
6. Flat Creek
7. Overton TN

8. 162.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn
1. 80-06197/A-230
2. 41-133-20037-0000
3. 102 000 000
4. Energy Resource Corporation
5. W E Smith #3 Permit 1837
6. Flat Creek
7. Overton TN

8. 60.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn
1. 80-06198/A-231
2. 41-133-20031-0000
3. 102 000 000
4. Energy Resource Corporation
5. W E Smith #2 Permit #1747
6. Flat Creek
7. Overton TN

8. 75.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn
1. 80-06199/A-232
2. 41-133-20027-0000
3. 102 000 000
4. Energy Resource Corporation
5. W E Smith #1 Permit #1699
6. Flat Creek
7. Overton TN

8. 344.0 million cubic feet
9. November 9, 1979
10. City of Livingston Tenn
1. 80-06200/A-233
2. 41-121-20256-0000
3. 103 000 000
4. Maynard Hamby
5. George Babcock #1
6. Glenmark
7. Scott TN

8. 50.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Inc
1. 80-06201/A-234
2. 41-049-20236-0000
3. 102 000 000
4. Tennessee Drilling Company
5. Fred Mullinix #1 Permit #1796
6. Glenobey Field
7. Fentress TN

8. 10.0 million cubic feet
9. November 9, 1979
10.

1. 80-06202/A-235
2. 41-049-20234-0000-
3. 102 000 000
4. Tennessee Drilling Company
5. Will C Peavyhouse #1 Permit #1764
6. Glenobey Field
7. Fentress TN
8. 10.0 million cubic feet
9. November 9, 1979
10.

1. 80-06203/A-236
2. 41-049-20211-0000-
3. 102 000 000
4. Tennessee Drilling Company
5. Austin Choate #1 Permit #1663
6. Glenobey Field
7. Fentress TN
8. 10.0 million cubic feet
9. November 9, 1979
10.

1. 80-06204/A-237
2. 41-049-20254-0000-
3. 102 000 000
4. Tennessee Drilling Company
5. Edd L Smith #1 Permit #1941
6. Glenobey Field
7. Fentress TN
8. .0 million cubic feet
9. November 9, 1979
10.

1. 80-06205/A-238
2. 41-049-20246-0000-
3. 102 000 000
4. Tennessee Drilling Company
5. Frank Mullinix #1 Permit #1855
6. Glenobey Field
7. Fentress TN
8. 10.0 million cubic feet
9. November 9, 1979
10.

1. 80-06206/A-239
2. 41-151-20060-0000-
3. 108 000 000
4. Western Reserves Oil Company
5. Duncan West Unit No 2
6. Hellenwood West
7. Scott TN
8. 3.2 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District

1. 80-06207/A-240
2. 41-151-23010-0000-
3. 108 000 000
4. Western Reserves Oil Company
5. George Ryan No 3
6. Hellenwood West
7. Scott TN
8. 4.2 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District

1. 80-06208/A-241
2. 41-151-10152-0000-
3. 108 000 000
4. Western Reserves Oil Company
5. George Ryan No. 2
6. Hellenwood West
7. Scott TN
8. 4.2 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District

1. 80-06209/A-242
2. 41-151-20245-0000-
3. 108 000 000
4. Western Reserves Oil Company
5. George Ryan No 5

6. Hellenwood West
7. Scott TN
8. 4.2 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District
1. 80-06210/A-243
2. 41-151-10151-0000-
3. 108 000 000
4. Western Reserves Oil Company
5. George Ryan No 1
6. Hellenwood West
7. Scott TN

8. 3.9 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District
1. 80-06211/A-244
2. 41-049-20356-0000-
3. 103 000 000 Denied
4. S Thomas Burnett
5. Whitehead-Wilson Unit #1
6. Big Branch (Dev)
7. Fentress TN

8. 1.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas City of Jamestown TN
1. 80-06212/A-245
2. 41-049-20173-0000-
3. 103 000 000 Denied
4. S Thomas Burnett
5. William C Johnson #1
6.

7. Fentress TN
8. .0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co City of Jamestown TN
1. 80-06213/A-246
2. 41-049-20251-0000-
3. 103 000 000 Denied
4. S Thomas Burnett
5. William C Johnson #2
6.

7. Fentress TN
8. .0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co City of Jamestown TN
1. 80-06214/A-247
2. 41-049-00000-0000-
3. 103 000 000 Denied
4. S Thomas Burnett
5. Rupert Blair Gernt Unit 1
6. Big Branch
7. Fentress TN

8. .0 million cubic feet
9. November 9, 1979
10. City of Jamestown TN East Tennessee Natural Gas Co
1. 80-06215/A-248
2. 41-049-00000-0000-
3. 103 000 000 Denied
4. S Thomas Burnett
5. Rupert Blair-Petelinch-Contrad Blair
6. Big Branch
7. Fentress TN

8. .0 million cubic feet
9. November 9, 1979
10. City of Jamestown TN East Tennessee Natural Gas Co
1. 80-06216/A-249
2. 41-049-00000-0000-
3. 103 000 000 Denied
4. S Thomas Burnett
5. Conrad Blair-Ova Blair Unit #1

8. .0 million cubic feet
9. November 9, 1979
10. City of Jamestown TN East Tennessee Natural Gas Co

6. Big Branch
7. Fentress TN
8. .0 million cubic feet
9. November 9, 1979
10. City of Jamestown TN East Tennessee Natural Gas Co
1. 80-06217/A-250
2. 41-129-20479-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. McGill Et Al #1
6. Glades East
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06218/A-251
2. 41-129-20463-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Dr Bruce R McCampbell #1
6. Glades East
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06219/A-252
2. 41-129-20480-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Roy Duncan-V Needham Unit #1
6. Glades East
7. Morgan TN
8. 20.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06220/A-253
2. 41-151-20146-0000-
3. 102 000 000 Denied
4. Dixie Oil Company
5. Brimstone #3
6. Low Gap-Reuben Hollow
7. Scott TN
8. .0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06221/A-254
2. 41-129-20489-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Bigoness-Cera #2
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06222/A-255
2. 41-129-20494-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. R Taylor #1
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06223/A-256
2. 41-129-20472-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Dobies-Susak-Peltz Unit #1
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979

10. East Tennessee Natural Gas Co
1. 80-06224/A-257
2. 41-129-20449-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. A Branstetter Et Al Unit #1
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06225/A-258
2. 41-129-20442-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. E Olmstead & A Overton #1
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06226/A-259
2. 41-129-20490-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. J Adkins #4
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06227/A-260
2. 41-129-20493-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. C Hopper #1
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06228/A-261
2. 41-129-20495-0000-
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. J Orr #1
6. Douglas Branch
7. Morgan TN
8. 40.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06229/A-262
2. 41-049-20142-0000-
3. 102 000 000
4. Red Feather Gas & Oil Inc
5. Carson Hull #B-4
6. Shirley
7. Fentress TN
8. 365.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas Co
1. 80-06230/A-263
2. 41-049-20135-0000
3. 102 000 000
4. Red Feather Gas & Oil Inc.
5. Carson Hull No. B-3
6. Shirley
7. Fentress, TN
8. 365.0 million cubic feet
9. November 9, 1979
10.
1. 80-06231/A-264
2. 41-049-20037-0000
3. 102 000 000

4. Red Feather Gas & Oil, Inc.
5. Carson Hull No. B-1
6. Shirley
7. Fentress, TN
8. 365.0 million cubic feet
9. November 9, 1979
10.
1. 80-06232/A-265
2. 41-049-20046-0000
3. 102 000 000
4. Red Feather Gas & Oil, Inc.
5. Carson Hull No. B-2
6. Shirley
7. Fentress, TN
8. 365.0 million cubic feet
9. November 9, 1979
10.
1. 80-06233/A-266
2. 41-151-10204-0000
3. 108 000 000
4. Petroleum Operating Co., Inc.
5. J. C. Yancy No. 1
6. Huntsville
7. Scott, TN
8. .5 million cubic feet
9. November 9, 1979
10. Citizens Gas Utility District
1. 80-06234/A-267
2. 41-125-20353-0000
3. 102 000 000
4. Deloy Miller
5. Branstetter Bowmar Kennedy No. 1
6. Sunbright
7. Morgan, TN
8. 73.0 million cubic feet
9. November 9, 1979
10.
1. 80-06235/A-268
2. 41-185-20026-0000
3. 102 000 000
4. James E. McKee
5. Riverbend Farms Inc., No. 1
6. Sparta
7. White, TN
8. 18.3 million cubic feet
9. November 9, 1979
10. Middle Tenn. Nat. Gas Util. Dist.
1. 80-06236/A-269
2. 41-185-20027-0000
3. 102 000 000
4. James E. McKee
5. Riverbend Farms Inc. No. 2
6. Sparta
7. White, TN
8. 18.3 million cubic feet
9. November 9, 1979
10. Middle Tenn. Nat. Gas Utility District
1. 80-06237/A-270
2. 41-185-20033-0000
3. 102 000 000
4. James E. McKee
5. Riverbend Farms Inc., No. 4
6. Sparta
7. White, TN
8. 18.3 million cubic feet
9. November 9, 1979
10. Middle Tenn. Natural Gas Utility District
1. 80-06238/A-271
2. 41-151-20264-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Jasper & James West No. 4—No. 1498
6. Low Gap—Reuben Hollow
7. Scott, TN
8. 3.0 million cubic feet

9. November 9, 1979
10. Intrastate Energy Corp. of TN
1. 80-06239/A-272
2. 41-151-20246-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Jasper & James West No. 3—No. 1467
6. Low Gap—Reuben Hollow
7. Scott, TN
8. 5.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp. of TN
1. 80-06240/A-273
2. 41-151-20266-0000
3. 102 000 000
4. Petroleum Development Corporation
5. West-Newport No. 4 No. 1567
6. Low Gap—Reuben Hollow
7. Scott, TN
8. 5.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp. of Tenn
1. 80-06241/A-274
2. 41-151-20340-0000
3. 102 000 000
4. Petroleum Development Corporation
5. West-Newport Unit No. 5 No. 1763
6. Low Gap—Reuben Hollow
7. Scott, TN
8. 5.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp. of TN
1. 80-06242/A-275
2. 41-151-20190-0000
3. 102 000 000
4. Petroleum Development Corporation
5. West-Newport No. 1—No. 1339
6. Low Gap—Reuben Hollow
7. Scott, TN
8. 5.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp. of TN
1. 80-06243/A-276
2. 41-151-20191-0000
3. 102 000 000
4. Petroleum Development Corporation
5. West-Newport Unit No. 2 No. 1340
6. Low Gap—Reuben Hollow
7. Scott, TN
8. 10.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp. of TN
1. 80-06244/A-277
2. 41-151-20149-0000
3. 102 000 000
4. Petroleum Development Corporation
5. Jasper & James West No. 1—No. 1277
6. Low Gap—Reuben Hollow
7. Scott, TN
8. 3.0 million cubic feet
9. November 9, 1979
10. Intrastate Energy Corp. of TN
1. 80-06342/A-163
2. 41-049-20252-0000
3. 102 000 000
4. Dixie Oil Company
5. Lloyd Tompkins et al No. 1
6. Hurricane Ridge
7. Fentress, TN
8. 41.6 million cubic feet
9. November 9, 1979
10.
1. 80-06343/A-215
2. 41-133-20055-0000

3. 102 000 000
4. Energy Resource Corporation
5. Nell Ogletree No. 1 Permit No. 2028
6. Flat Creek
7. Overton, TN
8. 30.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas City of Livingston, TN
1. 80-06344/A-218
2. 41-133-20046-0000
3. 102 000 000
4. Energy Resource Corporation
5. Carl Gilpatrick No. 1 Permit No. 1932
6. Flat Creek
7. Overton, TN
8. 123.0 million cubic feet
9. November 9, 1979
10. East Tennessee Natural Gas City of Livingston, TN

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-06255
2. 47-005-00842-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lenning Estate 2-315
6.
7. Boone, WV
8. .2 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06256
2. 47-005-00847-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co., 16-323
6.
7. Boone, WV
8. 4.6 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06257
2. 47-005-00924-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 13-255
6.
7. Boone, WV
8. 2.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06258
2. 47-005-01099-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co. 88-306
6.

7. Boone, WV
8. 10.7 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06259
2. 47-005-01096-0000
3. 108 000 000
4. Industrial Gas Corporation
5. U S G Anderson 3-287
6.
7. Boone, WV
8. 9.6 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06260
2. 47-005-00744-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co. B5-264
6.
7. Boone, WV
8. 3.2 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06261
2. 47-005-00821-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bedford Et al 7-197
6.
7. Boone, WV
8. 6.5 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06262
2. 47-005-00391-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 24-490
6.
7. Boone WV
8. 2.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois Inc
1. 80-06263
2. 47-005-00392-0000
3. 108 000 000
4. Industrial Gas Corporation
5. W S Hatfield 5-491
6.
7. Boone WV
8. 2.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libbey-Owens-Ford Co., Owens-Illinois Inc
1. 80-06264
2. 47-005-00393-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B20-492
6.
7. Boone WV
8. 2.6 million cubic feet
9. November 10, 1979

10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06265
2. 47-005-00395-0000
3. 108 000 000
4. Industrial Gas Corporation
5. J G Roberts 5-496
6.
7. Boone WV
8. 3.0 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06266
2. 47-005-00397-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 33-497
6.
7. Boone WV
8. 16.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06267
2. 47-005-00398-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 29-498
6.
7. Boone WV
8. 1.4 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06268
2. 47-043-01284-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Glayds Johnson 1-993
6.
7. Lincoln WV
8. 12.7 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06269
2. 47-043-01376-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 8-928
6.
7. Lincoln WV
8. 5.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06270
2. 47-045-00490-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Island Creek Mining 16-927
6.
7. Logan WV
8. 13.4 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc

1. 80-06271
2. 47-045-00509-0000
3. 108 000 000
4. Industrial Gas Corporation
5. T H Harvey 4-954
6.
7. Logan WV
8. 8.9 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06272
2. 47-043-01183-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Elwood Runyan 3-964
6.
7. Lincoln WV
8. 12.5 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06273
2. 47-043-01184-0000
3. 108 000 000
4. Industrial Gas Corporation
5. N. Gilchrist 1-969
6.
7. Lincoln WV
8. 4.8 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06274
2. 47-043-01185-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Macel Pauley 1-957
6.
7. Lincoln WV
8. 3.1 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06275
2. 47-043-01186-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R L Mallory 1-956
6.
7. Lincoln WV
8. 1.8 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06276
2. 47-043-01196-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koontz Realty Co 27-946
6.
7. Lincoln WV
8. 5.7 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06277
2. 47-043-01197-0000
3. 108 000 000

4. Industrial Gas Corporation
5. T H Harvey 3-953
6.
7. Lincoln WV
8. 6.0 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06278
2. 47-043-01200-0000
3. 108 000 000
4. Industrial Gas Corporation
5. T H Harvey 5-975
6.
7. Lincoln WV
8. 9.4 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06279
2. 47-043-01227-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cambridge Gas Co 2-973
6.
7. Lincoln WV
8. .9 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06280
2. 47-043-01246-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hill-Hoy-Thompson 1-995
6.
7. Lincoln WV
8. 18.6 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06281
2. 47-005-00377-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 22-480
6.
7. Boone WV
8. 1.0 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06282
2. 47-005-00384-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Jacobs Chambers 1-482
6.
7. Boone WV
8. 2.4 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06283
2. 47-005-00385-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B19-483
6.

7. Boone WV
8. 3.5 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06284
2. 47-005-00386-0000
3. 108 000 000
4. Industrial Gas Corporation
5. W S Hatfield 4-484
6.
7. Boone WV
8. 1.7 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06285
2. 47-005-00389-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 28-487
6.
7. Boone WV
8. 4.0 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06286
2. 47-005-01114-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 1-157
6.
7. Boone WV
8. 2.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06287
2. 47-005-01115-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 2-160
6.
7. Boone WV
8. .7 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06288
2. 47-005-01117-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 5-176
6.
7. Boone WV
8. 1.9 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06289
2. 47-005-01119-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Brown-Cochran 6-320
6.
7. Boone WV
8. 5.5 million cubic feet
9. November 10, 1979

10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06290
2. 47-005-01120-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cora Barker 1-385
6.
7. Boone WV
8. 2.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06291
2. 47-005-01121-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bedford 11-236
6.
7. Boone WV
8. 1.8 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06292
2. 47-005-00364-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 30-470
6.
7. Boone WV
8. 14.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06293
2. 47-005-00360-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B17-467
6.
7. Boone WV
8. 3.1 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06294
2. 47-005-01107-0000
3. 108 000 000
4. Industrial Gas Corporation
5. W W Allen 2-215
6.
7. Boone WV
8. 1.5 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06295
2. 47-005-01108-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen-Pryor 1-43
6.
7. Boone WV
8. 2.6 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc

1. 80-06296
2. 47-005-01111-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 18-372
6.
7. Boone WV
8. 2.0 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06297
2. 47-005-01109-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen-Pryor 13-343
6.
7. Boone WV
8. 2.0 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06298
2. 47-005-01112-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marshall Brown 1-273
6.
7. Boone WV
8. 2.8 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06299
2. 47-005-01113-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marshall Brown 2-309
6.
7. Boone WV
8. 2.4 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06300
2. 47-005-01097-0000
3. 108 000 000
4. Industrial Gas Corporation
5. H C Ballard 2-289
6.
7. Boone WV
8. 1.8 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06301
2. 47-005-01098-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 6-151
6.
7. Boone WV
8. 2.4 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-Illinois Inc
1. 80-06302
2. 47-005-01100-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Allen & Pryor 11-212
6.
7. Boone WV
8. 4.6 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc Huntingdon
Alloys Inc Libbey-Owens-Ford Co Owens-
Illinois Inc

1. 80-06303
2. 47-005-01101-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 12-268
6.

7. Boone WV
8. 6.6 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc Huntingdon
Alloys Inc Libbey-Owens-Ford Co Owens-
Illinois Inc

1. 80-06304
2. 47-005-01104-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 15-348
6.

7. Boone WV
8. 2.3 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc Huntingdon
Alloys Inc Libbey-Owens-Ford Co Owens-
Illinois Inc

1. 80-06305
2. 47-005-00372-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 32-475
6.

7. Boone WV
8. 3.7 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc Huntingdon
Alloys Inc Libbey-Owens-Ford Co Owens-
Illinois Inc

1. 80-06306
2. 47-005-00373-0000
3. 108 000 000
4. Industrial Gas Corporation
5. E C Stollings 1-477
6.

7. Boone WV
8. 2.0 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc Huntingdon
Alloys Inc Libbey-Owens-Ford Co Owens-
Illinois Inc

1. 80-06307
2. 47-005-00376-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co. B18-479
6.

7. Boone WV
8. 1.8 million cubic feet
9. November 10, 1979
10. Houdaille Industries Inc Huntingdon
Alloys Inc Libbey-Owens-Ford Co Owens-
Illinois Inc

U.S. Geological Survey, Albuquerque, N.
Mex.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA

4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-06026/NM2693-79
2. 30-045-00000-0000-0
3. 108 000 000

4. Husky Oil Company
5. Alice Bolack #5
6. West Kutz Pictured Cliffs
7. San Juan
8. 4.7 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-06326/NM-3678-79
2. 30-025-25782-0000-0
3. 103 000 000
4. Amoco Production Company
5. Nellis Federal No. 2
6. Buffalo Penn Morrow

7. Lea, NM
8. 1434.0 million cubic feet
9. November 13, 1979
10. Gas Company of New Mexico
1. 80-06340/NM-3852-79
2. 30-025-26088-0000-0
3. 103 000 000

4. Penroc Oil Corporation
5. CSO-Federal No. 1
6. South Eunice Seven Rivers-Queen
7. Lea, NM
8. 6.0 million cubic feet
9. November 9, 1979
10. Phillips Petroleum Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before January 4, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39019 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Dockets Nos. EL79-26 and ER79-600]

Central Power & Light Co; Order Granting Rehearing for Further Consideration

Issued: December 10, 1979.

An application for rehearing of the Commission's October 12, 1979 declaratory order has been filed by the

Public Utilities Board of the City of Brownsville, Texas ("Brownsville"). In the October 12, 1979 order, the Commission granted Central Power & Light Company's (CPL) petition for a declaratory order, finding that the Commission's acceptance of a firm power contract between CPL and Brownsville constituted an acceptance of the demand charge escalation clause contained in the contract as the "filed rate."

In order to afford additional time for consideration of the issues raised in the application for rehearing, it is appropriate and proper in the administration of the Federal Power Act and in the public interest to grant rehearing of this declaratory order for the limited purpose of further consideration.

The Commission orders: (A) Rehearing of the declaratory order issued October 12, 1979, is hereby granted for the limited purpose of further consideration.

(B) As provided in Section 1.34(d) of the Commission's Rules of Practice and Procedure, no answers to the applications for rehearing will be entertained by the Commission, since this order does not grant rehearing upon any substantive issues.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39020 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

[No. 110]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 5, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-03568/K-79-0285

2. 15-075-00000-0000
3. 108-000-000
4. Ladd Petroleum Corporation
5. HCU 1631-No. 1
6. Bradshaw
7. Hamilton KS
8. 8.0 million cubic feet
9. October 24, 1979
10. Kansas-Nebraska Natural Gas Co.

1. 80-03569/K-79-0286
2. 15-075-00000-0000
3. 108-000-000
4. Ladd Petroleum Corporation
5. HCU 3431 No. 1
6. Bradshaw
7. Hamilton KS
8. 5.0 million cubic feet
9. October 24, 1979
10. Kansas-Nebraska Natural Gas Co.

1. 80-03570/K-79-0287
2. 15-075-00000-0000
3. 108-000-000
4. Ladd Petroleum Corporation
5. HCU 2331 No. 1
6. Bradshaw
7. Hamilton KS
8. 6.0 million cubic feet
9. October 24, 1979
10. Kansas-Nebraska Natural Gas Co.

1. 80-03571/K-79-0288
2. 15-075-00000-0000
3. 108-000-000
4. Ladd Petroleum Corporation
5. HCU 1731
6. Bradshaw
7. Hamilton KS
8. 15.0 million cubic feet
9. October 24, 1979
10. Kansas-Nebraska Natural Gas Co.

1. 80-03572/K-79-0289
2. 15-075-00000-0000
3. 108-000-000
4. Ladd Petroleum Corporation
5. HCU 3231 No. 1
6. Bradshaw
7. Hamilton KS
8. 4.0 million cubic feet
9. October 24, 1979
10. Kansas-Nebraska Natural Gas Co.

1. 80-03573/K-79-0497
2. 15-093-20489-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Ellis No. 1-A
6. Panoma
7. Kearny KS
8. 100.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline

1. 80-03574/K-79-0498
2. 15-093-20573-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Downs No. 1
6. Hugoton
7. Kearny KS
8. 30.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline

1. 80-03575/K-79-0499
2. 15-093-20488-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Joe Goering No. 1-A
6. Panoma

7. Kearny KS
8. 40.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03576/K-79-0500
2. 15-093-20426-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Goering No. 1 (1-A)
6. Panoma

7. Kearny KS
8. 100.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03577/K-79-0465
2. 15-093-20550-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Jacob No. 1-A
6. Panoma

7. Kearny KS
8. 30.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03578/K-79-0466
2. 15-093-20496-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Meeker No. 1-A
6. Panoma

7. Kearny KS
8. 25.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03579/K-79-0467
2. 15-093-20579-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Foster No. 1-A
6. Panoma

7. Kearny KS
8. 30.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03580/K-79-0468
2. 15-093-20577-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Pearl No. 1-A
6. Panoma

7. Kearny KS
8. 30.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03581/K-79-0469
2. 15-093-20485-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Ernie No. 1-A
6. Panoma

7. Kearny KS
8. 35.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03582/K-79-0470
2. 15-093-20558-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Rooney No. 1-A
6. Panoma

7. Kearny KS
8. 60.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03583/K-79-0471

2. 15-093-20574-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Olga No. 1-A
6. Panoma
7. Kearny KS
8. 100.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline

1. 80-03584/K-79-0472
2. 15-093-20460-0000
3. 103-000-000
4. W. B. Osborn Jr
5. Swank No. 1-A
6. Panoma
7. Kearny KS
8. 40.0 million cubic feet
9. October 24, 1979
10. Colorado Interstate Gas Co.

1. 80-03585/K-79-0473
2. 15-093-20562-0000
3. 103-000-000
4. W. B. Osborn Jr
5. Romano No. 2-A
6. Panoma
7. Kearny KS
8. 75.0 million cubic feet
9. October 24, 1979
10. Colorado Interstate Gas Co.

1. 80-03586/K-79-0474
2. 15-093-20425-0000
3. 103-000-000
4. W. B. Osborn Jr
5. Romano No. 1 (1-A)
6. Panoma
7. Kearny KS
8. 100.0 million cubic feet
9. October 24, 1979
10. Colorado Interstate Gas Co.

1. 80-03587/K-79-0488
2. 15-093-20487-0000
3. 102-000-000
4. W. B. Osborn Jr
5. David No. 1-A
6. Panoma
7. Kearny KS
8. 75.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline

1. 80-03588/K-79-0489
2. 15-093-20451-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Dale No. 1-A
6. Panoma
7. Kearny KS
8. 75.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline

1. 80-03589/K-79-0490
2. 15-093-20396-0000
3. 103-000-000
4. W. B. Osborn Jr
5. Bowlus No. 1 (1-A)
6. Panoma
7. Kearny KS
8. 35.0 million cubic feet
9. October 24, 1979
10. Colorado Interstate Gas Co.

1. 80-03590/K-79-0491
2. 15-093-20580-0000
3. 102-000-000
4. W. B. Osborn Jr
5. Blake No. 1-A
6. Panoma

7. Kearny KS
8. 35.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03591/K-79-0492
2. 15-093-20534-0000
3. 103 000 000
4. W. B. Osborn Jr
5. Baymer No. 1-A
6. Panoma
7. Kearny KS
8. 40.0 million cubic feet
9. October 24, 1979
10. Colorado Interstate Gas Co.
1. 80-03592/K-79-0493
2. 15-093-20452-0000
3. 103 000 000
4. W. B. Osborn Jr
5. Bates No. 1-A
6. Panoma
7. Kearny KS
8. 75.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03593/K-79-0494
2. 15-093-20450-0000
3. 103 000 000
4. W. B. Osborn Jr
5. Anderson No 1-A
6. Panoma
7. Kearny KS
8. 35.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline
1. 80-03594/K-79-0495
2. 15-093-20601-0000
3. 102 000 000
4. W. B. Osborn Jr
5. Amy No 1-A
6. Panoma
7. Kearny KS
8. 40.0 million cubic feet
9. October 24, 1979
10. Panhandle Eastern Pipeline Co
1. 80-03595/K-79-0496
2. 15-093-20560-0000
3. 103 000 000
4. W. B. Osborn Jr
5. Duval No 2
6. Hugoton
7. Kearny KS
8. 45.0 million cubic feet
9. October 24, 1979
10. Peoples Natural Gas Co
1. 80-03596/K-79-0342
2. 15-189-20352-0000
3. 102 000 000
4. Anadarko Production Company
5. Roberts A No 1
6. Gentzler
7. Stevens KS
8. 70.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03597/K-79-0343
2. 15-189-20401-0000
3. 102 000 000
4. Anadarko Production Company
5. Troup B No 2
6. Gentzler
7. Stevens KS
8. 215.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03598/K-79-0344

2. 15-189-20337-0000
3. 102 000 000
4. Anadarko Production Company
5. Gaskill A No 2
6. Gentzler
7. Stevens KS
8. 541.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03599/K-79-0345
2. 15-129-20302-0000
3. 103 000 000
4. Anadarko Production Company
5. Moore D No 1
6. Santa Fe
7. Morton KS
8. 54.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03600/K-79-0346
2. 15-129-20324-0000
3. 103 000 000
4. Anadarko Production Company
5. Carpenter A No 1
6. Panoma-Council Grove
7. Morton KS
8. 73.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03601/K-79-0347
2. 15-129-20306-0000
3. 103 000 000
4. Anadarko Production Company
5. Hayward I No 1
6. Panoma-Council Grove
7. Morton KS
8. 97.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03602/K-79-0348
2. 15-189-20413-0000
3. 102 000 000
4. Anadarko Production Company
5. Youngren E No 2
6. Gentzler
7. Stevens KS
8. 165.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03603/K-79-0349
2. 15-189-00000-0000
3. 108 000 000
4. Anadarko Production Company
5. Davies D No 1
6. Arkalon
7. Stevens KS
8. 9.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03652/K-79-0329
2. 15-059-20345-0000
3. 108 000 000
4. Glacier Petroleum Co
5. Hook No 1
6. Pomona
7. Franklin KS
8. 9.1 million cubic feet
9. October 25, 1979
10. Cities Service Gas Co Franklin Pipeline Co
1. 80-03653/K-79-0330
2. 15-059-20346-0000
3. 108 000 000
4. Glacier Petroleum Co Inc
5. Bethell No 2

8. Pomona
7. Franklin KS
8. 16.7 million cubic feet
9. October 25, 1979
10. Cities Service Gas Co Franklin Pipeline Co
1. 80-03654/K-79-0332
2. 15-129-24324-0000
3. 103 000 000
4. Anadarko Production Company
5. Crawley A No 1
6. Panoma-Council Grove
7. Morton KS
8. 75.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03655/K-79-0333
2. 15-175-00000-0000
3. 108 000 000
4. Anadarko Production Company
5. Printz A No 1
6. Hugoton
7. Seward KS
8. 8.4 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03656/K-79-0334
2. 15-175-00000-0000
3. 108 000 000
4. Anadarko Production Company
5. Swan A No 1
6. Evalyn
7. Seward KS
8. 9.0 million cubic feet
9. October 24, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03657/K-79-0335
2. 15-119-00000-0000
3. 108 000 000
4. Anadarko Production Company
5. Fox C No 1
6. Novinger
7. Meade KS
8. .0 million cubic feet
9. October 25, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03658/K-79-0336
2. 15-175-00000-0000
3. 108 000 000
4. Anadarko Production Company
5. Printz B No 1
6. Hugoton
7. Seward KS
8. 16.0 million cubic feet
9. October 25, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03659/K-79-0337
2. 15-175-00000-0000
3. 108 000 000
4. Anadarko Production Company
5. Salley B No 1
6. Evalyn
7. Seward KS
8. 6.0 million cubic feet
9. October 25, 1979
10. Cimarron-Quinque a Div of APC
1. 80-03660/K-79-0325
2. 15-093-20421-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Campbell 13-2
6. Panoma Council Grove
7. Kearny KS
8. 69.0 million cubic feet
9. October 25, 1979

10.
1. 80-03661/K-79-0526
2. 15-093-20411-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Tate 6-2
6. Panoma Council Grove
7. Kearny KS
8. 35.0 million cubic feet
9. October 25, 1979
10.
1. 80-03662/K-79-0527
2. 15-093-20509-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Campbell 4-2
6. Panoma Council Grove
7. Kearny KS
8. 149.0 million cubic feet
9. October 25, 1979
10.
1. 80-03663/K-79-0528
2. 15-093-20477-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Campbell 8-2
6. Panoma Council Grove
7. Kearny KS
8. 49.0 million cubic feet
9. October 25, 1979
10.
1. 80-03664/K-79-0529
2. 15-093-20500-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Lee 7-2
6. Panoma Council Grove
7. Kearny KS
8. 183.0 million cubic feet
9. October 25, 1979
10.
1. 80-03665/K-79-0531
2. 15-093-20510-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Campbell 2-2
6. Panoma Council Grove
7. Kearny KS
8. 138.0 million cubic feet
9. October 25, 1979
10.
1. 80-03666/K-79-0532
2. 15-093-20455-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. O Laughlin 1-2
6. Panoma Council Grove
7. Kearny KS
8. 7.0 million cubic feet
9. October 25, 1979
10.
1. 80-03667/K-79-0533
2. 15-093-20501-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Campbell 6-2
6. Panoma Council Grove
7. Kearny KS
8. 80.0 million cubic feet
9. October 25, 1979
10.
1. 80-03668/K-79-0534
2. 15-093-20422-0000
3. 103 000 000

4. Kansas-Nebraska Natural Gas Co Inc
5. Roderick 1-2
6. Panoma Council Grove
7. Kearny KS
8. 35.0 million cubic feet
9. October 25, 1979
10.
1. 80-03669/K-79-0535
2. 15-093-20209-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Masonic Home 5-2
6. Panoma Council Grove
7. Kearny KS
8. 102.0 million cubic feet
9. October 25, 1979
10.
1. 80-03670/K-79-0536
2. 15-093-20379-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Esfeld 1-2
6. Panoma Council Grove
7. Kearny KS
8. 25.0 million cubic feet
9. October 25, 1979
10.
1. 80-03671/K-79-0537
2. 15-093-20449-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. McDowell 1-2X
6. Panoma Council Grove
7. Kearny, KS
8. 22.0 million cubic feet
9. October 25, 1979
10.
1. 80-03672/K-79-0538
2. 15-093-20408-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Campbell 3A-2
6. Panoma Council Grove
7. Kearny, KS
8. 57.0 million cubic feet
9. October 25, 1979
10.
1. 80-03673/K-79-0539
2. 15-093-20456-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Shell 1-2
6. Panoma Council Grove
7. Kearny, KS
8. 58.0 million cubic feet
9. October 25, 1979
10.
1. 80-03674/K-79-0542
2. 15-093-00000-0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Company
5. Beiderwell #2
6. Hugoton
7. Kearny, KS
8. 2.0 million cubic feet
9. October 25, 1979
10.
1. 80-03675/K-79-0543
2. 15-093-20445-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Salyer 1-2
6. Panoma Council Grove
7. Kearny, KS
8. 39.0 million cubic feet

9. October 25, 1979
10.
1. 80-03676/K-79-0544
2. 15-093-20409-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Adams 1-2
6. Panoma Council Grove
7. Kearny, KS
8. 53.0 million cubic feet
9. October 25, 1979
10.
1. 80-03677/K-79-0545
2. 15-093-20410-0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Kropp 1-2
6. Panoma Council Grove
7. Kearny, KS
8. 56.0 million cubic feet
9. October 25, 1979
10.
1. 80-03678/K-79-0291
2. 15-075-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. HCU 3321 #1
6. Bradshaw
7. Hamilton, KS
8. 5.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co
1. 80-03679/K-79-0293
2. 15-075-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. HCU 3020
6. Bradshaw
7. Hamilton, KS
8. 6.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co
1. 80-03680/K-79-0295
2. 15-075-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. HCU 3611 #1
6. Bradshaw
7. Hamilton, KS
8. 2.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co
1. 80-03681/K-79-0296
2. 15-075-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. HCU 2511
6. Bradshaw
7. Hamilton, KS
8. 3.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co
1. 80-03682/K-79-0301
2. 15-075-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. HCU 3411 #1
6. Bradshaw
7. Hamilton, KS
8. 15.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co
1. 80-03683/K-79-0351
2. 15-047-20350-0000

3. 103 000 000
4. Continental Oil Company
5. W W McLean No 1
6. CLW-Mississippi (Formerly Charlet)
7. Edwards, KS
8. 150.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska

1. 80-03684/K-79-0476
2. 15-093-20404-0000
3. 102 000 000
4. W B Osborn Jr
5. Plummer #1
6. Panoma
7. Kearny, KS
8. 75.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co

1. 80-03685/K-79-0477
2. 15-093-20437-0000
3. 103 000 000
4. W B Osborn Jr
5. Sanford #2
6. Panoma
7. Kearny, KS
8. 50.0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Co

1. 80-03686/K-79-0478
2. 15-093-20572-0000
3. 102 000 000
4. W B Osborn Jr
5. Rupp #1
6. Hugoton
7. Kearny, KS
8. 25.0 million cubic feet
9. October 25, 1979
10. Panhandle Eastern Pipeline

1. 80-03687/K-79-0479
2. 15-093-20555-0000
3. 103 000 000
4. W B Osborn Jr
5. Davis #2-A
6. Panoma
7. Kearny, KS
8. 40.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co

1. 80-03688/K-79-0481
2. 15-093-20582-0000
3. 102 000 000
4. W B Osborn Jr
5. David #3-A
6. Panoma
7. Kearny, KS
8. 40.0 million cubic feet
9. October 25, 1979
10. Panhandle Eastern Pipeline

1. 80-03689/K-79-0482
2. 15-035-20820-0000
3. 103 000 000
4. W B Osborn Jr
5. Youle #2
6. Panoma
7. Cowley, KS
8. 75.0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Co

1. 80-03690/K-79-0483
2. 15-035-21172-0000
3. 103 000 000
4. W B Osborn Jr
5. Youle #1
6. Panoma
7. Cowley, KS

8. 75.0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Co

1. 80-03691/K-79-0484
2. 15-093-20581-0000
3. 102 000 000
4. W B Osborn Jr
5. David #2-A
6. Panoma
7. Kearny, KS
8. 35.0 million cubic feet
9. October 25, 1979
10. Panhandle Eastern Pipeline

1. 80-03692/K-79-0485
2. 15-093-20405-0000
3. 103 000 000
4. W B Osborn Jr
5. Waitt (Bakke) #1-A
6. Panoma
7. Kearny, KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co

1. 80-03693/K-79-0486
2. 15-035-21784-0000
3. 103 000 000
4. W B Osborn Jr
5. Dobbs #1
6. Panoma
7. Cowley, KS
8. 75.0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Co

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State of Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-03606/79-2573
2. 17-057-21588-0000
3. 102 000 000
4. Goodrich Oil Company
5. Lafourche Basin Levee Dist No. 1
6. Kings Ridge Field
7. Lafourche Parish, LA
8. 365.0 million cubic feet
9. October 25, 1979
10. Southern Natural Gas Company

1. 80-03607/79-2297
2. 17-001-00776-0000
3. 102 000 000
4. Roy M. Tell
5. Noah Leger No. 1
6. Branch Field
7. Acadia Parish, LA
8. 360.0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corp.

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State of block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-03608/3-79-35
2. 25-041-21051-0000
3. 108 000 000
4. Tricentrol United States Inc
5. Gregoire 29-6-31-16
6. Bullhook Unit—Tiger Ridge
7. Hill, MT
8. 7.8 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company

New Mexico Department of Energy and Minerals Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State of block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-03604
2. 30-025-26069-0000
3. 103 000 000 denied
4. Sun Oil Company (Delaware)
5. J A Akens Well No. 10
6. Oil Center—Blinebry
7. Lea, NM
8. 21.0 million cubic feet
9. October 24, 1979
10. Phillips Petroleum Company

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

West Virginia Department of Mines—Oil and Gas Division

1. 80-03609
2. 47-033-00115-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Lavina McMillan 8129
6. West Virginia other A-85772
7. Harrison, WV
8. 7.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03610
2. 47-021-00992-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 9855
6. West Virginia other A-85772
7. Gilmer, WV
8. 8.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03611
2. 47-021-01820-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W G Bennett 10794
6. West Virginia other A-85772
7. Gilmer, WV
8. 5.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03612
2. 47-021-02223-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Porter Maxwell 11448
6. West Virginia other A-85772
7. Gilmer, WV
8. 5.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03613
2. 47-021-00989-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 9857
6. West Virginia other A-85772
7. Gilmer, WV
8. 8.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03614
2. 47-021-00968-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 9840
6. West Virginia other A-85772
7. Gilmer, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03615
2. 47-021-00913-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 9728
6. West Virginia other A-85772
7. Gilmer, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03616
2. 47-021-00690-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. C C Fisher 8963
6. West Virginia other A-85772
7. Gilmer, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03617
2. 47-021-00656-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Ella Despard 8884
6. West Virginia other A-85772
7. Gilmer, WV
8. 7.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03618
2. 47-021-00647-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Percy Boggs 5542
6. West Virginia other A-85772
7. Gilmer, WV
8. 8.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03619
2. 47-021-00619-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J D Smith 6163

6. West Virginia other A-85772
7. Gilmer, WV
8. 7.0 million cubic feet
9. October 25, 1979
10. General System Purchasers
1. 80-03620
2. 47-021-02961-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Glenville Baptist Church No 1
6. Revel
7. Gilmer, WV
8. 7.3 million cubic feet
9. October 25, 1979
10. Carnegie Natural Gas Co

1. 80-03621
2. 47-007-01198-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Knight No 2
6. Glenville South
7. Braxton, WV
8. 9.0 million cubic feet
9. October 25, 1979
10. Consolidated Gas Supply Corp

1. 80-03622
2. 47-013-01269-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 9895
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03623
2. 47-013-01440-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Matilda Parsons 9990
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03624
2. 47-013-01572-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Isaac Tucker 10099
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03625
2. 47-013-01580-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L C Collins 10111
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03626
2. 47-013-01939-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Brannon-Parsons 10379
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03627
2. 47-013-02447-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Hunter M Bennett 11232
6. West Virginia other A-85772
7. Calhoun, WV
8. 5.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03628
2. 47-017-01550-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. R L Barnes 11143
6. West Virginia other A-85772
7. Doddridge, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03629
2. 47-017-01652-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W B Maxwell 11393
6. West Virginia other A-85772
7. Doddridge, WV
8. 2.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03630
2. 47-097-01150-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Anita Burnett 11035
6. West Virginia other A-85772
7. Upshur, WV
8. 7.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03631
2. 47-103-00326-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. B F Fox 5440
6. West Virginia other A-85772
7. Wetzel, WV
8. 1.5 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03632
2. 47-019-00083-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Guy D Brown 9763
6. West Virginia other A-85772
7. Fayette, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03633
2. 47-021-00510-000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Martha J Turner 8563
6. West Virginia other A-85772
7. Gilmer, WV
8. 4.0 million cubic feet
9. October 25, 1979
10. General System Purchasers

1. 80-03634
2. 47-041-01142-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Smith & Stout 10490

6. West Virginia other A-85772
 7. Lewis, WV
 8. 4 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03635
 2. 47-097-00627-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. Frank Knicley 10310
 6. West Virginia other A-85772
 7. Upshur, WV
 8. 7.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03636
 2. 47-097-00748-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. J P Freeman 10328
 6. West Virginia other A-85772
 7. Upshur, WV
 8. 4.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03637
 2. 47-097-00575-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. R W Johnson 10193
 6. West Virginia other A-85772
 7. Upshur, WV
 8. 1.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03638
 2. 47-097-00623-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. R W & F M Teter 10298
 6. West Virginia Other A-85772
 7. Upshur, WV
 8. 7.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03639
 2. 47-097-00626-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. W H Shobe 10304
 6. West Virginia Other A-85772
 7. Upshur, WV
 8. 4.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03640
 2. 47-085-00423-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. Sherwood Heirs 7736
 6. West Virginia Other A-85772
 7. Ritchie, WV
 8. 2.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03641
 2. 47-085-00423-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. Sherwood Heirs 7736

6. West Virginia Other A-85772
 7. Ritchie, WV
 8. 2.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03642
 2. 47-097-00361-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. Rachel Dawson 9366
 6. West Virginia Other A-85772
 7. Upshur, WV
 8. 4.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03643
 2. 47-097-00502-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. C A Thomas 10038
 6. West Virginia Other A-85772
 7. Upshur, WV
 8. 8.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03644
 2. 47-097-00505-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. B B Radabaugh 10054
 6. West Virginia Other A-85772
 7. Upshur, WV
 8. 8.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03645
 2. 47-097-00571-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. J C Reed 10189
 6. West Virginia Other A-85772
 7. Upshur, WV
 8. 7.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03646
 2. 47-097-00573-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corporation
 5. C V Rusmisell 10194
 6. West Virginia Other A-85772
 7. Upshur, WV
 8. 4.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03647
 2. 47-041-01323-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. Aldis Clark 10644
 6. West Virginia Other A-85772
 7. Lewis, WV
 8. 4.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03648
 2. 47-041-01384-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. D R Swisher 10684
 6. West Virginia Other A-85772

7. Lewis, WV
 8. 6.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03649
 2. 47-041-01597-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. W G Hinzman 10990
 6. West Virginia Other A-85772
 7. Lewis, WV
 8. 4.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03650
 2. 47-041-01743-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. Prudence M Ohara 11220
 6. West Virginia Other A-85772
 7. Lewis, WV
 8. 5.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers
 1. 80-03651
 2. 47-041-01797-0000
 3. 108 000 000
 4. Consolidated Gas Supply Corp
 5. Minor J Hall 11359
 6. West Virginia Other A-85772
 7. Lewis, WV
 8. 4.0 million cubic feet
 9. October 25, 1979
 10. General System Purchasers

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control number (FERC/State)
 2. API well number
 3. Section of NGPA
 4. Operator
 5. Well name
 6. Field or OCS area name
 7. County, State or block No.
 8. Estimated annual volume
 9. Date received at FERC
 10. Purchaser(s)
 1. 80-03556/COA-3278-79
 2. 05-067-05631-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Bondad 34-10 #5
 6. Ignacio Blanco
 7. La Plata, CO
 8. 5.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation
 1. 80-03557/COA-3279-79
 2. 05-067-05162-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Colorado 32-8 #1
 6. Ignacio Blanco
 7. La Plata, CO
 8. 10.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation
 1. 80-03545/NM-3252-79
 2. 30-039-07778-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation

5. San Juan 30-5 Unit No. 34
 6. Blanco
 7. Rio Arriba, NM
 8. 13.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03546/NM-3254-79
 2. 30-039-07533-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 29-5 Unit No. 9
 6. Blanco MV
 7. Rio Arriba, NM
 8. 3.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03547/NM-3255-79
 2. 30-039-07745-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 30-5 Unit No. 4
 6. Blanco
 7. Rio Arriba, NM
 8. 5.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03548/NM-3260-79
 2. 30-039-11221-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 32-8 Unit No. 2
 6. Blanco
 7. San Juan, NM
 8. 4.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03549/NM-3262-79
 2. 30-039-07916-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 31-6 Unit No. 22
 6. Blanco
 7. Rio Arriba, NM
 8. 13.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03550/NM-3263-79
 2. 30-039-82389-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 31-6 Unit No. 18
 6. Blanco
 7. Rio Arriba, NM
 8. 9.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03551/NM-3264-79
 2. 30-039-07949-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 31-6 Unit No. 9
 6. Blanco
 7. Rio Arriba, NM
 8. 9.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03552/NM-3272-79
 2. 30-039-07980-0000-0

3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Rosa Unit No. 35X
 6. Blanco
 7. Rio Arriba, NM
 8. 13.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03553/NM-3274-79
 2. 30-039-07946-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Rosa Unit No. 15
 6. Blanco
 7. Rio Arriba, NM
 8. 11.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03554/NM-3276-79
 2. 30-039-07944-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Rosa Unit No. 8
 6. Blanco
 7. Rio Arriba, NM
 8. 8.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03555/NM-3277-79
 2. 30-039-07912-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 31-6 Unit No. 13
 6. Blanco Mesa Verde
 7. Rio Arriba, NM
 8. 7.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Natural Gas Co
 1. 80-03558A/NM-2896-79-A
 2. 30-039-21429-0000-1
 3. 103 000 000
 4. Continental Oil Company
 5. AXI Apache O No. 10
 6. AXI Apache Area
 7. Rio Arriba, NM
 8. 67.0 million cubic feet
 9. October 24, 1979
 10. Gas Company of New Mexico (C-4787)
 1. 80-03558B/NM-2896-79-B
 2. 30-039-21429-0000-2
 3. 103 000 000
 4. Continental Oil Company
 5. AXI Apache O No. 10
 6. AXI Apache Area
 7. Rio Arriba, NM
 8. 33.0 million cubic feet
 9. October 24, 1979
 10. Gas Company of New Mexico (C-4787)
 1. 80-03559/NM-2909-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. AXI Apache A No. 6
 6. AXI Apache Area
 7. Rio Arriba, NM
 8. 8.7 million cubic feet
 9. October 24, 1979
 10. Gas Company of New Mexico (C-4787)
 1. 80-03560/NM-3049-79
 2. 30-039-21720-0000-0
 3. 103 000 000

4. El Paso Natural Gas Company
 5. Rincon Unit No. 97A
 6. Blanco
 7. Rio Arriba, NM
 8. 75.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03561/NM-3052-79
 2. 30-039-21682-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. San Juan 28-6 Unit No. 12A
 6. Blanco
 7. Rio Arriba, NM
 8. 110.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03562/NM-3253-79
 2. 30-039-21683-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. San Juan 28-6 Unit No. 13A
 6. Blanco
 7. Rio Arriba, NM
 8. 155.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03563/NM-3054-79
 2. 30-039-21684-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. San Juan 28-6 Unit No. 55A
 6. Blanco
 7. Rio Arriba, NM
 8. 165.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03564/NM-3055-79
 2. 30-039-21688-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. San Juan 28-6 Unit No. 58A
 6. Blanco
 7. Rio Arriba, NM
 8. 330.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03565/NM-3056-79
 2. 30-045-22841-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. Horton No. 1A
 6. Blanco
 7. San Juan, NM
 8. 330.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03566/NM-3057-79
 2. 30-045-23063-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. Neil No. 5A
 6. Blanco
 7. San Juan, NM
 8. 260.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03567/NM-3058-79
 2. 30-045-23062-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. Mudge No. 9A
 6. Blanco
 7. San Juan, NM
 8. 165.0 million cubic feet

9. October 24, 1979
10. El Paso Natural Gas Company
1. 80-03605/NM-3334-79
2. 30-039-21702-0000-0
3. 102 000 000 denied
4. Amoco Production Company
5. Rosa Unit No. 65
6. Basin Dakota
7. Rio Arriba, NM
8. 377.0 million cubic feet
9. October 25, 1979
10. Northwest Pipeline Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before January 4, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[R Doc. 79-30021 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

[No. 124]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

December 10, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

- Control number (F.E.R.C./State)
 - API well number
 - Section of NGPA
 - Operator
 - Well name
 - Field or OCS area name
 - County, State or Block No.
 - Estimated annual volume
 - Date received at FERC
 - Purchaser(s)
- 80-06806/79-1677
 - 17-101-21039-0000
 - 102 000 000
 - Neuhoff Oil & Gas Corp
 - Fairfax Forster Sutter #1
 - East Franklin
 - St Marys Parish, LA
 - .0 million cubic feet
 - November 20, 1979

- -
 -
 -
 -
 -
 -
 -
 -
 -
- 80-06807/79-2437
 - 17-109-21993-0000
 - 102 000 000
 - The Superior Oil Company
 - Southdown Inc A No 5
 - Sunrise
 - Terrebonne Parish, LA
 - 3481.0 million cubic feet
 - November 20, 1979
 - United Gas Pipe Line Co
- 80-06808/79-2438
 - 17-109-22098-0000
 - 102 000 000
 - McMoran Exploration Co
 - C R Duplantis #1
 - Sunrise
 - Terrebonne Parish, LA
 - 9000.0 million cubic feet
 - November 20, 1979
 -

Mississippi Oil and Gas Board

- Control number (F.E.R.C./State)
 - API well number
 - Section of NGPA
 - Operator
 - Well name
 - Field or OCS area name
 - County, State or Block No.
 - Estimated annual volume
 - Date received at FERC
 - Purchaser(s)
- 80-06720/99-79-423
 - 23-071-20061-0000-1
 - 107 000 000
 - Sun Oil Company (Delaware)
 - M H Patterson No 1 (Harper)
 - Columbia (Harper Sand)
 - Marion, MS
 - 1750.0 million cubic feet
 - November 16, 1979
 -

- 80-06721/100-79-423
- 23-071-20061-0000-2
- 107 000 000
- Sun Oil Company (Delaware)
- M H Patterson No 1 (Booth)
- Columbia (Booth Sand)
- Marion, MS
- 912.0 million cubic feet
- November 16, 1979
-

- 80-06722/101-79-420-1
 - 23-065-20120-0000
 - 107 000 000
 - American Natural Gas Production Com
 - J S O'Flynn #1-31
 - Holiday Creek
 - Jefferson Davis, MS
 - 150.0 million cubic feet
 - November 16, 1979
 -
- 80-06723/97-79-224
 - 23-045-20051-0000
 - 102 103 000
 - Vega Oil and Gas Management Inc
 - Emma Dorward 26-10 No 1
 - Waveland
 - Hancock, MS
 - 400.0 million cubic feet
 - November 16, 1979
 -
- 80-06724/96-79-56
 - 23-095-20234-0000

- 102 103 000
 - The Louisiana Land & Expl Co
 - LL&E—Lee H Harrington No 1
 - Aberdeen
 - Monroe, MS
 - 239.0 million cubic feet
 - November 16, 1979
 - Texas Eastern Trans Corp
 -
 - 80-06725/92-79-399
 - 23-113-20048-0000
 - 102 000 000
 - Tesoro Petroleum Corp
 - Slayton Travis Unit No 1
 - Chatawa Field
 - Pike, MS
 - .0 million cubic feet
 - November 19, 1979
 - Transcontinental Gas P/L Corp
- 80-06726/94-79-420
 - 23-065-20129-0000
 - 107 000 000
 - System Fuels Inc
 - E McLeod 30-5 No 1
 - Holiday Creek
 - Jefferson Davis, MS
 - 72.0 million cubic feet
 - November 19, 1979
 -
- 80-06727/91-79-399
 - 23-113-20053-0000
 - 102 000 000
 - Tesoro Petroleum Corporation
 - D B Slayton 4-14 No 1
 - Chatawa
 - Pike, MS
 - .0 million cubic feet
 - November 19, 1979
 - Transcontinental Gas P/L Corp

New Mexico Department of Energy and Minerals, Oil Conservation Division

- Control number (F.E.R.C./State)
 - API well number
 - Section of NGPA
 - Operator
 - Well name
 - Field or OCS area name
 - County, State or Block No.
 - Estimated annual volume
 - Date received at FERC
 - Purchaser(s)
- 80-06731
 - 30-025-25515-0000
 - 103 000 000
 - Gulf Oil Corporation
 - Central Drinkard Unit No 418
 - Drinkard
 - Lea, NM
 - 207.0 million cubic feet
 - November 20, 1979
 - El Paso Natural Gas Company
- 80-06732
 - 30-025-26318-0000
 - 102 000 000
 - Minerals Inc
 - Llano 34 State Com No 1
 - East Grama Ridge Morrow
 - Lea, NM
 - .0 million cubic feet
 - November 20, 1979
 - Phillips Petroleum Company
- 80-06733
 - 30-015-22718-0000
 - 102 000 000
 - J C Barnes Oil Company

- Big Chief CCMM No 2
 - Wildcat
 - Eddy, NM
 - 730.0 million cubic feet
 - November 20, 1979
 - El Paso Natural Gas Company
- 80-06734
 - 30-025-21092-0000
 - 108 000 000 Denied
 - Arco Oil and Gas Company
 - Wimberly #9
 - Justis
 - Lea, NM
 - 5.4 million cubic feet
 - November 20, 1979
 - El Paso Natural Gas Company
- 80-06735
 - 30-025-26226-0000
 - 103 000 000
 - Phillips Petroleum Company
 - E Vac GB/SA Unit TR 2801 #004
 - Vacuum Grayburg/San Andres
 - Lea, NM
 - .4 million cubic feet
 - November 20, 1979
 - El Paso Natural Gas Company

Texas Railroad Commission, Oil and Gas Division

- Control Number (FERC/State)
 - API well number
 - Section of NGPA
 - Operator
 - Well name
 - Field or OCS area name
 - County, State or Block No.
 - Estimated annual volume
 - Date received at FERC
 - Purchaser(s)
- 80-06809/06408
 - 42-065-00000-0000
 - 108 000 000
 - Getty Oil Company
 - Schafer Ranch No 23
 - Panhandle
 - Carson, TX
 - 3.0 million cubic feet
 - November 20, 1979
 - Getty Oil Company Natural Gas Plant
- 80-06810/06189
 - 42-065-00000-0000
 - 108 000 000
 - Getty Oil Company
 - Schafer Ranch No 19
 - Panhandle
 - Carson, TX
 - 3.0 million cubic feet
 - November 20, 1979
 - Getty Oil Company Natural Gas Plant
- 80-06811/05224
 - 42-357-00000-0000
 - 108 000 000
 - Diamond Shamrock Corporation
 - A W Henry A No 1-62
 - Ellis Ranch
 - Ochiltree, TX
 - 8.0 million cubic feet
 - November 20, 1979
 - Southwestern Public Service Co
- 80-06812/04926
 - 42-105-30100-0000
 - 108 000 000
 - Indian Wells Oil Co
 - Austin Millsbaugh 1-1
 - Ozona Canyon Sand

- Crockett, TX
 - 13.0 million cubic feet
 - November 20, 1979
 - Northern Natural Gas Co
- 80-06813/04905
 - 42-105-30119-0000
 - 108 000 000
 - Indian Wells Oil Company
 - Austin Millsbaugh 2-4
 - Ozona Canyon Sand
 - Crockett, TX
 - 3.7 million cubic feet
 - November 20, 1979
 - Northern Natural Gas Co
- 80-06814/04670
 - 42-087-26288-0000
 - 108 000 000
 - El Paso Natural Gas Company
 - William 2
 - Panhandle East
 - Collingsworth, TX
 - 8.2 million cubic feet
 - November 20, 1979
 - El Paso Natural Gas Company
- 80-06815/03807
 - 42-175-00000-0000
 - 108 000 000
 - American Petrofina Co of Texas
 - Helena Bethke et al #2
 - Cabeza Creek South
 - Goliad, TX
 - 18.0 million cubic feet
 - November 20, 1979
 - United Gas Pipeline Company
- 80-06816/03492
 - 42-375-30020-0000
 - 108 000 000
 - CIG Exploration Inc
 - Bivins 37R
 - Panhandle West Red Cave
 - Potter, TX
 - 13.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06817/03409
 - 42-205-00000
 - 108 000 000
 - CIG Exploration Inc
 - Bivins A-90
 - Panhandle West
 - Hartley, TX
 - 19.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06818/03488
 - 42-375-30316-0000
 - 108 000 000
 - CIG Exploration Inc
 - Bivins 82R
 - Panhandle West Red Cave
 - Potter, TX
 - 7.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06819/03465
 - 42-341-27096-0000
 - 108 000 000
 - CIG Exploration Inc
 - Thompson 1R
 - Panhandle West Red Cave
 - Moore, TX
 - 13.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co

- 42-375-30232-0000
 - 108 000 000
 - CIG Exploration Inc
 - Masterson 92R
 - Panhandle West Red Cave
 - Potter, TX
 - 17.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06821/03473
 - 42-341-00000-0000
 - 108 000 000
 - CIG Exploration Inc
 - Crawford D-3
 - Panhandle West
 - Moore, TX
 - 10.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06822/03470
 - 42-341-00000-0000
 - 108 000 000
 - CIG Exploration Inc
 - Thompson B-12
 - Panhandle West
 - Moore, TX
 - 7.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06823/03466
 - 42-375-00000-0000
 - 108 000 000
 - CIG Exploration Inc
 - Masterson J-6
 - Panhandle West
 - Potter, TX
 - 7.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06824/03465
 - 42-205-00000-0000
 - 108 000 000
 - CIG Exploration Inc
 - Bivins A-22
 - Panhandle West
 - Hartley, TX
 - 21.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06825/03464
 - 42-375-00000-0000
 - 108 000 000
 - CIG Exploration Inc
 - Bivins 73R
 - Panhandle West Red Cave
 - Potter, TX
 - 15.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06826/03459
 - 42-341-00000-0000
 - 108 000 000
 - CIG Exploration Inc
 - Killgore 1R
 - Panhandle West Red Cave
 - Moore, TX
 - 2.0 million cubic feet
 - November 20, 1979
 - Colorado Interstate Gas Co
- 80-06827/03457
 - 42-205-00000-0000
 - 108 000 000
 - CIG Exploration Inc
 - Bivins A-144
 - Panhandle West

7. Hartley, TX
8. 13.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06828/03458
2. 42-341-00000-0000
3. 108 000 000
4. CIG Exploration Inc
5. Thompson 2R
6. Panhandle West Red Cave
7. Moore, TX
8. 19.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06829/03453
2. 42-375-30164-0000
3. 108 000 000
4. CIG Exploration Inc
5. Masterson 7uR
6. Panhandle West Red Cave
7. Potter, TX
8. 16.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06830/03450
2. 42-375-30168-0000
3. 108 000 000
4. CIG Exploration Inc
5. Masterson 80R
6. Panhandle West Red Cave
7. Potter, TX
8. 20.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06831/03447
2. 42-375-00390-0000
3. 108 000 000
4. CIG Exploration Inc
5. Bivins A-87
6. Panhandle West
7. Potter, TX
8. 10.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06832/03445
2. 42-375-30166-0000
3. 108 000 000
4. CIG Exploration Inc
5. Masterson 78R
6. Panhandle West Red Cave
7. Potter, TX
8. 10.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06833/03443
2. 42-375-30165-0000
3. 108 000 000
4. CIG Exploration Inc
5. Masterson 79R
6. Panhandle West Red Cave
7. Potter, TX
8. 13.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06834/03442
2. 42-341-00000-0000
3. 108 000 000
4. CIG Exploration Inc
5. Killgore A-9
6. Panhandle West
7. Moore, TX
8. 9.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06835/03441

2. 42-341-30118-0000
3. 108 000 000
4. CIG Exploration Inc
5. Masterson 54R
6. Panhandle West Red Cave
7. Moore, TX
8. 11.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06836/03440
2. 42-375-00000-0000
3. 108 000 000
4. CIG Exploration Inc
5. Masterson B-70
6. Panhandle West
7. Potter, TX
8. 16.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06837/03439
2. 42-205-00000-0000
3. 108 000 000
4. CIG Exploration Inc
5. Bivins A-93
6. Panhandle West
7. Hartley, TX
8. 10.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06838/03433
2. 42-375-30070-0000
3. 108 000 000
4. CIG Exploration Inc
5. Bivins 53R
6. Panhandle West Red Cave
7. Potter, TX
8. 8.0 million cubic feet
9. November 20, 1979
10. Colorado Interstate Gas Co
1. 80-06839/02574
2. 42-179-26112-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hudgins B 1
6. Panhandle East Red Cave
7. Gray, TX
8. 9.4 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06840/02507
2. 42-067-26267-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Smith A 1
6. Panhandle East
7. Collingsworth, TX
8. 1.7 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06841/02504
2. 42-179-26235-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. ORR 2
6. Panhandle East
7. Gray, TX
8. 6.3 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06842/02500
2. 42-483-26032-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Boren A 2
6. Panhandle East

7. Collingsworth, TX
8. 10.5 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06843/02499
2. 42-179-23748-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Simmons 1
6. Panhandle West
7. Gray, TX
8. 13.9 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06844/02498
2. 42-087-41047-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bell #5-D
6. Panhandle East
7. Collingsworth, TX
8. 3.7 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06845/02477
2. 42-087-26085-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Glenn B 1
6. Panhandle East
7. Collingsworth, TX
8. 5.8 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06846/02476
2. 42-087-26294-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams A 4
6. Panhandle East
7. Collingsworth, TX
8. 13.8 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06847/02475
2. 42-483-26061-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Copeland 1
6. Panhandle East
7. Wheeler, TX
8. 9.3 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06848/02474
2. 42-087-26241-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Parrish C #1
6. Panhandle East
7. Collingsworth, TX
8. 7.3 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06849/02473
2. 42-483-26070-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Federal Life Insurance Company 1
6. Panhandle East Red Cave
7. Wheeler, TX
8. 14.0 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company
1. 80-06850/02461

2. 42-087-26230-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Oneil A 4
6. Panhandle East
7. Collingsworth, TX
8. 5.6 million cubic feet
9. November 20, 1979
10. El Paso Natural Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Dated Received at FERC
10. Purchaser(s)
1. 80-06718
2. 47-013-01697-0000
3. 108 000 000
4. William L Heeter
5. John W. Robinson No. 1
6. Sycamore-Millstone
7. Calhoun, WV
8. 3.7 million cubic feet
9. November 23, 1979
10. Consolidated Gas Supply Co
1. 80-06719
2. 47-013-01780-0000
3. 108 000 000
4. William L. Heeter
5. John W. Robinson No. 2
6. Sycamore-Millstone
7. Calhoun, WV
8. 3.1 million cubic feet
9. November 23, 1979
10. Consolidated Gas Supply Company
1. 80-06736
2. 47-039-01783-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Delsie Cleck 1-1132
6.
7. Kanawha, WV
8. 8.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06737
2. 47-039-01806-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding CO 6-1140
6.
7. Kanawha, WV
8. 4.7 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-06738
2. 47-039-01769-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding CO 5-1139
6.
7. Kanawha, WV
8. 2.7 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-06739

2. 47-039-01772-0000
3. 108 000 000
4. Industrial Gas Corporation
5. B J Pettigrew 3-1117
6.
7. Kanawha, WV
8. 2.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06740
2. 47-039-01713-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding Co 1-1107
6.
7. Kanawha, WV
8. 6.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-06741
2. 47-039-01736-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding CO 3-1121
6.
7. Kanawha WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-06742
2. 47-039-01737-0000
3. 108 000 000
4. Industrial Gas Corporation
5. B J Pettigrew 1-1108
6.
7. Kanawha WV
8. 3.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06743
2. 47-039-01757-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Effie Edwards 1-1133
6.
7. Kanawha WV
8. 6.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06744
2. 47-099-00236-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koonce-Zimmerman 2-599
6.
7. Wayne WV
8. 4.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06745
2. 47-099-00231-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 24-597
6.
7. Wayne WV
8. 1.7 million cubic feet

9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06746
2. 47-099-00245-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Guyan Oil 8-605
6.
7. Wayne WV
8. 3.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06747
2. 47-099-00247-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 29-604
6.
7. Wayne WV
8. 6.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06748
2. 47-005-01122-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bedford Et Al 12-257
6.
7. Boone WV
8. 2.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06749
2. 47-005-01124-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bedford Et Al 14-325
6.
7. Boone WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06750
2. 47-005-01125-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bedford Et Al 15-329
6.
7. Boone WV
8. 4.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.
1. 80-06751
2. 47-005-01158-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 9-211
6.
7. Boone WV
8. 1.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co.

1. 80-06752
2. 47-005-01157-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 7-198
- 6.
7. Boone WV
8. 1.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06753
2. 47-005-01199-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 3-45
- 6.
7. Boone WV
8. 10.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06754
2. 47-099-00276-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 29-653
- 6.
7. Wayne WV
8. .9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06755
2. 47-099-00279-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 30-657
- 6.
7. Wayne WV
8. 3.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06756
2. 47-099-00289-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Louisa Collins 2-609
- 6.
7. Wayne WV
8. 9.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06757
2. 47-099-00290-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 31-864
- 6.
7. Wayne WV
8. 2.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06758
2. 47-099-00291-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Louisa Collins 3-673
- 6.
7. Wayne WV
8. 5.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06759
2. 47-099-00349-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Ferguson-Sellards 1-702
- 6.
7. Wayne WV
8. 4.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06760
2. 47-099-00485-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R & T P Maynard 6-760
- 6.
7. Wayne WV
8. 1.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06761
2. 47-099-00753-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 54-799
- 6.
7. Wayne WV
8. 4.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06762
2. 47-099-00246-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koonce-Zimmerman 3-609
- 6.
7. Wayne WV
8. 4.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06763
2. 47-099-00487-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 44-754
- 6.
7. Wayne WV
8. 2.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06764
2. 47-099-00510-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C E Collins 1-764
- 6.

7. Wayne WV
8. 5.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington
- Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Co

1. 80-06765
2. 47-099-00410-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F W Thompson 1-728
- 6.
7. Wayne WV
8. 10.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06766
2. 47-099-00426-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koonce-Zimmerman 7-740
- 6.
7. Wayne WV
8. 9.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06767
2. 47-099-00433-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R & T P Maynard 3-741
- 6.
7. Wayne WV
8. 10.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06768
2. 47-099-00434-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 43-753
- 6.
7. Wayne WV
8. 9.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06769
2. 47-099-00439-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C T Fraley 1-725
- 6.
7. Wayne WV
8. 8.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06770
2. 47-099-00466-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 35-757
- 6.
7. Wayne WV
8. 5.1 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06771
2. 47-099-00417-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R & T P Maynard 2-739
- 6.
7. Wayne WV
8. 10.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06772
2. 47-099-00571-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R Williamson 1-773
- 6.
7. Wayne WV
8. 4.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06773
2. 47-099-00341-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 37-695
- 6.
7. Wayne WV
8. 4.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06774
2. 47-099-00342-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 38-696
- 6.
7. Wayne WV
8. 13.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06775
2. 47-099-00350-0000
3. 108 000 000
4. Industrial Gas Corporation
5. A W Preston 1-704
- 6.
7. Wayne WV
8. 6.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06776
2. 47-099-00359-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R & T P Maynard 1-708
- 6.
7. Wayne WV
8. 14.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06777
2. 47-099-00382-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 40-709
- 6.
7. Wayne WV
8. 9.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06778
2. 47-099-00397-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 41-716
- 6.
7. Wayne WV
8. 14.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06779
2. 47-099-00409-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 42-717
- 6.
7. Wayne WV
8. 7.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06780
2. 47-099-00580-0000
3. 108 000 000
4. Industrial Gas Corporation
5. J N Hauser 3-775
- 6.
7. Wayne WV
8. 5.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06781
2. 47-099-00584-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 49-777
- 6.
7. Wayne WV
8. 7.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06782
2. 47-099-00611-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Noah Maynard 1-785
- 6.
7. Wayne WV
8. 4.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06783
2. 47-099-00634-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Wilson Coal Land Co 52-790
- 6.
7. Wayne WV
8. 5.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06784
2. 47-099-00644-0000
3. 108 000 000
4. Industrial Gas Corporation
5. G D Jackson 1-793
- 6.
7. Wayne WV
8. 8.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06785
2. 47-099-00036-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 21-536
- 6.
7. Wayne WV
8. 9.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06786
2. 47-099-00013-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 22-537
- 6.
7. Wayne WV
8. 1.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06787
2. 47-099-00018-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 6-506
- 6.
7. Wayne WV
8. 3.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06788
2. 47-099-00019-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 3-521
- 6.
7. Wayne WV
8. 9.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
- Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

1. 80-06851
2. 47-005-00948-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Westmoreland 5-1177
- 6.

7. Boone, WV
8. 2.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc
1. 80-06852
2. 47-005-00945-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Westmoreland 2-1152
6.
7. Boone, WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc
1. 80-06853
2. 47-005-00944-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Westmoreland 3-1174
6.
7. Boone, WV
8. 1.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc
1. 80-06854
2. 47-005-00945-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bedford Etal 20-1150
6.
7. Boone, WV
8. 1.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc
1. 80-06855
2. 47-005-00936-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bull Creek 25B-1158
6. Kanawha Forest Newburg
7. Boone, WV
8. 18.2 million cubic feet
9. November 20, 1979
10. Libbey-Owens-Ford
1. 80-06856
2. 47-005-00899-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Pond Fork 6-1015
6.
7. Boone, WV
8. 4.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06857
2. 47-005-00908-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 37-1073
6.
7. Boone, WV
8. 14.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06858
2. 47-005-00912-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 38-1074
6.
7. Boone, WV

8. 5.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06859
2. 47-005-00917-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B40-1131
6.
7. Boone, WV
8. 10.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06860
2. 47-005-00935-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Westmoreland 1-1151
6.
7. Boone, WV
8. 2.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06861
2. 47-005-00883-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Westmoreland 6-1178
6.
7. Boone, WV
8. 8.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06862
2. 47-005-01010-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bull Creek 28-1159
6.
7. Boone, WV
8. 10.8 million cubic feet
9. November 20, 1979
10. Libbey-Owens-Ford
1. 80-06863
2. 47-043-21381-0000
3. 108 000 000
4. F D & D F Smith
5. UFC Min N-1-1
6. Harts Crk
7. Lincoln, WV
8. 8.8 million cubic feet
9. November 20, 1979
10. Columbia Gas Trans Corp
1. 80-06864
2. 47-043-01386-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 11-1203
6.
7. Lincoln, WV
8. 12.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06865
2. 47-039-01751-0000

3. 108 000 000
4. Industrial Gas Corporation
5. B J Pettigrew 2-1116
6.
7. Kanawha, WV
8. 1.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06866
2. 47-021-22919-0000
3. 108 000 000
4. Industrial Gas Associates
5. C S Connolly Heirs No 1
6. Dekalb Dist
7. Gilmer, WV
8. 7.0 million cubic feet
9. November 20, 1979
10. Consolidated Gas Supply Corp
1. 80-06867
2. 47-039-01905-0000
3. 108 000 000
4. Industrial Gas Corporation
5. John Duncan 1-1147
6.
7. Kanawha, WV
8. 6.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06868
2. 47-039-01875-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding Co 10-1169
6.
7. Kanawha, WV
8. 4.7 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-06869
2. 47-043-01265-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C Underhill 2-1014
6.
7. Lincoln, WV
8. 5.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06870
2. 47-043-01324-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marv Bess 1-1000
6.
7. Lincoln, WV
8. 10.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06871
2. 47-043-01377-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 10-1198
6.
7. Lincoln, WV
8. 6.9 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06872
2. 47-039-02255-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Alford-Jarrett 1-1219
6.
7. Kanawha, WV
8. 12.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06873
2. 47-039-02397-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Z H Trowbridge 1-1225
6.
7. Kanawha, WV
8. 13.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06874
2. 47-043-01223-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Aubrey Turley 1-1001
6.
7. Lincoln, WV
8. 8.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06875
2. 47-099-00274-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 28-650
6.
7. Wayne, WV
8. 1.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06876
2. 47-099-00304-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 32-634
6.
7. Wayne, WV
8. 9.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06877
2. 47-099-00312-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 33-674
6.
7. Wayne, WV
8. 7.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co

1. 80-06878
2. 47-099-00331-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Ferguson Excelsor 1-686
6.
7. Wayne, WV
8. 13.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06879
2. 47-099-00340-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 36-694
6.
7. Wayne, WV
8. 5.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06880
2. 47-099-00737-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marion Burgess A 1-786
6.
7. Wayne, WV
8. 4.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06881
2. 47-005-01132-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Benj Pauley 2-340
6.
7. Boone, WV
8. 1.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06882
2. 47-005-01131-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Benj Pauley 1-330
6.
7. Boone, WV
8. 2.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06883
2. 47-005-01133-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F T Miller 1-276
6.
7. Boone, WV
8. 3.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06884
2. 47-043-00671-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Stein & McComas 1-744
6.
7. Lincoln, WV
8. 11.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06885
2. 47-043-00578-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Pattie Porter 5-706
6.
7. Lincoln, WV
8. 3.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06886
2. 47-043-00613-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Island Creek Mining 1-711
6.
7. Lincoln, WV
8. 5.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06887
2. 47-005-01129-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 11-281
6.
7. Boone, WV
8. 4.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06888
2. 47-005-01140-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B11-338
6.
7. Boone, WV
8. .4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06889
2. 47-005-01139-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Eliza Wilson 1-243
6.
7. Boone, WV
8. 2.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06890
2. 47-005-01138-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Minerva Roach 1-282
6.

7. Boone, WV
8. 7.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06891
2. 47-005-00475-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 33-586
- 6.
7. Boone, WV
8. 1.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06892
2. 47-005-00468-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 32-579
- 6.
7. Boone, WV
8. .4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06893
2. 47-005-00470-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 28-575
- 6.
7. Boone, WV
8. 3.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06894
2. 47-005-00452-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B2-566
- 6.
7. Boone, WV
8. 2.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06895
2. 47-005-00453-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 31-569
- 6.
7. Boone, WV
8. 2.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06896
2. 47-005-00454-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 34-568
- 6.
7. Boone, WV
8. 4.3 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06897
2. 47-039-01823-0000
3. 108 000 000
4. Industrial Gas Corporation
5. W R Stover C-1-1046
- 6.
7. Kanawha, WV
8. 4.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06898
2. 47-039-01849-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding Co 7-1160
- 6.
7. Kanawha, WV
8. 4.1 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-06899
2. 47-039-01863-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding Co 8-1161
- 6.
7. Kanawha WV
8. 2.4 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-06900
2. 47-039-01864-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lewis Holding Co 9-1161
- 6.
7. Kanawha WV
8. 5.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
- U.S. Geological Survey, Metairie, La.
1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06789/G9-818
2. 17-706-40326-0000-1
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G 2089 No A-3
6. Vermilion
7. 325
8. 1825.0 million cubic feet
9. November 20, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-06790/G9-800
2. 17-708-40362-0000-0
3. 102 000 000
4. Shell Oil Company
5. A-9
6. South Marsh Island
7. 132
8. .0 million cubic feet

9. November 20, 1979
10. Transcontinental Gas Pipe Line Comp
1. 80-06791/G9-756
2. 17-701-40046-00D2-0
3. 102 000 000
4. Mobil Oil Explo & Producing SE Inc
5. West Cameron Block 352 A-10C
6. West Cameron
7. 352
8. 2307.0 million cubic feet
9. November 20, 1979
10. Northern Natural Gas Company
1. 80-06792/G9-755
2. 17-701-40046-00D1-0
3. 102 000 000
4. Mobil Oil Explo & Producing SE Inc
5. West Cameron Block 352 A-10A
6. West Cameron
7. 352
8. 3189.0 million cubic feet
9. November 20, 1979
10. Northern Natural Gas Company
1. 80-06793/G9-753
2. 17-701-40039-00S1-0
3. 102 000 000
4. Mobil Oil Explo & Producing SE Inc
5. West Cameron Block 352A-6A
6. West Cameron
7. 352
8. 1970.0 million cubic feet
9. November 20, 1979
10. Northern Natural Gas Company
1. 80-06794/G9-825
2. 17-706-40326-0000-2
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2089 No A-3A
6. Vermilion
7. 325
8. 1825.0 million cubic feet
9. November 20, 1979
10. Transcontinental Gas P/L Corporation
1. 80-06795/G9-777
2. 17-721-40159-0100-0
3. 102 000 000
4. Shell Oil Company
5. OCS 0694 No 184
6. South Pass
7. 28
8. 328.0 million cubic feet
9. November 20, 1979
10. Tennessee Gas Pipeline Co
1. 80-06796/G9-752
2. 17-701-40032-00S1-0
3. 102 000 000
4. Mobil Oil Explo & Producing SE Inc
5. West Cameron Block 352 A-4A
6. West Cameron
7. 352
8. 2836.0 million cubic feet
9. November 20, 1979
10. Northern Natural Gas Company
1. 80-06797/G9-460
2. 17-711-40356-0100-1
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS-0335 #18
6. Ship Shoal
7. 32
8. 1.1 million cubic feet
9. November 20, 1979
10. Transcontinental Gas P/L Corp
1. 80-06798/G9-461
2. 17-711-40356-0100-2

3. 102 000 000
4. Kerr-McGee Corporation
5. OCS-0335 #18-D
6. Ship Shoal
7. 32
8. 1.9 million cubic feet
9. November 20, 1979
10. Transcontinental Gas P/L Corp
1. 80-06799/G9-754
2. 17-701-40045-00S1-0
3. 102 000 000
4. Mobil Oil Explo & Producing SE Inc
5. West Cameron Block 352 A-9A
6. West Cameron
7. 352
8. 200.0 million cubic feet
9. November 20, 1979
10. Northern Natural Gas Company
1. 80-06800/G9-774
2. 17-706-40293-00S1-0
3. 102 000 000
4. Exxon Corporation
5. OCS-G 1955 No A-16
6. Vermilion
7. 265
8. 700.0 million cubic feet
9. November 20, 1979
10. Texas Eastern Trans Corp
1. 80-06801/G9-829
2. 17-711-40019-01S1-0
3. 102 000 000
4. Placid Oil Company
5. B-18
6. Ship Shoal
7. 204
8. 365.0 million cubic feet
9. November 20, 1979
10. Michigan Wisconsin Pipe Line Company
1. 80-06802/G9-770
2. 17-706-40334-0000-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2089 No A-5A
6. Vermilion
7. 325
8. 1825.0 million cubic feet
9. November 20, 1979
10. Transcontinental Gas P/L Corp, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co
1. 80-06805/G8-70
2. 17-700-40190-0000-0
3. 102 000 000 Denied
4. Texas Gas Exploration Corporation
5. Union Oil Co #A-1
6. West Cameron
7. 237
8. 1300.0 million cubic feet
9. November 20, 1979
10. Texas Gas Transmission Corporation, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Co

U.S. Geological Survey, Metairie, La.

1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06728/G8-76

2. 42-711-40257-0000-0
3. 102 000 000
4. Texas Gas Exploration Corp
5. Union Oil Co #A-11
6. High Island Ea Se
7. A-334
8. 180.0 million cubic feet
9. November 20, 1979
10. Texas Gas Transmission Corp
1. 80-06729/G9-817
2. 42-711-40414-00S1-0
3. 102 000 000
4. Exxon Corporation
5. OCS-G 3486 No A-1
6. High Island
7. Parish TX
8. 3000.0 million cubic feet
9. November 20, 1979
10. Columbia Gas Trans Corp

1. 80-06730/G8-75
2. 42-711-40229-0000-0
3. 102 000 000
4. Texas Gas Exploration Corp
5. Union Oil Co #A-7
6. High Island Ea Se
7. A-334
8. 3.0 million cubic feet
9. November 20, 1979
10. Texas Gas Trans Corp El Paso Natural Gas Co Michigan-Wisconsin Pipeline Co
1. 80-06803/G9-813
2. 42-709-40384-0000-0
3. 102 000 000
4. Gulf Oil Corporation
5. High Is A-517 OCS 3481 #A-2
6. High Island
7. A-517
8. 5475.0 million cubic feet
9. November 20, 1979
10. Huntington Alloys Inc Libby-Owens Ford Co Owens-Illinois Co
1. 80-06804/G9-814
2. 42-709-40394-0000-0
3. 102 000 000
4. Gulf Oil Corporation
5. High Is A-517 OCS-3481 #A-3
6. High Island
7. A-517
8. 5475.0 million cubic feet
9. November 20, 1979
10. Huntington Alloys Inc Libby-Owens Ford Co Owens-Illinois Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission on or before January 4, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39022 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

[No. 126]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

December 10, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07286/79-2691
2. 17-111-02377-0000
3. 108 000 000
4. Ashland Exploration Inc
5. M H Trimble No. 1
6. Monroe
7. Union LA
8. 3.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07287/79-2690
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind Primos No 2
6. Monroe
7. Union LA
8. 7.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07288/79-2689
2. 17-111-01412-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind Primos No 1
6. Monroe
7. Union LA
8. 8.9 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07289/79-2688
2. 17-111-01241-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Katy C Smith No. 1
6. Monroe
7. Union LA
8. 4.2 million cubic feet
9. November 21, 1979

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10. Southern Natural Gas Company
1. 80-07290/79-2687
2. 17-111-01013-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Pat & John Reardon No. 2
6. Monroe
7. Union LA
8. 11.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07291/79-2686
2. 17-111-01374-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind No. D 13
6. Monroe
7. Union LA
8. 8.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07292/79-2695
2. 17-111-02031-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No. 1
6. Monroe
7. Union LA
8. 15.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07293/79-2694
2. 17-111-01377-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind No. D 12
6. Monroe
7. Union LA
8. 11.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07294/79-2693
2. 17-111-01378-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind No. D 11
6. Monroe
7. Union LA
8. 7.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07295/79-2692
2. 17-111-01268-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind No. E 3
6. Monroe
7. Union LA
8. 5.9 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07296/79-2700
2. 17-111-01799-0000
3. 108 000 000
4. Ashland Exploration Inc
5. O B Steele #1
6. Monroe
7. Union LA
8. 3.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07297/79-2699
2. 17-111-02026-0000
3. 108 000 000

4. Ashland Exploration Inc
5. Lon Nolan 7
6. Monroe
7. Union LA
8. 12.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07298/79-2698
2. 17-111-02325-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lon Nolan 6
6. Monroe
7. Union LA
8. 15.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07299/79-2697
2. 17-111-02324-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lon Nolan 5
6. Monroe
7. Union LA
8. 11.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07300/79-2703
2. 17-111-02161-0000
3. 108 000 000
4. Ashland Exploration Inc
5. C F Dumas No. 1
6. Monroe
7. Union LA
8. 5.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07301/79-2702
2. 17-111-03000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. T H Freeman No. 1
6. Monroe
7. Union LA
8. 10.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07302/79-2701
2. 17-111-02159-0000
3. 108 000 000
4. Ashland Exploration Inc
5. J W Sawyer #1
6. Monroe
7. Union LA
8. 1.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07303/79-2709
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind F 6
6. Monroe
7. Union LA
8. 12.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07304/79-2708
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind No. F5
6. Monroe
7. Union LA
8. 10.7 million cubic feet

9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07305/79-2707
2. 17-111-02300-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lon Nolan 1
6. Monroe
7. Union LA
8. 7.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07306/79-2706
2. 17-111-02284-0000
3. 108 000 000
4. Ashland Exploration Inc
5. B M Ramsey 3
6. Monroe
7. Union LA
8. 18.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07307/79-2705
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. B M Ramsey 1
6. Monroe
7. Union LA
8. 10.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07308/79-2704
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. G H Holloway-Smith 1
6. Monroe
7. Union LA
8. 3.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07309/79-2717
2. 17-111-01147-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Eva S Dean 1 No. 3
6. Monroe
7. Union LA
8. 7.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07310/79-2713
2. 17-111-02283-0000
3. 108 000 000
4. Ashland Exploration Inc
5. B M Ramsey 2
6. Monroe
7. Union LA
8. 9.9 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07311/79-2712
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lon Nolan 4
6. Monroe
7. Union LA
8. .3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07312/79-2711
2. 17-111-01014-0000

3. 108 000 000
4. Ashland Exploration Inc
5. J A Hollistaunton No 2
6. Monroe
7. Union LA
8. 11.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07313/79-2720
2. 17-111-02007-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No B 18
6. Monroe
7. Union LA
8. 11.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07314/79-2719
2. 17-111-01507-0000
3. 108 000 000
4. Ashland Exploration Inc
5. J A Cook No 1
6. Monroe
7. Union LA
8. 8.1 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07315/79-2718
2. 17-111-01148-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Eva S Dean 1 No 4
6. Monroe
7. Union LA
8. 12.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07316/79-2725
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. W C Beasley No 1
6. Monroe
7. Union LA
8. 7.1 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07317/79-2724
2. 17-111-01099-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Olin Industries 8
6. Monroe
7. Union LA
8. 9.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07318/79-2723
2. 17-111-01080-0000
3. 108 000 000
4. Ashland Exploration Inc
5. J A Hollis No 3
6. Monroe
7. Union LA
8. 9.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07319/79-2722
2. 17-111-01398-0000
3. 108 000 000
4. Ashland Exploration Inc
5. J S Handy No 2
6. Monroe
7. Union LA

8. 12.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07320/79-2721
2. 17-111-00600-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No B 1 19
6. Monroe
7. Union LA
8. 6.9 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07321/79-2728
2. 17-111-01391-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Carbons Consolidated JCE No 9
6. Monroe
7. Morehouse, LA
8. 9.9 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07322/79-2727
2. 17-111-00587-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Carbons Consolidated JCE No 8
6. Monroe
7. Morehouse, LA
8. 10.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07323/79-2726
2. 17-111-01207-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Haile-Brown No 1
6. Monroe
7. Union LA
8. 6.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07324/79-2731
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Mary Wheeler No 1
6. Monroe
7. Union LA
8. 7.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07325/79-2730
2. 17-111-00420-0000
3. 108 000 000
4. Ashland Exploration Inc
5. G A McCormick 1
6. Monroe
7. Union LA
8. 7.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07326/79-2729
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. F & I Haile No 1
6. Monroe
7. Union LA
8. 7.6 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07327/79-2735

2. 17-111-01078-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Olin Industries 12
6. Monroe
7. Union LA
8. 7.1 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07328/79-2734
2. 17-111-01008-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Olin Industries 11
6. Monroe
7. Union LA
8. 15.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07329/79-2733
2. 17-111-01009-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Olin Industries
6. Monroe
7. Union LA
8. 11.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07330/79-2732
2. 17-111-01079-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Olin Industries #9
6. Monroe
7. Union LA
8. 12.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07331/79-2739
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. J A Peak 3 0215499
6. Monroe
7. Union LA
8. 3.9 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07332/79-2738
2. 17-111-01787-0000
3. 108 000 000
4. Ashland Exploration Inc
5. J A Peak 2
6. Monroe
7. Union LA
8. 5.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07333/79-2737
2. 17-111-01788-0000
3. 108 000 000
4. Ashland Exploration Inc
5. J A Peak L&P 1
6. Monroe
7. Union LA
8. 5.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07334/79-2736
2. 17-111-01940-0000
3. 108 000 000
4. Ashland Exploration Inc
5. O B Clark Et Al No 1
6. Monroe

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7. Union LA
8. 9.6 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07335/79-2741
2. 17-111-00443-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Marion Investment Corp 1
6. Monroe
7. Union LA
8. 10.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07336/79-2740
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. J A Peak 4
6. Monroe
7. Union LA
8. 8.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07337/79-2742
2. 17-111-01960-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. W C Feazel-Digby No 1
6. Monroe
7. Union LA
8. 4.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07338/79-2744
2. 17-111-02004-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co No B 14
6. Monroe
7. Union LA
8. 19.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07339/79-2743
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co No B 13
6. Monroe
7. Union LA
8. 11.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07340/79-2745
2. 17-111-02009-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co No B 15
6. Monroe
7. Union LA
8. 14.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07341/79-2746
2. 17-111-02005-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. B 16
6. Monroe
7. Union, LA
8. 9.6 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07342/79-2747

2. 17-111-02006-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. B 17
6. Monroe
7. Union, LA
8. 12.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07343/79-2748
2. 17-111-01141-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Eva's Dean No. 1
6. Monroe
7. Union, LA
8. 14.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07344/79-2764
2. 17-111-01463-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Power Co. No. C 21
6. Monroe
7. Union, LA
8. 8.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07345/79-2763
2. 17-111-00563-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Frost Lumber Ind. No. 24
6. Monroe
7. Union, LA
8. 3.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07346/79-2762
2. 17-111-01227-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. W. C. Martin 2
6. Monroe
7. Union, LA
8. 4.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07347/79-2761
2. 17-111-00564-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Frost Lumber Ind. No. 23
6. Monroe
7. Union, LA
8. 6.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07348/79-2760
2. 17-111-00361-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Frost Lumber Ind. No. 22
6. Monroe
7. Union, LA
8. 6.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07349/79-2759
2. 17-111-00557-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Rosa L. B. McKinnie 2
6. Monroe

7. Union, LA
8. 4.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07350/79-2758
2. 17-111-00558-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Rosa L. B. McKinnie 1
6. Monroe
7. Union, LA
8. 10.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07351/79-2757
2. 17-111-01232-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. C 20
6. Monroe
7. Union, LA
8. 7.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07352/79-2756
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. C 17
6. Monroe
7. Union, LA
8. 6.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07353/79-2755
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. C 16
6. Monroe
7. Union, LA
8. 10.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07354/79-2754
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. C 15
6. Monroe
7. Union, LA
8. 11.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07355/79-2753
2. 17-111-00527-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. W. B. McKinnie 2
6. Monroe
7. Union, LA
8. 6.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07356/79-2752
2. 17-111-00996-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. J. W. Hollis No. 5 080283
6. Monroe
7. Union, LA
8. 7.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07357/79-2751

2. 17-111-00998-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. J. W. Hollis No. 4
6. Monroe
7. Union, LA
8. 6.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07358/79-2750
2. 17-111-01884-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. N. R. Nolan 4
6. Monroe
7. Union, LA
8. 10.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07359/79-2749
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Eva's Dean No. 2
6. Monroe
7. Union, LA
8. 10.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07436/79-2798
2. 17-111-00000-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Morgan No. 1
6. Monroe
7. Union, LA
8. 4.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07437/79-2797
2. 17-111-00000-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Simpson No. 1
6. Monroe
7. Union, LA
8. 15.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07438/79-2796
2. 17-111-20092-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Harris No. 2
6. Monroe
7. Union, LA
8. 19.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07439/79-2795
2. 17-111-02110-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Harris No. 1
6. Monroe
7. Union, LA
8. 14.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07440/79-2794
2. 17-111-00000-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Zabolio No. 1
6. Monroe

7. Ouachita, LA
8. 5.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07441/79-2793
2. 17-111-21190-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. B 20
6. Monroe
7. Union, LA
8. 17.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07442/79-2792
2. 17-111-21138-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. B 25
6. Monroe
7. Union, LA
8. 4.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07443/79-2781
2. 17-111-01385-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Carbons Consolidated No. 14
6. Monroe
7. Union, LA
8. 4.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07444/79-2780
2. 17-111-00526-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. C 24
6. Monroe
7. Union, LA
8. 9.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07445/79-2779
2. 17-111-01229-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Union Producing Co. No. C 23
6. Monroe
7. Union, LA
8. 6.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07446/79-2778
2. 17-111-00313-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Mollie T. Pardue 2
6. Monroe
7. Union, LA
8. 3.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07447/79-2777
2. 17-111-00312-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Mollie T. Pardue #1
6. Monroe
7. Union LA
8. 3.6 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07448/79-2776

2. 17-111-00431-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Mary E Lee 1
6. Monroe
7. Union LA
8. 3.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07449/79-2775
2. 17-111-01570-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. K D Lankford 1
6. Monroe
7. Union LA
8. 9.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07450/79-2774
2. 17-111-01571-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. F M Potts 1
6. Monroe
7. Union LA
8. 6.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07451/79-2773
2. 17-111-01575-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Elizabeth Nichols 5
6. Monroe
7. Union LA
8. 12.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07452/79-2772
2. 17-111-01010-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. J W Hollis No 6
6. Monroe
7. Union LA
8. 11.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07453/79-2771
2. 17-111-00900-0000
3. 108 000 000
4. Ashland Exploration Inc.
5. Frost Lumber Ind No D 14
6. Monroe
7. Union LA
8. 7.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07454/79-2768
2. 17-119-20201-0000
3. 102 000 000
4. Sandefer & Andress Inc
5. W D Martin #1
6. Cotton Valley Gray Ra Sand Un C
7. Webster LA
8. 350.0 million cubic feet
9. November 21, 1979
10. Arkansas Louisiana Gas Company
1. 80-07455/79-2682
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 12
6. Monroe

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7. Union La
8. 7.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07456/79-2683
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 13
6. Monroe
7. Union La
8. 5.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07457/79-2684
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 14
6. Monroe
7. Union La
8. 6.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07458/79-2685
2. 17-111-00530-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Primos McKinnie 1
6. Monroe
7. Union La
8. 3.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07459/79-2686
2. 17-111-01397-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Pat & John Reardon #1
6. Monroe
7. Union La
8. 7.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07460/79-2789
2. 17-111-20942-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Power Co No C24
6. Monroe
7. Union La
8. 12.7 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07461/79-2788
2. 17-111-20943-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Pat & John Reardon #3
6. Monroe
7. Union La
8. 8.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07462/79-2787
2. 17-111-20170-0000
3. 108 000 000
4. Ashland Exploration Inc
5. W C Feazel No 9
6. Monroe
7. Union La
8. 10.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07463/79-2786

2. 17-021-20409-0000
3. 102 000 000
4. Frank Spooner
5. La Pacific J No 2
6. Richland Creek
7. Caldwell La
8. 100.0 million cubic feet
9. November 21, 1979
10. United Gas Pipeline Co
1. 80-07464/79-2785
2. 17-127-20625-0000
3. 102 000 000
4. Frank Spooner
5. La Pacific J No 1 (156675)
6. Richland Creek
7. Winn La
8. 100.0 million cubic feet
9. November 21, 1979
10. United Gas Pipeline Co
1. 80-07465/79-2784
2. 17-111-00346-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind No 25
6. Monroe
7. Union La
8. 6.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07466/79-2783
2. 17-111-01143-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind No F 8
6. Monroe
7. Union La
8. 8.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07467/79-2782
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Frost Lumber Ind Primos No 3
6. Monroe
7. Union La
8. 6.9 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07468/79-2578
2. 17-097-20500-0000
3. 102 000 000
4. Sevarg Company Inc
5. U Guillory Ra Sua T J Brown No 1
6. Savoy
7. St Landry La
8. 500.0 million cubic feet
9. November 21, 1979
10. Texas Eastern Trans Corp
1. 80-07469/79-2678
2. 17-111-01365-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 8
6. Monroe
7. Union La
8. 8.6 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07470/79-2679
2. 17-111-01390-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 9
6. Monroe

7. Union La
8. 1.23 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07471/79-2680
2. 17-111-01279-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 10
6. Monroe
7. Union La
8. 14.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07472/79-2681
2. 17-111-00000-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 11
6. Monroe
7. Union La
8. 9.1 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07473/79-2635
2. 17-107-00226-0000
3. 108 000 000
4. E L Larry
5. M T Sud Aaron B Brown No 1
6. Justina
7. Tensas La
8. .0 million cubic feet
9. November 21, 1979
10. Mid Louisiana Gas Co Ashland Oil
1. 80-07474/79-2670
2. 17-111-01597-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No B 8
6. Monroe
7. Union La
8. 16.3 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07475/79-2671
2. 17-111-01598-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No B 9
6. Monroe
7. Union La
8. 7.1 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07476/79-2672
2. 17-111-01568-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No B 10
6. Monroe
7. Union La
8. 10.8 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07477/79-2673
2. 17-111-01576-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No. B 11
6. Monroe
7. Union La
8. 6.5 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07478/79-2674

2. 17-111-01898-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No B 12
6. Monroe
7. Union La
8. 20.1 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07479/79-2675
2. 17-111-01198-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 5
6. Monroe
7. Union La
8. 9.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07480/79-2676
2. 17-111-01199-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 6
6. Monroe
7. Union La
8. 6.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07481/79-2677
2. 17-111-01200-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 7
6. Monroe
7. Union La
8. 5.4 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07482/79-2763
2. 17-075-02745-0000
3. 108 000 000
4. Gulf Oil Corporation
5. J G Tinnolat B #33
6. West Bay
7. Plaquemines Parish LA
8. 20.0 million cubic feet
9. November 21, 1979
10. Texas Eastern Trans Corp United Gas Pipeline Co
1. 80-07483/79-2765
2. 17-111-01450-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 22
6. Monroe
7. Union La
8. 15.2 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07484/79-2813
2. 17-073-20885-0000
3. 108 000 000
4. Gas Transportation Corporation
5. Grant S #11
6. Monroe
7. Quachita, LA
8. 1.0 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07485/79-2812
2. 17-073-20876-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grants S #8

6. Monroe
7. Quachita, LA
8. 1.7 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07486/79-2808
2. 17-073-020851-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #1
6. Monroe
7. Quachita, LA
8. .0 million cubic feet
9. November 21, 1979
10. P & G Gathering
1. 80-07487/79-2809
2. 17-073-20852-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S. #2
6. Monroe Gas Field
7. Quachita
8. .8 million cubic feet
9. November 21, 1979
10. P & G Gathering
1. 80-07488/79-2810
2. 17-073-20530-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #3
6. Monroe
7. Quachita, LA
8. .7 million cubic feet
9. November 21, 1979
10. P & G Gathering
1. 80-07489/79-2811
2. 17-073-20872-0000
3. 108 000 000
4. Gas Transportation Corporation
5. Grant S #5
6. Monroe
7. Quachita, LA
8. .7 million cubic feet
9. November 21, 1979
10. P & G Gathering
1. 80-07490/79-2806
2. 17-073-21163-0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith Et Al #10
6. Monroe
7. Quachita, LA
8. 10.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Co
1. 80-07491/79-2807
2. 17-073-21145-0000
3. 103 000 000
4. Lock Arbor Production Co
5. Smith Et Al #8
6. Monroe
7. Quachita, LA
8. 10.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Co
1. 80-07492/79-2604
2. 17-015-20345-0000
3. 108 000 000
4. Par Oil Corporation
5. Skannal No. 2
6. Sligo
7. Bossier Parish, LA
8. 15.4 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Co

1. 80-07493/79-2803
2. 17-015-20334-0000
3. 108 000 000
4. PAR Oil Corporation
5. Skannal No. 1
6. Sligo
7. Bossier, LA
8. 15.4 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Co
1. 80-07494/79-2802
2. 17-097-20485-0000
3. 102 000 000
4. Sevarg Company Inc.
5. Chick 3 RB SUA Manuel Farms, Inc., No. 2
6. Savoy
7. St. Landry, LA
8. 185.0 million cubic feet
9. November 21, 1979
10. Texas Gas Trans Corp
1. 80-07495/79-2801
2. 17-111-00000-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Jordan M A No. 1
6. Monroe
7. Union, LA
8. 5.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07496/79-2800
2. 17-067-00476-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Harrell VU A Crossett No. 75
6. Monroe
7. Morehouse, LA
8. 16.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07497/79-2799
2. 17-111-00000-0000
3. 108 000 000
4. Pennzoil Producing Company
5. Wheeler M D NO. 1
6. Monroe
7. Union LA
8. 5.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07498/79-2791
2. 17-111-21078-0000
3. 108 000 000
4. Ashland Exploration Inc
5. C A McCormick #2
6. Monroe
7. Union LA
8. 20.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07499/79-2790
2. 17-111-21015-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Union Producing Co No C 5
6. Monroe
7. Union LA
8. 6.0 million cubic feet
9. November 21, 1979
10. Southern Natural Gas Company
1. 80-07500/79-2832
2. 17-119-20221-0000
3. 103 000 000
4. Marathon Oil Company
5. CVSU MOC Gray No. 2

6. Cotton Valley
7. Webster, LA
8. 1095.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07501/79-2831
2. 17-119-20224-0000
3. 103 000 000
4. Marathon Oil Company
5. CVSU MOC Gray No. 1
6. Cotton Valley
7. Webster, LA
8. 730.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company
1. 80-07502/79-2830
2. 17-047-20503-0000
3. 103 000 000
4. Shell Oil Company
5. WC MW RA SU Wilbert No 246
6. White Castle
7. Iberville, LA
8. .9 million cubic feet
9. November 21, 1979
10. Monterey Pipeline Co
1. 80-07503/79-2829
2. 17-045-20503-0000
3. 103 000 000
4. Continental Oil Company
5. B SUAR H Goodrich No. 2
6. Bayou Long
7. Iberia, LA
8. 540.0 million cubic feet
9. November 21, 1979
10. Monterey Pipeline Company
1. 80-07504/79-2828
2. 17-073-20901-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #24
6. Monroe
7. Ouachita, LA
8. .1 million cubic feet
9. November 21, 1979
10. P & G Gathering
1. 80-07505/79-2827
2. 17-073-20900-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #23
6. Monroe Gas Field
7. Ouachita, LA
8. .4 million cubic feet
9. November 21, 1979
10. P & G Gathering
1. 80-07506/79-2826
2. 17-073-20887-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #22
6. Monroe
7. Ouachita, LA
8. .3 million cubic feet
9. November 21, 1979
10. P & G Gathering
1. 80-07507/79-2825
2. 17-073-20882-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #21
6. Monroe
7. Ouachita, LA
8. .3 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems

1. 80-07508/79-2824
2. 17-073-20899-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #20
6. Monroe
7. Ouachita, LA
8. .4 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07509/79-2823
2. 17-073-20680-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #14
6. Monroe
7. Ouachita, LA
8. .9 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07510/79-2822
2. 17-073-20879-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #13
6. Monroe
7. Ouachita, LA
8. .9 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07511/79-2811
2. 17-073-20903-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant Benson #1
6. Monroe
7. Ouachita, LA
8. .4 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07512/79-2819
2. 17-073-20649-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant D #29
6. Monroe Gas Field
7. Ouachita, LA
8. .7 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07513/79-2820
2. 17-073-20850-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant D #30
6. Monroe
7. Ouachita, LA
8. 1.4 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07514/79-2818
2. 17-073-20810-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant D #28
6. Monroe Gas Field
7. Ouachita, LA
8. .9 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07515/79-2817
2. 17-073-20815-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant D #27

8. Monroe Gas Field
7. Ouachita, LA
8. .5 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07516/79-2815
2. 17-073-20902-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #25
6. Monroe
7. Ouachita, LA
8. .2 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07517/79-2814
2. 17-073-20877-0000
3. 108 000 000
4. Gas Transportation Corp
5. Grant S #12
6. Monroe
7. Ouachita, LA
8. 1.0 million cubic feet
9. November 21, 1979
10. P & G Gathering Systems
1. 80-07518/79-2714
2. 17-001-20761-0000
3. 102 000 000
4. Solatex Petroleum Co Ltd
5. Thelma M Laurents No 1
6. W Midland
7. Acadia, LA
8. 700.0 million cubic feet
9. November 21, 1979
10. Continental Oil Co

Montana Board of Oil and Gas Conservation

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07364/9-79-269
2. 25-101-21604-0000
3. 102 103 000
4. Branch Oil & Gas
5. ST 4-36 Sec 36 T-34N R-3W
6. Southwest Kevin
7. Toole MT
8. 16.9 million cubic feet
9. November 21, 1979
10. Aloe Ventures Gath System
1. 80-07365/9-79-271
2. 25-101-21778-0000
3. 102 103 000
4. Branch Oil & Gas
5. ST 8-35 Sec 35 T-34N R-3W
6. Southwest Kevin
7. Toole MT
8. 47.3 million cubic feet
9. November 21, 1979
10. Aloe Ventures Gath System
1. 80-07366/9-79-270
2. 25-101-21606-0000
3. 102 103 000
4. Branch Oil & Gas
5. Lewis 10-25 Sec 25 T-34N R-3W
6. Southwest Kevin
7. Toole MT
8. 29.9 million cubic feet

9. November 21, 1979
10. Aloe Ventures Gath System
New York Department of Environmental
Conservation, Bureau of Mineral Resources
1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator of NGPA
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07201/754
2. 31-013-13201-0000
3. 102 000 000
4. Envirogas Inc
5. Seblink No. 3
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07202/744
2. 31-013-13887-0000
3. 102 000 000
4. Envirogas Inc
5. A Jones No. 1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07203/764
2. 31-013-14316-0000
3. 103 000 000
4. Envirogas Inc
5. W Pennell No. 2
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07204/763
2. 31-013-14300-0000
3. 103 000 000
4. Envirogas Inc
5. A Nixon No. 2
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07205/762
2. 31-013-14315-0000
3. 103 000 000
4. Envirogas Inc
5. W Pennell No. 1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07206/761
2. 31-013-14361-0000
3. 103 000 000
4. Envirogas Inc
5. P Waters No. 1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp

1. 80-07207/760
2. 31-013-14362-0000
3. 103 000 000
4. Envirogas Inc
5. D Babo No. 1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07208/759
2. 31-013-14180-0000
3. 102 000 000
4. Envirogas Inc
5. Susan Lane No. 1
6. Panama
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07209/758
2. 31-013-13977-0000
3. 102 000 000
4. Envirogas Inc
5. V McConnon No. 1
6. Panama
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07210/757
2. 31-013-13976-0000
3. 102 000 000
4. Envirogas Inc
5. W J Sherman No. 1
6. Panama
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07211/751
2. 31-013-14290-0000
3. 103 000 000
4. Envirogas Inc
5. D Darling No. 1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07212/749
2. 31-013-14251-0000
3. 103 000 000
4. Envirogas Inc
5. James Kelso No. 2
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07213/773
2. 31-037-13570-0000
3. 103 000 000
4. Lenape Resources Corp
5. Richard Mills No. 1
6. Uhley Corners
7. Genesee, NY
8. 456.0 million cubic feet
9. November 21, 1979
10. Elizabethtown Gas Company
1. 80-07214/774
2. 31-121-13581-0000
3. 103 000 000
4. Lenape Resources Corp
5. Allen Wallace No. 1

6. Leicester
7. Wyoming, NY
8. 241.0 million cubic feet
9. November 21, 1979
10. Elizabethtown Gas Company
1. 80-07215/775
2. 31-121-13556-0000
3. 103 000 000
4. Lenape Resources Corp
5. Milligan No. 1
6. Leicester
7. Wyoming, NY
8. 864.0 million cubic feet
9. November 21, 1979
10. Elizabethtown Gas Company
1. 80-07216/776
2. 31-121-13567-0000
3. 103 000 000
4. Lenape Resources Corporation
5. Everett Hunn No. 1
6. Leicester
7. Wyoming, NY
8. 171.0 million cubic feet
9. November 21, 1979
10. Elizabethtown Gas Company
1. 80-07217/778
2. 31-013-14366-0000
3. 103 000 000
4. Envirogas Inc
5. William Burgess No. 1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07218/765
2. 31-013-14176-0000
3. 102 000 000
4. Trahan Petroleum Inc
5. George Peterson—Croner No. 4 31-013
6. Panama
7. Chant, NY
8. 36.0 million cubic feet
9. November 21, 1979
10. Columbia Gas Trans Corp
1. 80-07219/777
2. 31-051-13628-0000
3. 102 000 000
4. Lenape Resources Corporation
5. Wadsworth No. 1
6. Wildcat
7. Livingston, NY
8. 456.0 million cubic feet
9. November 21, 1979
10. Elizabethtown Gas Company
1. 80-07220/753
2. 31-029-14268-0000
3. 102 000 000
4. SCG Gas Quest Inc
5. Kasinski No. 1
6. Eden-Evans
7. Erie, NY
8. 36.5 million cubic feet
9. November 21, 1979
10. Tenn Gas Pipeline Co Southern
Connecticut Gas Co
1. 80-07221/756
2. 31-013-12530-0000
3. 102 000 000
4. Trahan Petroleum Inc
5. Miktuk—N Y 63 31-013-12530
6. Panama
7. Chautauqua, NY
8. 36.0 million cubic feet
9. November 21, 1979

10. Columbia Gas Trans Corp
1. 80-07222/86
2. 31-003-05510-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Clair No. 1
6. Richburg Field (Oriskany Pool)
7. Allegany, NY
8. 8.0 million cubic feet
9. November 21, 1979
10. National Fuel Gas Supply Corp
1. 80-07223/87
2. 31-009-13198-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 022
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07224/88
2. 31-009-13197-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 021
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07225/89
2. 31-009-13195-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 019
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07226/90
2. 31-009-13194-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 018
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07227/91
2. 31-009-13191-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 015
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07228/92
2. 31-009-13190-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 013
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07229/93
2. 31-009-13189-0000
3. 108 000 000

4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 012
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07230/94
2. 31-009-13199-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 011
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07231/95
2. 31-009-13148-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 07
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07232/96
2. 31-009-13147-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 06
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07233/97
2. 31-009-13146-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 05
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07234/98
2. 31-009-13145-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 04
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07235/99
2. 31-009-13144-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 03
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07236/100
2. 31-009-13143-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 02
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet

9. November 21, 1979
10. Pennzoil Producing Company
1. 80-07237/101
2. 31-009-13142-0000
3. 108 000 000
4. Quaker State Oil Refining Corp
5. Sue Lease Well No. 01
6. Bradford Field
7. Cattaraugus Co, NY
8. .5 million cubic feet
9. November 21, 1979
10. Pennzoil Producing Company

U.S. Geological Survey, Metairie, La.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07360/G9-876
2. 17-701-40061-0000-0
3. 102 000 000
4. Getty Oil Company
5. West Cameron 437 A-10
6. West Cameron
7. 437
8. 1200.0 million cubic feet
9. November 21, 1979
10. Natural Gas P/L Co of America
1. 80-07361/G9-844
2. 17-700-40288-0000-0
3. 102 000 000
4. Chevron USA Inc
5. OCS-G-1971 No. 8
6. West Cameron
7. 181
8. 1862.0 million cubic feet
9. November 21, 1979
10. Natural Gas Pipeline Co
1. 80-07363/G9-846
2. 17-721-40160-0000-0
3. 102 000 000
4. Shell Oil Company
5. OCS 0694 No. 186
6. South Pass
7. 28
8. 100.0 million cubic feet
9. November 21, 1979
10. Tennessee Gas Pipeline Co
1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07362/G9-888
2. 42-711-40390-00S1-0
3. 102 000 000
4. Marathon Oil Company
5. OCS-G 2403 No. A-14
6. High Island East Add South Ext
7. A-279
8. 2400.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company Michigan-Wisconsin Pipeline Co

1. 80-07367/G9-870
2. 42-711-40351-00S1-0
3. 102 000 000
4. Marathon Oil Company
5. OCS-G 2403 No. A-10
6. High Island East Add S Ext
7. A-279
8. 1860.0 million cubic feet
9. November 21, 1979
10. United Gas Pipe Line Company Michigan-Wisconsin Pipeline Co

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual Volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07270/COA-4049-79
2. 05-067-05149-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. UTE No 6-A
6. Ignacio Blanco Mesaverde
7. La Plata Co
8. 4.2 million cubic feet
9. November 21, 1979
10. Peoples Natural Gas
1. 80-07385/COA-4048-79
2. 05-067-05042-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. UTE No 6
6. Ignacio Blanco Dakota & Mesaverde
7. La Plata Co
8. 8.8 million cubic feet
9. November 21, 1979
10. Peoples Natural Gas
1. 80-07434/COA-2606-79
2. 05-067-005572-0000-0
3. 108 000 000
4. Marchison Brothers
5. Southern UTE Bloc 5 No 4-32
6. Ignacio-Blanco
7. La Plata County Co
8. 6.1 million cubic feet
9. November 21, 1979
10. Western Slope Gas Co
1. 80-07238/NM-207-79
2. 30-045-11851-0000-0
3. 103 000 000
4. Supron Energy Corporation
5. Hodges No 10
6. Basin Dakota
7. San Juan NM
8. .6 million cubic feet
9. November 21, 1979
10. El Paso National Gas Company
1. 80-07239/NM-223-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Nickson No 14
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. November 21, 1979
10. El Paso National Gas Company
1. 80-07240/NM-405-79
2. 30-045-09072-0000-0
3. 108 000 000
4. Orville Slaughter
5. Sangre De Cristo Well No 1
6. Oswell Pool Well No 2 2D-34-30N-11W
7. San Juan County NM
8. 3.6 million cubic feet
9. November 21, 1979
10. El Paso National Gas Company
1. 80-07241/NM-406-79
2. 30-045-20861-0000-0
3. 108 000 000
4. Orville Slaughter
5. Sangre De Cristo Well No 2
6. Oswell Pool Well No 2 2D-34-30N-11W
7. San Juan County NM
8. 5.5 million cubic feet
9. November 21, 1979
10. El Paso National Gas Company
1. 80-07242/NM-2694-79
2. 30-045-00030-0000-0
3. 108 000 000
4. Huskey Oil Company
5. Schwerdtfeger No 13
6. West Kutz Pictured Cliffs
7. San Juan NM
8. 1.2 million cubic feet
9. November 21, 1979
10. El Paso National Gas Company
1. 80-07243/NM-2706-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Government Evensen 3G
6. Angels Peak Callup
7. San Juan NM
8. 2.0 million cubic feet
9. November 21, 1979
10. El Paso National Gas Company
1. 80-07244/NM-3105-79
2. 30-043-20266-0000-0
3. 108 000 000
4. Chace Oil Company Inc
5. Rusty Navajo No 6
6. Rusty Chacra
7. Sandoval NM
8. 4.0 million cubic feet
9. November 21, 1979
10. El Paso National Gas Company
1. 80-07245/NM-2936-79
2. 30-039-25782-0000-0
3. 103 000 000
4. Continental Oil Company
5. Axi Apache J No 26
6. Axi Apache Area
7. Rio Arriba NM
8. 135.0 million cubic feet
9. November 21, 1979
10. Gas Company of New Mexico
1. 80-07246/NM-3151-79
2. 30-015-22096-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit K183
6. Empire-ABO Pool
7. Eddy County NM
8. 63.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07247/NM-3152-79
2. 30-015-22559-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit K184

6. Empire-ABO pool
7. Eddy County NM
8. 27.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07248/NM-3153-79
2. 30-015-22569-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit M152
6. Empire-ABO pool
7. Eddy County NM
8. 57.0 million cubic feet
9. November 20, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07249/NM-3154-79
2. 30-015-22097-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit M901
6. Empire-ABO pool
7. Eddy County NM
8. 256.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07250/NM-3155-79
2. 30-015-22058-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit N901
6. Empire-ABO pool
7. Eddy County NM
8. 3.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07251/NM-3156-79
2. 30-015-22057-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit M101
6. Empire-ABO pool
7. Eddy County NM
8. 24.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07252/NM-3157-79
2. 30-015-22098-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit M122
6. Empire-ABO pool
7. Eddy County NM
8. 504.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07253/NM-3158-79
2. 30-015-22658-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit K194
6. Empire-ABO pool
7. Eddy County NM
8. 397.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07254/NM-3159-79
2. 30-015-22062-0000-0
3. 103 000 000

4. Arco Oil and Gas Company
5. Empire ABO Unit L121
6. Empire-ABO pool
7. Eddy County NM
8. 63.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 80-07235/NM-3160-79
2. 30-015-22657-0000-0
3. 103 000 000

4. Arco Oil and Gas Company
5. Empire ABO unit K193
6. Empire-ABO pool
7. Eddy County, NM
8. 40.0 million cubic feet
9. November 21, 1979

10. Amoco Production Company, Phillips Petroleum Co

1. 80-07256/NM-3164-79
2. 30-015-22568-0000-0
3. 103 000 000

4. Arco Oil and Gas Company
5. Empire ABO unit M151
6. Empire-ABO pool
7. Eddy County, NM
8. 16.0 million cubic feet
9. November 21, 1979

10. Amoco Production Company, Phillips Petroleum Co

1. 80-07257/NM-3594-79
2. 30-039-60094-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. Rincon unit 97 MV & PC
6. Blanco MV & Blanco S PC Gas
7. Rio Arriba, NM
8. 21.7 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07258/NM-4601-79
2. 30-043-23504-0000-0
3. 103 000 000

4. Dugan Production Corp
5. Western Federal #9
6. South Gallegos
7. San Juan, NM
8. 75.0 million cubic feet
9. November 21, 1979

10. El Paso Natural Gas Company

1. 80-07259/NM-4600-79
2. 30-043-22695-0000-0
3. 103 000 000

4. Dugan Production corp
5. KR #3
6. WAW Field
7. San Juan, NM

8. 5.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07260A/NM-4598-79
2. 30-043-23209-0000-0
3. 103 000 000

4. Dugan Production Corp
5. Mayre #4 (Fruitland)
6. Harper Hill
7. San Juan, NM

8. 35.0 million cubic feet
9. November 21, 1979
10.

1. 80-07260B/NM-4598-79B
2. 30-043-23209-0000-2
3. 103 000 000
4. Dugan Production Corp
5. Mayre #4 (PC)

6. Harper Hill
7. San Juan, NM
8. 35.0 million cubic feet
9. November 21, 1979
10.

1. 80-07261/NM-4400-79
2. 30-045-09028-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. Ludwick #8
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 16.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07262A/NM-4386-79A
2. 30-039-21890-0000-1
3. 103 000 000

4. Cotton Petroleum Corporation
5. Apache No 127 (Dakota)
6. Lindrith Dakota West
7. Rio Arriba, NM
8. 30.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corporation

1. 80-07262B/NM-4386-79B
2. 30-039-21890-0000-2
3. 103 000 000

4. Cotton Petroleum Corporation
5. Apache No 127 (Gallup)
6. Lindrith Gallup
7. Rio Arriba, NM
8. 30.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corporation

1. 80-07263/NM-4267-79
2. 30-045-20390-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. Huerfano unit #54
6. Basin-Dakota Gas
7. San Juan, NM
8. 21.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp, Southern Union Gathering Co

1. 80-07264/NM-4160-79
2. 30-039-20371-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. Vaughn #13
6. Basin-Dakota Gas
7. Rio Arriba, NM
8. 18.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07265/NM-4227-79
2. 30-015-22216-0000-0
3. 103 000 000

4. Holly Energy Inc
5. McIntyre A-7
6. Loco Hills Morrow South (Gas)
7. Eddy, NM
8. 90.0 million cubic feet
9. November 21, 1979
10. Continental Oil Company

1. 80-07266/NM-3942-79
2. 30-045-08553-0000-0
3. 108 000 000

4. Petroleum Corporation of Texas
5. Jones Federal #2 NM-03717
6. Aztec Field
7. San Juan County, NM
8. 16.0 million cubic feet

9. November 21, 1979
10. El Paso Natural Gas Co
1. 80-07267/NM-3964-79
2. 30-025-00000-0000-0
3. 108 000 000

4. Westall & Barr
5. Federal A No 1
6. Chaveroo San Andres
7. Lea, NM
8. 2.3 million cubic feet
9. November 21, 1979
10. Cities Service Company

1. 80-07268/NM-3965-79
2. 30-041-20112-0000-0
3. 108 000 000

4. Westall & Barr
5. Federal A No 2
6. Chaveroo San Andres
7. Lea, NM
8. 2.3 million cubic feet
9. November 21, 1979
10. Cities Service Company

1. 80-07269/NM-3966-79
2. 30-041-20154-0000-0
3. 108 000 000

4. Westall & Barr
5. Federal A No 3
6. Chaveroo San Andres
7. Lea, NM
8. 2.3 million cubic feet
9. November 21, 1979
10. Cities Service Company

1. 80-07271/NM-3970-79
2. 30-015-22444-0000-0
3. 103 000 000

4. Holly Energy Inc
5. McIntyre B-3
6. Grayburg-Jackson
7. Eddy, NM
8. 95.0 million cubic feet
9. November 21, 1979
10. Phillips Petroleum Company

1. 80-07272/NM-4076-79
2. 30-039-07087-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. SJ 28-6 unit #27
6. Blanco Mesaverde Gas
7. Rio Arriba, NM
8. 24.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07273/NM-4079-79
2. 30-039-05946-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Canyon Largo unit #37
6. Ballard Pictured Cliffs Gas
7. Rio Arriba, NM

8. 21.2 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07274/NM-4082-79
2. 30-045-11785-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. San Jacinto #6
6. Basin Dakota Gas
7. San Juan, NM
8. 18.6 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp

1. 80-07275/NM-4087-79

2. 30-045-20938-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Heaton #28
6. Blanco-Pictured Cliffs Gas

7. San Juan, NM
8. 21.5 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07276/NM-4092-79
2. 30-045-20922-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. Jones A #7
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 18.6 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07277/NM-4100-79
2. 30-045-60031-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Zachary #1
6. Blanco Mesaverde Gas
7. San Juan, NM

8. 23.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07278/NM-4128-79
2. 30-045-22843-0000-0
3. 103 000 000

4. El Paso Natural Gas Company
5. Neil #6A
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 120.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07279/NM-4150-79
2. 30-039-21007-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 27-4 unit #116
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM

8. 21.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07280/NM-4172-79
2. 30-039-20412-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. Klein #17
6. Otero-Chacra Gas
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07281/NM-4175-79
2. 30-045-11785-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Heaton #20
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM

8. 19.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07282/NM-3900-79
2. 30-025-04966-0000-0
3. 108 000 000

4. Gene Milford
5. Toles Federal No 1
6. Sawyer San Andres

7. Lea, NM
8. 9.1 million cubic feet
9. November 21, 1979
10. Cities Service Company
1. 80-07283/NM-3477-79
2. 30-045-22205-0000-0
3. 103 000 000

4. Amoco Production Company
5. McEwen Gas Com B #1
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 79.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07284/NM-3166-79
2. 30-015-22560-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Empire ABO Unit K192
6. Empire-ABO Pool
7. Eddy County, NM

8. 497.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 80-07285/NM-3165-79
2. 30-015-22676-0000-0
3. 103 000 000

4. Arco Oil and Gas Company
5. Empire ABO Unit J203
6. Empire-ABO Pool
7. Eddy County, NM
8. 336.0 million cubic feet
9. November 21, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 80-07368/NM-4203-79
2. 30-045-21975-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Howell G No. 2A
6. Blanco Mesaverde
7. San Juan, NM

8. 110.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company, Southern Union Gathering Co
1. 80-07369/NM-4204-79
2. 30-045-21976-0000-0
3. 103 000 000

4. El Paso Natural Gas Company
5. Woodrider No. 2A
6. Blanco Mesaverde
7. San Juan, NM
8. 175.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company, Southern Union Gathering Co

1. 80-07370/NM-4205-79
2. 30-045-22928-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Riddle A No. 3A
6. Blanco Mesaverde
7. San Juan, NM

8. 210.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company, Southern Union Gathering Co
1. 80-07371/NM-4206-79
2. 30-045-21964-0000-0
3. 103 000 000

4. El Paso Natural Gas Company
5. Howell C No. 4A
6. Blanco Mesaverde

7. San Juan, NM
8. 290.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company, Southern Union Gathering Co
1. 80-07372/NM-4222-79
2. 30-045-23166-0000-0
3. 103 000 000

4. El Paso Natural Gas Company
5. Sunray B No. 1A
6. Blanco Mesaverde
7. San Juan, NM
8. 140.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07373/NM-4198-79
2. 30-045-23124-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Sheets No. 1A
6. Blanco Mesaverde
7. San Juan, NM

8. 130.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07374/NM-4199-79
2. 30-039-21716-0000-0
3. 103 000 000

4. El Paso Natural Gas Company
5. Rincon Unit No. 81A
6. Blanco Mesaverde
7. Rio Arriba, NM
8. 240.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07375/NM-4200-79
2. 30-045-23167-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Riddle B No. 3A
6. Blanco Mesaverde
7. San Juan, NM

8. 130.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07376/NM-4201-79
2. 30-045-23168-0000-0
3. 103 000 000

4. El Paso Natural Gas Company
5. Riddle B No. 2A
6. Blanco Mesaverde
7. San Juan, NM
8. 180.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07377/NM-4202-79
2. 30-039-21719-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Riddle A No. 3A
6. Blanco Mesaverde
7. San Juan, NM

8. 130.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07378/NM-4223-79
2. 30-045-22991-0000-0
3. 103 000 000

4. El Paso Natural Gas Company
5. Sheets No 3
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 30.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07379/NM-4234-79
2. 30-045-23092-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Dawson No. 1A
6. Blanco Mesaverde
7. San Juan, NM
8. 110.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07380/NM-3947-79
2. 30-045-07075-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Kutz Government No. 4 SF-046563
6. Fulcher Kutz Field (PC)
7. San Juan, NM
8. 10.6 million cubic feet
9. November 21, 1979
10. Southern Union Gathering Co.
1. 80-07381/NM-4218-79
2. 30-045-23165-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Sunray E No. 1A
6. Blanco Mesaverde
7. San Juan, NM
8. 220.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07382/NM-4219-79
2. 30-045-23381-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Storey B No. 1A
6. Blanco Mesaverde
7. San Juan, NM
8. 110.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07383/NM-3346-79
2. 30-039-06065-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 146 No. 16
6. Otero-Chacra
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07384A/NM-4026-79A
2. 30-045-23167-0000-1
3. 103 000 000
4. Dome Petroleum Corp
5. Federal 24 Well No. 1 (PC)
6. Nipp Pictured Cliffs
7. San Juan, County, NM
8. 37.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas, Natural Gas Pipeline Corp of Am
1. 80-07384B/NM-4026-79A
2. 30-045-23167-0000-2
3. 103 000 000
4. Dome Petroleum Corp
5. Federal 24 Well No. 1 (Fruitland)
6. Nipp Fruitland
7. San Juan, County, NM
8. 37.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas, Natural Gas Pipeline Corp of Am
1. 80-07386/NM-4156-79
2. 30-045-02168-0000-0
3. 108 000 000

4. El Paso Natural Gas Company
5. Johnston No. 12
6. Aztec Pictured Cliffs Gas
7. San Juan, NM
8. 19.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07387/NM-4157-79-1
2. 30-005-60555-0000-0
3. 102 000 000
4. Yates Petroleum Corporation
5. Federal Hy No. 2
6. Wildcat
7. Eddy, NM
8. .0 million cubic feet
9. November 21, 1979
10.
1. 80-07388/NM-4157-79-1
2. 30-005-60555-0000-0
3. 103 000 000
4. Yates Petroleum Corporation
5. Federal Hy No. 2
6. Wildcat
7. Eddy, NM
8. .0 million cubic feet
9. November 21, 1979
10.
1. 80-07389/NM-3643-79
2. 30-005-00000-0000-0
3. 102 000 000
4. C E Larue and B N Muncy Jr
5. Lillie Federal No. 2
6. Sams Ranch Grayburg
7. Chaves, NM
8. .0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07390/NM-3649-79
2. 30-005-00000-0000-0
3. 102 000 000
4. C E Larue and B N Muncy Jr
5. Hanlad Federal No. 1
6. Sams Ranch Grayburg
7. Chaves, NM
8. .0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07391/NM-3940-79
2. 30-045-22519-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Marron A No. 1-A NM-03604
6. South Blanco P C Field
7. San Juan, County, NM
8. 17.2 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07392/NM-3941-79
2. 30-045-06198-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Marron A No. 1 NM-03604
6. South Blanco P C Field
7. San Juan County, NM
8. .0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07393/NM-3944-79
2. 30-045-06915-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Kutz Government No. 7 SF-077382
6. Fulcher Kutz Field (PC)
7. San Juan, NM
8. 16.8 million cubic feet

9. November 21, 1979
10. Southern Union Gathering Co
1. 80-07394/NM-3943-79
2. 30-045-21209-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Kutz Government #6 SF-077382
6. Fulcher Kutz Field (PC)
7. San Juan, NM
8. 3.1 million cubic feet
9. November 21, 1979
10. Southern Union Gathering Co
1. 80-07395/NM-3945-79
2. 30-045-06933-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Kutz Government #5 SF-046563
6. Fulcher Kutz Field (PC)
7. San Juan, NM
8. 14.2 million cubic feet
9. November 21, 1979
10. Southern Union Gathering Co
1. 80-07396/NM-3946-79
2. 30-045-21211-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Kutz Government #8-A SF-077383
6. Fulcher Kutz Field (PC)
7. San Juan, NM
8. 14.5 million cubic feet
9. November 21, 1979
10. Southern Union Gathering Co
1. 80-07397/NM-4197-79
2. 30-045-11576-0000-0
3. 108 000 000
4. Arco Oil and Gas Company
5. Navajo Allotted Com A #1
6. Basin Dakota
7. San Juan, NM
8. 6.9 million cubic feet
9. November 21, 1979
10. Gas Company of New Mexico
1. 80-07398/NM-4220-79
2. 30-045-23170-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Florance F #1A
6. Blanco Mesaverde
7. San Juan, NM
8. 100.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07399/NM-4221-79
2. 30-045-22834-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Howell C #3A
6. Blanco Mesaverde
7. San Juan, NM
8. 240.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07400/NM-4246-79
2. 30-025-26010-0000-0
3. 102 000 000
4. Gifford Mitchell & Wisenbaker
5. Spotted Tail Federal Well #1
6. Sioux Yates
7. Lea, NM
8. 9.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07401/NM-4247-79
2. 30-025-26009-0000-0

3. 102 000 000
4. Gifford Mitchell & Wisenbaker
5. Standing Bear Federal Well #1
6. Sioux Yates
7. Lea, NM
8. 8.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07402/NM-4248-79
2. 30-025-25939-0000-0
3. 102 000 000
4. Gifford Mitchell & Wisenbaker
5. Tishman Federal Well #1
6. Sioux Yates
7. Lea, NM
8. 6.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07403/NM-4249-79
2. 30-045-23256-0000-0
3. 103 000 000
4. American Petrofina Company of Texas
5. Tank Mountain No 1
6. Blanco Mesaverde
7. San Juan, NM
8. 1.1 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07404/NM-4250-79
2. 30-045-23087-0000-0
3. 103 000 000
4. Hixon Development Company
5. Phillips Federal Well No 2
6. Wildcat
7. San Juan County, NM
8. 150.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07405/NM-4252-79
2. 30-039-21817-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Arizona Jicarilla #9
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 100.0 million cubic feet
9. November 21, 1979
10. Gas Company of New Mexico
1. 80-07406/NM-4253-79
2. 30-039-21818-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Arizona Jicarilla #10
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 100.0 million cubic feet
9. November 21, 1979
10. Gas Company of New Mexico
1. 80-07407/NM-4254-79-A
2. 30-045-23105-0000-1
3. 103 000 000
4. Southland Royalty Company
5. Hanks #24 (Chacra)
6. Undesignated Chacra
7. San Juan, NM
8. 80.0 million cubic feet
9. November 21, 1979
10. Southern Union Gathering Company
1. 80-07408/NM-4254-79-B
2. 30-045-23105-0000-2
3. 103 000 000
4. Southland Royalty Company
5. Hanks #24 (MV)
6. Blanco Mesaverde
7. San Juan, NM

8. 125.0 million cubic feet
9. November 21, 1979
10. Southern Union Gathering
1. 80-07409A/NM-4255-79A
2. 30-039-21848-0000-1
3. 103 000 000
4. Southland Royalty Company
5. Medio Canyon #1 (Gallup)
6. West Lindrith Gallup
7. Rio Arriba, NM
8. 25.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corporation
1. 80-07409B/NM-4255-79B
2. 30-039-21848-0000-2
3. 103 000 000
4. Southland Royalty Company
5. Medio Canyon #1 (Dakota)
6. West Lindrith Dakota
7. Rio Arriba, NM
8. 25.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corporation
1. 80-07410/NM-4270-79
2. 30-039-20602-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 27-5 Unit #149
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 80-07411/NM-4276-79
2. 30-039-06873-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 28-7 Unit #120
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 21.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07412/NM-4306-79
2. 30-045-23037-0000-0
3. 103 000 000
4. Marathon Oil Company
5. Ohio Government #3
6. Fulcher Kutz Pictured Cliffs
7. San Juan, NM
8. 104.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07413A/NM-4386-79A
2. 30-039-22017-0000-1
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 114 (Dakota West)
6. Lindrith Dakota West
7. Rio Arriba, NM
8. 30.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corporation
1. 80-07413B/NM-4386-79B
2. 30-039-22017-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 114 (Gallup)
6. Lindrith Gallup
7. Rio Arriba, NM
8. 30.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corporation
1. 80-07414/NM-4217-79

2. 30-045-21768-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Florance A #1A
6. Blanco Mesaverde
7. San Juan, NM
8. 280.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07415/NM-3647-79
2. 30-005-00000-0000-0
3. 102 000 000
4. C E Larue and B N Muncy Jr
5. Lillie Federal #1 API No 30-005-6036
6. Sams Ranch Grayburg
7. Chaves County, NM
8. .0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07416/NM-4158-79
2. 30-039-07326-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 28-6 Unit #35
6. Blanco Mesaverde Gas
7. Rio Arriba, NM
8. 16.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07417/NM-4161-79
2. 30-045-20793-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Kelly B #2
6. Blanco-Pictured Cliffs Gas
7. San Juan, NM
8. 19.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07418/NM-4165-79
2. 30-039-07113-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 27-5 Unit #77
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 18.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 80-07419/NM-4166-79
2. 30-039-06807-0000-0
3. 106 000 000
4. El Paso Natural Gas Company
5. Rincon Unit #50
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07420/NM-4167-79
2. 30-045-05991-0000-0
3. 106 000 000
4. El Paso Natural Gas Company
5. Luthy A #2
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 20.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company
1. 80-07421/NM-4168-79
2. 30-045-06990-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Daum #3

6. Blanco Mesaverde Gas
7. San Juan, NM
8. 19.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07422/NM 4193-79B
2. 30-025-26203-0000-2
3. 103 000 000
4. Continental Oil Company
5. Warren Unit—Blaine No 57
6. NMFU—Blaine Oil & Gas
7. Lea NM

8. 25.0 million cubic feet
9. November 21, 1979
10. Warren Petroleum Company

1. 80-07423/NM 4193-79A
2. 30-025-26203-0000-1
3. 103 000 000

4. Continental Oil Company
5. Warren Unit—Tubb No 57
6. NMFU—Warren Tubb Oil
7. Lea NM

8. 35.0 million cubic feet
9. November 21, 1979
10. Warren Petroleum Co

1. 80-07427/NM-4208-79
2. 30-015-20278-0000-0
3. 108 000 000

4. Yates Petroleum Corporation
5. Allison Co Federal No 1
6. Hoag Tank Morrow
7. Eddy NM

8. 21.8 million cubic feet
9. November 21, 1979
10. Transwestern Pipeline Company

1. 80-07428/NM-4209-79
2. 30-015-20054-0000-0
3. 108 000 000

4. Yates Petroleum Corporation
5. Johnston Be Com No 1
6. Boyd Morrow Gas
7. Eddy County NM

8. 24.3 million cubic feet
9. November 21, 1979
10. Transwestern Pipeline Co

1. 80-07429/NM-4210-79
2. 30-045-10936-0000-0
3. 108 000 000

4. Consolidated Oil & Gas Inc
5. Freeman No 1-11
6. Basin Dakota/Blanco Mesaverde
7. San Juan NM

8. 18.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07430/NM-4213-79
2. 30-015-22674-0000-0
3. 103 000 000

4. Gulf Oil Corporation
5. Marquardt Federal Well No 1
6. White City Penn
7. Eddy NM

8. 288.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas

1. 80-07431/NM-4214-79
2. 30-015-22612-0000-0
3. 103 000 000

4. Gulf Oil Corporation
5. Pacheco Federal Com Well No 3
6. Angell Ranch Morrow
7. Eddy NM

8. 100.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas

1. 80-07432/NM-4216-79
2. 30-045-22719-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Hughes #8A
6. Blanco Mesaverde
7. San Juan NM

8. 260.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07433/NM-1920-79
2. 30-025-00000-0000-0
3. 108 000 000

4. Continental Oil Company
5. Lockhart B-31 #4
6. New Mexico Federal Unit
7. Lea NM

8. 15.9 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Co (C-4037)

1. 80-07435/NM-2715-79
2. 30-045-23014-0000-0
3. 108 000 000

4. Dietrich Exploration Company Inc
5. Federal 34-2
6. Waw Pictured Cliffs
7. San Juan County NM

8. 5.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-07424/NM-4195-79
2. 43-037-30453-0000-0
3. 103 000 000

4. The Superior Oil Co
5. McElmo Creek Unit S-13
6. Greater Aneth
7. San Juan UT

8. 25.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Co

1. 80-07425/NM-4194-79
2. 43-037-30456-0000-0
3. 103 000 000

4. The Superior Oil Co
5. McElmo Creek Unit U-13
6. Greater Aneth
7. San Juan UT

8. 60.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Co

1. 80-07426/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07427/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07428/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07429/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07430/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07431/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07432/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07433/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07434/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07435/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07436/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07437/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07438/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07439/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07440/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07441/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07442/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07443/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07444/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07445/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07446/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07447/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07448/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07449/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07450/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21
6. Greater Aneth
7. San Juan UT

8. 55.0 million cubic feet
9. November 21, 1979
10. El Paso Natural Gas Company

1. 80-07451/UA 4207-79
2. 43-037-30463-0000-0
3. 103 000 000

4. The Superior Oil Company
5. McElmo Creek Unit Q-21

7. Kingfisher, OK
8. 73.0 million cubic feet
9. November 20, 1979
10. Eason Oil Co
1. 80-07144/00862
2. 35-045-20672-0000
3. 103 000 000
4. Alpar Resources Inc
5. Beagle No. 1-2
6. NE Peek
7. Ellis, OK
8. 75.0 million cubic feet
9. November 20, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07145/00601
2. 35-137-00000-0000
3. 103 000 000
4. Getty Oil Company
5. C A Stephens No. 7
6. Sho-Vel-Tum
7. Stephens, OK
8. 83.0 million cubic feet
9. November 20, 1979
10. Getty Oil Co Nat Gas Plant
1. 80-07146/00609
2. 35-137-21806-0000
3. 103 000 000
4. Getty Oil Company
5. Crosbie Unit No 6
6. Sho-Vel-Tum
7. Stephens OK
8. 169.0 million cubic feet
9. November 20, 1979
10. Getty Oil Co Nat Gas Plant
1. 80-07147/00051
2. 35-093-21448-0000
3. 103 000 000
4. Union Texas Petroleum
5. L L Weaver No 5
6. Ringwood
7. Major OK
8. 53.0 million cubic feet
9. November 20, 1979
10. Okla Nat Gas Gathering Corp
1. 80-07148/00058
2. 35-093-21436-0000
3. 103 000 000
4. Union Texas Petroleum
5. E A Maly #2
6. Chaney Dell East Sec 30 T23N R10W
7. Major OK
8. 58.0 million cubic feet
9. November 20, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07149/00055
2. 35-003-20626-0000
3. 103 000 000
4. Union Texas Petroleum
5. M Smith #2
6. Chaney Dell East Sec 17 T23N R10W
7. Alfalfa OK
8. 41.0 million cubic feet
9. November 20, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07150/00571
2. 35-093-00000-0000
3. 108 000 000
4. Ladd Petroleum Corp
5. Scannell G
6. Ringwood
7. Major OK
8. 18.1 million cubic feet
9. November 20, 1979
10. Oklahoma Natural Gas Gathering
1. 80-07151/00556

2. 35-049-00000-0000
3. 108 000 000
4. Ladd Petroleum Corp
5. Nolatubee J Z
6. Golden Trend
7. Garvin OK
8. 2.4 million cubic feet
9. November 21, 1979
10. Warren Petroleum Corporation
1. 80-07152/00557
2. 35-049-00000-0000
3. 108 000 000
4. Ladd Petroleum Corp
5. Nolatubee-Cronian
6. Golden Trend
7. Garvin OK
8. 8.4 million cubic feet
9. November 21, 1979
10. Warren Petroleum Corporation
1. 80-07153/00569
2. 35-093-00000-0000
3. 108 000 000
4. Ladd Petroleum Corp
5. Adkins (Mann)
6. Ringwood
7. Major OK
8. 6.3 million cubic feet
9. November 21, 1979
10. Oklahoma Natural Gas Gathering
1. 80-07154/00061
2. 35-093-21531-0000
3. 103 000 000
4. Union Texas Petroleum
5. McNabb #2
6. Chaney Dell East Sec 26 T23N R11W
7. Major OK
8. 73.0 million cubic feet
9. November 21, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07155/00056
2. 35-003-20622-0000
3. 103 000 000
4. Union Texas Petroleum
5. Homer Davis A-2
6. Chaney Dell East
7. Alfalfa OK
8. 80.0 million cubic feet
9. November 21, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07156/00940
2. 35-025-35327-0000
3. 108 000 000
4. Texaco Inc
5. Nash State No 1
6. E Griggs
7. Cimarron OK
8. 0 million cubic feet
9. November 21, 1979
10. Transwestern Pipeline Company
1. 80-07157/00941
2. 35-025-35308-0000
3. 108 000 000
4. Texaco Inc
5. Gustave Dencker Unit No 1
6. Griggs
7. Cimarron OK
8. 4.7 million cubic feet
9. November 21, 1979
10. Transwestern Pipeline Company
1. 80-07158/00982
2. 35-139-00000-0000
3. 108 000 000
4. Texaco Inc
5. J Blehm No 1
6. Guymon-Hugoton

7. Texas OK
8. 20.1 million cubic feet
9. November 21, 1979
10. Kansas-Nebraska Gas Co Inc
1. 80-07159/00042
2. 35-047-21460-0000
3. 103 000 000
4. Union Texas Petroleum
5. L M Atherton No 3
6. Waukomis SW
7. Garfield OK
8. 55.0 million cubic feet
9. November 21, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07160/00869
2. 35-045-20630-0000
3. 102 000 000
4. Caroline Hunt Trust Estate
5. No 1 R J Schneider 045-56583
6. S E Arnett (Morrow SD)
7. Ellis OK
8. 140.0 million cubic feet
9. November 21, 1979
10. Northern Natural Gas Company
1. 80-07161/00785
2. 35-121-20213-0000
3. 103 000 000
4. Dyco Petroleum Corporation
5. Sanders No 1-22
6. Ulan South
7. Pittsburg OK
8. 160.0 million cubic feet
9. November 21, 1979
10. Arkansas Louisiana Gas Company
1. 80-07162/00579
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Sloup
6. Sooner Trend
7. Garfield OK
8. 5.3 million cubic feet
9. November 21, 1979
10. Cities Service Gas Co
1. 80-07163/00580
2. 35-093-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. C-15 Mississippi
6. Ringwood
7. Major OK
8. 5.1 million cubic feet
9. November 21, 1979
10. Oklahoma Natural Gas Gathering
1. 80-07165/00050
2. 35-093-21391-0000
3. 103 000 000
4. Union Texas Petroleum
5. State B No 3
6. Ringwood
7. Major OK
8. 20.0 million cubic feet
9. November 21, 1979
10. Oklahoma Natural Gas Gathering Corp
1. 80-07166/00574
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Lang
6. N E Enid
7. Garfield OK
8. 6.9 million cubic feet
9. November 21, 1979
10. Cities Service Gas Co
1. 80-07167/00535

2. 35-093-21345-0000
3. 103 000 000
4. Pioneer Production Corporation
5. Hurt #1-8 OTC No 093-53469
6. N E Chester
7. Major OK
8. 35.0 million cubic feet
9. November 21, 1979
10. Delhi Gas Pipeline
1. 80-07164/00572
2. 35-093-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Scannell #1 (Mann)
6. Ringwood
7. Major OK
8. 6.9 million cubic feet
9. November 21, 1979
10. Oklahoma Natural Gas Gathering

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06901
2. 47-005-00565-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 38-643
6.
7. Boone WV
8. 2.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06902
2. 47-005-00554-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 43-341
6.
7. Boone WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06903
2. 47-005-00559-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 37-642
6.
7. Boone WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06904
2. 47-005-00537-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bull Creek 19-636
6. Kanawha Forest Newburg
7. Boone WV

8. 18.3 million cubic feet
9. November 20, 1979
10. Libbey-Owens-Ford
1. 80-06905
2. 47-005-00544-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 36-638
6.
7. Boone WV
8. 2.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06906
2. 47-005-00545-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 42-639
6.
7. Boone WV
8. 3.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06907
2. 47-005-00478-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 29-576
6.
7. Boone WV
8. 2.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06908
2. 47-005-00482-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 34-587
6.
7. Boone WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06909
2. 47-005-00485-0000
3. 108 000 000
4. Industrial Gas Corporation
5. E E Chambers 3-595
6.
7. Boone WV
8. 1.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06910
2. 47-043-00777-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Stein & McComas 4-763
6.
7. Lincoln WV
8. 11.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80-06911
2. 47-043-00767-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lincoln Land & Mining 3-762
6.
7. Lincoln WV
8. 2.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06912
2. 47-043-00753-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Stein & McComas 3-758
6.
7. Lincoln WV
8. 2.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06913
2. 47-043-00694-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 1-749
6.
7. Lincoln WV
8. 6.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06914
2. 47-043-00709-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 2-751
6.
7. Lincoln WV
8. 8.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06915
2. 47-043-00695-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Stein & McComas 2-752
6.
7. Lincoln WV
8. 5.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06916
2. 47-005-01160-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 11-228
6.
7. Boone WV
8. 1.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc
1. 80-06917
2. 47-043-00614-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Pattie Porter 6-713
- 6.
7. Lincoln WV
8. 7.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06918
2. 47-003-00426-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R A Chambers 1-553
- 6.
7. Boone WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06919
2. 47-005-01147-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lenning Estate 4-331
- 6.
7. Boone WV
8. 8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06920
2. 47-005-01146-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lenning Estate 1-218
- 6.
7. Boone WV
8. 4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06921
2. 47-005-01145-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lenning Estate 3-321
- 6.
7. Boone WV
8. 3.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06922
2. 47-005-01161-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 14-299
- 6.
7. Boone WV
8. 1.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06923
2. 47-043-01405-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 14-1210
- 6.

7. Lincoln WV
8. 7.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06924
2. 47-043-01406-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F. F. Starcher 13-1209
- 6.
7. Lincoln WV
8. 9.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06925
2. 47-043-01409-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F. F. Starcher 15-1218
- 6.
7. Lincoln WV
8. 7.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06926
2. 47-043-01437-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F. F. Starcher 16-1220
- 6.
7. Lincoln WV
8. 10.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06927
2. 47-045-00744-0000
3. 108 000 000
4. Industrial Gas Corporation
5. A. S. Behrend 1-1025
- 6.
7. Logan WV
8. 6.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06928
2. 47-045-00009-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lawson Hrs B 3-1181
- 6.
7. Logan WV
8. 8.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06929
2. 47-045-00860-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lawson Hrs A 3-1138
- 6.
7. Logan WV
8. 2.3 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06930
2. 47-045-00567-0000
3. 108 000 000
4. Industrial Gas Corporation
5. T. H. Harvey 8-1004
- 6.
7. Logan WV
8. 16.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06931
2. 47-045-00775-0000
3. 108 000 000
4. Industrial Gas Corporation
5. H. M. Patterson 5-1109
- 6.
7. Logan WV
8. 7.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06932
2. 47-045-00779-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lawson Hrs. A 2-1120
- 6.
7. Logan WV
8. 10.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06933
2. 47-045-00783-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Ann McNeely 1-1113
- 6.
7. Logan WV
8. 2.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06934
2. 47-005-01127-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 9-187
- 6.
7. Boone WV
8. 1.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06935
2. 47-005-01128-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Francis Pauley 1-374
- 6.
7. Boone WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.

1. 80-06936
2. 47-005-01135-0000
3. 108 000 000
4. Industrial Gas Corporation
5. J. E. Powell 1-381
- 6.
7. Boone WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06937
2. 47-005-02113-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co. B 3-240
- 6.
7. Boone WV
8. 1.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06938
2. 47-043-00935-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koontz Realty Co. 4-776
- 6.
7. Lincoln WV
8. 16.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06939
2. 47-043-00711-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lincoln Land & Mining 2-735
- 6.
7. Lincoln WV
8. 1.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06940
2. 47-043-00845-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Stein & McComas 6-774
- 6.
7. Lincoln WV
8. 3.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06941
2. 47-043-00874-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Stein & McComas 7-787
- 6.
7. Lincoln WV
8. 4.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06942
2. 47-043-00814-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Stein & McComas 5-767
- 6.
7. Lincoln WV
8. 10.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06943
2. 47-043-00893-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Elwood Runyan 1-788
- 6.
7. Lincoln WV
8. 4.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06944
2. 47-045-00624-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Martha McKenly 2-1024
- 6.
7. Logan WV
8. 7.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06945
2. 47-045-00246-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R. J. Blankenship 1-1022
- 6.
7. Logan WV
8. 4.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06946
2. 47-045-00992-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lawson Hrs. B 4-1182
- 6.
7. Logan WV
8. 2.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06947
2. 47-045-00789-0000
3. 108 000 000
4. Industrial Gas Corporation
5. H. M. Patterson 6-1137
- 6.
7. Logan WV
8. 3.6 million cubic feet
9. October 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens-Ford Co., Owens-Illinois, Inc.
1. 80-06948
2. 47-043-01388-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 12-1207
- 6.

7. Lincoln WV
8. 7.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06949
2. 47-043-01440-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 17-1223
- 6.
7. Lincoln WV
8. 4.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06950
2. 47-043-01441-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F F Starcher 18-1224
- 6.
7. Lincoln WV
8. 4.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06951
2. 47-045-0028-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Betty Conley 1-1187
- 6.
7. Logan WV
8. 4.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06952
2. 47-045-00584-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Martha McKenly 1-1017
- 6.
7. Logan WV
8. 5.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06953
2. 47-045-00467-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lawson Hrs A 1-1023
- 6.
7. Logan WV
8. 6.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois Inc
1. 80-06954
2. 47-045-00846-0000
3. 108 000 000
4. Industrial Gas Corporation
5. M Blankenship 1-1145
- 6.
7. Logan WV
8. 6.7 million cubic feet
9. November 20, 1979

1. 80-06994
2. 47-039-02937-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers A 4-281
6.

7. Kanawha, WV
8. 1.5 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-06995
2. 47-039-02938-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers A 5-284
6.

7. Kanawha, WV
8. 1.3 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-06996
2. 47-039-02969-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 7-17
6.

7. Kanawha WV
8. 4.7 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-06997
2. 47-039-02953-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L G Crenshaw 4-279
6.

7. Kanawha WV
8. 3.6 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-06998
2. 47-039-02945-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 17-105
6.

7. Kanawha WV
8. 7.9 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-06999
2. 47-039-02943-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 10-40
6.

7. Kanawha WV
8. 3.9 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07000
2. 47-039-02944-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 11-41
6.

7. Kanawha WV
8. 6.3 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07001
2. 47-039-02936-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 18-107

6.
7. Kanawha WV
8. 5.3 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07002
2. 47-039-02935-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers B 10-383
6.

7. Kanawha WV
8. 2.8 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07003
2. 47-039-02973-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hancock 7-72
6.

7. Kanawha WV
8. 11.8 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07004
2. 47-039-02974-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Dickinson A 1-73
6.

7. Kanawha WV
8. 4.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07005
2. 47-039-02975-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Dickinson A 2-186
6.

7. Kanawha WV
8. 1.5 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07006
2. 47-039-02978-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Dickinson A 7-234
6.

7. Kanawha WV
8. 6.9 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07007
2. 47-039-02933-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers A 1-269
6.

7. Kanawha WV
8. 6.0 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07008
2. 47-039-02942-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 9-26
6.

7. Kanawha WV
8. 5.3 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07009
2. 47-039-02941-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers A 8-319
6.

7. Kanawha WV
8. 1.9 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07010
2. 47-039-02981-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L G Crenshaw 2-259
6.

7. Kanawha WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07011
2. 47-039-02980-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L G Crenshaw 3-266
6.

7. Kanawha WV
8. 3.3 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07012
2. 47-039-02934-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers B 9-362
6.

7. Kanawha WV
8. 2.8 million cubic feet
9. November 20, 1979
10. Cabot Corporation

1. 80-07013
2. 47-039-00267-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 26-637
6.

7. Wayne WV
8. 4.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07014
2. 47-039-00258-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Flem Booth 1-623
6.

7. Wayne WV
8. 3.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07015
2. 47-039-00260-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 31-624
6.

7. Wayne WV
8. 10.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07016
2. 47-039-00257-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Floyd Booth 1-622
6.

7. Wayne WV
8. 2.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07017
2. 47-039-00255-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Guyan Oil 9-619
6.

7. Wayne WV
8. 3.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07018
2. 47-005-01153-0000
3. 108 000 000
4. Industrial Gas Corporation
5. E E Chambers 2-349
6.

7. Boone WV
8. 2.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07019
2. 47-005-01162-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 15-302
6.

7. Boone WV
8. .9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07020
2. 47-039-00251-0000
3. 108 000 000
4. Industrial Gas Corporation
5. B C McGinnis 1-613
6.

7. Wayne WV
8. 9.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07021
2. 47-039-00384-0000
3. 108 000 000
4. Industrial Gas Corporation
5. E D Spilman 1-626
6.

7. Kanawha WV
8. 9.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07022
2. 47-039-00673-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Siler Coal Land Co 6-560
6.
7. Kanawha, WV
8. 11.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07023
2. 47-043-00512-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Pattie Porter 2-681
6.

7. Lincoln, WV
8. 8.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07024
2. 47-059-00015-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wislon Coal Land Co 11-528
6.

7. Mingo WV
8. 6.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07025
2. 47-039-00005-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Guyan Oil 4-543
6.

7. Wayne, WV
8. 1.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07026
2. 47-039-00747-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 9-582
6.

7. Kanawha, WV
8. 4.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07027
2. 47-039-00690-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 7-561
6.

7. Kanawha, WV
8. 8.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07028
2. 47-039-00781-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 10-592
6.

7. Kanawha, WV
8. 9.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07029
2. 47-039-00034-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 16-515
6.

7. Wayne, WV
8. 8.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07030
2. 47-039-00020-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 11-510
6.

7. Wayne, WV
8. 2.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07031
2. 47-043-00563-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Pattie Porter 4-693
6.

7. Lincoln, WV
8. 7.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07032
2. 47-043-00575-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koontz Realty Co 2-705
6.

7. Lincoln, WV
8. 9.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07033
2. 47-039-00037-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 9-526
6.

7. Wayne, WV
8. 2.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07034
2. 47-039-00794-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 11-598
6.

7. Kanawha, WV
8. 10.5 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07035
2. 47-039-00840-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 12-617
6.
7. Kanawha, WV
8. 5.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07036
2. 47-043-00541-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Pattie Porter 3-683
6.
7. Lincoln, WV
8. 10.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07037
2. 47-043-00552-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koontz Realty Co 1-692
6.
7. Lincoln, WV
8. 4.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07038
2. 47-099-00038-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 14-529
6.
7. Wayne, WV
8. .7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07039
2. 47-099-00210-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 26-577
6.
7. Wayne, WV
8. 7.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07040
2. 47-099-00137-0000
3. 108 000 000
4. Industrial Gas Corporation
5. B J Prichard 1-550
6.
7. Wayne, WV
8. 3.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07041
2. 47-099-00039-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 15-514
6.
7. Wayne, WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07042
2. 47-099-00043-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 8-525
6.
7. Wayne, WV
8. 5.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07043
2. 47-099-00049-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 20-535
6.
7. Wayne, WV
8. 15.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07044
2. 47-099-00053-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 23-538
6.
7. Wayne, WV
8. 2.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07045
2. 47-099-00057-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Guyan Oil 5-544
6.
7. Wayne, WV
8. 1.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07046
2. 47-099-00060-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Guyan Oil 6-545
6.
7. Wayne, WV
8. 3.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07047
2. 47-099-00066-0000
3. 108 000 000

4. Industrial Gas Corporation
5. Wilson Coal Land Co 24-539
6.
7. Wayne, WV
8. 1.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07048
2. 47-099-00194-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 21-572
6.
7. Wayne, WV
8. .8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07049
2. 47-099-00561-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 48-772
6.
7. Wayne, WV
8. 4.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07050
2. 47-099-00200-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Koonce-Zimmerman 1-573
6.
7. Wayne, WV
8. 5.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07051
2. 47-099-00211-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 22-578
6.
7. Wayne, WV
8. 1.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07052
2. 47-043-00937-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Stein & McComas 8-797
6.
7. Lincoln, WV
8. 6.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07053
2. 47-045-00166-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Fannie White 1-738
6.

7. Logan WV
8. 3.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07054
2. 47-099-00229-0000
3. 108 000 000
4. Industrial Gas Corporation
5. J D Baker 1-593
6.
7. Wayne, WV
8. 11.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07055
2. 47-099-00222-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 23-585
6.
7. Wayne, WV
8. 5.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07056
2. 47-099-00230-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 28-596
6.
7. Wayne, WV
8. .6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07057
2. 47-099-00516-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 46-765
6.
7. Wayne, WV
8. 12.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07058
2. 47-099-00519-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C T Fraley 2-768
6.
7. Wayne, WV
8. 8.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07059
2. 47-099-00546-0000
3. 108 000 000
4. Industrial Gas Corporation
5. J N Hauser 2-770
6.
7. Wayne, WV
8. 19.6 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07060
2. 47-005-01126-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 8-162
6.
7. Boone WV
8. 1.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07061
2. 47-099-00895-0000
3. 108 000 000
4. Industrial Gas Corporation
5. A J Gilkerson 2-894
6.
7. Wayne, WV
8. 12.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07062
2. 47-005-01152-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Easter 1-263
6.
7. Boone WV
8. 5.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07063
2. 47-005-01151-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hiram Dolin 1-382
6.
7. Boone WV
8. 9.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07064
2. 47-005-01149-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Kessinger & Meyers 1-207
6.
7. Boone WV
8. 3.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07065
2. 47-005-01142-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B6-275
6.
7. Boone WV
8. 3.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc

1. 80-07066
2. 47-005-01141-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B4-245
6.
7. Boone WV
8. 2.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07067
2. 47-005-01130-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 14-304
6.
7. Boone WV
8. 8.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07068
2. 47-005-01143-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal B 7-290
6.
7. Boone WV
8. 3.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07069
2. 47-005-00527-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L F Echols 2-628
6.
7. Boone WV
8. 1.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07070
2. 47-005-00528-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 40-629
6.
7. Boone WV
8. 3.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntingdon
Alloys Inc, Libbey-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07071
2. 47-005-00519-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bull Creek 18-621
6. Kanawha Forest Newburg
7. Boone WV
8. 13.6 million cubic feet
9. November 20, 1979
10. Libbey-Owens-Ford
1. 80-07072
2. 47-005-00489-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B24-600

6.
7. Boone WV
8. 1.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07073
2. 47-005-00499-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Bull Creek 17-603
6. Kanawha Forest Newburg
7. Boone WV
8. 16.0 million cubic feet
9. November 20, 1979
10. Libbey-Owens-Ford
1. 80-07074
2. 47-005-00505-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lenning Estate 6-615
6.
7. Boone WV
8. 10.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07075
2. 47-005-00507-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 34-608
6.
7. Boone WV
8. 3.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07076
2. 47-005-00513-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 39-612
6.
7. Boone WV
8. 2.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07077
2. 47-005-00504-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B25-614
6.
7. Boone WV
8. 3.7 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07078
2. 47-005-00500-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 32-606
6.
7. Boone WV
8. 1.7 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07079
2. 47-005-00506-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 33-607
6.
7. Boone WV
8. 5.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07080
2. 47-005-00599-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B28-667
6.
7. Boone WV
8. 3.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07081
2. 47-005-00603-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 40-671
6.
7. Boone WV
8. 2.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07082
2. 47-005-00711-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B33-721
6.
7. Boone WV
8. 6.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07083
2. 47-043-00172-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B15-444
6.
7. Lincoln WV
8. 12.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07084
2. 47-005-00595-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 39-660
6.
7. Boone WV
8. 7.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc

1. 80-07085
2. 47-005-00597-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B26-661
6.
7. Boone WV
8. 1.9 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07086
2. 47-005-00598-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B27-666
6.
7. Boone WV
8. 8.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07087
2. 47-005-00529-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 35-630
6.
7. Boone WV
8. 2.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07088
2. 47-005-00530-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 41-632
6.
7. Boone WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07089
2. 47-005-00447-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 30-562
6.
7. Boone WV
8. 3.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07090
2. 47-005-00443-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 25-549
6.
7. Boone WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07091
2. 47-039-02979-0000
3. 108 000 000

4. Industrial Gas Corporation
5. L G Crenshaw 1-258
6.
7. Kanawha WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07092
2. 47-039-02972-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hancock 1-19
6.
7. Kanawha WV
8. 3.1 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07093
2. 47-005-00808-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B38-776
6.
7. Boone WV
8. 6.0 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc Huntington
Alloys Inc Libby-Owens Ford Co Owens-
Illinois Inc
1. 80-07094
2. 47-005-00809-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B39-779
6.
7. Boone, WV
8. 2.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07095
2. 47-005-00448-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryer 26-563
6.
7. Boone, WV
8. 2.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07096
2. 47-005-00712-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 45-726
6.
7. Boone, WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07097
2. 47-005-00718-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B35-729
6.
7. Boone, WV
8. 3.4 million cubic feet
9. November 20, 1979

10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07098
2. 47-005-00719-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co A2-727
6.
7. Boone, WV
8. 5.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07099
2. 47-005-00721-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B36-730
6.
7. Boone, WV
8. 5.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07100
2. 47-005-00722-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Little Coal Ld Co B37-731
6.
7. Boone, WV
8. 5.2 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07101
2. 47-039-01968-FR00
3. 108 000 000
4. Industrial Gas Corporation
5. C G Crockett 8-370
6.
7. Kanawha, WV
8. 2.7 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07102
2. 47-039-01555-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 22-358
6.
7. Kanawha, WV
8. 5.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07103
2. 47-039-01431-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Winkler 3-65
6.
7. Kanawha, WV
8. 8.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07104
2. 47-039-01358-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Winkler 2-10
6.

7. Kanawha, WV
8. 5.9 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07105
2. 47-039-00657-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C G Crockett 5-345
6.
7. Kanawha, WV
8. 1.3 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07106
2. 47-039-00294-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 1-453
6.
7. Kanawha, WV
8. 12.1 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07107
2. 47-039-01543-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 16-104
6.
7. Kanawha, WV
8. 3.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07108
2. 47-039-00324-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 2-469
6.
7. Kanawha, WV
8. 6.5 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07109
2. 47-039-00361-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers A 11-473
6.
7. Kanawha, WV
8. 5.6 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07110
2. 47-039-00371-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Siler Coal Land Co 3-478
6.
7. Kanawha, WV
8. 7.3 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07111
2. 47-005-00451-0000
3. 108 000 000
4. Industrial Gas Corporation
5. H C Ballard 4-565

6.
7. Boone, WV
8. 2.6 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington
Alloys Inc, Libby-Owens-Ford Co, Owens-
Illinois Inc
1. 80-07112
2. 47-039-02939-0000
3. 108 000 000
4. Industrial Gas Corporation
5. L A Meyers A 6-294
6.
7. Kanawha, WV
8. 1.5 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07113
2. 47-039-01972-0000
3. 108 000 000
4. Industrial Gas Corporation
5. M Gardner 1-62
6.
7. Kanawha, WV
8. 6.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07114
2. 47-039-00651-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C Q Crockett 4-333
6.
7. Kanawha, WV
8. 2.2 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07115
2. 47-039-01445-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 1-3
6.
7. Kanawha, WV
8. 4.3 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07116
2. 47-039-01446-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 21-119
6.
7. Kanawha, WV
8. 1.8 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07117
2. 47-039-01459-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 8-23
6.
7. Kanawha, WV
8. 3.5 million cubic feet
9. November 20, 1979
10. Cabot Corporation
1. 80-07118
2. 47-039-01535-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marmet Coal Co 14-78
6.
7. Kanawha, WV
8. 4.6 million cubic feet

9. November 20, 1979
10. Cabot Corporation
1. 80-07119
2. 47-039-02954-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C G Crockett 1-249
6.
7. Kanawha, WV
8. 2.1 million cubic feet
9. November 20, 1979
10. Cabot Corporation
U.S. Geological Survey, Metairie, La.
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07120/G9-771
2. 17-706-40334-0000-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2089 No A-5
6. Vermilion
7. 325
8. 1825.0 million cubic feet
9. November 19, 1979
10. Transcontinental Gas Pipe Line Corp
U.S. Geological Survey, Casper, Wyo.
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07168/CC-116-9
2. 05-103-07984-0000-0
3. 108 000 000
4. Lawrence Barker Jr
5. Government #17-2
6. South Douglas Creek
7. Rio Blanco Co
8. 14.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corporation
1. 80-07196/CC853-9
2. 05-103-08174-0000-0
3. 102 000 000
4. Twin Arrow Inc
5. Coors 3-23X
6. Cathedral
7. Rio Blanco Co
8. .0 million cubic feet
9. November 21, 1979
10. IGC Production Company
1. 80-07197/CC675-9
2. 05-103-08037-0000-0
3. 102 000 000
4. Twin Arrow Inc
5. Continental 1-16
6. Cathedral
7. Rio Blanco Co
8. .0 million cubic feet
9. November 21, 1979

10. IGC Production Company
1. 80-07198/CC781-9
2. 05-103-08265-0000-0
3. 103 000 000
4. Donald C Slawson Oil Producer
5. Federal #9-4
6. Cathedral Mancos B
7. Rio Blanco Co
8. 100.0 million cubic feet
9. November 21, 1979
10. Northwest Pipeline Corp
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07169/M199-9
2. 25-071-21433-0000-0
3. 102 000 000
4. Midlands Gas Corporation
5. 1260 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 18.0 million cubic feet
9. November 21, 1979
10. Kan-Neb Nat Gas Co Inc
1. 80-07170/M229-9
2. 25-071-21407-0000-0
3. 108 000 000
4. Midlands Gas Corporation
5. 1121 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 18.0 million cubic feet
9. November 21, 1979
10. Kan-Neb Nat Gas Co Inc
1. 80-07171/M237-9
2. 25-071-21331-0000-0
3. 108 000 000
4. Midlands Gas Corporation
5. 1561 15-36-31
6. Bowdoin
7. Phillips, MT
8. 12.0 million cubic feet
9. November 21, 1979
10. Kan-Neb Nat Gas Co Inc
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07193/ND513-9A
2. 33-053-00731-0000-0
3. 102 000 000 denied
4. Shell Oil Company
5. USA 11x-11-4
6. Mondak Field
7. McKenzie, ND
8. 32.5 million cubic feet
9. November 21, 1979
10. Montana Dakota Utilities Co
1. 80-07194/ND513-9B
2. 33-053-00731-0000-0
3. 102 000 000

4. Shell Oil Company
5. USA 11x-11-4
6. Mondak
7. McKenzie, ND
8. 32.5 million cubic feet
9. November 21, 1979
10. Montana Dakota Utilities Co
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07173/UC458-9A
2. 43-047-30399-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 36-7B 30399
6. Natural Buttes Unit
7. Uintah, UT
8. 30.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07174/W459-9A
2. 43-047-30404-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 34-17B 30404
6. Natural Buttes Unit
7. Uintah, UT
8. 10.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07175/UC461-9A
2. 43-047-30380-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 30-18B 30380
6. Natural Buttes Unit
7. Uintah, UT
8. 50.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07176/UC462-9A
2. 43-047-30368-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 29-5B 30368
6. Natural Buttes Unit
7. Uintah, UT
8. 50.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07177/UC463-9A
2. 43-047-30367-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 28-4B 30367
6. Natural Buttes Unit
7. Uintah, UT
8. 2.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07178/UC464-9A
2. 43-047-30364-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 26-13B 30364
6. Natural Buttes Unit
7. Uintah, UT
8. 5.0 million cubic feet

9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07179/UC465-9A
2. 43-047-30381-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 27-1B 30381
6. Natural Buttes Unit
7. Uintah, UT
8. 2.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07180/UC467-9A
2. 43-047-30328-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 19-21B 30328
6. Natural Buttes Unit
7. Uintah, UT
8. 5.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07181/UC468-9A
2. 43-047-30318-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 18-26B 30318
6. Natural Buttes Unit
7. Uintah, UT
8. 5.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co
1. 80-07182/UC469-9A
2. 43-047-30317-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 17-18B 30317
6. Natural Buttes Unit
7. Uintah, UT
8. 2.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07183/UC470-9A
2. 43-047-30316-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 16-6B 30316
6. Natural Buttes Unit
7. Uintah, UT
8. 130.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07184/UC471-9A
2. 43-047-30296-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 15-29B 30296
6. Natural Buttes Unit
7. Uintah, UT
8. 90.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07185/UC473-9A
2. 43-047-30294-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 13-8B 30294
6. Natural Buttes Unit
7. Uintah, UT
8. 500.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07186/UC476-9A
2. 43-047-30275-0000-0

3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 8-20B 30275
6. Natural Buttes Unit
7. Uintah, UT
8. 110.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07187/UC482-9A
2. 43-047-30363-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 25-20B 30363
6. Natural Buttes Unit
7. Uintah, UT
8. 5.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07188/UC479-9A
2. 43-047-30464-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 55-10B 30464
6. Natural Buttes Unit
7. Uintah, UT
8. 50.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07189/UC483-9A
2. 43-047-30360-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 22-27B 30360
6. Natural Buttes Unit
7. Uintah, UT
8. 5.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07190/UC484-9A
2. 43-047-30359-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 21-20B 30359
6. Natural Buttes Unit
7. Uintah, UT
8. 125.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07191/UC487-9A
2. 43-047-30262-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 2-15B 30262
6. Natural Buttes Unit
7. Uintah, UT
8. 250.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07192/UC488-9A
2. 43-047-30261-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 1-7B 30261
6. Natural Buttes Unit
7. Uintah, UT
8. 100.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company
1. 80-07199/UC759-9
2. 43-047-30376-0000-0
3. 102 000 000
4. Mapco Production Company
5. RBU 11-15F
6. Island Field
7. Uintah, UT

8. 100.0 million cubic feet
9. November 21, 1979
10. Mountain Fuel Supply Company

United States Geological Survey, Casper, Wyoming

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Data Received at FERC
10. Purchaser(s)

1. 80-07172/W383-9
2. 49-005-24537-0000-0
3. 103 000 000
4. UV Industries Inc
5. UV Federal No 1
6. Smeltenn
7. Campbell WY
8. 68.2 million cubic feet
9. November 21, 1979
10. McCulloch Gas Trans Company

1. 80-07195/W637-9
2. 49-037-21251-0000-0
3. 102 000 000
4. Marathon Oil Company
5. Tierney II Unit #2-26
6. Tierney II Unit
7. Sweetwater WY
8. 833.0 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before January 4, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39024 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan. The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

S-JA-269, United States to Japan, 1,335.6 grams of normal uranium oxides as standards and reference materials to be used for calibration of equipment.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security. This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.
Dated: December 17, 1979.

Harold D. Bengelsdorf,
Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-38979 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between United States and the European Atomic Energy Community (EURATOM)

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy. The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following shipment:

WC-EU-142, United States to England, 42 grams uranium, containing 4 grams U-235 (9.9%) to be used for fuel structure research conducted under the Nuclear Regulatory Commission sponsored program for Experimental Verification of Steady-State Fuel Codes.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security. This subsequent

arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.
Dated: December 17, 1979.

Harold D. Bengelsdorf,
Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-39082 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Environment

Advisory Committee on Atmospheric Carbon Dioxide; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Advisory Committee on Atmospheric Carbon Dioxide.

Date and time: Thursday, January 10, 1980—9:00 a.m.

Place: Conference Room, Energy Building, Oak Ridge Associated Universities, Oak Ridge, Tennessee.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy—Room 8C087, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone—202-252-5187.

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Purpose of committee: To give advice to the Department of Energy in the development of its role in environmental research dealing with the global effects of increasing levels of carbon dioxide from fossil fuel combustion and related matters. The Committee's guidance will be based on a thorough review of ongoing and planned national and international research activities in this area.

Tentative Agenda

Discussion of Purpose of Committee. Review of Recent Studies—Office of Science and Technology Policy; American Association for the Advancement of Science; Jason; and Others (Council on Environmental Quality, etc.).

Review of Research Programs of Department of Energy; National Oceanic and Atmospheric Administration; National Aeronautics and Space Administration; Department of Agriculture; and National Science Foundation.

Recent Development: SYNFUEL/SHALE; and Literature that clouds the issue. General Discussion.

Public Comment (10 minute rule).

Issued at Washington, D.C., on December 14, 1979.

Georgia Hildreth
Director, Advisory Committee Management.

[FR Doc. 79-39081 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Fossil Energy

Fossil Energy Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Fossil Energy Advisory Committee (FEAC).

Date and time: Thursday, January 10, 1980—8:00 a.m.

Place: Nassau Bay Motor Inn, Granada Room, 1622 NASA Boulevard, Houston, Texas.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy—Room 8C087, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202-252-5187.

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Purpose of committee: To provide the Department of Energy with advice in developing through research, new and more efficient methods of mining, preparing and utilizing coal.

Tentative Agenda: Liquid Synthetic Fuels

Fossil Energy Program Status and Plans

8:00—Opening Remarks—Dr. William E. Shoupp, Chairman, Fossil Energy Advisory Committee (FEAC).

8:15—Introduction and Welcoming Remarks—Mr. George Fumich, Jr., Acting Assistant Secretary for Fossil Energy.

8:30—Overview—Strategy, Plans, Progress, Timeframe—Mr. Roger W. A. LeCassie, Acting Principal Deputy Assistant Secretary for Fossil Energy.

9:00—FEAC Question and Answer Period on Strategy, Plans, Progress, Timeframe.

9:30—Recess.

Coal—Liquid Synthetic Fuels

9:45—Research and Development (R&D)—Dr. James D. Batchelor, Office of Coal Processing, Acting Deputy Assistant Secretary for Coal Research.

10:30—FEAC Question and Answer Period on R&D.

11:00—Major Projects—Mr. Elwood A. Lloyd, Major Projects Management, Program Director for Project Management.

11:30—FEAC Question and Answer Period.

12:00—Recess for lunch.

Oil Shale—Liquid Synthetic Fuels

1:00—Research and Development (R&D) Overview—Mr. Martin R. Adams, Acting Deputy Assistant Secretary for Oil & Gas Technology.

1:30—FEAC Question and Answer Period on R&D Overview.

Commercialization Plans

2:00—DOE Resource Applications—Dr. Ruth Davis, Acting Assistant Secretary for Resource Applications.

2:30—FEAC Question and Answer Period on Commercial Plans.

Industrial Viewpoint and Plans for Liquid Synthetic Fuels

3:00—FEAC Panel

Chairman—Mr. Melbourne Fryback, Manager, Synfuel Division, SUNOCO Energy Development Company

Speaker—Mr. Richard G. Carlson, Director, Process Research, DOE Chemical U.S.A.

Speaker—Mr. John Hopkins, Senior Vice President, Union Oil Company

Speaker—Mr. Eric H. Reichl, Former President, Conoco Coal Development Company

Speaker—Dr. Robert E. Uhrig, Vice President, Florida Power and Light Company

4:30—Expansion of FEAC Role in Support of Fossil Energy—Mr. George Fumich, Jr., Acting Assistant Secretary for Fossil Energy.

5:00—Response to FEAC Comments on Underground Coal Mining R&D Program.

5:15—Public Comment (10 minute rule).

Issued at Washington, D.C., on December 14, 1979.

Georgia Hildreth,
Director, Advisory Committee Management.

[FR Doc. 79-39080 Filed 12-19-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1377-5]

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance

The Environmental Protection Agency (EPA) gives notice that the effective date of the Age Discrimination Act's prohibition of age discrimination is July 1, 1979, the date the Act's general implementing regulations became effective (44 FR 33763, June 12, 1979, to be codified at 45 CFR Part 90). The general regulations established standards for determining what is age discrimination and procedures for enforcing the Act. Recipients and beneficiaries under all programs receiving EPA assistance are therefore on notice that complaints alleging acts of age discrimination occurring on or after July 1, 1979, may be filed from July 1, 1979, forward. Any person, individually or as a member of a class or on behalf of others, may file a complaint with the EPA alleging discrimination prohibited by the Act. Address complaints concerning recipients and beneficiaries of EPA assistance to:

Director, Office of Civil Rights (A-105), Environmental Protection Agency, 401 Waterside Mall SW., Washington, D.C. 20460.

EPA will screen all complaints and refer those considered sufficient under the Act and general regulations to the Federal Mediation and Conciliation Service (FMCS), Washington, D.C., for mediation. The FMCS began mediating complaints on November 1, 1979.

The Act states that a complainant may file a civil action 180 days from the date the complaint was filed if the agency has taken no action, or upon the date the agency makes a determination in favor of the recipient. For purposes of exhaustion of administrative remedies within the Environmental Protection Agency, the 180 day period will run from the date the complaint is filed. In cases where the Environmental Protection Agency has taken no action on a complaint, and 180 days have passed, the complainant retains the options either to file a civil action, or to pursue

the complaint through EPA's administrative process.

Doris C. Thompson,
Office of Civil rights (A-105), Environmental
Protection Agency.
December 10, 1979.
[FR Doc. 79-38851 Filed 12-19-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on AM Broadcasting in Region 2; Establishment

The Federal Communications Commission has determined that establishment of an Advisory Committee on AM Broadcasting in Region 2 is necessary and in the public interest. The purpose of the Committee is to advise the Commission concerning preparations for, and participation in, the 1980 and 1981 sessions of the International Telecommunication Union's Regional Administrative Conference. At this Conference, the governments of countries in the Western Hemisphere will seek to establish agreements governing the use of the AM Broadcast Band in Region 2.

The Committee Management Secretariat of the General Services Administration concurred in the establishment of this Committee on December 13, 1979. Individuals desiring additional information concerning this Committee may call either Wilson Lafollette (632-9660) or Louis Stephens (632-6302).

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 79-38945 Filed 12-19-79; 8:45 am]
BILLING CODE 6712-01-M

Organization of Advisory Committee on AM Broadcasting in Region 2

December 17, 1979.

The International Telecommunication Union (ITU) will convene a two-part Region 2 (the Americas) Administrative Radio Conference (RARC) on AM broadcasting beginning March 10, 1980, with a preparatory session followed by a plenary session in 1981. This Conference will be empowered to develop agreements regarding the use of the AM broadcast spectrum by the administrations of Region 2. The United States as a signatory party to the ITU Convention and its attachments, including the Radio Regulations, will participate in the RARC.

"The Advisory Committee on AM Broadcasting in Region 2," has been created in order to assist the FCC representatives responsible for participating in the Conference. Mr. Charles H. Breig will be the Chairman. The first meeting is scheduled for Monday, January 7, 1980, at the FCC Annex, 1229 20th Street, N.W., Washington, D.C., Room A-110 beginning at 9:30 a.m. The Agenda is as follows:

1. Call to order by Chairman.
2. Announcements and introductions.
3. Organization of the Committee and designation of its members.
4. Discussion of tasks to be assigned to the task groups.
5. Task group membership assignments and completion dates for reports.
6. Other business.
7. Schedule of future meetings.
8. Adjournment.

All interested parties are invited to attend, and may submit comments, in writing, addressed to Mr. Charles H. Breig, Broadcast Bureau, Federal Communications Commission, 1919 "M" Street, N.W., Room 322-C, Washington, D.C. 20554.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-38959 Filed 12-19-79; 8:45 am]
BILLING CODE 6712-01-M

[CC Docket No. 79-87; FCC 79-782]

American Telephone & Telegraph Co.; Authorization To Construct and Operate a Domestic Communications Satellite System

Adopted: November 29, 1979.
Released: December 14, 1979.

By the Commission:

1. By Order 71 FCC 2d 543, released April 20, 1979 (44 FR 24633, April 26, 1979), the Commission instituted this proceeding under Section 403 of the Communications Act to determine whether all or any portion of the past and future costs and expenses incurred by the American Telephone and Telegraph Company or General Telephone and Electronics Company in connection with the COMSTAR domestic satellite system should be removed from the revenue requirement and charged against surplus.

2. The investigatory record in this proceeding is now complete, and has been certified to this Commission by the Presiding Judge. In addition, the Common Carrier Bureau, as required by paragraph 22 of our instituting Order,

supra, has reported its initial findings and recommendations to us.

3. Among other things, the Bureau recommends that we release their report and the certified record for comment by AT&T and other persons. We believe that release of the report and record for public comment has substantial merit, since the subject matter is highly technical and the views of interested persons may be helpful to the staff in preparing a final report and recommendations in this proceeding. We shall also direct that a public notice advising as to the location of the certified record and the Bureau's report and recommendation be released simultaneously with this order. Upon receipt of the responsive comments, the Common Carrier Bureau shall prepare and submit to us its final report and recommendations.

4. Accordingly, it is ordered, on the Commission's own motion, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act of 1934, as amended, that all interested persons may file comments on the report and recommendations of the Bureau in this proceeding, as well as the underlying record, on or before January 30, 1980. The Common Carrier Bureau shall submit its final report and recommendations on or before March 30, 1980.

5. It is further ordered, That the Chief, Common Carrier Bureau, is delegated authority to modify dates and procedures, if necessary.

6. It is further ordered, That the Secretary shall cause this Order as well as a Public Notice setting forth the location of the Bureau's Report to the Commission and the certified record to be published in the Federal Register.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-38961 Filed 12-19-79; 8:45 am]
BILLING CODE 6712-01-M

[CC Docket No. 79-87; FCC 79-849]

Location of Report and Certified Record in the Matter of Inquiry Into Utilization of Comstar Domestic Satellite System by American Telephone & Telegraph Co. and GTE Satellite Corp.

December 14, 1979.

By Order 71 FCC 2d 543, released April 20, 1979, the Commission instituted a proceeding under Section 403 of the Communications Act to determine whether all or any portion of the past and future costs and expenses incurred by the American Telephone and

Telegraph Company or GTE Satellite Corporation in connection with the COMSTAR domestic satellite system should be removed from the revenue requirement and charged against surplus. That investigation is now complete, and the record has been certified to the Commission by the Presiding Judge. Moreover, the Common Carrier Bureau has forwarded their report and recommendations for the Commission's consideration.

By Order FCC 79-782, released simultaneously today, the FCC has determined to elicit comment by interested persons, AT&T and GSAT on the report and the certified record. Comments are being sought on, among other topics, the staff's tentative conclusion that the factual record developed in its investigation does not warrant disallowance in this case. The report also seeks comment on what standards the Commission should employ in evaluating carrier use of previously authorized facilities.

Comments on the report are due by January 30, 1980, and the Common Carrier Bureau is expected to submit its final report and recommendations by March 30, 1980.

Copies of the staff report may be obtained from Virginia L. Carter, Enforcement Division, 2025 M Street, N.W., Room 6202A, Washington, D.C. 20554 (Telephone (202) 632-4887). The certified record shall be open for public inspection in Room 239 of the Commission Offices, 1919 M Street, N.W., Washington, D.C. 20554, during normal business hours.

Action by the Commission November 29, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-38950 Filed 12-19-79; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 79-276, File No. BPH-10628; BC Docket No. 79-277, File No. BPH-10896]

Phillips Radio, Inc., and Chickasaw Broadcasting Associates; Correction

Released: December 17, 1979.

The ERRATUM (Mimeo No. 24437) (44 FR 64562, November 7, 1979) released December 13, 1979 inadvertently omitted a correction to the company name "Chickasaw Broadcasting Associates" should be corrected to read "Chickasaw Broadcasting Associates".

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-38958 Filed 12-19-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Council on the Aging

Long Term Care Committee

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Committee will hold a meeting on Tuesday, January 8, from 9:30 a.m. to 12:30 p.m. in Room 3065 Switzer Building, 330 C Street, SW., Washington, D.C. 20201.

The agenda will consist of a discussion with Federal officials on the key long term care policy issues and the Committee's 1980 workplan from 9:30 a.m. to 12:30 p.m.

Further information on the Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245-0441. FCA meetings are open for public observation.

Dated: December 13, 1979.

Nelson H. Cruikshank,
Chairman, Federal Council on the Aging.

[FR Doc. 79-38952 Filed 12-19-79; 8:45 am]
BILLING CODE 4110-92-M

Health Resources Administration

Graduate Medical Education National Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of January 1980:

Name: Graduate Medical Education National Advisory Committee.
Date and time: January 21-25, 1980, 8:30 a.m.
Place: Room 525 A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.
Open for entire meeting.

Purpose: The Graduate Medical Education National Advisory Committee is responsible for advising and making

recommendations with respect to: (1) present and future supply and requirements of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; and (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.

Agenda: A discussion of GMENAC modeling work in the areas of general surgery, plastic surgery, otolaryngology, thoracic surgery, orthopedic surgery, neurosurgery, urology, ophthalmology, obstetrics-gynecology, dermatology, child and adult medical care; review of education environment, nonphysician and financing issues.

Due to limited seating, attendance by the public will be provided on a first-come, first-serve basis.

Anyone wishing to obtain a roster of members, minutes of meeting, other relevant information, or specific details for each day should contact Mr. Paul Schwab, Executive Secretary, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7170.

Agenda items are subject to change as priorities dictate.

Dated: December 14, 1979.

Cyrus Young,
Acting Associate Administrator for
Operations and Management.

[FR Doc. 79-38962 Filed 12-19-79; 8:45 am]
BILLING CODE 4110-83-M

Advisory Council and Subcommittees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of January 1980:

Name: National Guidelines, Goals, Priorities, and Standards Subcommittee of the National Council on Health Planning and Development.

Date and Time: January 10, 1980; 10:00 a.m.-12:00 Noon.

Place: Hubert H. Humphrey Building, Conference Rooms 703A-705A, 200 Independence Ave., S.W., Washington, D.C. 20201.

Open for entire meeting.

Purpose: The objectives of the National Guidelines, Goals, Priorities, and Standards Subcommittee are to study the experience nationwide in the public and private sectors with the adoption and/or adjustment of the

National Guidelines for Health Planning and their impact and recommend changes as appropriate; study the experience of the Health Systems Agencies and State Health Planning and Development Agencies nationwide in implementation of high priority goals and sub-goals and their impact; advise the Council in identifying additional high priority goals and sub-goals; investigate and coordinate information on demonstrations underway by provider, reimbursement, regulatory, labor, industry, and community groups on sub-goals, such as those on alcoholism and prevention; study, investigate and identify research needs appropriate to the formulation, adjustment and refinement of the National Guidelines, and study and develop improved indicators to assess the impact of the Guidelines or the need for revisions; and recommend to the Council on the need for further development and/or revision of the National Guidelines.

Agenda: The Subcommittee will devote fulltime to discussion on the Draft National Health Planning Goals. The meeting may be extended to the afternoon.

Name: Technology and Productivity Subcommittee of the National Council on Health Planning and Development
Date and Time: January 10, 1980; 3:00 p.m.-5:00 p.m.
Place: HEW North Bldg., Room 4131, 330 Independence Ave., S.W., Washington, D.C. 20201.
Open for entire meeting.

Purpose: The objective of the Technology and Productivity Subcommittee is to advise the full Council on matters related to the productivity of the health care delivery system and to the implications of new medical technology for the organization, delivery and equitable distribution of health care services. "Technology" includes the drugs, devices and medical and surgical procedures used in medical care and the organizational and supportive systems within which such care is delivered. "Productivity" is the efficiency with which health care is delivered.

The Subcommittee is to deliberate and to make recommendations to the full Council on matters chosen from among those brought to it by Council members, HEW staff and advisory committees, other Federal departments, congressional committees and staff, provider groups and the public at large. The Subcommittee in addition will study and investigate the current needs for assistance of HSAs and SHPDAs in the area of evaluating productivity improvement and new medical

technology, help transmit concerns of HSAs and SHPDAs to appropriate Federal agencies, and review the current resources both within the Federal Government and among the educational, research and other developmental agencies for providing needed assistance to HSAs and SHPDAs. In addition, it will review technology assessment activities within the Department in order to assure they are relevant to the needs of the HSAs and are useful in the development and implementation of national standards, goals, and guidelines, and for the establishment of priorities with those goals.

Agenda: The Subcommittee will review progress on the Study on Productivity.

Name: Implementation and Administration Subcommittee of the National Council on Health Planning and Development.
Date and Time: January 10, 1980; 5:00 p.m.-7:00 p.m.
Place: Hubert H. Humphrey Bldg., Conference Rooms 703A-705A, 200 Independence Ave., S.W., Washington, D.C. 20201.
Open for entire meeting.

Purpose: The objective of the Implementation and Administration Subcommittee is to study and make recommendations on the implementation and administration of Titles XV and XVI of the Public Health Service Act. Specific areas for the Subcommittee's consideration are (1) the impact of HEW's implementation/administration on the effectiveness of Health Systems Agencies and State Health Planning and Development Agencies; (2) the effectiveness of the interrelationships between health planning agencies and HEW, Central and Regional Offices; (3) the timing and strategy of implementation and of the dissemination and distribution of regulatory and technical material; (4) how to better meet the needs of HSAs and SHPDAs; and (5) the review of the Council's responsibilities under section 1122 of the Social Security Act.

Agenda: Subcommittee will review section 1122 policy issues and one case referred from the Regional Health Administrator, Methodist Hospital, Pikesville, Kentucky.

Name: National Council on Health Planning and Development.
Date and Time: January 11, 1980; 8:45 a.m.-3:30 p.m.
Place: Hubert H. Humphrey Bldg., Penthouse, Room 800, 200 Independence Ave., S.W., Washington, D.C. 20201.
Open for entire meeting.

Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the

development of national guidelines under section 1501 of Public Law 93-641, (2) the implementation and administration of Titles XV and XVI of Public Law 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: Staff reports on public comments on Draft National Health Planning Goals, Follow-up of Council recommendations on Access Concerns of Population Subgroups, Reports from Council Subcommittees: (1) National Guidelines, Goals, Priorities, and Standards, (2) Implementation and Administration and (3) Technology and Productivity; and Reports from the Administrator and Bureau Directors of the Health Resources Administration.

Anyone requiring information regarding the subject Council should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436-7175.

Agenda items are subject to change as priorities dictate.

Dated: December 17, 1979.

James A. Walsh,
Associate Administrator for Operations and Management.

[FR Doc. 79-38963 Filed 12-19-79; 8:45 am]
BILLING CODE 4110-83-M

Office of Education

Women's Educational Equity Act

AGENCY: Office of Education, HEW.

ACTION: Closing Date for Transmittal of Applications.

SUMMARY: The closing date of January 21, 1980 for the transmittal of applications for new general and small grants under the Women's Educational Equity Act Program is withdrawn. The new closing date will be announced when the final regulation for that program is published in the Federal Register.

SUPPLEMENTARY INFORMATION: A proposed regulation for the Women's Educational Equity Act Program was published in the Federal Register on May 25, 1979. Applicants were instructed to wait until the final regulation was published before preparing their applications. While the Commissioner anticipates that the final regulation will be published in the near future, retention of the January 21 closing date is no longer reasonable. As a result, that closing date is withdrawn. A new notice of closing date will be published at the time the final regulation appears in the Federal Register. That notice will include instructions for submitting applications and program information.

The Commissioner expects that important changes will be made in the final regulation, particularly with regard to program priorities. These priorities, and the percentage of funds allocated to each, will be described in the new notice of closing date.

FOR INFORMATION CONTACT: Dr. Leslie R. Wolfe, Women's Educational Equity Act Program, U.S. Office of Education, Room 2147, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2181.

(20 U.S.C. 3341-3348)

Dated: December 17, 1979.

(Catalog of Federal Domestic Assistance Number: 13.565 Women's Educational Equity Act Program)

John Ellis,
Executive Deputy Commissioner for Educational Programs

[FR Doc. 79-38955 Filed 12-19-79; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on the Education of Disadvantaged Children; Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, Section 10(a)(2), notice is hereby given that the Search Committee of the National Advisory Council on the Education of Disadvantaged Children will meet on January 10, 1980, and a full Council meeting will be held on January 10, 11, and 12, 1980 in Washington, D.C.

On January 10, 1980, from 1-5:30 p.m., the Search Committee meeting will be closed to the public. The full Council

meeting shall be open to the public from 9:00 a.m. to 5:00 p.m. on January 11 and 12, 1980; however, if required, the session on Saturday, January 12, from 3:30 p.m. to 4:30 p.m., will also be closed to the public. The purpose of these closed sessions is to review and discuss personal documents of applicants being considered for the position of Executive Director. The discussion will involve issues of a personal nature, which, if discussed in open session, would be a clearly unwarranted invasion of personal privacy.

The National Advisory Council on the Education of Disadvantaged Children is established under section 196 of the Elementary and Secondary Education Act (20 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The main purpose of the two-day meeting is to hold discussions and consider issues for Council concern during fiscal year 1980. On January 12, the Council will have discussions on the needs of Council staff and determine how the staff should be organized.

Because of limited space, all persons wishing to attend should call for reservations by January 7, 1980. Any additional information regarding the above meetings may be obtained by calling Mrs. Lisa Haywood at area code 202/724-0114.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425-13th Street, N.W., Suite 1012, Washington, D.C. 20004. A summary of activities at the Search Committee meeting and the partially closed meeting will be available to the public within 14 days of the closed portion consistent with 5 U.S.C. 552b.

Signed at Washington, D.C. on December 17, 1979.

Gloria B. Strickland,
Acting Executive Director.

[FR Doc. 79-39087 Filed 12-19-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Assistant Secretary for Health

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, August list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and date of qualification of entities

determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, service area revisions are reported of previously qualified HMOs.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

Qualified Health Maintenance Organizations

Name, Address, Service Area, and Date of Qualification

(Operational) Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. Health Alliance Plan of Michigan, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 2850 W. Grand Blvd., Detroit, Michigan 48202. Service area: Macomb, Oakland, and Wayne Counties, Michigan. Date of qualification: February 16, 1979.

2. Independence Health Plan of Southeastern Michigan, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 600 Northland Towers East, 15565 Northland Drive, Southfield, Michigan 48075. Service area: ZIP codes in the following counties:

Macomb: 48015, 48021, 48026, 48043-45, 48047-48, 48068, 48080-82, 48077-78, 48087, 48094, 48089, 48091-93
Oakland: 48008-11, 48017-18, 48024-25, 48030, 48034, 48067, 48069-76, 48220, 48237
Wayne: 48101, 48111, 48120, 48122, 48124-27, 48134-35, 48138, 48141, 48146, 48150, 48152, 48154, 48164, 48173-74, 48180, 48183-85, 48187-88, 48192, 48195, 48203, 48205, 48215, 48218-19, 48221, 48223-25, 48227-29, 48230, 48234-36, 48238-40

Date of qualification: August 6, 1979.
3. ChoiceCare Health Services, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1235 Riverside, Fort Collins, Colorado 80521. Service area: Larimer and Weld Counties, Colorado. Date of qualification: August 12, 1979. (Transitionally qualified: August 12, 1976.)

*Note new address.

[Transitionally Qualified Health Maintenance Organizations: 42 CFR § 110.603(b)]

1. Group Health Service of Michigan, Inc., (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 3150 Enterprise Drive, Saginaw, Michigan 48703. Service area: Zip codes in the following counties:

Saginaw: 48415, 48417, 48601-07, 48623, 48637, 48722, 48724, 48734

Tuscola: 48435, 48701, 48723, 48726, 48729, 48733, 48735-38, 48741, 48746, 48757-58, 48760, 48767-68

Isabella: 48858, 48878, 48883, 48893, 48896, 49310

Bay: 49511, 48613, 48631, 48634, 48650, 48706, 48732, 48747

Date of qualification: August 27, 1979.

Service Area Revisions

1. Anchor Organization for Health Maintenance, 1725 West Harrison Street Chicago, Illinois 60612. Service area: Add the following to the service area published on April 7, 1978, in the Federal Register (43 FR 14909)—DuPage County, Illinois. Effective date: August 3, 1979.

2. Bay Pacific Health Plan, Inc., 3080 La Selva, San Mateo, California 94403. Service area (current): San Mateo County, California. (See Federal Register (44 FR 53805) published on September 17, 1979.) Effective date: August 24, 1979.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: December 13, 1979.

Howard R. Veit,
Director, Office of Health Maintenance Organizations.

[FR Doc. 79-38974 Filed 12-19-79; 8:45 am]

BILLING CODE 4110-85-M

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, September list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and date of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition,

service area revisions are reported of previously qualified HMOs.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

Qualified Health Maintenance Organizations

Name, Address, Service Area, and Date of Qualification

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. SHARE Health Plan, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 7920 Cedar Avenue South, Bloomington, Minnesota 55420. Service area: Hennepin, Ramsey, Anoka, Washington, and Dakota, Counties, Minnesota, Date of qualification: July 18, 1979.

(Transitionally qualified: June 30, 1976.) (Transitionally qualified Health Maintenance Organization: 42 CFR 110.603(b))

1. George Washington University Health Plan, Inc., (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 1229 Twenty-fifth Street, NW., Washington, D.C. 20037. Service area:

District of Columbia: Virginia-Arlington and Fairfax Counties, Falls Church, Fairfax, Alexandria, Manassas, and Manassas Park, and zip codes in the following counties: Loudoun-22011, 22020-1, 22041, and 22170; Prince William-22110 and 22191.

Maryland-Zip codes in the following counties:

Montgomery: 20012, 20014-16, 20034, 20729, 20760, 20766-68, 20795, 20810, 20832, 20850-55, 20880, 20901-04, 20906, 20910

Prince Georges: 20012, 20018, 20021-23, 20031, 20031, 20623, 20705, 20710, 20715, 20722, 20735, 20704, 20742, 20769-70, 20781-86, 20801, 20810, 20822, 20840, 20870

Date of qualification: July 18, 1979.

Service Area Revisions

1. Family Health Program, Inc., 2925 North Palo Verde Avenue, Long Beach,

¹ Note model change-effective September 19, 1979.

² Note change of address.

California 90815. Service area: Add the following to the service area published on April 30, 1979, in the Federal Register (44 FR 25267-8):

Ogden, Utah Zip codes as follows: 84015, 84037, 84041, 84050, 84067, 84302, 84310, 84315, 84317, 84340, 84401, 84403-04

Effective date: July 1, 1979.

2. MAXICARE, 4455 West 117th Street, Suite 502, Hawthorne, California 90250. Service area (current): Los Angeles and Orange Counties California; and the following zip codes in Ventura County, California: 91320-1, 91360-3, and 93065. (See Federal Register, 44 FR 24241 published on April 24, 1979, and 44 FR 53803 published on September 17, 1979.) Effective dates: July 3, and September 28, 1979.

3. West River Health Maintenance Organization, Box 671, Hettinger, North Dakota 58639. Service area (current): North Dakota—Adams County and cities in the following counties: Bowman—Bowman, Gascoyne, Rhame, and Scranton; Grant—Carson, Elgin, Lark, Leith, New Leipzig, and Raleigh; Hettinger—Bentley, Burt, Mott, New England, and Regent; Slope—Amidon, and Marmarth. South Dakota—Corson, Harding, and Perkins Counties.

(See Federal Register, 44 FR 47810 published on August 15, 1979.) Effective date: September 28, 1979.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: December 10, 1979.

Howard R. Veit,
Director, Office of Health Maintenance Organizations.

[FR Doc. 79-38975 Filed 12-19-79; 8:45 am]

BILLING CODE 4110-35-M

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, October list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and date of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition,

service area revisions are reported of previously qualified HMOs.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

Qualified Health Maintenance Organizations

Name, Address, Service Area, and Date of Qualification

(Preoperational Qualified Health Maintenance Organizations: 42 CFR 110.603(c))

1. Genesee Health Care, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), G-4488 West Bristol Road, Flint, Michigan 48507. Service area: Genesee, Shiawassee and Lapeer Counties, Michigan. Date of qualification: October 1, 1979.

2. Rochester Area Health Maintenance Organization, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 220 Alexander Street, Suite 601, Rochester, New York 14607. Service area: Monroe County, including the City of Rochester, New York. Date of qualification: October 18, 1979.

3. Lane Group Health Services, Inc., d.b.a. SelectCare, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1400 High Street, Suite C1, Eugene, Oregon 97401. Service area: Zip codes as follows:

Lane County: 97401-5, 97409, 97412-3, 97419, 97424, 97426-8, 97431-4, 97437-8, 97445, 97448, 97451-2, 97454, 97461, 97463, 97472, 97477, 97480, 97482, 97487-90

Date of qualification: October 29, 1979.

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. Comprehensive Health Services of Detroit, Inc., (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 6500 John C. Lodge, Detroit, Michigan 48202. Service area: Zip codes in the following counties:

Oakland: 48220, 48237

Wayne: 48201-16, 48219, 48221, 48223-8, 48230, 48234-6, 48238-40

Date of qualification: October 23, 1979.

Service Area Revisions

1. Community Group Health Plan, d.b.a. Prime Health, 6801 East 117th Street, Kansas City, Missouri 64134. Service area (current):

Kansas: Johnson and Wyandotte Counties.

Missouri: Jackson and zip codes in the following counties:

Cass: 64012, 64078, 64080, 64083, 64701, 64734, 64746

Clay: 64024, 64060, 64068, 64072-3, 64089-90, 64116-9, 64155-8, 64160-1, 64165-6

Platte: 64028, 64079, 64091-2, 64150-4, 64163-4, 64167, 64169

Effective date: October 12, 1979.

2. Health Maintenance Network of Southern California, d.b.a. Health Net, P.O. Box 9103, Van Nuys, California 91409. Service area: Add the following to the service area published on April 30, 1979, in the Federal Register, (44 FR 25266-7):

Los Angeles County: 91310, 91321, 91350, 91351, 91355, 93510, 93532, 93534, 93550

Ventura County: 91301, 91320, 91360-1, 93063, 93065

Orange County: 92630, 92651, 92653, 92677

San Bernardino County: 91739, 92316, 92318, 92324, 92335, 92354, 92376, 92401, 92408, 92410-1

Riverside County: 92223, 92236, 92253, 92306, 92324, 92340, 92343, 92349, 92383

Effective date: October 17, 1979. Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: December 10, 1979.

Howard R. Veit,
Director, Office of Health Maintenance Organizations.

[FR Doc. 79-38976 Filed 12-19-79; 8:45 am]

BILLING CODE 4110-85-M

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, Continued Regulation of Health Maintenance Organizations: Revocation of Federal Qualification.

SUMMARY: On July 3, 1979, the Director of the Office of Health Maintenance

Organizations (OHMO) revoked Federal qualification of Metro Health Plan, Inc. (Metro), 2921 West Grand Boulevard, Detroit, Michigan 48202. Metro's qualification was revoked after Metro merged with Health Alliance Plan (HAP) of Detroit, Michigan, another federally qualified HMO and consequently ceased to be a separate legal entity.

FOR FURTHER INFORMATION CONTACT:

Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: 42 CFR 110.907 provides that the Secretary may release an entity from compliance with any assurances given under Title XIII of the Public Health Service Act (the Act) for good cause shown. If the waiver is of an assurance regarding the HMO's compliance with section 1301 of the Act then she will (with one exception not relevant here) revoke the HMO's qualification. Section 1301(a) and § 110.101(a) define the term "Health Maintenance Organization" to mean a "legal entity."

When Metro became a qualified HMO on October 17, 1978, it gave assurances to the Secretary that it would be operated in accordance with the requirements of Title XIII. On February 18, 1979, Metro merged with HAP (which had become a federally qualified HMO on February 16, 1979). Thus, as of February 18, Metro in effect voluntarily ceased to comply with the assurance it had given to the Secretary that it would be a legal entity in accordance with section 1301(a) and 42 CFR 110.101(a).

On July 3, 1979, the Director, OHMO, determined that the voluntary merger of one qualified HMO (Metro) with another (HAP) was good cause for the release from its assurances of the HMO (Metro) that was ceasing to operate as a legal entity. Accordingly, on that date, he released Metro from compliance with its assurances. Since this release involved compliance with section 1301, Metro's qualification was also revoked.

Dated: December 10, 1979.

Howard R. Veit,
Director, Office of Health Maintenance Organizations.

[FR Doc. 79-38977 Filed 12-19-79; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 27963]

Montana; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal: Correction

December 14, 1979.

Federal Register Document 77-27383, page 47594, of the issue for Wednesday, September 21, 1977, which omitted a 40-acre tract is hereby corrected as follows:

Sec. 15. N½NE¼, N½NW¼S½NE¼, NE¼NW¼, and E½NW¼NW¼.

Edgar D. Stark.

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-39302 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-84-M

New Mexico Wilderness Inventory; Accelerated Intensive Wilderness Inventory Decision for Coyote Inventory Unit NM-020-036

December 12, 1979.

AGENCY: Bureau of Land Management.

ACTION: Decision and Notice.

SUMMARY: The New Mexico State Director of the Bureau of Land Management announces that lands within Coyote intensive inventory unit, NM-020-036, do not contain wilderness characteristics as described in section 2(c) of the Wilderness Act of 1964. As a result of this decision, and unless otherwise amended, the above-mentioned public land will be released from further wilderness consideration and the limitations imposed by section 603 of the Federal Land Policy and Management Act of 1976 no longer apply beginning thirty days after publication of this notice.

This decision was reached after a systematic intensive inventory and extensive opportunity for public involvement. Recommendations were presented for public review and comment on October 21, 1979. This date initiated a thirty day public comment period. During the public comment period, verbal and written testimony were accepted and a public meeting was held. Public comments unanimously supported the Bureau of Land Management's recommendation. Detailed information on the public comment analysis and the intensive report are available upon request from the Bureau of Land Management's New Mexico State Office.

This inventory is directed by the Federal Land Policy and Management Act of 1976 and is being conducted using

procedures identified in the Bureau of Land Management's Wilderness Inventory Handbook dated September 27, 1978. Copies of this handbook are available from any Bureau of Land Management Office.

ADDRESS: Send information requests to: State Director (930), Bureau of Land Management, United States Post Office and Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Dan Wood at the above Santa Fe, New Mexico address or call 505-988-6227.

Arthur W. Zimmerman,
State Director.

[FR Doc. 79-39303 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-84-M

[OR 9327]

Oregon; Termination of Proposed Withdrawal and Reservation of Lands

Notice of application OR 9327, filed by the Forest Service, U.S. Department of Agriculture, for withdrawal and reservation of lands was published as FR Document 72-18396 on page 23119 of the issue of October 28, 1972. The applicant agency has cancelled it application in its entirety. The lands involved are described as follows:

Willamette Meridian

Barnes Valley Road No. 375

T. 37 S., R. 14 E.,

Sec. 10. W½NE¼, NE¼NW¼, W½SE¼, and SE¼SE¼.

T. 39 S., R. 14 E.,

Sec. 12. NW¼NW¼;
Sec. 13. SW¼NE¼, NW¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 24. NE¼NE¼.

T. 39 S., R. 15 E.,

Sec. 29. SW¼NW¼;
Sec. 30. E½NE¼.

A strip of land 66 feet in width, being 33 feet in width on both sides of the centerline of the Barnes Valley Road No. 375.

The areas described aggregate 23 acres in Klamath County, Oregon.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), such land will be at 10 a.m. on January 25, 1980, relieved of the segregative effect of the above-mentioned application.

Dated: December 7, 1979.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-39300 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-84-M

[OR 10035]

Oregon; Termination of Proposed Withdrawal and Reservation of Lands

Notice of application, OR 10035, filed by the Forest Service, U.S. Department of Agriculture, for withdrawal and reservation of lands was published as FR Document 74-25500 on page 38680 of the issue of November 1, 1974. The applicant agency has cancelled it application in its entirety. The lands involved are described as follows:

Willamette Meridian

Fremont National Forest

River Road No. 330

T. 33 S., R. 18 E.,

Sec. 27. SE¼NE¼, E½SW¼, and N½SE¼;
Sec. 33, lots 1, 2, 4, 5, and 9;
Sec. 34. N½NW¼ and SW¼NW¼.

T. 34 S., R. 18 E.,

Sec. 4, lots 5, 10, and W½SW¼.

A strip of land 100 feet in width, being 50 feet in width on each side of the centerline of the River Road No. 330, over and across said subdivisions.

The areas described aggregate approximately 30 acres in Lake County, Oregon.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), such lands will be at 10 a.m. on January 25, 1980 relieved of the segregative effect of the above-mentioned application.

Dated: December 7, 1979.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-39301 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 27548]

Order Providing for Opening of Public Lands and National Forest Lands

December 14, 1979.

1. The Federal Energy Regulatory Commission issued an order on February 13, 1978, (FR 43 pages 7356, 7357) (FR doc. 78-4647) vacating in their entirety lands withdrawn for power developments 130, 253, 351, 630 and 997, affecting all or portions of the following described public lands and National Forest lands:

Public Land; Sixth Principal Meridian

T. 5 S., R. 65 W., 6th P.M.

Section 32: Lots 5 and 6

San Isabel National Forest

T. 24 S., R. 73 W., 6th P.M.

Sec. 10. SE¼SE¼
Sec. 11. N½, W½SW¼
Sec. 12. W½NW¼
Sec. 14. NW¼NW¼
Sec. 15. NE¼NE¼, W½NE¼, SW¼NW¼
Sec. 16. SE¼NE¼, SW¼, N½SE¼

Sec. 17. S½NE¼, SE¼
T. 15 S., R. 79 W., 6th P.M.
Sec. 13. E½NE¼, N½SE¼, SW¼SE¼
Sec. 23. NE¼SE¼, S½SE¼
Sec. 24. SW¼NW¼, NW¼SW¼
Sec. 26. NE¼NW¼, SW¼NW¼
Sec. 27. S½NE¼
Sec. 28. S½NE¼SE¼, NW¼SE¼, SW¼
Sec. 29. SE¼SW¼SE¼, SW¼SE¼SE¼, E½SE¼SE¼
T. 14 S., R. 80 W., 6th P.M.
Sec. 21. W½SE¼

White River National Forest

T. 6 S., R. 85 W., 6th P. M.

Sec. 4. W½W½, S½SW¼
Sec. 9. NW¼NW¼

The areas described aggregate approximately 1770 acres.

2. At 10:00 a.m. on January 29, 1980 the portions of the public lands affected shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on January 29, 1980 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on January 29, 1980 the National Forest lands shall be open to such forms of appropriation as may be law be made of National Forest land.

Inquiries concerning the lands should be addressed to the undersigned at the Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 79-39399 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 24402X]

R/W Application for Pipeline

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½" o.d. natural gas pipeline for the East Douglas Creek Gathering System approximately 0.014 miles long, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colo,

T. 3 S., R. 101 W.

Sec. 10. SW¼NE¼.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation*. Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-39998 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-84-M

[U-31065]

Utah; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, on October 28, 1975, filed application Serial No. U-31065 for a protective withdrawal of the following described lands in Uintah County, Utah

Salt Lake Meridian, Utah

T. 9 S., R. 22 E.,

Sec. 12. NE¼NW¼, E½NW¼NW¼.

Containing 60.00 acres.

The applicant desires that the lands known as the Devils Rock House, be withdrawn from location and entry under the General Mining laws, and reserved for protection of the scenic, fragile and unique geological features. A notice of the proposed withdrawal was published in the Federal Register on October 28, 1975, Volume 40, page 50115.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the

address shown below, on or before January 18, 1980. Notice of the public hearing will be published in the Federal Register, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to the attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before January 18, 1980.

The above described lands are temporarily segregated from location and entry under the mining laws, but not the mineral leasing laws, subject to valid existing rights, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: December 12, 1979.

Gary J. Wicks,

State Director, Utah.

[FR Doc. 79-39994 Filed 12-19-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service National Park Service

Cape Hatteras Electric Transmission Line, Dare and Hyde Counties, N.C.; Availability of Review of Alternatives on Environmental Assessment

In September 1979, the National Park Service and the U.S. Fish and Wildlife Service completed and placed on public review an Environmental Assessment considering the direct and indirect impacts on the human environment of alternatives for construction of an additional overhead powerline from the

north side of Oregon Inlet to Buxton as proposed by the Cape Hatteras Electric Membership Corporation. The assessment considered the resources of Cape Hatteras National Seashore and Pea Island National Wildlife Refuge as well as the effects on the communities involved.

After making a Review of Alternatives presented in the assessment and after public comment thereon, the National Park Service and the U.S. Fish and Wildlife Service have made a finding of no significant impact; therefore, an environmental impact statement will not be prepared.

Anyone needing additional information should contact the Regional Director, Southeast Regional Office, National Park Service, 75 Spring Street, S.W., Atlanta, Georgia 30303, or the Superintendent, Cape Hatteras National Seashore, Route 1, Box 675, Manteo, North Carolina 27954. Limited copies are available at these locations for public distribution.

The easement to permit construction of the new line will be consummated at the end of the 30-day review period.

Dated: December 14, 1979.

Kenneth E. Black,
Regional Director, Southeast Region, Fish and Wildlife Service.

Dated December 14, 1979.

Joe Brown,
Regional Director, Southeast Region, National Park Service.

[FR Doc. 79-39946 Filed 12-19-79; 8:45 am]
BILLING CODE 4310-55-M

JAPAN-UNITED STATES ECONOMIC RELATIONS GROUP

Privacy Act of 1974; Systems of Records

AGENCY: Japan-United States Economic Relations Group.

ACTION: Proposed Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a, the Japan-United States Economic Relations Group hereafter known as the Group hereby publishes for comment those systems of records subject to the Privacy Act of 1974 which are maintained by the Group. Any person interested in commenting on the routine use portions of the system notices may do so by submitting comments in writing to the Executive Director of the Japan-United States Economic Relations Group, 11 Dupont Circle, N.W., Suite 802, Washington, D.C. 20036. Comments should be submitted on or before January 21, 1980. The Group's procedures for access to

records in the systems are contained in 1 CFR Part 490.¹

DATE: Comments are due on or before January 21, 1980. These systems will become effective on January 21, 1980 unless the Group publishes notice to the contrary.

ADDRESS: Send comments to the Executive Director, Japan-United States Economic Relations Group, 11 Dupont Circle, N.W., Suite 802, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Jack B. Button, (202) 673-6157.

Signed this 10th day of December 1979.

Jack B. Button,
Executive Director.

JER-01

SYSTEM NAME:

Payroll records—Japan-United States Economic Relations Group.

SYSTEM LOCATION:

General Services Administration, National Payroll Center; copies held by the Group. (GSA holds records for the Japan-United States Economic Relations Group.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and members of the Group.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by the Group and GSA employees to maintain adequate payroll information for the Group employees, and otherwise by the Group and GSA employees who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. "Money and Finance", generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigations; and to private attorneys, pursuant to a power of attorney.

¹For the regulations proposed by the Japan-U.S. Economic Relations Group under the Privacy Act, see the "Proposed Rules" section of this issue of the Federal Register.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, Japan-United States Economic Relations Group, 11 Dupont Circle, N.W., Suite 802, Washington, D.C. 20036. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), a copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm.

RETRIEVABILITY:

Social Security number.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel, including among others, GSA liaison staff and finance personnel; and the Group administrative staff.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Japan-United States Economic Relations Group, 11 Dupont Circle, N.W., Suite 802, Washington, D.C. 20036.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

RECORD ACCESS PROCEDURES:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

RECORD SOURCE CATEGORIES:

The subject individual; the Group.

JER-02

SYSTEM NAME:

General Financial Records—Japan-United States Economic Relations Group.

SYSTEM LOCATION:

General Services Administration, Central Office; copies held by the Group. (GSA holds records for the Japan-United States Economic Relations Group under contract.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and members of the Group.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

SF-1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Group who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. "Money and Finance", generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and tape:

RETRIEVABILITY:

Manual and automated by name.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel including among others, GSA liaison staff and finance personnel; and the Group administrative staff.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Japan-United States Economic Relations Group, 11 Dupont Circle, N.W., Suite 802, Washington, D.C. 20036.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

RECORDS ACCESS PROCEDURES:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

RECORD SOURCE CATEGORIES:

The subject individual; the Group.

JER-03

SYSTEM NAME:

General Informal Personnel Files—Japan-United States Economic Relations Group.

SYSTEM LOCATION:

Japan-United States Economic Relations Group.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Group members, staff and consultants, past and present.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Biographic information; correspondence with members of the Group.

AUTHORIZATION FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. "Government Organization and Employees", generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY AND ACCESSING:

Manual.

SAFEGUARDS:

Stored in lockable file cabinets, released only to authorized personnel, including among others, GSA liaison staff and the Group administrative staff.

RETENTION AND DISPOSAL:

Retained until no longer needed, then discarded.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Japan-United States Economic Relations Group, 11 Dupont Circle, N.W., Suite 802, Washington, D.C. 20036.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

RECORD ACCESS PROCEDURES:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Group access regulations contained in 1 CFR Part 490.

RECORD SOURCE CATEGORIES:

The subject individual; the Group.

Appendix—Japan-United States Economic Relations Group

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of a employee, the letting of a contract, or the issuance of a license, grant or other benefit by the

requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with CSA.

[F.R. Doc. 79-38809 Filed 12-19-79; 9:45 am]

BILLING CODE 6820-95-M

DEPARTMENT OF JUSTICE

[AAG/Order No. 28-79]

Privacy Act of 1974; New Systems of Records

Notice is hereby given, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), that the Department of Justice proposes a new system of records to be maintained by the Immigration and Naturalization Service (INS).

The Integrated Case Control System (ICCS), JUSTICE-INS-005, is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the Federal Register. This administrative system of automated index and file summary records will replace paper

records now kept in manually operated indexes. The system will aid INS in the management of files and controls of the processing of various kinds of cases. It will also prepare routine casework correspondence and provide automated fees controls, workload statistics, and other management information.

JUSTICE/INS-999 List of principal offices of the Immigration and Naturalization Service, is also being added.

The Privacy Act of 1974 provides that the Congress be notified of proposed systems of records and that the public be given a 30-day period in which to comment on the routine uses of the systems. The Office of Management and Budget (OMB) requires a 60-day period in which to review the system before it is implemented. Therefore, the Congress, the public, and OMB are invited to submit written comments on this system.

Comments should be addressed to William J. Snider, Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, Washington, D.C. 20530.

If no comments are received on or before February 19, 1980, the system will be implemented without further notice in the Federal Register. No oral hearings are contemplated.

A report of the proposed system has been provided to the President of the Senate, the Speaker of the House of Representatives, and the Director, OMB.

Dated: December 10, 1979.

Kevin D. Rooney,
Assistant Attorney General for
Administration.

Justice/INS-005

SYSTEM NAME:
Integrated Case Control System
(ICCS).

SYSTEM LOCATION:

District offices and suboffices of the Immigration and Naturalization Service (INS) in the United States, as detailed in JUSTICE/INS-999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are covered by various provisions of the immigration and nationality laws of the United States, including current and former applicants or petitioners for benefits; petitioners for naturalization or citizenship; individuals under detention, supervised department, or deportation processes; individuals who are under investigation; students; and others whose case files have been assigned to the INS Office having jurisdiction over the individual's place of residence.

CATEGORIES OF RECORDS IN THE SYSTEMS:

The system contains automated index and summary records to aid in the management of files and administrative control of the processing of various kinds of active cases within each office where a part of this system is located:

A. "A-file" tracking: index records of individuals covered by the system, including name of person, identification or file number, location of file within the office, immigration status, case status (if any), processing checklist;

B. Application and petition control: name and address of applicant or petitioner and/or beneficiary and authorized representative (if any), date and country of birth, file number, form number of application of petition, date filed or received, control number, status, case assignment, scheduling data;

C. Automated file summary: name, file number, abstracts of documents on file in permanent manual file;

D. Closed file docket: name, file number, Federal Records Center accession number and location, date closed;

E. Deportation and detention docket control: name, file number, charge, amount of bond, hearing date, case assignment, scheduling data;

F. Investigations control: name, file number, reason for investigation, case assignment, scheduling data;

G. Naturalization and citizenship docket control: name, file number, petition number, date of receipt of petition, date and place of filing, number of court where petition was filed, code of authorized representative (if any), scheduling data;

H. Student registration control: name, file number, date of admission, length of approved stay, school attended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information regarding the status and progress of cases is disseminated to the individuals or their authorized representatives, concerned employees of INS and other components of the Department of Justice, officials of other Federal law enforcement agencies, Members of Congress, and to the President. No personal information from this system of records is disseminated outside the Department of Justice.

Release of information to the news media and the public: Information permitted to be released to the news

media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disks, tapes, and other computer-readable media.

RETRIEVABILITY:

Records are retrieved by the name or file number of the individual, control number of the case, date of filing or last action, pending status, case assignment, or scheduling data.

SAFEGUARDS:

The data is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. Access to terminals is restricted to INS employees, and access to records is further protected by the use of passwords and controlled data base search arguments.

RETENTION AND DISPOSAL:

Case control records (those identified under "Categories of records in the system" as "B," "C," "E," "F," "G," and "H") are deleted from the automated data base ninety (90) days after final action. File index records (those identified under "Categories of records in the system" as "A" and "D") are deleted six months after disposal of the manual files.

SYSTEM MANAGER(S): AND ADDRESS

Associate Commissioner, Operations Support, Central Office; District Director or Officer in Charge in each office where a part of this system is located.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the District Director or Officer in Charge of the INS office where the file is located. If the file location is not known, inquiries may be addressed to the Associate Commissioner, Operations Support, 425 I Street NW, Washington, DC 20536. To enable INS to identify whether the system contains a record relating to an individual, the requester must provide the individual's full name, date of birth, and place of birth; description of subject matter; and, if known, the related file number.

RECORD ACCESS PROCEDURE:

A person desiring access to a record shall submit his request in writing to the agency official designated under "Notification procedure" above. He must also identify the record by furnishing the information listed under that procedure. If a request to access a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request", and a return address must be provided for transmitting any record to him.

CONTESTING RECORD PROCEDURES:

A person desiring to contest a record shall submit his request in writing to the agency official designated under "Notification procedure" above. He must also identify the record by furnishing the information listed under that caption and clearly stating which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). If a request to access or contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request", and a return address must be provided for transmitting any information to him.

RECORD SOURCE CATEGORIES:

Data is obtained from official INS records pertaining to the individuals, together with reference and locator data from the centralized Master Index of INS case files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/INS-999

SYSTEM NAME:

INS Appendix: List of principal offices of the Immigration and Naturalization Service.

Central Office: Immigration and Naturalization Service; 425 "I" Street NW, Washington, DC 20536.

Regional Offices:

Easter Regional Office, Federal Building, Burlington, VT 05401.
Northern Regional Office, Fort Snelling, Twin Cities, St. Paul, MN 55111.
Southern Regional Office, First International Building, 1201 Elm Street, Room 2300, Dallas, TX 75270.
Wester Regional Office, Terminal Island, San Pedro, CA 90731.

District Offices in the United States: Anchorage District Office, Federal Building, U.S. Courthouse, Room D-229, 701 "C" Street, Anchorage, AK 99513.

Atlanta District Office, Richard B. Russell Federal Building, Room 1408, 75 Spring Street SW, Atlanta, GA 30303.

Baltimore District Office, E. A. Garmatz Federal Building, 100 South Hanover Street, Baltimore, MD 21201.

Boston District Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203.

Buffalo District Office, 68 Court Street, Buffalo, NY 14202.

Chicago District Office, Dirksen Federal Office Building, 219 South Dearborn Street, Chicago, IL 60604.

Cleveland District Office Anthony J. Celebrezze Federal Building, Room 1917, 1240 East Ninth Street, Cleveland, OH 44199.

Dallas District Office, Federal Building, Room 6A21, 1100 Commerce Street, Dallas, TX 75242.

Denver District Office, Federal Office Building, Room 17027, Denver, CO 80202.

Detroit District Office, Federal Building, 333 Mt. Elliott Street, Detroit, MI 48207.

El Paso District Office, U.S. Courthouse, Room 343, El Paso, TX 79984.

Harlingen District Office, 719 Grimes Avenue, Harlingen, TX 78550.

Hartford District Office, 900 Asylum Avenue, Hartford, CT 06105.

Helena District Office, Federal Building, Room 512, 301 South Park Helena, Mt 59601.

Honolulu District Office, 595 Ala Moana Boulevard, Honolulu, HI 96809.

Houston District Office, Federal Building, U.S. Courthouse, 515 Rusk Avenue, Houston, TX 77208.

Kansas City District Office, 324 East Eleventh Street, Suite 1100, Kansas City, MO 64108.

Los Angeles District Office, 300 North Los Angeles Street, Los Angeles, CA 90012.

Miami District Office, Federal Building, Room 1324, 51 SW First Avenue Miami, FL 33130.

Newark District Office, Federal Building, 970 Broad Street, Newark, NJ 07102.

New Orleans District Office, Postal Services Building, 701 Loyola Avenue, New Orleans, LA 70113.

New York District Office, 26 Federal Plaza, New York, NY 10007.

Omaha District Office, 106 South 15th Street, Omaha, NE 68102.

Philadelphia District Office, U.S. Courthouse, Room 1321, 601 Market Street, Philadelphia, PA 19106.

Phoenix District Office, Federal Building, 290 North First Avenue, Phoenix, AZ 85025.

Portland, Maine, District Office, 76 Pearl Street, Portland, ME 04112.

Portland, Oregon, District Office, Federal Office Building, 511 NW Broadway, Portland, OR 97209.

St. Albans District Office, Federal Building, St. Albans, VT 05478.

St. Paul District Office, New Post Office Building, Room 932 180 East Kellogg Boulevard, St. Paul, MN 44101.

San Antonio District Office, U.S. Federal Building, Suite A301, 727 East Durango, San Antonio, TX 78206.

San Diego District Office, 880 Front Street, San Diego, CA 92183.

San Francisco District Office, 630 Sansome Street, San Francisco, CA 94111.

San Juan District Office, GPO Box 5063, San Juan, PR 00936.

Seattle District Office, 815 Airport Way, South Seattle, WA 98134.

Washington, DC, District Office, 1025 Vermont Avenue NW, Washington, DC 20538.

District Offices in Foreign Countries: Hong Kong District Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Box 30, FPO San Francisco, Ca 96659.

Mexico District Office, U.S.

Immigration and Naturalization Service, c/o American Embassy Aparato Postal 88 BIS, Mexico City 5, D.F., Mexico.

Rome District Office, Immigration and Naturalization Service, c/o American Embassy, APO New York, NY 09794.

Suboffices (Files Control Offices) in the United States:

Agana Office, 601 Pacific News Building, 238 O'Hara Street, Agana, GU 96910.

Albany Office, U.S. Postoffice and Courthouse, Room 220 Albany, NY 12207.

Charlotte Office, Charles R. Jonas Federal Building, 401 West Trade Street Charlotte, NC 28231.

Cincinnati Office, U.S. Post Office and Courthouse, 5th and Walnut Streets, Cincinnati, OH 45201.

Hammond Office, Federal Building, Room 104, 507 State Street, Hammond, IN 46320.

Las Vegas Office, Federal Building, U.S. Courthouse, 300 Las Vegas Boulevard, South Las Vegas, NV 89101.

Memphis Office, Federal Building, Room 814, 167 North Main Street, Memphis, TN 38103.

Milwaukee Office, 186 Federal Building, Room 186, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

Norfolk Office, Norfolk Federal Building, Room 439, 200 Granby Mall, Norfolk, VA 23510.

Pittsburgh Office, Federal Building, Room 2130, 1090 Liberty Avenue, Pittsburgh, PA 15222.

Providence Office, Federal Building, U.S. Post Office, Exchange Terrace, Providence, RI 02903.

Reno Office, 350 South Center Street, Suite 150, Reno, NV 89502.

St. Louis Office, U.S. Courthouse and Customhouse, Room 423, 1114 Market Street, St. Louis, MO 63101.

Salt Lake City Office, New Federal Building, Room 4103, 125 South State Street, Salt Lake City, UT 84138.

Spokane Office, U.S. Courthouse Building, Room 691, Spokane, WA 99201.

Border Patrol Sector Headquarters: Blaine Sector Headquarters, 1590 H Street, Blaine, WA 98230.

Buffalo Sector Headquarters, 231 Grand Island Boulevard, Tonawanda, NY 14150.

Chula Vista Sector Headquarters 3752,

Beyer Boulevard, San Ysidro, CA 92073.

Del Rio Sector Headquarters, San Antonio Highway, Eagle Pass, TX 78852.

Detroit Sector Headquarters, P.O. Box 32639, Detroit, MI 48232.

El Centro Sector Headquarters, 1111 North Imperial Avenue, El Centro, CA 92243.

El Paso Sector Headquarters, 8901 Montana Avenue, El Paso, TX 79986.

Grand Forks Sector Headquarters, 2320 South Washington Street, Grand Forks, ND 58201.

Havre Sector Headquarters, Beaver Creek Road, Havre, MT 59501.

Houlton Sector Headquarters, Route 1, Houlton, ME 04730.

Laredo Sector Headquarters, Del Mar Boulevard, East of I.H. 35, Laredo, TX 78041.

Livermore Sector Headquarters, Building 312, Camp Parks, Pleasanton, CA 94566.

Marfa Sector Headquarters, Madrid Street, Marfa, TX 79843.

McAllen Sector Headquarters, 2301 South Main Street, McAllen, TX 78501.

Miami Sector Headquarters, 161 NE 193rd Street, Miami, FL 33169.

New Orleans Sector Headquarters, 3819 Patterson Drive, New Orleans, LA 70174.

Ogdensburg Sector Headquarters, 127 North Water Street, Ogdensburg, NY 13669.

Spokane Sector Headquarters, 10710 North State Highway #6, Spokane, WA 99203.

Swanton Sector Headquarters, Grand Avenue, Swanton, VT 05468.

Tucson Sector Headquarters, 1970 West Ajo Way, Tucson, AZ 85726.

Yuma Sector Headquarters, 350 First Street, Yuma, AZ 85364.

Border Patrol Academy: Officer Development and Training Facility, c/o Federal Law Enforcement Training Center (FLETC), Glynco, CA 31520.

Charlotte Amalie, St. Thomas, Virgin Islands, New Federal Building, Room 117, Charlotte Amalie, St. Thomas, VI 00801.

Suboffices (Files Control Offices) in Foreign Countries: Athens Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO New York 09253.

Manila Office, U.S. Immigration and

Naturalization Service, c/o American Embassy, APO San Francisco, CA 96528.

Naples Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Box 18, FPO New York 09521.

Palermo Office, U.S. Immigration and Naturalization Service, c/o American Embassy (P), APO New York 09794.

Seoul, Korea, Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Francisco, CA 96301.

Vienna Office, U.S. Immigration and Naturalization Service, c/o American Embassy, 1010 Vienna, Austria.

El Paso Intelligence Center (EPIC), 2211 East Missouri Street, El Paso, TX 79903.

[FR Doc. 79-38911 Filed 12-19-79; 8:45 am]
BILLING CODE 4410-01-M

Immigration and Naturalization Service

The Federal Advisory Committee on Immigration and Naturalization; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and the Office of Management and Budget Circular A-63 (revised March 27, 1964), and after consultation with OMB, the Attorney General has determined to renew and amend the Charter of the Federal Advisory Committee on Immigration and Naturalization. Its membership will be composed of the various nationality, ethnic and racial groups in the United States. The Attorney General has determined that such action is in the public interest in connection with the performance of duties imposed on the Department of Justice by law.

The Committee will provide an organized channel of communication between the nationality, ethnic and racial communities and the Immigration and Naturalization Service on the problems and opportunities of the INS as they relate to those groups.

Experience has shown that there is a special need for such communication. Major efforts to improve communications between INS and the nationality, ethnic and racial groups are necessary because the INS, in routinely carrying out its duties, deals with members of these groups in matters of legal and illegal immigration.

Having an established channel of communication will be helpful to the INS in its efforts to develop programs, techniques and approaches which might

yield necessary improvements in the services, opportunities and dissemination of accurate information to the nationality, ethnic and racial communities. To the extent that these efforts are successful, there will be direct and substantial gain to both the INS and the groups.

The Committee will draw on the knowledge and insight of its members to provide advice on such elements as INS outreach service and community relations programs, the dissemination of accurate information, the review of training and instructional materials for sensitivity purposes, recruitment activities, research, contracts, treatment of undocumented and documented aliens as well as United States citizens and permanent residents, and generally maximizing the services of the INS to the nation's nationality, ethnic and racial groups.

The Committee will consist of not less than 21 or more than 25 members appointed by the Commissioner of the INS and constitute a broad spectrum of community leaders, scholars and other appropriate persons. The Committee's membership should consist in proportionate numbers of those nationality, ethnic and racial groups which come in the most frequent contact with the INS. The Committee will meet at least four times a year and report and be responsible to the Commissioner of the INS. The Committee will function solely as advisory board, and in compliance with the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 (Revised March 27, 1974). The Committee will continue until December 31, 1981, unless terminated earlier or renewed.

The Charter for the Committee will be filed under the Act, on or before January 4, 1980.

Persons interested in commenting on the renewal of the Federal Advisory Committee on Immigration and Naturalization are requested to mail their statements in writing on or before January 4, 1980 to: Acting Commissioner, Immigration and Naturalization Service, 425 Eye Street, N.W., Suite 7100, Washington, DC 20536.

Dated: December 17, 1979.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 79-39025 Filed 12-19-79; 8:45 am]
BILLING CODE 4410-10-M

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

Notice of Meetings

December 14, 1979.

Pursuant to section 10 of the Federal Advisory Committee Act of 1972 notice is hereby given that the National Advisory Council on Economic Opportunity will hold meetings on Thursday and Friday, January 24 and 25, 1980 at the Sheraton Palace Hotel in San Francisco, California. The meetings will begin at 10:00 a.m. PST each day. All meetings are open to the public.

The purpose of the meetings will be to review draft papers and proposals on such areas as volunteerism, health care for the poor, improved energy conservation, characteristics of the poverty population and welfare reform.

The National Advisory Council on Economic Opportunity is authorized by section 605 of the Community Services Act of 1974 to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operations of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the offices of the National Advisory Council on Economic Opportunity.

For further information, contact the National Advisory Council on Economic Opportunity, 1725 K Street, N.W., Suite 405, Washington, D.C. 20006, (202) 254-3217.

Walter B. Quetsch,
Executive Director.

[FR Doc. 79-38959 Filed 12-19-79; 8:45 am]
BILLING CODE 6020-42-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published November 21, 1979 (44 FR 67000). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working

Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the January 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 and 5:00 p.m., EST.

Subcommittee and Working Group Meetings

**Three Mile Island, Unit-2 Accident Bulletins and Orders/Emergency Core Cooling Systems*, January 3-4, 1980, Los Angeles, CA (rescheduled from January 9, 1980, Washington, DC). The Subcommittees will hold a joint meeting to consider NRC Bulletins and Orders, including information related to the small-break loss of coolant accident. Notice of this meeting was published December 19, 1979.

**Three Mile Island, Unit-2 Accident Action Plan*, January 7, 1980, Washington, DC. An Ad-Hoc Subcommittee will meet to discuss the NRC Action Plan for implementation of recommendations arising from various sources (such as, the President's Commission on Three Mile Island, the ACRS, the NRC Lessons Learned Task Force, etc.) as a result of the March 28, 1979 incident at Three Mile Island, Unit-2.

**Babcock and Wilcox Water Reactors*, January 8, 1980, Washington, DC. The Subcommittee will discuss the sensitivity to transients of once-through steam generators (OTSG) and other features of Babcock and Wilcox designed nuclear plants.

Reactor Safety Research, January 9, 1980, Washington, DC. The Subcommittee will continue its discussion of preparation of the Annual Report to Congress on the NRC Reactor Safety Research Program. Notice of this meeting was published November 21, 1979.

**Procedures and Administration*, January 9, 1980 (Afternoon-Tentative), Washington, DC. The Subcommittee will discuss procedures for conduct of ARCS activities including procedures for strengthening the role of the ACRS in the regulatory process.

**Surry Nuclear Station*, January 23, 1980 (Morning), Washington, DC. The Subcommittee will continue its review of the Surry Station steam generator replacement program.

**Licensee Event Reports (LERs)*, January 23, 1980 (Late Morning), Washington, DC. The Subcommittee will meet with personnel from NRC's newly formed Office of Analysis and Evaluation of Operational Data to discuss the evaluation of LER information.

**Metal Components*, January 23-24, 1980, Washington, DC (rescheduled from January 16-17, 1980, Oak Ridge, TN). The Subcommittee will review the status of unresolved generic items involving pressure vessels, steam generators, and other pressure boundary components in its cognizant area of review. Notice of this meeting was published November 21, 1979.

**Anticipated Transients Without Scram (ATWS)*, January 25, 1980, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff to discuss the proposed resolution of ATWS.

**Three Mile Island, Unit 1*, January 31, 1980 (Tentative), Harrisburg, PA. The Subcommittee will review the application of the Metropolitan Edison Company to restart the Three Mile Island, Unit 1, Nuclear Plant.

**Reactor Safety Research*, February 6, 1980, Washington, DC. The Subcommittee will continue its discussion of preparation of the Annual Report to Congress on the NRC Reactor Safety Research Program.

**Regulatory Activities*, February 6, 1980, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**General Electric Test Reactor (GETR)*, February 22, 1980, San Francisco, CA. The Subcommittee will continue its review of the geologic and seismologic aspects of the GETR site.

ACRS Full Committee Meetings

January 10-12, 1980

A. *ACRS Annual Report to Congress—Evaluation of NRC Safety Research Program.

B. *NRC Action Plan to Implement the Recommendations of the President's Commission on Three Mile Island—Discuss Proposed Action Plan.

C. *ACRS Activities—Discuss proposed methods to strengthen the ACRS role in the NRC regulatory process.

D. *NRC Bulletins and Orders resulting from the NRC Three Mile Island Lessons Learned Task Force—Discuss proposed resolution.

E. *NRC Siting Criteria—Discuss proposed changes in NRC siting criteria.

February 10-12, 1980: Agenda to be announced.

March 6-8, 1980: Agenda to be announced.

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39009 Filed 12-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 27-48]

Nuclear Engineering Co., Inc.; Issuance of Renewal License for Disposal of Special Nuclear Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Special nuclear material disposal license renewal.

SUMMARY: NRC has issued a renewed license to the Nuclear Engineering Company (NECO) of Louisville, Kentucky, for disposal of special nuclear material (SNM) at NECO's low-level waste disposal facility located in the center of the Hanford Reservation near Richland, Washington. NRC has determined that issuance of the renewed SNM license will not result in any significant impact on the environment, and therefore does not require preparation of an environmental impact statement. However, an environmental impact appraisal of the licensing action has been prepared and will be available for public inspection. The SNM license only authorizes disposal of waste containing small quantities of uranium-233 and uranium-235. Disposal of waste containing plutonium is prohibited after February 29, 1980.

ADDRESSES: The renewed license and environmental impact appraisal will be available for public inspection at the Commission's Public Document room located at 1717 H Street, N.W., Washington, D.C. 20555, and at the Richland Public Library, Reference Department, Swift and Northgate Streets, Richland, Washington 99352.

FOR FURTHER INFORMATION CONTACT: Mr. R. Dale Smith, Chief, Low-Level

Waste Licensing Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: (301) 427-4433.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) has issued to the Nuclear Engineering Company (NECO) a renewed License for disposal of special nuclear material (SNM) at NECO's low-level waste disposal facility located in the center of the Hanford Reservation near Richland, Washington. (NECO's main office is located at 9200 Shelbyville Road, Louisville, Kentucky 40207.) For administrative purposes, a new License No. 16-19204-01 and a new Docket No. 27-48 were assigned. The renewed SNM license supersedes the authorization for disposal activities at the NECO Hanford site previously authorized under License No. 13-10042-01 (Docket No. 27-39); and has been issued based upon NECO's updated renewal application dated February 24, 1978, and upon supplemental environmental information provided by NECO to NRC.

NRC has determined that issuance of the renewed SNM license will not result in any significant impact on the environment, and therefore does not require preparation of an environmental impact statement (EIS). The SNM license only authorizes disposal of waste containing small quantities of uranium-233 and uranium-235. After February 29, 1980, disposal of waste containing plutonium is prohibited. Further information is contained in NRC's environmental impact appraisal of the license renewal, which will be available for public inspection at the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C. 20555, and at the Richland Public Library, Reference Department, Swift and Northgate Streets, Richland, Washington 99352.

NECO's filing of the updated renewal application was noticed in the *Federal Register* (43 FR 15374) on April 12, 1978. In the April 12th Notice, NRC gave the licensee the opportunity to file a request for a hearing with respect to the issuance of the license renewal, and for any person whose interest may be affected by the application to file a petition for leave to intervene. In the follow-up *Federal Register* Notice (43 FR 26161) dated June 16, 1978, NRC announced that it had received no requests for hearings or petitions for leave to intervene during the time period specified in the April 12th Notice. Accordingly, NRC announced, no hearings on the renewal application would be held. As part of the June 16th Notice, NRC also gave the public an

opportunity for informal comments on the SNM disposal application. No informal comments on the application were received.

Special nuclear material has been buried at the NECO Hanford site since 1965, when the facility was first licensed by the Atomic Energy Commission (AEC). At that time burial of source and byproduct material was also licensed by the AEC. However, in 1966 the State of Washington assumed licensing and regulation of source and byproduct material when Washington became an Agreement State. Disposal of source and byproduct material is not included in the renewed SNM license.

The SNM license has been closely coordinated with Washington State Officials and is consistent with the State source and byproduct material license which was renewed November 29, 1979. The State and NRC licenses contain requirements consistent with those recently adopted in the South Carolina license for the Barnwell disposal site.

Consistent with the Washington State license, after February 29, 1980, disposal of waste containing plutonium in concentrations exceeding 10 nCi/gm is being prohibited. (The State license prohibits disposal of transuranic (TRU) byproduct waste at the site.) As the NECO Hanford site is the last commercial site accepting TRU-contaminated waste for disposal, NRC has requested the Department of Energy to finalize and implement its plans for routine acceptance of commercial TRU waste for retrievable storage. This period of delay for the limit to become effective will allow DOE to finalize and implement its TRU acceptance plans and allow for the orderly transfer of TRU waste from the commercial sector to DOE.

The Commission finds that the issuance of the renewed license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the requirements of Title 10, Chapter 1, Code of Federal Regulations.

Dated at Silver Spring, Maryland this 13th day of December, 1979.

For the Nuclear Regulatory Commission,

Kitty S. Dragonette,

Section Leader, Licensing Section, Low-Level Waste Licensing Branch, Division of Waste Management.

[FR Doc. 79-39017 Filed 12-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co.; Receipt of Petition Under 10 CFR 2.206

In the Matter of Southern California Edison Company (San Onofre Nuclear Generating Station, Unit 1)
Several hundred residents of California have submitted identical petitions requesting that the Director of Nuclear Reactor Regulation suspend or revoke the operating license for the San Onofre Nuclear Generating Station, Unit 1. As the basis for this request, the petitioners contend that new information is available concerning seismic conditions at the site of the San Onofre facility. The petitioners allege that Unit 1 is not designed to withstand possible ground motions from earthquakes that may occur in the vicinity. As an additional basis of their request, the petitioners allege that evacuation plans are inadequate to cope with a potential accident at the site.

These petitions are being considered under 10 CFR 2.206 of the Commission's regulations, and accordingly, appropriate action will be taken on the petition within a reasonable time. A copy of the petition is available for inspection in the Commission's Public Document Rooms at 1717 H Street, N.W., Washington, D.C. 20555 and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California 92676.

Dated at Bethesda, Maryland, this 13th day of December, 1979.

Harold R. Denton,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-39018 Filed 12-19-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[SSINS 6330]

Federal Bureau of Investigation and Nuclear Regulatory Commission Memorandum of Understanding for Cooperation Regarding Threat, Theft, or Sabotage in U.S. Nuclear Industry

December 13, 1979.

The attached memorandum, subject as above, provides a basis for contingency response planning, coordination, and cooperation between the Federal Bureau of Investigation (FBI) and the Nuclear Regulatory Commission (NRC) in order to deal effectively with threats, and with acts associated with theft or sabotage attempts against NRC licensed nuclear materials, facilities (nuclear power

plants and other types of nuclear plants in the nuclear fuel cycle) and activities.

E. Morris Howard,
Director, Division of Safeguards Inspection,
Office of Inspection and Enforcement.

Federal Bureau of Investigation and Nuclear Regulatory Commission Memorandum of Understanding for Cooperation Regarding Threat, Theft, or Sabotage in U.S. Nuclear Industry

1.0 Purpose.

The purpose of this memorandum is to provide a clear basis for contingency response planning, coordination, and cooperation between the Federal Bureau of Investigation (FBI) and the Nuclear Regulatory Commission (NRC) in order to deal effectively with threats, and with acts associated with theft or sabotage attempts against NRC licensed nuclear materials, facilities¹ and activities.

Having closely related statutory responsibilities with regard to nuclear materials, facilities, and activities in U.S. nuclear industry, the FBI and the NRC cooperate fully in carrying out their respective responsibilities in the interest of achieving:

- (1) Effective communication and exchange of relevant information, and
- (2) Timely, reliable, and effective response actions.

2.0 Applicable authority.

2.1 Federal Bureau of Investigation
The FBI's authority relative to NRC licensed nuclear facilities, activities, and materials stems from responsibilities assigned the FBI in the following areas (inter alia):

- (1) Pub. L. 83-703, Atomic Energy Act of 1954 as amended, Title 42, U.S. Code.
- (2) Title 18 and Title 50, U.S. Code, as may be applicable such as extortion, sabotage, or theft of government property.

2.2 Nuclear Regulatory Commission.
The NRC's regulatory authority stems from responsibilities assigned the NRC in the following areas (inter alia):

- (1) Pub. L. 93-438, Energy Reorganization Act of 1974, Title 42, U.S. Code.
- (2) Pub. L. 83-703, Atomic Energy Act of 1954, as amended, Title 42, U.S. Code.

3.0 Incidents and threats of mutual concern.

In accordance with their respective statutory responsibilities, the FBI and the NRC agree to coordinate planning and responses dealing with but not limited to threats, material thefts and diversions, incursions or infiltrations,

extortions, conspiracy, and sabotage relating to all facilities, activities, and materials licensed under the Atomic Energy Act of 1954, as amended.

Both agencies agree to cooperate in information exchange relating to the foregoing topics for purposes of threat evaluation.

4.0 Agency Roles and Relationships.

4.1 FBI's Role With Respect to Incidents at Licensed Nuclear Facilities and Activities. Criminal acts in the categories stipulated in paragraph 3.0, when committed against NRC licensed nuclear facilities and activities, may be in violation of the Atomic Energy Act of 1954 or the regulations of the NRC, as well as other Federal statutes of concern to the FBI. In such cases, the general role of the FBI would be one of actively investigating the incident and coordinating other necessary action by state and local law enforcement agencies in order to apprehend the perpetrators, recover any stolen or diverted nuclear material, and support Federal prosecutions as appropriate. FBI special weapons and tactics teams and hostage negotiation experts also would be available for contingency response against barricaded adversaries if needed.

Because of relative location and travel time, the FBI's presence at the scene of an incident may not be prompt enough to provide the immediate law enforcement action required. Thus, local law enforcement agencies must be relied on in general for prompt response needs. The FBI, upon arrival at the scene, would assume control and coordination of the law enforcement operations, except where violation of Federal statutes is not involved.

The FBI effects liaison with the NRC and local law enforcement agencies as necessary to effectively plan for and carry out the above role, and to accomplish information exchange concerning threats and potential adversaries of concern.

4.2 NRC's Role With Respect to Incidents at Licensed Nuclear Facilities and Activities. In its regulation of US nuclear industry, the NRC, among other things, requires certain licensees to provide and maintain a physical protection system, inclusive of contingency response plans and coordination with local law enforcement agencies, in order to protect their nuclear facilities, activities, and materials against attempted criminal acts. If such an attempt occurs, the immediate contingency role of the NRC would be one of gathering and assessing information to determine the situation, apprising and cooperating with the FBI

in order to expedite and assist FBI response, and arranging for other needed and feasible contingency response assistance that is requested through NRC channels.

After the immediate contingency aspects of the situation have passed, NRC would continue to cooperate with the FBI on a noncontingency, prolonged basis as required to assist any ensuing FBI investigations relative to the incident.

The NRC effects liaison with the FBI as necessary to effectively plan for and carry out the above role, and to accomplish information exchange and assessment concerning threats and potential adversaries of concern.

4.3 Concept for Contingency Response Coordination and Cooperation. Criminal acts against licensed nuclear facilities, activities, and materials are reported to the pertinent NRC Regional Office by the licensee, along with information about the local situation and about the law enforcement or other agencies notified or responding. The NRC Regional Office notifies the NRC Headquarters, assures that the pertinent FBI Field Office (or resident agent) having jurisdiction is informed without delay about overt acts requiring prompt law enforcement attention. The NRC Regional Office and FBI Field Office dispatch representatives to the scene as warranted by the situation and inform their respective national headquarters about the situation. The NRC Headquarters in turn assures that the Atomic Energy Desk at the FBI Headquarters is informed promptly about the situation.

Upon arrival at the scene, the FBI and NRC field representatives coordinate and cooperate with each other in carrying out their respective responsibilities. The FBI is in charge of law enforcement operations and represents the Federal government in all law enforcement activity. The NRC facilitates FBI access into the licensed facility or activity as appropriate, provides information and advice regarding the facility or activity (particularly any radiological hazards), and supports the FBI wherever possible to resolve the situation. The FBI and NRC representatives report the situation and make recommendations to their respective agencies regarding the need for additional response assistance at the scene. The need for continuing FBI criminal investigation of the act would be determined by FBI Headquarters.

5.0 FBI Responsibilities.

In fulfilling its role with respect to incidents, at NRC licensed nuclear facilities and activities, the FBI

accomplishes the following responsibilities:

(1) Provides to NRC intelligence information concerning possible criminal acts relative to the security of nuclear facilities, activities, and materials.

(2) Notifies NRC, unless otherwise precluded by statute or directive, of nuclear related threats and of alleged, attempted, or actual incidents involving sabotage of nuclear facilities and activities or diversion and theft of nuclear materials.

(3) Investigates ongoing nuclear related threat situations; advises the NRC regarding the credibility and danger of such threats.

(4) Accomplishes liaison and contingency response planning with pertinent local law enforcement agencies as required for effective coordinated law enforcement response operations.

(5) Accomplishes liaison with pertinent NRC staff, NRC Regional Offices, and the NRC representative at the scene of an incident, as required for effective information exchange, threat evaluation, contingency response planning, and FBI operations coordinations.

(6) Responds to any attempt to steal a shipment of licensed nuclear material or to any incursion or infiltration attempt against an NRC licensed nuclear facility or activity; appropriately directs and coordinates law enforcement operations at the scene; accomplishes hostage negotiation, special weapons and tactics team operations, and other FBI law enforcement actions as feasible and necessary to deal with the adversary and prevent nuclear material theft/diversion or sabotage.

(7) Investigates incidents of sabotage or attempted sabotage of an NRC licensed nuclear facility or activity.

(8) Investigates incidents of theft/diversion or attempted theft/diversion of NRC licensed nuclear material; conducts law enforcement operations as necessary to identify and apprehend suspects and to locate and recover stolen or diverted SNM.

(9) Investigates incidents of conspiracy and extortion attempts against NRC licensed facilities or activities.

(10) Requests information and other NRC support needed to expedite and facilitate FBI operations.

(11) Coordinates proposed FBI news releases regarding incidents at NRC licensed nuclear facilities and activities with the Director, Office of Public Affairs, NRC Headquarters.

6.0 NRC Responsibilities.

In fulfilling its role with respect to incidents at NRC licensed nuclear facilities and activities, the NRC accomplishes the following responsibilities:

(1) Reviews and correlates intelligence information on possible criminal acts received from the FBI; coordinates with the FBI, and evaluates potential adversary capabilities and trends as a basis for rule making, evaluations, and systems design.

(2) Accomplishes liaison with pertinent FBI Headquarters staff and FBI Field Offices as required for effective information exchange, threat evaluation, contingency response planning, and NRC support of FBI response operations.

(3) Supports joint operational readiness planning between licensees and associated local law enforcement agencies for prompt law enforcement response assistance when needed at licensed facilities and activities.

(4) Notifies the FBI of threats involving NRC licensed nuclear facilities, activities, and materials; assists the FBI in evaluating the nuclear aspects of such threats and other nuclear threats as appropriate.

(5) Disseminates with the approval of the FBI to affected licensees alert and warning information received from the FBI about specific nuclear related threats.

(6) Promptly notifies the FBI about any attempt to steal a shipment of licensed nuclear material, or about any incursion or infiltration attempt against an NRC licensed nuclear facility or activity; responds to the scene of the incident as appropriate; provides NRC field liaison and technical assistance to the FBI at the scene.

(7) Notifies the FBI about incidents of sabotage or attempted sabotage of an NRC licensed nuclear facility or activity.

(8) Notifies the FBI about incidents of theft/diversion or attempted theft/diversion of NRC licensed nuclear material.

(9) Notifies the FBI about conspiracy or extortion attempts against NRC licensed nuclear facilities or activities.

(10) Provides assistance to the FBI in evaluating the radiological hazards of the particular incident and provides technical assessment of any potential or actual impact upon the public health and safety.

(11) Provides information and assistance requested by the FBI relative to FBI investigations of criminal acts attempted against NRC licensed nuclear facilities and activities.

(12) Coordinates with FBI Headquarters on proposed NRC news

releases relative to incidents concerning licensed nuclear facilities, activities or materials if the FBI is involved.

7.0 Working Arrangement.

The working channels of communication established between the FBI and NRC for information exchange and coordination incident to carrying out their respective responsibilities hereunder are indicated in Section 4.3, Concept for Contingency Response Coordination and Cooperation. The identification of these points of contact is not intended to restrict communication between NRC and FBI staff members in technical, administrative and other day-to-day matters in the course of their normal activities and the discharge of agency responsibilities.

8.0 Effective Period.

This memorandum of understanding will take effect when it has been signed by the authorized representative indicated below for each agency. It may be terminated by either the FBI or the NRC following 90 days' written notification to that effect.

Dated: April 23, 1979.

For the Federal Bureau of Investigation,
William H. Webster,

Director, Federal Bureau of Investigation.

For the Nuclear Regulatory Commission,

Joseph M. Hendrie,
Chairman, Nuclear Regulatory Commission.

[FR Doc. 79-39018 Filed 12-19-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-51]

Recommendation Letters and Responses; Availability

Marine Safety Recommendation

M-79-116.— On December 7 the National Transportation Safety Board recommended that the U.S. Army Corps of Engineers:

Establish written procedures to require all dredges contracted by the U.S. Army Corps of Engineers to meet U.S. Coast Guard design regulations for fuel oil transfer operations. (Class II, Priority Action) (M-79-116)

This recommendation was issued following investigation of the fire which occurred aboard the uninspected dredge LOUISIANA in Tiger Pass, La., in the Mississippi River Delta on June 2, 1978. About 1915, as the LOUISIANA, operating under contract with the U.S. Army Corps of Engineers, was taking on fuel oil and water from a barge moored

¹ The term, facility, used generally throughout this document, includes nuclear power plants and other types of nuclear plants in the nuclear fuel cycle.

alongside, the crew of the dredge heard a noise described as a small explosion and saw flames on the main deck near the engineroom.

Investigation showed that the dredge's assistant engineer had inserted the end of a 2-inch fuel oil hose from a refueling barge into a 4-inch fill pipe which extended 6 inches above the dredge's deck. It was customary to secure the hose with ¼-inch line to prevent the hose from coming out of the fill pipe; however, the assistant engineer died in the fire and none of the other crew could remember if the hose had been secured. The tank was vented through the fill pipe and had no separate vents. One crewman saw the fuel oil hose flopping on the deck shortly after the fire was discovered. As a result of the fire, the dredge has been declared a total loss of over \$1,500,000.

The Safety Board notes that although the LOUISIANA was an uninspected vessel, U.S. Coast Guard regulations (33 CFR 156.120) require that couplings used in fuel oil transfer operations on any vessel with a capacity of 250 or more barrels of oil be (1) a bolted or full-threaded connection, or (2) a quick-connect coupling approved by the Commandant, or (3) an automatic back-pressure shutoff nozzle used to fuel the vessel. The insertion of a fuel oil hose into a fill pipe does not meet these requirements and the dredge did not have the fuel oil discharge containment required by 33 CFR 155.320.

Further, the Board noted that the fuel oil tanks were not equipped with vents. While vents are not expressly required by the regulations, it would be necessary for the tanks to be vented in order to use the couplings prescribed by 33 CFR 156.120 (1) or (2). The use of an automatic back-pressure shutoff nozzle probably would not be practical for the quantities involved in fueling the dredge. If the tank had been vented and the coupling made as prescribed by the regulations, or the hose properly secured by the assistant engineer, this accident might have been prevented.

Intermodal Safety Recommendations

I-79-14 through 16.—The Safety Board has investigated many accidents in which persons were killed following the release of hazardous materials from the vehicles involved in the accidents. For example, in Eagle Pass, Texas, 16 persons died following the rupture of a liquefied petroleum gas tank-semitrailer in a highway accident in 1975. In Youngstown, Fla., eight persons died following the puncture of a rail tank car carrying chlorine during an accident in 1978. In Houston, Texas, five persons were killed and 178 persons were

injured by the release of anhydrous ammonia following the crash of a tank-semi-trailer in a 1976 highway accident. The Safety Board has previously reported the causes of these accidents and notes that the gravity of the casualties in such accidents following the release of hazardous materials far exceeded the initial crash losses. Improving survivability in such accidents would contribute significantly to reductions in hazardous materials transportation risks.

Using the 1976 Houston accident as a basis, the Safety Board investigated survival actions by the victims to determine what actions they took, why these were taken, and what effects these actions had on the victims' survival. These actions were then analyzed to determine the effectiveness of the U.S. Department of Transportation's mandated safeguards in reducing casualties in hazardous materials accidents. The analysis disclosed that DOT-mandated safeguards were not effective in reducing the casualties which occurred after the ammonia release.

DOT-mandated safeguards regarding the cargo tank, emergency communications, evacuation guidelines, and routing were involved in the Houston accident. The cargo tank safeguards did not forestall the abrupt release of the entire contents of the tank; this reduced the time for the exposed persons to determine their danger and react before they were engulfed by the released material. The "form" of the contents contributed to the sudden tank burst; also, the quantity and form both contributed to the rapid development and the size of the affected area. The emergency communications regulations played no role in the accident, largely because the information was obscured by the sudden opaque cloud around the crash site and because the casualties occurred so quickly after the release. Had the evacuation recommendations in the National Highway Traffic Safety Administration's "Emergency Action Guide for Hazardous Materials" been followed, some of the persons who survived uninjured would have been evacuated directly into the path of the oncoming dangerous cloud. The designated hazardous materials route used contributed both to the occurrence of the crash, to the difficulties experienced by some of the victims, and to the complexity of the rescue problems.

By tracking the actions of many of the survivors in the Houston accident, the Safety Board was also able to identify

several general ways to improve survival in future accidents. These findings led to a further investigation of DOT's program for the collection and use of survival action data. A primary element of the hazardous materials safety program is the accident/incident reporting system of the Materials Transportation Bureau of DOT's Research and Special Programs Administration. The system, however, does not collect information about survival actions following the accidental release of hazardous materials but focuses on collecting information about the performance of hazardous materials packaging and on trend analyses of such data to identify needed improvements. Trend analyses require sufficient accidents and, usually, extended time periods to identify needed improvements. The Safety Board concludes that the data system deficiency prevents DOT from adequately analyzing the effectiveness of its mandated safeguards.

The Board states that prompt collection and use of survival data following hazardous materials releases in which serious injuries have occurred, or in which serious injury was narrowly averted, would substantially reduce the delay in evaluating and improving DOT's hazardous materials safeguards or procedures. Also, in addition to acquiring survival data for its internal use, DOT's dissemination of survival action data, along with maps of the hazardous materials behavior in serious releases, could permit safety program managers in other public and private emergency response activities to benefit from the lessons learned in such accidents with a minimum of delay. The task is to improve and shorten the learning process from such accidents with survival action data. These benefits merit high priority among RSPA's safety program efforts. For these reasons, on December 11 the Safety Board recommended that DOT's Research and Special Programs Administration:

Incorporate hazardous materials incident survival action data in the new centralized hazardous materials information system which the Department of Transportation is establishing under recommendation No. 3 of the September 1978 Report of the Hazardous Materials Task Force. (I-79-14)

Establish procedures to promptly utilize survival action data and to analyze the harm from an accident in evaluating the influence of regulatory safeguards upon the outcome of serious hazardous materials incidents. (I-79-15)

Use survival action data collected to revise emergency guidelines, incorporating recommended actions, their purpose, and the effect they should have in reducing losses

following the release of hazardous materials. (I-79-16)

Each of the above recommendations is designated "Class II, Priority Action."

Responses from the Federal Aviation Administration to Safety Recommendations

A-79-68 through 70.—On December 5 FAA responded to recommendations issued September 6 following investigation of the Rocky Mountain Airlines DeHavilland DHC accident near Steamboat Springs, Colo., December 4, 1978. The accident illustrated the need for survival training for crewmembers and for installation of shoulder harnesses of crew seats. (See 44 FR 52961, September 6, 1979.)

Recommendation A-79-68 asked FAA to amend 14 CFR 135.331 and 121.417 to require that each certificate holder provide a survival training program for its crewmembers that would include the basic information on sea, desert, winter, and mountain survival. FAA does not believe that a regulatory amendment is appropriate at this time. FAA does agree, however, that crewmembers should be knowledgeable in survival techniques for the various environmental conditions that may be encountered following an air carrier accident. To initiate training as soon as practical, FAA plans to issue an Air Carrier Operations Bulletin, within the next 90 days, instructing FAA's principal operations inspectors to have their assigned air carriers include survival training, as appropriate to the carrier's route structure, during the crewmembers' recurrent training.

In response to A-79-69, which asked FAA to issue an Advisory Circular which outlines acceptable means of compliance with such a survival training program requirement, FAA believes that, as discussed in A-79-68 above, an Air Carrier Operations Bulletin instead of an Advisory Circular is more appropriate at this time. FAA plans to include a suggested outline for a survival training program in this Air Carrier Operations Bulletin.

With reference to A-79-70, which recommended that FAA strictly enforce the compliance date for the installation of shoulder harnesses as required by 14 CFR 135.171, FAA says its action of granting certain operators extensions to the shoulder harness requirement under Part 135 is a logical solution to a supply problem. FAA is not aware of any abuses by operators in delaying the installation of shoulder harnesses in their aircraft.

A-79-75.—FAA's letter of December 6 responds to a recommendation issued

following investigation of the December 21, 1978, crash of a Cessna 207 on approach to Chevak, Alaska. The recommendation called on FAA to initiate action to disseminate additional information to the general aviation community to make it more fully aware of the hazards associated with flight in white-out conditions in Alaska and other regions with similar environmental conditions; and undertake an aggressive educational program to correct apparent misconceptions regarding visual flight rules (VFR) operations in white-out conditions. (See 44 FR 58819, October 11, 1979.)

Aware that the white-out phenomenon is a distinctive hazard to flight conducted in conducive meteorological conditions, FAA states that its accident prevention program has dealt with the hazard in an educational approach for a number of years. The program includes a slide presentation on the white-out phenomenon, a film titled, "Some Thoughts on Winter Flying," and an excerpt from Chapter 2, Cold Weather Safety, published by the FAA Alaskan Region in January 1969, copies of which are provided with FAA's response. However, FAA states that it will analyze its education and information efforts with respect to the white-out hazard and will advise the Board by June 1, 1980, of actions determined to be appropriate as a result of its analysis and the Safety Board's recommendation.

A-79-76 through 78.—Also on December 6 FAA responded to recommendations resulting from data gathered from various recent Safety Board investigations suggesting that passengers who lean forward or assume a brace position before an aircraft crash receive significantly less trauma than do other passengers. (See 44 FR 60182, October 18, 1979.)

FAA concurs with recommendation A-79-76, which called for a research project to determine the optimal brace position for various seat designs and seating configurations on aircraft used in passenger-carrying operations. FAA has requested the Civil Aeromedical Institute (CAMI) to conduct a study to determine the proper or optimal passenger brace position for various seat designs and configurations. The study is expected to be completed by July 1980.

Recommendation A-79-77 asked FAA to issue an Air Carrier Operations Bulletin requesting principal operations inspectors to insure that the training of crewmembers includes information on the appropriate passenger brace position for specific aircraft configurations during potential crash

landings. FAA reports that depending on the outcome of the study by CAMI, FAA may request a revision of the air carrier training program.

Recommendation A-79-78 asked FAA to issue an Air Carrier Operations Bulletin requiring principal operations inspectors to instruct their assigned air carriers to describe the appropriate emergency brace position on the passenger briefing card and to require that preflight briefings include a reference to the proper brace position. FAA states that depending on the outcome of the study by CAMI, FAA may request a revision of the passenger brace positions on the passenger briefing cards.

Note.—Copies of Safety Board recommendation letters, and responses thereto, are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,
Federal Register Liaison Officer,
December 14, 1979.

(FR Doc. 79-38950 Filed 12-19-79; 8:15 am)
BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

December 17, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, and reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one-half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer of office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy, Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Economics, Statistics, and Cooperatives Service
Weekly Livestock Slaughter—Federally Inspected
LS-149
Weekly

Livestock Slaughter Plants; 7,800 responses; 19,500 hours
Office of Federal Statistical Policy and Standard 673-7974

Revisions

Agricultural Stabilization and Conservation Service
*Request for Long-Term Agreement—Agricultural and Consumer Protection Act
RE-310
On occasion
Farmers; 10,000 responses; 5,000 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of Economic Analysis
Annual Survey of U.S. Direct Investment Abroad
BE-11A, 11B, & Instruct. Booklet
Annually
Multinational corporations; 1,000 responses; 30,000 hours
Office of Federal Statistical Policy and Standard, 673-7974.

National Oceanic and Atmospheric Administration
*Hawaii Fish Dealer Survey
Monthly
Fish wholesalers; 780 responses; 390 hours
Richard Sheppard, 395-3211

National Oceanic and Atmospheric Administration
Mackerel Purse Seine Study
Single time
Fishermen/fish house operators; 240 responses; 80 hours
Richard Sheppard, 395-3211

Revisions

Bureau of the Census.
*Glass Containers (shipments, production, and stocks)
M-32G
Monthly
Glass Container Manufacturing Establishments; 507 responses; 169 hours
Office of Federal Statistical Policy and Standard, 673-7974

Economic Development Administration
Crosscut Evaluation System—Phase I
Business development—verification
ED-451Q
Single time
Business and development organization; 160 responses; 100 hours
Richard Sheppard, 395-3211
Economic Development Administration
Petition by a firm for certification of eligibility to apply for trade adjustment assistance

ED-435
on Occasion
Import-impacted firms; 1,000 responses; 8,000 hours
Richard Sheppard, 395-3211

Reinstatements

Bureau of the Census
Report on Shipments to Federal Government Agencies
MA-175
Annually
Industrial plans in industries shipping to Federal Government; 7,000 responses; 7,000 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

New Forms

Departmental and Other
Reserve Physician Survey
single time
4263 Reserve Physicians; 4,263 responses; 2,132 hours
Richard Sheppard, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

New Forms

Health Care Financing Administration
Child Health Status Report
HCFA-156
Quarterly
State Medicaid Agencies; 224 responses; 18,368 hours
Richard Eisinger, 395-3214

Revisions

Social Security Administration
Application for Parent's Insurance Benefits
SSA-7-F6
On occasion
Dependent parent of a deceased worker; 1,400 responses; 350 hours
Barbara F. Young, 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

Extensions

Housing Production and Mortgage Credit
Survey Instructions and Certificate (land survey)
FHA 2457
On occasion
Surveyors; 2,000 responses; 1,000 hours
Arnold Strasser, 395-5080

Reinstatements

Housing Production and Mortgage Credit
Periodical Estimate for Partial Payment (for monthly requests for payment)
HUD-51001, 2, 3, & 4
Monthly
Contractors, builders, construction contracting firms; 36,000 responses; 36,000 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343-6716

New Forms

Geological Survey
Supplementary Application for Natural Gas Category
Determination
On occasion
Operators of Federal, Indian, and OCS Leases; 4,000 responses; 16,000 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

New Forms

Departmental and Other
Phone and Mail Questionnaires for prepaid Legal Service Plans
LMSA 93T
Single time
I-Universe of Legal Plans II—Sample of Universe; 2,900 responses; 603 hours
Arnold Strasser, 395-5080
Labor Management and Service Administration
Survey of Portability and Reciprocity Networks Among Single Employer Private Pension Plans
LMSA-94T
Single time
Private pension plan sponsor with plan are part of portable recipient NW.; 25 responses; 200 hours
Arnold Strasser, 395-5080

Revisions

Employment Standards Administration
Applications for Special Certificates under FLSA Requirements
WH-2, 205, 222, 226, 227, 247, 249, and 373
Other (see SF-83)
Applicants for partial exemptions; 26,750 responses; 15,391 hours
Arnold Strasser, 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Federal Aviation Administration

Compliance plan—FAR Part 91, Subpart E
Other (See SF-83)
Operators of large turbojets; 82 responses, 208 hours
Steed, Diane K., 395-3176

Federal Highway Administration
Planning program performance report
Quarterly
208 State highway agencies; 208 Responses, 8,320 hours
Steed, Diane K., 395-3176

Revisions

National Highway Traffic Safety Administration
National accident sampling system interview
Form—Accident and injury (4/78)
On occasion
Occupants and pedestrians involved in car accidents; 61,980 responses, 20,600 hours
Off. of Federal Statistical Policy & Standard 673-7974

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

Extensions

NPDES Application to Discharge Wastewater
Short Form B Agriculture
EPA 7550-7
On occasion
Point source discharges to navigable waters; 5,000 responses, 10,000 hours
Edward H. Clarke, 395-5867
NPDES Application to Discharge Wastewater
Short form
EPA 7550-6, 8, and 9
On occasion
Point of source dischargers to navigable waters; 30,000 responses, 30,000 hours
Edward H. Clarke, 395-5867

NPDES—Manufacturing and commercial and municipal Discharge permit application standard forms EPA 7550-22, 23, 24
On occasion
Point of source dischargers to navigable waters; 10,000 responses, 100,000 hours
Edward H. Clarke, 395-5867

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Roy A. Nierenberg—456-6286

New Forms

Report on pay¹

¹The 10-day public comment period has been waived from Forms PAY 2 and PAY 1 (Actual) because they are a resubmission of earlier Council

Pay 2 and Pay 1 (actual)
State and local gov'ts, large companies, and private sectors; 1,154 responses, 4,244 hours
Arnold Strasser, 395-5080

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632-7737

Extensions

Mid-level data sheet
CSC-1056, A-12/76 and 1056-B-5/76
On occasion
Employment applications; 110,300 responses, 55,150 hours
Laverne V. Collins, 395-3214

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

New Forms

Importer's questionnaire for inv. 303-TA-11
Nonrubber footwear components
Single time
U.S. importers of nonrubber footwear components; 20 responses, 160 hours
Marsha D. Traynham, 395-6140
Producers' questionnaire for inv. 303-TA-11
Single time
Producers of nonrubber footwear components; 150 responses, 1,200 hours
Marsha D. Traynham, 395-6140

Improving Government Regulations; Delay in Publication and Semi-Annual Agenda

December 18, 1979.

AGENCY: Office of Management and Budget.

ACTION: Delay in Publication of Semi-annual Agenda.

SUMMARY: The publication of OMB's semi-annual agenda of upcoming actions on OMB directives will be published in the Federal Register December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. David R. Leuthold, Budget and Management Officer, Room 5208, New Executive Office Building, Washington, D.C. 20503, (202) 395-7250.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 79-39114 Filed 12-19-79; 8:45 am]

BILLING CODE 3110-01-M

on Wage and Price Stability forms which did receive public comment. These two forms have been approved with the understanding that the Council will not request companies to resubmit first year actual pay data—whether singly or in combination with data for other periods.

SECURITIES AND EXCHANGE COMMISSION

[Release 34-16426; File No. SR-NASD-79-12]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on October 19, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Changes

Text of Proposed Rule Change

The following is the full text of the proposed revision of Schedule G under Article XVIII of the By-Laws of the National Association of Securities Dealers, Inc. ("Association"). The introduction to Schedule G and the entire text of section 1 are to be deleted and replaced; the remaining sections will be redesignated. (New language is indicated by italics, deleted language by brackets.)

Schedule G

This Schedule has been adopted pursuant to Article XVIII of the Corporation's By-Laws and shall apply to all over-the-counter transactions in listed securities that are required to be reported to the Consolidated Tape ("eligible securities"), as provided in the Plan filed by the Association pursuant to Rule 17a-15 under the Securities Exchange Act of 1934 ("Plan").

Section 1—Definitions

a. *Terms used in this Schedule shall have the meaning as defined in the By-Laws and Rules of Fair Practice, Rule 17a-15 and the Plan, unless otherwise defined in this Schedule.*

b. *"Consolidated Tape" means the consolidated transaction reporting system for the dissemination of last sale reports in eligible securities required to be reported pursuant to the Plan.*

c. *"Designated Reporting Member" means a member of the Association which executes over-the-counter transactions in eligible securities, maintains transaction reporting capability through the NASDAQ System, and has requested to be a Designated Reporting Member. The Association may also designate any member that effects a substantial number of over-the-counter transactions*

in eligible securities. A list of Designated Reporting Members is attached to this Schedule.

d. *"Eligible securities" means all common stocks, preferred stocks, long-term warrants, and rights entitling the holder to acquire an eligible security, listed or admitted to unlisted trading privileges on the American Stock Exchange or the New York Stock Exchange, and securities listed on regional stock exchanges, which substantially meet the original listing requirements of the New York Stock Exchange or the American Stock Exchange. A list of eligible securities listed on regional stock exchanges is attached to this Schedule.*

e. *"Non-Designated Reporting Member" means all members of the Association which are not Designated Reporting Members.*

Section 2—Transaction Reporting

a. When and How Transaction Reported

(1) *Designated Reporting Members shall transmit through the NASDAQ Transaction Reporting System, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape. Transactions not reported within 90 seconds after execution shall be designated as late.*

(2) *Non-Designated Reporting Members shall transmit through the NASDAQ Transactions Reporting System, or if such System is unavailable, via Telex, TWX or telephone to the NASDAQ Department in New York City, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape unless all of the following criteria are met:*

(A) *The aggregate number of shares of eligible securities which the member executed and is required to report does not exceed 1,000 shares in any one trading day; and*

(B) *The total dollar amount of shares of eligible securities which the member executed and is required to report does not exceed \$25,000 in any one trading day; and*

(C) *The member's transactions in eligible securities have not exceeded the limits of (A) or (B) above on five or more of the previous ten trading days.*

Transactions not reported within 90 seconds after execution shall be designated as late. If the member has reason to believe its transactions in a given day will exceed the above limits, it shall report all transactions in eligible securities within 90 seconds after

execution; in addition, if the member exceeds the above limits at any time during the trading, it shall immediately report and designate as late any unreported transactions in eligible securities executed earlier that day.

(3) *Non-Designated Reporting Members shall report weekly to the NASDAQ Department in New York City, on Form T, last sale reports of transactions in eligible securities which are not required by paragraph (2) to be reported within 90 seconds after execution.*

(4) *All Members shall report weekly to the NASDAQ Department in New York City, on Form T, last sale reports of transactions in eligible securities executed outside the trading hours of the Consolidated Tape.*

(5) *All trade tickets for transactions in eligible securities shall be time-stamped at the time of execution.*

b. Which Party Reports Transaction

(1) *Transactions executed on an exchange are reported by the exchange and shall not be reported by members.*

(2) *In transactions between two Designated Reporting Members, only the member representing the sell side shall report.*

(3) *In transactions between a Designated Reporting Member and a Non-Designated Reporting Member, only the Designated Reporting Member shall report.*

(4) *In transactions between two Non-Designated Reporting Members, only the member representing the sell side shall report.*

c. *Information To Be Reported*
Each last sale report shall contain the following information:

(1) *Stock symbol of the eligible security;*

(2) *Number of shares (odd lots shall not be reported);*

(3) *Price at which the transaction was executed.*

d. *Procedures for Reporting Price and Volume*

Members which are required to report pursuant to paragraph b. above shall transmit last sale reports for all purchases and sales in eligible securities in the following manner:

(1) *For agency transactions, report the number of shares and the price excluding the commission charged.*

Example: SELL as agent 100 shares at 40 less a commission of \$12.50; REPORT 100 shares at 40.

(2) *For dual agency transactions, report the number of shares only once, and report the price excluding the commission charged.*

Example: SELL as agent 100 shares at 40 less a commission of \$12.50; BUY as agent 100 shares at 40 plus a

commission of \$12.50; REPORT 100 shares at 40.

(3) *For principal transactions, except as provided in paragraphs (i), (ii), and (iii) below, report each purchase and sale transaction separately and report the number of shares and the purchase and/or sale price including any mark-up or mark-down.*

Example: BUY as principal 100 shares at 39½; REPORT 100 shares at 39½.

Example: BUY as principal 100 shares at 39½; SELL as principal 100 shares at 40½; REPORT 100 shares at 39½ and REPORT 100 shares at 40½.

Exceptions:

(i) *A principal transaction with a commission differential or equivalent which is separately disclosed on the confirmation shall be reported excluding the commission differential or equivalent.*

Example: BUY as principal 100 shares at 40 less ¼; REPORT 100 shares at 40.

(ii) *A "riskless" principal transaction in which a member that is not a market maker in the security, after having received from a customer an order to buy, purchases the security as principal from another member or customer to satisfy the order to buy or, after having received from a customer an order to sell, sells the security as principal to another member or customer to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down.*

Example: BUY as principal 100 shares at 40 to fill existing order; SELL as principal 100 shares at 40 plus mark-up of \$12.50; REPORT 100 shares at 40.

(iii) *Consecutive, offsetting principal transactions involving a block of 5,000 or more shares executed within a five-minute period shall be reported as one transaction at the average price.*

Example: 10:00 BUY as principal 5,000 shares at 39½; 10:04 SELL as principal 5,000 shares at 40½; REPORT 5,000 shares at 40.

Example: 10:00 BUY as principal 5,000 shares at 40 less ¼ differential; 10:04 SELL as principal 5,000 shares at 40 plus ¼ differential; REPORT 5,000 shares at 40.

If there are multiple transactions offsetting the block transaction within a five-minute period, this paragraph shall apply only if such transactions are executed at the same price.

Example: 10:00 BUY as principal 5,000 shares at 39½; 10:01 SELL as principal 2,500 shares at 40½; 10:04 SELL as principal 2,500 shares at 40½; REPORT 5,000 shares at 40.

All transactions reported under the above exception which are not reported

within 90 seconds after execution shall be designated as late.

e. Transactions Not Required To Be Reported

The following types of transactions shall not be reported for inclusion on the Consolidated Tape:

(1) *transactions executed on an exchange;*

(2) *odd-lot transactions;*

(3) *transactions which are part of a primary distribution by an issuer or of a registered secondary distribution by an issuer or of a registered secondary distribution (other than "shelf distributions") or of an unregistered secondary distribution effected off the floor of an exchange;*

(4) *transactions made in reliance on Section 4(2) of the Securities Act of 1933;*

(5) *transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, e.g., to enable the seller to make a gift;*

(6) *the acquisition of securities by a member as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange;*

(7) *purchases of securities off the floor of an exchange pursuant to a tender offer; and*

(8) *purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a preestablished consideration unrelated to the current market.*

(Existing Sections 2, 3 and 4 of Schedule G are to be renumbered.)

Summary of Provisions Governing Members' Requirement To Report Transactions in Eligible Securities

Chart I—General Reporting Requirements Under Section 2(b)

Member	Transaction	Member reports when contra-party is			
		Designated reporting member	Non-designated reporting member	Exchange	Customer
Designated reporting member	Buys from	No.	Yes.	No.	Yes.
	Sells to	Yes.	Yes.	No.	Yes.
Non-designated reporting member	Buys from	No.	No.	No.	Yes.
	Sells to	No.	Yes.	No.	Yes.

Chart II—Reporting Requirements for "Riskless" Transactions as Defined in Section 2(d)(3)(iv)

Member	Transaction	Member reports when contra-party is			
		Designated reporting member	Non-designated reporting member	Exchange	Customer
Designated reporting member	Buys from customer and sells to	Yes.	Yes.	No.	Yes.
	Sells to customer and buys from	No.	Yes.	No.	Yes.
Non-designated reporting member	Buys from customer and sells to	No.	Yes.	No.	Yes.
	Sells to customer and buys from	No.	No.	No.	Yes.

Procedures of Self-Regulatory Organization

The revision of Schedule G was developed by the Association's National Market System Trading Committee and approved by the Association's Board of Governors on July 13, 1979, pursuant to Article XVIII of the By-Laws, which does not require approval by the membership for such changes.

The NASD's Statement of Purpose of Proposed Rule Change

The substance of Schedule G has not been materially altered, except as noted below, although the language and format have been revised for greater clarity and simplicity. Questions received from members and others had indicated to the Association that some persons misunderstood the application or requirements of Schedule G. Therefore, the provisions were rephrased and

rearranged more logically and examples were added to make the reporting requirements clearer. In addition, a summary chart of the reporting requirements has been appended to Schedule G.

There were also three substantive changes made in Schedule G. The first is in response to a concern that under current reporting methods, certain principal transactions may result in duplicate reporting to the Consolidated Tape. This occurs because members are required to report all purchase and sales transactions as principal, including situations in which the member purchases from one client and immediately sells a like amount of the security to another client. The two points for these transactions would occur almost simultaneously on the Consolidated Tape and would have the appearance of being unrelated transactions at the same or different prices. This concern relates primarily to block transactions involving in-house principal crosses. In a comparable transaction executed on an exchange, the exchange firm acts as agent for both sides of the transaction and the cross is reported as only one transaction. While the third market maker is required to report a block transaction within 90 seconds of execution, whether or not the other side of the trade has been consummated, the exchange firm in executing a similar block transaction can wait until both sides of the transactions have been assembled before taking the transaction to the exchange floor to be reported. In order to provide parity between exchange reporting procedures and those of the third market, the proposed rule change provides that in transactions involving 5,000 shares or more, where one or more offsetting transactions are executed within a five-minute period, the member shall report only one transaction at the average price. For illustration of this provision, see the examples under proposed Section 2, paragraph d(3)(iii).

The second substantive change deals with "riskless" transactions in which a member, other than a market maker, having received an order to buy, purchases the security from another party to satisfy the buy order or, having received an order to sell, sells the security to another party to satisfy the sell order. Under SEC Rule 10b-10, such transactions must be confirmed with the mark-up or mark-down disclosed, if the member is not a market-maker in the security. The Association has concluded that such riskless transactions should be reported to the Consolidated Tape as a single transaction, and at a price that

does not include the mark-up or mark-down.

The third change amends the exception from the 90-second reporting requirement for Non-Designated Reporting Members which do not execute transactions in eligible securities that exceed 500 shares or \$5,000 in any one trading day. This exception was established by the Board in recognition of the fact that some members execute only occasional reportable transactions. The Association has determined that the exemption criteria should be increased to 1,000 shares and \$25,000 on a single trading day since the burden real-time trade reporting places on the smaller firm that executes occasional transactions of 1,000 shares or fewer is not justified by the minimal public benefit to be derived from timely disclosure of these few transactions. This determination is based in part on a study by the Association's staff of third market transactions reported to the Consolidated Tape from April 2, 1979, through April 27, 1979, which showed that under the proposed criteria, an additional 23 firms would have been exempt from real-time trade reporting. However, these firms accounted for only 9,788 shares, which was 7/100 of 1% of all third market reported volume and 1/1000 of 1% of all volume reported on the Consolidated Tape during the four week period.

The NASD's Statement on Basis Under the Act for Proposed Rule Change

Section 11A(a)(1) of the Act provides:

The Congress finds that . . . (i) it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

Section 15A(b)(6) of the Act, which applies to registered securities associations, requires that "(t)he rules of the association (be) designed . . . to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest . . ." Rule 17a-15 under the Act requires the Association to establish procedures for the reporting of transactions in listed securities. These provisions give the Association authority to require that all members report their transactions in eligible securities in order to provide more complete information to the investing public. Accordingly, the proposed amendments are consistent with the requirements of the Act.

Comments Received From Members, Participants or Others on Proposed Rule Change

No comment letters were solicited or received with respect to the proposed rule change, although certain of the provisions were implemented in response to problems previously noted by members.

The NASD's Statement on Burden on Competition

The Association believes the proposed rule change does not impose a burden on competition. The requirement that only one transaction be reported when a block of 5,000 shares is offset within five minutes will actually reduce the reporting burden on members, who now have to report, within 90 seconds, two or more transactions in such situations. In addition, it will provide parity between exchange reporting procedures and those of the third market.

The requirement that "riskless" transactions be reported as one transaction, exclusive of any mark-up or mark-down, imposes no burden on members which are already required by SEC Rule 10b-10 to disclose such charges on their customer confirmations.

Finally, as discussed above, the expanded exception to the real-time reporting requirements will be a benefit, not a burden, to members which effect only occasional transactions in eligible securities.

For these reasons, the Association has determined that the proposed rule change does not impose a burden on competition.

On or before January 24, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room,

1109 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 10, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,
George A. Fitzsimmons,
Secretary.
December 14, 1979.
[FR Doc. 79-3933 Filed 12-19-79; 6:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 700]

Fishery Conservation and Management Act of 1976; Applications for Permits To Fish Off the Coast of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the Federal Register.

Applications have been received from Taiwan and the Governments of the Republic of Cuba, the Federal Republic of Germany, the German Democratic Republic, Ireland, Italy, Japan, Korea, Mexico, the Polish People's Republic, Spain, and the Union of Soviet Socialist Republics for fishing during 1979 and are reproduced herewith.

Individual vessel applications for fishing 1979 have been received from Taiwan and the Government of Cuba, the Federal Republic of Germany, the German Democratic Republic, Ireland, Italy, Japan, Korea, Mexico, the Polish

People's Republic, Spain, and the Union of Soviet Socialist Republics and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine

Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202)634-7432).

Dated: December 10, 1979.
James A. Storer,
Director, Office of Fisheries Affairs.

Fishery Codes and Designation of Regional Councils Which Review Applications for Individual Fisheries Are as Follows

Code	Fishery	Regional council
ABS	Atlantic Bilfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England and Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl	Pacific.

Activity Codes Specify Categories of Fishing Operations Applied for as Follows

Activity code	Fishing operations
1.....	Catching, processing, and other support.
2.....	Processing and other support only.
3.....	Other support only.

[FR Doc. 79-3905 Filed 12-19-79; 8:45 am]
BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-31]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this

notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 9, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 14, 1979.
Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
15590	Embrey-Riddle	Appendices A, C, D, F, and H of 14 CFR Part 141.	Renewal of Exemption No. 2329 which permits petitioner to train the majority of its students to a performance standard instead of the prescribed minimum flight time requirements.
19533	Aeroservice International, Inc.	14 CFR § 63.37	To allow issuance of a Flight Engineer Certificate when an alternate method is used to meet the five hours of panel time experience.
19835	Redmond Air	14 CFR § 21.183(d)(1)	To permit issuance of a standard airworthiness certificate for certain import aircraft without a statement from the country of manufacture certifying that the aircraft conforms to the type design.

Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
19892.....	American Airlines Training Corporation.....	14 CFR § 141.33(a)(3).....	To allow petitioner, as a pilot school certificate holder, to use as instructors for flight instruction in courses leading to the issuance of a type rating, airline designated instructor pilots who have airline transport pilot certificates with appropriate type ratings but who do not hold flight instructor certificates.
19893.....	Executive Aviation, Inc.....	14 CFR § 91.116(c).....	To allow petitioner to operate from Detroit City Airport when the field visibility is one half mile or greater but below the published one mile takeoff minimums.
19894.....	U.S. Air (formerly Allegheny Airlines).....	14 CFR § 141.55(a).....	To permit the use of an alternate combination of allocated simulator and aircraft training time in lieu of the present stipulation of 5 hours simulator and 5 hours aircraft training time.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
11585.....	Cathay Pacific Airways, Ltd.....	14 CFR Parts 21, 61, and 91.....	To amend Exemption No. 2280C, as amended, to add L-1011 aircraft N316EA and to update the list of airmen in the appendix. <i>Granted 12/6/79.</i>
11789.....	Transmeridian Air Cargo, Ltd.....	14 CFR Parts 21, 61, 63, and 91..	To amend and extend Exemption No. 2532 as amended for the operation of leased, U.S.-registered CL-44 aircraft N447T and update the list of crewmembers in the appendix. <i>Granted 12/5/79.</i>
18234.....	British Airways.....	14 CFR Parts 21, 61, 63, and 91..	Petitioner requested an amendment of Exemption No. 2607 to allow the operation of a U.S.-registered Lockheed 1011 aircraft and add six additional crewmembers to the appendix. <i>Granted 11/24/79.</i>
18582.....	Frontier Airlines, Inc.....	14 CFR § 121.443.....	To extend for one-year Exemption No. 2665 which expires December 30, 1979. It exempts Frontier pilots from the route and airport qualifications requirements for certain named airports and routes. <i>Granted 12/5/79.</i>
19493.....	Airift International, Inc.....	14 CFR § 121.389(a)(2).....	The petitioner requests reconsideration of the FAA's denial of its application to allow a temporary exemption (60 days) to permit the continued use of a LORAN system which would be visible but not accessible to the pilot in command on two DC8-33 aircraft. <i>Withdrawn 10/24/79.</i>
19594.....	Mr. Donald K. Ford, Jr.....	14 CFR § 135.243(a).....	To permit petitioner to serve as a pilot in command for Air Hyannis Commuter Lines until reaching his 23rd birthday without holding an Airline Transport Pilot Certificate (ATPC). <i>Denied 12/7/79.</i>
19643.....	Northwest Airlines, Inc. (NWA).....	14 CFR § 43.17.....	To allow Canadian Pacific Airlines (CPA) mechanics, who do not hold U.S. mechanic or repairman certificates, to perform maintenance on NWA B-747 aircraft in Amsterdam, The Netherlands. <i>Granted 11/30/79.</i>
19646.....	Swift Air Lines.....	14 CFR § 121.703(d).....	To extend the required delivery time frame of mechanical reliability reports from 24 hours to 72 hours after each 24-hour period. <i>Denied 12/4/79.</i>
19649.....	Robert Serafini.....	14 CFR §§ 65.91 (c)(1) and (c)(2).....	To allow the petitioner to become eligible for an inspection authorization without meeting the time eligibility requirements. <i>Denied 12/4/79.</i>
19654.....	Gulfstream American Corporation.....	14 CFR § 21.165.....	To amend Exemption No. 2848 to revise condition No. 3 to permit removal of used engines and installation of new engines at a modification center. <i>Granted 12/6/79.</i>
19713.....	Briefs Wing and Helicopter, Inc.....	14 CFR § 135.99(b).....	To allow the operation of helicopters configured with more than ten passenger seats without a second in command. <i>Denied 11/30/79.</i>
19752.....	Transamerica Airlines, Inc.....	14 CFR § 121.291.....	To permit inauguration of passenger service with a Boeing 747 aircraft configured for 520 passengers without first conducting a full passenger seating capacity emergency evacuation demonstration from the aircraft. <i>Granted 12/11/79.</i>
19797.....	El Al Israel Airlines.....	14 CFR Parts 21, 61, 63, and 91..	To allow the petitioner to operate a leased U.S.-registered B-747 and permit flight crewmembers to obtain U.S. airman certificates to operate the U.S.-registered aircraft. <i>Granted 12/12/79.</i>
19890.....	Flying Tiger Line.....	14 CFR § 121.291.....	To allow the operation of a B-747-212B without conducting the emergency evacuation demonstration. <i>Granted 12/3/79.</i>

[FR Doc. 70-39638 Filed 12-19-79 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the

National Highway Safety Advisory Committee to be held on January 15 and 16, 1980. The meeting will start at 8:30 a.m. on both days and will be held at the DOT Headquarters Building, 400 Seventh Street, S.W., Washington, D.C.

On January 15 the Driver Licensing Task Force will meet in room 6200, and the Vehicle Mix Task Force will meet in room 7200. On January 16 the "55" Task

Force will meet in room 7200 and the Driver-Vehicle-Highway Compatibility Task Force will meet in room 6200. All Task Forces may continue their meeting on the day following that scheduled if necessary to complete their agenda.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may

present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., on December 12, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79-38749 Filed 12-19-79, 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Spun Acrylic Yarn From Italy; Antidumping Withholding of Appraisal Notice and Determination of Sales at Less Than Fair Value

AGENCY: Treasury Department.

ACTION: Withholding of Appraisal and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in the determination that spun acrylic yarn from Italy is being sold at less than fair value under the Antidumping Act, 1921. Appraisements of entries of this merchandise will be suspended for 3 months. This case is being referred to the International Trade Commission for a determination whether an industry in the United States is being, or is likely to be, injured by reason of such imports.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Trade Analysis Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C., 20229, (202) 566-5492.

SUPPLEMENTARY INFORMATION: On May 21, 1979, a petition in proper form was received from counsel on behalf of the American Yarn Spinners Association, Gastonia, North Carolina, alleging that spun acrylic yarn from Italy is being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) ("the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the Federal Register of July 2, 1979 (44 FR 36696).

For purposes of this investigation, the term "spun acrylic yarn" means spun yarn of acrylic, provided for in item 310.50, Tariff Schedules of the United States.

Determination of Sales at Less Than Fair Value

I hereby determine that, for the reasons stated below, spun acrylic yarn from Italy is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of Reasons on Which This Determination Is Based

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that virtually all imports of the subject merchandise from Italy were manufactured by Maglificio Varianini S.p.A., Fraver S.p.A., Orlandi Filatura S.p.A., and Zegna Baruffa S.p.A.; therefore, the investigation was limited to these manufacturers. However, these companies declined to answer the antidumping questionnaire, stating that they planned to cease shipments to the United States. Fraver did present price information on a single sale which was substantiated by information from Customs field offices. Because this information specified a particular type of yarn and cost information was subsequently furnished by the petitioner on that type of yarn, the investigation was limited to this single sale.

b. *Basis of Comparison.* For purposes of this determination, the proper basis of comparison is between the purchase price and the constructed value of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used because export sales to the United States were made to unrelated customers. Constructed value, as defined in section 206 of the Act (19 U.S.C. 165), was used since no home market prices were furnished by the respondents, and the home market prices shown in the petition were less than the cost of production shown in the petition and related to a different quality of yarn than the one for which purchase price information was obtained.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was sought concerning imports during the period January 1 through June 30, 1979. Since the merchandise exported by Fraver during that period was sold during the second quarter of 1978, cost information was developed for that particular yarn produced during that quarter.

c. *Purchase Price.* For purposes of this determination, since all merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account it was imported, within the meaning of section 203 of the Act (19 U.S.C. 162), purchase price has been calculated on the basis of the f.o.b. price to the United States importer. The price per kilogram was adjusted to a price per pound in order to relate to the cost of production data supplied. No other adjustments were claimed or made.

d. *Constructed Value.* For purposes of this determination, the constructed value has been calculated, in accordance with section 206 of the Act (19 U.S.C. 165), based on data furnished in a supplementary submission from the petitioner. Information was submitted regarding the cost of materials, usual general expenses in the industry (the value of which exceeded the statutorily mandated amount of 10 percent), a profit of 8 percent of the costs of the foregoing categories, and the cost of packing.

The home market prices indicated in the petition were not used because they were below the cost of production shown in the petition and related to a different quality of yarn than the one for which purchase price data had been acquired.

e. *Result of Comparison.* Using the above criteria, a comparison was made on one sale of spun acrylic yarn to the United States during the representative period. Comparisons were limited by the failure of the Italian respondents to furnish export and home market data. A margin was found of 48.05 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Based on the reasons stated above, Customs officers are being directed to withhold appraisal of spun acrylic yarn from Italy in accordance with § 153.43, Customs Regulations (19 CFR 153.43).

This withholding of appraisal, which is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35(a)), shall become effective December 20, 1979. It shall cease to be effective at the expiration of 3 months from the date of this publication unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

Robert Mundheim,
General Counsel of the Treasury.
December 14, 1979.

[FR Doc. 79-38973 Filed 12-19-79; 8:45 am]
BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29193]

Southern Pacific Transportation Co. Trackage Rights Over Sacramento Northern Railway Between Cannon, Dozier, and Montezuma, CA

Southern Pacific Transportation Company (SPT), One Market Plaza, San Francisco, CA 94105, represented by Mr. T. A. Miller, General Commerce Counsel, Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA 94105, hereby give notice that on the 30th day of November, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application under 49 U.S.C. 11343 to operate certain of its trains under trackage rights over the Montezuma line of the Sacramento Northern Railway (SN), for a distance of approximately 21.5 miles between SN's milepost 7.86 at Cannon, CA, and the end of its track at milepost 49.72 near Montezuma, CA in Solano County, CA. Acceptance of the proposed trackage rights agreement will permit a sharing of joint track expenses, superior shipper service, and enhance the prospect of future shipper location on the line.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29193 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than 45 days after

the date notice of the filing of the application is published in the Federal Register. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39049 Filed 12-19-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-105 (Sub- 1F)]

Western Pacific Railroad Co. Discontinuance of Service Near Bieber and Hambone, CA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 29, 1979, a finding, which is administratively final, was made by the Commission. Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line F. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the discontinuance of service by the Western Pacific Railroad Company of a line of railroad known as its Bieber-Hambone line extending from railroad milepost 111.808 on its Northern California Extension near Bieber, CA, to its connection with the McCloud River Railroad (MCR) at Hambone, CA, a distance of approximately 46.08 miles, all of which line is owned and operated by the Burlington Northern (BN), and Applicant's operation is by trackage rights granted by Burlington Northern pursuant to agreements between Applicant and BN. All of the said line is within the counties of Lassen, Modoc and Siskiyou, CA. A certificate of public convenience and necessity permitting abandonment was issued to the Western Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of

notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than January 4, 1980. The offer, as filed, shall contain information required pursuant to 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39047 Filed 12-19-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 246

Thursday, December 20, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY CREDIT CORPORATION.
"FEDERAL REGISTER" CITATION OF
PREVIOUS ANNOUNCEMENT: Published in
December 14, 1979, 44 FR 72700.

PREVIOUSLY ANNOUNCED TIME AND DATE
OF MEETING: 10:00 a.m., December 21,
1979.

STATUS: Open.

CHANGE IN AGENDA: Adds item 12 which
is listed as: Memorandum re: proposal to
develop program for CCC to assume
commercial and non-commercial risks
on export sales of agricultural
commodities on private credit.

CONTACT PERSON FOR MORE
INFORMATION: Bill Cherry, Secretary,
Commodity Credit Corporation, Room
202-W, Administration Building, U.S.
Department of Agriculture, Washington,
D.C. 20013, Telephone (202) 447-7583.

[S-2460-79 Filed 12-18-79; 10:54 am]
BILLING CODE 3410-05-M

2

FEDERAL MARITIME COMMISSION.
"FEDERAL REGISTER" CITATION OF
PREVIOUS ANNOUNCEMENT: December 14,
1979, 44 FR 72700.

PREVIOUSLY ANNOUNCED TIME AND DATE
OF THE MEETING: December 19, 1979, 9:00
a.m.

CHANGE IN THE MEETING: The description
of item 3 on the closed portion is
corrected to read:

3. Docket No. 79-10: Rates of Far
Eastern Shipping Company—Petitions
for reconsideration.

[S-2464-79 Filed 12-18-1979; 12:03 pm]
BILLING CODE 6730-01-M

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: December 20, 1979, 8:30
a.m.

PLACE: Hearing Room 1, 1100 L Street,
NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: Docket No.
78-46: Financial Exhibits and Schedules
of Common Carriers in the Domestic
Offshore Trades—Review of Comments.

CONTACT PERSON FOR MORE
INFORMATION: Francis C. Hurney,
Secretary (202) 523-5725.

[S-2463-79 Filed 12-18-1979; 12:03 pm]
BILLING CODE 6730-01-M

4

BOARD OF GOVERNORS OF THE FEDERAL
RESERVE SYSTEM.

TIME AND DATE: 11:00 a.m., Monday,
December 17, 1979.

PLACE: 20th Street and Constitution
Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Federal
Reserve Bank and Branch director
appointments. (This matter was
originally announced for a meeting on
December 5, 1979.)

CONTACT PERSON FOR MORE
INFORMATION: Mr. Joseph R. Coyne,
Assistant to the Board (202) 452-3204.

Dated: December 17, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-2461-79 Filed 12-18-79; 10:54 pm]
BILLING CODE 6210-01-M

5

NATIONAL CREDIT UNION
ADMINISTRATION.

Notice of Change in Subject of Meeting

The National Credit Union
Administration Board has determined
that its business requires that the
previously announced meeting on
December 20, 1979, include an additional
item which will be open to public
observation:

Agency policy establishing procedures
to enforce 18 U.S.C. 207(j), Ethics in
Government Act of 1978.

Earlier announcement of this change
was not possible.

The previously announced items are:

1. Review of Central Liquidity Facility
Lending Rates.
2. Central Liquidity Facility Repayment
Agreements.
3. Conforming changes to Central Liquidity
Facility Regular Member Agreements.
4. Waiver of Statutory Reserve
Requirement for federally insured credit
unions for calendar year 1979. Section 116 of
the Federal Credit Union Act.

5. Interagency policy statement of
disposition of credit like insurance income.
6. Interagency policy statement for uniform
disclosure of statutory enforcement actions.
7. Applications for charters, amendments to
charters, bylaw amendments mergers,
conversions and insurance as may be
pending at that time.

The meeting will be held at 9:30 a.m.
in the Board's offices at 1776 G St.,
N.W., Washington, D.C. Information
may be obtained from Rosemary Brady,
Secretary of the Board, telephone (202)
357-1100.

Chairman Lawrence Connell and
Board Members P. A. Mack and Harold
Alonza Black voted unanimously to
accept this addition to the agenda.

[S-2462-79 Filed 12-18-1979; 11:11 am]
BILLING CODE 7535-01-M

Thursday
December 20, 1979

Part II

Department of
Transportation

Federal Highway Administration

Administration of Negotiated Contracts

federal register

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR 170, 172, 420 and 620

(FHWA Docket No. 78-17)

Administration of Negotiated Contracts

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This rule consolidates three existing regulations regarding procedures for administering negotiated contracts. "State Contract Administration for other than Competitively Bid Contracts," "Highway Planning and Research and Development Contracts," and "Engagement of Consultants for Engineering Services" are superseded and replaced by a uniform set of procedures. The rule conforms Federal Highway Administration (FHWA) procedures for the administration of certain federally-aided procurement contracts to the procedures of OMB Circular No. A-102, Uniform Administrative Requirements for Grants-in-Aid by State and Local Governments, Attachment O, Procurement Standards. It also minimizes redtape by providing for State and local governments to develop uniform procedures for the procurement of services, supplies, and equipment with Federal funds administered by the FHWA.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Dwight Hodgins, Systems and Program Review Branch, Program Management Division, 202-426-0175; or Wilbert Baccus, Attorney, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On November 2, 1978, the FHWA issued a proposed rule, published at 43 FR 51040, FHWA Docket No. 78-17. Comments to the docket and internal FHWA coordination resulted in the changes reflected in the final rule. Significant changes and comments are discussed in the following paragraphs. On August 1, 1979, the Office of Management and Budget issued a revised Attachment O to Circular No. A-102 in a completely new format. References to specific paragraphs of Attachment O in the

following discussion are for the one in effect on November 2, 1978.

Note.—In an attempt to align the internal FHWA numbering system of directives more closely with that of Title 23, Code of Federal Regulations, for easier access and reference, the FHWA is changing the citation for this regulation from the proposed 23 CFR Part 173 to the final rule 23 CFR Part 172.

Discussion of Major Comments

Some comments were received regarding proposed changes to Attachment O published as a Notice of Proposed Rulemaking on December 6, 1978, (FR Vol. 43, No. 235, pages 57201-5) because of the close relationship of this regulation to Attachment O. Of special concern was the proposed requirement that price be included in proposals as a required factor in competitive negotiation of services. The August 1, 1979, final rule for Attachment O provides for a continuation of current practice that allows for the selection of architects/engineers on the basis of qualifications after which a price is negotiated.

Several other comments are directly addressed by the August 1, 1979, revision of Attachment O including recommendations to prohibit percentage-of-construction-cost type contracts. The revision to Attachment O also nullifies the need to separately address records in the final rule.

Several comments were received that pertinent sections of referenced material, generally OMB Circular No. A-102 and Title 41, CFR, should be included in the regulation as an attachment, or be given concurrent distribution. We believe that agencies having contracts which include Federal funds for the most part already have these pertinent laws and regulations. If not, they are readily available from the U.S. Government Printing Office or the cognizant Federal agency.

Some questions were raised regarding OMB Circular No. A-102, Attachment O, Paragraphs 3(b) and 3(c)(6)(h) which require maximum open and free competition.

A comment was received that the use of the terms "maximum open and free competition" and "maximum feasible opportunity" in Attachment O will cause difficulty in determining deficiencies since such terms are subject to interpretation. The contracting agency's procedures must show how it will achieve these goals; therefore, yardsticks will be available in the contracting agency's own procedural statements for the FHWA to measure performance.

A comment was made that the requirement in paragraph 3(a) of

Attachment O regarding a code of conduct may require some States to enact new laws or regulations and wondered if existing certification requirements would fulfill this requirement. The intent of the new regulation is to fully conform to Attachment O which unequivocally requires a code or standards of conduct. This is not an unreasonable requirement, therefore, we believe any State or local government agency which does not already have an acceptable code of conduct should enact laws, develop regulations, or take other necessary actions before receiving Federal funds.

It was suggested that guidance be provided on the maximum acceptable fees as specified in 41 U.S.C. 254. When maximum acceptable fees are specified, there is a tendency for use of the maximum without regard to other factors which may reduce the fee, such as the extent of participation by the contracting agency, e.g., furnishing property, tools, or facilities, or supervisory services. Federal participation would be limited to the maximum fees specified in 41 U.S.C. 254, however.

Concern was expressed that the regulation removes the FHWA's discretionary power to become involved in individual contracts once procedures have been approved. This is not the case. As part of its general overview responsibility, FHWA may intervene when considered necessary in any phase of work using Federal funds. In fact, review of activities during contractor selection, negotiation, and performance for a sample of contracts is a necessary part of FHWA monitoring of contracting procedures.

It was pointed out that existing 23 CFR 620.313 requires that all contracts for engineering services to be financed with Federal-aid Interstate funds must be submitted for prior FHWA approval even when there are approved procurement procedures. Under this regulation, if there are acceptable procedures, Interstate funded contracts need not be submitted for separate approval.

A question was raised concerning this regulation's effect on Certification Acceptance (CA). There should be no direct effect on CA under 23 CFR 640 (or 642). However, State and FHWA officials should be aware of the principles of this regulation when they review the State laws, regulations, directives, and standards and State capability for accomplishing the nine major objectives of Title 23, United States Code, as prescribed in 23 CFR

640.109, and when periodic evaluations are made under § 640.115.

A suggestion was accepted that § 173.3(f) of the proposed rule, now § 172.5(f), be revised to expand the application to all highway related safety standard activities funded under 23 U.S.C. 402. Also, it was pointed out that the Governor's Highway Safety Representative was not identified. Therefore, throughout the regulation, language has been revised or added to recognize the State agent for 23 U.S.C. 402 funds.

Several proposals were made that the regulation should apply to some or all of the types of activities excluded by paragraph (c) of § 173.1 of the proposed rule. It has been determined that the separate regulations will continue in effect for the excluded activities.

Several comments were received related to § 173.5 of the proposed rule, now § 172.7, Procurement Standards. The comments regarding paragraphs (b)(1) through (b)(4) of § 173.5 indicated the need to rewrite for clarification as well as to revise certain requirements.

Because of confusion over the terms "audit evaluation" and "pre-audit," the latter was deleted and the first was defined. In addition, "cost or price evaluations" is now used. These terms are discussed in 41 CFR 1-3.8 and are consistent with Attachment O of OMB Circular A-102. Also, criteria for audit evaluations of proposals of less than \$50,000 are included.

It was suggested that the \$50,000 minimum requiring an audit evaluation be raised to \$100,000 because of inflation. Regardless of inflation, \$50,000 is still considered necessary by the cognizant office for adequate control of contract costs.

Also, a suggestion was made that the regulations require audit evaluations of only the first of annual reimbursement contracts with nonprofit organizations. For this case, after the first year, auditors would depend on the first review, making additional checks only to the extent necessary because of changed conditions. Therefore, follow-up audit evaluations should not be onerous or hold up subsequent annual contracts.

Confusion was expressed over what kind of audit evaluations are required. There are two, one is of a potential contractor's cost proposal, and the other is of the contractor's accounting procedures to determine if allowable costs can be segregated and accumulated. Depending on the type of contract, one or both types of audit evaluations are needed. The evaluation of the cost proposal occurs prior to negotiation; evaluation of accounting

procedures may occur then or later, before a contract is executed.

The proposed rule explicitly required evaluation of accounting procedures for certain types of contracts. The explicit language has been dropped; paragraph (c)(2) of § 172.7 requires audit evaluations where there is inadequate knowledge of the prospective contractor's accounting policies, etc. Thus, the contracting agency has the discretion to decide if the accounting procedures are adequate, or if additional tests should be made.

Paragraph (d) of § 172.7, formerly § 173.5(b)(4), has been rewritten to make it clear that contracting agencies may establish their own cost principles. However, reimbursement will be limited to the Federal share of costs which are allowable under Federal cost principles of 41 CFR Part 1-15.

Two requirements were added regarding contract administration procedures providing for determining the reasonableness, allowability and allocability of costs, and the maintenance of accounting records. These requirements were added because of the recognition of the importance of such procedures during contract administration as well as during negotiation.

Paragraph (b) of § 172.9, formerly § 173.7(c), has been retitled *Documentation* rather than *Reports* to indicate the broader nature of the requirement.

A comment from a Metropolitan Planning Organization (MPO) proposed that FHWA be responsible for identifying the audit agency and to notify the SHa and MPO of the audit findings. The FHWA will assist in such efforts; however, it is the contracting agency's responsibility to assure that all requirements are met.

Paragraph (a) of former § 173.9, now § 172.11, has been subdivided and the language slightly changed to clarify meanings.

There was a comment that paragraph (a) of § 172.11, formerly § 173.9, be rewritten to clearly show the two options, i.e., approval of procurement procedures or approval of individual projects. The intent of both Attachment O of OMB Circular A-102 and this regulation is for contracting agencies to have acceptable procedures. The option of approving individual contracts is viewed as an interim measure until procurement procedures have been approved.

It was suggested that paragraph (d) of § 172.11, formerly paragraph (b), § 173.9, be clarified to show that if proposed consultant work or subsequent modifications are included in an MPO's

approved Unified Work Program (UWP) then no further FHWA approval is needed. It is intended that the term "as a project or as part of a program" cover UWP's.

Comments indicated that there was confusion as to whether changes in the scope of work or supplemental agreements needed FHWA approval. Paragraph (d) of § 172.11, formerly paragraph (b), § 173.9, has been revised to clarify that it is the change scope of work which must have approval.

Explanatory language has been added to the regulation in order to clarify the following provisions: § 172.3(c)—application; § 172.9(a)—civil rights; § 172.9(b)—documentation of contract provisions; § 172.9(d)—copyrights; and § 172.11(d)—significant changes in scope of work.

In consideration of the foregoing, and under the authority of 23 U.S.C. 104(f), 114(a), 307(c), and 315 and 402 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), Chapter I of Title 23, Code of Federal Regulations, is amended by removing and reserving Parts 170; 420, Subpart B; and 620, Subpart C; and by adding a new Part 172 as set forth below.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Dwight Hodgins of the Program Office at the address specified above.

Issued on: December 10, 1979.

Karl S. Bowers,
Federal Highway Administrator.

PART 170 [REMOVED AND RESERVED]

1. Part 170 is removed and reserved.
2. Part 172 is added to read as follows:

PART 172—ADMINISTRATION OF NEGOTIATED CONTRACTS

Sec.

- 172.1 Purpose.
- 172.3 Application.
- 172.5 Definitions.
- 172.7 Procurement standards.
- 172.9 Contract provisions.
- 172.11 Approvals.

Authority: 23 U.S.C. 104(f), 114(a), 307(c), 315 and 402; 49 CFR 1.48(b); and Office of Management and Budget (OMB) Circular No. A-102.

§ 172.1 Purpose.

To set forth policies and standards for negotiated contracts to ensure that a qualified contractor is obtained through

an equitable selection process, and that prescribed work is properly accomplished in a timely manner, at a just and reasonable cost.

§ 172.3 Application.

(a) These policies and standards are to be followed by State and local government agencies in the procurement of services, supplies, or equipment through negotiated contracts with funds made available under Title 23, United States Code.

(b) This regulation applies to the following activities:

- (1) Planning, research, and development;
 - (2) Preliminary engineering;
 - (3) Construction engineering; and
 - (4) Highway related safety program.
- (c) Procedural requirements for other negotiated contracts are contained in applicable regulations and directives for the respective program areas. Procurements not covered by this regulation include:
- (1) Construction contracts;
 - (2) Utility or railroad company administered contracts for utility relocations or railroad-highway projects;
 - (3) Supportive services and on-the-job-training contracts;
 - (4) Contracts for right-of-way activities; and
 - (5) Contracts under the rural highway public transportation program.

§ 172.5 Definitions.

The terms used in this regulation are defined in 23 U.S.C. 101(a); 23 CFR 450, Subpart A; 41 CFR Subtitle A, Chapter 1; OMB Circular No. A-102; as supplemented below.

(a) *Contracting agency.* The State highway agency (SHA), Governor's highway safety representative (GHSR), or local government which has responsibility for the procurement.

(b) *Local government.* For purposes of this regulation, local governments also include Metropolitan Planning Organizations (MPOs) as defined in 23 CFR 450.104.

(c) *Planning, research, and development.* Activities undertaken utilizing funds made available under 23 U.S.C. 104(f) or 307(c).

(d) *Preliminary engineering.* All project oriented work leading to an involved in the production of construction plans, specifications, and estimates including environmental assessments, public liaison, surveys, design, and related work.

(e) *Construction engineering.* Surveys and stakeouts, inspections, testing materials, checking shop drawings, revising plans, reporting construction

operations, preparing periodic estimates, and related work.

(f) *Highway Related Safety Program.* All activities undertaken utilizing funds made available under 23 U.S.C. 402 which are administered by the Federal Highway Administration (FHWA).

(g) *Audit evaluation.* Examination of contractor records made in accordance with generally accepted auditing standards, including "Standards of Governmental Organizations, Programs, Activities, and Functions" published by the General Accounting Office.

§ 172.7 Procurement standards.

(a) The contracting agency shall comply with the standards of Attachment O, OMB Circular No. A-102, and this regulation in establishing procedures for the procurement of services, supplies, or equipment with Federal funds.

(b) The SHA's and GHSR's procedures shall ensure that procurement actions by or through other State agencies or local governments comply with Attachment O, OMB Circular No. A-102, and this regulation.

(c) Before a contract is awarded, the contracting agency shall determine and document in its files that the proposal has been subjected to technical and cost or price evaluations, as appropriate, and how the results of these evaluations were considered in the contract negotiations. Appropriate cost or price evaluations shall include:

- (1) An audit evaluation prior to negotiation of proposals for which the total costs exceed, or are expected to exceed, \$50,000.
- (2) Audit evaluations of proposals of less than \$50,000 where a valid need exists, such as:

(i) Inadequate knowledge concerning the prospective contractor's accounting policies, cost systems, or substantially changed methods or levels of operation;

(ii) Previous unfavorable experience indicating doubtful reliability of the prospective contractor's estimating, accounting, or purchasing methods, or

(iii) Procurement of a new product for which cost experience is lacking.

(d) Contracting agencies may establish cost principles for determining the reasonableness and allowability of costs. Reimbursement will be limited to the Federal share of costs which are allowable under Federal cost principles, contained in 41 CFR Part 1-15 (Federal Procurement Regulations). Specifically, these are:

(1) For contracts between the State or local governments and commercial organizations, Subpart 1-15.2, as modified by Subpart 1-15.102;

(2) For contracts between the State or local governments and educational institutions, Subpart 1-15.3; and

(3) For contracts between the State and local governments, or between local governments, Subpart 1-15.7 (Subpart 1-15.7 is the same as Federal Management Circular 74-4.)

(e) Applicable cost principles shall be reference in each contractual document.

(f) Contract administration procedures shall provide for:

(1) Determining contractor conformance with the terms, conditions, and specifications of the contract and the propriety of claims prior to final settlement of all contracts;

(2) Determining the reasonableness, allowability, and allocability of costs in accordance with the provisions of 41 CFR Part 1-15;

(3) The maintenance of accounting records that are supported by source documentation, and that will facilitate comparison of actual to proposed costs;

(4) The control, utilization and disposition of property or equipment acquired using Federal funds. The procedures shall comply with the property management standards set forth in Attachment N, OMB Circular No. A-102.

§ 172.9 Contract provisions.

The contracting agency shall ensure that all contracts include, to the extent appropriate, provisions required by Attachment O, OMB Circular No. A-102, and the following:

(a) *Civil Rights.* All contracts awarded by grantees, subgrantees, and their contractors shall contain provisions requiring compliance with Title VI of the Civil Rights Act of 1964, as amended. Accordingly, 49 CFR 21 through Appendix H and 23 CFR 710.405(b) shall be made applicable by reference in all contracts and subcontracts financed in whole or in part with Federal-aid highway funds.

(b) *Documentation.* Contracts, where appropriate, shall provide that the contractor document the results of the work to the satisfaction of the contracting agency and the FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the contract objectives.

(c) *Patent rights.* Applicable patent rights provisions described in 41 CFR 1-9.1 regarding rights to inventions shall be included in contracts as appropriate.

(d) *Copyrights.* The contracting agency may permit copyrighting of reports or other contract products. If copyrights are permitted, the contract shall provide that the FHWA shall have the royalty-free nonexclusive and

irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

(e) *Subcontracts.* (1) All contracts shall show that the prime contractor is required to perform all work except specialized services or other tasks specifically exempted in the contract, except that governmental recipients of 23 U.S.C. 104(f) or 402 funds may subcontract as necessary to accomplish approved work program activities.

(2) All contracts shall provide that subcontracts exceeding \$10,000 in cost shall contain all required provisions of the prime contract.

(f) *Other provisions.* Following is a list of other provisions normally included in contracts:

- (1) Scope of work;
- (2) Time period covered;
- (3) Contract price, including limiting amounts for all contracts;
- (4) Changes in work;
- (5) Disputes;
- (6) Obligations of contracting agency;
- (7) Ownership of documents;
- (8) Inspection of work; and
- (9) Equipment and instrumentation required.

§ 172.11 Approvals.

(a) The FHWA will evaluate the SHA's and the GHSR's procurement procedures, as necessary, to ascertain compliance with Attachment O, OMB Circular No. A-102, and this regulation.

(b) The SHA's and GHSR's are encouraged to perform reviews of subgrantees procurement systems to minimize the need to review individual contracts.

(c) In the absence of acceptable procurement procedures, individual contracts exceeding \$10,000 in cost, along with information showing compliance with Attachment O, OMB Circular No. A-102, and this regulation, shall be submitted for approval by the FHWA prior to execution.

(d) For every contract, the proposed work must receive prior FHWA approval and authorization as a project or as part of a program. Significant changes in the scope of work of a contract shall also be submitted for FHWA review and approval prior to proceeding with the new work. Significant changes are those which require execution of supplemental agreements.

PART 420 [REMOVED AND RESERVED]

3. Part 420 is removed and reserved.

PART 620 [REMOVED AND RESERVED]

[4. Part 620 is removed and reserved.

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Test Report Federal Register

Thursday
December 20, 1979

Part III

Department of Transportation

Federal Aviation Administration

Aircraft Operating Noise Limits;
Compliance Plans and Expanded
Definition of "Replacement Airplanes"

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

14 CFR Part 91

(Dockets Nos. 18955 and 18924; Amdt. 91-161)

Aircraft Operating Noise Limits; Compliance Plans and Expanded Definition of "Replacement Airplanes"

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment (1) requires operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits and (2) expands the definition of "replacement airplanes." The operating noise limits rule applies to "U.S. registered civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates." The DOT/FAA has repeatedly stated its intent to obtain reasonable adherence to the phased noise reduction program set forth in Part 91, Subpart E. Since the first compliance date is approaching, it is advisable to require the operators to submit compliance plans so that the FAA can make appropriate plans for orderly administration of the rule. The nature and mobility of airplane fleets of the various aircraft operators covered by the rule, make it difficult for the FAA to obtain specific fleet and airplane compliance information in a comprehensive and uniform manner. While the FAA has continuously stated its intent to enforce the prescribed compliance schedule, the effectiveness of that enforcement is improved by requiring that current and updated operator plans for achieving and maintaining compliance are developed and made available to the FAA and the public. This amendment permits replacement of noncomplying airplanes with previously ineligible "Stage 1" or "Stage 2" airplanes that have been reengined, or otherwise modified, and certificated as "Stage 3 airplanes." The original operating noise limits rule assumed that this kind of modification would not be attractive within the compliance period. Accordingly, it permitted replacement only by airplanes shown to comply with Part 36 noise levels prior to the issuance of an original standard airworthiness certificate. Recent developments suggest that that assumption was wrong. If it had been possible to foresee the current reengining proposals that modify

existing aircraft to become Stage 3 airplanes, the FAA would have proposed to include those reengined airplanes as replacement airplanes in the original rulemaking. Therefore, those recertificated "Stage 3 airplanes" are being made eligible as "replacement airplanes" under the rule in order to increase the protection provided to the public health and welfare as contemplated under section 611 of the Federal Aviation Act of 1958, as amended.

DATES: Effective date: December 20, 1979.

Initial compliance plan due: Ninety days after notice is published in the Federal Register that the requirements of new § 91.308 have been approved by the office of Management and Budget or 90 days after commencing operation of airplanes covered by § 91.308, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Tedrick, Program Management Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:
Regulatory History

On December 17, 1976, the FAA adopted Subpart E of Part 91 of the Federal Aviation Regulations (41 FR 56046; December 23, 1976), which prescribes operating noise limits for certain "U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates." Those requirements prohibit the operation in the United States of affected airplanes after specified dates unless they have been shown to comply with the noise levels ("Stage 2") prescribed under Part 36 in accordance with the provisions of Subpart E. For airplanes operated under operating certificates issued under Parts 121 and 135, Subpart E prescribes a phased compliance schedule requiring specified portions of an operator's fleet to achieve and maintain compliance by 1981 and 1983, with full and continuing compliance by all affected airplanes by 1985. Thus, on and after January 1, 1985, no person may operate in the United States any airplane covered by Subpart E, including those operated under Parts 91, 121, 123, and 135, unless compliance has been shown. Compliance may be achieved by the acoustical modification, or "retrofit," of noncomplying airplanes

or through their replacement with complying airplanes.

On April 26, 1979, the FAA published Notice No. 79-9 (44 FR 24778), which proposed amendments to the aircraft operating noise limits rule (1) to require operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits and (2) to expand the definition of "replacement airplanes" under the rule. The notice proposed to permit replacement of noncomplying airplanes with currently ineligible "Stage 1" or "Stage 2 airplanes" that have been reengined, or otherwise modified, and certificated under Part 36 as "Stage 3 airplanes." The current rule permits replacement only by airplanes shown to comply with Part 36 noise levels prior to the issuance of an original standard airworthiness certificate. The notice indicated that those recertificated "Stage 3 airplanes" should be eligible as "replacement airplanes" under the rule.

On April 26, 1979, the FAA also published for public comment a petition of the Air Transport Association of America (ATA) dated March 23, 1979, on behalf of its member air carriers, to eliminate the initial, January 1, 1981, phased compliance date under § 91.305 of Subpart E and to substitute for it a requirement that each operator submit a plan to the FAA by January 1, 1980, showing how it intends to comply with the 1983 and 1985 compliance dates (44 FR 24782; April 26, 1979). Docket No. 18924 was assigned to the ATA petition. This amendment partially grants the ATA petition with respect to the submission of compliance plans by each operator of aircraft covered by the rule. The FAA will also respond separately to the ATA petition under FAR Part 11.

The Need for This Amendment

Since its adoption in 1976, public, Congressional and other government interest in the achievement of the full benefits of the rule has increased significantly. The FAA has received numerous suggestions from the public and members of Congress that, in light of the rapidly approaching compliance dates of a rule designed to provide vital relief to millions of Americans living near airports, the FAA should move promptly to improve its compliance monitoring ability and to require the submission of compliance plans by airplane operators at the earliest practicable date. Of particular interest is the progress being made by air carriers and commercial operators who face the first phased compliance date of January 1, 1981.

At the time it adopted the rule, the FAA had data and status reports concerning Part 36 compliance of airplanes in the various operator fleets upon which it based its analysis of the effects of the rule. However, since that time, the FAA has not had sufficient information on which to accurately assess the current or planned compliance status of the individual airplanes within the respective operator fleets. The complexities of the composition of those fleets, with numerous types and models of aircraft, their mobility, their requirements for repair and maintenance, and the generally changing nature and composition of the fleets, have made it virtually impossible for the FAA to obtain reliable, uniform, and continuously current information on fleet composition showing its current and planned future compliance status.

The FAA intends to ensure that compliance with the provisions of Subpart E is not compromised by planning failures that could have been avoided. If the FAA is unaware of problems or potential problems that might delay full compliance, it is unable to respond or take corrective action to alleviate those matters. Every effort will be made to ensure that the benefits of the Subpart E operating noise limits are achieved without delay.

Therefore, to avoid possible problems associated with inadequate monitoring of compliance and unreasonable delays in operator planning which may make compliance uncertain or impractical, the FAA should establish a program of required operators' noise compliance plans. The notice and the ATA petition proposed to require the submittal of compliance plans. Since airplane operators covered by the noise compliance rule should already have the necessary information as part of their fleet management programs and the strategies developed to achieve the required compliance, the objectives of the proposal can be achieved with a minimum of cost or other burden on the operators in submitting those plans and data under the reporting requirements prescribed by this amendment. Since any false statement or information submitted under § 91.308 may be punishable by fine or imprisonment under 18 U.S.C. 1001, reference to those provisions is included in the rule.

If those airplanes engaged in foreign air commerce, which are not required to comply (such as under an approved apportionment plan), are subsequently required to comply with Subpart E of FAR Part 91, the FAA will consider

extending the reporting requirement to those airplanes.

In its original investigation of the "replacement airplane" concept, the FAA did not contemplate that the older, noncomplying airplanes types were susceptible to reengining, or other acceptable modifications to achieve noise levels much below the "Stage 2" noise limits. At that time, the newest technology represented by turbojet engines with bypass ratios greater than two had no successful application to these older airplanes for which airworthiness certificates had been issued in the past. Accordingly, the rule permits replacement only by the newest airplanes, that is, airplanes shown to comply with Part 36 ("Stage 2" or "Stage 3") noise levels prior to the issuance of an original standard airworthiness certificate. However, current type design modification programs, involving the reengining of certain noncomplying airplanes with high bypass ratio engines to achieve significant noise reductions and improve performance, appear promising enough that several airplane operators have expressed the commitment or interest in using DC-8 airframes reengined with the newest technology engines. There is also a program underway at Boeing to reengine the B-707 with high bypass ratio engines and bring the aircraft into Stage 3 compliance.

To provide an additional option to operators for meeting the noise requirements of Subpart E of Part 91 and to encourage the introduction of more aircraft that have shown compliance with the more stringent noise requirements for "Stage 3 airplanes," the definition of "replacement airplanes" under the rule should be expanded. The change would encourage the use of the new technology engines on certain airframes of Stage 1 airplanes with relatively low flight time, such as Boeing 707 and DC-8 airplanes delivered during the last decade. The newer engine applications would also have the benefits of increased fuel efficiency and reduced engine emissions. To the extent that such applications will be made to existing low flight time airframes of Stage 1 airplanes, the public and the economy would benefit from the efficiencies that result from extending the service life of those airframes.

Discussion of Comments and the Rule

The FAA received eleven comments in response to Notice No. 79-9 from members of the general public, aviation industry, and organizations representing consumer groups, pilots, and flight attendants. Most comments supported both proposals in whole or part, for the

reasons stated in the notice. These comments are discussed as follows:

The Airport Operators Council International supports the rule in its entirety and urges its final adoption at the earliest possible date. The Port Authority of New York and New Jersey fully agrees the FAA should actively monitor compliance with the fleet noise rules and should expand the definition of "replacement aircraft" to include reengined aircraft in recognition of technological developments that enable aircraft to be modified to meet Stage 3 noise requirements.

The Citizens Aviation Policy Association stated that it supports the amendment proposed by the FAA requiring regular progress reports from U.S. airlines on their noise reduction schedules. Those reports, according to the commenter, will help the FAA monitor progress in airline compliance with noise requirements. The comment also suggested that the compliance plans should be publicized so the public can know which airlines are cooperating.

The Town Village Aircraft Safety and Noise Abatement Committee supports the expansion of the term "replacement airplanes," since the result would be a quieter airplane. The commenter opposes the current exclusion in the rule for airlines that operate in foreign commerce because it negates the whole purpose of the FAA's noise abatement program and "short change the airport neighbors by not allowing them to get full benefits of noise abatement they have been waiting over twenty years to come about." The foreign commerce exception in the applicability of the rule was adopted in the original rule in 1976 and no change was proposed by Notice No. 79-9. The purpose of the exception is to permit the international implications of operating noise limits to be considered, and, hopefully, resolve by the appropriate international body, the International Civil Aviation Organization. In adopting the rule, the FAA also announced its intention to subsequently expand the scope of the rule to cover airplanes operated in foreign commerce in the United States, if an appropriate international compliance rule were not developed by 1980. The commenter's concern would be resolved in such separate rulemaking proceedings proposing to apply operating noise limits to airplanes operated in foreign commerce.

An individual commenter opposed the proposed rule because, according to the commenter, it would increase the red tape at a time when government is supposed to be cutting back on red tape. The commenter also stated the proposed

action (requiring airlines to submit reports) would eventually lead to higher airline ticket prices because the airlines will have to hire additional people. The FAA does not agree. Those airlines should already have compliance plans that involve essential current fleet management and management decisions currently needed to begin compliance. The FAA is merely requiring the airlines to format and submit compliance plan information that they should already possess and, as stated in the ATA petition, are prepared to submit.

The Air Transport Association (ATA) submitted extensive comments. It supports the intent of the proposals to permit as "replacement airplanes" those reengined airplanes which meet Stage 3 requirements. Their comments contended, however, that while the rule permits replacement planes shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate may use tradeoff provisions, a reengined or modified aircraft should not be precluded from using tradeoffs in showing compliance with Stage 3 noise requirements unless it qualifies under § 91.301(c)(3). Although a broad reading of the proposal might suggest that result, that limitation was not intended. The restriction on the use of tradeoffs, as in the original rule, applies only to showing compliance with Stage 2 noise levels not to the subsequently adopted Stage 3 noise levels, which are lower. Nevertheless, Boeing and CAMMACORP have predicted that the reengined B-707 and DC-8, respectively, will meet the Stage 3 noise levels without the use of tradeoffs. Based on the prediction methods developed and proven over the past decade of turbojet noise certification, the predicted noise level data provided by Boeing and CAMMACORP appear to be accurate and attainable. However, this amendment would not disallow the use of tradeoffs, if necessary, for noise certification to Stage 3 noise levels by these reengined airplanes.

The ATA also commented that the FAA proposed compliance plans were unnecessarily detailed, impractical to accomplish, and unduly burdensome on the operators. The commenter felt that the plan would require detailed data on individual operator fleet planning which is proprietary in nature and should not be divulged to the public or to competitors. The FAA disagrees. The data on each airplane in each operator's fleet is necessary to ensure that all noncomplying airplanes are timely brought into and remain in compliance, generally without the use of tradeoffs and with the full application of existing

acoustical technology. As stated in Notice No. 79-9, compliance plans are needed to avoid potential problems associated with unreasonable delays in operator planning and implementation. Operators have had ample time to develop plans since January 24, 1977, the effective date of Subpart E. Those plans should include the timing of replacing airplanes or ordering and installing an adequate number of SAM treatment kits and quiet nacelles to achieve compliance for the required number of airplanes in each operator's fleet. The public interest in the environmental benefits achievable under the rule outweigh the nominal reporting burdens required to ensure the benefits are achieved.

The ATA suggested a simplified compliance plan format which would provide the number of airplanes by type, model, compliance status (Part 36 or Part 91, Subpart E), and operational status (in operation, retired, replaced, engaged in foreign air commerce, or being operated under an approved replacement plan). That modified plan would provide overall fleet compliance for each of the two fleets in each operator's inventory covered by the rule—one fleet including each four-engine, narrow-body DC-8 and B-707 and the other fleet including each other airplane, such as B-747, DC-10, L-1011, A-300, B-727, B-737, B-111, and DC-9. The FAA concludes that such a simplified overall fleet plan would not satisfy the significant public and regulatory interests in accurately assessing the current or planned compliance status of the individual airplanes within the respective operator fleets.

One purpose of the operating noise limits rule is to achieve noise reduction for each airplane covered by the rule through the full application of existing acoustical technology appropriate to the airplane type. While the phased compliance schedule deals with specified portions of an operator's fleet to provide the operator reasonable latitude in developing the means and specific timing for achieving compliance, the compliance planning and implementation necessarily focus on the individual airplanes. The FAA has reviewed the burdens of the proposed rule to ensure that they are minimized to the fullest extent possible consistent with its responsibility to be adequately informed on the status of compliance with the rule. The FAA has no desire to limit the timely achievement of compliance to some rigid, preconceived plan for each airplane in each operator's fleet. Within the limits of the rule, the

operators develop their own plans. However, specific plans for each airplane must be developed to eventually achieve full compliance. This amendment simply requires that those plans be provided the FAA to demonstrate the operator's compliance decisions and to permit the FAA to fulfill its compliance oversight responsibilities. The FAA recognizes the potential need to modify the plans for various valid reasons and this amendment permits those modifications in the form of revised plans. The operator already plans the purchase, sale, service, repair, maintenance, overhaul, retirement, etc. of individual airplanes and, thus, already has considerable fleet management information that is airplane specific. In light of the purposes of this amendment, it is not unreasonable to apply it to individual airplanes covered individually by the noise limits rule and to permit necessary revision of the plans by submitting the revised plan to the FAA.

The ATA contended that by differentiating between compliance with Part 36 and compliance with Subpart E of Part 91, the proposed regulation appears to be redundant. On the other hand, the ATA in its suggested simplified plan used the distinction in several items requesting information on "number by type and model." Thus, it appears that the distinction, based on the use versus nonuse of the tradeoff provisions in meeting the Stage 2 noise level limits, is clear and understood. In adopting Subpart E in 1976, the FAA decided that the operating noise limits rule would generally require airplanes to meet, without the use of tradeoffs, the ("Stage 2") noise level of Part 36. That decision was based on the need to ensure the maximum noise reduction by requiring the installation of proven technology (quiet nacelles and SAM kits) developed with the expenditure of \$16 million of Federal research and development funds by FAA alone. Thus, the acoustical hardware required to bring a noncomplying JT8D powered airplane into compliance with Subpart E is compatible with the acoustical hardware installed on airplanes produced after December 1, 1973, under the modified type design, as required by Amendment 36-2 (38 FR 29569; October 26, 1973). In addition, the fleet operators should benefit through standardization of acoustical hardware since the majority of nacelles and engines in service and in reserve will have complete kits. This certificated technology is appropriately identified in the "Table of Acoustical Technology/

Strategy Codes" presented in § 91.308(c)(5) of the rule.

The ATA also objected to airplane-specific compliance plans claiming that such detailed data reflecting each airplane's status and planned compliance strategy are proprietary in nature and subject to protection from public disclosure. The FAA notes that much of the required information is already in the public domain in various forms including corporate, industry, and government documents. While some of that information might be of benefit to competitors, operators frequently announce publicly for their own reasons their plans to buy, sell, retire, or replace airplanes. Some operators have announced their reengining programs for their DC-8 airplanes which they plan to keep in their fleets beyond January 1, 1985. Accordingly, the FAA finds no compelling argument for claiming that all the information required for compliance plans or their form should not be adopted because it might benefit competitors or it is proprietary and should not be required to be submitted. However, if an operator required to submit compliance plans believes that certain information contained in a plan is proprietary in nature and includes with the plan a claim for protection against public disclosure in accordance with section 1104 of the Act, the FAA will consider that claim on a case-by-case basis.

As stated in the comments submitted by the association, Subpart E of Part 91 recognizes that an operator has two possible fleets: one fleet including every type of subsonic four-engine no/low bypass ratio turbojet airplane over 75,000 pounds maximum gross weight; and one fleet including every other type of subsonic turbojet airplanes over 75,000 pounds. In order to reduce the reporting burden, and to permit the FAA to more easily compute the percentages of complying and noncomplying airplanes in each fleet of an operator, as adopted Section 91.308(c)(3) requires the operator to submit the total number of airplanes in each fleet. By so doing, it will not be necessary to require any operator to report airplane specific information on airplanes in the fleets but for which no additional compliance strategy is required by Subpart E. For example, airplanes such as the A-300, A-310, B-757, B-767, DC-10, L-1011, or any other newly certificated type of Stage 3 airplane which may be introduced into the U.S. civil fleet prior to January 1, 1985.

With respect to the proposed "Table of Acoustical Technology/Strategy Codes," the association commented that

a code should be added for "certain" B-727-200 airplanes which could meet the Stage 2 noise level limits without the use of tradeoffs solely by having the double wall fan duct treatment installed, (that is, less the quiet nacelles). The FAA disagrees. Section 1 (entitled "Certificate Limitations") of the B-727-100 Airplane Flight Manual clearly states "To comply with FAR Part 36, Appendix C, BG-19/BG-30 acoustical treatment and quiet nacelles must be installed on all engines for landing with 40 degree flaps at weight greater than 100,000 pounds." Paragraph 36.9(b) of Appendix C of FAR Part 36 specifies that the approach configuration that is most critical from a noise standpoint must be used for noise certification. That configuration, for the B-727-200, is the 40 degree flap setting. Therefore, if the suggested change were made, the code would not distinguish between certain B-727-100 and B-727-200 airplanes which require different acoustical treatment under the rule. Such a result would be counterproductive to achieving required noise level reduction. Furthermore, Advisory Circular 36-1B, Certified Airplane Noise Levels, dated December 5, 1977, lists the various certificated versions of the B-727-200 powered by the JT8D-7, -9, -15, -17, and -17R engines. In all cases, the engine model number is followed by the letters QN indicating the installation of full acoustical technology (quiet nacelles and double wall fan duct treatment). Despite this full application of acoustical technology, the Advisory Circular listing shows that most of the B-727-200 airplanes required the use of tradeoffs to meet the Stage 2 noise levels. Thus, the "Table of Acoustical Technology/Strategy Codes" in this amendment shows a code for most B-727-200 airplanes equipped with quiet nacelles plus double wall fan duct treatment. However, certain B-727-200 airplanes may have been voluntarily brought into compliance with Part 36 prior to January 1, 1977. Many of these airplanes may have only the double wall fan duct treatment installed and require both the maximum use of tradeoffs and reduced operating weights to meet the Stage 2 noise requirements. Tradeoffs are not permitted for showing compliance after January 1, 1977. Section 21.41 states that each type certificate includes the operating limitations, thus most type certificate holders are reluctant to amend the type certificate and instead accept reduced operating capability to use the for less costly acoustical hardware. The FAA strongly encourages those operators to

voluntarily install quiet nacelles on these airplanes and thereby assure standardization of installed acoustical hardware on B-727-200 airplanes and to provide maximum noise reduction to near airport neighbors. For those airplanes which do not have the quiet nacelles installed, this amendment uses Code "C" to the Table for identifying only those specific B-727-200 airplanes for which compliance was shown before January 1, 1977, by installation of the double wall fan duct treatment (without quiet nacelles) and which have an amended type certificate specifying the appropriately reduced maximum operating weights.

The ATA also correctly noted that the proposed Table lacked a code for identifying reengined B-707 and DC-8 airplanes. Accordingly, this amendment provides appropriate codes for these airplanes which will be brought into compliance with Stage 3 noise levels by the installation of high by-pass ratio turbojet engines equipped with quiet nacelles under an appropriately changed, or new, type certificate. The association suggested that a code entry should be provided for DC-8 and B-707 airplanes which have been retired from U.S. domestic service without reengining or replacement since January 24, 1977, the effective date of Subpart E of Part 91. The FAA agrees. The definition of the RET code in this amendment has been clarified and expanded to read: "For DC-8 and B-707 airplanes which were retired from service in the United States without replacement between January 24, 1977, and January 1, 1985." The FAA feels that the greatest contribution an operator can make to aircraft noise reduction is the early retirement of the older, noisier four-engine turbojet airplanes. The FAA is gratified that reengining with high by-pass ratio engines is an option being followed by several operators in meeting the Part 91, Subpart E requirements. However, the FAA may not approve, without compelling justification, any replacement plan which delays the retirement of a large portion of an operator's DC-8 or B-707 fleet until 1983 or 1984. With respect to bringing B-707's into compliance, the FAA is concerned about the evident lack of commitment by any operator to reengine or retrofit any portion of that fleet. This lack of interest in utilizing acoustical technology developed and proven with Federal funds necessarily forces the FAA to carefully analyze retirement plans covering B-707 airplanes. This amendment also adds to the Table a Code "I" for the BAC-111-400 which is used as a business jet in

the United States. The British Aircraft Corporation is currently developing a hushkit for this airplane and the technology can be added to the Table by a minor amendment when the equipment is certificated. Likewise, the Table will be expanded for additional technology that may be developed and certificated.

The ATA commented that the proposed requirements concerning spare shipsets of acoustical components for engines and nacelles were unnecessary for FAA purposes. The FAA disagrees. However, § 91.308(c)(4)(xiii) has been revised and clarified to require each operator to report the number of spare shipsets of acoustical components available on demand for continuous compliance of these airplanes. Once a noncomplying airplane is brought into compliance, it should be maintained in continuous compliance. Thus, this amendment requires each operator to certify the plan, any change in plan, and the status or status change of each airplane in the operator's fleet. Replacement engines and nacelles must be equipped with full acoustical components so that complying airplanes are maintained in full compliance and a reasonable number of spare shipsets of acoustical hardware is necessary to ensure continued compliance.

The ATA contended that it was impractical to plan when a specific airplane would be brought into compliance, retired, or replaced. The FAA disagrees. While the notice mentioned "the scheduled date," the FAA did not intend to require the operator to specify the precise day on which each airplane would be brought into compliance. However, based on the vast experience gained by Part 121 and 135 operators in managing their continuous airworthiness inspection and maintenance programs, it appears that specifying the month and year in which each noncomplying airplane is scheduled to be brought into compliance is not impractical or unduly burdensome. Thus, the amendment requires "the month and year" to be identified in the compliance plan as to when an action will be taken on each airplane. As previously discussed, if a change in the plan or its implementation is necessary, it may be reflected in a revised plan. The Table includes the codes for identifying certificated acoustical technology applied to specific airplane types and models. In order to identify for compliance status and planning purposes other strategies or methods that the operator has used, or contemplates using, in achieving compliance with Part 36 noise limits, the

amendment includes a Code "OTH" which may be used with an addendum to the plan explaining in detail that "other" strategy or method for achieving compliance. Note that in reporting the status of compliance for an airplane using Code "OTH" the addendum should include reference to the type certification data and date under which compliance was shown.

The ATA commented that only two reengining options were being covered with respect to certain series of the DC-8 and B-707 airplane types. Section 91.305(c) of this amendment recognizes these two specific reengining options as replacement airplanes. However, while not proven to exist, the FAA could certificate other design modifications under Part 36 to achieve the same Stage 3 noise levels. All other types of turbojet powered airplanes currently being produced in the United States are already required to meet the Stage 2 or State 3 noise level limits of FAR Part 36, as required for the issuance of a standard airworthiness certificate.

The ATA suggested that updates of compliance plans should be required no more frequently than biannually. The FAA disagrees. In light of the significant public, Congressional, and other government interest and the need to monitor compliance status and planning over the next few years, more frequent reports are necessary. However, the FAA has reviewed the proposal in an effort to limit the number of required submissions and to reduce the burden on the Parts 121 and 135 operators. The FAA has decided not to adopt the proposed requirement for submitting a compliance plan six months before each phased compliance date since, when the compliance status of the prescribed percent of the operator's fleet changes, a revised plan must be submitted and, thus, the six months plan is not needed. Section 91.308(b)(2) requires the submittal of a revised plan thirty days after any change in the operator's fleet or compliance planning decisions that has a separate or cumulative effect on 10 percent or more of the airplanes in either class of airplane types covered by § 91.305(b). This is a slight relaxation from the proposed "5 percent" change as the basis for submitting a revised plan. In addition, the proposed requirement solely for Parts 91 and 123 operators to submit an updated plan annually on the anniversary of the date for submitting the original compliance plan is not being adopted, because in the absence of interim compliance dates there is less need for progress reports on compliance status and planning. However, § 91.308(b)(3), as adopted, requires the

submission of compliance plans thirty days after each compliance date and annually thereafter through 1985. This is a significant relaxation from the proposed requirement to submit a compliance plan on an annual basis to report continuous compliance. Notwithstanding the 1985 cutoff date for submitting compliance plans, the FAA will thereafter continue to monitor the fleet status and require continued compliance with Subpart E.

The schedule for submissions under § 91.308(b) will become effective on the date a notice is published in the Federal Register that the requirements of § 91.308 have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective and Compliance Dates

After considering the objectives and effects of this amendment, the FAA concludes that it should be made effective upon publication in the Federal Register. The amendment of § 91.305 expands the class of airplanes which may be "replacement airplanes" under the regulation. Thus, it is a substantive rule that relieves a restriction and may be made effective in less than 30 days after its publication. The amendment of § 91.301 is editorial in nature and the amendment adding a new § 91.308, to require submission of operator compliance plans 90 days after a subsequent notice is published, provides a compliance date which exceeds the required 30 day notice of regulatory requirements. Accordingly, I find that good cause exists for making this amendment to Subpart E of Part 91 effective upon its publication in the Federal Register.

Adoption of Amendment

Accordingly, Subpart E of Part 91 of the Code of Federal Regulations (14 CFR Part 91) is amended, effective December 20, 1979, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. By amending paragraph (a)(1) of § 91.301 to read as follows:

§ 91.301 Applicability; relation to Part 36.

(a) * * *

(1) Sections 91.303, 91.305, 91.307, and 91.308 apply to U.S. registered civil subsonic turbojet airplanes with maximum weights of more than 75,000 pounds and having standard airworthiness certificates. Those sections apply to operations under this part and under Parts 121, 123, and 135 of this chapter, but do not apply to

operations under Part 129 of this chapter.

2. By amending paragraph (a) and the last sentence in paragraph (c) of § 91.305 to read as follows:

§ 91.305 Phased compliance under Parts 121 and 135; subsonic airplanes.

(a) Except as provided under § 91.307, each person operating subsonic airplanes under Parts 121 or 135 of this chapter shall comply with this section with respect to those subsonic airplanes covered by this subpart.

(c) * * * For purposes of this paragraph, replacement airplanes are airplanes which have been shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate or which have been reengined, or otherwise modified, and shown to comply with Part 36 Stage 3 noise level requirements.

3. By adding a new § 91.308 to read as follows:

§ 91.308 Compliance plans and status.

(a) Each operator of a civil subsonic airplane covered by this subpart shall submit to the FAA, Director of the Office of Environment and Energy, in accordance with this section, the operator's current compliance status and plan for achieving and maintaining compliance with the applicable noise level requirements of this subpart. If appropriate, an operator may substitute for the required plan a notice, certified as true (under penalty of 18 U.S.C. 1001) by that operator, that no change in the plan or status of any airplane affected by the plan has occurred since the date of the plan most recently submitted under this section.

(b) Each compliance plan, including any revised plans, must contain the information specified under paragraph (c) of this section for each airplane covered by this section that is operated by the operator. Unless otherwise approved by the Administrator, compliance plans must provide the required plan and status information as it exists on the date 30 days before the date specified for submission of the plan. Plans must be certified by the operator as true and complete (under penalty of 18 U.S.C. 1001) and be submitted for each airplane covered by this section on or before the following dates—

(1) [Insert date—certain 90 days after a notice of approval of the requirements of § 91.308 by the Office of Management and Budget is published by the FAA in the Federal Register] or 90 days after initially commencing operation of

airplanes covered by this section, whichever is later, and thereafter—

(2) Thirty days after any change in the operator's fleet or compliance planning decisions that has a separate or cumulative effect on 10 percent or more of the airplanes in either class of airplane types covered by § 91.305(b); and

(3) Thirty days after each compliance date applicable to that airplane type under this subpart and annually thereafter through 1985 on the anniversary of that submission date, to show continuous compliance with this subpart.

(c) Each compliance plan submitted under this section must identify the operator and include information regarding the compliance plan and status for each airplane covered by the plan as follows:

(1) Name and address of the airplane operator.

(2) Name and telephone number of the person designated by the operator to be responsible for the preparation of the compliance plan and its submission.

(3) Total number of airplanes covered by this section in each of the following classes:

(i) Airplane powered by four turbojet engines with no bypass ratio or with a bypass ratio less than two.

(ii) All other airplanes.

(4) For each airplane covered by this section—

(i) Aircraft type and model;

(ii) Aircraft registration number;

(iii) Aircraft manufacturer serial number;

(iv) Aircraft power plant make and model;

(v) Aircraft year of manufacture;

(vi) Whether Part 36 noise level compliance has been shown: Yes/No;

(vii) Whether Part 91, Subpart E, operating noise limit compliance has been shown: Yes/No;

(viii) The appropriate code prescribed under paragraph (c)(5) of this section which indicates the acoustical technology installed, or to be installed, on the airplane;

(ix) For airplanes on which acoustical technology has been or will be applied, following the appropriate code entry, the actual or scheduled month and year of installation on the airplane;

(x) For DC-8 and B-707 airplanes which have been or will be retired from service in the United States without replacement between January 24, 1977, and January 1, 1985, following the appropriate code prescribed under paragraph (c)(5) of this section followed by the actual or scheduled month and year of retirement of the airplane from service;

(xi) For airplanes covered by an approved replacement plan under § 91.305(c) of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section followed by the scheduled month and year for replacement of the airplane;

(xii) For airplanes designated as "engaged in foreign commerce" in accordance with an approved method of apportionment under § 91.307 of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section;

(xiii) For all airplanes covered by this section, the number of spare shipsets of acoustical components needed for continuous compliance and the number available on demand to the operator in support of those airplanes; and

(xiv) For airplanes for which none of the other codes prescribed under paragraph (c)(5) of this section describes either the technology applied, or to be applied to the airplane in accordance with the certification requirements under Parts 21 and 36 of this chapter, or the compliance strategy or methodology, following the code "OTH" enter the date of any certificate action and attach an addendum to the plan explaining the nature and extent of the certificated technology, strategy, or methodology employed, together with reference to the type certificate documentation.

(5) Table of Acoustical Technology/Strategy Codes

Code	Airplane type/model	Certificated technology
A	B-707-120B B-707-320B/C B-720B	Quiet nacelles + 1-ring.
B	B-727-100	Double wall fan duct treatment.
C	B-727-200	Double wall fan duct treatment (pre-January 1977 installations and amended type certificate).
D	B-727-200 B-737-100 B-737-200	Quiet nacelles + double wall fan duct treatment.
E	B-747-100 ¹ B-747-200 ¹	Fixed lip inlets + sound absorbing material treatment.
F	DC-8	Nex extended inlet and bullet with treatment + fan duct treatment areas.
G	DC-9	P-36 sound absorbing material treatment kit.
H	BAC-111-200	Silencer kit (BAC acoustic report 522).
I	BAC-111-400	(To be identified later if certificated.)
J	B-707 DC-8	Reengined with high bypass ratio turbojet engines + quiet nacelles (if certificated under stage 3 noise level requirements).

¹ Pre-December 1971.

REP—For airplanes covered by an approved replacement plan under § 91.305(c) of this subpart.

EFC—For airplanes designated as "engaged in foreign commerce" in accordance with

an approved method of apportionment under § 91.307 of this subpart.

RET—For DC-8 and B-707 airplanes retired from service in the United States without replacement between January 24, 1977, and January 1, 1985.

OTH—For airplanes for which no other prescribed code describes either the certificated technology applied, or to be applied to the airplane, or the compliance strategy or methodology. (An addendum must explain the nature and extent of technology, strategy or methodology and reference the type certificate documentation.

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1423, 1424, and 1431); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Executive Order 11514, March 5, 1970; and 14 CFR 11.49.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policy and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C. on December 13, 1979.

Langhorne Bond,
Administrator.

[FR Doc. 79-38707 Filed 12-19-79, 8:45 am]

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Thursday
December 20, 1979

Part IV

Department of Transportation

Research and Special Programs
Administration

State of Rhode Island Rules and
Regulations Governing the Transportation
of Liquefied Natural Gas and Liquefied
Propane Gas Intended To Be Used by a
Public Utility; Inconsistency Ruling

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

State of Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended To Be Used by a Public Utility; Inconsistency Ruling (IR-2)

APPLICANT: State of Rhode Island, Division of Public Utilities and Carriers.

STATE LAW AFFECTED: "Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended to be Used by a Public Utility" (Rules) issued by the State of Rhode Island, Public Utilities Commission, Division of Public Utilities and Carriers pursuant to authority in sections 39-1-2.1 and 45-2-17 of the General Laws of Rhode Island, as amended (1) and effective November 3, 1978.

APPLICABLE FEDERAL REQUIREMENTS: Hazardous Materials Transportation Act (HMTA) §§ 102-107, and 109; (2) 49 CFR Parts 171-173, 177-178.

MODE AFFECTED: Highway.

ISSUE DATE: December 13, 1979.

RULING: The Rhode Island Rules are set out in the Appendix to this document. The Rules in sections I, IV, part of VI, VIII, X, and XI are not inconsistent with the HMTA or regulations issued to date thereunder. The Rules in Sections II, III, V, part of VI, VII, and IX are inconsistent with the HMTA as implemented by regulations issued thereunder.

SUMMARY: This inconsistency ruling is the opinion of the Materials Transportation Bureau (MTB) concerning whether the State of Rhode Island, Division of Public Utilities and Carriers' "Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended to be Used by a Public Utility," are inconsistent with the HMTA or regulations issued thereunder and thus preempted as set forth in § 112(a) of the HMTA(3). This ruling was applied for and is issued pursuant to procedures at 49 CFR 107.201 to .209. Procedures for filing an appeal to this ruling are found at 49 CFR 107.211. Any person aggrieved by this ruling may appeal it. Any such appeal must be filed on or before January 21, 1980.

FOR FURTHER INFORMATION CONTACT: D. G. Ortiz, Office of the Chief Counsel, Research and Special Programs Administration, Department of

Transportation, Washington, D.C. 20590 (telephone (202) 755-4972).

I. Background

A. The Application of the State of Rhode Island, Division of Public Utilities and Carriers

The Division of Public Utilities and Carriers (the Division) is a governmental entity of the State of Rhode Island with statewide jurisdiction and authority set forth at Chapter 39-1 of the General Laws of Rhode Island, as amended. Effective November 3, 1978, the Division issued "Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended to be Used by a Public Utility." As noted in the Rules, "[t]hese regulations are to include . . . motor carriers in interstate commerce where the loading or unloading of tank trailers is required to be performed within the State of Rhode Island."

The effect of the Rhode Island Rules is to require motor vehicles subject to their provisions, i.e., those transporting liquefied propane gas (LPG) (4) or liquefied natural gas (LNG) in bulk within the State en route to a public utility either inside or outside the State, and loaded or to be unloaded within the State, to comply with specific operating and equipment requirements. The operating requirements include the following: operation only under a permit, obtained after meeting application requirements (Appendix, paragraphs II and III); prohibition on travel during specified times (Appendix, paragraph V); accident notification within specified times (Appendix, paragraph VI); operation with headlights on at all times (Appendix, paragraph VIII); and inspection of vehicles at loading/unloading sites (Appendix, paragraph X). The equipment requirements include the following: two-way radio (Appendix, paragraph IV); illuminated rear bumper sign (Appendix, paragraph VII); and frangible shank-type lock on trailers (Appendix, paragraph IX). Transportation of LNG and LPG in interstate commerce is subject to regulations issued by the Department of Transportation (B) and the Division's Rules are in addition to applicable Federal requirements (Appendix, paragraph XI).

Shortly after the Rhode Island Rules became effective, National Tank Truck Carriers, Inc., a trade association comprised of motor carriers of bulk commodities, filed suit against the Administrator of the Rhode Island Division of Public Utilities and Carriers in the United States District Court for

the District of Rhode Island seeking to have the Rhode Island Rules enjoined and vacated. On December 1, 1978, subsequent to the filing of the lawsuit, the Division filed an application for an inconsistency ruling asking the Department of Transportation for its opinion as to whether Rhode Island's "Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended to be Used by a Public Utility" are inconsistent with the HMTA or regulations issued thereunder.

On December 12, 1978, the District Court preliminarily enjoined those State regulations that imposed equipment requirements (Appendix, paragraphs IV, VII and IX) while indicating that it was awaiting DOT's administrative ruling.(6) This issuance of a preliminary injunction has recently been affirmed on appeal.(7)

On March 12, 1979, the Department published notice of the Division's application in the Federal Register and invited public comment.(8) In response to that invitation, comments were received from seven entities including the applicant, an agency of another State, and three industry-wide associations and two corporations involved in transportation affected by the Rhode Island Rules. All the commenters, except for the Division, believe the Rhode Island Rules are inconsistent with, and thus preempted by, the HMTA or associated regulations. Most of the commenters stressed the need for uniform regulations and the fact that the Rhode Island requirements are at variance with the Department of Transportation's. Several commenters believe that certain of the Rhode Island requirements either place or could place a serious burden on commerce. There also were comments pointing out what were felt to be specific inconsistencies between certain Rhode Island requirements and certain of the regulations issued under the HMTA. Where appropriate these will be discussed below in the consideration of the individual Rhode Island requirements.

B. Department of Transportation Hazardous Materials Regulations

The HMTA itself imposes obligations to act only on the Secretary of Transportation. It is the regulations issued under the HMTA that impose obligations on members of the public. The substantive regulations issued under the HMTA are known as the Hazardous Materials Regulations and are codified at 49 CFR Parts 170-179. Most of this body of regulations predates the HMTA and was previously authorized

by the Explosives and Other Dangerous Articles Act (EODAA).(9) The HMTA was enacted on January 3, 1975, and the Hazardous Materials Regulations were reissued under its authority, effective January 3, 1977.(10) Subsequent amendments to the Hazardous Materials Regulations have been issued under the authority of the HMTA and with the preemptive effect granted by that Act (under special restrictions in the case of the Federal Motor Carrier Safety Regulations, which will be discussed below).

With regard to highway transportation of hazardous materials, including LNG and LPG, the Hazardous Materials Regulations apply to persons who offer these materials for transportation (shippers), those who transport the offered materials (carriers) and those who manufacture and retest the packagings in which the materials are contained. The scope of transportation activity affected includes the packaging of shipments of hazardous materials, package marking (to show contents) and labeling (to show hazard), vehicle placarding (to show hazard), handling procedures such as loading and unloading requirements, care of vehicle and lading during transportation, and the preparation and use of shipping papers to show the identity, hazard and amount of each hazardous material being shipped.

The preparation requirements for shipment of LPG in cargo tanks are set forth at 49 CFR 173.315. There are currently no specific requirements in the Hazardous Materials Regulations that provide for transportation of LNG.(11) Transportation of this material, for shipments subject to the Hazardous Materials Regulations, is permissible only if transportation is performed pursuant to an exemption issued under 49 U.S.C. 1806 and 49 CFR 107.101 to .123. An applicant for an exemption must show that the transportation will be "in a manner so as to achieve a level of safety (1) which is equal to or exceeds that level of safety which would be required in the absence of such exemption, or (2) which would be consistent with the public interest and the policy of [the HMTA] in the event there is no existing level of safety established." (12) A number of exemptions have been issued that allow bulk highway transportation of LNG and while their terms are not identical, the standard provisions found in them generally concern the following:

1. Compliance with ASME Code, Section VIII.
2. Tank design, design pressure and retest pressure.
3. Filling density and filling practices.

4. Insulation.
5. Safety relief devices and settings.
6. Establishment of holding time.
7. Establishment of one-way travel time (permissible time lapse during transportation).
8. Cargo tank markings.
9. Conditions for transport of empty tanks.
10. Driver instruction and recordkeeping.
11. Incident reporting.

Note that for transportation of LNG under exemption compliance with the Hazardous Materials Regulations is necessary except for those sections specifically indicated as affected in the exemption. Placarding, for example, is still required although not addressed in the text of the document granting the exemption.

C. Preemption Under the HMTA

The HMTA at § 112(a) (13) preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in [the HMTA] or regulations issued under [the HMTA]." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of hazardous materials transportation so as to preclude any State action.(14) The HMTA preempts only those State and local requirements that are "inconsistent."

Absent Federal occupation of the field, a State may take certain measures, in the exercise of its police power, to safeguard the health, safety and welfare of its citizens.(15) Section 112(a) of the HMTA provides that such State (or local) action may not be inconsistent with the HMTA or regulations issued thereunder. The legislative history of this provision indicates that Congress intended it "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." (16)

In 49 CFR Part 107, Subpart C, the MTB has published procedures that implement the preemption language of the HMTA by providing for the issuance of inconsistency rulings.(17) At the time these procedures were issued, the MTB observed that "[t]he determination as to whether a State or local requirement is consistent or inconsistent with the Federal statute or Federal regulations is traditionally judicial in nature." (18) The reasons for providing an administrative forum for such a determination are two-fold.(19) An inconsistency ruling provides an alternative to litigation for a determination of the relationship of

Federal and State or local requirements. If a State or political subdivision requirement is found to be inconsistent, such a finding provides the basis for an application for a determination, which can only be made by the Secretary of Transportation or his delegate, as to whether there is to be a waiver of preemption pursuant to § 112(b) of the HMTA.(20)

Two general caveats are in order with regard to an inconsistency ruling. First, since the proceeding is conducted pursuant to the HMTA, the MTB is limited to considering only the question of statutory preemption. A Federal court may find a State requirement, although not statutorily preempted, nonetheless preempted by the Commerce Clause of the U.S. Constitution if the requirement places an undue burden on interstate commerce. However, the Department may not make such a determination.(21) Second, under EODAA authority, the applicability of the Hazardous Materials Regulations was statutorily limited to carriers in interstate and foreign commerce and their shippers and did not apply to carriers in wholly intrastate commerce and their shippers. Although the HMTA at § 103(1) (22) authorizes application of its regulations to intrastate commerce that affects interstate commerce, the MTB has not yet exercised this expanded jurisdiction.(23) Any preemptive effect attributed to the HMTA in an inconsistency ruling is limited to preemption of the State or local requirements being considered as they apply to persons currently subject to the Hazardous Materials Regulations, e.g., motor carriers engaged in interstate commerce.

Given the judicial character of the inconsistency ruling proceeding, the MTB has incorporated case law criteria for determining the existence of conflicts into the preemption procedures at 49 CFR 107.209(c): (24)

- (1) Whether compliance with both the State . . . requirement and the Act or the regulations issued under the Act is possible; and
- (2) The extent to which the State . . . requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

The first criterion is commonly referred to as either the dual compliance test or the direct conflict test and preempts those State or local requirements that are incongruous with Federal requirements; that is, compliance with the State requirement causes the Federal requirement to be violated or vice versa. The second criterion in a sense subsumes the first and preempts those State or local laws that, while not in direct conflict with a

Federal requirement, stand as "an obstacle to the accomplishment and execution of the (HMTA) and the regulations issued under the (HMTA)." In determining whether a State requirement presents such an obstacle, it is necessary to look at the "full purposes and objectives of Congress" in enacting the HMTA (25) and the manner and extent to which those purposes and objectives have been carried out through the MTB's regulatory program.

In enacting the HMTA, Congress recognized that the Department of Transportation's effort in hazardous materials transportation regulation lacked coordination in that it was divided among the various transportation modes, and lacked completeness in that there were gaps in DOT's authority, most notably in the area of manufacturing and preparation of packagings used to transport these materials. (26) In order to "protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce," (27) Congress consolidated and expanded the Department's regulatory and enforcement authority in the area of hazardous materials transportation.

There is a longstanding Federal-State relationship in the field of highway transportation safety that recognizes the legitimacy of State action taken to protect persons and property within the State, even where such action impacts upon interstate commerce. (28) However, certain areas of transportation safety demand a strong, predominant Federal role. In the HMTA's Declaration of Policy and in the Senate Committee language reporting out what became § 112 of the HMTA, (29) Congress indicated a desire for uniform national standards in the field of hazardous materials transportation and with the HMTA gave the Department of Transportation the authority to promulgate those standards. (30) Although the HMTA has not totally precluded State or local action in this area, it is the MTB's opinion that to the extent possible Congress intended to make such State for local action unnecessary. The comprehensiveness of the MTB's Hazardous Materials Regulations severely restricts the historical scope of permissible State or local activity. The nature, necessity and number of hazardous materials shipments make uniform standards extremely important.

Despite the dominant role that Congress contemplated for Departmental standards, there are certain aspects of hazardous materials

transportation that are not amenable to effective nationwide regulation. One example is safety hazards that are peculiar to a local area. To the extent that nationwide regulations do not adequately address a particular local safety hazard, State or local governments can regulate narrowly for the purpose of eliminating or reducing the hazard. (31) Another example is emergency response activity. Although the Federal Government can regulate in order to avert situations where emergency response is necessary, and can aid in local and State planning and preparation, when an accident does occur, response is, of necessity, a local responsibility.

There are also certain areas where the need for national uniformity is so crucial and the scope of Federal regulation is so pervasive that it is difficult to envision any situation where State or local regulation would not present an obstacle to the accomplishment and execution of the HMTA and the Hazardous Materials Regulations. Cargo containment systems is one area where the MTB believes this to be true. The Hazardous Materials Regulations contain extensive requirements for the packagings necessary for the safe transportation of hazardous materials. The MTB has looked at specific commodities and determined what type of container must be used to move them, including, where appropriate, what types of accessories are required, what types of construction tests must be satisfactorily performed, etc. Uniform standards in this area ensure safe, efficient interstate transportation. State and local governments may not issue requirements that differ from or add to Federal ones with regard to packaging design, construction and equipment for hazardous materials shipments subject to Federal regulations. Hazard warning systems are another area where MTB perceives the Federal role to be exclusive. The MTB has thoroughly considered this subject and has issued regulations on marking and labeling of packages and placarding of vehicles in order to communicate the hazards of the materials contained therein. The effectiveness of these systems depends to a large degree on educating the public, especially emergency response personnel. In order to widely disseminate information on its systems, the MTB, among other things, conducts and supports educational programs and distributes informational literature. Additional, different requirements imposed by States or localities detract from the DOT systems and may confuse

those to whom the DOT systems are meant to impart information.

D. The Federal Motor Carrier Safety Regulations

There is one area where the preemptive effect of the HMTA is more limited and that is with regards to the Federal Motor Carrier Safety Regulations contained in 49 CFR Parts 390-397. These regulations establish vehicle, equipment and driver requirements for motor carriers subject to the Interstate Commerce Act. On February 6, 1978, the MTB incorporated the Federal Motor Carrier Safety Regulations (except for 49 CFR 397.3 and 397.9) into the Hazardous Materials Regulations at 49 CFR 177.804. The purpose of this incorporation was to make HMTA civil penalty authority available for violations of these regulations by motor carriers otherwise subject to 49 CFR Part 177. However, at the time of incorporation it was noted that "the Department does not intend * * * to preempt State or local law not preempted by the [Federal Motor Carrier Safety Regulations] before incorporation into Part 177." (32)

An inconsistency ruling represents MTB's opinion of the preemptive effect of the Hazardous Materials Regulations. There is no reason for the MTB not to consider the preemptive effect of 49 CFR 177.804, even though the scope of Federal preemption under that section may be different than under other provisions of the Hazardous Materials Regulations. Title 49 CFR 390.30, part of the incorporation by reference, sets out the standard to be used in considering preemption under the Federal Motor Carrier Safety Regulations:

Except as otherwise specifically indicated, Parts 390-397 of this subchapter are not intended to preclude States or subdivisions thereof from establishing or enforcing State or local laws relating to safety, the compliance with which would not prevent full compliance with these regulations by the person subject thereto.

The standard thus established is essentially identical to the first test used to determine preemption under the HMTA, i.e., the direct conflict test. Unless a different criteria is specifically set forth in the Federal regulation, a State or local requirement in a subject area addressed by the Federal Motor Carrier Safety Regulations, and being considered in an inconsistency ruling as a result of the incorporation of those regulations at 49 CFR 177.804, is preempted if it directly conflicts with a provision of the Federal Motor Carrier Safety Regulations.

II. Ruling

The Rhode Island "Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended to be Used by a Public Utility" consist of eight substantive requirements, three of which can be characterized as equipment requirements and five of which can be characterized as operating requirements.

In the Declaration of Policy accompanying its Rules, the Rhode Island Division of Public Utilities and Carriers stated that with regard to their authority to regulate the transportation of LNG and LPG within the State, the Division "is charged with the safety and welfare of the citizens of the State of Rhode Island and their property located within its bounds * * *"

The Division has attempted to justify its entire body of Rules on the ground that the danger to the citizens of Rhode Island resulting from this transportation is peculiar to Rhode Island because of the State's high population density. In the Division's comments in response to the Federal Register notice on this matter, its Administrator pointed out that

Rhode Island is the second-most densely populated State in the United States. Its major highways are almost always bounded by areas of high population concentration. These regulations were promulgated because of several instances in which shipments were either stranded and/or involved in accidents in areas, which, by the very nature of the area itself, increased potential hazards. (33)

In the previous inconsistency ruling issued by the MTB, a unique local safety problem, not adequately addressed by the Hazardous Materials Regulations, was found. That ruling involved a New York City Health Code requirement that effectively bans the transportation of many radioactive materials through the City. In finding the City requirement not inconsistent with the HMTA or regulations issued thereunder, the MTB analogized the City provision to a routing requirement and determined that since no routing rule had been issued under the HMTA, the New York City Health Code provision was not preempted. (34) Routing requirements are usually associated with municipal population densities or specific transportation facilities within a State, such as bridges or toll roads. Implicit in the MTB's ruling was the fact that New York City's action was related to its extreme population density, as a result of which "the consequences of a major accident are too extreme to be tolerable, however remote the probability." (35) Also important was the fact that, prior

to the enactment of the Health Code provision, restrictions on bridge use adopted by the New York and New Jersey Port Authority and the Triborough Bridge and Tunnel Authority necessitated that radioactive materials traffic from Long Island be routed through Manhattan. There was no requirement under the HMTA at the time that adequately dealt with the peculiar problems of New York City. (36)

According to the U.S. Department of Commerce, Bureau of Census, (37) the estimated population density in Rhode Island in 1975 was 888 per square mile. The most densely populated state, New Jersey, had an estimated population of 975 per square mile. Even Alaska, however, the least densely populated state with an estimated density per square mile of 1, has cities with population densities exceeding the statewide figures for Rhode Island and New Jersey. Los Angeles, with a land area 44% the size of Rhode Island, has an estimated population density of 5,879 per square mile, 6.6 times the Rhode Island figure. With an area over one-quarter the size of Rhode Island, New York City has a population density 28 times as great and its borough of Manhattan has a population density almost 71 times as great as Rhode Island's.

The statewide population density of Rhode Island does not present a peculiar local safety condition relative to the transportation of LNG and LPG. Requirements that are statewide in effect would not appear to be warrantable on the basis of local peculiarities. (38) When compared with other areas of the country, it is apparent that Rhode Island's population figures are the kind of "normal" condition that the Hazardous Materials Regulations have been designed to deal with.

In order to consider rationales for the Rhode Island Rules other than local peculiarities, each of the Rhode Island requirements must be examined individually to determine if they are in direct conflict with a Federal requirement and if not whether they present an obstacle to the accomplishment and execution of the HMTA and the Hazardous Materials Regulations.

A. Equipment Requirements

The Rhode Island Rules include three equipment requirements: (1) a two-way radio to alert appropriate Federal, State or municipal authorities of any accident or mishap; (2) a sign on the rear bumper stating "MUST STAY BACK 500 FEET" in letters at least three inches high, illuminated for nighttime travel; and (3)

a frangible shank-type lock to prevent tampering with valves or equipment.

1. *Radio communications via two-way radio (Appendix, paragraph IV).* In its comments to the docket, the Division stated that this requirement could be met with a Citizen's Band (CB) radio and that appropriate CB channels are monitored by the Rhode Island State Police truck-squad. One commenter pointed out that some motor carriers have prohibited the installation of CB radios because they have proved a distraction to drivers and that the Federal Highway Administration, Bureau of Motor Carrier Safety is considering the issue. The Federal Highway Administration did hold two public meetings in April 1979, on the question of "the relationship between CBs and highway safety." (39) The meetings were specifically directed towards CB use by commercial motor carriers of passengers for hire. The purpose of the meetings was to aid in determining whether to publish an advance notice of proposed rulemaking; however, nothing further on the matter has been promulgated.

A requirement for a piece of operational safety equipment like a two-way radio is similar in nature to the type of equipment that is required by the Federal Motor Carrier Safety Regulations. The consideration of this issue by the Federal Highway Administration is supportive of this view. There is presently no Federal requirement with regard to radios and even were a final rule to be published in the Federal Motor Carrier Safety Regulations it would only preempt a State or local requirement directly in conflict with it. Absent any such requirement, the Rhode Island Rule set out at paragraph IV of Appendix is not inconsistent with the HMTA or the Hazardous Materials Regulations.

The Federal Communications Commission (FCC) regulates Citizens Band Radio Service at 47 CFR Part 95. In order for a person to operate a CB transmitter, he must have a CB license, either as an individual, or, for the purposes of transmitting business communications, as an employee of a licensed partnership, association or corporation. (40) Emergency transmissions are exempt from certain FCC rules, including the rule pertaining to authorized users. (41) The Rhode Island Rule only requires the vehicle to be equipped with a two-way radio. All operation of such a radio must, of course, conform to FCC requirements.

2. *Illuminated rear bumper sign (Appendix, paragraph VII).* The Division's comments indicated that this requirement was intended to help

prevent rear end collisions. The Federal Register notice on this matter pointed out the Federal Motor Carrier Safety Regulations requirements with regard to rear lighting and several commenters felt that there was a direct conflict between these Federal requirements and Rhode Island's. Title 49 CFR 393.26(e)(3) requires that lamps on the rear of a motor vehicle must display a red color except for specified exceptions. White lamps are allowed by 49 CFR 393.26(e)(5) and (6), but only for back-up lamps or the illumination of license plates. The most logical interpretation of Rhode Island's requirement that the bumper sign "be illuminated for evening travel" is that it be illuminated with a white lamp. Such a requirement is in direct conflict with the Federal requirement in that compliance with Rhode Island's Rule would require violation of the Federal regulation. Although the Federal lighting requirements are only preemptive if a direct conflict occurs, such a conflict is present in this instance. The Rhode Island illumination requirement is thus inconsistent with the Hazardous Materials Regulations at 49 CFR 177.804 which requires compliance with the Federal Motor Carrier Safety Regulations.

As for the Rhode Island bumper sign itself, the Hazardous Materials Regulations specifically address the subject of hazard warning signs. Title 49 CFR Part 172, Subpart F establishes placarding requirements applicable to shippers of hazardous materials and 49 CFR 177.823 requires carriers by motor vehicles to ensure proper placarding. Motor vehicles transporting LNG or LPG in cargo tanks are required to display the distinctive FLAMMABLE GAS placard on all four sides of the vehicle, including the rear.(42) The type of sign being required by the State of Rhode Island is not specifically prohibited by the Hazardous Materials Regulations. (The only specific prohibitions on additional markings are those at 49 CFR 172.304(a)(4), 172.502(b) and 172.516(c)(4).) The Rhode Island bumper sign requirement is, however, exactly the type of requirement that is appropriate for the Federal Government to impose on hazardous materials carriers should it be felt that such a requirement is necessary. The MTB has considered the issue of hazard warnings and has settled on the current system.(43) State or locally required signs, emblems or markings on vehicle sides, even if they cannot be confused with DOT placards, nonetheless divert attention from the DOT system. As mentioned earlier, they also dilute the

effectiveness of the MTB's nationwide efforts to educate the public.

It is also important to note, with regard to the stated purpose of the Rhode Island Rule, that the MTB has considered the problem of rear end collision in LNG and LPG transportation and has dealt with it by issuing structural requirements. The Department has specific requirements for rear bumper to protect cargo tanks transporting LPG and LNG. The requirement, for currently authorized construction of cargo tanks for LPG service, is contained at 49 CFR 178.337-10(d). For cargo tanks used in LNG service, the requirement is embodied in the plan approval contained in the exemption permitting such transportation.

The requirement set out at paragraph VII of Appendix is inconsistent with the HMTA as implemented by the Hazardous Materials Regulations.

3. *Frangible shank-type lock on trailers (Appendix, paragraph IX).* The comments from the Division stated that the purpose of this requirement is to "prevent unauthorized persons from releasing hazardous contents into the air." The effects on safety of such a requirement are not unalloyed however (for example, a driver could lose a key in an emergency, cold weather might freeze a lock, etc.), and consideration of various possible requirements of this sort is part of the process by which the MTB establishes the overall requirements for the containment systems used to transport hazardous materials. For a cargo tank used to transport LPG, the preparation and maintenance requirements are at 49 CFR 173.33, shipping requirements are at 49 CFR 173.315 and the specification requirements for the only cargo tank currently authorized to be constructed for this transportation, an MC-331, are at 49 CFR 178.337. In the case of transportation of LNG by cargo tank, which is permitted only under specific DOT exemption, the requirements of the containment system are prescribed or referenced in the exemption itself.

The MTB regulates the subject matter of cargo tank containment comprehensively and thus within this subject matter area as preempted the field. Additional requirements for containment systems may not be imposed by State or local governments. The requirement set out at paragraph IX of Appendix is inconsistent with the HMTA as implemented by the Hazardous Materials Regulations.

B. Operational Requirements

The Rhode Island Rules include five operating requirements: (1) operation

only under a permit; (2) prohibiting of rush hour travel; (3) accident notification; (4) operation with headlights on at all times; and (5) vehicle inspection before and after loading and unloading.

1. *Applying for and obtaining a permit (Appendix, paragraphs II and III).* There is ambiguity in the Rhode Island Rules that require a permit prior to operation and this ambiguity was not cured by the comments made to the docket.(44) For the purposes of this inconsistency ruling, the MTB interprets the Rules to require a separate permit application and permit prior to each individual transportation movement.

The Rules require that a permit be applied for not less than four hours and not more than two weeks prior to each transportation and that a copy of the permit be carried by the vehicle operator during the transportation (paragraph III). Additionally, paragraph III requires that the permit application include the following information:

1. Name and mailing address of the carrier.
2. A detailed description of the route/routes to be followed by the carrier.
3. Description of commodity to be transported, type of label required and quantity.
4. Date and time the transportation service will be provided.
5. Origin and destination of shipment.
6. Vehicle identification number.
7. Vehicle registration.
8. Proof of vehicle inspection.
9. Proof of proper insurance coverage.
10. A certification from the shipper certifying that the load is in compliance with the applicable motor carrier safety regulations of the Federal Department of Transportation.
11. A certification from the carrier certifying that the load is in compliance with the applicable motor carrier safety regulations of the Federal Department of Transportation.

The Division contended in its comments that these application requirements make it possible to advise carriers of hazardous road conditions; ensure route compliance with 49 CFR 397.9(a); and aid in emergency response actions as a result of the commodity description. Most of the other commenters to the docket spoke of these requirements in terms of the burden they placed on commerce, the need for national uniformity and the redundancy and conflict of certain of the application requirements when compared with Federal requirements.

A permit may serve several legitimate State police power purposes, and the bare requirement in paragraph II that a permit be applied for and obtained is not inconsistent with Federal requirements. However, a permit itself is inextricably tied to what is required in

order to get it. Therefore, the permit requirement in paragraph II must be considered together with the application requirements in paragraph III.

The document that is required by the two Rhode Island Rules is similar in some respects to the shipping paper required by the Hazardous Materials Regulations. However, the DOT required shipping paper is generated by the shipper and supplied to the carrier and its preparation and issuance is not dependent on processing by the Department of Transportation. Rhode Island's permit must be obtained from the State prior to each movement and must be applied for at least four hours and no more than two weeks prior to the transportation and a copy of the permit must be carried aboard the transport vehicle.

These three parts of the Rhode Island permit process, which must be repeated for each individual movement, involve a high probability of causing delay in transportation. Furthermore, certain of the information required to be on the permit application such as the certification by the shipper (paragraph III.10.) and carrier (paragraph III.11.) and perhaps the quantity of product (paragraph III.3.) cannot be provided until after loading of the cargo tank is completed. If loading is conducted within Rhode Island, the permit process on its face results in at least a four hour delay after loading before transportation can begin. If loading takes place outside of Rhode Island, but less than four hours distant, delay is inherent if the shipment is heading for Rhode Island. Delay may also result from the manner in which applications are processed and, for transport originating in Rhode Island, in order for a copy of the permit to be placed in the hands of the motor vehicle operator. The MTB has been provided with no information on how the permit requirements have been applied.

The manifest purpose of the HMTA and the Hazardous Materials Regulations is safety in the transportation of hazardous materials. Delay in such transportation is incongruous with safe transportation. Given that the materials are hazardous and that their transport is not risk-free, it is an important safety aspect of the transportation that the time between loading and unloading be minimized. This concept is articulated in the Hazardous Materials Regulations by the following direction to highway carriers at 49 CFR 177.853:

(a) *No unnecessary delay in movement of shipments.* All shipments of hazardous materials shall be transported without unnecessary delay, from and including the

time of commencement of the loading of the cargo until its final discharge at destination.

Much of the information required for the Rhode Island permit could be obtained in such a way that delay in transportation would not be incurred. For example, the State could require carriers to establish insurance coverage on an annual basis and require shippers or carriers to supply, in some kind of cumulative manner, either before or after a significant number of shipment, certain information related to number of trips and routes taken within the State.

The Rhode Island Rules at paragraphs II and III cause delay in the transportation of LPG and LNG that the MTB finds to be unnecessary. These requirements are therefore inconsistent with the HMTA, and the Hazardous Materials Regulations at 49 CFR 177.853.

Even were Rhode Island to establish a permit requirement that did not result in unnecessary transportation delays, the State may not impose requirements that are otherwise inconsistent with the Hazardous Materials Regulations. To the extent that Rhode Island would require the same information as appears on the DOT required shipping paper but in a different form, the Rhode Island rule is redundant. Redundancy does not further transportation safety and represents the type of multiplicity that the HMTA intended to make unnecessary. In order to avoid such situations, the Department of Transportation has consistently and continually encouraged the States to adopt the Hazardous Materials Regulations and the Federal Motor Carrier Safety Regulations so that, within their borders, they may in essence enforce the Federal requirements. No matter what the form, any State or local requirement that asks for an additional piece of paper that supplies the same information as is required to be on the DOT shipping paper would be inconsistent with the requirements contained in the Hazardous Materials Regulations.

3. *Prohibition on travel during certain hours (Appendix, paragraph V).* The Division's comments state that the basis of the travel ban between 7-9 a.m. and 4-6 p.m. Monday through Friday is that "[i]t has been proven safer to travel during non-peak rush-hour time periods." Several other commenters indicated that such a requirement encourages violations of the speed limit and will cause vehicles to wait in other States. One commenter stated that during testimony in the federal court case in this matter, it was indicated that it was not permissible under this requirement for a carrier to merely

interrupt transit within the State during rush hours, but that transit within Rhode Island must be begun and completed outside of the prohibited travel times. This comment, which was sent to the Division as required by DOT procedures, was not contradicted. Rhode Island appears to have placed the entire State off-limits for four hours a day, five days a week. Were every State to adopt a similar requirement, no transportation of LNG or LPG could take place on week-days that involved more than 13 hours of travel (departure after 6 p.m. and arrival prior to 7 a.m.).

Even if the Rhode Island rule is applied in such a way that it only requires that carriers of LPG and LNG park during rush hours, for four hours a day during weekdays such transportation cannot take place within the State. In such a case trucks operating within the State will be required to stop during rush hours, and trucks from adjoining States will not be permitted to enter Rhode Island during those hours. On the other hand, if the Rhode Island rule has been implemented so as to effectively prohibit any trucks in transportation from being present within the State during rush hours, it will require trucks to wait at the borders in adjoining States if they arrive at the border at such a time that they cannot complete their transportation within Rhode Island prior to the beginning of a period of prohibited transportation. In either case, the Rhode Island Rule would result in significant delays in transportation. One aspect of these delays likely involves trucks waiting in Massachusetts or Connecticut to enter Rhode Island. The Rhode Island Rule quite probably requires some motor vehicles to remain in Rhode Island's neighboring States longer than they would were such a Rule not in effect. In its attempt to protect its own citizens, Rhode Island is increasing the risks incident to such transportation to be incurred by the citizens of Massachusetts and Connecticut.

The Division has not justified a statewide ban on LNG and LPG transportation during certain hours. The delay that results from the Rhode Island Rule is unnecessary and the Rhode Island Rule at paragraph V is inconsistent with the HMTA, and the Hazardous Materials Regulations at 49 CFR 177.853.

4. *Notice of accidents (Appendix, paragraph VI).* Rhode Island requires that in the case of any accident, mishap or any safety irregularity, the State Police must be immediately notified and two specified State agencies must

receive a written report within 24 hours of the incident.

The MTB's notification requirements applicable to highway carriage of hazardous materials are found at 49 CFR 171.15 (immediate notice), 171.16 (detailed written report within 15 days) and 177.807 (reporting requirements applicable to highway carriers). There are also accident reporting requirements applicable to motor carriers generally in 49 CFR Part 394.(45) The notification required by these sections, however, is notification to DOT—notification of State or local authorities is not a requirement of the Federal regulations.

Although the Rhode Island Rules do not clarify what is meant by "accident, mishap or any safety irregularities," a requirement for immediate notification in certain situations furthers the State's activity in protecting persons and property through emergency response measures. This has been mentioned previously in the discussion of the State's two-way radio requirement.

Such an emergency response function is not served by the written notice required to be given within 24 hours to the two State agencies. The written notice required to be supplied to MTB pursuant to 49 CFR 171.16 precludes the States from requiring additional written notice directed to hazardous materials carriers. It is common for States to require any motor vehicles involved in accidents within their borders to file certain accident reports and such a requirement can clearly be applied to a motor vehicle transporting hazardous materials. In light of the Federal written notice requirement, however, it is inappropriate for a State to impose an additional written notice requirement to apply solely to carriers already subject to the Hazardous Materials Regulations.(46) The detailed hazardous materials incident reports filed with MTB are available to the public.

The portion of the requirement set forth at paragraph VI of Appendix, requiring immediate notification to the Rhode Island State Police is not inconsistent with the HMTA or regulations issued thereunder; however, the portion of the requirement necessitating written notice to the Motor Carrier Examiner and the Rhode Island Department of Transportation is inconsistent with the HMTA as implemented by the Hazardous Materials Regulations.

5. *Headlights on at all times (Appendix, paragraph VIII).* The Division requires vehicles subject to its Rules, whether en route to or returning from a delivery, to travel with headlights on at all times. This requirement is a driving requirement of the type covered

by the Federal Motor Carrier Safety Regulations at 49 CFR Part 392 and Part 397. Neither of these Parts contain a requirement that conflicts with the Rhode Island requirement. Absent such a direct conflict, general operating and equipment requirements of the type covered by the Federal Motor Carrier Safety Regulations, as incorporated into the Hazardous Materials Regulations, are not precluded. The requirement set forth at paragraph VIII of the Appendix is not inconsistent with the HMTA or the Hazardous Materials Regulations.

6. *Vehicle inspection (Appendix, paragraph X).* The Hazardous Materials Regulations provide detailed inspection requirements for cargo tanks (49 CFR 177.824) and specific loading and unloading requirements (for LNG and LPG, at 49 CFR 177.834(d) and (g)). However, these requirements are different than the walk-around type of inspection required by Rhode Island. The Rhode Island inspection requirement, like its headlight requirement, is the type of requirement concerning vehicle operations covered by the Federal Motor Carrier Safety Regulations. Title 49 CFR 392.7, 392.8 and 49 CFR Part 396 establish the federal inspection requirements that are similar to the Rhode Island requirement. The Rhode Island requirement is not in direct conflict with these requirements in that it is possible to comply with the State requirement without violating the Federal ones. Paragraph X is not inconsistent with the Hazardous Materials Regulations or the HMTA.

III. Conclusion

As discussed in the Ruling, certain provisions of Rhode Island's "Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended to be Used by a Public Utility" are inconsistent with the HMTA and the Hazardous Materials Regulations and are thus preempted. Specifically, it is the MTB's determination that the following sections of the Rhode Island rules are preempted: II (Permit required); III (Application for permit); V (Hours of travel); VI (Notice of accidents), to the extent it requires written notification; VII (Bumper sign); IX (Frangible shank-type lock). The remaining provisions of the Rhode Island rules are not inconsistent with the HMTA and the Hazardous Materials Regulations. All these provisions have been discussed previously with the exception of section I (Definitions) and XI (Other regulatory control). These latter two provisions impose no substantive requirements and along with Sections IV (Radio communication); VI (Notice of accident),

to the extent that it requires immediate notification to the Rhode Island State Police; VIII (Headlights on at all times); and X (Vehicle inspection at loading/unloading areas) are not preempted.

With regard to the requirements that have been found preempted, the applicant has several possible administrative courses of action. On or before January 21, 1980, the applicant, or any other person aggrieved by this ruling, may file an appeal with the Director, MTB pursuant to 49 CFR 107.211. The applicant may seek a non-preemption determination from MTB under the procedures at 49 CFR 107.215-.225. Finally, the applicant may petition the Director, MTB for rulemaking pursuant to 49 CFR 106.31.

(49 U.S.C. 1811(a), 49 CFR 107.209)

Issued in Washington, D.C. on December 13, 1979.

Robert L. Paullin,
Associate Director for Operations and
Enforcement, Materials Transportation
Bureau.

References

1. These sections are cited as authority in the Declaration of Policy accompanying the Rhode Island Rules. However, section 39-1-2.1 is entitled "Presumption of intrastate commerce upon use storage of liquefied natural gas within the state" and section 45-2-17 is entitled "Regulation of liquefied natural gas facilities." Neither section refers to liquefied propane gas or liquefied petroleum gas. In fact, section 390-1-2 specifically defines liquefied natural gas as "a fluid in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen or other components normally found in natural gas." Given this, it is unclear by what authority the Division of Public Utilities and Carriers has exerted jurisdiction over the interstate transportation of liquefied propane gas. However, the fact that jurisdiction has been asserted is sufficient for the present purpose.

2. These sections are codified at 49 U.S.C. 1801-1806 and 1808. Excluding conforming amendments, not pertinent here, the entire HMTA is codified at 49 U.S.C. 1801-1812.

3. 49 U.S.C. 1811(a).

4. The initials "LPG" are usually used to refer to liquefied petroleum gas, which is a generic term used to refer to a compressed gas that consists primarily of flammable hydrocarbons, usually propane and/or butane. The Rhode Island Rules apply to liquefied propane gas, but apparently not to other liquefied petroleum gases, most notably butane. For the purposes of this document, "LPG" will refer only to liquefied propane gas. The reference to propane appears to be an error in the promulgation of the Rules since in the definitions contained in the Rules, liquefied petroleum gas is defined (and referred to in the definition as "LPG"), but liquefied propane gas is not.

5. Title 49 CFR 171.2 sets forth the general applicability provision of the Hazardous

Materials Regulations. The term "hazardous materials" is defined at 49 CFR 171.8. Liquefied petroleum gas, which includes propane, has been designated a hazardous material in accordance with 49 CFR 172.100(a) and the Hazardous Materials Table at 49 CFR 172.101. LNG is defined as a hazardous material, specifically a flammable compressed gas, in accordance with 49 CFR 172.100(c), 173.1, 173.300(a), and 173.300(b). Since it is not listed by correct technical name in the Hazardous Materials Table and since there are no packaging requirements specified for Compressed gas, n.o.s., flammable gas, applicable to natural gas in the liquefied form, LNG can be transported only under an exemption, discussed in the text *infra*.

6. National Tank Truck Carriers, Inc. v. Burke, C.A. No. 78-0621 (D.R.I. Dec. 12, 1978) (order granting preliminary injunction).

7. National Tank Truck Carriers, Inc. v. Burke, No. 79-1057 (1st Cir. Oct. 12, 1979).

8. 44 FR 13617.

9. 18 U.S.C. 831-835 (repealed by Pub. L.

96-129, enacted Nov. 30, 1979).

10. 41 FR 38175 (Sept. 9, 1976).

11. The MTB has published a notice of proposed rulemaking to amend the Hazardous Materials Regulations by establishing requirements for the transportation of certain cryogenic liquids, including LNG. 44 FR 12826 (March 8, 1979); 44 FR 20461 (April 5, 1979). The term cryogenic liquids refers to gases which are liquefied at extremely low temperatures. The key provisions of the proposal would (1) provide a DOT design specification for cargo tanks used to carry cryogenic liquids; (2) establish inspection and maintenance requirements; and (3) for flammable cryogenics, such as LNG, (a) expand the scope of the regulations to include intrastate commerce, (b) require DOT registration of shippers and carriers and (c) require the training of drivers.

12. 49 U.S.C. 1806(a). This section of the HMTA has been implemented with procedures at 49 CFR Part 107, Subpart B.

13. 49 U.S.C. 1811(a).

14. Despite the explicit language of the HMTA, at least one court has found that the HMTA has preempted the field. Consolidated Rail Corp. v. Hancock, C.A. No. 79-0983 (D. Mass., May 24, 1979). The MTB disagrees with this finding since "[w]e start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." Ray v. Atlantic Richfield Co., 435 U.S. 151, 157 (1978), quoting Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230 (1974).

15. "Police power" is that authority that resides in every sovereign to pass all laws for the internal regulation and government of the State.

16. S. REP. No. 1192, 93d Cong., 2d Sess. 37 (1974). The Senate provision on preemption was adopted by the Committee of Conference. S. REP. No. 1347, 93d Cong., 2d Sess. 24-25, reprinted in [1974] U.S. CODE CONG. & AD. NEWS 7683, 7688-89; H.R. REP. No. 1589, 93d Cong., 2d Sess. 24-25 (1974).

17. "Inconsistency ruling" is a generic term to describe the administrative ruling issued

by MTB pursuant to 49 CFR 107.203 to .211. In fact an inconsistency ruling can contain a finding that a State or local requirement is not inconsistent.

18. 41 FR 38187 (Sept. 9, 1976).

19. The fact that such an administrative forum exists does not preclude a judicial one for determining preemption under the HMTA. A court with jurisdiction can unquestionably make such determinations and the procedural regulations anticipate that they may do so, notwithstanding the MTB procedures. See 49 CFR 107.215(b)(4).

20. 49 U.S.C. 1811(b). This provision has been implemented at 49 CFR 107.215 to .225.

21. There may, however, be considerations regarding the movement of hazardous materials in commerce incorporated in the purposes and objectives of Congress in enacting the HMTA. The constitutional issue of whether or not a State or local requirement unreasonably burdens commerce has been made part of the HMTA as one of the findings to be made in a non-preemption determination under 49 U.S.C. 1811(b).

22. 49 U.S.C. 1802(1).

23. 41 FR 38175 (September 9, 1976). Since that statement was made, several rulemakings have been initiated which would use the expanded HMTA authority and give the Department jurisdiction over the transportation of certain commodities by carriers engaged in intrastate, as well as interstate, commerce. None of these rulemakings has been completed to date. One involves LNG transportation, 44 Fed. Reg. 12826 (March 8, 1979). Should a final rule be issued that applies to intrastate transportation, the preemptive scope of the Department's regulations would be expanded.

24. E.g., Ray v. Atlantic Richfield Co., 435 U.S. 151, 158 (1978); Jones v. Rath Packing Co., 430 U.S. 510, 526, 540-541 (1977).

25. See, e.g., Ray v. Atlantic Richfield Co., 435 U.S. 151, 158 (1978); Hines v. Davidowitz, 312 U.S. 52, 67 (1941).

26. S. REP. No. 1192, 93d Cong., 2d Sess. 1-2, 7-9 (1974).

27. 49 U.S.C. 1802.

28. See Raymond Motor Transportation, Inc. v. Rice, 434 U.S. 429, 443-44 (1978); Bibb v. Navajo Freight Lines, 359 U.S. 520, 523 (1959).

29. The Declaration of Policy is at 49 U.S.C. 1801. The Senate language is at S. REP. No. 1192, 93d Cong., 2d Sess. 37-38 (1974).

30. See the discussion of Congress' purpose and objectives with regard to the HMTA in Kappelman v. Delta Air Lines, Inc., 539 F. 2nd 165, 169-170 (D.C. Cir. 1976).

31. The concept of local safety hazard is expressly stated at 45 U.S.C. 434, one of the provisions of the Federal Railroad Safety Act of 1970:

§ 434. National uniformity of laws, rules, regulations, orders, and standards relating to railroad safety; State regulation.

The Congress declares that laws, rules, regulations, orders, and standards relating to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force any law, rule, regulation, order, or standard relating to railroad safety until such time as the Secretary has adopted

a rule, regulation, order, or standard covering the subject matter of such State requirement. A State may adopt or continue in force an additional or more stringent law, rule, regulation, order, or standard relating to railroad safety when necessary to eliminate or reduce an essentially local safety hazard, and when not incompatible with any Federal law, rule, regulation, order, or standard, and when not creating an undue burden on interstate commerce.

This section is discussed in National Ass'n of Regulatory Util. Comm'rs v. Coleman, 542 F. 2d 11, 13-15 (3d Cir. 1976) and Donelon v. New Orleans Terminal Co., 474 F. 2d 1108, 1112-13 (5th Cir. 1973).

The HMTA does not refer explicitly to local safety hazards, however, both the HMTA and the Railroad Safety Act seek to promote transportation safety and in enacting both statutes, Congress recognized the need for national uniformity of regulation. See Kappelman, *supra* note 30; Consolidated Rail Corp. v. Dover, 450 F. Supp. 968, 974 (D. Del. 1978). Despite the different preemption standards in the two statutes, Atchison, T. & S.F. Ry. v. Illinois Commerce Comm'n., 453 F. Supp. 920, 923-25 (N.D. Ill. 1977), the MTB believes the local safety hazard concept is valid when considering the scope of permissible State or local action under the HMTA.

32. 43 FR 4858.

33. Comments by Edward F. Burke, Administrator, Rhode Island Division of Public Utilities and Carriers, to Inconsistency Ruling Docket at 1 (April 19, 1979). All future references in the text to the Division's comments are references to this document.

34. 43 FR 16954 (April 20, 1978).

35. *Id.* at 16957.

36. Although the New York City Health Code provision was found not inconsistent, the "ban" raised several concerns with MTB. *Id.* at 16957-58. As a result, an advance notice of proposed rulemaking on highway routing of radioactive materials was issued. 43 Fed. Reg. 36492 (August 17, 1978).

37. U.S. DEPT OF COMMERCE, BUREAU OF THE CENSUS, COUNTY AND CITY DATA BOOK (1977). The population and area figures cited for the cities and States in the text are at the following pages: 600, 612, 708, 720, and 744.

38. See NARUC v. Coleman, *supra* note 31 at 14-15.

39. 44 FR 12793 (March 8, 1979).

40. 47 CFR Part 95.401, CB Rules 3 and 26.

41. 47 CFR Part 95.401, CB Rule 25.

42. 49 CFR 173.300(a), 173.300(b), 172.500, 172.504, 172.514, 172.519 and 172.532.

43. The Rhode Island Rule requires that the sign stating "MUST STAY BACK 500 FEET" must be in letters at least three inches high. Therefore, compliance could be achieved with three inch letters. In A STUDY OF HAZARDOUS MATERIALS INFORMATION NEEDS IDENTIFICATION SYSTEMS FOR TRANSPORTATION PURPOSES (Report No. TSA-20-72-4, available from the National Technical Information Service, Springfield, Va. 22151) prepared for the Department of Transportation by the Design and Development Center, Northwestern University in April, 1972, it was noted at page 74 that for viewing distances of 500 feet, the

minimum size of lettering is ten inches. What this means is that is order to read a sign with three inch letters, a person with normal eyesight must be considerably closer than 500 feet.

44. The language in the Rhode Island Rule whose meaning is unclear is the following: "The application for a permit may be submitted for a period of use of up to two weeks duration prior to utilization of said permit."

45. The general requirements in 49 CFR Part 394 also refer to the additional reporting requirements applicable to hazardous materials carriers. 49 CFR 394.1(d).

46. See the discussion of State accident reporting requirements in light of the Federal Railroad Safety Act in NARUC v. Coleman, *supra* note 31.

Appendix.—State of Rhode Island Public Utilities Commission; Division of Public Utilities and Carriers

Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas Intended To Be Used by a Public Utility

These Regulations Are to Include Motor Carriers Operating in Intrastate Commerce as Well as Motor Carriers in Interstate Commerce Where the Loading or Unloading of Tank Trailers is Required To Be Performed Within the State of Rhode Island. Effective: November 3, 1978.

Declaration of Policy

It is hereby declared to be the policy of the state to regulate the transportation of hazardous materials, as herein defined, within the boundaries and/or over the highways and roads of this state. The Division of Public Utilities and Carriers is authorized to regulate the transportation of Liquefied Natural Gas and Liquefied Propane Gas intended for use by a public utility over the highways and roads of this state and anywhere within its boundaries in accordance with the provisions of Sections 39-1-2.1 and 45-2-17 of the General Laws of Rhode Island, as amended. Further, said Division is charged with the safety and welfare of the citizens of the State of Rhode Island and their property located within its bounds under these sections.

Therefore, these rules and regulations are hereby promulgated by said Division pursuant to the authority cited herein.

Definitions: Terms used herein shall be construed as follows unless another meaning is expressed or is clearly apparent from the language or content.

Administrator: Means the Administrator of the Division of Public Utilities and Carriers. Application: Any written request to the Division of Public Utilities and Carriers for a permit.

Carrier: See "Motor Carrier".

Confirmation of Permit: A Permit shall be deemed valid when the operator of the vehicle, upon request, can produce the permit, or an authorized telegram, telex or twx sent by the Division of Public Utilities and Carriers of the State of Rhode Island.

Federal Dept. of Transportation Special Safety Permit: A permit issued for [sic] the Federal Department of Transportation for the use of a specific container to be used

for the transportation of Liquefied Natural Gas.

Liquefied Natural Gas: A fluid in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

Liquefied Petroleum Gas (LP-Gas or LPG): Any material having a vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, Propylene, Butane (normal butane or isobutane) and Butylenes.

Motor Carriers: A common carrier by motor vehicle, a contract carrier by motor vehicle, a private carrier by motor vehicle or an interstate carrier by motor vehicle.

Permit: A written document allowing the use of certain specified Rhode Island Highways for the transportation of hazardous material issued by the Administrator to a permittee.

Permittee: Any person who has applied for and has been issued a permit to transport hazardous material over certain Rhode Island Highways.

Person: Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing.

II. Permit Required

All motor carriers transporting Liquefied Natural Gas or Liquefied Propane Gas intended to be used by a public utility must have applied for and have received a Rhode Island Permit prior to transporting either Liquefied Natural Gas or Liquefied Propane Gas upon and along any highway, street or road within the State of Rhode Island.

III. Application for Permit

Any motor carrier transporting the commodities herein defined will file with the Motor Carrier Examiner, Division of Public Utilities and Carriers, an application at least 4 hours prior to the commencement of the transportation service over said Rhode Island Highways. The application for a permit may be submitted for a period of use of up to two weeks duration prior to utilization of said permit.

The application will include the following:

1. Name and mailing address of the carrier.
2. A detailed description of the route/routes to be followed by the carrier.
3. Description of commodity to be transported, type of label required and quantity.
4. Date and time the transportation service will be provided.
5. Origin and destination of shipment.
6. Vehicle identification number.
7. Vehicle registration.
8. Proof of vehicle inspection.
9. Proof of proper insurance coverage.
10. A certification from the shipper

certifying that the load is in compliance with the applicable motor carrier safety regulations of the Federal Department of Transportation.

11. A certification from the carrier certifying that the load is in compliance with the applicable motor carrier safety regulations of the Federal Department of Transportation.

The permit, a confirmation of such permit, or a copy of the permit shall be retained in the possession of the operator of the vehicle at all times while transporting the herein defined commodities over Rhode Island Highways.

IV. Radio Communications

Any motor carrier, as herein defined, transporting commodities, as herein defined, over the highways of this state will be equipped with a two-way radio within easy reach of the driver. This radio will be utilized to alert the appropriate federal, state or municipal agencies of any accident or mishap occurring within the State of Rhode Island.

V. Hours of Travel

No transportation of Liquefied Natural Gas and Liquefied Propane Gas, as herein defined, will be transported [sic] over any highway, street or road of this state during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday.

VI. Notice of Accidents

Any motor carrier transporting the commodities herein defined must immediately notify the Rhode Island State Police, and must file in writing with the Motor Carrier Examiner, Division of Public Utilities and Carriers, and the Rhode Island Department of Transportation, notice of any accident, mishap, or any safety irregularities, within twenty-four (24) hours of same.

VII.

All vehicles will be equipped with a sign on the rear bumper with the following notation: "MUST STAY BACK 500 FEET"

All letters must be at least three (3) inches high and be illuminated for evening travel.

VIII.

All vehicles used for the transportation of Liquefied Natural Gas or Liquefied Propane Gas are required to travel with headlights on at all times while within the State of Rhode Island, whether said vehicle is delivering to a public utility or returning to its out-of-state terminal, having made a delivery.

IX.

All trailers shall be equipped with a frangible shank type lock to prevent tampering of valves or equipment.

X.

Prior to leaving and upon arrival at loading/unloading areas, drivers along with proper personnel, will inspect their vehicle and trailers for defects in safety equipment and for liquid and gas leaks. Any repairs necessary shall be made as required before leaving for travel over the highways.

XI. Other Regulatory Control

These regulations shall be considered as being in addition to any Federal regulations governing the transportation of hazardous materials.

[FR Doc. 79-38856 Filed 12-19-79; 8:45 am]

BILLING CODE 4910-60-M

Thursday
December 20, 1979

Part V

Federal Emergency Management Agency

Temporary Housing Pre-Termination
Procedure

FEDERAL EMERGENCY
MANAGEMENT AGENCY

44 CFR Part 206

[Docket No. FEMA-DR-206]

Temporary Housing Pre-Termination
ProcedureAGENCY: Federal Emergency
Management Agency.

ACTION: Final Rule.

SUMMARY: This rule prescribes a pre-termination hearing procedure to be followed by the Office of Disaster Response and Recovery, Federal Emergency Management Agency, with respect to termination of assistance for, or eviction from, temporary housing provided under the Disaster Relief Act of 1974. It is identical to procedures established by the Department of Housing and Urban Development (HUD) to deal with these matters when the Disaster Relief Temporary Housing Program was administered by HUD.

EFFECTIVE DATE: This rule is effective on December 20, 1979.

ADDRESS: Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone: (202) 634-4113.

SUPPLEMENTARY INFORMATION: An identical procedure to that established by this rule was used during the time that the Disaster Relief Program was being administered by HUD, including the period of administration of the Temporary Housing Program by the HUD Assistant Secretary for Housing under a delegation from the Federal Disaster Assistance Administration. The prior regulation is set out at 24 CFR Part 470. However, as the regulation was issued by the Secretary, HUD, and was not an FDAA regulation, it was not transferred to FEMA at the time the FDAA Disaster Relief Act regulations were transferred. This regulation uses the same procedure as is contained in Part 470 except that FEMA is substituted for HUD. The procedure has been used since August 1975. For this reason, it is determined that notice and public procedure is unnecessary. Furthermore, since this is a procedural rule it should be immediately effective.

Accordingly, Subchapter D of Chapter 1 of Title 44 is amended by adding a new Part 206 as follows:

PART 206—TEMPORARY HOUSING
PRE-TERMINATION PROCEDURE

- Sec.
206.1 Purpose.
206.2 Termination of benefits.
206.3 Administrative procedure prior to hearing.
206.4 Request for hearing.
206.5 Hearing panel.
206.6 Hearing.
206.7 Decision.
206.8 Appeal from decision.
206.9 Notice to vacate premises.
206.10 Termination of assistance.

Authority: Sec. 601 of the Disaster Relief Act of 1974, (42 U.S.C. 5201).

§ 206.1 Purpose.

The purpose of this Part is to prescribe a pre-termination hearing procedure to be followed by the Federal Emergency Management Agency (FEMA) regarding termination of assistance for, or eviction from, temporary housing provided under the Disaster Relief Act of 1974 (the "Act") as a result of a major disaster. This procedure is applicable to any dispute with respect to action terminating assistance for, or evicting a tenant from, such temporary housing, and is available to any tenant (including an occupant) of such housing who is or may be adversely affected by the action.

§ 206.2 Termination of benefits.

Written notice shall be delivered to the tenants at least 30 days prior to the proposed termination by FEMA of assistance for or eviction by FEMA from temporary housing, specifying the reasons for termination of assistance of tenancy; the date of termination, which shall be not less than 30 days after receipt of the notice; and the administrative procedure available to the tenant if he/she wishes to dispute the action.

§ 206.3 Administrative procedure prior to hearing.

(a) *Filing of complaint.* If the tenant desires to dispute the termination, upon receipt of the written notice specified in § 206.2 he shall present his complaint in writing to the appropriate FEMA office in person or by mail within five business days or such additional time as FEMA may for good cause allow. The complaint must be signed by the tenant and give the reasons or grounds why the assistance or tenancy should not be terminated and for any other action requested.

(b) *Informal conference.* The appropriate FEMA official shall, immediately upon receipt of complaint, attempt to arrange an informal conference with the complaining tenant in an effort to settle the matter without a

hearing. Whether or not the matter is settled by an information conference, an answer in writing to each complaint, dated and signed by the appropriate FEMA official, shall be delivered or mailed to the complainant within five business days after receipt of the complaint or such additional time as FEMA may for good cause allow. The answer shall specify the determination which has been made, based on consideration of the information in the complaint and/or provided at any informal conference, and the specific reasons for the determination. If the determination is made to terminate the assistance or the tenancy, the tenant shall be advised in writing of his right to request a hearing on the matter within ten business days after receipt of the determination and of the procedure for obtaining such a hearing.

§ 206.4 Request for hearing.

If the tenant desires to dispute any determination made under § 206.3, he/she may submit in writing a request for a hearing to the appropriate FEMA office in person or by mail within ten business days after receipt of the determination. A hearing date shall be scheduled promptly for a time and place reasonably convenient to the complaining tenant who shall be notified promptly thereof in writing. The notice of hearing shall specify the procedure governing the hearing.

§ 206.5 Hearing panel.

(a) The Hearing Panel shall consist of three members: One tenant member, one member representing FEMA, and one impartial and disinterested member (together with an alternate) who shall be chosen by the other two Hearing Panel members. Relatives of the complaining tenant, and officials and employees of FEMA whose duties or responsibilities have involved them in any way with the complaint, shall not be eligible to serve on the Panel. The impartial and disinterested member of the Panel shall not be an official or employee of the FEMA office in which the complaint originated or a tenant receiving temporary housing assistance under the Act. In the event that the two Hearing Panel members cannot agree on the third impartial member, the third member shall be appointed by the Commercial Arbitration Tribunal of the American Arbitration Association.

(b) In the event that no tenant is available for selection as a member of the Hearing Panel in accordance with these regulations, then the hearing shall be conducted by a single impartial and disinterested Hearing Officer appointed in the same manner as provided in

§ 206.5(a) for appointment of the impartial member of a Hearing Panel.

§ 206.6 Hearing.

(a) *Due process requirement.* The complaining tenant shall be afforded a fair hearing providing the basic safeguards of due process before the Hearing Panel and may be represented by counsel or another person chosen as his/her representative. The hearing shall be private unless the complainant requests and the Hearing Panel agrees to a public hearing. This restriction shall not be construed to limit the attendance of persons with a valid interest in the proceedings.

(b) *Availability of documents.* The complainant may examine before the hearing and, at his/her expense, copy all documents and records of the appropriate FEMA office that are relevant to the hearing. Any document not made available, after request therefor by the complainant, may not be relied on by FEMA at the hearing. The complainant may request in advance and at his/her expense a transcript of the hearing.

(c) *Deposit of rentals and other charges.* If the dispute involves rentals or other charges which FEMA claims are due, the complainant shall deposit the amount in dispute in an escrow account before a hearing is scheduled. This requirement may be waived by FEMA in extenuating circumstances. Failure to make such deposit shall not constitute a waiver of complainant's right to contest FEMA's disposition of his/her complaint in an appropriate judicial proceeding.

(d) *Failure to appear.* If a complainant fails to appear at a hearing, the Hearing Panel may postpone the hearing for not to exceed five business days or make a determination that complainant has waived his/her right to a hearing. Such determination shall not constitute a waiver of complainant's right to contest FEMA's disposition of his/her complaint in an appropriate judicial proceeding.

(e) *Proof.* At the hearing, the complainant must first make a prima facie case; thereafter, FEMA must sustain the burden of proof in justifying the action against which the complaint is directed. The complainant shall have the right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by FEMA, and to confront in a reasonable manner and cross-examine all witnesses on whose testimony or information FEMA relies. Hearings shall be conducted informally by the Hearing Panel and any oral or documentary evidence pertinent to the facts and issues raised by the complaint may be

received without regard to its admissibility under rules of evidence employed in judicial proceedings.

§ 206.7 Decision.

The decision of the Hearing Panel shall be based solely and exclusively upon facts presented at the hearing and upon applicable Federal and State law, and FEMA regulations and requirements promulgated thereunder. The Hearing Panel shall prepare a written decision setting forth a statement of findings and conclusions, together with the reasons or basis therefor, upon all material issues raised by the parties, within five business days after the hearing, or such additional time as FEMA may for good cause allow. The decision of the Hearing Panel shall be binding on FEMA which shall take all actions necessary to carry out the decision or refrain from any action prohibited by the decision unless the FEMA General Counsel determines and notifies the complainant in writing within 30 days, or such additional time as FEMA may for good cause allow, that the decision of the Hearing Panel is not legally supportable. Any such decision of the FEMA General Counsel may be judicially reviewed.

§ 206.8 Appeal from decision.

A decision by the Hearing Panel in favor of FEMA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, rights he/she may have to a trial de novo in judicial proceedings which may thereafter be brought in the matter. In such judicial proceedings, FEMA shall, by stipulation or other appropriate means, be limited to invoking against the complainant grounds originally relied on by FEMA in its proposed disposition of the complaint, but may respond to any new matters raised by the complainant.

§ 206.9 Notice to vacate premises.

If the tenant has requested a hearing on a notice of termination of tenancy pursuant to § 206.2 and the Hearing Panel upholds FEMA's decision to evict, an action to regain possession may not be commenced until the tenant's right to use and occupancy of the premises has been terminated by lawful written notice. Such notice to vacate may not be given prior to the date on which the Hearing Panel's decision is delivered or mailed to the tenant. In no case may eviction occur prior to the termination date stated in the original notice of termination of tenancy. When such notice to vacate is given to the tenant, he/she must be informed in writing that, if he/she fails to quit the premises

within three days, appropriate action will be brought against him/her and that if suit is brought against him/her, he/she may be required to pay court costs and attorney fees. If the tenant elects to contest the legal action, FEMA must establish that the reasons on which it relied in the administrative proceedings constitute good cause for eviction under applicable laws and regulations.

§ 206.10 Termination of assistance.

If the Hearing Panel upholds FEMA's decision to terminate assistance for temporary housing, such assistance may be terminated in accordance with the original notice given pursuant to § 206.2 at any time after the 30 days specified in the original notice have elapsed.

Issued at Washington, D.C. this 13th day of December, 1979.

Thomas R. Casey,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

FR Doc. 79-38944 Filed 12-19-79; 8:45 am]

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Massachusetts Federal Register

Thursday
December 20, 1979

Part VI

Department of Transportation

Urban Mass Transportation
Administration

Urbanized Area Formula Apportionments

DEPARTMENT OF TRANSPORTATION Urban Mass Transportation Administration

Urbanized Area Formula Apportionments

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice

SUMMARY: This Notice: 1. Describes the formula apportionment mechanism of section 5 of the Urban Mass Transportation Act of 1964, as amended. 2. Presents uniform terms for the subcategories of the section 5 program. 3. Provides the apportionment under Section 5 for fiscal year 1980. The apportionments presented here are in the format of the new uniform terms mentioned above.

4. Indicates the fixed-guideway/commuter rail data audit reports which have been received to date. These reports, submitted by the urbanized areas, are required in order for grants of some of the Section 5 funds to be made.

FOR FURTHER INFORMATION CONTACT: John Barber, Office of Program Analysis, UMTA, 400 Seventh Street, SW., Washington, D.C. 20590. Phone 202-472-7100.

SUPPLEMENTARY INFORMATION

I. Background

A program of federal assistance to urban mass transportation systems through grants on a formula basis for capital and operating assistance was enacted November 26, 1974 as section 5 of the Urban Mass Transportation Act of 1964, as amended (UMTA Act). An aggregate amount of \$3,975 million was authorized for this program for fiscal years 1975 through 1980. The Surface Transportation Assistance Act of 1978 (STAA) authorized \$6,525 million for section 5 for fiscal years 1979 through 1982 of which a total of \$1,530 million is authorized for fiscal year 1980. The Department of Transportation and Related Agencies Appropriations Act of 1980 (Public Law 96-131) appropriates \$1,405 million for apportionment in fiscal year 1980.

II. Previous Apportionment Mechanism

The legislation in effect from fiscal years 1975 through 1978, section 5(b)(1) of the Urban Mass Transportation Act of 1964, as amended, directed the Secretary of Transportation to apportion authorized funds "on the basis of a population and population density formula" as follows:

A. One-half of the funds apportioned according to population. Each urbanized area's share is proportional to the ratio

of that area's population to the total population of all urbanized areas.

B. The other half of the funds are apportioned according to the product of population and population density. Each urbanized area's share is proportional to the ratio of the product population and population density for that area to the total of the products of population and population density for all the urbanized areas.

III. New Apportionment Mechanism

The Surface Transportation Assistance Act of 1978 changed the formula for the operating assistance program. Section 5(a) of the UMT Act, as amended, (the "Act") directs the Secretary to apportion the funds appropriated to the urbanized areas on the basis of several factors. These factors, and the amounts attributable to each in fiscal year 1980, are as follows:

A. Under paragraph (a)(1) of section 5 of the UMT Act, \$850 million is to be apportioned among all the urbanized areas on the basis of their populations and population densities. These funds are available for capital or operating purposes, are apportioned by population and population density as in the previous legislation, and are referred to in the new uniform terms as the "First Tier" or "Tier I."

B. Under paragraph (a)(2) of section 5 of the UMT Act, \$165 million is to be apportioned on the basis of population and population density. These funds are referred to in the new uniform terms as the "Second Tier" or "Tier II." These funds, which are available for capital or operating purposes, are apportioned as follows:

1. 85% of the funds are apportioned among urbanized areas with populations greater than 750,000. Each urbanized area's share is determined in a manner identical to that described in III A, with the exception that the population and population density of each such urbanized area is compared to the totals for those urbanized areas over 750,000 population instead of for all urbanized areas in the country.

2. 15% of the funds are apportioned among urbanized areas with populations less than 750,000. Each such urbanized area's share is determined in a manner identical to that described in III A, with the exception that population and population density of each such urbanized area is compared to the totals for those urbanized areas under 750,000 population instead of for all urbanized areas in the country.

C. Under paragraph (a)(3) of Section 5 of the UMT Act, \$90 million is to be apportioned among all the urbanized areas on the bases of their fixed

guideway and commuter rail route mileages and commuter rail train mileages. These funds, including both fixed guideway and commuter rail amounts, are referred to in the new uniform terms as the "Third Tier" or "Tier III." Data used to determine these appropriations are supplied by the Metropolitan Planning Organizations of the urbanized areas, pursuant to the reporting requirements presented in the Federal Register of December 18, 1978 (43 FR 58935), with modifications presented in the Federal Register January 22, 1979 (44 FR 4493) and May 3, 1979 (44 FR 26050).

These funds which are available for capital and operating expenses related to both fixed guideway and commuter rail systems, are apportioned as follows:

1. Two thirds of the appropriation is to be apportioned based upon the commuter rail service serving each urbanized area. No single eligible state's portion of an urbanized area shall receive more than 30% nor less than 1/2 of 1% of the amount apportioned under the subcategory. The funds are apportioned as follows:

a. One half of this amount is to be apportioned according to commuter rail route miles. Each eligible urbanized area's share is proportional to the ratio of the commuter rail route miles within or serving the area to the total of all such commuter rail route miles within or serving all the urbanized areas.

b. One half of this amount is to be apportioned according to commuter rail train miles. Each eligible urbanized area's share is proportional to the ratio of the commuter rail train miles operated within or serving the area to the total of all such commuter rail train miles operated within or serving all the urbanized areas.

2. The remainder of the amount appropriated is to be apportioned according to the number of fixed guideway route miles in each urbanized area. Each eligible urbanized area's share is proportional to the ratio of the fixed guideway route miles (excluding commuter rail) within the urbanized area to the total of all such fixed guideway route miles in all the urbanized areas. No single urbanized area shall receive more than 30% of amount apportioned under this subcategory.

D. Under paragraph (a)(4) of section 5 of the UMT Act, \$300 million is to be apportioned among all the urbanized areas on the basis of their populations and population densities, in the same manner as described in III A above. These funds are available only for the purchase of buses and related equipment, or the construction of bus

related facilities. These funds are referred to in the new uniform terms as the "Fourth Tier" or "Tier IV."

IV. Apportionment for Fiscal Year 1980

This notice contains the apportionment for fiscal year 1980. Values are presented in the format of the new uniform terms described in III, above. The funds shown in this notice will remain available to be granted by UMTA for three fiscal years following fiscal year 1980.

The Third Tier apportionments were determined on the basis of certified data submitted to UMTA by the urbanized areas under the reporting requirements set forth in the Federal Register of December 18, 1978 (43 FR 58935), with modifications presented in the Federal Register of January 22, 1979 (44 FR 4493) and May 3, 1979 (44 FR 26050). The fiscal year 1979 apportionments of Third Tier funds, presented in the Federal Register of September 20, 1979 (44 FR 54662), contained errors due to incorrect data reported by several urbanized areas. This incorrect data resulted in reduced apportionments in fiscal year 1979 for all the other urbanized areas receiving Third Tier apportionments. Correct fiscal year 1979 apportionments, pending the receipt of further audit reports of the data used, have been calculated for all urbanized areas. The differences between the correct apportionments and the previously published values have been determined, and the excesses and deficiencies were added to the apportionments calculated for fiscal year 1980. The values presented here are the fiscal year 1980 apportionments with the resulting adjustments for fiscal year 1979 and, subject to other statutory and regulatory limitations, are available for grants. Grants already awarded for fiscal year 1979 apportionments are not affected, and any funds remaining from the previously published (44 FR 54662) fiscal year 1979 apportionments are still available.

Amounts apportioned to urbanized areas greater than 200,000 in population are available directly to those urbanized areas. Amounts apportioned to urbanized areas under 200,000 in population are available to the Governors of the state(s) in which the urbanized area or a portion of an urbanized area is located. Amounts for these areas are listed under their states, and a state total is shown.

The tables in this notice contain round-off errors for some items of information. In cases of differences, the controlling apportionments will be the urbanized area aggregate for multi-state urbanized areas over 200,000 in population and the state aggregate for

urbanized areas under 200,000 in population.

V. Status of Third Tier Data Audit Reports

As stated in 49 CFR Part 630 Subpart D, Appendix A, published in the December 18, 1978 Federal Register (43 FR 58928), an audit of the fixed guideway and commuter rail data used in calculating the Section 5 Third Tier funds is required. After the publication of the Third Tier apportionments based upon the submitted data, but prior to receipt of the audit report, one half of the Third Tier amounts apportioned to each area will be available. If the urbanized area's audit report confirms the data submitted, the remaining half of the Third Tier funds will be made available to that area. If the audit report provides data which would have caused an apportionment greater than the amount actually apportioned, the amount made available will be limited to that actually apportioned. If the audit report provides data which would have caused an apportionment which is less than the amount actually apportioned, only the amount resulting from the data verified by the audit report shall be made available. Excess funds resulting from such a restriction will be added to the total amount for the next year's apportionment to all areas in this category.

To date, audit reports for data used in fiscal year 1979 apportionments have been received from the following urbanized areas, or state parts of urbanized areas:

Allentown-Easton-Bethlehem, NJ-PA (NJ part only)
Bridgeport, CT
New Haven, CT
New York, NJ-NY (NJ and NY parts)
Philadelphia, NJ-PA (NJ and PA parts)
Pittsburgh, PA
San Diego, CA
Trenton, NJ
Stamford, CT
Norwalk, CT
Danbury, CT
Waterbury, CT
Atlantic City, NJ

To date, audit reports for data used in fiscal year 1980 apportionments have been received from the following urbanized areas, or state parts of urbanized areas:

Aurora-Elgin, IL
Bridgeport, CT
Chattanooga, TN
Chicago, IL-IN (IL part only)
Detroit, MI
Madison, WI
New Haven, CT
New Orleans, LA
New York, NY-NJ (NY part only)
Philadelphia, NJ-PA (NJ and PA parts)

San Diego, CA
Seattle-Everett, WA
Stamford, CT
Norwalk, CT
Danbury, CT
Waterbury, CT
Joliet, IL

Also as stated in 49 CFR Part 630 Subpart D, Appendix A, fixed guideway and commuter rail data for the Third Tier section 5 apportionments are to be submitted to the UMTA regional offices by the urbanized areas by May 1, for the apportionments for the fiscal year beginning October 1 of that calendar year. In addition, the audit reports for the data are to be submitted within two months of the specified data for submittal of the data (i.e., by July 1). Adherence to this schedule for submittal of the data and of the audit reports will enhance the timely and accurate calculation and publication of the apportionments, and will expedite the awarding of grants against those apportionments.

Dated: December 17, 1979.

Lillian C. Liburdi,

Acting Deputy Administrator.

BILLING CODE 4910-57-M

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support Sect. 5 (a) (1)	Operating and Capital Support Sect. 5 (a) (2)	Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Bus Capital Support Sect. 5 (a) (4)
Akron, Ohio.....	3,157,719	302,159		1,114,489
Albany—Schenectady—Troy, New York.....	3,070,930	299,506		1,083,858
Albuquerque, New Mexico.....	1,713,082	163,515		604,617
Allentown—Bethlehem—Easton, PA—NJ.....	2,439,889	241,112	453,335	861,137
(Part: New Jersey).....	171,952	17,050	453,335	60,689
(Part: Pennsylvania).....	2,267,937	224,062		800,448
Atlanta, Georgia.....	6,852,606	1,664,298		2,418,567
Aurora—Elgin, Illinois.....	1,429,488	138,536	331,409	504,525
Austin, Texas.....	1,634,865	158,697		577,011
Baltimore, Maryland.....	12,551,158	2,966,845	758,870	4,429,820
Baton Rouge, Louisiana.....	1,512,737	146,196		533,907
Birmingham, Alabama.....	3,158,174	300,117		1,114,650
Boston, Massachusetts.....	18,501,007	4,419,705	6,437,707	6,529,767
Bridgeport, Connecticut.....	2,444,918	234,893	306,090	862,912
Buffalo, New York.....	8,615,771	2,036,906		3,040,860
Canton, Ohio.....	1,527,163	148,625		538,999
Charleston, South Carolina.....	1,255,955	118,471		443,282
Charlotte, North Carolina.....	1,620,861	154,972		572,068
Chattanooga, Tennessee—Georgia.....	1,154,109	106,990	43,409	407,332
(Part: Georgia).....	151,095	14,052		53,328
(Part: Tennessee).....	1,003,014	92,938	43,409	354,005
Chicago, Illinois, Northwestern Indiana.....	54,249,398	12,807,189	15,964,468	19,146,846
(Part: Illinois).....	51,264,445	12,079,569	14,882,820	18,093,333
(Part: Indiana).....	2,984,953	727,620	1,081,649	1,053,513
Cincinnati, Ohio—Kentucky.....	7,088,076	1,706,784		2,501,674
(Part: Kentucky).....	1,186,476	287,289		418,756
(Part: Ohio).....	5,901,599	1,419,495		2,082,917
Cleveland, Ohio.....	12,028,422	2,907,202	1,553,055	4,245,325
Colorado Springs, Colorado.....	1,121,182	105,637		395,711
Columbia, South Carolina.....	1,337,774	126,394		472,161
Columbus, Georgia—Alabama.....	1,085,609	100,871		383,156
(Part: Alabama).....	117,254	10,519		41,384
(Part: Georgia).....	968,355	90,352		341,772
Columbus, Ohio.....	5,080,395	1,222,489		1,793,080
Corpus Christi, Texas.....	1,045,974	95,572		369,167
Dallas, Texas.....	6,992,046	1,718,526		2,467,781
Davenport—Rock Island—Moline, IA—IL.....	1,450,842	136,541		512,062
(Part: Illinois).....	806,527	77,013		284,656
(Part: Iowa).....	644,315	59,528		227,405
Dayton, Ohio.....	4,226,022	409,917		1,491,537
Denver, Colorado.....	6,925,190	1,662,159		2,444,185
Des Moines, Iowa.....	1,416,384	133,842		499,900
Detroit, Michigan.....	29,638,846	7,040,444	437,921	10,460,769
El Paso, Texas.....	2,010,170	193,453		709,472
Flint, Michigan.....	2,139,106	209,825		754,798
Fort Lauderdale—Hollywood, Florida.....	3,692,036	356,134		1,303,072
Fort Wayne, Indiana.....	1,427,450	139,351		503,806
Fort Worth, Texas.....	3,371,399	309,260		1,189,906
Fresno, California.....	1,680,358	164,337		593,068
Grand Rapids, Michigan.....	1,973,395	186,986		696,492

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)
 (Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support Sect. 5 (a) (1)	Operating and Capital Support Sect. 5 (a) (2)	Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Bus Capital Support Sect. 5 (a) (4)
Harrisburg, Pennsylvania.....	1,485,556	144,148		524,314
Hartford, Connecticut.....	3,069,066	302,228		1,083,200
Honolulu, Hawaii.....	3,029,588	300,613		1,069,266
Houston, Texas.....	10,417,733	2,515,101		3,676,847
Indianapolis, Indiana.....	4,403,173	1,078,962		1,554,061
Jacksonville, Florida.....	2,545,016	230,931		898,241
Kansas City, Missouri—Kansas.....	5,993,314	1,466,507		2,115,287
(Part: Kansas).....	2,007,476	488,510		708,521
(Part: Missouri).....	3,985,838	977,997		1,406,766
Lansing, Michigan.....	1,427,466	138,760		503,812
Las Vegas, Nevada.....	1,229,382	114,170		433,900
Lawrence—Haverhill, MA—NH.....	1,113,758	105,366		393,091
(Part: Massachusetts).....	1,030,258	97,853		363,620
(Part: New Hampshire).....	83,501	7,513		29,471
Little Rock—North Little Rock, Arkansas.....	1,230,777	116,260		434,392
Los Angeles—Long Beach, California.....	67,881,147	16,018,124	1,313,616	23,958,051
Louisville, Kentucky—Indiana.....	4,848,471	476,800		1,711,225
(Part: Indiana).....	490,469	47,318		173,107
(Part: Kentucky).....	4,358,003	429,482		1,538,119
Madison, Wisconsin.....	1,252,524	121,193	57,878	442,067
Memphis, Tennessee—Mississippi.....	4,285,501	420,010		1,512,530
(Part: Mississippi).....	56,023	5,457		19,774
(Part: Tennessee).....	4,229,473	414,553		1,492,755
Miami, Florida.....	9,276,823	2,200,313		3,274,173
Milwaukee, Wisconsin.....	7,370,670	1,788,832		2,601,413
Minneapolis—St. Paul, Minnesota.....	9,463,425	2,310,549	212,219	3,340,032
Mobile, Alabama.....	1,244,159	113,041		439,115
Nashville—Davidson, Tennessee.....	2,075,978	186,120		732,698
New Haven, Connecticut.....	2,202,671	214,911	306,090	777,413
New Orleans, Louisiana.....	7,744,940	1,828,871	655,949	2,733,508
Newport News—Hampton, Virginia.....	1,374,453	127,143		485,101
New York, N.Y., Northeastern, New Jersey.....	151,121,410	35,318,634	33,260,044	53,336,965
(Part: New Jersey).....	30,223,057	7,292,241	8,226,572	10,666,961
(Part: New York).....	120,898,348	28,026,393	25,033,472	42,670,004
Norfolk—Portsmouth, Virginia.....	3,635,665	341,967		1,283,176
Oklahoma City, Oklahoma.....	2,883,544	265,013		1,019,486
Omaha, Nebraska—Iowa.....	3,112,233	303,712		1,098,435
(Part: Iowa).....	305,486	27,545		107,818
(Part: Nebraska).....	2,806,748	276,167		990,617
Orlando, Florida.....	1,684,634	159,025		594,577
Oxnard—Ventura—Thousand Oaks, California.....	1,322,277	124,152		466,686
Peoria, Illinois.....	1,361,941	128,543		480,685
Philadelphia, Pennsylvania—New Jersey.....	32,810,617	7,740,191	12,865,931	11,580,218
(Part: New Jersey).....	4,657,968	1,123,666	1,403,465	1,643,989
(Part: Pennsylvania).....	28,152,649	6,616,525	11,457,466	9,936,229
Phoenix, Arizona.....	4,691,820	1,148,161		1,655,936
Pittsburgh, Pennsylvania.....	11,429,704	2,760,160	1,749,399	4,034,013
Portland, Oregon—Washington.....	5,105,340	1,232,938		1,801,885
(Part: Oregon).....	4,703,373	1,134,685		1,660,014
(Part: Washington).....	401,967	98,253		141,871

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support Sect. 5 (a) (1)	Operating and Capital Support Sect. 5 (a) (2)	Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Bus Capital Support Sect. 5 (a) (4)
Providence—Pawtucket—Warwick, RI—MA.....	5,037,340	1,213,845	600,000	1,777,885
(Part: Massachusetts).....	343,822	84,526	300,000	121,349
(Part: Rhode Island).....	4,693,517	1,129,319	300,000	1,656,535
Richmond, Virginia.....	2,501,293	241,176		882,809
Rochester, New York.....	4,265,224	426,156		1,505,373
Rockford, Illinois.....	1,326,889	129,976		468,314
Sacramento, California.....	3,692,514	352,504		1,303,240
Salt Lake City, Utah.....	2,761,058	263,553		974,491
San Antonio, Texas.....	5,033,251	1,209,685		1,776,442
San Bernadino—Riverside, California.....	2,996,191	277,323		1,057,479
San Diego, California.....	7,474,834	1,803,814	832,951	2,638,177
San Francisco—Oakland, California.....	21,870,026	5,203,346	4,585,137	7,718,832
San Jose, California.....	6,888,691	1,651,030	394,816	2,431,303
San Juan, Puerto Rico.....	8,568,697	1,988,472		3,024,246
Scranton, Pennsylvania.....	1,082,448	101,097		382,040
Seattle—Everett, Washington.....	7,559,746	1,828,056	48,231	2,668,146
Shreveport, Louisiana.....	1,327,762	126,186		468,622
South Bend, Indiana—Michigan.....	1,714,112	164,851		604,981
(Part: Indiana).....	1,594,652	153,815		562,818
(Part: Michigan).....		11,036		42,162
Spokane, Washington.....	1,392,811	134,615		491,580
Springfield—Chicopee—Holyoke, MA—CN.....	2,765,759	259,332		976,150
(Part: Connecticut).....	326,912	31,011		115,381
(Part: Massachusetts).....	2,438,847	228,321		860,770
St. Louis, Missouri—Illinois.....	13,290,875	3,171,812		4,690,897
(Part: Illinois).....	1,759,873	429,326		621,132
(Part: Missouri).....	11,531,002	2,742,486		4,069,765
St. Petersburg, Florida.....	3,061,436	297,194		1,080,507
Syracuse, New York.....	2,596,744	258,077		916,498
Tacoma, Washington.....	1,910,418	182,239		674,265
Tampa, Florida.....	2,196,438	211,378		775,213
Toledo, Ohio—Michigan.....	2,957,089	285,765		1,043,678
(Part: Michigan).....	54,635	4,891		19,283
(Part: Ohio).....	2,902,453	280,874		1,024,395
Trenton, New Jersey—Pennsylvania.....	1,959,987	196,131	795,070	691,760
(Part: New Jersey).....	1,769,055	177,677	795,070	624,372
(Part: Pennsylvania).....	190,932	18,454		67,388
Tucson, Arizona.....	1,748,218	168,149		617,018
Tulsa, Oklahoma.....	1,965,345	183,456		693,651
Washington, D.C.—Maryland—Virginia.....	19,530,925	4,620,045	3,246,605	6,893,268
(Part: Maryland).....	6,267,363	1,513,058	1,751,429	2,212,010
(Part: District of Columbia).....	8,877,159	2,046,656	819,935	3,133,115
(Part: Virginia).....	4,386,403	1,060,331	675,241	1,548,142
West Palm Beach, Florida.....	1,532,587	143,352		540,913
Wichita, Kansas.....	1,814,338	174,915		640,354
Wilkes-Barre, Pennsylvania.....	1,302,980	124,837		459,875
Wilmington, Delaware—New Jersey.....	2,391,406	234,272		844,026
(Part: Delaware).....	2,286,067	224,669		806,847
(Part: New Jersey).....	105,339	9,603		37,178
Worcester, Massachusetts.....	1,496,436	144,533		528,154
Youngstown—Warren, Ohio.....	2,442,410	237,032		862,027

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support Sect. 5 (a) (1)	Operating and Capital Support Sect. 5 (a) (2)	Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Bus Capital Support Sect. 5 (a) (4)
ALABAMA				
Governors Apportionment for				
Alabama.....	2,822,553	259,731		996,195
(Huntsville, Alabama).....	663,774	59,076		234,273
(Montgomery, Alabama).....	814,998	78,138		287,646
(Tuscaloosa, Alabama).....	446,957	41,532		157,750
(Gadsden, Alabama).....	308,760	27,544		108,974
(Florence, Alabama).....	301,853	27,374		106,536
(Anniston, Alabama).....	286,211	26,067		101,016
ALASKA				
Governors Apportionment for				
Alaska.....	583,169	54,362		205,824
(Anchorage, Alaska).....	583,169	54,362		205,824
ARIZONA				
Governors Apportionment for				
Arizona.....				
ARKANSAS				
Governors Apportionment for				
Arkansas.....	823,371	76,808		290,602
(Fort Smith, Arkansas—Oklahoma).....	337,412	30,178		119,086
(Pine Buff, Arkansas).....	368,222	35,561		129,961
(Texarkana, Texas—Arkansas).....	117,738	11,069		41,554
CALIFORNIA				
Governors Apportionment for				
California.....	6,165,463	599,033		2,176,046
(Bakersfield, California).....	1,088,350	105,637		384,124
(Stockton, California).....	1,039,437	101,965		366,860
(Santa Barbara, California).....	849,159	83,469		299,703
(Modesto, California).....	656,772	63,774		231,802
(Seaside—Monterey, California).....	640,775	63,621		226,156
(Santa Rosa, California).....	390,853	36,320		137,948
(Santa Cruz, California).....	395,420	37,046		139,560
(Salinas, California).....	444,995	44,501		157,057
(Antioch-Pittsburg, California).....	346,910	33,202		122,439
(Simi Valley, California).....	312,793	29,498		110,398
COLORADO				
Governors Apportionment for				
Colorado.....	1,187,380	118,019		419,075
(Pueblo, Colorado).....	656,175	64,087		231,591
(Boulder, Colorado).....	531,204	53,932		187,484
CONNECTICUT				
Governors Apportionment for				
Connecticut.....	5,283,109	499,002	1,224,352	1,864,627
(Stamford, Connecticut).....	1,074,072	102,739	306,088	379,084

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support Sect. 5 (a) (1)	Operating and Capital Support Sect. 5 (a) (2)	Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Bus Capital Support Sect. 5 (a) (4)
CONNECTICUT—(Continued)				
(Waterbury, Connecticut).....	906,997	86,642	306,088	3(0,116
(New London—Norwich, Connecticut).....	709,510	65,545		250,415
(New Britain, Connecticut).....	843,522	82,582		297,714
(Norwalk, Connecticut).....	611,848	58,337	306,088	215,946
(Meriden, Connecticut).....	463,252	41,754		163,501
(Bristol, Connecticut).....	370,716	34,378		130,841
(Danbury, Connecticut).....	303,192	27,025	306,088	107,009
DELAWARE				
Governors Apportionment for Delaware				
DISTRICT OF COLUMBIA				
Governors Apportionment for Dist. of Columbia.....				
FLORIDA				
Governors Apportionment for Florida	4,769,603	443,923		1,683,389
(Melbourne—Cocoa, Florida).....	886,218	81,162		312,783
(Sarasota—Bradenton, Florida).....	850,436	78,490		300,154
(Pensacola, Florida).....	946,357	90,016		334,008
(Daytona Beach, Florida).....	538,111	48,390		189,922
(Tallahassee, Florida).....	449,177	42,894		158,533
(Gainesville, Florida).....	386,628	36,604		136,457
(Fort Myers, Florida).....	337,343	30,756		119,062
(Lakeland, Florida).....	375,332	35,611		132,470
GEORGIA				
Governors Apportionment for Georgia	2,833,584	270,044		1,000,088
(Savannah, Georgia).....	936,656	89,251		330,584
(Augusta, Georgia—South Carolina).....	748,659	71,901		264,232
(Macon, Georgia).....	725,926	69,014		256,209
(Albany, Georgia).....	422,344	39,878		149,062
HAWAII				
Governors Apportionment for Hawaii				
IDAHO				
Governors Apportionment for Idaho	512,779	49,472		180,981
(Boise, Idaho).....	512,779	49,472		180,981
ILLINOIS				
Governors Apportionment for Illinois	4,135,207	404,804	335,306	1,459,485
(Joliet, Illinois).....	926,383	89,156	335,306	326,959

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AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support Sect. 5 (a) (1)	Operating and Capital Support Sect. 5 (a) (2)	Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Bus Capital Support Sect. 5 (a) (4)
ILLINOIS—(Continued)				
(Springfield, Illinois).....	801,791	79,051		282,985
(Champaign—Urbana, Illinois).....	831,471	85,375		293,460
(Decatur, Illinois).....	581,119	55,634		205,101
(Alton, Illinois).....	528,816	49,905		186,641
(Bloomington—Normal, Illinois).....	453,391	44,553		160,020
(Dubuque, Iowa—Illinois).....	12,237	1,130		4,319
INDIANA				
Governors Apportionment for Indiana	2,987,403	291,315		1,054,378
(Evansville, Indiana).....	934,761	91,935		329,916
(Muncie, Indiana).....	606,937	59,978		214,213
(Terre Haute, Indiana).....	463,141	44,140		163,462
(Anderson, Indiana).....	412,644	38,149		145,639
(Lafayette—West Lafayette, Indiana).....	569,921	57,113		201,148
IOWA				
Governors Apportionment for Iowa	2,096,934	195,901		740,094
(Cedar Rapids, Iowa).....	705,971	66,096		249,166
(Waterloo, Iowa).....	554,200	50,621		195,600
(Sioux City, Iowa—Nebraska—South Dakota).....	423,859	38,603		149,597
(Dubuque, Iowa—Illinois).....	412,904	40,581		145,731
KANSAS				
Governors Apportionment for Kansas	754,950	71,743		266,453
(Topeka, Kansas).....	749,535	71,274		264,542
(St. Joseph, Missouri—Kansas).....	5,415	469		1,911
KENTUCKY				
Governors Apportionment for Kentucky	1,860,659	183,543		656,704
(Huntington—Ashland, WV—KY—OH).....	282,097	26,333		99,564
(Lexington, Kentucky).....	1,113,571	110,914		393,025
(Clarksville, Kentucky—Tennessee).....	72,457	6,774		25,573
(Owensboro, Kentucky).....	392,534	39,522		138,541
LOUISIANA				
Governors Apportionment for Louisiana	1,908,525	181,675		673,597
(Monroe, Louisiana).....	494,628	46,571		174,574
(Lake Charles, Louisiana).....	511,006	48,839		180,355
(Lafayette, Louisiana).....	490,349	47,706		173,064
(Alexandria, Louisiana).....	412,541	38,559		145,603
MAINE				
Governors Apportionment for Maine	832,255	75,704		293,737
(Portland, Maine).....	550,072	50,988		194,143
(Lewiston—Auburn, Maine).....	282,183	24,716		99,594

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(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
MARYLAND				
Governors Apportionment for Maryland				
MASSACHUSETTS				
Governors Apportionment for Massachusetts	4,395,030	424,080	600,000	1,551,187
(Lowell, Massachusetts)	1,107,119	106,974	300,000	390,748
(Brockton, Massachusetts)	887,770	85,462	300,000	313,330
(Fall River, Massachusetts—Rhode Island) ..	812,670	79,978		286,825
(New Bedford, Massachusetts)	929,257	92,483		327,973
(Fitchburg—Leominster, Massachusetts) ..	359,695	32,199		126,951
(Pittsfield, Massachusetts)	298,519	26,984		105,360
MICHIGAN				
Governors Apportionment for Michigan	4,897,146	471,774		1,728,404
(Ann Arbor, Michigan)	1,242,136	123,631		438,401
(Kalamazoo, Michigan)	806,160	75,292		284,527
(Saginaw, Michigan)	951,830	93,275		335,940
(Muskegon—Muskegon Hgts., Michigan) ..	555,393	51,743		196,021
(Jackson, Michigan)	423,492	39,733		149,468
(Bay City, Michigan)	475,760	46,028		167,915
(Battle Creek, Michigan)	442,374	42,072		156,132
MINNESOTA				
Governors Apportionment for Minnesota	1,406,298	133,505		496,340
(Duluth—Superior, MN—WI)	496,770	44,765		175,330
(Fargo—Moorhead, ND—MN)	205,681	20,136		72,593
(La Crosse, Wisconsin—Minnesota)	14,793	1,333		5,221
(Rochester, Minnesota)	381,551	37,738		134,665
(St. Cloud, Minnesota)	307,502	29,533		108,530
MISSISSIPPI				
Governors Apportionment for Mississippi	1,726,864	163,212		609,481
(Jackson, Mississippi)	1,099,909	105,112		388,203
(Biloxi—Gulfport, Mississippi)	626,955	58,100		221,278
MISSOURI				
Governors Apportionment for Missouri	1,333,929	123,918		470,798
(Springfield, Missouri)	627,093	58,152		221,327
(St. Joseph, Missouri)	427,259	40,542		150,797
(Columbia, Missouri)	279,577	25,224		98,674
MONTANA				
Governors Apportionment for Montana	861,750	83,282		304,147
(Billings, Montana)	412,961	39,486		145,751
(Great Falls, Montana)	448,788	43,796		158,396

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
NEBRASKA				
Governors Apportionment for Nebraska	970,269	93,584		342,448
(Lincoln, Nebraska)	929,939	89,860		328,214
(Sioux City, Iowa—Nebraska—South Dakota) ..	40,331	3,724		14,234
NEVADA				
Governors Apportionment for Nevada	579,169	55,401		204,412
(Reno, Nevada)	579,169	55,401		204,412
NEW HAMPSHIRE				
Governors Apportionment for New Hampshire	843,626	79,208		297,750
(Manchester, New Hampshire)	534,058	50,646		188,491
(Nashua, New Hampshire)	309,567	28,562		109,259
NEW JERSEY				
Governors Apportionment for New Jersey	1,013,418	92,404	513,039	357,677
(Atlantic City, New Jersey)	701,263	65,259	513,039	247,504
(Vineland—Millville, New Jersey)	312,156	27,145		110,173
NEW MEXICO				
Governors Appportionment for New Mexico				
NEW YORK				
Governors Apportionment for New York	3,046,115	291,384	117,101	1,075,100
(Utica—Rome, New York)	1,010,042	95,727		356,485
(Binghamton, New York)	1,050,256	102,316		370,678
(Poughkeepsie, New York)	526,374	48,703	117,101	185,779
(Elmira, New York)	459,445	44,638		162,157
NORTH CAROLINA				
Governors Apportionment for North Carolina	5,799,284	542,520		2,046,806
(Fayetteville, North Carolina)	873,284	82,023		308,218
(Raleigh, North Carolina)	818,555	76,741		288,902
(Greensboro, North Carolina)	861,964	81,920		304,222
(Winston—Salem, North Carolina)	766,391	71,851		270,491
(Durham, North Carolina)	557,710	52,696		196,839
(Gastonia, North Carolina)	464,399	42,400		163,906
(High Point, North Carolina)	473,083	43,596		166,970
(Asheville, North Carolina)	372,786	34,526		131,572
(Burlington, North Carolina)	310,984	28,877		109,759
(Wilmington, North Carolina)	300,127	27,890		105,927

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
NORTH DAKOTA				
Governors Apportionment for				
North Dakota.....	363,720	36,048		128,372
(Fargo—Moorhead, ND—MN).....	363,720	36,048		128,372
OHIO				
Governors Apportionment for				
Ohio	3,623,529	344,152		1,278,893
(Lorain—Elyria, Ohio).....	974,163	89,822		343,822
(Huntington—Ashland, WV—KY—OH).....	156,198	14,617		55,129
(Springfield, Ohio).....	629,489	62,224		222,172
(Wheeling, WV—OH).....	242,783	24,529		85,688
(Hamilton, Ohio).....	506,118	47,894		178,630
(Steubenville—Weirton, Ohio—West Virginia).....	273,797	26,035		96,634
(Mansfield, Ohio).....	399,275	36,979		140,920
(Lima, Ohio).....	402,758	38,393		142,150
(Parkersburg, West Virginia—Ohio).....	38,950	3,659		13,747
OKLAHOMA				
Governors Apportionment for				
Oklahoma	524,190	49,108		185,008
(Lawton, Oklahoma).....	515,573	48,368		181,967
(Fort Smith, Arkansas—Oklahoma).....	8,618	740		3,042
OREGON				
Governors Apportionment for				
Oregon	1,322,025	125,811		466,597
(Eugene, Oregon).....	792,030	75,362		279,540
(Salem, Oregon).....	529,995	50,449		187,057
PENNSYLVANIA				
Governors Apportionment for				
Pennsylvania	5,505,306	543,350		1,943,049
(Erie, Pennsylvania).....	1,223,790	121,901		431,926
(Reading, Pennsylvania).....	1,185,065	118,288		418,258
(York, Pennsylvania).....	784,243	76,642		276,792
(Lancaster, Pennsylvania).....	717,947	69,562		253,393
(Johnstown, Pennsylvania).....	623,745	61,199		220,145
(Altoona, Pennsylvania).....	583,426	58,355		205,915
(Williamsport, Pennsylvania).....	387,088	37,403		136,619
PUERTO RICO				
Governors Apportionment for				
Puerto Rico.....	2,505,208	262,555		884,191
(Ponce, Puerto Rico).....	1,292,012	136,465		456,004
(Mayaguez, Puerto Rico).....	538,113	54,628		189,922
(Chauas, Puerto Rico).....	675,083	71,462		238,264

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
RHODE ISLAND				
Governors Apportionment for				
Rhode Island.....	69,115	6,063		24,394
(Fall River, Massachusetts—Rhode Island)...	69,115	6,063		24,394
SOUTH CAROLINA				
Governors Apportionment for				
South Carolina.....	1,344,935	125,724		474,683
(Greenville, South Carolina).....	851,813	80,051		300,640
(Augusta, Georgia—South Carolina).....	105,033	9,485		37,070
(Spartanburg, South Carolina).....	388,089	36,188		136,972
SOUTH DAKOTA				
Governors Apportionment for				
South Dakota.....	449,319	43,162		158,583
(Sioux City, Iowa—Nebraska—South Dakota).....	3,805	336		1,343
(Sioux Falls, South Dakota).....	445,513	42,826		157,240
TENNESSEE				
Governors Apportionment for				
Tennessee	1,551,678	143,720		547,651
(Knoxville, Tennessee).....	1,032,767	97,048		364,506
(Kingsport, Tennessee—Virginia).....	313,324	28,284		110,585
(Clarksville, Kentucky—Tennessee).....	205,587	18,388		72,560
TEXAS				
Governors Apportionment for				
Texas	8,947,224	832,586		3,157,844
(Lubbock, Texas).....	779,709	72,405		275,191
(Amarillo, Texas).....	675,139	63,104		238,284
(Waco, Texas).....	551,819	49,521		194,760
(Port Arthur, Texas).....	568,687	51,856		200,713
(Beaumont, Texas).....	564,627	51,389		199,280
(Wichita Falls, Texas).....	537,357	50,708		189,655
(McAllen—Pharr—Edinburg, Texas).....	539,784	51,875		190,512
(Abilene, Texas).....	407,337	36,166		143,766
(Texas City—La Marque, Texas).....	367,826	32,348		129,821
(Odessa, Texas).....	516,767	50,430		182,388
(Killeen, Texas).....	374,060	34,522		132,021
(Laredo, Texas).....	439,588	42,796		155,149
(San Angelo, Texas).....	328,650	30,437		115,994
(Galveston, Texas).....	363,906	34,923		128,437
(Midland, Texas).....	310,103	28,706		109,448
(Tyler, Texas).....	334,427	31,686		118,033
(Texarkana, Texas—Arkansas).....	183,881	16,873		64,899
(Sherman—Denison, Texas).....	270,600	24,685		95,506
(Brownsville, Texas).....	342,704	33,651		120,954
(Bryan—College Station, Texas).....	248,379	22,577		87,663
(Harlingen—San Benito, Texas).....	241,877	21,928		85,368

FISCAL YEAR 1980 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
UTAH				
Governors Apportionment for				
Utah	1,352,218	126,463		477,254
(Ogden, Utah).....	843,354	80,047		297,654
(Provo—Orem, Utah).....	508,865	46,416		179,599
VIRGINIA				
Governors Apportionment for				
Virginia	1,814,314	170,832		640,346
(Roanoke, Virginia).....	869,056	82,168		306,726
(Petersburg—Colonial Heights, Virginia).....	559,532	52,933		197,482
(Lynchburg, Virginia).....	364,941	33,811		128,803
(Kingport, Tennessee—Virginia).....	20,786	1,920		7,336
WASHINGTON				
Governors Apportionment for				
Washington	720,096	67,236		254,152
(Richland—Kennewick, Washington).....	329,440	29,524		116,273
(Yakima, Washington).....	390,656	37,712		137,878
WEST VIRGINIA				
Governors Apportionment for				
West Virginia.....	2,400,576	231,647		847,262
(Huntington—Ashland, WV—KY—OH).....	588,314	58,497		207,640
(Charleston, West Virginia).....	901,265	85,865		318,094
(Wheeling, West Virginia—Ohio).....	352,804	33,750		124,519
(Steubenville—Weirton, OH—WV).....	188,561	17,384		66,551
(Parkersburg, West Virginia—Ohio).....	369,632	36,151		130,458
WISCONSIN				
Governors Apportionment for				
Wisconsin	3,870,144	378,052		1,365,934
(Duluth—Superior, MN—WI).....	136,695	11,819		48,245
(Appleton, Wisconsin).....	846,784	83,218		298,865
(Green Bay, Wisconsin).....	638,024	58,393		225,185
(Racine, Wisconsin).....	837,959	83,824		295,750
(Kenosha, Wisconsin).....	648,260	65,746		228,798
(LaCrosse, Wisconsin—Minnesota).....	355,553	34,143		125,489
(Oshkosh, Wisconsin).....	406,870	40,909		143,601

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Thursday
December 20, 1979

Part VII

Department of
Agriculture

Office of the Secretary

Section 22 Import Quotas; Certain Dairy
Products

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Section 22 Import Quotas; Certain Dairy Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises Import Regulation 1 governing the administration of the import licensing system for certain dairy products subject to quotas proclaimed under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. The provisions of this final rule reflect changes made in quotas for certain dairy products by Presidential Proclamation effective December 13, 1979, issued in accordance with the provisions of the Trade Agreements Act of 1979 (Pub. L. 96-39) (the Act) and bilateral agreements approved by the Act. The revision is needed in order to assure fair and equitable allocation and use of licenses for the importation of articles subject to such quotas.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Carol M. Harvey, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, CP, Room 6616, South Building, Department of Agriculture, Washington, D.C. 20250. (202) 447-5270.

SUPPLEMENTARY INFORMATION: The proposed revision of Import Regulation 1, was published in the Federal Register on October 3, 1979. A 30-day public comment period ended on November 2, 1979. Written comments were received from 29 different entities. Those meritorious comments deemed both administratively possible to implement and not in conflict with the objective of fair and equitable allocation among the various interested parties have been incorporated into this final rule. Import Regulation I, Revision 7. Other comments were not included in this final rule because their inclusion would have resulted in a significant enough change in the proposed rule to require another comment period. In view of the need to implement the program governed by this rule for the 1980 quota year, such was not considered possible. However, the Licensing Authority will keep the operation of this revision under review and propose amendments as necessary.

Since it will be necessary to have a preparation period, in addition to an application period, in order to give applicants throughout the country

adequate time to study the regulation and apply for 1980 Appendix 2 licenses, final issuance of Appendix 2 licenses cannot occur by the beginning of the quota year, January 1, 1980. Consequently, the Licensing Authority has determined that in certain cases it will be necessary to issue partial interim licenses based on the documents already submitted pursuant to the notice in the Federal Register of August 16, 1979, (44 FR 47969). This does not exempt applicants from submitting their documents as required in § 6.25(a) of this rule.

Discussion of Major Comments—
Definition of Affiliate

One entity commented that the rules of attribution under which affiliation may be found should not be limited to stock ownership but should extend to any form of ownership in an entity holding license to import cheese. The rules of attribution in § 6.25(b)(3) are accordingly revised.

It should be noted that the definition of affiliate in the proposed regulation was stated only in terms of attribution of ownership. This has been changed to a more general definition which is in turn expanded by the rules of attribution to be found in § 6.25(b)(3).

These rules of attribution have been slightly modified from the draft to permit family members who can clearly show the Licensing Authority that they are not affiliates to be considered as separate persons for the purpose of this regulation.

Definition of Cheese

It was pointed out by two entities that a definition of cheese or cheese product would clarify many passages, especially the passages dealing with eligibility. A definition has thus been inserted. It includes all those products defined as cheese or cheese products for which standards of identity have to date been promulgated by the Food and Drug Administration and/or found in Part 133 of Title 21 of the CFR.

Definition of Entire Dairy Products
Business

One entity commented that a definition of "entire dairy products business" in terms of total assets was unfair to small businesses that would like to acquire the good will, trade connections, and licenses for an entire product line of all cheese from a particular country, but have no way of acquiring the requisite assets of a large corporation with a large business dependent on licenses. While this may be true, it is felt that altering the definition to permit the transfer of

license eligibility for an entire product line, rather than the entire dairy products business, would tend to be an undesirable step toward the legalization of the actual buying and selling of selected licenses. This has always been considered inequitable in light of the historical basis upon which most license allocations have been made. In addition, it is felt that such a change could lead to the gradual acquisition of the import rights for a certain country's quotas by one firm.

EC-Wide Quotas

Three entities were either opposed to the EC-wide quota or desired gradual implementation of it. The reasons advanced by these commentators ranged from the greater difficulty of license adjustment, which could result from the larger source of product, to the possibility that competition among EC member states will be so intense that chaotic market conditions will develop in the United States. The regulation governing price-undercutting (published as a proposed rule in the Federal Register on October 30, 1979, 44 FR 62292) should serve to prevent such market chaos.

Postmark

One entity objected entirely to the idea of using the postmark date as a criterion for license allocation, indicating that ways can be found to get around the stricter definition of "postmark" and suggesting that a random selection method be used. The Licensing Authority has been authorized in this final rule to use some other fair and equitable procedure in cases where the postmark dates on applications are all the same.

The Application Period for 1980 Licenses

In view of the number of changes brought about by this regulation, the number of importers which may become involved for the first time with licensing procedures, and the need for time to receive and study the substantive provisions contained in this revision, it has been determined that a 21-day application preparation period for 1980 licenses is warranted beginning December 21, 1979. This will be followed by a 21-day official application period during which all license applications for Appendix 2 licenses and government endorsements for the 1980 quota year must be submitted. Therefore, all applications and endorsements for 1980 Appendix 2 licenses must be postmarked no later than January 31, 1980.

Provisions for Historical License
Eligibility

Three entities stated that they would like to see the increases in the quotas negotiated during the Tokyo Round of the Multilateral Trade Negotiations left open, i.e., not allocated on a historical basis. They felt that historical licenses have prevented and would continue to prevent full utilization of the quotas. Two of the entities preferred a first-come, first-served system, and the third a gradual phase-out of historical licenses for some other form of licensed imports. While this regulation does not eliminate historical licenses, it has, since Revision 6 (effective November 22, 1978), envisioned the eventual diminution of the proportion of each quota allocated as historical licenses through the conversion to nonhistorical or supplementary status of those historical licenses lost by licensees due to nonuse or violation of the regulation.

Three entities commented on the base period used for determining eligibility for Appendix 2 historical licenses. Each suggested that the chosen period was not representative. The Licensing Authority, however, feels that the base period chosen, July 1, 1978-June 30, 1979, is representative, and the fact that so few of the over 400 firms involved in importing cheese have expressed dissatisfaction with it tends to substantiate the fact that this period is generally accepted as representative.

Methods for the Allocation of License

Two entities commented on the fact that no more than 50 percent of the quota in Appendix 2 will be made available for historical licenses. One commentator felt that an eligible importer should receive 100 percent of what he or she imported during the base period. The other felt that at least 50 percent of Appendix 2 should, in all instances, be reserved for importers active during the base period. The provision of the regulation is intended to accommodate all legitimate interests in the cheese importing business, including firms who, after January 1, 1980, will be totally new to the importing business. The allocation procedures established will, generally speaking, give such newcomers the opportunity to compete through the application process for up to 25 percent of the overall quota.

It should be noted that a change in § 6.26(a)(4) has been made in response to comments. The provision was generalized in the interest of fairness.

Size and Number of Supplementary
Licenses

Two entities commented on the size of the supplementary licenses. One commentator indicated that the minimum quantity should be graduated according to the amount of quota available for supplementary allocation for a particular cheese from a particular country. This suggestion was approved in modified form and incorporated in the final rule as a means of giving more importers a chance to obtain licenses.

The second commentator dealt with the limitation on supplementary licenses obtained by Appendix 2 historical licensees. This limitation provides that such historical licensees receive supplementary allocations the sizes of which are not more than their historical shares under Appendix 2. Under certain circumstances, this could result in the historical licensee receiving less than the newcomer. A revision has thus been made permitting the Licensing Authority to allocate to an Appendix 2 historical licensee a supplementary quota share large enough in size to bring his or her combined historical and supplementary quota share up to at least the size of the supplementary shares given to newcomers.

It should be noted that Appendix 2 historical licensees will be limited to the supplementary shares to which they are entitled by virtue of their historical license and one other supplementary share of a particular cheese article. This is intended to increase the amount available for allocation to newcomers.

Less Than 85 Percent Use of Licenses

Eight entities offered comments on various provisions of the regulation which deal with less than 85 percent use of a license—some finding the penalties too harsh, others not harsh enough.

Five of the comments submitted focused specifically on the proposed August 1 surrender date for portions of quota shares which will not be used during the remainder of the quota year. All five felt August 1 was too early to make a decision on license use for the remainder of the year. To resolve the problem the October 1 date contained in Revision 6 is being retained, but a September 1-15 application period for extra license is being introduced to permit the Licensing Authority to make immediate reallocation upon receipt of the surrendered licenses. This should give importers receiving reallocated portions adequate time to use such portions before the quota year ends.

Another change from the proposed rule made in the interest of equity is the application of the penalty for less than

85 percent use of supplementary licenses to importers endorsed by foreign governments, as well as non-endorsed importers. This change was adopted in response to comments submitted to this effect.

The penalty for less than 85 percent use of a historical license has been modified in response to public comment.

Rather than automatically reducing the license to one half of its normal amount, it will be reduced to the amount imported during the previous quota year. This will prevent undue hardship on those firms which miss the 85 percent use rate by only a few percentage points while reducing to less than 50 percent those licenses which were used at less than the 50 percent rate.

Annual Licenses

One entity disagreed with the reasons favoring annual licenses stated in the supplementary information section of the proposed rule. The Licensing Authority feels that the combination of regulations implementing the price-undercutting provisions of section 702 of the Trade Agreements Act of 1979 (Pub. L. 96-39), the usual price disincentive to import during the flush period, and past experience indicating that the heaviest business takes place during the holiday season all serve to eliminate the need for utilizing a semi-annual licensing system. The resulting reduction in administrative burden will be substantial both for the importers and the Licensing Authority.

Endorsement of Preferred Importers by
Exporting Countries

Sixteen entities submitted comments on the provision for endorsement of preferred importers by the governments of exporting countries. Comments on the matter were about equally divided. The Licensing Authority has examined the quantities available for such endorsement and is convinced that the endorsement provision will not distort competition but, on the contrary, in some cases, will tend to enhance competition. Periodic examination of the effects of the system over time will be conducted by the Department of Agriculture. Should revision of the regulation become necessary in order to improve this or any other provision, the Licensing Authority will, as it has in the past, propose such necessary revisions, allowing time for public comment. This final rule has been revised to ensure that endorsed importers comply with the provisions of the regulation, and effective with the 1981 quota year, that they meet the eligibility requirements of § 6.25(c).

Permitting the exporting country to designate importers for a certain proportion of the quota only allows it to maintain some of the prerogative it has enjoyed in the absence of quotas, i.e., to choose the business partner(s) in the United States with whom it would like to deal.

Authority to Adjust Licenses

Three entities commented on the authority found in § 6.30 to adjust the country of origin on licenses. The suggestion was made that if it can be satisfactorily shown to the Licensing Authority that an exporting country has been or is discriminating against a licensee with respect to price or availability, then the Licensing Authority should adjust the country of origin of the license or waive the penalty for less than 85 percent utilization. This has been incorporated into § 6.30, especially to eliminate a possible avenue for a supplying country to indirectly cause selected historical licensees to lose their eligibility.

In view of the fact that the provisions contained herein will affect the administration of the import licensing system for certain dairy products subject to quota imposed by Presidential Proclamation issued under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended, effective January 1, 1980, and since prompt implementation of the provisions is essential in order to carryout the terms of such Proclamation and issue licenses as near to January 1, 1980, as possible, it is found that good cause exists for not postponing the effective date of this final rule until 30 days after publication in the *Federal Register* (5 U.S.C. 552).

Accordingly, 7 CFR, Part 6, Subpart—Section 22 Import Quotas, § 6.20–6.32, Appendix 1 and Appendix 2 are amended as follows:

Subpart—Section 22 Import Quotas

- Sec.
- 6.20 Determination.
- 6.21 Definitions.
- 6.22 Prohibitions and restrictions on imports.
- 6.23 Exceptions.
- 6.24 Application for license.
- 6.25 Eligibility.
- 6.26 Allocation of annual quota and issuance of licenses.
- 6.27 Use of licenses.
- 6.28 Records and inspection.
- 6.29 Suspension or revocation of eligibility.
- 6.30 Adjustment of countries of origin.
- 6.31 Delegation of authority.
- 6.32 Superseding of Import Regulation 1, Revision 6.

Appendix 1—Articles subject to the historical and nonhistorical licensing provisions of Import Regulation 1, Revision 7,

and respective annual import quotas for each quota year.

Appendix 2—Articles subject to the historical and supplementary licensing provisions of Import Regulation 1, Revision 7, and respective annual import quotas for each quota year.

Authority: Sec. 3, Pub. L. 897, 80th Cong., 2nd Sess., 62 Stat. 1248, as amended (7 U.S.C. 624); secs 701, 703, Pub. L. 96–39, 93 Stat. 268, 272 (19 U.S.C. 1202 note); Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202).

Subpart—Section 22 Import Quotas

§ 6.20 Determination.

Part 3 of the Appendix to the Tariff Schedules of the United States, which contains the quantitative limitations on certain articles imported into the United States proclaimed by the President pursuant to Section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), provides that certain articles may be entered only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture and only in accordance with the terms of such license as set forth in this regulation. Licenses are to be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in the fair and equitable allocation among importers or users of the right to import articles subject to such quotas and facilitate the maximum utilization of the respective quotas for such articles, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned. It is hereby determined that the regulation will, to the fullest extent practicable, accomplish this result.

§ 6.21 Definitions.

Except where the context otherwise requires, the following terms have the meanings set forth in this section:

(a) "Affiliate" means any person or legal entity which owns or is owned by, in total or in part, directly or indirectly, or controls or is controlled by another person, persons or legal entity. For a corporation, ownership interest will be the controlling criterion. If 5 percent or more equity interest in the aggregate is owned or controlled in a corporation, partnership, estate, or trust by or for a person, a corporation, a partnership, or a beneficiary of an estate or a trust, the interest will be considered as owned or controlled by the person, partnership, corporation, estate or trust. Ownership interest in any person or legal entity may be attributed to another person or entity in accordance with § 6.25(b)(3), thereby causing the person or entity to whom the ownership interest has been

attributed to be defined as an "affiliate" even though such persons or legal entities have no direct relation with each other.

(b) "Annual Quota" means the quantity of an article which may be entered in a quota year as provided in Appendix 1 or Appendix 2.

(c) "Appendix 1" means Appendix 1 to this regulation. Definitions of articles in this appendix are the same as those provided in the Tariff Schedules of the United States.

(d) "Appendix 2" means Appendix 2 to this regulation. Definitions of articles in this appendix are the same as those provided in the Tariff Schedules of the United States.

(e) "Article" means any TSUS item referred to in Appendix 1 or Appendix 2.

(f) "Associate" means a party connected with one or more parties, formally or informally, directly or indirectly, with the common purpose of obtaining eligibility for additional licenses, one party intending to use, (and benefit economically from such use) directly or indirectly the licenses that the other may acquire. Two or more associates of a third party shall not be deemed to be associates of one another due to such third-party association only.

(g) "Authorized agent" means an agent as used in 19 CFR 141.31(a) for whom the licensee has filed with the District Director of Customs a limited power of attorney using Customs Form 5291 authorizing such agent to act for, but only in, the licensee's name.

(h) "Basic annual allocation" refers to historical quota shares only and means the quota share of a licensee for an article before any reduction as authorized under § 6.26(d) has been effected. It will be calculated on the basis of the annual average amount entered by a licensee during a predetermined representative base period.

(i) "Cheese or cheese products" means those cheeses and cheese products for which standards of identity have been promulgated by the Food and Drug Administration and/or which are encompassed within Part 133 of Title 21 (Food and Drugs) of the Code of Federal Regulation as of December 20, 1979.

(j) "Country of origin" and/or "Supplying country" mean the country in which the article subject to the regulation was produced or manufactured as defined under 19 CFR 134.1(b).

(k) "Date of entry" is the date when the specified Customs entry form is properly executed and deposited, together with estimated duties and any related documents required by law or regulation to be filed with such form at

the time of entry, with the appropriate Customs Officer.

(l) "Department" means the United States Department of Agriculture.

(m) "EC" means the nine European Community countries, viz., Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom, which for the purposes of this regulation shall be deemed as one country of origin.

(n) "Eligible applicant" means a person applying for a license to enter an article who has established, to the satisfaction of the Licensing Authority, eligibility to enter such article, in accordance with § 6.25.

(o) "Enter" means to make entry, or withdrawal from warehouse, for consumption by deposit with, and acceptance by, the appropriate Customs officer of the properly executed entry documents, including invoices, bills of lading and payment of estimated duties.

(p) "Entire dairy products business" means the total assets and operations of the foreign and domestic aspects of a business pertaining to articles subject to the provisions of this regulation.

(q) "Entrepreneurial use" means the processing or sale of the article entered pursuant to the license as a part of the ordinary conduct of business by a licensee who is managing and assuming the risk of such business. Such term does not include one who is functioning as a mere supplier of license.

(r) "Licensee" means any person to whom a license has been issued under the regulation.

(s) "Licensing Authority" means the Director, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture or any other officer or employee of the Department designated in writing as Acting Director in the absence of the Director.

(t) "Other countries" refers to countries sharing a common quota which are not listed as having separate quotas in Appendix 1 or Appendix 2, and for the purposes of the regulation are deemed as one country of origin.

(u) "Person" includes any individual, firm, corporation, partnership, association, or other legal entity. It also includes any national government (other than the Government of the United States and any agency thereof).

(v) "Postmark" means the postage cancellation mark applied by the U.S. Post Office showing the post office and date of mailing. This does not include metered postage affixed by the applicant or any other private entity.

(w) "Quota share" means that part of the annual quota of an article listed in

Appendix 1 or Appendix 2 for which a person is eligible.

(x) "Quota year" means the 12-month period beginning on January 1 of any given year.

(y) "Regulation" means the provisions contained in the Licensing Regulation of this subpart.

(z) "United States" means the Customs Territory of the United States, which is limited to the United States, District of Columbia and Puerto Rico.

§ 6.22 Prohibitions and restrictions on importers.

(a) No person may enter or cause to be entered any article listed in Appendix 1 or Appendix 2, except as provided in § 6.23 or as authorized by a license issued pursuant to this regulation.

(b) A person to whom a license has been issued hereunder is not relieved from compliance with any requirement of this regulation or any other applicable laws and regulations.

§ 6.23 Exceptions.

Licenses are not required for the entry of:

(a) Articles imported by or for the account of any agency of the U.S. Government.

(b) Articles with an aggregate value of not over \$25 in any shipment, if imported as samples for taking orders, for the personal use of the importer, or for research.

(c) Articles imported for exhibition, display or sampling at a trade fair, or for research, if written approval of the Licensing Authority is obtained.

§ 6.24 Application for license.

Applications to the Licensing Authority for the issuance of licenses to enter articles must be made in writing, addressed to the Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Each letter of application must state the article (including the Part 3 TSUS Appendix classification number), the country of origin of the article, and, in the case of supplementary and nonhistorical licenses or licenses for portions allocated under paragraph (e) of § 6.26, the size of each quota share desired. Unpostmarked applications will not be approved by the Licensing Authority.

§ 6.25 Eligibility.

(a) *Historical Eligibility.* (1) Historical eligibility for licenses to enter quota shares of articles subject to quotas in effect as of November 22, 1978, the adjusted quantities of which are shown

in Appendix 1, has already been determined.

(2) Historical eligibility for licenses to enter quota shares of articles under Group V of Appendix 2, which prior to January 1, 1980 were not subject to quota, will be established upon submission by the importer of copies of broker's copies of official consumption entry or warehouse withdrawal for consumption records, Customs forms 7501 and 7505, showing the applicant as the importer of record or importer of account for entries made during the period July 1, 1978 through June 30, 1979 of cheese, cheese product or substitutes for cheese falling under TSUS Nos. 117.6035 (Swiss or Emmenthaler), 117.6055, 117.7550, 117.8550 (Gruyere-Process), 117.7560, 117.8560 except soft-ripened cheese (Other cheese, NSPF, except soft-ripened cheese), and 117.7570 and 117.8570 (Other cheese, Lowfat). In order to assure consideration for 1980 licenses, such consumption entry or warehouse withdrawal documents should be mailed to the Licensing Authority no later than January 31, 1980. Copies of other than the broker's copy will only be accepted if it is established that, for reasons satisfactory to the Licensing Authority, the broker's copy is not available. The Licensing Authority may also require a copy of the invoice or other documentation showing that the importer was the owner of the article at the time entry was made and substantiating the type or variety of cheese entered. Such invoices should accompany an application for Appendix 2 historical licenses for TSUS items 117.7560 and 117.8560.

(3) Historical eligibility for license to enter a quota share of an article under Group II, III, or IV of Appendix 2 from a particular country of origin may be acquired only by persons eligible for a historical license to enter such article from such country of origin under Appendix 1.

(b) *Nonhistorical eligibility.* (1) Any person, who is not eligible under paragraph (a) of this section to receive a historical license to enter a particular article in Appendix 1 or Appendix 2, or has voluntarily surrendered such eligibility, who meets the requirements of this paragraph, will be eligible to obtain a nonhistorical license to enter a quota share of such article in Appendix 1.

(2) Nonhistorical eligibility for specific articles listed in Appendix 1 will be established upon submission of:

(i) A notarized certification sworn to by the applicant under penalty of perjury stating that: (A) Such person intends to be regularly engaged, during

the period covered by the license(s) for which application is made, in the business of manufacturing within the United States or entering such articles for his or her own entrepreneurial use and for this purpose will maintain a bonafide business office within the United States and have a person, principal or resident agent upon whom service of judicial process may be made; (B) such person intends to use any article entered pursuant to a license obtained hereunder in actual commerce and, when required will submit proof demonstrating the use to which licenses and the articles entered pursuant thereto have been made; (C) such person is not a part of or an affiliate of the business of any other person eligible for a license for the article(s) for which application for license is made, and is not an officer, member, partner, associate, or employee of the business of such other person;

(ii) A list of the person(s) holding an ownership interest of 5 percent or more in the applying firm (if other than an individual) showing the percent of ownership held by each such person, and;

(iii) In addition, in the case of application for license(s) to enter any article(s) under Groups II through V (cheese), documentary evidence that such person has made at least two commercial entries of cheese or cheese products together totaling at least 10,000 pounds, as owner of the product and importer of record, or is listed in the most current issue of "Dairy Plants Surveyed and Approved for USDA Grading Service" and has manufactured in his or her own plant 100,000 pounds or more of cheese or cheese product within the United States, during the 12 month period ending August 1 of the year preceding that for which application for license is being made, including, when required, proof of payment in said person's own name for the said entered cheese or cheese products and corresponding duties.

(3) In determining whether persons or legal entities having no direct relation are, for purposes of this regulation, affiliated, the following rules of attribution apply:

(i) Members of a family: Unless established otherwise to the satisfaction of the Licensing Authority, an individual shall be considered as owning the stock or other ownership interest owned, directly or indirectly, by or for (A) a spouse (other than a spouse legally separated from the individual under a decree of divorce or separate maintenance), and (B) children, grandchildren, parents, brothers and sisters.

(ii) Attribution from partnerships and estates: Stock or other ownership interest owned, directly or indirectly, by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

(iii) Attribution from trusts: (A) Stock or other ownership interest owned, directly or indirectly, by or for a trust (other than an employees' trust) shall be considered as owned by its beneficiaries in such trust. (B) Stock or other ownership interest owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under subpart E of part I of subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as being owned by such person.

(iv) Attribution from corporations: If five percent or more in value of the stock or other ownership interest in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock or other interest owned, directly or indirectly, by or for such person.

(v) Attribution to partnerships and estates: Stock or other ownership interest owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this clause, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is five percent or less of the value of the trust property. Stock or other ownership interest owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under subpart E of part I of subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as owned by a trust.

(vi) Attribution to corporations: If five percent or more in value of the stock or other ownership interest of a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the stock or other ownership interest owned, directly or indirectly, by or for such person.

(vii) Options: If any person has an option to acquire stock or other ownership interest, such stock or other ownership shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an

option, and each one of a series of such options, shall be considered as an option to acquire such stock or ownership interest.

(viii) Operating Rules: (A) In general: Except as provided in paragraph (b)(3)(viii)(B) and (C) of this section, stock or other ownership interest constructively owned by a person by reason of the application of paragraph (b)(3) (i), (v), (vi), or (vii), shall for purposes of applying paragraph (b)(3) (i), (v), (vi), and (vii) be considered as actually owned by such person.

(B) Members of a family: Stock or other ownership interest constructively owned by an individual by reason of the application of paragraph (b)(3)(i) of this section shall not be considered as owned by him or her for purposes of again applying paragraph (b)(3)(i) of this section in order to make another the constructive owner of such stock or ownership interest.

(C) Partnerships, estates, trusts, and corporations: Stock or ownership interest constructively owned by a partnership, estate, trust or corporation by reason of the application of paragraph (b)(3) (v) and (vi) of this section shall not be considered as owned by it for purposes of again applying paragraph (b)(3) (ii), (iii) and (iv) of this section in order to make another the constructive owner of such stock or ownership of interest.

(D) Option rule in lieu of family rule: For purposes of this paragraph, if stock or other ownership interest may be considered as held by an individual under paragraph (b)(3) (i) or (vii) of this section, it shall be considered as held by him under paragraph (b)(3)(viii) of this section.

(4) Evidence and certification required to establish the nonhistorical eligibility of a person making application to receive a quota share for a given quota year shall not be approved by the Licensing Authority if postmarked before August 1 or later than November 1 of the year preceding the quota year for which the license to import is requested, except as may otherwise be provided by notice published in the Federal Register.

(c) *Supplementary licenses.* (1) Supplementary license eligibility for specific articles listed in Appendix 2 will be established (i) by submission of documentary evidence acceptable to the Licensing Authority as required under paragraph (b) (2) and (4) of this section or; (ii) by application by a person having historical eligibility under paragraph (a) (2) and (3) of this section for the article from the country of origin for which such person is seeking supplementary license or (iii) by being endorsed in writing by

the government of the supplying country as a preferred importer, with such endorsement being sent directly from the government of the supplying country through appropriate channels to the Licensing Authority and, beginning with the 1981 quota year, by meeting one or both of qualifications (c)(1) (i) and (ii) of this section. Endorsement by the government of a supplying country of a person who is known by the Licensing Authority to have at any time violated any provision of this or any other regulation or law of the United States applicable to international commerce will not be recognized by the Licensing Authority.

(2) Notwithstanding paragraph (b)(4) of this section, certification required to establish supplementary license eligibility for 1980 licenses must be submitted to the Licensing Authority during the 21-day period ending January 31, 1980.

(d) *Continuation of eligibility.* (1) The historical eligibility of a person to receive a license for a quota share established under paragraph (a) of this section will be continued for subsequent quota years unless surrendered in accordance with paragraph (d)(4) of this section or suspended or revoked pursuant to § 6.29: *Provided*, That, no such licenses shall be issued to any licensee unless such licensee, no later than 60 days prior to the beginning of each subsequent quota year submits to the Licensing Authority a notarized certification sworn to by the licensee under the penalty of perjury stating that such licensee maintains a bonafide business office within the United States and has a person, principal or resident agent upon whom service of judicial process may be made; that such licensee has been the sole user of his or her license(s); that such licensee has not permitted his or her license(s) to be used by or for any other person; that such licensee has not entered any article(s) under license(s) issued to any other person(s); and, that such licensee will enter only for his or her own entrepreneurial use the articles for which he or she will be issued license(s) during the next quota year.

(2) The nonhistorical or supplementary eligibility of a person established under paragraph (b) or (c) of this section to enter a quota share of an article for a particular quota year will expire at the end of such quota year. Eligibility for each ensuing year, if desired, must be established by following the procedures set forth in paragraph (b) or (c) of this section.

(3) Any licensee who fails to enter at least 85 percent of a particular nonhistorical or supplementary quota

share for any article for a given year will be ineligible to have such nonhistorical or supplementary quota share renewed for the next quota year, unless such licensee notifies the Licensing Authority in a letter postmarked no later than October 1 of the quota year for which his license is valid, of his intentions to enter less than 85 percent of his quota share and surrenders to the Licensing Authority that portion of the quota share which he or she does not intend to use. If, after surrendering a portion of a non-historical or supplementary quota share of an article, a licensee fails to import 85 percent or more of the unsurrendered portion of the quota share, such licensee will be ineligible to receive a license to import a quota share of such article in the next quota year, unless the licensee establishes that he or she was unable to enter such article due to reasons acceptable to the Licensing Authority.

(4) A historical licensee may elect to permanently surrender his or her historical eligibility for an article in Appendix 1 and receive a nonhistorical quota share for the same article from the same country of origin in the next quota year. If done, said licensee's nonhistorical eligibility will be deemed to have been in effect in the year preceding the year for which nonhistorical application is made giving said licensee the priority accorded under § 6.26(b)(2) (ii) and (iv) below.

(e) *Transfer of eligibility.* (1) Upon receipt of documentary evidence acceptable to the Licensing Authority that the entire dairy products business covered by this regulation of a person who has established historical eligibility for a quota share has been sold or otherwise transferred (a complete transfer of total assets, binding on all parties-in-interest) to a person who is assuming the operation of the entire business involving dairy products covered by this regulation, the Licensing Authority will recognize the successor-in-interest as having eligibility for such quota share: *Provided*, That, in the event of the merger of the businesses of two or more persons, the successor-in-interest, with the persons or firms for which said person is successor-in-interest and said person's affiliates and associates, will be considered only as one person for the purpose of determining nonhistorical or supplementary license eligibility for quota shares. Eligibility for nonhistorical or supplementary quota shares may not be transferred.

(f) The Licensing Authority may, on an annual basis, require submission of signatures of the person(s) authorized to sign for a licensee.

§ 6.26 Allocation of annual quota and issuance of licenses.

(a) *Historical licenses.* (1) Subject to paragraph (d) of this section (concerning temporary reduction of historical quota share), and paragraph (d)(1) of § 6.25 (concerning continuation of eligibility), a person, or his or her successor-in-interest, eligible to receive a historical quota share for an article in Appendix 1 will receive his or her basic annual allocation plus a prorated share of the portion derived from temporary reductions of historical quota shares (done under paragraph (d) of this section) of other historical licensees for the same article in Appendix 1.

(2) Subject to paragraph (d) of this section and paragraph (d)(1) of § 6.25, a person, or his or her successor-in-interest, eligible to receive a historical quota share for an article in Appendix 2 will receive his or her basic annual allocation, but portions of quota shares of articles in Appendix 2 derived from temporary reductions of historical quota shares (done under paragraph (d) of this section) will, to the extent practicable, be allocated as supplementary quota shares in accordance with the provisions of paragraph (c) of this section.

(3) Subject to paragraph (d) of this section and paragraph (d)(1) of § 6.25, a person, or his or her successor-in-interest, who is eligible to receive a historical quota share for an article in Group II, III, or IV of Appendix 1 from a particular country of origin will receive a prorated historical quota share for such article from such country of origin in Appendix 2. A person who has established historical eligibility in accordance with the requirements of § 6.25(a)(2) for an article from a particular country in Group V of Appendix 2 will receive a prorated historical quota share for such article from such country. *Provided*, That, in no case shall more than 50 percent of any quota for any particular country in Appendix 2 be allocated on a historical basis; and no licensee may receive a historical quota share for an article in Group V of Appendix 2 from a particular country of origin which exceeds in size the quantity of such article entered free of quota from such country of origin by such licensee during the period July 1, 1978 through June 30, 1979.

(4) Subject to paragraph (d) of this section and paragraph (d)(1) of § 6.25, a person, or his or her successor-in-interest, who is eligible to receive a historical quota share for an article in Group V of Appendix 1 from a particular country of origin for which entries during the base period were equal to or less than 2 percent of the quota amount

in Appendix 2 for such article from such countries of origin, will receive a historical quota share in Appendix 2 for such article from such country, but in no case shall such person receive a historical quota share for such article from such country in Appendix 2 which is greater in size than 50 percent of his or her basic annual allocation for such article from such country in Appendix 1.

(5) Historical licensees for articles classified under item 950.10D from "Other Countries" in Appendix 1 who can show proof satisfactory to the Licensing Authority that their quota shares for this quota were based on entries of an article for which Australia was the supplying country, may, upon written request, have the country of origin for such quota share(s) permanently changed from "Other Countries" to "Australia."

(6) Where loss of historical licenses has occurred as a result of elimination of a particular quota from a particular country of origin, during the Tokyo Round of Multilateral Trade Negotiations, the Licensing Authority may, to the extent practicable, compensate the affected licensees with equal but not larger historical shares from other quota from the same or another country. Shifts in historical licenses granted for this reason shall be done with the intent of avoiding any adverse impact on eligibility for or the sizes of other historical or non-historical licenses granted to such licensees.

(b) *Nonhistorical licenses (pertaining only to articles in Appendix 1).* (1) The annual quotas in Appendix 1, less the quantities allocated to historical licensees, will, to the extent practicable, be allocated among eligible nonhistorical applicants. Subject to paragraph (b)(3)(ii) of this section, the minimum annual nonhistorical quota share for each article will be as follows:

Article	TSUS Item No.	Minimum quantity (pounds)
Dried buttermilk and whey	950.01	2,500
Dried skimmed milk	950.02	5,000
Dried whole milk	950.03	1,000
Dried cream	950.04	250
Butter	950.05	1,000
Blue-mold cheese	950.07	5,000
Cheddar cheese	950.08A	10,000
American-type cheese	950.08B	10,000
Natural Edam and Gouda cheese	950.09A	7,000
Processed Edam and Gouda cheese	950.09B	5,000
Italian-type cow's milk cheese in original loaves	950.10	5,000
Italian-type cow's milk cheese in other than original loaves	950.10A	5,000
Swiss or Emmenthaier cheese with eye formation	950.10B	10,000
Swiss or Emmenthaier cheese other than eye formation, "Gruyere-Process"	950.10C	10,000
"Other" cheese, NSPF	950.10D	40,000
"Other" cheese, "low fat"	950.10E	10,000
Malted milk	950.11	250

(2) A person with his or her affiliate(s) and associate(s) will be considered only as one person for the purpose of allocation of nonhistorical quota shares. A person with historical eligibility for an article in Appendix 1 or Appendix 2 may not qualify for a nonhistorical quota share for the same article in Appendix 1, except where nonhistorical eligibility for a particular article was established and maintained prior to the awarding of Appendix 2 historical eligibility.

(3) A nonhistorical quota share (referring only to articles in Appendix 1) will be determined on the following basis:

(i) If, after applications for nonhistorical eligibility for a quota year have been evaluated, the Licensing Authority determines that the number of eligible applicants who held a nonhistorical license for an article in Appendix 1 from a particular country of origin during the previous quota year exceeds the number which could be issued a quota share at the minimum quantity set forth above, the Licensing Authority will determine the quota shares by dividing the amount available by the number of such eligible applicants.

(ii) If the Licensing Authority determines that the number of eligible applicants for a quota year who held a nonhistorical license for an article from a particular country of origin during the previous year plus the number of eligible applicants who did not hold a nonhistorical license for such article from such country of origin during such year is less than the number which could be issued a quota share at the minimum quantity, the Licensing Authority will determine the quota shares by dividing the amount available by the number of such eligible applicants, subject to provisions in § 6.26 (b)(4).

(iii) If the number of eligible applicants for a quota year who held a nonhistorical license for an article from a particular country of origin during the previous year plus the number of eligible applicants who either did not hold a nonhistorical license for such article from such country of origin during such year or did not hold any nonhistorical license for such article exceeds the number which could be issued a quota share at the minimum quantity, the Licensing Authority will first issue quota shares at the minimum quantity to each of the eligible applicants who held a nonhistorical license for such article from that particular country of origin during the previous year, secondly, issue quota shares at the minimum quantity to

eligible applicants who held a nonhistorical license for such article from a different country of origin during the previous year, and thirdly, issue quota shares at the minimum quantity to eligible applicants who did not hold a nonhistorical license for such article during the previous year, until all available quota shares are issued. Selection of eligible applicants in the latter two groups shall be made on the basis of the date of postmark of the application received pursuant to § 6.24 of the regulation.

(4) Subject to paragraph (b)(3)(i) of this section, quota shares for an article may not be smaller than the applicable minimum quantity set forth above unless requested in writing by the applicant, but in no case shall the quota share be greater than the quantity requested by the applicant.

(c) *Supplementary Licenses* (pertaining only to articles in Appendix 2):

(1) A person with his or her affiliate(s) and associate(s) will be considered only as one person for the purpose of allocation of supplementary quota shares. No more than one supplementary quota share of an article from each specific country of origin listed for such article in Appendix 2 will be issued to any such person. No licensee with a historical license for a particular article in Appendix 2 from a particular country of origin, however, may receive more than one supplementary share in addition to the matching supplementary share(s) for such article for which such person is eligible under paragraph (c)(2)(i) of this section. However, in cases where the Licensing Authority deems it necessary to make additional allocations in order to fully allocate a quota, such additional allocations may only be made after all eligible persons have been notified and given an opportunity to apply. Such notification will not be necessary for the reallocation of surrendered licenses covered by paragraph (e)(3) of this section.

(2) A supplementary quota share for an article in Appendix 2 from the EC will be determined on the following basis:

(i) Subject to paragraph (c)(1) of this section, the size of supplementary quota share issued to an eligible applicant for a specific article in Appendix 2 shall not exceed (A), for applicants who have historical quota shares in Appendix 2 from the EC for such article: An amount equal to the amount of the applicant's Appendix 2 historical quota share, or, to the extent practicable, the difference between the applicant's Appendix 2 historical quota share for such article and the amount of each supplementary

quota share for such article allocated to applicants who have no Appendix 2 historical quota share for such article, whichever is larger; (B), for applicants who have no such historical quota shares: 110,000 pounds.

(ii) If, after applications for supplementary licenses have been evaluated and tabulated, the Licensing Authority determines that eligible applicants for shares of a particular quota for an article in Appendix 2 from the EC have appropriately requested amounts which together exceed the amount available for allocation, the Licensing Authority shall first assign quota shares of not less than the minimum share as indicated below to each applicant and then pro-rate the remaining portion of that available for allocation among them, based on each applicant's basic annual allocation for such quota in Appendix 2 from the EC, or on the minimum share assigned, whichever is greater. The minimum share shall be as follows:

(A) 5,000 pounds where the total poundage available for supplementary licenses is less than 500,000 pounds;

(B) 20,000 pounds where the total poundage available for supplementary licenses is over 500,000 pounds but less than 1,000,000 pounds;

(C) 36,000 pounds where the total poundage available for supplementary licenses is over 1,000,000 pounds.

(iii) If, after applications for supplementary licenses have been evaluated and tabulated, the Licensing Authority determines that the number of eligible applicants for a share of a quota for a particular article in Appendix 2 from the EC exceeds the number which could be assigned the minimum share each, the Licensing Authority may eliminate individual applications based on date of postmark and then, where necessary, other fair and equitable criteria. A single quota share for a particular article of less than the minimum may be issued, if appropriate, to facilitate full allocation of a particular quota.

(3) A supplementary quota share for an article in Appendix 2 from a particular country of origin other than the EC will be determined on the following basis:

(i) Eligible applicants whose applications have been endorsed in writing by an appropriate official of the government of the supplying country, which written endorsement is submitted directly from such government through appropriate channels to the Licensing Authority, shall receive first priority in allocation. Written endorsements shall also include the names and addresses of applicants endorsed and the quota

article(s), including the amount(s), endorsed for each such applicant.

(ii) To the extent practicable, an eligible applicant whose application has been endorsed by the government of the supplying country as set forth in paragraph (c)(3)(i) of this section shall be awarded the full amount for which he or she has been endorsed. If eligible applicants whose applications have been endorsed by the government of the supplying country as set forth in paragraph (c)(3)(i) of this section request an aggregate amount of a specific quota from a specific country (not the EC) smaller than is available for allocation, or if no endorsement is made, the Licensing Authority shall allocate remaining portions among applicants who have not been endorsed, following a procedure identical to that set forth in paragraph (c)(2) of this section for the EC, replacing, for this purpose, the words "the EC" wherever they appear with "a particular non-EC country."

(iii) If an endorsed licensee surrenders his or her endorsed quota share, or a portion thereof, under the provisions of paragraph (d)(2) of this section, the endorsing country may, by a new written endorsement, designate another importer for such portion or share.

(d) *Temporary reduction of historical quota share.* (1) Subject to provisions of paragraph (e) of this section, the historical quota share for any article in Appendix 1 or Appendix 2, which is not entered by its holder at the rate of 85 percent or more during a calendar year will be reduced in the following quota year, unless such licensee establishes that he or she was unable to enter such article due to reasons acceptable to the Licensing Authority. Such reduced historical quota share will be equal to the amount imported during the preceding quota year. *Provided*, That, once such reduced quota share has been established, the quota share of the licensee in the following quota year will be restored to its full basic annual allocation if the licensee enters 85 percent or more of the reduced quota share during the quota year when it was established.

(2) Notwithstanding the above, a licensee may, in a letter postmarked no later than October 1 of a quota year, voluntarily surrender without penalty that portion of a historical quota share for any article in Appendix 1 or Appendix 2 which he or she does not intend to use. Any temporary reduction of a historical quota share will be based on the percentage used of that portion of such quota share which was not surrendered before October 1 of the preceding quota year.

(e) *Temporary reallocation of quota shares.* (1) Notwithstanding any other provisions of this regulation, to the extent that, between June 1 and October 1, it appears from information submitted to the Licensing Authority or otherwise, that all or part of a quota share of a particular licensee for an article from a particular country of origin will not be entered during that quota year, the Licensing Authority may require such licensee to submit in writing within a specified 21 day period a statement as to the amount of the unused portion of such quota share which will be used during the remainder of such quota year. In addition, such licensee may be required to submit copies of contracts, purchase orders or any other documentary evidence of intent to import against the unused portion of such quota share. If the licensee fails to submit such statement (including documentary evidence, if requested) within the specified period, the Licensing Authority may conclude that the unused portion of the quota share in question will not be used during the remainder of said quota year. On the basis of said statement, or if no statement is submitted, the Licensing Authority may reallocate all or part of the unused portion of such quota share.

(2) To the extent that the quota shares or portions thereof are surrendered under § 6.25(d)(3) (pertaining to nonhistorical and supplementary quota shares), § 6.26(d)(2), (pertaining to historical quota shares), or paragraph (e)(1) of this section by licensees for articles during a quota year, the quota shares for other licensees will be increased for such year as follows:

(i) Reallocation will be made among applying licensees from such article from such country of origin on the basis of the amounts requested by the applicants, unless the aggregate of the amounts requested exceeds the portion of the quota available for reallocation, in which case each applicant will be granted an appropriate minimum amount and any excess will then be allocated on the basis of the respective amounts of such articles entered by such licensees from such country of origin during the previous two quota years. However, no applicant may receive more than the amount he or she requests.

(ii) If, after a surrendered quota share is reallocated among licensees who hold a nonreduced license for such quota and apply for a portion of the reallocation, unallocated quantities of the quota still remain, such quantities may be allocated to other non-affiliated and non-associated applicants who have

historical or nonhistorical eligibility for any quota under the regulation for the remainder of the quota year in question. Quota shares allocated to such other applicants under this provision will be made in equal amounts of not less than 2,500 pounds each; except in the case of quota items the quota amounts for which are less than 10,000 pounds, which quota items will be allocated in equal shares of not less than 250 pounds each; except that no applicant will receive more than the amount requested in his or her application.

(3) Application for a reallocated portion will not be valid unless made in accordance with § 6.24 and postmarked during the period September 1–15 of the quota year in which reallocation is being considered.

(4) Any temporary reduction in a historical quota share (in accordance with paragraph (d) of this section) will be based on the percentage used of the portion of such quota share which was not surrendered for reallocation during the preceding quota year.

(f) *Interim Appendix 2, 1980 Historical Licenses.* The Licensing Authority may, where deemed necessary by the Licensing Authority issue partial interim 1980 licenses for an article from a particular country in Appendix 2, particularly to persons who have no Appendix 1 license for such article from such country. *Provided*, That such licenses are issued on the basis of documents submitted pursuant to notice in the *Federal Register* of August 16, 1979 (44 FR 47969), and the amounts issued are deducted from the final 1980 Appendix 2 licenses for such article from such countries.

§ 6.27 Use of licenses.

(a) The article entered must be a product of the country of origin specified in the license under which it is entered.

(b) Subject to § 6.30, a quota share may be imported from only one country of origin.

(c) Notwithstanding any other rules, regulations, or procedures for the importation of goods, the article entered under license may be entered or withdrawn from warehouse only in the name of the licensee either by the licensee or by the licensee's agent acting in the licensee's name under the power of attorney, and the quantity so entered must, on the date of entry, be owned by the licensee and must be charged against the license in effect. The article entered under license must be accompanied by:

(1) an invoice from a seller in the country of origin to a purchaser in the United States and a through bill of

lading from the country of origin to the United States, or,

(2) if the seller is not located in the country of origin, a through bill of lading from the country of origin to the United States and a certificate of origin issued in the country of origin which shall indicate the United States as the destination of the merchandise and state the quantity and description of the merchandise in the shipment. *Provided*, That, these requirements as well as those in paragraph (c)(1) of this section may be temporarily waived by the Licensing Authority upon his or her determination that compliance therewith, during periods of strikes, lockouts, or other such emergencies, affecting the importation of articles would interfere with the entry of such articles.

(d) In the event of a sale in transit, an article may be entered for consumption under a license issued to an authorized person to whom the sale has been made against a properly endorsed through bill of lading and a certified copy of the bill of sale from the original consignee showing the amount paid, the date of purchase, and the licensee as the owner of the article at such time.

(e) In the event of the loss of the original through bill of lading, a carrier's certificate showing the licensee as consignee and certifying that the shipment is a through shipment may be substituted therefor.

(f) An article may be entered from bonded warehouse only in the manner prescribed above for consumption entries. In the event of sale while in bonded warehouse, entry may be made under license issued to an authorized person or firm to whom the sale has been made and only upon the presentation of a properly endorsed Customs Form 7505 and a certified copy of the bill of sale, showing the amount, date of sale, and that the licensee is the owner of the article at such time.

(g) Consolidated entries or withdrawals from warehouse for consumption may not be made except with the written approval of the Licensing Authority.

(h) Each entry or withdrawal from warehouse for consumption must be accompanied by a copy of Customs entry Form 7501 or Customs warehouse withdrawal Form 7505 (with the appropriate license number noted on it), required through bill of lading and required invoice. The Customs Service will stamp the copy of the completed form 7501 or 7505 with the date of entry and the Customs entry or withdrawal number and submit it to the Licensing Authority as soon as practicable.

§ 6.28 Records and inspection.

Any person making an entry, except as provided in § 6.23, of an article listed in either Appendix 1 or Appendix 2 is required to retain all records, including invoices of all purchases, entries, withdrawals, sales and deliveries of such articles for a period of not less than 2 years subsequent to the end of the quota year during which entry was made. The Licensing Authority or his or her designee is entitled to make such audit and inspection of such records, to inspect the premises and stocks of articles of such person, and to make such other investigations as may be necessary or appropriate in the enforcement or administration of the regulation.

§ 6.29 Suspension or revocation of eligibility.

(a) *Failure to import quota share*—(1) If the Licensing Authority has reason to believe that a person with a historical quota share for any article has failed to enter any of such article for two consecutive quota years, or three nonconsecutive quota years within a five year period, the eligibility of such person for a historical license to enter such article will be suspended for the following quota year pending receipt by the Licensing Authority of documentary evidence of entry against such quota share during one or more of said years, unless the reason for failure to enter is acceptable to the Licensing Authority and an application to receive a license to import such article is received and approved by the Licensing Authority no later than 3 months after the beginning of such following quota year.

(2) If the Licensing Authority determines that a person with a historical quota share for any article has failed to import any of such article during two consecutive years, or three non-consecutive years within a five year period, the eligibility of such person will be revoked unless the licensee establishes that he or she was unable to import such article due to extraordinary circumstances acceptable to the Licensing Authority.

(b) *Violations of the regulation*—(1) *Charge against licenses.* Any quantity of an article entered by any person contrary to this regulation may be charged against any unused import license held by, or to be issued to, such person.

(2) *Civil and criminal liability.* Any person who violates any provision of the regulation may be prosecuted under any and all applicable laws. Civil action may also be instituted to enforce any liability or duty created by, or enjoin any violation of any provision of, the

regulation or requirement pursuant hereto.

(3) *Revocation of license eligibility.* The Licensing Authority, upon reasonable cause to believe—after records are reviewed and a preliminary investigation is made by the Department—that a licensee has violated the provisions of the regulation or has furnished false or incomplete information in connection with the application for or use of licenses issued hereunder, may, after notice to the licensee, revoke said licensee's eligibility (a permanent revocation of historical eligibility) and may bar such person from receiving any supplementary or nonhistorical licenses for a period of not more than three years. Any person whose eligibility has been revoked pursuant to provisions of this section will have the opportunity to appeal the determination to the Administrator, Foreign Agricultural Service (FAS), or his designee within 30 days from the date of notification. The request for reconsideration will be presented in writing separately stating any reason as to why such determination should not stand. The Administrator, FAS will provide such person with an opportunity for a hearing on such matter.

§ 6.30 Adjustment of countries of origin.

(a) Upon submission by a licensee of proof satisfactory to the Licensing Authority that said licensee will be unable to enter during a quota year his or her quota share of an article from the country of origin specified in his or her license, the Licensing Authority or his or her designee may authorize the licensee and other licensees similarly situated after taking due account of any special factors which may have affected or may be affecting the trade in the article concerned, to obtain the unfilled portion of their quota shares of such article from:

(1) Other countries specified in Part 3 of the Appendix to the Tariff Schedules of the United States as countries of origin for such article;

(2) Any country of origin (global) whenever countries of origin for such article are not specified.

(b) In the event that it is shown to the satisfaction of the Licensing Authority that the country of origin discriminates against a licensee as to either price or availability of an article, the Licensing Authority shall not impose any penalties with respect to failure to use 85% or more of his or her quota share during such quota year and/or the Licensing Authority may adjust the country of origin.

§ 6.31 Delegation of Authority.

The powers vested in the Administrator, FAS, insofar as such powers relate to the functions vested in the Licensing Authority by this regulation are hereby delegated to the Licensing Authority.

§ 6.32 Superseding of Import Regulation 1, Revision 6.

This regulation will supersede the provisions of Import Regulation 1, Revision 6, as amended, heretofore in effect. With respect to violations, rights accrued, liabilities incurred, or appeals taken concerning Import Regulation 1, as amended and revised, prior to the effective date hereof, all provisions of said Import Regulation 1, as amended and revised, in effect at the time when such violations occurred, rights accrued, liabilities incurred, or appeals taken will be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

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Subtitle A--Office of the Secretary of Agriculture

Appendix 1-Articles¹ subject to the historical and nonhistorical licensing provisions of Import Regulation 1, Revision 7, and respective annual Import Quotas for each Quota year

Article ¹ by TSUS item number	Annual historical/ nonhistorical quota (kilograms)	Equivalent Whole Pounds
Group I:		
(a) Butter (Item 950.05).....	320,693	707,000
EC.....	96,162	212,000
New Zealand.....	150,594	332,000
Other countries.....	73,936	163,000
(b) Dried cream (Item 950.04).....	226	500
(c) Malted milk (Item 950.11).....	2,721	6,000
(d) Dried whole milk (Item 950.03).....	3,175	7,000
(e) Dried skimmed milk (Item 950.02).....	819,649	1,807,000
(f) Dried buttermilk and whey (Item 950.01).....	224,984	496,000
Group II:		
(a) Edam and Gouda cheese (Item 950.09A).....	4,177,001	9,208,615
EC.....	4,011,000	8,842,650
Argentina.....	125,000	275,575
Sweden.....	41,000	90,388
Other countries.....	1	2
(b) Cheese and substitutes for cheese containing, or processed from Edam and Gouda cheese (Item 950.09B).....	1,429,000	3,150,373
EC.....	1,237,000	2,727,090
Norway.....	167,000	368,168
Other Countries.....	25,000	55,115
(c) Blue-mold cheese (except Stilton made in England), and cheese and substitutes for cheese containing or processed from Blue-mold cheese (Item 950.07).....	2,257,001	4,975,784
EC.....	2,255,000	4,971,373
Argentina.....	2,000	4,409
Other countries.....	1	2

See footnotes at the end of table.

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Appendix 1-Import Regulation 1, Revision 7

Group III:

(a) Cheddar cheese, and cheese and substitutes for cheese containing or processed from Cheddar cheese (Item 950.08A).....	3,667,889	8,086,226
EC.....	263,000	579,809
Australia.....	769,000	1,695,337
New Zealand.....	2,496,000	5,502,681
Other Countries.....	139,889	308,399
(b) American-type cheese, including Colby, washed curd, and granular cheese (but not including cheddar) and cheese and substitutes for cheese containing, or processed from such American-type cheese (Item 950.08B).....	2,708,556	5,971,281
EC.....	254,000	559,968
Australia.....	762,000	1,679,905
New Zealand.....	1,524,000	3,359,810
Other Countries.....	168,556	371,598

Group IV:

(a) Italian-type cheeses made from cow's milk, in original loaves. (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz) (Item 950.10).....	4,863,001	10,720,968
EC.....	1,763,000	3,886,709
Argentina.....	3,100,000	6,834,260
Other Countries.....	1	2
(b) Italian-type cheeses made from cow's milk, not in original loaves (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz, and Goya) and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Item 950.10A).....	671,000	1,479,285
EC.....	47,000	103,616
Argentina.....	611,000	1,347,010
Other Countries.....	13,000	28,659

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Subtitle A--Office of the Secretary of Agriculture
Appendix 1-Import Regulation 1, Revision 7

Group V

(a) Swiss or Emmenthaler cheese with eye formation (Item 950.10B).....	9,260,276	20,415,204
EC.....	1,767,000	3,895,528
Austria.....	3,729,000	8,220,953
Finland.....	2,772,000	6,111,151
Israel.....	27,000	59,524
Norway.....	758,000	1,671,086
Switzerland.....	122,000	268,961
Other Countries.....	85,276	187,999
(b) Swiss or Emmenthaler cheese other than with eye formation. Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from such cheese (Item 950.10C).....	5,061,833	11,159,314
EC.....	2,478,000	5,462,998
Austria.....	638,000	1,406,534
Finland.....	728,000	1,604,948
Portugal.....	125,000	275,575
Switzerland.....	1,013,000	2,233,259
Other Countries.....	79,833	176,000
(c) Cheese and substitutes for cheese provided for in Items 117.75 and 117.85, part 4C, schedule 1 (except cheese not containing cow's milk; cheese, except cottage cheese, containing 0.5 percent or less by weight of butterfat), and articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedules of the United States (Item 950.10D).....	18,392,859	40,548,891
EC.....	10,621,000	23,415,056
Austria.....	90,000	198,414
Canada.....	1,141,000	2,515,448
Finland.....	562,000	1,238,985
Iceland.....	294,000	648,152
Israel.....	66,000	145,503
New Zealand.....	3,427,000	7,555,164
Norway.....	150,000	330,690
Poland.....	936,224	2,063,999
Portugal.....	103,000	227,073
Sweden.....	774,000	1,706,360
Switzerland.....	98,000	216,050
Other Countries.....	130,635	287,997

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(d) Cheese and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.85 of subpart C, Part 4, schedule 1, except articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedules of the United States (Item 950.10E).....	4,008,001	8,836,038
EC.....	3,777,000	8,326,774
Australia.....	56,000	123,457
Poland.....	175,000	385,805
Other Countries.....	1	2

Subtitle A--Office of the Secretary of Agriculture

Appendix 2-Articles¹ subject to the historical and nonhistorical licensing provisions of Import Regulation 1, Revision 7, and respective annual Import Quotas for each Quota year

Article ¹ by TSUS item number	Annual historical/ nonhistorical quota (kilograms)	Equivalent Whole Pounds
Group II:		
(c) Blue-mold cheese (except stilton made in England), and cheese and substitutes for cheese containing, or processed from Blue-mold cheese(Item 950.07)		
EC.....	224,000	493,830
Group III:		
(a) Cheddar cheese, and cheese and substitutes for cheese containing, or processed from Cheddar cheese (Item 950.08A).....	1,035,000	2,281,760
New Zealand.....	604,000	1,331,578
Australia.....	431,000	950,182
(b) American-type cheese, including Colby, washed curd, and granular cheese (but no including Cheddar) and cheese and substitutes for cheese containing, or processed from such cheese (Item 950.08B)....	714,000	1,574,083
New Zealand.....	476,000	1,049,389
Australia.....	238,000	524,694
Group IV:		
(a) Italian-type cheese made from cow's milk, in original loaves. (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz) (Item 950.10)		
Argentina.....	750,000	1,653,450

See footnotes at the end of table.

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(b) Italian-type cheeses made from cow's milk, not in original loaves (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz, and Goya) and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Item 950.10A)		
Argentina.....	32,000	70,547

Group V		
(a) Swiss or Emmenthaler cheese with eye formation (Item 950.10B).....	22,595,000	49,812,934
EC.....	4,233,000	9,332,071
Argentina.....	80,000	176,368
Austria.....	2,551,000	5,623,934
Australia.....	500,000	1,102,300
Canada.....	70,000	154,322
Finland.....	5,428,000	11,966,568
Iceland.....	300,000	661,380
Norway.....	6,125,000	13,503,175
Switzerland.....	3,308,000	7,292,816

(b) Swiss or Emmenthaler cheese other than with eye formation. Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from such cheese (Item 950.10C).....	2,013,000	4,437,859
EC.....	1,022,000	2,253,101
Austria.....	282,000	621,697
Finland.....	272,000	599,651
Switzerland.....	437,000	963,410

(c) Cheese and substitutes for cheese provided for in Items 117.75 and 117.85, part 4C, schedule 1 (except cheese not containing cow's milk; cheese, except cottage cheese, containing 0.5 percent or less by weight of butterfat), and articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedules of the United States (Item 950.10D).....	22,518,000	49,643,180
EC.....	9,379,000	20,676,943
Argentina.....	100,000	220,460
Australia.....	1,050,000	2,314,830
Austria.....	560,000	1,234,576

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Finland.....	738,000	1,626,994
Iceland.....	29,000	63,933
Israel.....	607,000	1,338,192
New Zealand.....	7,895,000	17,405,317
Portugal.....	353,000	778,223
Sweden.....	285,000	628,311
Switzerland.....	1,522,000	3,355,401

(d) Cheese and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.85 of subpart C, Part 4, schedule 1, except articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedules of the United States

(Item 950.10E).....	1,717,000	3,785,298
EC.....	223,000	491,625
Australia.....	194,000	427,692
Israel.....	50,000	110,230
New Zealand.....	1,000,000	2,204,600
Sweden.....	250,000	551,150

1/ Each time a particular TSUS Item No. is referred to in this Appendix, it includes all the articles classified under that item number in Part 3 of the Appendix to the Tariff Schedules of the United States except where specifically otherwise provided in the article description.

(Sec. 3, 62 Stat. 1248, as amended (7 U.S.C. 624); part 3 of the Appendix to the Tariff Schedules of the United States (9 U.S.C. 1202)

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should not be classified "significant" under those criteria. A

Final Impact Statement has been prepared and is available from Carol M. Harvey, Head Dairy and Import Group, CP, Room 6616, South Building, Department of Agriculture, Washington, D.C. 20250.

Signed the 18th day of December, 1979.

Thomas R. Hughes,
Administrator, Foreign Agricultural Service.

[FR Doc. 79-39142 Filed 12-19-79; 8:45 am]
BILLING CODE 3410-10-M

Thursday
December 20, 1979

Part VIII

Department of
Energy

Energy Information Administration

Publication of Alternate Fuel Price
Ceilings and Incremental Price Threshold
for High Cost Natural Gas

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price
Ceilings and Incremental Price
Threshold for High Cost Natural Gas

Pursuant to Title II of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621), section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) alternative fuel price ceilings and a high cost gas incremental pricing threshold. These data are effective January 1, 1980, and are to be used by natural gas suppliers to determine the maximum surcharges applicable to the passthrough of certain portions of natural gas acquisition costs.¹

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, prices are shown for the 48 contiguous states. The District of Columbia's ceiling is included with the ceiling of the State of Maryland. The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State:	Dollars per million BTU's
Alabama	2.43
Arizona	2.68
Arkansas	2.74
California	2.72
Colorado	2.06
Connecticut	3.16
Delaware	3.00
Florida	2.80
Georgia	2.81
Idaho	2.06
Illinois	2.91
Indiana	2.91
Iowa	2.68
Kansas	2.68
Kentucky	2.91
Louisiana	2.73
Maine	3.13
Maryland	2.94
Massachusetts	3.04
Michigan	2.97
Minnesota	2.99
Mississippi	2.81
Missouri	2.38
Montana	2.06
Nebraska	2.68
New Hampshire	3.33
New Jersey	2.94
New Mexico	2.73
New York	2.93
Nevada	2.68
North Carolina	2.98
North Dakota	2.68
Ohio	2.91
Oklahoma	2.73
Oregon	2.53
Pennsylvania	2.90
Rhode Island	3.16
South Carolina	2.81
South Dakota	2.68
Tennessee	2.81
Texas	2.74
Utah	2.06
Vermont	3.27
Virginia	2.93
Washington	2.48

¹ FERC Order No. 49, September 28, 1979; Docket No. RM79-14.

State:	Dollars per million BTU's
West Virginia	2.91
Wisconsin	2.96
Wyoming	2.06

¹ Region-based price; see section III.

Section II. Incremental Pricing
Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted price of No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during October 1979 was \$32 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective January 1, 1980, is \$7.17 per million BTU's.

Section III. Method Used to Compute
Price Ceilings

The FERC, by Order No. 50, issued September 28, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 51, issued in the same docket on the same date, established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings until November 1, 1980.

A. Data Collected

The EIA required the following data from all companies identified by the EIA as sellers of No. 6 high sulfur content residual fuel oil: for the month of October 1979, for each selling price to a large industrial user³, the number of gallons sold and the price. All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine
Alternative Price Ceilings

Using each reported selling price and the volume sold at that price, the volume-weighted average price for each State was computed. States were grouped into the regions identified by the FERC (see Section III.C.). Using all reported prices and associated volumes sold in a region, the volume-weighted average price and the volume-weighted standard deviation of prices were calculated for each region. The volume-weighted average price for each State

³ Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or local) and the military are excluded.

was adjusted downward by two times the standard deviation for the region to form the adjusted average price. The adjusted average price was compared to the lowest price reported for any transaction within the State, and the higher of the two was selected as the alternative fuel cost for purposes of establishing the price ceilings required by the NGPA. The alternative fuel cost (expressed in dollars per barrel) was divided by 6.3 million BTU's per barrel to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

In accordance with Section III.E., either the alternative fuel price calculated for the State or a region-based price was selected for each State. The method used to establish region-based prices is described in Section III.D. The alternative price ceiling selected is shown in Section I.

C. Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

- Region A: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island.
- Region B: Delaware, Maryland, New Jersey, New York, Pennsylvania.
- Region C: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee.
- Region D: Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Wisconsin.
- Region E: Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, South Dakota.
- Region F: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
- Region G: Colorado, Idaho, Montana, Utah, Wyoming.
- Region H: Arizona, California, Nevada, Oregon, Washington.

D. Method Used to Establish Region-
Based Price

The price calculated for each State in accordance with the method described in Section III.B. was multiplied by the number of gallons of No. 6 high sulfur content residual fuel oil sold in the State during the reference month; the results of this calculation for all States in the region were summed and the total was divided by the total volume of the No. 6 high sulfur content residual fuel oil reported for the reference month. That result became the region-based price for the States in that region as applicable.

E. Selection of State or Region-Based
Price

The region-based price was selected for publication for all states where the price computed for the State might disclose company specific information.

The EIA recognizes that there are a number of ways in which incremental

price ceilings could be derived. Given the short period of time available after the final Rulemaking issued by the FERC, the EIA decided to use the method described above initially. The EIA is considering a number of changes to the method, including the following:

- Data for the two months preceding the reference month may be used along with data for the reference month to calculate a three-month average; in that way, the incremental price ceiling published each month will be an average of data for three months.
- A "lag adjustment" will also be considered that will minimize the effect of changes in selling prices of the alternative fuel from the three months used in the calculation to the date the incremental prices become effective.

Issued in Washington, D.C. on December 19, 1979.

Lincoln E. Moses,

Administrator, Energy Information
Administration.

[FR Doc. 79-39255 Filed 12-19-79; 10:26 am]

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Reader Aids

Federal Register
Vol. 44, No. 246
Thursday, December 20, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

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- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
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- 312-663-0884 Photo copies of documents appearing in the Federal Register
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of

the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- PERSONNEL MANAGEMENT OFFICE /**
- 66573 11-20-79 / Attorney positions; exempted from excepted service
- 66574 11-20-79 / Career and carrier conditional employment

Listing of Public Laws

Last Listing December 19, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

- S. 901 / Pub. L. 96-148 To amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery. (Dec. 16, 1979; 93 Stat. 1088) Price \$.75.
- S. 1788 / Pub. L. 96-149 To amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board. (Dec. 16, 1979; 93 Stat. 1089) Price \$.75.

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Book 1 of 2 Books
Friday, December 21, 1979

NOTE:

Due to a shortage of newsprint, today's Federal Register is printed on a higher quality paper. As supplies become available, the Federal Register will resume the use of newsprint.

Highlights

- 75740 **Crime and Drug Abuse** Justice/LEAA announces competitive research grants program
- 75727 **Energy Allowance Program** HEW/SSA will have \$1.2 billion for distribution to aid low income persons during the winter heating season; effective 12-21-79
- 75720 **National Long-Term Care Program** HEW/Sec'y intends to make available approximately \$18 to \$20 million for fiscal year 1980 to develop, fund and evaluate channeling demonstration projects
- 75723, **Follow Through Program** HEW/OE invites
75724 applicants to participate in technical assistance and noncompeting continuation project awards; apply by 2-29-80 (2 documents)
- 75669 **Technical and Supervisory Assistance Program** USDA/FmHA list specific policies for use of fiscal year 1980 grants and sets preapplication deadline to 2-15-80
- 75648 **National School Lunch** USDA/FNS proposes to eliminate certain restrictions on the use of program funds by participating schools; comments by 2-19-80

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

- 75645 **Energy Crisis Assistance** CSA issues an amendment to implement the fiscal year 1980 supplemental appropriation for emergency fuel assistance; effective 12-21-79
 - 75956 **Residential Conservation Service** DOE/Solar proposes rules to encourage the installation of energy saving measures and renewable resource measures; comments by 2-19-80; hearing 1-21-80 (Part VI of this issue)
 - 75689 **Nutrition Programs for the Elderly** USDA/FNS issues a notice stating an increase of 43.00 cents per meal
 - 75659 **Nitrates in Bacon** HEW/FDA proposes exception from the color additive definition; comments by 2-19-80
 - 75687 **Magnetic Tapes** Administrative Committee of the Federal Register issues notice announcing sales of the Federal Register and annual Code of Federal Regulations
 - 76024 **Housing Assistance Payments Programs** HUD/FHC proposes to amend fair market rents for all market areas; comments by 2-19-80 (Part VIII of this issue)
 - 76176 **Mobile Homes** HUD/NVACP proposes to amend its rules to set out more detailed regulations to govern investigations and adjudicative proceedings; comments by 1-21-80 (Part IX of this issue)
 - 75621 **Banking** FRS adopts final rule regarding maximum rates of interest payable; effective 1-1-80
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OFFICE OF PERSONNEL
MANAGEMENT

5 CFR Parts 212, 213, 214, and 317

Competitive Service and Competitive Status; Excepted Service; Senior Executive Service; Appointment, Reassignment, Transfer and Development in the Senior Executive Service

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: These interim regulations (1) exclude the Senior Executive Service from the definitions of the competitive and excepted services, (2) define the Senior Executive Service and establish the criteria for designating career reserved positions and (3) prescribe conditions on the use of limited emergency and limited term appointments in the Senior Executive Service, which was established under the Civil Service Reform Act of 1978.

DATES: Effective Date: December 21, 1979 and until final regulations are issued. Comment Date: Written comments will be considered if received no later than February 19, 1980.

ADDRESS: Send written comments to the Associate Director, Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: John W. Vincent, (202) 632-6820.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the

appropriate provisions of the Civil Service Reform Act of 1978.

A new Part 214 was added to Title 5, Code of Federal Regulations, on June 29, 1979, (44 FR 37888) to recognize the establishment of the Senior Executive Service by title IV of the Civil Service Reform Act of 1978. At that time, all sections except one were reserved. These new regulations set out those sections. They also exclude the Senior Executive Service from the definitions of the competitive and excepted service in Parts 212 and 213.

In Part 214:

—Subpart A incorporates the statutory requirements defining the Senior Executive Service.

—Subpart B defines the terms used in the Part. It also sets out the authority of each agency to determine which of its positions meet the definition for coverage in the Senior Executive Service and the authority of the Office of Personnel Management to review agency designations and make a final determination as to coverage.

—Subpart C sets out the procedures by which an agency can request exclusion of the entire agency, or units thereof, from the Senior Executive Service.

—Subpart D notes that the only types of positions in the Senior Executive Service are general and career reserved positions. It lists the two categories of positions that must be career reserved: (1) certain former Executive Schedule positions and (2) positions that must be filled by a career appointee to ensure impartiality, or the public's confidence in the impartiality of the Government. It then sets out the criteria for determining whether a position falls in category (2). It notes that the head of the agency is responsible for designating career reserved positions in accordance with the criteria. It sets out the authority of the Office of Personnel Management to direct an agency to change a general position to career reserved. It also requires that an agency obtain prior approval of the Office of Personnel Management to change the designation of an established career reserved position to general or an established general position to career reserved. Among other things, this requirement assures that agencies do not improperly switch career reserved positions to general in order to make noncareer appointments. Finally, the part gives the Office of Personnel Management the authority to establish a minimum number of career reserved positions for individual agencies so that it can assure the Government-wide floor on such positions prescribed by 5 U.S.C. 3133(e) is met.

In Part 317, the conditions are described under which an agency may

make a limited term or limited emergency appointment. Particular points to note are the following:

—5 U.S.C. 3394(b) requires the Office of Personnel Management approval before an agency may use a limited appointment authority. The regulations allow the Office to sign an agreement with an agency which may want to make limited appointments under specified circumstances (e.g., two-year rotating assignments to bring in persons from universities to a scientific organization within the agency) without having to get Office approval for each appointment.

—5 U.S.C. 3132(a) (5) and (6) state that limited term and limited emergency appointments are "nonrenewable." The regulations interpret this provision to mean that an appointee may not get a new appointment to his/her current position that would extend the appointment beyond the maximum limit authorized by the Office of Personnel Management, but that an appointment made for less than the maximum period may be extended to the maximum without Office approval.

Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

PART 212—COMPETITIVE SERVICE
AND COMPETITIVE STATUS

Accordingly, the Office of Personnel Management is amending title 5, Code of Federal Regulations, as follows:

(1) Section 212.101(a)(1) is revised to read as follows:

§ 212.101 Definitions.

(a) * * *

(1) All civilian positions in the executive branch of the Federal Government not specifically excepted from the civil service laws by or pursuant to statute, by the President, or by the Office of Personnel Management, and not in the Senior Executive Service; and

* * * * *

(5 U.S.C. 2102)

PART 213—EXCEPTED SERVICE

(2) Section 213.101(a) is revised to read as follows:

§ 213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the

competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in the Senior Executive Service.

(5 U.S.C. 2103)

(3) Part 214 is being revised to read as follows:

PART 214—SENIOR EXECUTIVE SERVICE

Subpart A—Principal Statutory Requirements

214.101 Principal statutory requirements.

Subpart B—General Provisions

214.201 Definitions.

Subpart C—Exclusions

214.301 Exclusions.

Subpart D—Types of Positions

214.401 Types of positions.

214.402 Career reserved positions.

214.403 Change of position type.

Authority: 5 U.S.C. 3132.

Subpart A—Principal Statutory Requirements

§ 214.101 Principal statutory requirements.

This subpart incorporates the statutory requirements defining the Senior Executive Service.

5 U.S.C. 2101a states:

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title)."

5 U.S.C. 3132(a) states:

(1) "agency" means an Executive agency, except a Government corporation and the General Accounting Office, but does not include—

(A) any agency or unit thereof excluded from coverage by the President under subsection (c) of this section; or

(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, as determined by the President, an Executive agency, or unit thereof, whose principal function is the conduct of foreign intelligence or counterintelligence activities;

(2) "Senior Executive Service position" means any position in an agency which is in GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President by and with the advice and consent of the Senate, and in which an employee—

(A) directs the work of an organization unit;

(B) is held accountable for the success of one or more specific programs or projects;

(C) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals;

(D) supervises the work of employees other than personal assistants; or

(E) otherwise exercises important policy-making, policy-determining, or other executive functions; but does not include—

(i) any position in the Foreign Service of the United States;

(ii) an administrative law judge position under section 3105 of this title; or

(iii) any position in the Drug Enforcement Administration which is excluded from the competitive service under section 201 of the Crime Control Act of 1976 (5 U.S.C. 5108 note; 90 Stat. 2425).

Subpart B—General Provisions

§ 214.201 Definitions.

In this chapter:

"Agency" has the meaning given that term by section 3132(a)(1) of title 5, United States Code, as set out in § 214.101.

"Equivalent position" as used in section 3132(a)(2) of title 5, United States Code, means a position under any pay system where the level of the duties and responsibilities of the position and the rate of pay are comparable to that of a position at GS-16, -17, or -18, or at Executive Level IV or V.

"Senior Executive Service" has the meaning given that term by section 2101a of title 5, United States Code, and includes all positions which meet the definition in section 3132(a)(2) of title 5, as set out in § 214.101.

§ 214.202 Authority to make determinations.

(a) Each agency is responsible for determining, in accordance with Office of Personnel Management guidelines, which of its positions should be included in the Senior Executive Service.

(b) Agency determinations may be reviewed by the Office of Personnel Management, which has the authority to make final determinations.

Subpart C—Exclusions

§ 214.301 Exclusions.

If not excluded from the Senior Executive Service by section 3132(a) (1) or (2) of title 5, United States Code, an agency, or unit thereof, may be excluded only under the provisions of section 3132 (c) through (f) of title 5.

Subpart D—Types of Positions

§ 214.401 Types of positions.

There are two types of positions in the Senior Executive Service:

(a) General positions, which may be filled by a career, noncareer, limited emergency, or limited term appointee.

(b) Career reserved positions, which may be filled only by a career appointee.

§ 214.402 Career reserved positions.

(a) The head of each agency is responsible for designating career reserved positions in accordance with the regulations in this section.

(b) A position shall be designated as a career reserved position if:

(1) The position (except a position in the Executive Office of the President);

(i) Was under the Executive Schedule, or the rate of basic pay was determined by reference to the Executive Schedule, on October 12, 1978;

(ii) Was specifically required under section 2102 of title 5, United States Code, or otherwise required by law to be in the competitive service; and

(iii) Entailed direct responsibility to the public for the management or operation of particular government programs or functions; or

(2) The position must be filled by a career appointee to ensure impartiality, or the public's confidence in the impartiality, of the Government.

(c) The head of an agency shall use the following criteria in determining whether paragraph (b)(2) of this section is applicable to an individual position:

(1) Career reserved positions include positions the principal duties of which involve day-to-day operations, without responsibility for or substantial involvement in the determination or public advocacy of the major controversial policies of the Administration or agency, in the following occupational disciplines:

(i) Adjudication and appeals;

(ii) Audit and inspection;

(iii) Civil or criminal law enforcement and compliance;

(iv) Contract administration and procurement;

(v) Grants administration;

(vi) Investigation and security matters; and

(vii) Tax liability, including the assessment or collection of taxes and the preparation or review of interpretative opinions.

(2) Career reserved positions also include:

(i) Scientific or other highly technical or professional positions where the duties and responsibilities of the specific position are such that it must be filled by a career appointee to insure impartiality, or the public's confidence in impartiality, of the Government.

(ii) Other positions requiring impartiality, or the public's confidence in impartiality, as determined by an agency in light of its mission.

(d) The Office of Personnel Management may review agency designations of general and career reserved positions. If the Office finds that an agency has designated any

position as general that should be career reserved, it shall direct the agency to make the career reserved designation.

(e) The minimum number of positions in the Senior Executive Service Governmentwide that must be career reserved is 3,571 as determined by the Director of the Office of Personnel Management under section 3133(e) of 5 U.S.C. To assure that this figure is met, the Office may establish a minimum number of career reserved positions for individual agencies. An agency must maintain or exceed this number unless it is adjusted by the Office.

§ 214.403 Change of position type.

An agency may not change the designation of an established position from career reserved to general, or from general to career reserved, without the prior approval of the Office of Personnel Management.

PART 317—APPOINTMENT, REASSIGNMENT, TRANSFER AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

(4) Part 317 is amended by reserving Subparts C, D, and E, and by adding Subpart F, to read as follows:

Subpart F—Limited Emergency and Limited Term Appointments

Sec.

317.601 Authorization and duration

317.602 Conditions of appointment

317.603 Selection of limited appointees

317.604 Reassignment of limited appointees

317.605 Tenure of appointees

Authority: 5 U.S.C. 1302, Pub. L. 95-454

Subpart F—Limited Emergency and Limited Term Appointments

§ 317.601 Authorization and duration.

(a) An agency may make a limited appointment only with the specific authorization of the Office of Personnel Management for use of the appointing authority.

(b) Each use of a limited appointment authority must be approved individually by the Office unless the agency has an agreement with the Office authorizing the agency to make limited appointments on its own under specified circumstances.

(c) The Office may authorize an agency to make a limited emergency appointment not to exceed 18 months to a position established to meet a bona fide, unanticipated, urgent need.

(d) The Office may authorize an agency to make a limited term appointment not to exceed 3 years to a position the duties of which will expire at the end of the period.

§ 317.602 Conditions of appointment.

(a) A limited appointment may be made only to a general position.

(b) A limited appointment is not renewable. If an agency initially made the appointment for less than the maximum period authorized by the Office of Personnel Management, however, the agency may extend the appointment to the maximum period without the approval of the Office. The Office must be notified of the extension.

(c) A limited term or limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of limited term and limited emergency appointments.

§ 317.603 Selection of limited appointees.

An agency may make a limited appointment without the use of merit staffing procedures. The appointee, however, must meet the qualifications requirements for the position, as determined in writing by the appointing authority.

§ 317.604 Reassignment of limited appointees.

An agency may make the following reassignments of limited appointees to positions for which qualified without the prior approval of the Office of Personnel Management. The Office must be notified of the reassignment, however.

(a) An agency may reassign a limited emergency appointee to another general position established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 18 months.

(b) An agency may reassign a limited term appointee to another general position the duties of which will expire at the end of 3 years or less except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

§ 317.605 Tenure of appointees.

(a) A limited appointee does not acquire status within the Senior Executive Service on the basis of the limited appointment.

(b) An agency may terminate a limited appointment at any time.

(c) The employment of a limited appointee ends automatically on the expiration of the appointment if the appointment has not been terminated earlier.

(d) An employee who, without a break in service, received a limited appointment from a permanent civil

service position held under a career or career conditional appointment (or an appointment of equivalent tenure) outside the Senior Executive Service and whose limited appointment is terminated for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in his/her former position or a position of like status, tenure, and grade.

(5 U.S.C. 1302, Pub. L. 95-454)

[FR Doc. 79-39107 Filed 12-20-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

Food Stamp Act of 1977; Implementation Schedule and Certification Requirements; Corrections

AGENCY: Food and Nutrition Service, USDA.

ACTION: Food Stamp Program—Corrections.

SUMMARY: In 44 FR 45880 (August 3, 1979) § 272.1(g)(7) was incorrectly titled Amendment 142. The correct title is Amendment 149. Also § 272.1(g) *Implementation*, Amendments 141 and 146 were given the same subparagraph number and Amendments 147 and newly designated 149 were therefore misnumbered. In addition, the September 25, 1979 rulemaking has a sentence inadvertently deleted from § 273.2(f)(9)(i); and § 273.12(a)(1)(vi) was worded incorrectly.

FOR FURTHER INFORMATION CONTACT: Larry Carnes, Chief, Regulations and Policy Section, Program Development Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447-9075.

1. Therefore, § 272.1(g) should be corrected as follows:

§ 272.1 General terms and conditions.

(g) *Implementation.* ***
(3) *Amendment 146* ***
(4) *Amendment 141* ***
(5) *Amendment 147* ***
(6) *Amendment 149* ***

2. Sections 273.2(f)(9)(i) and 273.12(a)(1)(vi) should read as follows:

§ 273.2 Application processing.

(f) *Verification.* ***
(9) *Verification subsequent to initial certification.*

(i) *Recertification.* At recertification, the State agency shall verify a change in income, medical expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than \$25 since the last time they were verified. State agencies may verify income, actual utility expenses, or medical expenses claimed by household which are unchanged or have changed by \$25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. All other changes reported at the time of recertification shall be subject to the same verification procedures as apply at initial certification. Unchanged information, other than income and medical or utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section.

§ 273.12 Reporting changes.

- (a) *Household responsibility to report.*
(1) ***
(vi) Any change of more than \$25 for deductible medical expenses.

[91 Stat. 958 (7 U.S.C. 2011-2027)]
[Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps.]

Dated: December 14, 1979.

Carol Tucker Foreman,
Assistant Secretary.

[FR Doc. 79-39058 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 231]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period December 23-29, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: December 23, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons

grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on December 18, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been appraised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975.

Section 910.531 is added as follows:

§ 910.531 Lemon regulation 231.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 23, 1979, through December 29, 1979, is established at 180,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

[Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674]

Dated: December 19, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
[FR Doc. 79-39435 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, Calif.; Amendment of Expenses for 1979-80 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the previously approved expenses for the 1979-80 fiscal period of the Industry Committee which locally administers the Federal marketing order covering Tokay grapes grown in California. This action is based upon recommendations submitted by the Industry Committee, which indicate that an increase in the amount of expenses authorized is necessary.

DATES: Effective April 1, 1979-March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon recommendations and information submitted by the Industry Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee reports that market development expenditures for the 1979-80 fiscal period will be greater than earlier anticipated because the Tokay grape packout this season has exceeded earlier estimates, resulting in a need to increase the amount of expenses previously approved (44 FR 47757).

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), in that this increase in the amount of expenses previously authorized is necessary to enable the committee to meet obligations which are now accruing. The increase in

authorized expenditures will not necessitate an increase in the rate of assessment.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone: 202-447-5975.

Therefore, paragraph (a) of § 926.219 *Expenses, Rate of Assessment, and Carryover of Unexpended Funds* (44 FR 47757) is amended to read as follows:

§ 926.219 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonably and are likely to be incurred by the Industry Committee during fiscal period April 1, 1979, through March 31, 1980, will amount to \$164,957.50.

[Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674]

Dated: December 14, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
[FR Doc. 79-39108 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1133

[Milk Order No. 133]

Milk in the Inland Empire Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues for the months of January and February 1980 a prior suspension which increased the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to unregulated manufacturing plants and still be priced under the order. The suspension is based on a cooperative association's proposal for increased diversion limits that was considered at a public hearing held on June 12-13, 1979, in Spokane, Washington. As announced in its October 31 recommended decision, the Department has tentatively concluded that the diversion limits should be increased. A final decision is pending. The suspension will enable producers who have been regularly

associated with the market to continue to have their milk pooled and priced under the order pending the completion of the amendatory proceeding.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued May 14, 1979; published May 18, 1979 (44 FR 29088).

Suspension order: Issued August 15, 1979; published August 20, 1979 (44 FR 48646).

Recommended decision: Issued October 31, 1979; published November 6, 1979 (44 FR 64087).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Inland Empire marketing area.

It is hereby found and determined that for the months of January and February 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1133.13(c) (1) and (2), the words "50 percent in any of the months of September through March, and", and "in any of the months of April through August."

Statement of Consideration

This action, based on a public hearing held for this order on June 12-13, 1979, at Spokane, Washington, extends for the months of January and February 1980 a present suspension order which increases the limit on the amount of producer milk that may be diverted from pool plants to nonpool plants by a cooperative association or a proprietary handler operating a pool plant. The current suspension applied to the months of September through December 1979. In the case of a cooperative, the limit is increased from 50 percent to 70 percent of its total member milk received at all pool plants or diverted therefrom. For the operator of a pool plant, the higher 70 percent limit would apply to the producer milk received at the plant or diverted therefrom if the diverted milk is from producers who are not members of a cooperative that had diverted milk. The order now permits diversions of up to 50 percent of such receipts for the months of September through March and 70 percent for all other months.

The suspension was requested in a post-hearing brief filed by Northwest Dairyman's Association (NWDA), a cooperative which handles most of the market's reserve milk supplies. At the hearing, NWDA proposed that the diversion limit during September through February be increased to 70 percent and during March through August to 80 percent. The cooperative requested in its brief that diversion limits be suspended pending completion of the amendatory proceeding. On the basis of this request, diversion limits were suspended for the months of September through December 1979.

A recommended decision in this proceeding was issued on October 31, 1979. The decision recommended that diversion limits be increased to 70 percent during September through February and to 80 percent during March through August. A final decision has not been issued yet.

Pending completion of this proceeding, a continuation of the present suspension is appropriate, as it will accommodate the pooling and efficient handling of reserve milk supplies for the market.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date;

(c) The need for changing the diversion limits was considered at a public hearing held on June 12-13, 1979, where all interested parties had an opportunity to participate in this rulemaking proceeding; and

(d) This suspension continues a present suspension which will expire at the end of December 1979.

It is therefore ordered that the aforesaid provisions of the order are hereby suspended for the months of January and February 1980.

[Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).]

Effective date: January 1, 1980.

Signed at Washington, D.C., on December 17, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-39228 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 75

Contagious Equine Metritis (CEM); Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to release a quarantine on one premises and to place a new quarantine on three premises in the Commonwealth of Kentucky because of the existence of contagious equine metritis (CEM). CEM, a communicable disease of equidae has been diagnosed among breeding thoroughbred horses in certain areas of the Commonwealth of Kentucky. In order to protect the equine industry of the United States from this highly contagious and communicable disease and the integrity of the export of equidae from the United States, it is necessary to quarantine certain premises in the Commonwealth of Kentucky and to permit the interstate movement of such quarantined animals only in accordance with the provisions established in the regulations. The intended effect of these amendments is to stop the spread of CEM in the United States.

EFFECTIVE DATE: December 18, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph C. Knowles, USDA, APHIS, VS, Federal Building, Room 738, Hyattsville, MD 20782, 301-436-8433.

SUPPLEMENTARY INFORMATION: Contagious equine metritis (CEM), a highly contagious and communicable disease of equidae, has been diagnosed in the Commonwealth of Kentucky among breeding horses of the thoroughbred breed.

Section 75.7(a) of the regulations (9 CFR 75.7(a)), is amended to remove the quarantine for CEM from one portion of the premises of Claiborne Farm in Bourbon County and to place a quarantine on a different portion of the premises of the Claiborne Farm in Bourbon County, Kentucky. Additionally, new quarantines for CEM are placed on a portion of the Murty Farm in Fayette County and on an additional portion of the Beaconsfield

Farm in Scott County, Kentucky. The imposition of these quarantines is necessary because it has been determined that CEM exists on such premises. The removal of a quarantine on premises presently quarantined is necessary because CEM has been determined not to exist on such premises.

Accordingly, Part 75, Title 9, Code of Federal Regulations, is amended as follows:

1. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (ii)(B), relating to Bourbon County, is amended to read:

§ 75.7 Areas quarantined.

- (a) * * *
(1) * * *
(ii) * * *

(B) That portion of the premises of Claiborne Farm located 1.4 miles south of the intersection of U.S. Highway 68 and Kentucky Highway 627 on the east side of Kentucky Highway 627 to the entrance, then follow the main farm road .65 mile to the veterinarians' barn on the left, then from the northeast corner of this barn, travel 50 feet north to the corner post of paddock Number 2 to the quarantined area described as beginning at the corner post, then in a northeast direction approximately 145 feet along a double fence, then again in a northeast direction approximately 235 feet along a double fence, then in a southeast direction approximately 185 feet along a double fence, then in a southwest direction approximately 230 feet along a double fence to the point of beginning, containing approximately .9 acre.

2. In § 75.7(a)(1), relating to the State of Kentucky, a new paragraph (iv)(P), relating to Fayette County is added to read:

§ 75.7 Areas quarantined.

- (a) * * *
(1) * * *
(iv) * * *

(P) That portion of the premises of Murty Farm located in the northwest corner of the junction formed by Van Meter Road and U.S. Highway 60, which is 1.4 miles west of the intersection of U.S. Highway 60 and Kentucky Highway Number 4, then from the southeast corner of the permanent structure known as the bunkhouse, travel 20 feet south to the quarantined area described as beginning at the corner post of paddock 5D, then in a south direction approximately 170 feet along the lane fence, then in a west direction approximately 160 feet along the lane fence, then in a north direction approximately 240 feet along a double

fence, then in an east direction approximately 90 feet along a double fence, then in a south direction approximately 70 feet along a fence line behind the bunkhouse, then in an east direction approximately 70 feet along a fence line to the point of beginning, containing approximately .75 acre, known as paddock 5D.

3. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (x)(A), relating to Scott County, is amended to read:

§ 75.7 Areas quarantined.

- (a) * * *
(1) * * *
(x) * * *

(A) That portion of the premises of Beaconsfield Farm located in the northwest corner of intersection U.S. Highway 460 and Kentucky Highway 922, then from the entrance barn (barn No. 2), proceed 150 feet due west to the gate of the paddock, described as beginning at the paddock gate; then, north along the fence along the west side of the lane approximately 320 feet; then, west along the double fence approximately 300 feet; then, south approximately 800 feet along the fence bordering the east side of the pond; then, east approximately 300 feet along a fence line; then along the fence line on the west side of the lane approximately 450 feet to the point of beginning, containing approximately 5.5 acres.

The second quarantined area is described as beginning at the northeast corner post of the first quarantined area, then in an east direction approximately 900 feet along a cultivated field, behind the tobacco barn and main residence, to the northwest corner post of another paddock, then in a south direction approximately 800 feet along a fence line, then in a west direction approximately 900 feet along a cultivated field, behind a trailer residence, to the southeast corner post of the first quarantined area, then in a north direction approximately 800 feet along the east fence line of the first quarantined area to the point of beginning, containing approximately fifteen (15) acres, including a tobacco barn, two residences, an antebellum log house and a barn.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended; [21 U.S.C. 111-113, 115, 117, 120, 121, 123-126], 37 FR 28464, 28477; 38 FR 19141.)

CEM is a highly contagious and communicable disease of equidae. The quarantining of additional areas in Kentucky is necessary to prevent the spread of CEM from these areas.

Additionally, the removal of the quarantine over a certain area of Kentucky because CEM has been determined not to be present in such area, relieves unnecessary restrictions on persons moving certain horses interstate from such area in Kentucky. Consequently, these amendments must be made effective immediately to accomplish their purposes in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Note.—Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. J. K. Atwell, Assistant Deputy Administrator, APHIS, VS, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 75. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 18th day of December 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-39225 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

(Docket No. R-0267; Reg. Q)

Maximum Rates of Interest Payable

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted three amendments to Regulation Q. The first amendment creates a new time deposit category with a maturity of 2½ years or more. Member banks are authorized to pay interest on this new nonnegotiable time deposit at a ceiling rate of three quarters of one percent below the average 2½ year yield for

United States Treasury securities as determined monthly by the United States Treasury. No minimum denomination is required for this new deposit category. As part of this action, the Board is eliminating the four-year or more time deposit with a ceiling rate tied to the average yield on four-year United States Treasury securities which member banks were authorized to offer effective July 1, 1979. The second amendment increases the ceiling rate of interest payable by member banks on time deposits with maturities of 90 days or more, but less than one year from 5½ percent to 5¾ percent. The third amendment permits members to pay interest on Individual Retirement Account/Keogh (H.R. 10) Plan and governmental unit funds at the same rate permitted mutual savings banks and savings and loan associations when such funds are invested in 26-week \$10,000 money market time deposits or the new 2½ year time deposit. These actions are being taken to provide additional returns to savers.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625) or Anthony F. Cole, Senior Attorney (202/452-3612), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On May 30, 1979, the Board of Governors adopted amendments to Regulation Q designed to help small savers obtain a higher return on their deposits (44 FR 32646). These amendments included raising the savings deposit ceiling rate by one-quarter of one percent to 5¼ percent, creation of a new four-year or more time deposit whose ceiling rate is tied to the rate paid on four-year U.S. securities, elimination of minimum denomination requirements (except for the \$10,000 minimum required for the 26-week money market certificate), and reduction of the penalties for early withdrawal of time deposit funds. In announcing these actions, the Board stated that consideration would be given toward the end of this year to determine whether further adjustments in interest rate ceilings would be appropriate. After consultation with the other Federal financial regulatory agencies, the Board has amended Regulation Q (12 CFR 217) to: (1) create a new time deposit category with a maturity of 2½ years or more and with a maximum ceiling rate of interest based on the average 2½ year yield on Treasury securities; (2) increase the ceiling rate of interest payable on time deposits with maturities of 90 days or more but less than one

year from 5½ percent to 5¾ percent; and (3) permit member banks to pay interest on IRA/Keogh and governmental unit funds at the same rate permitted mutual savings banks and savings and loan associations when such funds are invested in 26-week \$10,000 money market time deposits or the new 2½ year time deposit. The Board believes that these amendments, in conjunction with those adopted by the other Federal financial regulatory agencies, will enable savers to obtain higher rates of return on their savings and will increase the flow of funds to the nation's depository institutions, as well as encourage individuals to save for their retirement.

1. 2½ Year Fixed Rate, Variable Ceiling Time Deposit

Beginning January 1, 1980, member banks will be permitted to offer a nonnegotiable time deposit with a maturity of 2½ years or more at a ceiling rate tied to the average 2½ year yield on United States Treasury securities. The ceiling rate in effect during a particular month will apply to all newly issued time deposits of this category even if a member bank issues the new time deposit with maturities in excess of 2½ years. The ceiling rate for new deposits will be determined monthly, but the ceiling rate applicable to outstanding deposits will not change during the life of the deposit. Although no minimum denomination will be required, member banks are free to establish a minimum denomination requirement for this new category of deposit. The existing fixed ceiling time deposits with maturities of 2½, 4, 6 and 8 years or more at ceiling rates of 6½, 7¼, 7½ and 7¾ percent, respectively, are not affected by this action and will remain in effect. As part of this action the Board is eliminating, effective January 1, 1980, the 4-year or more time deposit with a ceiling rate tied to the average yield on 4-year United States Treasury securities. Member banks were authorized to offer this deposit effective July 1, 1979 (12 CFR 217.7(g)). However, outstanding deposits of this category are not affected by this action.

Beginning the first day of every month, a member bank will be permitted to pay interest on new deposits with maturities of 2½ years or more at a ceiling rate of three quarters of one percent (75 basis points) below the average 2½ year yield for U.S. Treasury securities as announced by the Treasury. This ceiling rate will remain in effect for all instruments issued during the month until the first day of the next month when a new ceiling rate will go into effect for instruments issued on or

after that date. Member banks are permitted to compound and compute interest on this deposit in accordance with any of the methods authorized by section 217.3 of Regulation Q. The average 2½ year yield on U.S. Treasury securities will be announced three business days prior to the effective date (the first day of the month) and will represent an average of the 2½ year yields for the previous five business days.

Member banks will be permitted to pay interest on time deposits of this category which consist of funds deposited to the credit of, or in which the entire beneficial interest is held by, a governmental unit or an individual pursuant to an IRA agreement or Keogh (H.R. 10) Plan, at a ceiling rate equal to the ceiling rate equal to the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.

The Board believes that this action creating a shorter term time deposit instrument with a ceiling rate tied to market rates of interest will increase the amount of savings maintained by depositors. With respect to this new deposit category, member banks should maintain data such as rates paid and amounts issued in a manner that facilitates reporting to the Board.

II. Ceiling Rate on 90-Day Time Deposits

Regulation Q currently provides that no member bank shall pay interest at a rate in excess of 5½ percent on a time deposit with a maturity of 90 days or more but less than one year (12 CFR § 217.7(b)). This ceiling rate has been equal to the ceiling rate in effect for savings deposits at thrift institutions since July 1, 1979. Prior to the July 1 savings rate increase, the member bank 90-day time deposit ceiling rate was one-quarter of one percent higher than the maximum rate payable on savings deposits at thrifts.

Commercial banks historically have competed actively in the 90-day time deposit market and hold approximately 14 per cent of their small denomination time deposits in such accounts. In this regard, the agencies did not intend that their actions last July would affect the competitive balance between commercial banks and thrifts. Accordingly, the Board has amended Regulation Q to increase the maximum rate of interest payable by member banks on time deposits with maturities of more than 90 days but less than one year to 5¼ per cent, one-quarter of one per cent above the ceiling rate of interest payable on savings deposits by thrift institutions. This action will restore the pre-existing competitive

balance and will enable savers to obtain higher returns on their funds. The new ceiling rate may be paid only on certificates of deposit entered into or renewed on or after January 1, 1980. However, for purposes of administrative convenience, beginning January 1 member banks may pay interest on all funds in 90-day to 1-year time deposit, open accounts at a rate of 5¼ per cent.

III. IRA/Keogh (H.R. 10) Plan and Governmental Unit Time Deposits

The Board amended Regulation Q effective July 6, 1977, to create a new category of IRA/Keogh Plan time deposit with a maturity of three years or more and no minimum denomination. Member banks are authorized to pay interest on such time deposits at a ceiling rate of 8 per cent, which is the highest fixed ceiling rate that may be paid on time deposits under \$100,000 by any Federally insured commercial bank, mutual savings bank, or savings and loan association. The Board's action was taken to accommodate the Congressional objective expressed in the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) of encouraging individuals to save for their retirement by enabling an IRA or Keogh Plan participant to obtain the highest possible return on retirement savings regardless of the type of depository institution selected by the depositor.

While this special category of deposit is available only for IRA and Keogh depositors, IRA and Keogh funds may be deposited in any form of deposit account, including the 26-week \$10,000 money market certificate, so long as the Regulation Q minimum maturity and minimum denomination requirements are satisfied. However, where an individual elects to deposit IRA and Keogh funds in a 26-week money market certificate, thrift institutions have a rate advantage over commercial banks in view of the existence of the differential in the ceiling rates payable on such accounts by thrifts and commercial banks when the Treasury bill rate is below 9 per cent. The Board regards the maintenance of this differential with respect to IRA or Keogh funds as inconsistent with the objectives of maximizing the total amount of earnings on retirement savings that Congress sought to encourage through establishment of IRA and Keogh programs. Since preferred tax and interest rate treatment was given to IRA/Keogh plans to encourage savings for retirement, and not to extend a competitive advantage for particular class of financial institution, the Board has amended Regulation Q (12 CFR § 217.7(f)) to permit member banks to

pay interest on new 26-week \$10,000 money market certificates which consist of IRA or Keogh funds at a ceiling rate equal to the ceiling rate payable on the 26-week money market certificate by any Federally insured savings and loan association or mutual savings bank regardless of the level of the Treasury bill rate. However, the terms of existing IRA/Keogh time deposits may not be modified until such deposits mature. (As discussed above, similar action is being taken with respect to the new 2½ year certificate.)

The Board amended Regulation Q, effective November 27, 1974, to create a new category of time deposit for funds of public units. Pursuant to section 217.7(d), member banks are authorized to pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, a governmental unit at a ceiling rate of 8 per cent, which is the highest fixed ceiling rate that may be paid on time deposits under \$100,000 by any Federally insured commercial bank, mutual savings bank or savings and loan association. This action was taken in light of the increase in 1974 in Federal deposit insurance to \$100,000 on governmental unit time deposits. The increased insurance made thrift institutions more competitive with commercial banks. The Board's action to permit member banks to pay interest on such funds at the same rates as thrifts, was intended to maintain the competitive balance among financial institutions, as well as to provide additional depository alternatives for governmental units.

While this special category of deposit is available only for governmental units, public funds may be deposited in any form of deposit account, including the 26-week \$10,000 money market certificate, so long as the Regulation Q minimum maturity and minimum denomination requirements are satisfied. However, where a public unit elects to deposit funds in a 26-week \$10,000 money market certificate, thrift institutions may have a rate advantage over commercial banks in view of the existence of the differential when the Treasury bill rate is below 9 per cent. The Board regards maintenance of the differential with respect to public unit time deposit funds as inconsistent with the objectives of maintaining competitive equality and maximizing depository alternatives for governmental units. Accordingly, the Board also has amended Regulation Q (12 CFR § 217.7(f)) to permit member banks to pay interest on new 26-week \$10,000

money market certificates which consist of public funds at a ceiling rate equal to the ceiling rate payable on the 26-week money market certificate by any federally insured savings and loan association or mutual savings bank. However, the terms of existing governmental unit time deposits may not be modified until such deposits mature. (As discussed above, similar action is being taken with respect to the new 2½ year certificate.)

The Board's actions were taken at this time after consultation with the other Federal financial institution regulatory agencies. In order to provide increased returns to savers as rapidly as possible, the Board finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to these actions would be contrary to the public interest and that good cause exists for making these amendments effective in less than thirty days.

These amendments are adopted pursuant to the Board's authority under section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) to prescribe limitations on the rates of interest that may be paid by member banks on time and savings deposits.

Effective January 1, 1980, Regulation Q (12 CFR § 217.7(b), (f) and (g)) is amended as follows:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(b) *Fixed ceiling time deposits of less than \$100,000.* Except as provided in paragraphs (a), (d), (e), (f), and (g), no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity and Maximum Percent

30 days or more but less than 90 days—5¼.
90 days or more but less than 1 year—5¼.
1 year or more but less than 2½ years—6.
2½ years or more but less than 4 years—6½.
4 years or more but less than 6 years—7¼.
6 years or more but less than 8 years—7½.
8 years or more—7¾.
* * * * *

(f) *26-week money market time deposits of less than \$100,000.* Except as provided in paragraphs (a), (b) and (d), a member bank may pay interest on any nonnegotiable time deposit of \$10,000 or more, with a maturity of 26 weeks, at a rate not to exceed the rate established (auction average on a discount basis) for United States Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit. Rounding such rate to the next higher rate is not permitted. A member bank may not compound interest during the

term of this deposit. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit of \$10,000 or more with a maturity of 26 weeks which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) The United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) An individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.

(g) *Time deposits of less than \$100,000 with maturities of 2½ years or more.* Except as provided in paragraphs (a), (b), (d) and (e), a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more than is issued on or after the first day of each month at a rate not to exceed three quarters of one per cent below the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury three business days prior to the first day of such month. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) The United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) An individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.

By order of the Board of Governors,
December 14, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-39229 Filed 12-20-79; 6:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Parts 301, 305, 306, 325, and 330

Deletion of Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: FDIC has eliminated four of its regulations—Part 301 (Introductory), Part 305 (Payment of Insured Deposits), Part 306 (Receiverships and Liquidations), and Part 325 (Introductory). These regulations are basically informational in nature and contain little or no operative language. Their removal is a "housecleaning" measure, in accordance with the FDIC's stated policy of simplifying its regulations and eliminating any unnecessary provisions. FDIC has also deleted §§ 330.13 and 330.14 of its rules governing deposit insurance coverage because they are outdated.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, 550 17th Street, N.W., Washington, D.C. 20429, (202) 389-4237.

SUPPLEMENTARY INFORMATION: On September 10, 1979, FDIC published in the Federal Register (44 FR 52691) a notice of a proposed rulemaking which would eliminate Parts 301, 305, 306, and 325 as well as sections 330.13 and 330.14 of its regulations. Written public comment was invited until November 9, 1979. The only written comment received was from the American Bankers Association. It fully supported the proposed deletions.

Under section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), the FDIC Board of Directors hereby deletes Parts 301, 305, 306, and 325 (12 CFR Parts 301, 305, 306, and 325) and sections 330.13 and 330.14 (12 CFR §§ 330.13, 330.14) of its rules and regulations. The requirement of section 553(d) of Title 5 of the United States Code (5 U.S.C. 553(d)) regarding deferred effective date was not followed in connection with the adoption of the deletions because the deletions do not relate to substantive rules and will not have any significant impact on the operations of FDIC-insured banks.

By order of the Board of Directors,
December 17, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-39230 Filed 12-20-79; 8:45 am]
BILLING CODE 6714-01-M

12 CFR Parts 303, 304

Applications, Requests, Submittals, Notices of Acquisition of Control and Forms, Instructions, and Reports

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors of the FDIC has amended §§ 303.11(a)(9) and 303.13 (f) and (h) in order to expand or to alter delegations of certain of its approval and reporting authority relating to merger applications. Section 303.11(a)(9) has also been amended to clarify the definition of the term "phantom" bank merger" as it appears in FDIC regulations.

The Board has also corrected § 304.3(a) to conform it to amendments disposing of the requirement that Form 83 be filed with applications for insurance by "phantom" banks. The amendments were made at 44 FR 3258, January 16, 1979, and subsequently inadvertently omitted in 44 FR 17995, March 26, 1979. The Board has also amended footnote 1 accompanying § 304.3(a) to conform it to the amendment of the definition of "phantom" bank merger in § 303.11(a)(9).

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Katharine H. Haygood, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. (202-389-4433).

SUPPLEMENTARY INFORMATION: Section 303.11(a)(9) has been amended to grant to the FDIC Director of the Division of Bank Supervision or, when such Director so directs, the FDIC Regional Director, the authority to approve not only merger applications involving "phantom" bank mergers but also merger applications involving other corporate reorganizations as the term is defined in the regulation. The authority to deny such applications has been retained by FDIC's Board of Directors. In footnote 2a to § 303.11(a)(9) the definition of the term "phantom" bank merger" has been amended to indicate that the merger concerned must involve a newly chartered bank or corporation and an existing operating bank and must be for the purpose of corporate reorganization

and have no effect under Bank Merger Act standards (12 U.S.C. 1828(c)). Section 303.13(f) has been amended to grant the Director of the Division of Bank Supervision or, when such Director so directs, the Regional Director, the authority to furnish to the Federal Reserve System and to the Comptroller of the Currency competitive factor reports which deal not only with "phantom" bank mergers but also with other bank mergers which are corporate reorganizations and which are required to be approved by one of those agencies. The term "corporate reorganization" is defined here in the same manner as in § 303.11(a)(9).

Section 303.13(h) grants the Director of the Division of Bank Supervision the authority, exclusive of the authority granted in § 303.13(f), to furnish to the Federal Reserve System and the Comptroller of the Currency competitive factor reports on all mergers required to be approved by one of those agencies if all of the appropriate FDIC Divisions or Offices conclude that the merger will have "no significant effects on competition." The Board has also amended § 304.3 in order to conform it to changes made in 44 FR 3258, January 16, 1979, which were inadvertently omitted in a subsequent publication in 44 FR 17995, March 26, 1979. These changes dispose of the requirement that Form 83 be submitted in applications for insurance by nonmember banks formed in connection with "phantom" bank mergers. Further amendment of footnote 1 of § 304.3 was necessary because of the amendment here of the definition of "phantom" bank merger in footnote 2a of § 303.11(a)(9).

These amendments are being made pursuant to the authority set forth in 12 U.S.C. 1819. The Board of Directors of the Federal Deposit Insurance Corporation has determined that these changes either are procedural in nature, serve to reduce a burden on applicants, or serve to clarify terminology and that therefore the notice and public procedure requirements of 5 U.S.C. 553 (b) and (d) are not necessary, and further, that there is good cause for waiving the delayed effective date specified in 5 U.S.C. 553(d) because there will be no adverse impact on the general public by doing so.

Accordingly, 12 CFR §§ 303.11, 303.13 and 304.3 are amended as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION OF CONTROL

1. Paragraph (a) (9) of § 303.11 is amended to read:

§ 303.11 Delegation of authority to act on certain applications and on notices of acquisition of control.

(a) * * *

(9) Applications for "phantom" bank mergers^{2a} and other mergers which are corporate reorganizations, that is, transactions involving banks controlled by the same holding company or transactions involving banks and their subsidiaries which would have no effect on competition or otherwise have significance under relevant statutory standards as set forth in 12 U.S.C. 1828(c). This authority shall extend to the approval but not to the denial of such applications;

2. Paragraphs (f) and (h) of § 303.13 are amended to read:

§ 303.13 Other delegations of authority.

(f) *Competitive factor reports on corporate reorganization bank mergers.* The Board of Directors has delegated to the Director of the Division of Bank Supervision, or, where confirmed in writing by the Director of the Division of Bank Supervision, to the Regional Director of the Region in which the applicant bank^{1b} is located, the authority on behalf of the Board of Directors to furnish required reports to the Board of Governors of the Federal Reserve System or the Comptroller of the Currency on the competitive factors involved in any "phantom" bank merger^{1b} and other mergers that are corporate reorganizations (*i.e.*, transactions involving banks controlled by the same holding company or transactions involving banks and their subsidiaries which would have no effect on competition or otherwise have significance under relevant statutory standards as set forth in 12 U.S.C. 1828(c)).

(h) *Competitive factor reports of "no significant effects on competition."* In addition to the authority delegated in paragraph (f) of this section, the Board of Directors has delegated to the Director of the Division of Bank Supervision the authority on behalf of the Board of Directors to furnish to the Board of Governors of the Federal Reserve System of the Comptroller of the Currency reports on the competitive

^{2a} As used in paragraphs (a)(9) and (10) of this section, the term "phantom" bank merger" applies to any merger or other transaction involving an existing operating bank and a newly chartered bank or corporation which is for the purpose of corporate reorganization and which would have no effect on competition or otherwise have significance under the relevant statutory standards as set forth in 12 U.S.C. 1828(c).

factors involved in any merger required to be approved by one of those agencies, if all of the appropriate Divisions or Offices of the Corporation are of the view that the proposed merger would have no significant effects on competition.

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

3. Paragraph (a) of § 304.3 is amended by deleting the fourth sentence and substituting therefor the following, and by revising the accompanying footnote to read as follows:

§ 304.3 Forms and instructions

(a) * * * Applications filed on Form 82 must be accompanied by a certified copy of the proposed articles of incorporation or association. In addition, applications filed on Form 82 by proposed banks other than nonmember banks formed in connection with "phantom" bank mergers¹ must be accompanied by the requisite number of properly executed Forms 83. * * *

(Sec. 9, Pub. L. 797, 64 Stat. 681, (12 U.S.C. 1819))

By Order of the Board of Directors,
December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-39233 Filed 12-20-79; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 526

[No. 79-639]

Limitations on Rate of Return; Revised Rates on Savings Accounts

Dated: December 13, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: In order to provide additional returns to savers and to enable savings institutions to continue to attract funds necessary for the provision of home financing, the Board has determined to adopt the following amendments:

¹ As used in paragraphs (a) and (f) of this section, the term "phantom" bank merger" applies to any merger or other transaction involving an existing operating bank and a newly chartered bank or corporation which is for the purpose of corporate reorganization and which would have no effect on competition or otherwise have significance under the relevant statutory standards as set forth in 12 U.S.C. 1828(c).

(1) Authorize a new variable ceiling account with no minimum amount, a minimum term of 30 months, and a maximum rate one-half percent below the average 2½ year rate based on the yield curve for United States Treasury Securities as determined by the U.S. Department of the Treasury. The new account replaces the 4-year variable ceiling account that was authorized July 1, 1979.

(2) Increase to 6 percent the maximum authorized rate on notice accounts and accounts with a minimum term of 90 days. Notice accounts outstanding on the effective date of these amendments may begin receiving 6 percent on that date.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-6445).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the United States Department of the Treasury, has determined to amend Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) to provide additional returns to savers and to facilitate continued acquisition of funds by member institutions. The two changes hereby adopted are described below.

First, member institutions are authorized to issue a new fixed rate, variable ceiling account with a minimum term of 30 months and a maximum rate of return ½ percent below the 2½-year rate based on the yield curve for United States Treasury Securities as determined by the U.S. Department of the Treasury. The new certificate replaces the 4-year variable ceiling certificate that may receive a return 1 percent below the 4-year rate based on the yield curve for U.S. Treasury securities, and, effective January 1, 1980, authority to issue the 4-year variable-ceiling certificate is rescinded.

The Board believes this change will offer substantial benefit to small savers by providing the flexibility of a shorter-term investment along with a rate of return that more closely reflects current market rates. Further, member institutions will have a more effective means of attracting funds in times of high interest rates. Consistent with the rules applicable to the 4-year variable ceiling certificate, no additions to a 30-month variable ceiling account may be accepted, and no minimum amount is

prescribed. Compounding of earnings is permitted.

Second, the maximum authorized rate of return on notice accounts and accounts with a term or qualifying period of 90 days or more is increased from 5.75 percent to 8.00 percent. This change is consistent with the increased rate of return on passbook accounts that was authorized July 1, 1979, and restores the ½ percent differential between the maximum rates of return on 90-day accounts and passbook accounts that existed prior to July 1, 1979. The Board believes this change is necessary to assure that the 90-day certificate category continues to be an attractive savings alternative.

Because the Board believes that, in view of present economic conditions, it is in the public interest to provide increased returns to savers without delay, the Board has determined that notice and public procedure with respect to such amendments is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the time specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to their effective date would delay implementation of the amendment, and, for reasons described above, such delay is unnecessary and contrary to the public interest, the Board has determined that the amendments shall become effective as herein set forth.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 526 of the Regulations for the Federal Home Loan Bank System as set forth below.

1. Amend § 526.2(b)(2) to read as follows:

§ 526.2 Maximum rate of return.

(b) *Exceptions.* Notwithstanding any reduction in such maximum prescribed rates, a member may pay a return on any savings account outstanding on the date of such reduction, as follows:

(2) *Certificate account.* At the rate specified in the certificate, for such period, including any renewal period, as the account remains outstanding, except that six month (26 weeks) certificate accounts may not be renewed at any rate in excess of the applicable maximum provided for under § 526.3(a)(8); four year variable rate accounts, issued prior to January 1, 1980, may not be renewed at a rate in excess of the applicable maximum rate provided for under § 526.3(a)(5)(ii); and 30 month variable rate accounts may not be renewed at a rate in excess of the

applicable maximum rate provided for under § 526.3(a)(4)(ii).

2. Amend § 526.3 by revising subparagraphs (a) (2), (4), and (5) and paragraph (c) thereof, to read as follows:

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3-1 for certificate accounts of \$100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

(2) 6.00%—notice accounts, except public unit accounts, which may receive a rate of return as prescribed in § 526.3(c), and certificate accounts with a term or qualifying period of 90 days or more.

(4)(i) 6.75%—certificate accounts with a term or qualifying period of 30 months or more.

(ii) One-half of one percent below the average two and one-half year rate based on the yield curve for United States Treasury securities as determined by the U.S. Department of the Treasury immediately prior to the first day of the month—certificate accounts with a term or qualifying period of 30 months or more issued on or after the first day of the month. No addition to any such account shall be accepted during the term of the account.

(5)(i) 7.50%—certificate accounts with a term or qualifying period of 4 years or more.

(ii) 1% below the average four year rate based on the yield curve for United States Treasury securities as determined by the U.S. Department of the Treasury immediately prior to the first day of the month—certificate accounts with a term or qualifying period of 4 years or more issued on or after the first day of the month, provided the account was issued prior to January 1, 1980. No addition to any such account shall be accepted during the term of the account.

(c) *Exceptions as to terms or qualifying periods.* A member may pay a rate of return not exceeding the highest rate permitted under paragraph (a) of this section on (1) a public unit account which is a certificate account with a maturity of 30 days or more or a notice account, or (2) a certificate account which qualifies as a retirement account under subsection 401(d) or 408(a) of the Internal Revenue Code and has a term of 3 years or, in the case of an account

issued under subdivision (a)(4)(ii), 30 months; *Provided*, That such accounts issued under subdivision (a)(5)(ii) of this section prior to January 1, 1980, or under subdivision (a)(4)(ii) of this section must meet the maturity requirement, and accounts issued under subparagraph (a)(8) of this section must meet the minimum amount and maturity requirements, prescribed in those provisions.

(Sec. 4, 80, Stat. 824 (12 U.S.C. 1425b); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-39173 Filed 12-20-79; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; New Animal Drug Applications

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority relating to approval of new animal drug applications and their supplements. The authority to approve supplemental new animal drug applications is being redelegated to certain Associate and Deputy Associate Directors within the Bureau of Veterinary Medicine. This action is being taken to relieve the Bureau Director of the need to be involved in evaluating routine supplemental applications and to reduce processing time within the Bureau.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: The Associate and Deputy Associate Director for Scientific Evaluation and the Associate and Deputy Associate Director for Surveillance and Compliance of the Bureau of Veterinary Medicine are being delegated authority to approve supplemental applications to new animal drug applications. The authority will be exercised within their assigned area of responsibility.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by revising § 5.83 to read as follows:

§ 5.83 Approval of new animal drug applications and their supplements.

(a) The Director of the Bureau of Veterinary Medicine is authorized to perform all of the functions of the Commissioner of Food and Drugs with regard to the approval of new animal drug applications, and supplements thereto, for new animal drugs submitted pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act.

(b) The Associate and Deputy Associate Director for Scientific Evaluation and the Associate and Deputy Associate Director for Surveillance and Compliance of the Bureau of Veterinary Medicine are authorized to perform all of the functions of the Commissioner of Food and Drugs with regard to the approval of supplemental applications to approved new animal drug applications for new animal drugs submitted pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act.

(c) The Director of the Division of Animal Feeds of the Bureau of Veterinary Medicine and the Chief of the Medicated Feeds Branch of that Division and Bureau are authorized to perform the functions of the Commissioner of Food and Drugs with regard to the approval of applications for animal feeds containing new animal drugs.

Effective date. This regulation becomes effective December 21, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: December 17, 1979.

Joseph P. Hille,
Associate Commissioner for Regulatory
Affairs.

[FR Doc. 79-39109 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 176

[Docket No. 75F-0255]

Indirect Food Additives; Paper and Paperboard Components; 2-(p- Hydroxyphenyl)Glyoxylohydroximoyl Chloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for safe use of 2-(p-hydroxyphenyl) glyoxylohydroximoyl chloride as a component of slimicides for use in the manufacture of paper and paperboard. The action is being taken in response to a petition filed by Roussel Corp.

DATES: Effective December 21, 1979; objections by January 21, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerald L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the *Federal Register* of October 3, 1975 (40 FR 45862) announced that a food additive petition (FAP 5H3108) was filed by the Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091, on behalf of Roussel Corp., 155 E. 44th St., New York, NY 10017, proposing that § 176.300 *Slimicides* (21 CFR 176.300) be amended to provide for the safe use of 2-(p-hydroxyphenyl) glyoxylohydroximoyl chloride as a component of slimicides in the manufacture of paper and paperboard intended to contact food.

This slimicide is not now registered for use in the United States, but it is the subject of an application for registration submitted to the U.S. Environmental Protection Agency. Use of this slimicide in the domestic manufacture of paper involves a number of environmental issues that, while unresolved, are not pertinent to its incidental food-contact use in paper and paperboard. This regulation will permit the use of this slimicide by manufacturers in foreign countries in the production of paper and paperboard that is intended for food-contact use in this country.

The agency has evaluated the data in the food additive petition and other relevant material and concludes that the regulations should be amended as set forth below.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 176.300 is amended in paragraph (c) by alphabetically inserting a new item in the list of substances as follows:

§ 176.300 *Slimicides.*

List of substances	Limitations
2-(p-hydroxyphenyl) glyoxylohydroximoyl chloride (CAS Registry No. 34911-46-1).	At a level of 0.02 pound per ton of dry weight fiber.

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 21, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state: failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective December 21, 1979.

Dated: December 12, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-38943 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 701

[Docket No. 75N-0110]

Cosmetic Labeling; Designation of Ingredients; Revocation of Partial Stay and Confirmation of Effective Date

Correction

In FR Doc. 79-36717, appearing in the issue of Friday, November 30, 1979 on page 68823, in the first column, the second line of the effective date paragraph "November 29, 1979" should be corrected to read "November 30, 1979".

BILLING CODE 1505-01-M

21 CFR Part 820

[Docket No. 75N-0140]

Good Manufacturing Practice for Medical Devices; Exemptions or Variances; Guidance on Petitions

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the good manufacturing practice regulations for medical devices. The amendment adds a sentence telling interested persons where to apply for guidance on petitions for exemption or variance from the regulations.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: W. Fred Hooten, Bureau of Medical Devices (HFK-132), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7194.

SUPPLEMENTARY INFORMATION: FDA is issuing an amendment to add a sentence telling how to obtain further information or guidance on petitions for exemption or variance. Because it is nonsubstantive, and does not affect the obligations imposed by the rule, FDA finds it unnecessary to comply with the usual requirements for rulemaking.

PART 820—GOOD MANUFACTURING PRACTICE FOR MEDICAL DEVICES; GENERAL

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 518, 519, 520(f), and 701(a) as amended,

52 Stat. 1049-1051 as amended, 1055, 90 Stat. 562-569 (21 U.S.C. 351, 352, 360h, 360i, 360j(f), and 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 820 is amended in § 820.1 by amending paragraph (d) by adding a sentence at the end of the paragraph, to read as follows:

§ 820.1 Scope.

(d) * * * Guidance is available from the Bureau of Medical Devices, Division of Compliance Programs, Industry Programs Branch (HFK-132), 8757 Georgia Ave., Silver Spring, MD 20910; telephone 301-427-7194.

Effective date. This regulation becomes effective December 21, 1979.

(Secs. 501, 502, 518, 519, 520(f), and 701(a) as amended, 52 Stat. 1049-1051 as amended, 1055, 90 Stat. 564-569 (21 U.S.C. 351, 352, 360h, 360i, 360j(f), 371(a)))

Dated: December 13, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-38892 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 40

Issuance of Farm Labor Contractor Certificates of Registration and Farm Labor Contractor Employee Identification Cards by States

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Commonwealth of Virginia has entered into an agreement with the Secretary of Labor to issue Farm Labor Contractor Certificates of Registration and Employee Identification Cards in compliance with the Farm Labor Contractor Registration Act and regulations issued thereunder. This document adds the Commonwealth of Virginia to the list of states authorized to issue Certificates of Registration and Employee Identification Cards under the Farm Labor Contractor Registration Act which are entitled to the same recognition in all states as if they had been issued by the Department of Labor.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Office of Fair Labor Standards, Wage and Hour

Division, Room S-3504, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7531.

SUPPLEMENTARY INFORMATION: The authority conferred by Section 8 of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2047), does not require issuance of regulations to authorize the Department to enter into agreements with states under which states issue Certificates of Registration and Employee Identification Cards. Such agreements are effective upon their execution. The Commonwealth of Virginia has executed such agreement effective December 17, 1979. Under § 40.43(d) of Title 29 CFR, Certificates of Registration and Employee Identification Cards issued by the Commonwealth of Virginia pursuant to their agreement of December 17, 1979, are entitled to the same recognition in all states as if they had been issued by the Department of Labor. Accordingly, the Commonwealth of Virginia is added to the list of states in § 40.43(e) which have executed such agreements in order that all other states may expeditiously recognize Certificates of Registration and Employee Identification Cards issued by the Commonwealth of Virginia under the Farm Labor Contractor Registration Act.

PART 40—FARM LABOR CONTRACTOR REGISTRATION

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator for Fair Labor Standards, Wage and Hour Division, Employment Standards Administration, Department of Labor.

Section 40.43 (e) is amended to read as follows:

§ 40.43 Issuance of farm labor contractor certificates of registration and farm labor contractor employee identification cards by States.

* * * * *

(e) The Secretary in accordance with the provisions of this Section, has entered into an agreement with each State listed herein below;

Florida.
New Jersey.
Virginia.

* * * * *

(8 U.S.C. 2047; Pub. L. 88-582, sec. 8, Sept. 7, 1964; 78 Stat. 923.)

Signed at Washington, D.C. on the 17th day of December, 1979

Ray Marshall,

Secretary of Labor, U.S. Department of Labor.

[FR Doc. 79-39245 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-29-M

Wage and Hour Division

29 CFR Part 775

Coverage of State and Local Government Activities by Federal Minimum Wage and Overtime Law

AGENCY: Wage and Hour Division, Labor.

ACTION: Final interpretation.

SUMMARY: The Supreme Court ruled in *National League of Cities v. Usery*, 426 U.S. 833 (1976), that the minimum wage and overtime compensation provisions of the Fair Labor Standards Act could not constitutionally be applied to State and local government employees who are engaged in traditional governmental activities. Pursuant to an enforcement policy and notification procedure approved by the district court on remand, the Department of Labor periodically publishes in the *Federal Register* a list of those governmental functions which it has determined to be nontraditional, and which it believes are therefore still constitutionally subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. This final interpretation sets forth those governmental functions which have been determined to be nontraditional. As new determinations are made, additional functions will be added to the list.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel P. New, Director, Division of Minimum Wage and Hour Standards, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor, Room S-3508, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone: (202) 523-7043 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Application of the Fair Labor Standards Act to States and Political Subdivisions Prior to *National League of Cities*

The Fair Labor Standards Act, as originally enacted in 1938, did not apply to employees employed by States or political subdivisions. The first such application was in 1966, when Congress extended the Act's coverage (including the prohibition against sex-based wage differentials adopted by the Equal Pay Act of 1963) to employees of States and other public enterprises engaged in operating transit companies, hospitals, schools and related institutions. The constitutionality of this extension of the Act's coverage was upheld in *Maryland v. Wirtz*, 392 U.S. 183.

In 1974, Congress amended the Fair Labor Standards Act to cover virtually

all public sector employees except those specifically exempt as holders of a public elective office or employees appointed by such an office holder to be a "member of his personal staff" or "to serve on a policymaking level" or as an immediate advisor "with respect to the constitutional or legal powers of his office." The 1974 amendments also extended the provisions of the Age Discrimination in Employment Act to all State and local government employees, except those who were elected or appointed by elected officials to their personal staffs or to policymaking positions. (Effective July 1, 1979, the Equal Employment Opportunity Commission assumed responsibility for administering and enforcing the Age Discrimination in Employment Act and the Equal Pay provisions of the FLSA, pursuant to Reorganization Plan No. 1 of 1978, 92 Stat. 3781.)

The *National League of Cities* Decision

On June 24, 1976, the Supreme Court ruled in *National League of Cities v. Usery*, 426 U.S. 833, that the minimum wage and overtime provisions of the Fair Labor Standards Act could not constitutionally be applied to State and local government employees who are engaged in traditional governmental activities. The Court expressly overruled its earlier decision in *Maryland v. Wirtz* insofar as that decision upheld the application of the Act's minimum wage and overtime provisions to public school and hospital employees. The Court's decision did not affect the continued application of the Act's minimum wage and overtime provisions to employees engaged in activities which are not traditional functions of government, nor did it affect the application to all nonexempt employees (including those engaged in traditional governmental functions) of the Age Discrimination in Employment Act, or of the other substantive provisions of the Fair Labor Standards Act other than its minimum wage and overtime provisions.

Because the Supreme Court did not establish a test for distinguishing between traditional and nontraditional governmental functions for purposes of applying the Act's minimum wage and overtime provisions, the three-judge district court to which the case was remanded requested the Secretary to propose a means of providing interpretative guidance to public employers in identifying the nontraditional functions which are constitutionally subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. The court also indicated that the States and political subdivisions should not be

subject to an award for "liquidated damages" (over and above back wages) except as to activities which had already been identified as nontraditional.

Action by the Department of Labor

In response to this request, the Secretary submitted a proposal for the amendment of the Secretary's enforcement policy stated in 29 CFR 775. This proposal was approved by the court and published in the *Federal Register* on June 24, 1977 (see 42 FR 32253), by adding §§ 775.2 and 775.3 to Part 775.

Section 775.2 sets forth the special enforcement policy concerning States and political subdivisions. It is republished in full here for the convenience of those affected by it. Citations to more recent court decisions have been added.

Section 775.3 sets forth a list of those functions of States and their political subdivisions which the Wage and Hour Administrator has determined to be nontraditional. It will be amended from time to time to reflect recent determinations that have been made by the Administrator.

Section 775.4 is a new section. It sets forth a list of those functions of States and their political subdivisions which the Wage and Hour Administrator has determined to be traditional. Although the court did not specifically require such a listing, the Department has decided that it would be desirable to publish one.

These changes also require a change in the table of contents to Part 775.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor.

Accordingly, 29 CFR Part 775 is amended by amending the table of contents, §§ 775.2 and 775.3, and by adding a new § 775.4, as follows:

1. The table of contents is amended to read as follows:

- Sec.
775.0 General enforcement policy.
775.1 Advisory interpretations announced by the administrator.
775.2 Special enforcement policy concerning States and political subdivisions.
775.3 Nontraditional functions of States and their political subdivisions.
775.4 Traditional functions of States and their political subdivisions.

2. Section 775.2 is amended to read as follows:

§ 775.2 Special enforcement policy concerning States and political subdivisions.

(a) On June 24, 1976, the United States Supreme Court ruled in *National League of Cities, et al. v. Usery*, 426 U.S. 833, that the minimum wage and overtime compensation provisions of the Fair Labor Standards Act (FLSA) are not constitutionally applicable to the integral operations of the States and their political subdivisions in areas of traditional governmental functions. Such areas include, among others, schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation. They do not include, among others, the operation of a railroad by a State, 426 U.S. at 854, n.18.

(b) In view of the *National League* decision, the Secretary will not file suit to enforce the minimum wage and overtime compensation provisions of the FLSA against a State or its political subdivisions unless at least 30 days notice has first been given that, in the opinion of the Administrator, the activities in question are not integral operations in areas of traditional governmental functions. Such notice will be provided either by specific notification of the employing body in question or by general notification by publication in the *Federal Register* in the form of amendments to § 775.3. A reasonable opportunity will be allowed the employing body, after the notice of the administrative determination, to come into compliance voluntarily before suit is brought.

(c) Each such notice will be made available to wage-hour reporting services and to any interested person or association, for information or further publication, except for deletions reasonably necessary to protect the privacy of individual employers and employees.

(d) Because of the complexity of the questions raised by the *National League* decision, it would be inappropriate to seek liquidated damages in addition to back pay in cases to enforce the minimum wage and overtime compensation provisions of the Act against States or their political subdivisions, except as to activities determined by prior controlling judicial decision, or by prior administrative ruling published in the *Federal Register*, not to be integral operations in areas of traditional governmental functions. The Secretary will therefore not seek liquidated damages as to activities not covered by such decision or ruling, or for periods of employment prior to the publication of such decision or ruling.

(e) As already noted, the *National League* decision applies only to the minimum wage and overtime compensation provisions of the FLSA. This section and § 775.3 accordingly do not apply to claims arising under:

(1) The Equal Pay Act of 1963 (see *Usery v. Allegheny County Institution District*, 544 F.2d 148 (C.A. 3, 1976), cert. denied 430 U.S. 946 (1977); *Usery v. Charleston County School District*, 588 F.2d 1169 (C.A. 4, 1977); *Pearce v. Wichita County*, 590 F.2d 128 (C.A. 5, 1979); *Marshall v. Owensboro-Daviess County Hospital*, 581 F.2d 116 (C.A. 6, 1978); and *Marshall v. City of Sheboygan*, 577 F.2d 1 (C.A. 7, 1978)).

(2) The Age Discrimination in Employment Act of 1967 (see *Arritt v. Grissell*, 567 F.2d 1267 (C.A. 4, 1977)); *Usery v. Bd. of Education of Salt Lake City*, 421 F.Supp. 718 (D. Utah 1976); *Aaron v. Davis*, 424 F.Supp. 1238 (W.D. Ark. 1976); and *Remmick v. Barnes County*, 435 F.Supp. 914 (D. N.D. 1977).

(3) The child labor provisions of the Fair Labor Standards Act.

(4) The protective provisions of Section 15(a)(3) of the Act, making it unlawful to discriminate against any employee for participating or assisting in FLSA proceedings.

3. Section 775.3 is amended to read as follows:

§ 775.3 Nontraditional functions of States and their political subdivisions.

(a) In the *National League* decision, it was made clear that the operation of a railroad by a State or its political subdivision is not an integral operation in the area of traditional governmental functions. 426 U.S. 833, 854 n.18.

(b) For the purpose of the notice referred to in § 775.2(b), the Administrator has determined that the following functions of a State or its political subdivisions are not traditional. From time to time, this section will be amended to list other such functions determined not to be traditional. The date listed after each function is the date of original publication in the *Federal Register*. This is the effective date of the general notification described in § 775.2(b). However, where an employing body has actual notice on an earlier date of the position taken by the Administrator, that earlier date is the effective date of the specific notification described in § 775.2(b).

(1) Alcoholic beverage stores December 21, 1979.

(2) Off-track betting corporations December 21, 1979.

(3) Local mass transit systems December 21, 1979.

(4) Generation and distribution of electric power December 21, 1979.

(5) Provision of residential and commercial telephone and telegraphic communication December 21, 1979.

(6) Production and sale of organic fertilizer as a by-product of sewage processing December 21, 1979.

(7) Production, cultivation, growing or harvesting of agricultural commodities for sale to consumers December 21, 1979.

(8) Repair and maintenance of boats and marine engines for the general public December 21, 1979.

4. There is added to Part 775 a new § 775.4, which reads as follows:

§ 775.4 Traditional functions of States and their political subdivisions.

(a) In the *National League* decision, it was made clear that schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation are traditional functions or activities of States and their political subdivisions.

(b) In addition, the Administrator has determined that the following functions of a State or its political subdivisions are traditional (From time to time, this section will be amended to list other such functions determined to be traditional.)

(1) Libraries.

(2) Museums.

(52 Stat. 1060, as amended; (29 U.S.C. 201 *et seq.*)

Signed at Washington, D.C. this 18th of December 1979.

Donald Elisburg,

Assistant Secretary for Employment Standards.

[FR Doc. 79-39320 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-27-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; 706 Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of one State and Local Fair Employment Practices Agency so that it may handle employment discrimination charges within its jurisdiction, filed with the Commission.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, telephone 202-634-6040, Equal Employment Opportunity

Commission (State and Local), 2401 E. Street, N.W., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION:

Publication of this amendment to § 1601.74(a) effectuates the designation of the following agency as a 706 Agency: North Dakota Department of Labor¹

Notice of proposed designation was published in the November 9, 1979 issue of the *Federal Register*, "44 FR 65082" with notice that written comments must have been filed with the Commission on or before November 26, 1979.

The Commission received no comments within the prescribed period for filing written comments regarding the proposed designation of the above agency. The listing of North Dakota Commission on Labor as a Notice Agency is deleted. With the modification for the above mentioned agency, § 1601.74 (a) and (b) are amended and published as follows:

§ 1601.74 Designated and notice agencies.

(a) The designated 706 agencies are:

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Division
California Fair Employment Practices Commission
Charleston (W. Va.) Human Rights Commission
Clearwater (Fla.) Office of Community Relations
Colorado Civil Rights Commission
Colorado State Personnel Board
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission of Human Rights and Opportunity
Corpus Christi (Tex.) Human Relations Commission
Dade County (Fla.) Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Ind.) Human Relations Commission
Evansville (Ind.) Human Relations Commission
Florida Commission on Human Relations

¹ The North Dakota Department of Labor has been proposed as a 706 Agency for all charges except charges alleging retaliation under Section 704(a) of Title VII. For these types of charges it shall be deemed a "Notice Agency," pursuant to 29 CFR 1601.71(c).

Fort Wayne (Ind.) Metropolitan Human Relations Commission
Fort Worth (Tex.) Human Relations Commission
Gary (Ind.) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Md.) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Idaho Commission on Human Rights
Illinois Fair Employment Practices Commission
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Jacksonville (Fla.) Community Relations Commission
Kansas Commission on Human Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Ky.) Urban County Human Rights Commission
Lincoln (Nebr.) Commission on Human Rights
Madison (Wis.) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Minn.) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Md.) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Jersey Division on Civil Rights,
Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (N.Y.) Commission on Human Rights
New York State Division on Human Rights
North Dakota Department of Labor
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Nebr.) Human Relations Department
Oregon Bureau of Labor
Orlando (Fla.) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pa.) Commission on Human Relations
Pittsburgh (Pa.) Commission on Human Relations
Prince George's County (Md.) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Md.) Human Rights Commission
St. Louis (Mo.) Civil Rights Enforcement Agency
St. Paul (Minn.) Department of Human Rights
St. Petersburg (Fla.) Office of Human Rights
Seattle (Wash.) Human Rights Commission
Sioux Falls (S. Dak.) Human Relations Commission
South Bend (Ind.) Human Rights Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Ohio) Human Relations Department
Tacoma (Wash.) Human Rights Commission
Tennessee Commission for Human Development

Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Virgin Islands Department of Labor
Washington Human Rights Commission
West Virginia Human Rights Commission
Wheeling (W. Va.) Human Rights Commission
Wichita (Kans.) Commission Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources
Ohio Director of Industrial Relations
Raleigh (N.C.) Human Resources Department, Civil Rights Unit

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e-12(a))

Signed at Washington, D.C. this 18th day of December, 1979.

For the Commission,

Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-39195 Filed 12-20-79; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 166

Reporting Procedures on Defense Related Employment

AGENCY: Office of the Secretary of Defense.

ACTION: Amendment of final rule.

SUMMARY: This rule is the fiscal year 1979 update of the section listing DoD contractors receiving negotiated contract awards of \$10 million or more. The regulation is published to comply with the provisions of Section 410, Pub. L. 91-121, November 19, 1969.

EFFECTIVE DATE: September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Cynthia V. Springer, Office of the Director for Information Operations and Reports, Washington Headquarters Services, The Pentagon, Washington, D.C. 20301. Telephone (202) 697-3182.

SUPPLEMENTARY INFORMATION: In FR Doc. 70-15846 published in the *Federal Register* on November 25, 1970 (35 FR 18040), the Office of the Secretary of Defense published a final rule establishing criteria, prescribing procedures, and assigning responsibilities for monitoring the program within the Department of Defense. Subsequently, paragraph (a) and (d) of § 166.11, which constitutes the

list of DoD contractors receiving negotiated contract awards for \$10 million or more, was updated for fiscal years 1971 (36 FR 18464); 1972 (37 FR 18727); 1973 (38 FR 25990); 1974 (39 FR 32985); 1975 (40 FR 44135); 1976 (41 FR 20466); 1977 (43 FR 1617); and 1978 (44 FR 3049).

Accordingly, § 166.11 of this part is revised to read as follows:

§ 166.11 Department of Defense contractors receiving negotiated contract awards of \$10 million or more.

Fiscal Year 1979:

A I Corp.
A J Industries, Inc.
A M General Corp.
Action Mfg. Co.
Actus Corp.
Adobe Refining Co.
Advanced Technology, Inc.
Aerojet General Corp.
Aerospace Corp. (The)
Airesearch Mfg. Co. of Arizona
Airesearch Mfg. Co. of California
Airlift International Inc.
Aleutian Constructors
Algernon Blair, Inc.
Altama Delta Corp.
American Development Corp.
American Electronic Laboratories, Inc.
American Home Products Corp.
American Pouch Food Co., Inc.
American Telephone & Telegraph Co.
Amex Systems, Inc.
Amoco Oil Co.
Amron Corp.
Analytic Sciences Corp.
Argo Systems, Inc.
Arinc Research Corp.
ARO, Inc.
Ashland Oil, Inc.
Atacs Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Automation Industries, Inc.
AVCO Corp.
AVCO Everett Research Laboratory
Avondale Shipyards, Inc.
Ayer N W ABH International, Inc.
B D M Corp.
B D M Services Co.
Baltimore Gas & Electric Co.
Bates Ted & Co., Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Bauer Max Meat Packer
Beech Aircraft Corp.
Bendix Corp.
Bendix Field Engineering Corp.
Boeing Aerospace Co.
Boeing Co.
Boeing International, Inc.
Boeing Services International, Inc.
Boeing Vertol Co.
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Borg Warner Corp.
Brooks & Perkins, Inc.
Brunswick Corp.
Belova Watch Co., Inc.
Bunker Ramo Corp.
Burroughs Corp.
C D I Corp.

California Microwave, Inc.
California, University of
Calspan Corp.
Caltex Oil Products Co.
Campbell Soup Co.
Carnation Co.
Carolina Engine & Equipment Co.
Carolina Power & Light Co.
Chamberlain Mfg. Corp.
Chandler Evans Corp.
Charles Stark Draper Laboratories, Inc.
Chesapeake & Potomac Telephone Co.
Chevron U S A, Inc.
Chromalloy American Corp.
Chrysler Corp.
Cincinnati Electronics Corp.
Coastal Dry Dock Repair
Coastal States Marketing, Inc.
Coastal States Trading, Inc.
Coloney Wayne H, Inc.
Colt Industries, Inc.
Communications Satellite Corp.
Computer Sciences Corp.
Comtech Laboratories, Inc.
Conoco, Inc.
Conrac Corp.
Contraves Goerz Corp.
Control Data Corp.
Cubic Corp.
Curtiss Wright Corp.
Cutler Hammer, Inc.
Data Design Laboratories
Data Products Corp.
Day & Zimmerman, Inc.
Dayton, University of
Delta Refining Co.
Douglas Oil Co. of California
Drake Construction Co.
Dynalectron Corp.
Dynamics Research Corp.
E G & G, Inc.
E S L, Inc.
E Systems, Inc.
Eastern Canvas Products, Inc.
Eastman Kodak Co.
Edgington Oil Co.
Edo Corp.
Electrospace Systems, Inc.
Emerson Electric Co.
Energy Specialists, Inc.
Engineering Research, Inc.
Ensign Bickford Co.
Etowah Mfg. Co., Inc.
Exxon Corp.
F M C Corp.
Fairchild Camera & Instrument Corp.
Fairchild Industries, Inc.
Federal Electric Corp.
Felec Services, Inc.
Ferrulmatic, Inc.
Flanigan James J Shipping Corp.
Flinchbaugh Products, Inc.
Florida Power & Light Co.
Ford Aerospace & Communications
Fortec Constructors
G T E Sylvania, Inc.
Garrett Corp.
General Dynamics Corp.
General Electric Co.
General Foods Corp.
General Motors Corp.
General Research Corp.
General Time Corp.
Getty Oil Co.
Gibbs & Cox, Inc.
Gilbraltar Fabrics, Inc.

Gladieux Refinery, Inc.
Global Associates
Golden Eagle Refining Co., Inc.
Goodrich B F, Co.
Goodyear Aerospace Corp.
Gould, Inc.
Grumman Aerospace Corp.
Guam Oil & Refining Co., Inc.
Gulf Oil Corp.
H & S Corp.
H I T Co.
H R B Singer, Inc.
Haehn Construction Co.
Hamilton Technology, Inc.
Harris Corp.
Harsco Corp.
Hawaiian Independent Refinery, Inc.
Hayes International Corp.
Hazeltine Corp.
Heckethorn Mfg. Co.
Henry's Hickory House
Hercules, Inc.
Hess Oil Virgin Island Corp.
Hewlett Packard Co.
Honeywell, Inc.
Honeywell Information Systems, Inc.
Hughes Aircraft Co.
I C I Americas, Inc.
I T T Gilfillan, Inc.
Illinois Institute of Technology
Ingersoll Rand Co.
Institute for Defense Analysis
Intercontinental Mfg. Co.
International Business Machines Co.
International Harvester Co.
International Telephone & Telegraph Corp.
Interstate Electronics Corp.
Itek Corp.
Jackson Oil Co.
Jacksonville Shipyards, Inc.
Jets Services, Inc.
Johns Hopkins University
Johnson A I Construction Co.
Jones J A Construction Co.
Kaiser Aerospace & Electronics Co.
Kaman Aerospace Corp.
Keco Industries, Inc.
Kentron Hawaii, Ltd.
Kings Point Mfg. Co.
Kraft, Inc.
Kuras, Alterman Corp.
La Barge, Inc.
Landmark Beef Processors, Inc.
Lansdowne Steel & Iron Co.
Lear Siegler, Inc.
Linkabit Corp.
Lite Industries, Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Lockheed Corp.
Lockheed Electronics Co., Inc.
Lockheed Missiles & Space Co., Inc.
Lockheed Shipbuilding & Construction
Logicon, Inc.
Loral Corp.
Magnavox Co.
Magnavox Government & Industrial
Electronics Co.
Man Tech Corp.
Management & Technical Services Co.
Maremont Corp.
Marine Transport Lines, Inc.
Marinette Marine Corp.
Marion Corp.
Marquardt Co.
Martin Marietta Aluminum Sales, Inc.

Martin Marietta Corp.
Mason & Hanger Silas Mason Co.
Mason Chamberlain, Inc.
Massachusetts Institute of Technology
Mayer, Oscar & Co., Inc.
McDonnell Douglas Corp.
Metal Trades, Inc.
Metric Systems Corp.
Mine Safety Appliances Co.
Minnesota Mining & Mfg. Co.
Mitre Corp.
Mobil Oil Corp.
Motorola, Inc.
National Beef Packing Co.
National Steel & Shipbuilding Co.
Navajo Refining Co.
New Mexico State University
Newport News Shipbuilding & Dry Dock Co.
Norris Industries, Inc.
North Pole Refining Co.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Norton Co.
O K C Trading Co.
Olin Corp.
Oshkosh Truck Corp.
P & B Services
P P G Industries, Inc.
Paccar, Inc.
Pacific Architects & Engineers, Inc.
Pacific Gas & Electric Co.
Pacific Northern Oil Corp.
Pacific Refining Co.
Pan American World Airways, Inc.
Parker Hannifin Corp.
Parsons, Ralph M. Co., Inc.
Pennsylvania State University
Perkin Elmer Corp.
Philip Morris, Inc.
Phillips Petroleum Co.
Planning Research Corp.
Pneumo Corp.
Potomac Research, Inc.
Powerline Oil Co.
Pride Refining, Inc.
Procter & Gamble Distributing Co.
Q E D Systems, Inc.
Quiller Construction Co., Inc.
R & D Associates
RCA Alaska Communications, Inc.
RCA Corp.
RCA Global Communications, Inc.
R E D M Corp.
Rand Corp.
Raytheon Co.
Reelfoot Packing Co.
Reflectone, Inc.
Remington Arms Co.
Reynolds, R. J. Industries, Inc.
Ridgecrest Engineering Co.
Right Away Foods Corp.
Rochester, University of
Rockwell International Corp.
Rohr Industries, Inc.
Rosenblatt, M. Son, Inc.
S C I Systems, Inc.
S R I International
Salem Packing Co., Inc.
Sanders Associates, Inc.
Santa Barbara Research Center
Science Applications, Inc.
Seaboard World Airlines, Inc.
Servidone Construction Corp.
Shell Oil Co.
Sierra Research Corp.

Simplex Wire & Cable Co.
Singer Co.
Smith, L. H., Oil Corp.
Southern California, University of
Southern Packaging & Storage Co.
Southern Union Refining Co.
Southwest Marine, Inc.
Southwest Truck Body
Southwestern Refining Co., Inc.
Space Services of Georgia, Inc.
Sparton Corp.
Sperry Corp.
Standard Mfg. Co.
Stanford University
Stewart Warner Corp.
Summa Corp.
Sun Chemical Corp.
Sun Co., Inc.
Sundstrand Corp.
Supreme Beef Co., Inc.
Swift & Co.
System Development Corp.
Systems Consultants, Inc.
Systems Research Laboratories, Inc.
T R W, Inc.
Tektronix, Inc.
Teledyne Brown Engineering
Teledyne C A E
Teledyne Electronics
Teledyne, Inc.
Teledyne Industries, Inc.
Teletype Corp.
Tesoro Alaskan Petroleum Corp.
Texas Instruments, Inc.
Texas, University of
Textron, Inc.
Thiokol Corp.
Tiger International, Inc.
Todd Shipyards Corp.
Tonkawa Refining Co.
Total Petroleum, Inc.
Tracor, Inc.
Tracor Marine, Inc.
Trans International Airlines, Inc.
Treadwell Corp.
Trinidad Corp.
Turner Construction Co.
U T L Corp.
Union Carbide Corp.
Uniroyal, Inc.
United States Lines Co.
United Technologies Corp.
Utah, University of
Value Engineering Co.
Vanderbilt Shirt Co., Inc.
Vanguard Oil & Service Co.
Varian Associates
Varo, Inc.
Vought Corp.
Wallace B E Products Corp.
Walters E & Co., Inc.
Washington, University of
Watkins Johnson Co.
Western Electric Co., Inc.
Western Gear Corp.
Western Union International, Inc.
Western Union Telegraph Co.
Westinghouse Electric Corp.
Whittaker Corp.
Wilke William F Inc.
Williams Clyde & Associates
Williams Research Corp.
Wilson & Co., Inc.
World Airways, Inc.
Wylie C E Construction Co.
Wyoming Refining Co.

Xerox Corp.
Zapata Marine Services, Inc.
H. E. Lofdahl,
*Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.*
December 18, 1979.
[FR Doc. 79-39259 Filed 12-20-79; 8:45 am]
BILLING CODE 3810-70-M

Department of the Air Force

32 CFR Part 845

Claims and Litigation; Counsel Fees
and Other Expenses in Foreign
Tribunals

AGENCY: Department of the Air Force,
Department of Defense.
ACTION: Final rule.

SUMMARY: The Department of the Air
Force is revising Part 845 of Chapter VII,
title 32, of the Code of Federal
Regulations. This revision establishes
the criteria and assigns the
responsibility for providing counsel,
bail, payment of court costs and other
necessary and reasonable expenses
incident to representation in civil and
criminal proceedings before foreign
courts and foreign administrative forces,
which involve members of the Armed
Forces, civilian personnel and
dependents. It implements DOD
Directive 5525.1, January 20, 1966.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:
Major Thomas Geraci, telephone (202)
695-9631.

Title 32 of the Code of Federal
Regulations is amended by revising Part
845 to read as follows:

PART 845—COUNSEL FEES AND
OTHER EXPENSES IN FOREIGN
TRIBUNALS

Sec.	Purpose.
845.1	Purpose.
845.2	Statutory authority.
845.3	Responsibility.
845.4	Criteria for the provision of counsel and payment of expenses in criminal cases.
845.5	Provision of bail in criminal cases.
845.6	Criteria for the provision of counsel and payment of expenses in civil cases.
845.7	Procedures for hiring counsel and obligating funds.
845.8	Payment of counsel fees and other expenses.
845.9	Appropriated funds chargeable.
845.10	Reimbursement.
845.11	Correspondence.

Authority: Sec. 8012, 70A Stat. 488, sec.
1037, 72 Stat. 1445; 10 U.S.C. 8012, 1037.

Note.—This part is derived from chapter 2
of Air Force Regulation 110-12, December 1,
1978.

Part 806 of this chapter states the
basic policies and instructions governing
the disclosure of records and tells
members of the public what they must
do to inspect or obtain copies of the
material referenced herein.

§ 845.1 Purpose.

This part establishes criteria and
assigns responsibility for the provision
of counsel, for the provision of bail, and
for the payment of court costs and other
necessary and reasonable expenses
incident to representation in civil and
criminal proceedings, including
appellate proceedings, before foreign
courts and foreign administrative
agencies, which involve members of the
Armed Forces, civilian personnel and
dependents. Payment of fines is not
authorized hereunder.

§ 845.2 Statutory authority.

10 U.S.C. 1037 provides authority for
employment of counsel, and payment of
counsel fees, court costs, bail, and other
expenses incident to representation of
persons subject to the Uniform Code of
Military Justice before foreign tribunals.
For personnel not subject to the Uniform
Code of Military Justice, funds for
similar expenses may be made available
in cases of exceptional interest to the
service concerned, upon prior
application through the Judge Advocate
General of the service concerned, to the
appropriate service secretary.

§ 845.3 Responsibility.

(a) Requests for provision of counsel,
provision of bail, or payment of
expenses will ordinarily be made by the
defendant or accused through
appropriate channels to the officer
exercising general court-martial
jurisdiction over him. This officer shall
determine whether the request meets the
criteria prescribed herein and, based
upon such determination, shall take final
action approving or disapproving the
request. Within their geographical areas
of responsibility, major commands in the
interest of obtaining prompt and
effective legal service may appoint as
approval authority, instead of the officer
exercising general court-martial
jurisdiction, any subordinate officer
having responsibility in a particular
country for personnel subject to foreign
criminal jurisdiction.

(b) Notwithstanding the criteria
prescribed below, an officer exercising
approved authority may, in his
discretion, deny a request for the
provision of counsel, provision of bail or
payment of expenses, where the
otherwise eligible requestor is in an
absent without leave or deserter status
at the time of the request, or otherwise

is not then subject to United States military control, and there is no reasonable basis for the belief that the requestor will return to United States military control at the conclusion of the proceedings of service of an adjudged sentence, if any.

§ 845.4 Criteria for the provision of counsel and payment of expenses in criminal cases.

Requests for the provision of counsel and payment of expenses in criminal cases may be approved in pretrial, trial, appellate and posttrial proceedings in any one of the following criminal cases:

- (a) Where the act complained of occurred in the performance of official duty; or
- (b) Where the sentence which is normally imposed includes confinement, whether or not such sentence is suspended; or
- (c) Where capital punishment might be imposed; or
- (d) Where an appeal is made from any proceeding in which there appears to have been a denial of the substantial rights of the accused; or
- (e) Where conviction of the offense alleged could later form the basis for administrative discharge proceedings for misconduct as a result of civil court disposition; or
- (f) Where the case, although not within the criteria established in paragraphs (a), (b), (c), (d), or (e) of this section, is considered to have significant impact upon the relations of US forces with the host country or is considered to involve any other particular US interest.

§ 845.5 Provision of bail in criminal cases.

Funds for the posting of bail or bond to secure the release of personnel from confinement by foreign authorities before, during, or after trial may be furnished in all criminal cases. Safeguards should be imposed to assure that at the conclusion of the proceedings or on the appearance of the defendant in court, the bail or bond will be refunded to the military authorities. Bail will be provided only to guarantee the presence of the defendant and will not be provided to guarantee the payment of fines or civil damages. Local US military authorities are expected to provide bail, in any case, only after other reasonable efforts have been made to secure release of pretrial custody to the US.

§ 845.6 Criteria for the provision of counsel and payment of expenses in civil cases.

Requests for provision of counsel and payment of expenses in civil cases may be granted in trial and appellate proceedings in either of the following civil cases:

(a) Where the act complained of occurred in the performance of official duty; or

(b) Where the case is considered to have a significant impact upon the relations of US forces with the host country or is considered to involve any other particular US interest. No funds shall be provided under this part in cases where the United States of America is in legal effect the defendant, without prior authorization of the Judge Advocate General.

§ 845.7 Procedures for hiring counsel and obligating funds.

(a) The selection of individual trial or appellate counsel will be made by the defendant. Such counsel shall represent the individual defendant and not the US Government. Selection shall be made from approved lists of attorneys who are qualified, competent and experienced in trial practice, and admitted for full practice, on their own account, before the courts of the foreign country involved. Normally, these lists will be coordinated with the local court or bar association, if any, and the appropriate US Diplomatic or Consular Mission and should include only those attorneys who are known or reputed, to comply with local attorney fee schedules or guides approved or suggested by local bar associations and should not exceed amounts paid under similar circumstances by nationals of the country where the trial is held. No fee may include any amount in payment for services other than those incident to representation before judicial and administrative agencies of the foreign country in the particular case for which the contract is made, and in no event may any contract include fees for representation in habeas corpus or related proceedings before tribunals of the United States. When appropriate and reasonable in the case, the payment of expenses, in addition to counsel fees, may include court costs, bail costs, charges for obtaining copies of records, printing and filing fees, interpreter fees, witness fees, and other necessary and reasonable expenses. Expenses will not include the payment of fines or civil damages, directly or indirectly.

(b) Whenever possible, the officer responsible under § 845.3 (or his designee), acting on behalf of the United States of America, shall enter into a written contract with the selected counsel. The contract will cover counsel fees, and, when appropriate, may cover other costs arising in defense of the case only in the court of first instance and will not include fees for representation on appeal. If the case is appealed to higher tribunals, supplemental

agreements shall be executed for each appeal. A copy of the contractual agreement shall serve as the obligating document.

(c) If, for example, because of unusual circumstances or local customs, it is not practicable to enter into a written contract as in paragraph (b) of this section, action will be taken to record the agreement reached between the officer responsible under § 845.3 (or his designee) and the selected counsel. This requirement may be met by a letter of commission or letter of understanding, executed between the officer responsible under § 845.3 (or his designee) and the selected counsel, or by a written request for legal services expressly or impliedly accepted by the selected counsel. Any such document shall contain, if possible, an agreed estimate of counsel fees and reasonable expenses and a statement that both fees and expenses will conform to those paid by local nationals under similar circumstances and will not exceed local fee schedules, if any. If this document does not include an agreed estimate of counsel fees and other reasonable expenses, an estimate will be provided by the contracting officer. A copy of the document, together with the estimate, will be furnished the accounting component and will serve as the commitment document for the reservation of funds.

(d) The provision of counsel and payment of expenses under this part is not subject to the provisions of the Defense Acquisition Regulation (Subchapter A, Chapter I of this title). However, the contract clauses set forth in Part 5, Section VII, Defense Acquisition Regulation, may be used as a guide in contracting.

(e) Because of the desirability of timely procedural action, it is suggested that there be designated, from among the judge advocates on the staffs of officers responsible under § 845.3, contracting officers with contracting authority limited to agreements described in this section. The effect of this designation would be to combine within one office the duties of contracting officer and judge advocate.

(f) Nothing in this part shall be construed as prohibiting the selection of qualified local counsel employed by the United States Government, if the serviceman freely selects such counsel.

§ 845.8 Payment of counsel fees and other expenses.

Payment of bills submitted by the selected counsel and other costs shall be made in accordance with the general provision of AFM 177-102 (Commercial Transactions at Base Level), relating to

payment of contractual obligations and pertinent disbursing regulations. All payments under these procedures will be in local currency. Acceptance of services procured under these procedures shall be certified to by the officer responsible under § 845.3 (or his designee). Payments of bail may be made when authorized by such officers. Such authorization shall be in the form of a directing letter or message citing 10 U.S.C. 1037.

§ 845.9 Appropriated funds chargeable.

Authorized expenses incurred incident to implementation of the policies set forth in this part, including transportation and per diem expenses of trial observers, interpreters, and local counsel employees, shall be paid from appropriated funds of the service to which the defendant belongs. Payments shall be made from the appropriation current at time of payment, unless obligations for authorized costs have previously been established. Refunds shall be processed as appropriation refund. Such funds are chargeable to the base for operation and maintenance purposes (O&M or R&D, as applicable).

§ 845.10 Reimbursement.

No reimbursement will ordinarily be required from individuals with respect to payments made in their behalf under this part. However, prior to the posting of bail on behalf of a defendant, a signed agreement shall be secured from him wherein he agrees to remit the amount of such bail or permit the application of so much of his pay as may be necessary to reimburse the Government in the event that he willfully causes forfeiture of bail. In the event of such forfeiture, bail provided under this part shall be recovered from the defendant in accordance with that agreement. The agreement should include a statement that it does not prejudice the defendant's right to appeal to the Comptroller General of the United States and the courts after such payment or deduction has been made, if he considers the amount erroneous.

§ 845.11 Correspondence.

Judge advocates who advise officers responsible under § 845.3 are authorized to correspond directly with each other and with the Judge Advocate General of the service concerned for advice with regard to payment of counsel fees and other expenses.

Carol M. Rose,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-59235 Filed 12-20-79; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1378-71]

Approval and Promulgation of State Implementation Plans; Approval of PSD Plan for North Dakota

AGENCY: Environmental Protection Agency.

ACTION: Final rule; Correction.

SUMMARY: The purpose of this action is to change section numbers 52.2620 and 52.2630 to 52.1820 and 52.1829, respectively, of Title 40, Part 52, of the Code of Federal Regulations for the PSD SIP revision for North Dakota. The final rulemaking was published in the Federal Register on November 2, 1979 (44 FR 63102).

EFFECTIVE DATE: The effective date of this rulemaking is December 21, 1979.

ADDRESSES: Copies of the SIP revision and an EPA evaluation of the revision will be available at the offices of the EPA listed below.

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David S. Kircher, Chief, Planning & Operations Section, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: December 10, 1979.

Roger L. Williams,
Regional Administrator.

[FR Doc. 79-59150 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1374-41]

Approval and Promulgation of Implementation Plan; Michigan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action approves a revision to the Michigan State Implementation Plan (SIP) which was published in a Notice of Proposed Rulemaking on July 12, 1979 (44 FR 26765). The revision extends the date that the Detroit Edison Company is

required to bring sulfur dioxide emissions from coal fired boilers at its Monroe County Generating Station, in the City of Monroe, Monroe County, Michigan, into compliance with certain regulations contained in the federally approved Michigan SIP. Any extension of SIP compliance dates for major sources of pollution must be approved as SIP revisions before they become effective (42 U.S.C. Section 7410). This revision extends the date for compliance from January 1, 1980 to January 1, 1985. In the interim, the Commission established a sulfur dioxide emission limitation which is equivalent to burning coal with a sulfur content of 3.0% at full load for the period beginning six months after July 7, 1977 and ending December 31, 1979. From December 31, 1979 until January 1, 1985, the Commission established a sulfur dioxide emission limitation which is equivalent to the Company burning 2.3% coal on a maximum 24-hour basis. In addition, the Company is required to install adequate monitors, measure and record the fuel firing rate at each boiler, and submit data from above to the Michigan Department of Natural Resources. The supporting documentation demonstrates that this SIP revision will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Joel Morbito, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6059.

SUPPLEMENTARY INFORMATION: The Detroit Edison Company operates a coal-fired, steam powered electric generating station in Monroe County, Michigan. The plant is commonly known as the Monroe Power Plant. On April 20, 1976 Edison made application to the Michigan Department of Natural Resources Air Pollution Control Commission (Commission) for an extension of the date that the Monroe Power plant had to be in compliance with the sulfur dioxide emission limits specified in Tables 3 and 4 of Rule 336.49 of the State of Michigan Air Pollution Control Commission Rules and Regulations for Air Pollution.

On November 8, 1976, the Company revised its request and requested that the Commission establish a sulfur dioxide emission limit for the Monroe Plant which is equivalent to burning coal with a sulfur content of 3.0% at full load for the period beginning 6 months after July 7, 1977 and ending on December 31, 1979. The Company

requested further that the Commission establish for the period January 1, 1980 to January 1, 1985 a sulfur dioxide emission limit for the Monroe Plant which is equivalent to burning coal with a sulfur content of 2.3% by weight at 12,000 BTU/lb. of coal.

A public hearing was held in this matter on April 18, 1977, in conformity with a notice of hearing requirement set forth in 40 CFR, Part 51.4. The Commission signed the Order on July 7, 1977 and on December 12, 1977 formally submitted it to the U.S. Environmental Protection Agency (USEPA) as a revision to the Michigan SIP.

Pursuant to Section 110 of the Clean Air Act, the Administrator of the USEPA must approve Administrative Orders which extend compliance dates for major sources as revisions to the SIP before they may become effective. 42 U.S.C. Section 7410.

On July 12, 1979 (44 FR 40655) the Administrator published the Order as a proposed revision to the Michigan SIP and invited comment. Interested parties were given until August 13, 1979 to submit written comments on the proposed SIP revision. The only comments received were those of the Detroit Edison Company urging approval of the proposed revision.

Final approval of the Michigan Air Pollution Control Commission's Order as a revision to the Michigan SIP is the subject of today's rulemaking. The Order, which extends the date for complying with Rule 336.49 was submitted to the USEPA after notice and public hearings were held in accordance with the procedural requirements of 40 CFR, Parts 51.4 and 51.6. The Order extends the compliance date for meeting sulfur dioxide emission limitations to January 1, 1985, subject to certain conditions which are as follows:

(A) Sulfur Dioxide Control Program and Emission Limitations

(1) Commencing six months from the effective date of this Order, the Company shall not burn any fuel at the Power Plant which:

(a) Results in sulfur dioxide emissions greater than 1,580 tons per calendar day. The intent of this subparagraph is to be equivalent to burning coal at the Power Plant of 3.0 percent sulfur by weight, 12,000 BTU/pound of coal at 3,200 megawatts gross load.

(b) Results in sulfur dioxide emissions greater than 5.60 pounds per million BTU heat input per calendar day. The intent of this subparagraph is to be equivalent to burning coal at the Power Plant of 3.5 percent sulfur by weight at 12,000 BTU/pound of coal.

(2) After January 1, 1980 and continuing until January 1, 1985, the Company shall not emit or cause the emission of sulfur dioxide in excess of a maximum of 3.68 pounds per million BTU heat input calculated on a calendar day basis. The intent of this subparagraph is to be equivalent to burning coal at the Power Plant of 2.3 percent sulfur by weight at 12,000 BTU/pound of coal.

(3) By January 1, 1982, the Company shall submit to the staff an acceptable control strategy including increments of progress for the Power Plant which shall provide for compliance with the emission limits specified in Table 3 R 336.49, by not later than January 1, 1985. It is the intent of the Company and Staff to incorporate the elements of this control strategy into either a new or amended Consent Order.

(4) By January 1, 1985, the Company shall not emit or cause the emission of sulfur dioxide in excess of a maximum of 1.60 pounds per million BTU heat input calculated on a 24-hour average basis, unless an alternate compliance date is established for the Power Plant by subsequent amendment to the State Implementation Plan [as published in the Federal Register at 40 CFR 50].

(5) Annually from the date of final adoption of Section 5(A)(4), the Company shall submit to Staff (and upon request to the Commission) a report of the Company's progress towards complying with this Consent Order. Any developments which would preclude compliance by the Company with Section 5(A)(4) shall be immediately transmitted in writing to the Staff and the Commission.

(B) Monitoring

(1) The Company shall operate a reasonable number of ambient air quality monitors in such manner and at such locations as specified by the Chief of the Air Quality Division, Department of Natural Resources.

(2) The Company shall install by January 1, 1978 for testing and certification purposes in-stack emission monitors for measuring sulfur dioxide and plume opacity. These monitors will be placed in operation as soon as possible, but not later than January 1, 1980.

(3) The Company shall demonstrate the adequacy of the in-stack sulfur dioxide monitor by measuring and providing fuel analysis in a manner approved by the Chief of the Air Quality Division, Department of Natural Resources.

(4) The Company shall measure and record the fuel firing rate at each boiler at the Power Plant.

(5) Beginning in 1977, the Company shall conduct periodic source emission tests for particulates from each unit. The tests shall be conducted at approximately 18-month intervals and in accordance with the Commission approved procedures.

(C) Data Reporting

The Company shall submit data from the aforementioned ambient air quality monitors, in-stack monitors, fuel analysis, fuel firing rate and particulate testing in such format and at such intervals as specified by the Chief of the Air Quality Division, Department of Natural Resources, subject to the Company having the opportunity to appeal such requirements to the Commission. If the Company fails to submit the above data as specified, such failure shall constitute a violation of this Order unless the Company promptly provides the Commission with an acceptable reason for such failure.

(D) Excursions Above Air Quality Standards

In the event that either the Company or the Staff determines at any time that any one of the sulfur dioxide monitors referred to in paragraph (B)(1), above, or any one similar monitor operated by the Staff or the Wayne County Health Department in Wayne or Monroe Counties, measures an ambient sulfur dioxide excursion [an excursion is a single ambient concentration above 365 $\mu\text{g}/\text{m}^3$ (0.14 ppm) calculated on a running 3-hour average], then the Company shall:

(1) Within 45 days reduce the mass rate of sulfur dioxide emission from the Power Plant according to the following applicable formula:

(a) For an excursion of the running 3-hour average:

$$\text{Interim Reduction} = 110 - 130,000 \text{ Excursion}$$

Where:

Excursion = maximum 3-hour running average ($\mu\text{g}/\text{m}^3$)

(b) For an excursion of the running 24-hour average:

$$\text{Interim Reduction} = 110 - 36,500 \text{ Excursion}$$

Where:

Excursion = maximum 24-hour running average ($\mu\text{g}/\text{m}^3$)

It is understood that the Interim Reduction shall be applied as a percentage to the mass rate of sulfur dioxide emission corresponding to the emission during the excursion. It is further understood that the Interim Reduction shall remain in effect until

such time as the Company is in compliance with the emission limits specified in Table 3 of R 336.49. The Company and Staff further agree that additional Interim Reductions may be required in the event of a subsequent excursion. The Interim Reduction, however, shall not result in a sulfur dioxide emission limit that would be more stringent than the requirements of Table 3 of R 336.49.

The Company will be relieved of this Interim Reduction requirement if: (a) it demonstrates to the Commission's satisfaction, utilizing the procedure attached hereto as Appendix I, that the Power Plant's contribution to the excursion is less than 20 percent; or (b) it has received the Commission's approval to implement and does implement an alternate interim emission reduction program. Further, the Company may be relieved of this Interim Reduction if it demonstrates to the Commission's satisfaction that the excursion was likely caused by an unusual release of sulfur dioxide by a source other than the Power Plant. Notwithstanding possible relief from the Interim Reduction requirement, the Company shall still be required to comply with paragraphs (D)(2) and (3), following.

(2) Within four (4) months, submit an acceptable program to the Commission in writing which provides for compliance with the emission limits of Table 3 of R 336.49. The Company will be relieved of the requirement to submit such a program if it demonstrates to the Commission's satisfaction by utilizing the procedure attached thereto as Appendix I, that the Power Plant's contribution to the excursion was greater than 10%. Determining compliance with this section shall be made in accordance with the following examples:

Measured value of the excursion	Permitted 10 percent contribution of power plant
Total = 400 $\mu\text{g}/\text{m}^3$	40 $\mu\text{g}/\text{m}^3$ or less.

Notwithstanding the provision of (D)(3), below, the Company will not be required to implement such a program unless between the date of excursion to which the Power Plant's contribution was greater than 10% and January 1, 1985, a second excursion occurs to which the Power Plant's contribution was also greater than 10%. It is the intent of the parties to develop and enter

into the Consent Order referred to in (D)(3), below, after the first excursion, but not to implement the program until after the second excursion. (3) Within seven (7) months enter a Consent Order with the Commission, for implementation of the program referred to in paragraph (D)(2), above. The Company will be relieved from the requirements to enter into the Consent Order and implement the program submitted in paragraph (D)(2), above, if it successfully makes the demonstration referred to in (D)(2), above. The Company may be relieved from the requirements to submit an acceptable program, enter into the Consent Order and implement the program submitted in (D)(2), above, if it demonstrates to the Commission's satisfaction that the excursion was likely caused by an unusual release of sulfur dioxide by a source other than the Power Plant.

6. Modification or revocation of order

(A) The Staff and the Company agree that the entry of this Consent Order is without prejudice to the Company's rights to petition the Commission for modifications of any provision of this Consent Order in the event that the Company, for any good cause, including the impact of compliance with the terms of this Order, believes that a reconsideration is appropriate.

(B) The Commission may modify or revoke this Order granting an extension of the dates for compliance with Tables 3 and 4 if the Commission deems it necessary for any of the following reasons:

(1) The Commission determines that the person granted the extension has not adequately complied with the terms, conditions and requirements of the Order issued by the Commission, including but not limited to monitoring, reporting and fuel specifications.

(2) The Commission determines that the public health, safety or welfare may be adversely affected by any further compliance extension.

(3) The Commission determines that further reductions in the Power Plant's sulfur dioxide emissions would allow the location of a new source or modification of an existing source, and without the reduction the new source or modification of an existing source would not be permitted. However, such reduction shall not be greater than that necessary to permit the location of the new source or the modification to the existing source, and such reduction shall not be more stringent than the requirements of Table 3 of R 336.49.

(4) The Commission determines that the original data submitted by the applicant on the application requesting an extension is materially inaccurate.

(5) The Commission determines that federal law or rules would prohibit or make unlawful further extension.

7. Staff and the Company both acknowledge that a public hearing on this abatement program was held on April 18, 1977. Both Staff and the Company hereby consent to enforcement of this Stipulation and Final Order in the same manner and by the same procedures for all final orders entered pursuant to Section 16 of Act 257 of the Public Acts of 1972, being Section 336.26 of the Michigan Compiled Laws, including but not limited to, enforcement by legal action brought under 1972 PA 257 and/or 1970 PA 127.

Final approval of the Order as a SIP revision is effective upon publication (date of publication). The Administrator finds good cause for making this revision effective immediately as the Order is already effective in the State of Michigan and federal approval imposes no additional requirement on the affected source.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

After review of all relevant materials, the Administrator has determined that the revision meets the requirements of Section 110 (a)(3) of the Clean Air Act and USEPA regulations in 40 CFR Part 51.6. The revision is legally enforceable, will not interfere with attainment or maintenance of the NAAQS and has been subjected to reasonable notice and public hearing. Accordingly the revision is approved.

This Final Rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, the table in 52.1175 is amended by adding a new entry in paragraph (e) as follows:

Subpart X—Michigan

§ 52.1175 Compliance schedules.

(e)

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
Detroit Edison (Monroe plant)	Monroe County	336 49	July 7, 1977	Jan. 1, 1985

(42 U.S.C. § 7410)

Dated: December 13, 1979.
Douglas Costle,
Administrator.

[FR Doc. 79-39149 Filed 12-20-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180**[FRL 1378-5; PP 7F1925/R226]****Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Tebuthiuron**

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide tebuthiuron in or on rangeland grass forage at 20 parts per million (ppm) and the meat, fat, and meat byproducts of cattle, goats, horses, and sheep at 2 ppm. The regulation was requested by Elanco Products Company. This rule establishes maximum permissible levels for residues of the herbicide tebuthiuron in or on rangeland grass forage and the meat, fat, and meat byproducts of cattle, goats, horses, and sheep.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Product Manager, (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On June 14, 1977, notice was given (42 FR 30423) that Elanco Products Co., Division of Eli Lilly Co., P.O. Box 1750, Indianapolis, IN 46206, had filed a pesticide petition (PP 7F1925) with the EPA. This petition proposed that 40 CFR 180 be amended to establish tolerances for combined residues of the herbicide tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea) and its metabolites *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, and *N*-[5-(1,1-dimethylethyl)-

1,3,4-thiadiazol-2-yl]-*N*-hydroxymethyl-*N*-methylurea in or on grasses (pasture and rangeland) and grass hay at 20 parts per million (ppm); tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea) and its metabolites 1-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-urea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-hydroxymethyl-*N*-methylurea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, 5-(1,1-dimethylethyl)-2-methylamino-1,3,4-thiadiazol, and 2-(1,1-dimethylethyl)-5-amino-1,3,4-thiadiazol in meat, fat, and meat byproducts of cattle, goats, horses, and sheep at 2 ppm; tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea) and its metabolites *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, 1-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-urea, and *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-hydroxymethyl-*N*-methylurea in milk at 1 ppm.

Subsequently, the petitioner amended the petition by (a) withdrawing the proposed tolerances in or on milk at 1 ppm and pasture and rangeland grasses at 20 ppm; (b) changing "grass hay" at 20 ppm to read "rangeland grass forage" at 20 ppm; and (c) expressing the tebuthiuron metabolites in terms of tebuthiuron and its metabolites containing the dimethylethyl thiadiazole moiety. No comments were received in response to this notice of filing.

The petition now proposes the establishment of tolerances for the combined residues of the herbicide tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea) and its metabolites containing the dimethylethyl thiadiazole moiety in or on rangeland grass forage at 20 ppm and the meat, fat, and meat byproducts of cattle, goats, horses, and sheep at 2.0 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated include a rat oral LD₅₀ equal to 644 ± 27 (standard error of mean) milligrams per kilogram of body weight (mg/kg bw); a 2-year rat feeding study with a no-observed-effect level (NOEL) of 400 ppm (20 mg/kg bw/day) and a

minimum-effect level (MEL) of 800 ppm; a 2-year mouse oncogenicity study (negative at 1,600 ppm, the highest fed level); a 2-year rat oncogenicity study (negative at 1,600 ppm, the highest fed level); a rabbit teratology study (negative at 25 mg/kg bw, the highest fed level); a rat teratology study (negative at 1,800 ppm); a rat dominant-lethal study (negative for mutagenicity at 75 mg/kg bw); an Ames mutagenicity test (negative at up to 1 mg/ml of medium); rat, dog, and rabbit metabolism studies; a 162-day cattle feeding study (negative at 30 ppm); a 1-month chicken feeding study (negative at 1,000 ppm); and a 3-generation rat reproduction study in which an NOEL was not established since at the lowest level fed (400 ppm; 20 mg/kg bw/day), the body weights of weanlings were significantly depressed.

There have not been any permanent tolerance established previously for tebuthiuron. An acceptable daily intake (ADI) for man and a maximum permissible intake (MPI) for man are not available and cannot be calculated for tebuthiuron because an NOEL cannot be established at this time from the rat 3-generation reproduction study.

It is the judgment of the Agency's scientists that as dose levels are lowered, the weight depression effect noted in the reproduction study probably would diminish regularly to a level where it could not be measured. Because the observed adverse effect is considered a minor one and because the expected level of exposure to humans is less than 1/5,000 of the dose level that produced that effect, the requested tolerances are considered adequate to protect the public health.¹

The company has agreed in writing to provide an additional multi-generation reproduction study which includes lower dosage levels in order to establish an unequivocal NOEL. The results of this study are expected to be received by the Agency in 24 months. At that time the Agency will re-evaluate these tolerances.

Data considered desirable but lacking are further mutagenicity data which will be deferred until the amounts and kinds of mutagenicity data required for the establishment of tolerances are determined by this Agency. In addition, the use restrictions further limit human or domestic animal exposure. There are no pending actions against registration

¹ The reproduction study's MEL (20 mg/kg bw/day) divided by the calculated theoretical maximum residue contribution (TMRC) to an average daily diet for an adult, 0.0037 mg/kg bw/day.

of the pesticide. The nature of the residues of the pesticide is known and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No other considerations are involved in establishing the proposed tolerances.

Secondary residues are likely to occur in meat, fat, and meat byproducts of cattle, goats, horses, and sheep. Therefore section 180.6(a)(1) applies. Residues are not likely to occur in eggs, meat, fat, and meat byproducts of poultry since no poultry feed items are involved (section 180.6(a)(3) applies). There is no milk tolerance proposed. The use is for application to rangeland. The intent is to upgrade the range for grazing beef cattle. Although the proposed label would allow dairy cattle to graze on treated land after a two-year post-treatment interval, dairy cattle probably would not be grazed on this type of range in any event. The label permits hay cutting two years after treatment. The hay could be used for dairy cattle feed. The two year restriction is intended to reduce the potential for residues in the hay and preclude any problem of residues in milk. For these reasons, the proposed use of tebuthiuron on rangeland would not likely result in residues occurring in milk.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances of 20 ppm in or on rangeland grass forage and 2.0 ppm in the meat, fat, and meat byproducts of cattle, goats, horses, and sheep established by amending CFR 180 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the Federal Register, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized".

This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: December 13, 1979.

Statutory Authority: Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, is amended by adding the new section 180.390 to read as follows:

§ 180.390 Tebuthiuron; tolerances for residues.

Tolerances are established for residues of the insecticide tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea) and its metabolites containing the dimethylethyl thiadiazole moiety in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	2
Cattle, mbypr	2
Cattle, meat	2
Goats, fat	2
Goats, mbypr	2
Goats, meat	2
Grass, rangeland, forage	20
Horses, fat	2
Horses, mbypr	2
Horses, meat	2
Sheep, fat	2
Sheep, mbypr	2
Sheep, meat	2

[FR Doc. 79-39149 Filed 12-20-79; 8:45 am]
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FEDERAL EMERGENCY MANAGEMENT AGENCY**44 CFR Part 65****[Docket No. FEMA 5753]****List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program**

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATE: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is

suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter I of Title 44 of

the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) Flood Hazard Boundary Maps (FHBM's). The following is a cumulative list of withdrawals pursuant to this Part:

- 40 FR 5149
- 40 FR 17015
- 40 FR 20798
- 40 FR 46102
- 40 FR 53579
- 40 FR 56672
- 41 FR 1478
- 41 FR 50990
- 41 FR 13352
- 41 FR 17726
- 42 FR 8895
- 42 FR 29433
- 42 FR 46226
- 42 FR 64076

- 43 FR 24019
- 44 FR 815
- 44 FR 6383
- 44 FR 18485
- 44 FR 25636
- 44 FR 34120
- 44 FR 52835
- 44 FR 57094
- 44 FR 75639

(b) Flood Insurance Rate Maps (FIRM's). The following is a cumulative list of withdrawals pursuant to this Part:

- 40 FR 17015
- 41 FR 1478
- 42 FR 49811
- 42 FR 64076
- 43 FR 24019
- 44 FR 25636
- 44 FR 52835

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

FIA Map Rescission

State	Community name and No.	County	Hazard ID date	Rescission date	Reason
California	Town of Colma, 060316A, C	San Mateo	May 2, 1975	Nov. 1, 1979	1A
Iowa	City of Macedonia, 190772	Pottawattamie	Dec. 10, 1976	Nov. 1, 1979	1
Iowa	City of Stanwood, 190056A, C	Cedar	May 14, 1976	Nov. 1, 1979	1A
Iowa	City of Traynor, 190816	Pottawattamie	Mar. 26, 1976	Nov. 1, 1979	1
Kansas	City of Alden, 200291C	Rice	Dec. 27, 1974	Nov. 1, 1979	1A
Kentucky	City of Cedarville, 210355A	Pike	Sept. 29, 1975	Nov. 1, 1979	3
Missouri	City of Vienna, 290647C	Maries	Feb. 7, 1975	Nov. 1, 1979	1A
Missouri	Town of Warsaw Woods, 290393A, C	St. Louis	Aug. 6, 1976	Nov. 1, 1979	1A
North Dakota	City of Oakes, 360246C	Dickey	Feb. 14, 1975	Nov. 1, 1979	1A
California	City of Atwater, 060189A, C	Merced	July 25, 1975	Nov. 1, 1979	1A
Pennsylvania	Township of West Mahoning, 421723	Indiana	Jan. 24, 1975	Nov. 1, 1979	1
Utah	City of Huntsville, 460188A	Weber	June 21, 1974	Nov. 1, 1979	1
California	City of Alhambra, 060095A, C	Los Angeles	Nov. 21, 1975	Nov. 15, 1979	1A
California	City of Azusa, 065015A	Los Angeles	Apr. 23, 1976	Nov. 15, 1979	1
California	City of Claremont, 060109A	Los Angeles	May 24, 1974	Nov. 15, 1979	1
California	City of Duarte, 065026	Los Angeles	July 19, 1974	Nov. 15, 1979	1
California	City of Glendale, 065030A	Los Angeles	May 7, 1976	Nov. 15, 1979	1
California	Hidden Hills, 060125A	Los Angeles	Apr. 23, 1976	Nov. 15, 1979	1A
California	City of Industry, 065035A	Los Angeles	June 11, 1976	Nov. 15, 1979	1
California	City of LaVerne, 060133C	Los Angeles	Mar. 6, 1979	Nov. 15, 1979	1
California	City of Monrovia, 065046A	Los Angeles	Apr. 23, 1979	Nov. 15, 1979	1
California	City of Pasadena, 065050A	Los Angeles	July 16, 1976	Nov. 15, 1979	1
California	City of Piedmont, 060011A, C	Alameda	Sept. 26, 1975	Nov. 15, 1979	1A
California	City of Rancho Palos Verdes, 060464A	Los Angeles	Jan. 28, 1977	Nov. 15, 1979	1
California	City of Sierra, 065059A	Los Angeles	Aug. 13, 1976	Nov. 15, 1979	1
California	Town of Trinidad, 060436	Los Angeles	May 14, 1976	Nov. 15, 1979	1
California	City of Walnut, 065069	Los Angeles	July 16, 1976	Nov. 15, 1979	1
North Dakota	City of Mohall, 380241C	Renville	Sept. 19, 1975	Nov. 15, 1979	1A
South Dakota	City of Lead, 46190	Lawrence	Feb. 7, 1975	Nov. 15, 1979	1
Ohio	Village of Tontogany, 390755	Wood	Apr. 18, 1975	Nov. 15, 1979	1
Pennsylvania	Township of Deer Creek, 422476A	Mercer	July 16, 1976	Nov. 15, 1979	1
Pennsylvania	Borough of Laporte, 422057	Sullivan	Dec. 20, 1974	Nov. 15, 1979	1
Pennsylvania	Borough of Portersville, 422355	Butler	Jan. 10, 1979	Nov. 15, 1979	1
Texas	Village of Dickinson, 481497C	Galveston	June 22, 1975	Aug. 27, 1979	3

KEY TO SYMBOLS

- E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FIRM.
- C—The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.
- R—The community is participating in the Regular Program.
- 1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
- 1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
- 2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
- 3. The Community lacked land-use authority over the special flood hazard area.
- 4. A more accurate FIA map is the effective map for this community.
- 5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.) A new FHBM will be prepared and distributed.
- 6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
- 7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
- 8. The T&E or H&E Map was rescinded.
- 9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

(National Flood Insurance Act of 1968 [Title XIII of the Housing and Urban Development Act of 1968]; effective Jan. 28, 1969 [33 FR 17804, Nov. 28, 1968], as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 41 FR 20963)

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39043 Filed 12-20-79; 8:15 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872, (In Alaska and Hawaii call Toll Free (800) 424-9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster

Protection Act of 1968 [Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)], 42 U.S.C. 4001-4128, and 44 CFR § 67.4(a) (presently appearing at its former Title 24, Chapter X, § 1917.4(a) of the Code of Federal Regulations). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Mesa, City, Maricopa County (Docket No. FI-2716).	Salt River	Downstream Corporate Limits	*1,164
			North Dobson Road	*1,194
			North Country Club Drive (Extended)	*1,218
			North Center Street (Extended)	*1,227
		Sheet flow from Gila River Water Shed	West Guadalupe Road	*1,195
		Tempe Canal	West Main Street	*1,202
		Consolidated Canal	East Southern Avenue	*1,250
			East Main Street	*1,253
			East Brown Road	*1,257
		Eastern Canal	East Southern Avenue	*1,285
			East Broadway	*1,288
			East University Drive	*1,290
		RWDC Canal	East Main Street	*1,345
Maps available at the City Hall, Mesa, Arizona.				
Maine	Gardiner (City), Kennebec County (Docket No. FI-5137).	Kennebec River	Gardiner Randolph Bridge—200 feet upstream from centerline	*29
		Cobbosseecontee Stream	Winter Street Bridge—10 feet upstream from centerline	*28
			Maine Central Railroad Bridge—65 feet downstream from centerline	*35
			Maine Central Railroad Bridge—25 feet upstream from centerline	*40
			Yorktowne Paper Company Dam—100 feet downstream from centerline	*63
			Yorktowne Paper Company Dam—25 feet upstream from centerline	*75
			Former S.D. Warren Company Dam—100 feet downstream from centerline	*96
			Former S.D. Warren Company Dam—25 feet upstream from centerline	*129
			Gardiner Water District Dam—65 feet downstream from centerline	*129
			Gardiner Water District Dam—25 feet upstream from centerline	*139
			Interstate Highway 95 Bridge—at centerline	*139
Maps available at City Hall, Church Street, Gardiner, Maine 04345.				
New Jersey	Union Beach, Borough, Monmouth County (Docket No. FI-5154).	Raritan Bay	Entire Shoreline	*12
		Thorn's Creek (Backwater from Waackack Creek).	Conrail	*6
			Maps available at the Borough Hall, Florence Avenue, Union Beach, New Jersey.	

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
Virginia	Dumfries, Town, Prince William County (Docket No. FI-3351).	Quantico Creek	Farley Boulevard—U.S. Route 1 (Downstream)	*13		
			Farley Boulevard—U.S. Route 1 (Upstream)	*19		
			Main Street—U.S. Route 1 (200 feet upstream)	*20		
			Corporate Limits (Upstream)	*25		
			Dominion Drive	*31		
		Unnamed Tributary to Quantico Creek	Eby Street	*50		
			400 feet above Eby Street	*56		
			800 feet above Eby Street	*63		
			Maps available on the bulletin board, Town Hall, 101 South Main Street, Dumfries, Virginia.			
			Virginia	Smyth County (Docket No. FI-4956).	Middle Fork Holston River	Interstate Route 81
State Route 638	*1,953					
U.S. Route 11	*1,974					
State Route 645	*1,986					
State Route 659	*2,064					
Confluence of Hungry Mother Creek	*2,080					
State Route 691 (Upstream Side)	*2,167					
State Route 693 (Upstream Side)	*2,194					
State Route 683 (Upstream Side)	*2,210					
Confluence of Bear Creek	*2,256					
Sulphur Spring Creek	Confluence of Shupe Hollow Creek	*2,288				
	State Route 626 (Upstream Side)	*2,303				
	Flowing Springs Road	*2,337				
	Chilhowie Corporate Limits	*1,947				
	150' upstream of State Route 642	*1,962				
Carlock Creek	U.S. Route 11	*1,952				
	Carlock Creek Road	*1,952				
	State Route 774 (Upstream Side)	*1,958				
	Private Road at River Mile 0.62	*1,963				
	Marion Corporate Limits	*2,196				
Staley Creek	State Route 16	*2,257				
	Private Road at River Mile 2.69	*2,302				
	State Route 688 (Upstream Side)	*2,335				
	State Route 689	*2,377				
	State Route 740	*2,415				
North Fork Holston River	Downstream County Boundary	*1,676				
	400' upstream of State Route 91	*1,714				
	Confluence of Elkhorn Branch	*1,737				
	400' upstream of State Route 833	*1,748				
	State Route 91 (Upstream Side)	*1,731				
Turkey Run Creek	900' upstream of State Route 91	*1,751				
	1,350' upstream of State Route 91	*1,776				
	2,200' upstream of State Route 91	*1,807				
	2,550' upstream of State Route 91	*1,828				
	State Route 91 (Upstream 3,250')	*1,863				
South Fork Holston River	State Route 674 (Upstream Side)	*2,558				
	State Route 674 (Upstream 1,000')	*2,563				
	Confluence of Slomp Creek	*2,568				
	State Route 601 (Upstream Side)	*2,571				
	State Route 695 (Upstream Side)	*2,609				
Dickey Creek	State Route 695 (Upstream 1,900')	*2,637				
	Confluence with South Fork Holston River	*2,568				
	Confluence of Cressy Creek	*2,577				
	State Route 601	*2,586				
	State Route 16 (Upstream Side)	*2,593				
Slomp Creek	Confluence of Quarter Branch	*2,586				
	500' above confluence with Cressy Creek	*2,609				
	Confluence of Unnamed Tributary	*2,616				
	Confluence of Unnamed Tributary (Upstream 990')	*2,637				
	State Route 632 (Upstream)	*1,713				
Cressy Creek	State Route 632 (Upstream 1,000')	*1,730				
	State Route 632 (Upstream 1,850')	*1,750				
	State Route 632 (Upstream 2,550')	*1,765				
	State Route 632 (Upstream 3,300')	*1,780				
	State Route 632 (Upstream 4,100')	*1,800				
Quarter Branch	Saltville Corporate Limits (Extended)	*1,843				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128) Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963]

Issued: December 10, 1979.
Gloria M. Jimenez,
Federal Insurance Administration.
[FR Doc. 79-39236 Filed 12-20-79; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA 5712]

Letter of Map Amendment for San Bernardino County, Calif., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final Rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included San Bernardino County. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for San Bernardino County, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (300) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060270 Panel 8740A, published on October 23, 1979 in Vol. 44 No. 206, indicates that Lots 1 through 9 and 13 through 22, Tract 10044, San Bernardino County, California, as recorded in Book 145, Pages 99 through 101 of Maps, in the Office of the Recorder, San Bernardino County, California, are located within the Special Flood Hazard Area.

Map No. H & I 060270 Panel 8740A is hereby corrected to reflect that Lots 2 through 9 and 13 through 21 of the above mentioned property are not within the Special Flood Hazard Area identified on September 29, 1978. These lots are in Zone C.

This map is also corrected to reflect that the structures on Lots 1 and 22 of the above mentioned property are not within the Special Flood Hazard Area identified on September 29, 1978. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: December 6, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-39186 Filed 12-20-79; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Oklahoma City, Okla., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405378A Panel 124, published on June 29, 1977, in FR 33226, indicates that Lots 1 and 2, Block 21A; Lots 4 through 7, Block 22A; and Lots 4 through 14, Block 23A, Section 2, Oakcliff Addition, Oklahoma City, Oklahoma, as recorded in Book 44, Page 100, in the Office of the Clerk, Oklahoma County, Oklahoma, are within the Special Flood Hazard Area.

Map No. H & I 405378A Panel 124 is hereby corrected to reflect that Lot 2, Block 21A, and Lots 5 through 7, Block 22A, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C. Lot 1, Block 21A, and Lots 8 through 14, Block 23A, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979, with the exception of the areas designated for Drainage Easement on the recorded plat map cited above. These lots are in Zone C. In addition, the structures on Lot 4, Block 22A, and Lots 4 through 7, Block 23A, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39167 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA 5712]

Letter of Map Amendment for the City of Salem, Ore., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Salem, Oregon. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Salem, Oregon, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872, (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be

obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 410167 Panel 0005B, published on October 23, 1979 in 44 FR 61026, indicates that Lot 3, Block 7; and Lot 15, Block 9, Battle Creek Estates No. 3, Salem, Oregon, recorded as Instrument Number 23269 in Town Plats Volume 32, Page 29, in the Office of the Recorder, Marion County, Oregon, are within the Special Flood Hazard Area.

Map No. H & I 410167 Panel 0005B is hereby corrected to reflect that the structures on the above mentioned lots are not within the Special Flood Hazard Area identified on June 15, 1979. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39188 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the Borough of Tamaqua, Pa., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Borough of Tamaqua, Pennsylvania. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Tamaqua, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a

condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6570 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

§ 70.7 [Amended]

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 425389A, Panel No. 01, published on June 29, 1977, in 42 FR 33230 indicates that a 0.190 acre parcel of land located at the northeast corner of Broad and Pine Streets, Middle Ward, Borough of Tamaqua, Schuylkill County, Pennsylvania, as recorded in Book 1270, Pages 47 through 51, in the Office of the Recorder of Deeds of Schuylkill County, Pennsylvania, is located within the Special Flood Hazard Area.

Map No. H & I 425389A, Panel No. 01, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on October 31, 1975. The structure is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39189 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Mesquite, Tex., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Mesquite, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mesquite, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485490A Panel 05, published on May 18, 1977, in 42 FR 33234, indicates that Lot 1, Block 25, and Lots 36 and 37, Block 26, Meadowdale No. 5, Mesquite, Texas, as recorded in Volume 78166, Page 1176, in the Office of the Recorder, Dallas County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 485490A Panel 05 is hereby corrected to reflect that the structures on the above mentioned property are not within the Special Flood Hazard Area identified on September 26, 1975. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39190 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

Emergency Energy Conservation Program; Energy Crisis Assistance Program

AGENCY: Community Services Administration.

ACTION: FINAL RULE.

SUMMARY: The Community Services Administration (CSA) is filing an amendment to the final rule on the Energy Crisis Assistance Program published in the Federal Register on Thursday, October 11, 1979 (44 FR 58876). This amendment is required to implement the fiscal year 1980 supplemental appropriation for emergency fuel assistance (Pub. L. 96-126) and to implement policy changes directed by Congress.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. Freel or Mr. Wallace Lumpkin, 2000 K Street, N.W., Suite 350, Washington, D.C. 20006, Telephone: (202) 254-9833, Teletypewriter: (202) 254-6218.

SUPPLEMENTARY INFORMATION: Pub. L. 96-126, signed by the President on November 27, 1979, provides \$150 million to supplement the \$250 million already appropriated for the Emergency Crisis Assistance program (ECAP). In

addition, states may choose to supplement ECAP with funds granted by the Department of Health, Education, and Welfare (HEW) through election of Plan "C" as set forth in HEW's supplemental energy allowance program (See FR Vol. 44, No. 232, November 30, 1979). Congress also directed CSA to make changes in the present regulation to:

- (1) Give priority to households experiencing significant increases in heating fuel costs;
- (2) Serve persons who have paid fuel bills;
- (3) Provide flexibility to Governors, with CSA approval, to set increased maximum levels of assistance;
- (4) Provide outreach services for persons receiving unemployment compensation and for American Indians; and

- (5) Require a program end date of June 30, 1979.

The specific intent of Congress with regard to the FY'80 Energy Crisis Assistance Program has been set forth in its supplemental ECAP appropriation. In order to ensure that all FY'80 ECAP grants, including those made from the initial \$250 million appropriation, are administered in accordance with this Congressional intent, the amendment to the final ECAP rule of October 11, 1979, shall govern all FY'80 ECAP funds. All grants made pursuant to the supplemental appropriation will be contingent upon grantees' agreement to administer all FY'80 ECAP funds in accordance with the changes made by this amendment. The rule of October 11, 1979 (45 CFR 1061.70), as amended herein, will also govern grants made by HEW to Governors where they elect to supplement existing ECAP grants with additional HEW funds.

Grantees shall amend their policies and procedures to conform to the changes contained herein and to any subsequent changes which may be made in order that the initial \$250 million program and this supplemental program will be administered in a consistent manner.

CSA is waiving the comment period provided for in Executive Order 12044 and is making the amendment effective immediately because any further delay would be impracticable and contrary to the public interest. Additional delay would render it impossible to serve many of the poor during the onset of the cold winter months. For these same reasons, an emergency exception to the regulatory analysis provisions in Executive Order 12044 is appropriate. Further, this is not a significant rule because it only makes minor changes in

the October 11, 1979 rule and does not impose significantly different burdens on grantees.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942))
Graciela (Grace) Olivarez,
Director.

PART 1061—CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

45 CFR Part 1061 is amended by amending Subpart 1061.70, "Energy Crisis Assistance Program" as follows:

1. Section 1061.70-2 is revised to read as follows:

§ 1061.70-2 Applicability.

This Subpart is applicable to Energy Crisis Assistance Program (ECAP) grants funded under section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, if administered by the Community Services Administration and to grants awarded by the Department of Health, Education, and Welfare to supplement ECAP grants made by the Community Services Administration.

2. Section 1061.70-7 is amended by revising paragraphs (a)(1)(ii), (a)(2) introductory text, and paragraph (a)(3); by adding paragraphs (a)(4) and (a)(5); and by revising paragraph (b) to read as follows:

§ 1061.70-7 How a local program is operated.

(a) * * *

(i) To carry out this mandate effectively, local delivery systems must notify, inform, and contact persons, including those individuals receiving unemployment compensation, potentially eligible for this program through, for example, the use of outreach workers, community groups, decentralized intake and certification systems, mass mailings, radio and T.V. spots, use of community newspapers, church bulletins, etc. In the State Funding Plan, the Governor must describe how outreach services will be provided to potential clients eligible for services. Expenses for these activities are to be included as administrative costs.

(2) Serving the elderly. On all grants made by CSA highest priority should be placed on serving the elderly. Therefore, local program operators should offer special services. Suggested activities include:

* * * * *

(3) *Serving renters.* This program is also intended to serve renters who are

experiencing an energy related crisis. Renters who pay for their fuel indirectly as well as directly are eligible for assistance through ECAP. In the State Funding Plan, the Governor must indicate how renters will be served.

(4) *Heating fuel costs priority.* Priority will be given to those households experiencing significant increases in heating fuel costs over the last year. In establishing such priority grantees should take into consideration the extent to which increases in rent are caused by increases in heating fuel costs.

(5) *Serving American Indians.* This program is also intended to serve American Indians who are not provided service through the special set-aside program as provided for in Section 1061.70-11(a). State Funding Plans should indicate how such services will be provided.

(b) *Limitations on payments.* The sum of all assistance under this program made to and/or on behalf of any household shall not exceed the actual amount needed to ameliorate the household's energy related problem or \$400 whichever is less, unless a Governor elects to set assistance limits at a higher or lower level and/or provide for varying the maximum assistance level. If the Governor elects to make such a change he/she must provide in the State Funding Plan a justification including the specific criteria used as the basis for changing or varying the limits of assistance level within the state, such as climate, fuel and low-income population. While energy allowances, such as payments to SSI or AFDC recipients under the HEW Energy Assistance Program, received by a household may not be considered as income for purposes of determining income eligibility, any allowances received shall be taken into consideration in determining the assistance to be provided. The total amount of the energy allowances and/or assistance under this program should not exceed the amount needed to ameliorate the household energy problem or the maximum level of assistance in the state, whichever is lower.

* * * * *

3. Paragraphs (a), (b), and (d) of § 1061.70-8 are revised to read as follows:

§ 1061.70-8 What these funds can be used for.

(a) Payments to vendors and suppliers of fuel, goods, and other services. Where

an eligible household has paid its fuel bills, level of assistance equal to those bills should be provided in forms of assistance as described in (b), (c), and (d) of this section.

(b) The establishment of lines of credits with fuel/utility vendors for the benefit of eligible households. The Governors may provide limitations on the use of lines of credits such as: limiting the line of credit to the elderly and the handicapped only, establishing a specific duration on a future credit to the elderly and varying the maximum level not to exceed the state approved maximum. The Governor must describe in the State Funding Plan how futures credits will be used in that particular state.

* * * * *

(d) Where necessary to prevent hardship or danger to health, the provision of immediate assistance in the form of goods or services such as emergency fuel deliveries, warm clothing, blankets, temporary shelter, emergency repairs to housing such as patching a roof or replacing a broken window, food, medicines or other supportive services such as rent. Funds under this program shall not be used to weatherize homes.

4. Paragraphs (a), (b), and (c) of § 1061.70-9 is revised to read as follows:

§ 1061.70-9 Who is eligible to participate in this program.

(a) *Income Eligibility.* Households with incomes at or below 125% of the CSA Poverty Guidelines and households whose heads receive SS shall be eligible for assistance under this program. No state may change these income eligibility guidelines. Receipt of energy allowances shall not preclude eligibility under the Energy Crisis Assistance Program nor shall energy allowances be considered as income in determining income eligibility.

(b) *Program Eligibility.* The Governor must specify certain program eligibility criteria by defining what constitutes an energy-related crisis in that particular state. Where a Governor wants to establish such eligibility criteria, he/she must provide an explanation and justification in the State Funding Plan for the eligibility criteria selected as well as a description of the procedures to be used in determining the program eligibility. The Governor may not require proof of unpaid fuel bills or notices of termination of utility service as criteria for eligibility under this program. The Governor also has the

option to use income eligibility criteria as the sole eligibility criteria. Energy allowances shall be taken into consideration in determining program eligibility as indicated Section 1061.70-7 Paragraph (b) of this subpart.

(c) *Income Disregard.* Payments made under this program are not to be considered as income or resources for purposes of determining eligibility or benefits under any income maintenance program including, but not limited to public assistance, veterans benefits, food stamps, or Supplemental Security Income.

* * * * *

5. Section 1061.70-10 is revised to read as follows: **§ 1061.70-10 Termination of program.**

No funds under this program may be obligated after June 30, 1980. For this program "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

[FR Doc. 79-39378 Filed 12-20-79; 8:45 am]
BILLING CODE 6315-01-M

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Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 7 CFR Part 210, National School Lunch Program regulations to eliminate certain restrictions on the use of program funds by participating schools. These restrictions are not in effect for the Special Milk Program and the School Breakfast Program. This amendment would eliminate the contradictions inherent in applying different requirements included in a single school food service operation.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447-8130. **ADDRESS:** Comments should be sent to Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447-8130.

Comment Period

Interested persons are invited to submit written comments on the proposed amendment to the above address. To be assured of consideration, comments must be received on or before February 19, 1980. All written submissions received will be available for public inspection at the School Programs Division, Food and Nutrition Service, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION: 7 CFR Part 210.7(b) of the National School Lunch Program (NSLP) regulations, entitled "Use of Funds," requires that only funds from sources other than Federal or children's payments for lunches shall be used to finance out of State travel of school lunch personnel or

the purchase of passenger automobiles. These restrictions on the use of funds have been determined to be inconsistent with OMB Circular A-102. Moreover, neither 7 CFR Part 215, Special Milk Program (SMP) regulations nor 7 CFR Part 220, School Breakfast Program (SBP) regulations contains a similar provision. This contradiction is compounded by the fact that all three programs may operate in an individual School Food Authority and that income accruing to each program is held in a single food service account. This regulation proposes to rectify this inconsistency by amending Part 210 to delete the restriction on the use of Federal funds or children's payments under the National School Lunch Program for out of State travel of school lunch personnel or the purchase of automobiles.

Accordingly, 7 CFR Part 210 is proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Section 210.7(b) is amended to read as follows:

§ 210.7 Use of funds.

(b) Income accruing to the lunch program in any school shall be used only for Program purposes; Provided, however, That such income shall not be used to purchase land, to acquire or construct buildings, or to make alterations of existing buildings.

(Catalog of Federal Domestic Assistance No. 10.555, National Archives Reference Services.)

Note. This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Margaret O'K. Glavin, Director, School Program Division, USDA, FNS, Washington, D.C. 20250.

(Sec. 10, P.L. 89-642, (80 Stat. 839))

Dated: December 14, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-39056 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-30-M

Federal Register

Vol. 44, No. 247

Friday, December 21, 1979

7 CFR Part 273

[Amdt. No. 159]

Food Stamp Act of 1977; SSI/Food Stamp Joint Application Processing

AGENCY: Food and Nutrition Service, USDA.

ACTION: Reduction of comment and implementation periods for a proposed rulemaking.

SUMMARY: On December 7, 1979 (44 FR 70684), the Department proposed regulations implementing section 11(i)(2) of the Food Stamp Act of 1977. This section requires the joint processing of pure SSI households for food stamps. The Action Alliance of Senior Citizens, Inc., has brought suit against the Secretaries of Agriculture, and Health, Education and Welfare in the United States District Court for the Eastern District of Pennsylvania seeking prompt implementation of section 11(i)(2). As a result of this suit and subsequent settlement negotiations with the plaintiffs, the Department is reducing the comment period on the December 7 proposed regulations to forty-six days. This time period should provide ample opportunity for interested parties to comment upon the proposed regulations.

This comment period is, therefore, being shortened in accordance with emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955. It has been determined by Robert Greenstein that, in view of the foregoing, an emergency situation exists which warrants the reduction of the period for comment.

Also, as a result of settlement negotiations with the plaintiffs, the Department is reducing the proposed implementation period by thirty days. It is proposed that the final rules be implemented on the first day of the month following the ninetieth day after publication, rather than one hundred and twenty days as originally proposed. The Department believes this reduction is feasible, especially because the greatest burden of training and preparation will be borne by the Social Security Administration, whose officials have assured the Department that it can complete its work in approximately three months. However, if comments from parties other than the Department or the Social Security Administration show that it would not be possible to implement the final regulations in this

time, the Department will give consideration thereto, and may seek to reopen any agreement that may be reached in the lawsuit.

DATES: Comments on the December 7 proposed rulemaking must be received on or before January 22, 1980, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Regulations and Policy Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202-447-9075.

(91 Stat. 958 (7 U.S.C. 2011-2027))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: December 14, 1979.

Carol Tucker Foreman,
Assistant Secretary.

[FR Doc. 79-39934 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of proposed termination of certain rules.

SUMMARY: This action gives notice to all interested parties that the Secretary is considering terminating the base-excess plan used in distributing returns to producers whose milk is priced under the Oregon-Washington milk order. More than half of the producers in the market have indicated that they no longer support the use of the payment plan. The proposed termination would become effective February 1, 1980. Written comments are invited on whether the payment plan should be terminated.

DATE: Comments are due on or before January 7, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the

provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the termination of certain provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed termination should file the same with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 7, 1980. All documents should be filed in duplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be terminated are as follows:

§ 1124.19 [Revoked]

1. Delete § 1124.19 in its entirety.

§ 1124.30 [Amended]

2. In § 1124.30, *Reports of receipts and utilization*, remove the phrase "including the total quantities of base milk and excess milk" in paragraph (a)(1).

§ 1124.31 [Amended]

3. In § 1124.31, *Payroll reports*, remove paragraph (a)(4) in its entirety.

§§ 1124.65, 1124.66 [Revoked]

4. Delete §§ 1124.65 and 1124.66 in their entirety and the center heading "Determination of Base" immediately preceding § 1124.65.

§ 1124.71 [Amended]

5. In § 1124.71, *Computation of uniform and weighted average prices*, remove in paragraph (a)(6) the words "prior to February 1970" and the word "and" at the end of the paragraph; and delete paragraph (b) in its entirety.

§ 1124.82 [Amended]

6. In § 1124.82, *Payments from the producer-settlement fund*, remove in paragraph (a) the words "or (b), whichever is applicable."

§ 1124.83 [Amended]

7. In § 1124.83, "Location differentials to producers and on nonpool milk," remove in paragraph (a) the words "and the uniform price for base milk computed pursuant to § 1124.71(b)(2)".

Statement of Consideration

The proposed action would terminate the base and excess plan effective February 1, 1980. The base-excess plan is a method of apportioning the total

value of milk in the market among producers on the basis of their marketings of milk during a representative period.

The plan now provides that for milk delivered during the 12 month period beginning February 1 of each year, producers are paid according to the amount of "base" they earn through deliveries during the market's four lowest months of production of the preceding calendar year. Deliveries of producers in excess of their "base" are paid for at a lower price than for base milk.

In the absence of the base-excess plan, a single uniform price would be paid directly to producers or, in the case of producers participating in the Oregon State base plan, to the Director of the Milk Audit and Stabilization Division, Oregon State Department of Agriculture, for subsequent payment to the participating producers.

The termination of the base-excess plan was requested by Mayflower Farms, and is supported by Dairymen's Creamery Association, Inc., and Tillamook County Creamery Association. Together, these three cooperative associations represent a majority of the producers on the market.

In its request for termination, Mayflower indicated that the base-excess plan is impeding the free movement of milk between the neighboring Oregon-Washington and Inland Empire markets. The cooperative, which has producers and plants in both markets, states that marketing and consumption patterns frequently will dictate that milk be shifted between the two markets. According to the cooperative, its ability to make such shifts would be enhanced if both orders contained the same kind of uniform price provisions.

Because more than half of the producers in the market no longer support the use of a base-excess plan for distributing returns to producers, it is questionable whether such provisions are carrying out the intent of the Act. Accordingly, consideration is being given to the termination of the payment plan.

Signed at Washington, D.C., on December 14, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-39256 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-02-M

Commodity Credit Corporation**7 CFR Part 1430****Price Support Program for Milk; Terms and Conditions of 1979-80 Price Support Program**

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering the semiannual adjustment of the support price for milk, as required by law. The Food and Agriculture Act of 1977 requires that the Secretary adjust semiannually the support price for milk to reflect any estimated change in the parity index during such semiannual period. The Secretary may also consider other matters pertaining to the milk support program, including (1) the allocation of any change in the support price between CCC purchase prices for butter and nonfat dry milk, (2) the determination of the whey value used in calculating CCC's purchase price for cheese, (3) the determination of the manufacturing margins used in calculating CCC's purchase prices, and (4) the determination of the sales for unrestricted use.

DATE: Comments must be received on or before February 18, 1980, to be assured of consideration.

ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: S.E.T. Bogan (ASCS) 202-447-3571.

SUPPLEMENTARY INFORMATION: Section 201 (c) of the Agricultural Act of 1949, as amended, provides as follows: "The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefore as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period * * * ending September 30, 1981, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk."

Section 201 (d) of the Act, as amended, provides as follows:

"Effective for the period * * * ending September 30, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. * * * Any adjustment under this subsection shall be announced by the Secretary not more than 30-days prior to the beginning of the period to which it is applicable."

On November 28, 1979, legislation was enacted which increases the minimum level of support from 75 to 80 percent of parity through September 30, 1981 and extends for the same period the required semiannual adjustment.

The objective of the program is to support prices of manufacturing grade milk, which, except as influenced by the price support program, are arrived at competitively. Manufacturing grade milk as a percent of total milk marketed has been declining as more producers have become eligible to market fluid grade milk. In 1978 manufacturing grade milk constituted only 17 percent of total milk marketings. However, the dairy price support program remains the foundation of the entire price structure for fluid and manufacturing grade milk sold by farmers. Fluid milk consumption represents 44 percent of milk marketings. Thus, more dairy products are made from fluid grade than manufacturing grade milk.

The program to support prices of manufacturing grade milk is achieved through purchases of butter, American cheese and nonfat dry milk at prices calculated to enable plant operators to return the support price to the farmer. At times of significant price support purchases the purchase prices for these products become the floor for market prices of these dairy products. Reliance is placed on competition among manufacturers to assure the average price received by manufacturing grade producers to be at least the support price. Since most of the fluid milk prices are based on prices paid for manufacturing milk the price support program undergirds all milk and dairy product prices.

In the absence of a support program, the surpluses of milk above commercial demand for milk and for the manufactured products could result in severely reduced prices to milk producers. With such depressed prices, the rate of producers leaving dairying would be accelerated and increased herd culling would result, thereby curtailing productive capacity. While downward adjustments to dairy cow numbers could be achieved relatively rapidly, rebuilding would take

significantly longer—as much as several years—resulting in sharp dislocations throughout the industry as well as higher prices at the retail level.

On October 1, 1978, the support price was set at 80 percent of parity, which was \$9.64 per hundredweight for milk of 3.5 percent fat content, or \$9.87 for milk of national average fat content (3.67%). This was in accordance with the Food and Agriculture Act of 1977 which required a minimum level of support of 80 percent of parity through March 31, 1979. On April 1, 1979, the support price was increased to \$10.51 per hundredweight for milk of 3.5 percent content, or \$10.76 for milk of 3.67 percent fat content. This support price was 77.8 percent of parity as of April 1, and 87.3 percent of parity as of October 1, 1978, the beginning of the marketing year. This reflected a 9 percent increase in the parity index (index of prices paid by farmers for commodities and services, interest, taxes and wage rates) from October 1, 1978 to April 1, 1979.

Effective October 1, 1979, the level of support was set at 80 percent of parity, which was \$11.22 per hundredweight for manufacturing grade milk of 3.5 percent fat content or \$11.49 per hundredweight for milk of national average fat content, 3.67 percent. This level of support was determined necessary in order to assure an adequate supply of milk to meet current and future needs and to reflect changes in the cost of production.

The index of prices paid by farmers for commodity, services, interest, taxes and wage rates (the parity index) was 862 on October 1, 1979 and it is projected that it will be 919 on April 1, 1980. This is about a 6.6 percent increase. A corresponding 6.6 percent increase in the support price would be \$11.96 per hundredweight, an increase of \$.74.

Milk production for the 1978-79 marketing year was 122.8 billion pounds and is projected at 124.5 for the 1979-80 marketing year. During October 1978 through May 1979 milk production was the same as a year earlier. In June it was one percent above a year earlier and in September it reached 2.9 percent above year-earlier levels. In October milk production was up 2.5 percent.

Commercial consumption of milk and dairy products is projected to total 121.2 billion pounds, milk equivalent, an increase of only .8 billion over 1978-79, about half of last year's increase. CCC net removals of dairy products during the 1979-80 marketing year are projected to be 3.4 billion pounds, milk equivalent.

Proposed Rule

Notice is hereby given that the Secretary of Agriculture is considering the semiannual adjustment in the level of the support price for milk as required by law, and the prices and terms of purchase by CCC of butter, cheese and nonfat dry milk, including factors used in calculating the dairy product purchase prices, such as: (1) the allocation of any change in the support price between CCC purchase prices for butter and nonfat dry milk, (2) the determination of the whey value used in calculating CCC's purchase price for cheese, (3) the determination of the manufacturing margins used in calculating CCC's purchase prices, and (4) the determination of the sales markup for CCC-owned dairy products offered for sale for unrestricted use.

You are invited to submit in writing to the Director, Procurement and Sales Division, data, views and recommendations concerning the determinations to be made. In order to be assured of consideration, all submissions must be received by the Director not later than February 18, 1980. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Procurement and Sales Division, ASCS, USDA, Room 5741 South Building, during regular business hours (8:15 a.m.-4:45 p.m.).

This notice of proposed rule making is issued under authority of Section 201(c) and (d) of the Agricultural Act of 1949, as amended, (63 Stat. 1051, as amended; 7 U.S.C. 1446); and Sections 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Procurement and Sales Division, ASCS, USDA, Room 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C., on December 14, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-39105 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-05-M

NUCLEAR REGULATORY COMMISSION**10 CFR Part 50****Emergency Planning; Notice of Workshops**

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshops for review of NRC emergency planning.

SUMMARY: The Nuclear Regulatory Commission approved on December 5, 1979, publication for public comment proposed rule amendments to 10 CFR Part 50 and Appendix E dealing with the development of emergency plans at nuclear power plants. The proposed rule was published in the *Federal Register* on December 19, 1979 (44 FR 75167).

The Commission has determined that four regional workshops with appropriate State and local officials and utility representatives should be held during the public comment period to discuss the feasibility of the various portions of proposed amendments, their impact, and the procedures proposed for complying with their provisions.

The NRC will use the information from these workshops to evaluate the proposed rule changes.

DATES: Workshops will be held:

January 15—New York, New York;
January 17—San Francisco, Calif.;
January 22—Des Plaines, Ill.;
January 24—Atlanta, Ga.

ADDRESSES: The workshops will be held from 8:30 a.m. to 5:00 p.m. at the following locations on the dates given below:

January 15—Roosevelt Hotel, Madison & 45th Street, New York, New York;
January 17—Bellevue Hotel, 505 Geary Street, San Francisco, California;
January 22—Ramada O'Hare Inn, 6600 N. Mannheim Road, Des Plaines, Illinois;
January 24—Downtown Holiday Inn, 175 Piedmont, NE, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: A Morrongiello, Office of Standards Development, NRC, (301) 443-5966.

Agenda for Emergency Preparedness Workshops

Morning Session—8:30 a.m.

Introduction

Purpose & Scope of Meeting
Background-Reason for proposed Rule
Proposed Rule provides for Federal/State/Local planning for emergencies
NRC Emergency Planning requirements-concurrence required

Presentation of Proposed Rule

Rationale for and description of proposed rule
Criteria to be met for concurrence

Who must have concurrence
Review and concurrence procedures
Differences in requirements for emergency planning zones, ie. plume exposure zone compared to ingestion pathway zone

Federal Emergency Management Agency (FEMA)

Role in overall emergency preparedness

Public Affairs

Role of public affairs officials in an emergency, coordination between "responders" and the media

Questions and Comments From General Public

Afternoon Session—1:00 p.m.

Discussion Points:

Requirement that State and local emergency response plans be concurred in by the NRC as a condition of operating license issuance. (NRC concurrence in State and local plans is not required at the construction permit stage.) Additionally:

a. An operating plant may be required to shutdown if a State or local emergency plan has not received NRC concurrence within 180 days of the effective date of the final amendments, or January 1, 1981, whichever is earlier.

b. An operating plant may be required to shutdown if a State or local emergency plan does not warrant continued NRC concurrence and is not corrected within 4 months of notification of NRC concurrence withdrawal. (Discussion will include consideration of alternative proposed rules for permitting continued operation or issuance of operating licenses for an interim period where there are no concurred in plans or concurrence has been withdrawn).

Requirement that emergency planning be expanded to cover "Emergency Planning Zones"

Requirement that detailed emergency planning implementing procedures be submitted to NRC for review

The requirement that specified "Emergency Action Levels" be used by the applicant. State and local authorities

Dissemination to the public of basic emergency planning information

Provisions for prompt alerting of the public and instructions for public protection

Requirements for having Emergency Operations Center

Requirement for providing redundant communications systems

Requirement for providing specialized training to licensee and local emergency support personnel

Requirement for maintaining up-to-date plans

What measures can compensate for various deficiencies?

Closing Session

Individual statements/comments by participants and public
Concluding statement by NRC

Adjourn—5:00 p.m.

These workshops are being held to obtain the views of, and to provide the opportunity for discussion among, State

and local officials and utility companies; however, all sessions will be open to public attendance and observation on a space available basis. Reports on the proceedings of these meetings will be filed in the NRC Public Document Room, 1717 H St., NW, Washington, D.C.

Dated at Bethesda, Maryland, this 13th day of December 1979.

For the Nuclear Regulatory Commission
Guy A. Arlotto,

Acting Director, Office of Standards
Development, U.S. Nuclear Regulatory
Commission.

[FR Doc. 79014 Filed 12-20-79; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Parts 50 and 51

Proposed Rulemaking on the Storage and Disposal of Nuclear Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Designation of Presiding Officer.

SUMMARY: The Commission has selected Marshall E. Miller, Esq., a full-time member of the Atomic Safety and Licensing Board, to be the presiding officer for this proceeding. Mr. Miller's authority and responsibilities shall be as set forth in the Notice of Proposed Rulemaking which initiated this proceeding. 44 FR 61372 (October 25, 1979).

FOR FURTHER INFORMATION CONTACT: Marshall E. Miller (301) 492-7659.

For the Commission.

Dated: December 14, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-39015 Filed 12-20-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

Proposed Amendment Conforming Existing Regulations to the Right to Financial Privacy Act of 1978

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule.

SUMMARY: The Board of Directors of the FDIC proposes to make several changes in Part 309 of FDIC's regulations dealing with the disclosure of confidential information. The proposed changes are being made in order to bring Part 309 into conformance with recent federal legislation restricting access by federal

agencies to financial records of bank customers and transfer of those records to other agencies once access is granted. In addition, the term "bank" as used in Part 309 is being enlarged to include foreign banks. This change is necessitated by the passage of federal legislation affecting foreign banks operating in the United States.

DATE: Comments must be received by February 19, 1980.

ADDRESS: Please send your comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Attorney, Legal Division (202-389-4433).

SUPPLEMENTARY INFORMATION: On November 10, 1978, Congress passed the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA" (Pub. L. 95-630, 92 STAT. 3641). The Right to Financial Privacy Act of 1978, ("Title XI" of FIRIRCA, 12 U.S.C. 3401 *et seq.*) necessitates certain changes in Part 309 of FDIC's regulations. Part 309 governs the ability of the FDIC to disclose information it holds to the public, state agencies and other federal agencies. The proposed changes will bring Part 309 into conformance with the requirements of Title XI regarding the handling of information derived from the accounts of bank customers. As a result of the changes, any transfer of identifiable bank customer financial records to a "nonsupervisory" federal agency (with the exception of certain exempt transfers) will require (1) post-transfer notification to the customer whose records were transferred that the transfer was made and (2) certification that the transfer was in connection with a legitimate law enforcement inquiry.

On September 17, 1978 the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) became law. The International Banking Act requires certain branches of foreign banks to be insured by the Federal Deposit Insurance Corporation and amends the Federal Deposit Insurance Act in certain other particulars. Because of the passage of the International Banking Act, it is necessary to amend the definition of the term "bank" as used in Part 309 of FDIC's regulations.

The proposed changes apply only to internal administrative procedures of FDIC and would have no effect on any insured bank. In particular, it would not affect the recordkeeping or reporting requirements or the competitive status of the banks. In view of this fact and because the changes are mandated by

law, FDIC has concluded that a cost-benefit analysis of the changes is unnecessary.

In consideration of the foregoing, and pursuant to the authority granted the FDIC by 12 U.S.C. 1819, it is proposed that certain sections of 12 CFR Part 309 be amended as follows:

1. Section 309.2 is amended so that paragraph (a) reads as follows:

§ 309.2 Definitions.

(a) The term "bank", as used in § 309.6, includes banks that have applied to the Corporation for Federal deposit insurance, closed banks, presently operating banks, foreign banks, branches of foreign banks, and all affiliates of any of the foregoing.

2. Section 309.2(c) is revised to read as follows:

§ 309.2 Definitions.

(c) The words "disclose" or "disclosure," as used in § 309.6, mean to give access to a record, whether by producing the written record or by verbal discussion of its contents. Where the Corporation employee authorized to release Corporation documents makes a determination that furnishing copies of the documents is necessary, the words "disclose" or "disclosure" include the furnishing of copies of documents or records. In addition, "disclose" or "disclosure" as used in § 309.6 is synonymous with the term "transfer" as used in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*).

3. The following new paragraph (h) is added to § 309.2:

§ 309.2 Definitions

(h) The term "customer financial records," as used in § 309.6, means an original of, a copy of, or information known to have been derived from, any record held by a bank pertaining to a customer's relationship with the bank but does not include any record that contains information not identified with or identifiable as being derived from the financial records of a particular customer.

4. The first three sentences of § 309.6(c) are deleted and the following substituted therefor:

§ 309.6 Disclosure of exempt records by corporation personnel.

(c) *Disclosure authorized.* Exempt records of the Corporation may be disclosed in accordance with the

following conditions and requirements. Except as otherwise provided hereafter, disclosures authorized by § 309.6 (c)(1), (2)(i), (4)(i) and (ii), and (5) may be made on a routine or periodic basis without request. Routine or periodic disclosures may be made under the authority of § 309.6(c)(3), (4)(iii), and (6) without any further request only if a written request for the records is received which asks that the record be furnished to the requestor on a routine or periodic basis and the Corporation employee authorized to disclose the record determines that routine or periodic disclosure is appropriate. Except as otherwise provided in § 309.6(c)(3) or (4), no disclosure of customer financial records on a routine or periodic basis may be made to a federal agency under § 309.6(c)(3) or (4) unless certification and notice as required by those sections are made with each separate disclosure.

5. Section 309.6(c)(3) is revised to read as follows:

§ 309.6 Disclosure of exempt records by corporation personnel.

(c) *Disclosure authorized.* * * *
(3) *Reports of examination and other exempt records—disclosure to Federal financial institution supervisory agencies.* (i) Except as provided in subparagraph (3) (ii) of this paragraph, the Director of the Corporation's Division of Bank Supervision, or anyone designated by him in writing, may disclose to any officer or employee of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and Federal Reserve Bank, the Federal Home Loan Bank Board, any Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation, the Secretary of the Treasury, and the National Credit Union Administration any report of examination of a bank or any other exempt records. (ii) Examination reports or other exempt records containing information derived from customer financial records may be disclosed to any agency listed in subparagraph (i) of this paragraph if (A) the General Counsel, or anyone he designates in writing, has determined that disclosure is required by law; or (B) the requesting agency has authority to examine the financial condition or business operations of the bank which maintained the records and states in its written request for disclosure the statutory basis for this authority; or (C) the information derived from bank customer financial records is deleted or rendered unidentifiable with respect to any particular customer; or (D) the

certification and notice requirements as set out in § 309.6(c)(4)(iv)(B) are met.¹¹ (iii) Before information is released pursuant to § 309.6(c)(3), it is the responsibility of the Corporation employee authorized to disclose the information to make a determination that the person making the request is authorized to request the record on behalf of the requesting agency and that the records are requested for a legitimate financial institution supervisory or regulatory purpose.

6. Section 309.6(c)(4) is revised to read as follows:

§ 309.6 Disclosure of exempt records by corporation personnel.

(c) *Disclosure authorized.* * * *
(4) *Reports of examination and other exempt records—disclosure to non-financial institution supervisory agencies.* (i) Reports of apparent criminal irregularities pertaining to suspected violations of law which affect the safety or soundness of a bank may be disclosed to a federal prosecuting or investigatory authority without giving notice and certification as set out in § 309.6(c)(4)(iv)(B) even if they contain information derived from customer financial records: *Provided*, That the contents of the report are not so detailed as to substitute for access to the records themselves.¹² (ii) The Director of the Corporation's Division of Bank Supervision, or anyone designated by him in writing, may disclose to the proper federal or state prosecuting or investigatory authorities copies of exempt records pertaining to irregularities discovered in banks which are believed to constitute violations of any Federal or State civil or criminal law, or unsafe or unsound banking practices: *Provided*, That whenever copies of exempt records are disclosed

¹¹In addition, examination reports or other exempt records containing information derived from customer financial records may be disclosed to the Secretary of Treasury where the request is in connection with the Bank Secrecy Act or the Currency and Foreign Transactions Reporting Act (Pub. L. 91-508, Title I and II).

¹²In accordance with the guidelines provided by the Department of Justice in a letter dated July 17, 1979 to Chairman Sprague from Benjamin K. Civiletti, the following information may be transferred under § 309.6(c)(4)(i): the name(s) and address(es) of the suspect(s) and his/her (their) relationship with the financial institution or supervisory agency, if any; the identity of the financial institution(s) or office(s) involved; the specific offense(s) suspected; the name(s) and address(es) of the account holder(s) and the account number(s) and type(s) of account(s) in which evidence of the suspected offense(s) is located; and a general description (dates and any suspicious circumstances) of the transaction(s) involved in the suspected offenses.

to federal prosecuting or investigatory authorities that are customer financial records, notice and certification as set out in § 309.6(c)(4)(iv)(B) are made. (iii) Subject to the restrictions contained in subparagraph (4)(iv) of this paragraph pertaining to disclosure of customer financial records to federal agencies, the Director of the Corporation's Division of Bank Supervision, or anyone designates by him in writing, may disclose to any authorized officer or employee of any federal or state agency or authority, for good cause shown, reports of any examination of a bank or other exempt records. Such records shall be disclosed only in response to a written request which: (A) is signed by an authorized official of the agency making the request; (B) identifies the record or records to which access is requested; and (C) gives the reasons for the request. (iv) The Director of the Corporation's Division of Bank Supervision, or anyone he designated in writing, may disclose information known to have been derived from customer financial records that appears in a report of examination or other FDIC records to any federal agency: *Provided*, That (A) the General Counsel, or anyone he designates in writing, has determined that disclosure is required by law; or (B) disclosure is pursuant to a written request that indicates the information is relevant to a legitimate law enforcement inquiry within the jurisdiction of the requesting agency and: (1) The Director of the Division of Bank Supervision, or anyone designated by him in writing, certifies pursuant to § 1112(a) ¹³ of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*) that the records are believed relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency and (2) a copy of such certification and the notice required by § 1112(b) ¹⁴ of the Right to Financial Privacy Act of 1978 is sent within fourteen days of the

¹³The form of notice generally is as follows. Additional information may be added.

Pursuant to 1112(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), I, [appropriate title] hereby certify that the financial records described below were transferred to [agency or department] in the belief that they were relevant to a legitimate law enforcement inquiry, within the jurisdiction of the receiving agency.

¹⁴The form of certification generally is as follows. Additional information may be added.

Dear Mr./Ms.—Copies of, or information contained in, your financial records lawfully in the possession of the Federal Deposit Insurance Corporation have been furnished to [agency or department] pursuant to the Right to Financial Privacy Act of 1978 for the following purpose:—. If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Right to Financial Privacy Act of 1978 or the Privacy Act of 1974.

disclosure to the customer whose records are disclosed;¹⁵ or (C) the information derived from bank customer financial records is deleted or rendered unidentifiable with any particular customer; or (D) the information is sought by the General Accounting Office in connection with an investigation, examination, or audit directed at a federal agency; or (E) the request falls within § 1113(g) of the Right to Financial Privacy Act. Notwithstanding the language of § 309.6(c)(4)(iv)(B), a written request is not required for the Director of the Division of Bank Supervision, or anyone he designates in writing, to disclose records pursuant to § 309.6(c)(4)(iv)(B) so long as certification and notice as required by that subsection are made.

7. Section 309.6(c)(7)(iii) is revised by deleting the first sentence thereof and substituting the following therefor:

§ 309.6 Disclosure of exempt records by corporation personnel.

(c) *Disclosure authorized.* * * *
(7) *Reports of examination and other exempt records—disclosure by banks or other third parties.* * * *

(iii) With respect to any disclosure that is authorized under § 309.6(c)(7), the Director of the Corporation's Division of Bank Supervision shall only permit disclosure of records upon determining that good cause exists. If the report of examination or other exempt record contains information derived from bank customer financial records, disclosure is to be authorized only upon the condition that the requesting party comply with any applicable provision of the Right to Financial Privacy Act of 1978.

8. Section 309.6(c)(8) is revised to read as follows:

§ 309.6 Disclosure of exempt records by corporation personnel.

(c) *Disclosure authorized.* * * *
(8) *Production of exempt records and testimony of Corporation personnel.* (i) The Corporation's General Counsel, or anyone designated by him in writing, may (A) produce or authorize the production of any exempt record in response to a valid judicial subpoena, court order, or other legal process, and (B) authorize any officer, employee, or agent of the Corporation to appear and testify regarding an exempt record at any administrative or judicial hearing or proceeding where he has been served

with a valid subpoena, court order, or other legal process requiring him to testify. Customer financial records may not be disclosed to any federal agency that is not a Federal financial supervisory agency pursuant to subparagraph (8)(i) of this paragraph unless notice to the customer and certification as required by section 1112(a) and (b) of the Right to Financial Privacy Act of 1978 have been given except where disclosure is in connection with a proceeding to which the federal agency, employee, officer, or agent, and the customer are parties, or disclosure is in response to a grand jury subpoena or when the records are sought pursuant to an administrative subpoena issued by an administrative law judge in an adjudicatory proceeding subject to 5 U.S.C. 554 to which the receiving federal agency, employee, officer, or agent, and the customer are parties. (ii) The General Counsel, or anyone designated by him in writing, may produce or authorize the production of any exempt record sought in connection with any hearing or proceeding without the service of a judicial subpoena, or other legal process requiring production, if he determines that the records are relevant to the hearing or proceeding and that production is in the best interests of justice. In the case of customer financial records, disclosure to any federal agency pursuant to subparagraph (8)(ii) of this paragraph that is not a Federal financial supervisory agency may be made only when the records are sought under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts and in connection with litigation to which the receiving federal agency, employee, officer, or agent, and the customer are parties. Where the General Counsel authorizes the production of any exempt record or the testimony of any officer, employee, or agent of the Corporation relative thereto pursuant to § 309.6(c)(8), he shall limit the authorization to so much of the record or testimony as is relevant to the issues at the hearing or proceeding, and he shall give his authorization only upon fulfillment of such conditions as he deems necessary to protect the confidential nature of the record consistent with any requirement that it be produced and made a part of the record of the hearing or proceeding.

By Order of the Board of Directors,
December 17, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-39234 Filed 12-20-79; 8:45 am]
BILLING CODE 6714-01-M

12 CFR Part 339

Loans in Areas Having Special Flood Hazards

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed revision of regulation.

SUMMARY: As a part of its regulatory reform program for improving the quality of its regulations, FDIC proposes to revise Part 339 of its regulations. Part 339 relates to the flood insurance protection that is required for certain loans that are made in areas having special flood hazards. The proposed revision is intended to simplify the regulation by restructuring it for easier reading and by eliminating unnecessary and outdated provisions. In addition, minor technical amendments have been made to the part to conform it to the requirements of the International Banking Act of 1978.

DATE: Comments must be received by February 19, 1980.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding this proposal to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, (202) 389-4237.

SUPPLEMENTARY INFORMATION: In the proposed Part 339 revision, the following changes were made:

1. A definitions section has been added to eliminate the repetitious use of lengthy phrases throughout the regulation.
2. The term "bank" is defined to include insured State branches of foreign banks as required by the International Banking Act of 1978.
3. The remainder of the regulation, except the sample notices, has been rewritten or rearranged for easier reading. The changes would not have any significant impact on insured banks. In particular, they would not affect the recordkeeping requirements or the competitive status of the banks. Therefore, no cost/benefit analysis has been undertaken.

Accordingly, the FDIC Board of Directors does hereby propose to revise Part 339 of Title 12 of the Code of Federal Regulations as set forth below.

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Sec.

- 339.1 Authority and scope.
339.2 Definitions.

Sec.

- 339.3 Requirement to purchase flood insurance.
339.4 Exemption.
339.5 Records of compliance.
339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

Authority: Secs. 102(b) and 202(b), Pub. L. 93-234, 87 Stat. 978, 982 as amended by Secs. 704(a) and 703(a), Pub. L. 95-128, 91 Stat. 1145 (42 U.S.C. 4012a(b), 4106(b)); Sec. 1364, Pub. L. 93-383, 88 Stat. 739 (42 U.S.C. 4104a).

§ 339.1 Authority and scope.

The part is issued under section 1364 of the Housing and Community Development Act of 1974 and Sections 102(b) and 202(b) of the Flood Disaster Protection Act of 1973 as amended by Section 703 of the Housing and Community Development Act of 1977. Its provisions apply to loans secured by improved real estate or mobile homes made by insured State nonmember banks and insured State branches of foreign banks.

§ 339.2 Definitions.

(a) The term "bank" means an insured State nonmember bank and an insured State branch of a foreign bank.

(b) The term "loan" means an extension of credit secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards.

§ 339.3 Requirement to purchase flood insurance.

No bank shall make, increase, extend, or renew any loan secured by property located in an area in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance. The amount of the insurance must be at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

§ 339.4 Exemption.

Notwithstanding the provisions of § 339.3 of this Part flood insurance shall not be required on any State-owned property that is covered under an adequate policy of self-insurance satisfactory to the Secretary of Housing and Urban Development who shall publish and periodically revise the list of States falling within the exemption provided by this section.

§ 339.5 Records of compliance.

Each bank shall maintain in connection with all extensions of credit secured by improved real estate or a mobile home sufficient records to indicate the method used by the bank to determine whether such loans fall within the provisions of § 339.3 or § 339.4 of this part.

§ 339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

(a) *Notice Requirement.* In making, increasing, extending, or renewing a loan, each bank shall mail or deliver a written notice to the borrower stating: (1) that the property securing the loan is or will be located in an area identified as a flood hazard area (or in lieu of such notification, the bank may obtain satisfactory written assurance from the seller or lessor that the seller or lessor has notified the borrower, prior to the execution of any agreement for sale or lease, that the property securing the loan is or will be located in such as area) and (2) whether Federal disaster relief assistance will be available for the property in the event the property is damaged by a flood in a federally declared disaster. The notice must be mailed or delivered as soon as feasible but not later than 10 days in advance of closing of the transaction (or not later than the bank's commitment if any, if the period between commitment and closing is less than 10 days). Each bank shall require the borrower, prior to closing, to provide the bank with a written acknowledgement that the borrower realizes the property securing the loan is or will be located in an area so identified and that the borrower has received the required notice regarding Federal disaster relief assistance.

(b) *Sample Notices.* An insured State nonmember bank providing written notice containing the language presented below within the time limits prescribed in paragraph (a) of this section will be considered to be in compliance with the notice requirements of paragraph (a) of this section.

(1) *Notice to Borrower of Special Flood Hazard Area.* Notice is hereby given to ——— that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Secretary of the Department of Housing and Urban Development as a special flood hazard area. This area is delineated on ———'s Flood Insurance Rate Map (FIRM) or, if the FIRM is unavailable, on the Flood Hazard Boundary Map (FHBM). This area has a 1 percent chance of being flooded within any given year. The risk of exceeding the 1 percent

chance increases with time periods longer than one year. For example, during the life of a 30-year mortgage, a structure located in a special flood hazard area has a 26 percent chance of being flooded.

(2) *Notice to Borrower about Federal Disaster Relief Assistance.* (i) *Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now participating in the National Flood Insurance Program. In the event such property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance may be available. However, such assistance will be unavailable if your community has been identified as a flood-prone area for one year or longer and is not participating in the National Flood Insurance Program at the time the assistance would be approved. This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of your flood insurance.

(ii) *Notice in nonparticipating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is not participating in the National Flood Insurance Program. This means that such property is not eligible for Federal flood insurance. In the event the property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance will be unavailable if your community has been identified as a flood-prone area for one year or longer. Such assistance may be available only if, at the time the assistance would be approved, your community is participating in the National Flood Insurance Program or has been identified as a flood-prone area for less than one year.

By Order of the Board of Directors,
December 17, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-39231 Filed 12-20-79; 8:45 am]
BILLING CODE 6714-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Servicing of Business Loans by Lenders

AGENCY: Small Business Administration.
ACTION: Proposed rule.

SUMMARY: Present regulations are at variance with SBA's policy of encouraging the continued servicing of

¹⁵ Whenever a federal agency has obtained a court-ordered delay of the customer notice, the notice shall be sent immediately upon the expiration of the court-ordered delay.

SBA loans by the private lender to the fullest extent possible, both before and after purchase of the loan by SBA. The proposed change in the regulations provides that the lender, with SBA's written consent, may continue to service the SBA loan until SBA makes a written request for the transfer of loan servicing to SBA.

DATE: Comments must be received on or before January 21, 1980.

ADDRESS: Comments, submitted in triplicate, are to be addressed to: Peter F. McNeish, Acting Associate Administrator, for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, (202) 653-6632.

FOR FURTHER INFORMATION CONTACT: Timothy F. O'Leary, Deputy Director, Office of Portfolio Management, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, (202) 653-6429.

SUPPLEMENTARY INFORMATION: The proposed change conforms the regulation to existing SBA policy. Therefore, there is no need to have a 60-day comment period; thirty days will suffice.

Accordingly, notice is hereby given that pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, it is proposed to amend § 122.20(d) of Part 122, Chapter I, Title 13 of the Code of Federal Regulations, to read as follows:

§ 122.10 Loan administration.

(d) When SBA completes the purchase of its share of a guaranteed loan the financial institution shall assign the note and the other loan instruments to SBA and loan servicing shall become the responsibility of SBA: *Provided, however,* That with SBA's written consent the financial institution may continue to service the loan and be the holder of the note and the other loan instruments until SBA makes a written request for the transfer of loan servicing to SBA; the financial institution shall assign and deliver to SBA all loan instruments immediately after the receipt of such a transfer request from SBA.

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans)

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39161 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System; Use of Small Self-Contained Payloads

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed Rule.

SUMMARY: NASA proposes to issue a policy concerning the use of small self-contained payloads (SSCP's). The policy establishes conditions of use, reimbursement procedures and flight scheduling mechanisms. The policy's intended effect is to ensure equitable allocation of space in the SSCP program to the three groups of users—educational, commercial and governmental.

DATE: Comments or suggestions regarding the proposed policy should be submitted in writing not later than February 19, 1980.

ADDRESS: Comments may be mailed to the Office of Space Transportation System Operations, NASA Headquarters, Washington, D.C. 20546 or delivered to Room 400, 600 Independence Avenue, Washington, D.C. between 8:00 AM and 4:30 PM. Comments received may also be inspected at Room 400 between 8:00 AM and 4:30 PM.

FOR FURTHER INFORMATION CONTACT: Donna Miller, STS Operations, National Aeronautics and Space Administration, Washington, D.C. 20546 (202-755-2427).

SUPPLEMENTARY INFORMATION: This policy establishes conditions of use, reimbursement procedures, and flight scheduling mechanisms for implementing the policy. The policy allocates specified amounts of available space to three user groups—educational, commercial, and governmental—to assure access by all these groups to the SSCP Program. It should be noted that the price contained herein has been fixed for the first three full fiscal years of STS operations in real year dollars. This is a change from the original provisions of Subparts 1214.1 and 1214.2 where the price was quoted in 1975 dollars and was subject to actual escalation. Because some potential SSCP users have deposited earnest money with NASA prior to development of a detailed policy, such users are offered a one-time opportunity to withdraw from the program if they find the policy conditions unacceptable.

PART 1214—SPACE TRANSPORTATION SYSTEM

1. 14 CFR Part 1214 is amended by adding a new Subpart 1214.9 reading as follows:

Subpart 1214.9—Use of Small Self-Contained Payloads

- Sec.
1214.901 Scope.
1214.901 Relation to Subparts 1214.1 and 1214.2.
1214.902 Definitions.
1214.903 Conditions of use.
1214.904 Reimbursement policy.
1214.905 Flight scheduling.
1214.906 Transfer of ownership, apportionment and assignment of services.
1214.907 Reflight guarantee.
1214.908 Patent and data rights.
1214.909 Damage to payloads.
1214.910 Special provisions for users who made earnest money deposits prior to publication of this Subpart 1214.9.
1214.911 Small self-contained payload standard services.

Authority: Sec. 203, Pub. L. 85-568, 72 Stat. 429, as amended (42 U.S.C. 2473).

Subpart 1214.9—Use of Small Self-Contained Payloads

§ 1214.900 Scope.

This Subpart 1214.9 sets forth the policy on STS services which are provided by NASA to users of small self-contained payloads (SSCP's).

§ 1214.901 Relation to Subparts 1214.1 and 1214.2.

This Subpart 1214.9 governs the provisions of STS services for SSCP's and Subparts 1214.1 and 1214.2 are not applicable.

§ 1214.902 Definitions.

(a) U.S. Government users are defined as all agencies of the U.S. Government, including NASA.

(b) SSCP's are small (200 pounds or less and 5 cubic feet or less) scientific research and development payloads flown on a space-available basis in a NASA-supplied standard container under the provisions of this Subpart 1214.9. Such payloads may be composed of one or more experiments in the same container.

(c) Classes of SSCP's are defined as follows:

(1) Class I payloads are payloads flown for scientific educational purposes by a recognized educational institution or in support of a recognized broad-participation scientific educational process (e.g., science fairs). Users with Class I payloads are encouraged to publish results of their work in the open literature.

(2) Class II payloads are payloads that do not come under the Class I definition and are flown by users other than U.S. Government users. A multiclass payload containing a Class II experiment will be considered a Class II payload.

(3) Class III payloads are payloads flown by U.S. Government users that do not come under the Class I definition. A multiclass payload containing Class I and III experiments only will be considered a Class III payload.

(d) A small self-contained payload user is an individual or entity that has either signed a launch services agreement with NASA or is eligible to enter into negotiations to do so on the basis of payment (by the user or others) of earnest money to NASA (or, in the case of a U.S. Government user, has submitted a letter of intent). If more than one individual or entity enters into a joint venture or other arrangement to fly their experiments in one NASA container, one individual or entity shall be designated by them as their agent. This agent shall be the sole "user" for that payload, with full authority to represent every individual or entity which has an interest in that container.

(e) Standard services provided to all SSCP users are listed in § 1214.911.

(f) Optional services are additional services provided to individual users at the request of the user and at the discretion of NASA. The price of optional services shall be negotiated.

§ 1214.903 Conditions of use.

(a) Users' payloads must be flown in a NASA-supplied standard container.

(b) SSCP's shall be used only to conduct experiments of a scientific research and development nature.

(c) All users shall be required to furnish NASA with sufficient information to ensure Shuttle safety. NASA shall reserve the right to inspect and/or test any and all materials, components, and elements of the payload at any time.

(d) All users shall be required to furnish NASA with sufficient information to verify peaceful purposes and NASA's and the U.S. Government's continued compliance with law and the Government's obligations.

(e) NASA shall reserve the right to reject any payload which, in the opinion of the NASA Administrator, would be contrary to the spirit of this program or NASA's mission.

(f) To assure humane treatment, all experiments using live animals must have the approval of the Life Sciences Division, Office of Space Science, NASA Headquarters.

§ 1214.904 Reimbursement policy.

(a) *Earnest money.* (1) Earnest money shall be paid to NASA by users (except U.S. Government users) with Class I or Class II payloads prior to launch services contract negotiations. The earnest money, which will be \$500 per payload, shall be applied to the user's price or retained by NASA.

(2) U.S. Government users shall submit a letter of intent, signed by an authorized party, to initiate the process of contracting for an SSCP flight.

(b) *Reimbursement by non-NASA users.* (1) All users shall be charged on a fixed-price basis.

(2) The price shall remain fixed for all payloads covered by launch services agreements signed through the third full fiscal year of STS operations. During this period, the price for standard services shall be as designated below. As show, users who request assignment to a flight of seven or more days duration shall pay an additional fee for each payload.

Max payload weight, lb.	Max payload vol. cubic feet	Price for standard services	
		1 thru 6-day flight	7-or more day flight
200.....	5.0	\$19,000	\$25,000
100.....	2.5	9,500	12,500
60.....	2.5	6,000	7,500

(3) Subsequent to the first three full fiscal years, NASA shall annually adjust the prices for the flight of SSCP payloads. Such adjustments shall not affect launch services agreements already in force.

(4) NASA shall be reimbursed an amount which is the sum of the price for standard services and the price for optional services.

(5) At the time a launch services agreement is signed, the user shall reimburse NASA an amount which, when added to the earnest money, brings the user's total payment up to the sum of:

(i) 50% of the price of standard services for a single payload or first payload covered by the agreement, plus 10% of the price for standard services of subsequent payloads covered by the agreement.

(ii) 100% of the price of optional services agreed upon for a single payload or the first payload covered by the agreement.

(6) For the second and each subsequent payload covered by the agreement, the user shall reimburse NASA 100% of the price of optional services agreed upon, plus an additional 40% of the price for standard services at the later of:

(i) The time of signing of the launch services agreement; or

(ii) Eighteen months before the earliest acceptable launch date for each payload.

(7) With the exception of payment for any prenegotiated post-flight services, the balance for each payload shall be paid to NASA on the date designated by NASA for delivery of the payload to the launch site. Payment for post-flight services shall be due on receipt of NASA's billing.

(c) *Postponement.* (1) A postponement by the user shall be defined to occur if the user:

(i) Refuses to accept a tentative flight assignment which, in NASA's judgment, meets the user's stated needs; or

(ii) Fails to deliver the payload to the launch site by the designated time; or

(iii) Declines or is unable to fly the payload on a given flight after having accepted a tentative flight assignment; or

(iv) Requests a delay in the earliest acceptable launch date for a payload. (Only changes to later dates shall be permitted.)

(2) *Postponement fees for non-NASA users.* (i) Users who postpone the flight of a payload shall reimburse NASA a postponement fee which is the sum of the estimated cost of optional services to be repeated and a fee for standard services.

(ii) A user may postpone the flight of a payload once without incurring a fee for standard services.

(iii) If the second and subsequent SSCP user-initiated postponements occur before the date designated for payload delivery to the launch site, the fee for standard services shall be 5% of the price for standard services. If the second and subsequent user-initiated postponements occur on or after the date designated for payload delivery to the launch site, the fee for standard services shall be 20% of the price for standard services.

(iv) Postponement fees shall be payable on receipt of NASA's billing.

(3) *Rescheduling after a postponement by the user.* Rescheduling of a payload after a user postponement shall be accomplished by establishing a new earliest acceptable launch date. A rescheduled payload shall retain its original position in the flight assignment queue awaiting tentative flight assignment.

(4) A user may not postpone after the container is installed in the Shuttle.

(d) *Cancellation fees for non-NASA users.* (1) Users who cancel the flight of a payload shall reimburse NASA a cancellation fee which is the sum of the estimated cost of optional services and

a fee for standard services. In addition, NASA shall retain the earnest money paid for the payload.

(i) If a user cancels after signing a launch services agreement but before the date designated for payload delivery to the launch site, the fee for standard services shall be 10% of the user's standard services price.

(ii) If a user cancels on or after the date designated for payload delivery to the launch site, the fee for standard services shall be 50% of the user's standard services price.

(2) A user may not cancel after the container is installed in the Shuttle.

(3) If flight of a payload which has been previously postponed is cancelled, the cancellation fee shall be the larger of the cancellation fee which would have been applicable at the time of any prior postponement or the cancellation fee calculated at the time of cancellation.

(4) Cancellation fees shall be payable on receipt of NASA's billing.

§ 1214.905 Flight scheduling.

(a) NASA receipt of the user's earnest money or letter of intent for one or more payloads shall be the basis for defining the payload(s) position in a temporary queue designated as the earnest money queue.

(b) Within 60 days of payment of earnest money or submission of letter of intent, the user, with NASA concurrence, shall designate the Class (I, II, III) of the payload(s). If the user fails to designate the class of the payload(s) within 60 days, the earnest money payment date shall be redefined to be the date of the class designation.

(c) If the user changes a payload's user class designation subsequent to the 60 day period or after signing a launch services agreement, the earnest money payment date shall be redefined to be the date of the user class change.

(d) Signing of a launch services agreement shall enter the payload(s) covered by the agreement into a flight assignment queue. The payload's position in this queue is determined as follows:

(1) If a launch services agreement is signed within 18 months after NASA receipt of earnest money or letter of intent, the payload shall remain ahead of all payloads that entered the earnest money queue later than it did.

(2) If the launch services agreement is not signed within 18 months after NASA receipt of earnest money or letter of intent, the payload shall remain ahead of only those payloads covered by other launch services agreements signed after the agreement covering the subject payload is signed.

(3) If the user elects to sign more than one launch services agreement, the

provisions of § 1214.905(d)(1) and § 1214.905(d)(2) shall apply to each agreement signed.

(e) The launch services agreement shall designate:

(1) The Number of payloads covered by the agreement.

(2) The user class of each payload covered by the agreement.

(3) The nature and size of each payload.

(4) The minimum flight duration of each payload.

(5) Any other restrictions on the type of Shuttle flight appropriate for flying each payload.

(6) The price for standard services to be provided.

(7) The optional services to be provided and the price for these services.

(8) Any apportionment or assignment of each payload.

(9) The user's earliest acceptable launch date for each payload.

(f) Approximately one year before a planned Shuttle launch, NASA shall estimate the number of spaces available for SSCP's, make tentative flight assignments, and establish dates for payload delivery to the launch site.

(g) Payload tentative flight assignment shall be made on a rotation basis by user class. The continuing rotation sequence by class shall be I, I, II, III. If no payloads of a given class are available at the time of tentative flight assignment, a payload of the next class in the rotation shall be assigned to the available space.

(h) When making tentative flight assignments, NASA shall consider only those payloads whose earliest acceptable launch dates are on or before the Shuttle "firm launch date" as defined in § 1214.102(c)(2). (Shuttle flights normally occur on the "firm launch date" or within 60 days thereafter.)

(i) Users' payloads within each class shall be assigned on the basis of the user's positions in the flight assignment queue for that class with the following exceptions:

(1) To the extent that payloads are available, all space on flights of seven or more days duration shall be assigned to users who have contracted for such flights.

(2) If the available flight does not meet the user's requirements defined pursuant to §§ 1214.905(e)(4) and 1214.905(e)(5), the user shall not be assigned to the flight but shall retain his/her position in the flight assignment queue until a suitable flight becomes available.

(3) Subsequent to the flight of a user's payload, that user shall not be entitled to fly another payload in that class until 10 other SSCP's (all classes combined)

have been flown or there are no other SSCP's available for launch.

(j) Once an SSCP user's payload has been given a tentative flight assignment, it shall not be bumped from a flight as a result of another SSCP user's subsequent signing of a launch services agreement or another SSCP user's postponement.

(k) SSCP payloads tentatively assigned to a flight may be bumped by NASA as a result of other Shuttle operational considerations. Should this be necessary, bumping shall be done on a last-on, first-bumped basis.

(l) Payloads being reflown pursuant to § 1214.907 and payloads bumped by NASA after tentative flight assignment subsequently shall have flight assignment priority, in that order, over all other SSCP's in the same flight-duration category, including those already assigned to other flights.

(m) The date for payload delivery to the launch site shall normally be two months before the Shuttle "firm launch date." However, NASA may designate a later date.

(n) Users shall not use third-party or joint venture arrangements to attempt to circumvent the intent of this paragraph.

§ 1214.906 Transfer of ownership, apportionment and assignment of services.

(a) Prior to the signing of a launch services agreement, users shall be permitted to transfer, to a third party, ownership of the eligibility to enter into negotiations with NASA for the flight of a small self-contained payload, subject to NASA approval of the transfer.

(b) Transfer of ownership shall not result in a change in position in the earnest money queue.

(c) Subject to NASA approval, SSCP users shall be permitted to apportion and assign services to others.

(d) U.S. Government users shall not transfer to others the eligibility to negotiate a launch services agreement.

(e) NASA shall negotiate with only one responsible person or entity for the use of each NASA container. At the time the launch services agreement is negotiated, the user shall define any apportionment or assignment of services and identify a single payload manager for the entire payload to be flown in the container. After the launch services agreement is executed, no additional apportionment, assignment, or transfer of ownership shall be permitted without the written approval of NASA.

§ 1214.907 Reflight guarantee.

NASA guarantees one reflight of the user's payload at no additional charge for SSCP standard services if, through no fault of the user, the mission orbit is

not attained and if the payload returns safely to Earth or a second essentially identical payload is provided by the user. Users entitled to a reflight shall be entitled, at no additional charge, to any planned but unused and undamaged optional SSCP services from the flight for which the reflight is provided.

§ 1214.908 Patent and data rights.

NASA will not acquire rights to inventions, patents, or proprietary data privately funded by a user, or arising out of activities for which a user has reimbursed NASA under the policies set forth herein. However, in certain instances in which the NASA Administrator has determined that activities may have a significant impact on the public health, safety, or welfare, NASA may obtain assurances from the user that the results will be made available to the public on terms and conditions reasonable under the circumstances.

§ 1214.909 Damage to payloads.

The user's price does not include a contingency or premium for damage that may be caused to a payload through the fault of the U.S. Government, its contractors, or other STS users. The U.S. Government, therefore, shall assume no risk for damage or loss to the user's payload. The user shall assume that risk or obtain insurance protection against that risk.

§ 1214.910 Special provisions for users who made earnest money deposits prior to publication of this Subpart 1214.9.

(a) Within 30 days after final publication NASA shall supply a copy of this Subpart 1214.9 to all users who have made earnest money deposits.

(b) Users may request in writing a refund of their earnest money provided the request is received by NASA within 90 days after final publication of this Subpart 1214.9. There shall be no subsequent refund of earnest money.

(c) Users who elect to continue with SSCP programs shall, within 90 days after final publication of this Subpart 1214.9, notify NASA in writing of the user's proposed class for each payload covered by earnest money.

(d) Payloads covered by a launch services agreement signed within 18 months after final publication of this Subpart 1214.9 shall retain the appropriate queue position established by payment of earnest money.

(e) Payloads not covered by a launch services agreement signed within 18 months after final publication of this Subpart 1214.9 shall be governed by the provisions of § 1214.905(d)(2).

§ 1214.911 Small self-contained payload standard services.

The following are standard services provided for small self-contained payloads:

(a) Flight in a NASA flight-qualified standard container.

(b) Use of a NASA shipping container.

(c) One "on" and one "off" signal provided on each of three NASA-provided inputs to the container.

(d) Choice of one standard NASA container atmosphere (vacuum, breathing air, inert gas, inert gas vented in space).

(e) Limited consultation on space systems provided by NASA at designated NASA centers.

(f) NASA payload safety reviews at a designated NASA center (Safety shall not be compromised. Unusually complex safety reviews or testing/analysis require additional funding.)

(g) Pre-integration storage of the payload at KSC.

(h) Limited access to the payload prior to integration.

(i) Installation of the payload in the container and removal of the payload from the container after flight.

(j) Installation of the container in the Shuttle and removal of the container from the Shuttle after flight.

(k) KSC launch.

(l) On-orbit payload operational time consistent with the primary STS mission.

(m) Brief postflight documentation of the STS mission profile and payload operational times.

(n) Return of payload to the user at the launch site.

Robert A. Frosch,
Administrator.

December 13, 1979.

[FR Doc. 79-39146 Filed 12-20-79; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE Food and Drug Administration 21 CFR Part 70

[Docket No. 79P-0077]

Nitrites in Bacon; Proposed Exception From the Color Additive Definition and Request for Information on Other Meat Products That May Qualify for the Exception to the Color Additive Definition

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to declare that nitrites in bacon are not "color additives" under the Federal Food, Drug, and Cosmetic Act because they qualify for the exception to the "color additive" definition covering substances used solely for a purpose or purposes other than coloring. FDA also intends to except the use of nitrites in other meat products from the "color additive" definition if those uses can also be shown to qualify for the exception to the definition provided in the act. The tentative conclusions that FDA is proposing to make final in this proceeding were reached by the agency in response to a citizen petition.

DATE: Comments by February 19, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-473-5690.

SUPPLEMENTARY INFORMATION:

I. Background

On June 12, 1978, Public Citizen, Inc., and two individuals filed suit in Federal court to establish, among other things, that nitrites (including sodium nitrate (NaNO₃) and potassium nitrate (KNO₃) and sodium nitrite (NaNO₂) and potassium nitrite (KNO₂)) used in the production of bacon are "color additives" within the meaning of section 201(t)(1) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 321(t)(1)). (See *Public Citizen v. Foreman*, 471 F. Supp. 586 (D.D.C. 1979).)

The court declined to rule on the color additive status of nitrites in bacon and stated that before judicial review could occur the question must be presented to FDA for an initial determination. Subsequently, Public Citizen and four others filed with FDA a citizen petition asking the agency to declare that nitrites in bacon are color additives, and therefore may not be used until they have been approved under the color additive provisions of the act (21 U.S.C. 376) (Ref. 1).

FDA responded to the citizen petition by letter on June 29, 1979 (Ref. 2). FDA's response to the petition was based on a thorough analysis of the "color additive" definition in section 201(t)(1) of the act as it applies specifically to the use of nitrites in bacon. Section 201(t)(1)

defines the term "color additive" as follows:

(t)(1) The term "color additive" means a material which—

(A) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and,

(B) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substances) of imparting color thereto; except that such term does not include any material which the Secretary, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

In responding to the citizen petition, FDA reached the following tentative conclusions about the application of this definition to nitrites in bacon: (1) as the petitioners contended, nitrites in bacon are capable of "imparting color" within the meaning of section 201(t)(1) of the act; but (2) contrary to the petitioners' contentions, nitrites in bacon qualify for the exception to the definition for substances determined to be " * * * used (or intended to be used) solely for a purpose or purposes other than coloring" and thus are not properly regulated as color additives (Ref. 2). The response to the petition stated that the agency would initiate rulemaking to implement these tentative conclusions; and that is the purpose of this proposal.

II. The Proposal

The first issue that must be resolved in this proceeding is whether nitrites in bacon are in fact "capable * * * of imparting color" within the meaning of the "color additive" definition. FDA's tentative conclusion on this point is being put at issue here because it represents a change from the agency's and the U.S. Department of Agriculture's (USDA's) previous position that nitrites in bacon "fix" rather than "impart" color. FDA's previously held view that nitrites only "fix" color was based, at least in part, on the fact that the color resulting from the use of nitrites in bacon and other meat products is similar to, and sometimes nearly indistinguishable from, the color of the freshly slaughtered meat. The citizen petition, which argued that the color effect of nitrites is a color imparting effect, forced the agency to focus more closely than it had before on the actual chemical process involved in producing the color effect and to consider whether that process amounts to "imparting" color.

In response to the citizen petition, FDA concluded tentatively that nitrites do impart color to red meat, including bacon. The chemical process by which the FDA believes this occurs is discussed in detail, and depicted schematically, in the appendix to FDA's response to the citizen petition (Ref. 2). In sum, nitrites "impart" color by combining with a substance already in the meat (myoglobin) to form another substance (nitric oxide myoglobin) that, upon heating, yields a third substance (nitrosyl hemochrome), which is pink in color. Were it not for the use of nitrites, the meat would have a brown color after heating rather than the pink attributed by the presence of nitrosyl hemochrome. Nitrites thus "impart" color by giving the meat a color after heating that it would not otherwise have.

FDA solicits comments on its conclusion that nitrites impart color to bacon and other red meats. This conclusion is important because it plays a central role in the evaluation of the color additive status of nitrites in bacon. Due to FDA's tentative conclusion that nitrites do impart color, it was necessary for the agency, in responding to the citizen petition, to consider whether nitrites in bacon qualify for the statutory exception to the color additive definition. If, however, the agency had concluded, or concludes as a result of comments received on this proposal, that nitrites do not impart color to bacon, it is not necessary even to consider the applicability of the exception clause. A substance that does not "impart" color within the meaning of section 201(t)(1) of the act is not a "color additive."

Having concluded tentatively that nitrites do "impart" color, the agency must consider whether nitrites in bacon qualify for the exception to the "color additive" definition for substances determined to be " * * * used (or intended to be used) solely for a purpose or purposes other than coloring."

That is the second issue to be resolved in this proceeding. The agency is proposing to determine, by regulation, as it tentatively concluded in response to the citizen petition, that nitrites in bacon qualify for this exception and thus are not color additives. The reasoning underlying this determination is explained fully in FDA's response to the citizen petition (Ref. 2). It will be summarized here.

This issue requires the agency to interpret and apply the exception clause in section 201(t)(1) of the act, including its use of the term "solely," in the

context of the unusual, perhaps unique, set of facts surrounding the use of nitrites in bacon (and perhaps other processed red meat products). FDA assumes for purposes of its analysis that manufacturers desire the coloring effect of nitrites in bacon. However, the clearly predominant purpose for adding nitrites to bacon (as reflected by the amount required to accomplish it) is not coloring but preservation: a level of about 120 parts per million (ppm) of nitrites is required to preserve bacon (see 43 FR 20992 (May 16, 1978)); a level of only 10 to 30 ppm is required to color it.

When used at proper levels, nitrites effectively inhibit the outgrowth of *Clostridium botulinum* spores, thus preventing the formation of the toxin that causes botulism. It is this preservative (antibotulism) function for which USDA regulations affirmatively require nitrites in bacon at the 120-ppm level (see 9 CFR 318.7(b)). When nitrites are used in bacon at a level of 120 ppm for preservation, the coloring effect occurs unavoidably as an incident of the preservative use; the manufacturer must accept the coloring effect whether it is desired or not.

The legal basis for allowing the preservative use of nitrites in meat (at levels up to 200 ppm) lies in pre-1958 USDA regulations approving that use. This USDA "prior sanction," which was upheld by the court in *Public Citizen v. Foreman*, *supra* at 591-3, excludes nitrites in meat from the definition of "food additive" (see section 201(s)(4) of the act (21 U.S.C. 321(s)(4))) and thus means that nitrites may be used lawfully in meat for preservation purposes without an FDA food additive regulation approving that use.

Against this background, it is clear that if the "color additive" definition were read literally to include nitrites in bacon simply because it imparts color, one of two possible anomalous impacts would result, neither of which could reasonably have been intended by Congress when it enacted the "color additive" definition in 1950. Such a reading would either (1) subject the entire use of nitrites in bacon (all 120 ppm) to regulation under the color additive provisions in section 706 of the act, thereby undoing the prior sanction for nitrites that Congress in effect had just recognized in 1958 when it enacted the "food additive" definition; or (2) subject only the subordinate (10 to 30 ppm) coloring aspect of nitrite use to

section 706, leaving the predominant (120 ppm) preservative aspect untouched and, presumably, still prior-sanctioned.

There is no evidence in the legislative history or elsewhere that Congress intended either of these odd results. When Congress enacted the color additive definition and included the term "solely" in the exception clause, it recognized that some substances could have both food additive-type (for example, preservative) and coloring uses (see, for example, 106 Cong. Rec. 13312-3 (June 25, 1960)), but it apparently did not foresee the peculiar circumstance presented by nitrites in bacon (and perhaps other processed red meat products)—that is, a color-imparting substance being put to a prior-sanctioned, food additive-type use (preservation) at a level far exceeding that required to accomplish an unavoidable coloring effect. Because the regulation of such a substance as a color additive on the basis of its incidental coloring effect would have anomalous and unforeseen consequences, it is appropriate for FDA, as the agency responsible for administering the statute, to give section 201(t)(1) of the act a reasonable interpretation that avoids the anomalous and unintended consequences, comports with the intent of Congress, and permits the agency to carry out its statutory responsibilities.

In this case, it is reasonable to read the exception clause in section 201(t)(1) of the act as permitting the agency to except nitrites in bacon (and perhaps other processed red meat products), by regulation, from the "color additive" definition, even though the agency assumes the coloring effect is desired. As noted earlier, the preservative function of nitrites in bacon (and perhaps other processed red meat products) clearly and objectively predominates over the coloring function in terms of the amount required to accomplish each function. The only apparent congressional policy underlying inclusion of the term "solely" in the exception clause was to save FDA from having to make subjective judgments about a manufacturer's primary purpose in using a substance that is capable of performing both food additive (for example, preservative) and coloring functions (106 Cong. Rec. 13312-3 (June 25, 1960)). In the case of a substance like nitrites, which accomplishes one of its functions as an unavoidable incident of another clearly and objectively predominant function, that congressional policy can be carried out by focusing, for purposes of applying the exception clause, on the clearly and

objectively predominant function—in this case, preservation. In this way, FDA can properly make a straightforward and objective determination that nitrites are used in bacon (and perhaps other processed red meat products) "solely" for preservation: the coloring effect has absolutely no impact on the amount of nitrites that are used or, indeed, on whether they are used at all.

Therefore, FDA is proposing to determine that nitrites in bacon are " * * * used (or intended to be used) solely for a purpose or purposes other than coloring." This determination is one that is, by the language of section 201(s)(1) of the act, expressly left to FDA. Section 201(t)(1) clearly gives FDA sufficient discretion to make that determination, as it has done here, in a reasonable way that carries out congressional purposes and avoids absurd consequences.

The approach taken here is consistent with the approach FDA has taken in the past when a strictly literal reading of the exception clause would have had anomalous and clearly unintended consequences (see § 70.3(f) (21 CFR 70.3(f)), in which FDA excepted food ingredients such as chocolate from the "color additive" definition notwithstanding their desired coloring effects).

In its response to the citizen petition (Ref. 2, pp. 8-10), FDA acknowledged that its historical application of the exception clause (as reflected in § 70.3(f)), as well as the agency's specific application of the exception clause to nitrites in bacon, appear to conflict with § 70.3(g) of the regulations, which provides as follows:

(g) For a material otherwise meeting the definition of "color additive" to be exempt from section 706 of the act, on the basis that it is used (or intended to be used) solely for a purpose or purposes other than coloring, the material must be used in a way that any color imparted is clearly unimportant insofar as the appearance, value, marketability, or consumer acceptability is concerned. (It is not enough to warrant exemption if conditions are such that the primary purpose of the material is other than to impart color.)

FDA pointed out in its response to the citizen petition that it knew of no instance in which § 70.3(g) had been the basis for either issuing or declining to issue a regulation excepting a color-imparting substance from the "color additive" definition, and, further, that it could find no evidence in its records of the original intent underlying § 70.3(g). FDA thus concluded that § 70.3(g) must either be regarded as a no-longer viable historical artifact (which should be amended or revoked) or be given a reading that makes it consistent with

§ 70.3(f). FDA intends to issue a proposal in the near future that will resolve the status of § 70.3(g).

FDA invites comments on the legal theory underlying its conclusion that nitrites in bacon are properly excepted from the "color additive" definition. FDA's reasoning is discussed in detail in the response to the citizen petition (Ref. 2). Unless persuaded that the legal theory or its factual premises are invalid, the agency intends to apply that theory to other meat products, as explained below.

III. Other Meat Products

FDA is proposing to except nitrites in bacon from the "color additive" definition because they are prior-sanctioned substances that accomplish their coloring effect as an unavoidable incident of their prior-sanctioned preservative use and at levels substantially below those required to accomplish their preservative purpose. Under these criteria, there are likely to be uses of nitrites in meat products other than bacon that also qualify for the exception to the "color additive" definition. For example, it is reported that a level of 156 ppm of sodium nitrite is required to prevent the growth of *Clostridium botulinum* in canned cured perishable products such as canned ham (Ref. 3), while, as in the case of bacon, a level of only 10 to 30 ppm is required to accomplish the coloring effect in such products (Refs. 4, 5, and 6).

FDA is prepared to except the use of nitrites in meat products other than bacon from the "color additive" definition if manufacturers or other interested persons can demonstrate that these other uses qualify for the exception in the same way nitrites in bacon do. Persons attempting to make this demonstration should submit to FDA, at a minimum, the following data and information, with supporting documentation and references from the scientific literature where appropriate: (1) the identities of the meat products in which nitrites are used; (2) the level at which nitrites are used in each product; (3) the level of nitrites required to accomplish the intended preservative effect in each product; and (4) the level of nitrites required to accomplish the coloring effect in each product.

In addition, it must be demonstrated that each use of nitrites for which exception from the "color additive" definition is sought actually plays a meaningful role in preservation of the product. If, for example, nitrites are used at a preservative level in a canned product that has been rendered commercially sterile by a retort process, it may not be possible for the agency to

determine that the nitrites are "used * * * solely for a purpose or purposes other than coloring."

If, in response to this proposal, FDA receives factual submissions that are intended to demonstrate that uses of nitrites in meat products other than bacon qualify for the exception to the "color additive" definition, the agency will provide an additional 30 days for interested persons to comment on those factual submissions. If the submissions are adequate to establish that one or more nonbacon uses of nitrites qualify for the exception, those uses will be included in the regulation issued on the basis of this proposal.

When FDA's proposed conclusion that nitrites impart color to red meat (proposed § 70.70) becomes final, it will be necessary for the agency to consider what regulatory action should be taken, if any, under the color additive provisions of the act (21 U.S.C. 376) against uses of nitrites in meat products that have not been determined to qualify for the exception to the "color additive" definition.

FDA received a request that this rulemaking proceeding be handled on an expedited basis and, specifically, that the comment period be limited to 20 days (Ref. 7). FDA concludes that it is not feasible to limit the comment period as requested, because 20 days would not provide an adequate opportunity for interested persons to develop the factual submissions the agency is soliciting concerning meat products other than bacon. FDA considers the normal comment period of 60 days to be necessary and appropriate in this case.

IV. References

The following material is on file with the FDA Hearing Clerk (HFA-305), address above, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

1. Petition to Declare Nitrites In Bacon a Color Additive (FDA Docket No. 79P-0077), March 12, 1979.

2. Letter from Donald Kennedy, Commissioner of Food and Drugs, to William Schultz, Esq., Public Citizen Litigation Group, responding to citizen petition (Docket No. 79P-0077), June 29, 1979.

3. Christiansen, L. N., R. W. Johnston, D. A. Kautter, J. W. Howard, and W. J. Aunan, "Effect of Nitrite and Nitrate on Toxin Production by *Clostridium Botulinum* and on Nitrosamine Formation in Perishable Canned Comminuted Cured Meat," *Applied Microbiology*, 25:357, 1973.

4. MacDougall, D. B., D. S. Mottram, and D. N. Rhodes, "Contribution of Nitrite and Nitrate to the Color and Flavour of Cured Meats," *Journal of Science Food Agriculture*, 26:1743-1754, 1975.

5. Brooks, J., et al., "The Function of Nitrate, Nitrite and Bacteria in the Curing of Bacon and Hams," Department of Scientific

and Industrial Research, Food Investigation, Special Report No. 49, 1940.

6. Herring, H. K., "Effect of Nitrite and Other Factors on the Physico-Chemical Characteristics and Nitrosamine Formation in Bacon," *Proc. of the Meat Indus. Res. Conf.*, 1973, Chicago, Sponsored by Am. Meat Sci. Assoc. in Coop with AMIF.

7. Letter from William B. Schultz, Esq., Public Citizen Litigation Group, to Sherwin Gardner, Acting Commissioner, FDA, September 5, 1979.

PART 70—COLOR ADDITIVES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), (t)(1), 402(a), 701(a), 706, 52 Stat. 1046 as amended, 1055, 72 Stat. 1784 as amended, 74 Stat. 397-407 as amended (21 U.S.C. 321(s), (t)(1), 342(a), 371(a), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 70 be amended as follows:

1. By adding new Subpart D consisting at this time of § 70.70 to read as follows:

Subpart D—Specific Administrative Rulings and Decisions

§ 70.70 Capacity of nitrites in meat products to impart color.

When used in red meat products at levels of 10 to 30 parts per million, or greater, nitrites (including sodium and potassium nitrate and sodium and potassium nitrite) are capable of imparting color to the meat within the meaning of section 201(t)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(t)(1)).

2. By adding new Subpart E consisting at this time of § 70.100 to read as follows:

Subpart E—Exceptions From the Definition of Color Additive

§ 70.100 Nitrites in bacon.

The Commissioner of Food and Drugs hereby determines that, when used in the production of bacon for the purpose of preservation and at a level that is adequate to inhibit the outgrowth of *Clostridium Botulinum*, nitrites (including sodium and potassium nitrate and sodium and potassium nitrite) are being used solely for a purpose other than coloring and thus are not "color additives" within the meaning of section 201(t)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(t)(1)).

Interested persons may, on or before February 19, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be

identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: December 13, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79-38936 Filed 12-17-79; 10:20 am]

BILLING CODE 4110-03-M

21 CFR Part 170

[Docket No. 77N-0222]

Nitrates and Nitrites in Poultry Products; Proposed Declaration That No Prior Sanction Exists

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to declare that no prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for the use of nitrates and nitrites in poultry products. This proposal is consistent with FDA's longstanding position that no such prior sanction exists and with the results of a recently completed, unsuccessful search of the agency's files for evidence of a valid prior sanction.

DATE: Comments by February 19, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION

I. Introduction

The purpose of this rulemaking proceeding is to resolve the question of whether a "prior sanction" granted under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.) exists for the use of nitrates and nitrites in the manufacture of poultry products. As used in this document, the term "nitrate" includes sodium nitrate (NaNO₃) (also known as soda niter, nitrate of soda, and chile saltpeter) and potassium nitrate (KNO₃) (also known

as saltpeter, and nitrate of potash). Similarly, the term "nitrite" includes sodium nitrite (NaNO₂) and potassium nitrite (KNO₂).

This rulemaking occurs in the context of FDA's ongoing reexamination of the legal status and safety of nitrates and nitrites in poultry, which FDA announced in a Statement of Policy published in the *Federal Register* of September 2, 1977 (42 FR 44376). The specific question to be resolved in this proceeding has a significant bearing on the legal status of nitrates and nitrites in poultry because the existence of a valid prior sanction for a particular use of a substance in the manufacture of food removes that substance from the act's definition of "food additive" (21 U.S.C. 321(s)), and thereby exempts it from the premarket approval requirement applicable to food additives (21 U.S.C. 348).

Although substances in poultry having prior sanctions cannot be regulated as food additives, they remain subject to the general adulteration provisions of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), which is administered by the U.S. Department of Agriculture (USDA). Hence, the underlying issue that will be resolved by this rulemaking is not whether nitrates and nitrites in poultry will be regulated at all by FDA and USDA, but rather under which of the available statutory authorities they will be regulated. Regardless of whether a prior sanction exists, FDA believes adequate authority exists under the law to protect the public against any risk that may be posed by the use of nitrates and nitrites in poultry.

This preamble will describe the legal and procedural context in which the need for this rulemaking arises and will explain the reasons for the agency's proposed rule declaring that no prior sanction exists for the use of nitrates and nitrites in poultry. As discussed more fully below, the agency specifically solicits the submission of evidence that tends to contradict the position it takes in this proposal, including, particularly, evidence of specific prior sanctions for the use of nitrates and nitrites in poultry granted under the Federal Food, Drug, and Cosmetic Act. If the agency receives acceptable evidence of any such prior sanction, it will withdraw this proposal and issue a proposed rule recognizing the prior sanction.

II. Legal and Procedural Background

Section 201(s) of the act (21 U.S.C. 321(s)) defines the term "food additive" as follows:

(s) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include—

(4) any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following); or

This definition was added to the act by the Food Additives Amendment of 1958 (Pub. L. 85-929, 72 Stat. 1784-1789), which was enacted into law on September 6, 1958. The purpose of the prior sanction provision in section 201(s)(4) was to make it unnecessary for substances that had already been approved by the government before enactment of the 1958 amendment to go through the premarket testing and approval process that the 1958 amendment made applicable to food additives. Substances excluded from the definition of "food additive" under this provision included not only those approved by FDA under the Federal Food, Drug, and Cosmetic Act but also those approved by USDA under the Poultry Products Inspection Act or the Meat Inspection Act.

As discussed in the September 2, 1977 Statement of Policy, nitrates and nitrites have a long history of use in the manufacture of poultry products (for both their preservative and coloring effects) that pre-dates the Food Additives Amendment of 1958. FDA, however, has never issued a regulation independently approving the use of nitrites in the commercial preparation of poultry products either as a food additive or a color additive; and the agency has consistently maintained that it has not granted a prior sanction for nitrates and nitrites in poultry products under the Federal Food, Drug, and Cosmetic Act. FDA's only formal recognition of the use of nitrates and nitrites in the commercial preparation of

poultry products is in a regulation (§ 170.60(b), 21 CFR 170.60(b)) that was promulgated on the basis of the agency's belief that USDA had granted prior sanctions. In addition, FDA published a proposed regulation in the *Federal Register* of November 3, 1972 (37 FR 23456) that would have specified the conditions under which nitrates and nitrites had been prior-sanctioned by USDA. Until recently, FDA has regarded the presumed USDA prior sanction to provide the legal basis for the commercial use of nitrates and nitrites in poultry.

As explained in the September 2, 1977 Statement of Policy, FDA's belief that USDA had granted prior sanctions for nitrates and nitrites in poultry was upset by an April 22, 1977 letter addressed to the Commissioner of Food and Drugs from the Assistant Secretary of Agriculture for Food and Consumer Services, Ms. Carol Tucker Foreman (Ref. 1). In her letter, Ms. Foreman advised the agency that "[B]ased on our review of available information, it does not appear that there is such a prior sanction or approval of nitrates and nitrites in poultry." The conclusion reached by Ms. Foreman meant that the use of nitrates and nitrites in poultry could no longer be based on the existence of a prior sanction. FDA therefore announced in its September 2, 1977 Statement of Policy that it intended to regulate nitrates and nitrites in poultry as "food additives" under sections 201(s) and 409 of the act. It also announced that, upon submission of appropriate data and information concerning the safety of nitrates and nitrites in poultry products, it would consider issuing food additive regulations to permit the continued use of nitrates and nitrites in poultry on an interim basis pending a full resolution of questions affecting a final decision on their approvability.

Following publication of the September 2, 1977 Statement of Policy, two sets of events occurred that together provide the impetus for this rulemaking:

The first set of events began in November 1977 when FDA received two petitions for the issuance of interim food additive regulations for the use of sodium nitrite in a variety of poultry products. FDA later advised the petitioners of deficiencies in the data accompanying the petitions that needed to be resolved before the petitions could be acted on. Some, but not all, of the deficiencies were corrected, and action on the petitions is pending. (FDA will not act on the petitions until at least early 1980, when the final evaluation is to be completed on a chronic toxicity

study performed for FDA by Dr. Paul M. Newberne of the Massachusetts Institute of Technology. The Newberne study, as initially reported to FDA, found a statistically significant increase in cancer among animals exposed to sodium nitrite in the diet. Questions have been raised about the validity of these results, and the study is currently undergoing intensive scientific review.)

The second significant set of events began on November 2, 1977, one day after the interim food additive petitions were filed with the agency. On that date, one of the petitioners, the Special Poultry Research Committee (SPRC), and a poultry producing, processing, and distributing firm, Tyson Foods, Inc., filed suit in the United States District Court for the Western District of Arkansas against USDA and the Department of Health, Education, and Welfare seeking, among other things, a declaratory judgment that a prior sanction exists for the use of sodium nitrite in poultry products. If the plaintiffs had been successful in establishing the existence of a prior sanction, FDA would not have the authority to regulate nitrates and nitrites in poultry as "food additives." On March 21, 1979, however, the Court in Arkansas dismissed the suit, essentially on the ground that it could not consider the merits of the prior sanction issue until the government had taken some final action premised on the absence of a prior sanction (for example, had actually issued an interim food additive regulation). The plaintiffs appealed the case to the United States Court of Appeals for the Eighth Circuit. On July 20, 1979, the appeal was dismissed pursuant to a joint motion of the parties in which FDA recited its intention to initiate rulemaking to resolve finally the question whether a prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for nitrates and nitrites in poultry products. *Tyson Foods, Inc., et al., v. USDA et al.*, No. 77-5059 (W.D. Ark., dismissed Mar. 21, 1979), *appeal dismissed*, No. 79-1405 (8th Cir. July 20, 1979). By agreeing to dismissal of the appeal on this basis, FDA effectively committed itself to going forward with its already existing plans to initiate this rulemaking.

Ordinarily, FDA resolves the question whether a prior sanction exists for a particular substance at the same time the agency issues a regulation governing the use of the substance (see § 181.5(d), 21 CFR 181.5(d)). The peculiar circumstances surrounding nitrates and nitrites in poultry, however, warrant resolution of the prior sanction issue in this separate proceeding. As explained above, FDA's 1977 Statement of Policy

announced a change in the government's position on whether a prior sanction exists. As evidenced by the lawsuit filed in Arkansas, this change has been controversial; and it has led to uncertainty among members of the poultry industry concerning the legal status of their products. The industry's contention that a prior sanction exists also creates uncertainty for FDA and USDA because it brings into question the legal standard by which the agencies must evaluate the safety of nitrates and nitrites in poultry.

The controversy over the existence of a prior sanction must be resolved as a prerequisite to any final FDA action on the pending petitions for interim food additive regulations; and FDA believes that the issue should be resolved in a way that will not disrupt the important ongoing process of evaluating the safety of nitrates and nitrites in poultry. By resolving the prior sanction issue in this separate proceeding, FDA and USDA will be able to move toward final decisions on the safety questions after having already made a final determination about whether to regulate nitrates and nitrites in poultry products under the "food additive" provisions of the Federal Food, Drug, and Cosmetic Act or under the general adulteration provisions of the Poultry Products Inspection Act. When final decisions are reached on the safety questions, the agencies will be able to move promptly toward their implementation under the appropriate statutory authority.

II. Proposal

The sole purpose of this proceeding is to resolve the question whether a prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for the use of nitrates and nitrites in poultry. As noted earlier, FDA accepts, and considers itself bound by, USDA determinations concerning possible prior sanctions granted by that Department under either the Poultry Products Inspection Act or the Meat Inspection Act. As mentioned earlier, Assistant Secretary Foreman has advised FDA that there does not appear to be a prior sanction for nitrates and nitrites in poultry under those acts.

In this proceeding, FDA proposes to adopt by regulation its position that no prior sanction has been granted under the Federal Food, Drug, and Cosmetic Act. In preparing this proposal, FDA searched its files for documents that relate to the question of whether it granted a prior sanction for nitrates and nitrites in poultry products. The results of this search have been compiled and placed on file with FDA's Hearing Clerk (Ref. 2).

Several of the documents discovered in FDA's files reflect the existence of a prior sanction issued by USDA for nitrates and nitrites in meat products (for example, Tab A, Ref. 2). The bulk of the documents FDA found, however, relate directly to the question of whether FDA ever granted a prior sanction covering poultry products. These documents not only fail to reveal a prior sanction but state explicitly FDA's view prior to enactment of the Food Additives Amendment that the presence of nitrates and nitrites in poultry products renders the products adulterated under the act (Tab G, Ref. 2). These documents, dated before September 6, 1958 and consisting of intra-governmental memoranda as well as letters to private individuals and firms, generally explain FDA's position by stating that FDA considers nitrates and nitrites in poultry to be "added poisonous or deleterious substances," within the meaning of section 402(a) of the act, that are not "necessary" to the production of food, within the meaning of section 406 of the act.

The unapproved status of sodium nitrite in poultry before 1958 was confirmed by FDA at the time the Food Additives Amendment was enacted. At that time, sodium nitrite used as a preservative in fish fillets and poultry products was included on "A Partial List of Chemicals That Have Not Been Shown To Be Satisfactory For Uses That Would Leave Residues In Food." This list became part of the record of the congressional hearings leading to enactment of the Food Additives Amendment (Tab F, Ref. 2).

FDA discovered a few documents in its files that may appear to be inconsistent with the conclusion that no prior sanction exists. Three such documents, all dating from the year 1941, contain the comments of FDA officials on labeling or proposed nomenclature for various poultry products whose preparation was known to include soaking in a brine that contained "salt peter," sodium nitrate, and/or sodium nitrite (Tab H, Ref. 2). FDA officials who signed those letters expressed no objection to the use of these substances, but their comments were restricted in each instance to technical labeling issues. There is no indication from these documents that the FDA officials considered the safety (and thus lawfulness) of these substances under the adulteration provisions of the Federal Food, Drug, and Cosmetic Act or intended to be expressing approval of their use. FDA does not consider these documents to constitute a prior sanction, especially

when viewed in light of the voluminous, direct evidence of FDA's disapproval of nitrates and nitrites in poultry (Tab G, Ref. 2).

Two documents (Tab I, Ref. 2) allude to a legal theory whereby it might have been possible to justify the use of nitrates and nitrites in poultry products before September 6, 1958 under section 406 of the act. Neither of these documents, however, makes any finding that section 406 did in fact apply; and neither actually expresses approval of any use of nitrates or nitrites in poultry under section 406 or under any other theory. For this reason, these letters cannot be considered a prior sanction.

Among the documents FDA has examined, the letter in Tab I of Ref. 2 signed by FDA's J. K. Kirk (dated March 12, 1945) comes closest to constituting a prior sanction. In responding to an inquiry concerning the use of saltpeter in foods, Mr. Kirk stated: "There is no evidence that in the amounts used it has any adverse effect on the system or is deleterious to health. If evidence were acquired that it were in any way harmful, its use would be prohibited." Although this letter appears to acquiesce in the use of saltpeter (that is, potassium or sodium nitrate) based on a conclusion that saltpeter is not harmful in the amounts used, the letter does not specify what those amounts are; and it is unclear whether the letter contains the explicit approval required for the establishment of a prior sanction. (See 21 CFR 181.5(a).) Moreover, the letter refers only to saltpeter (that is, nitrate); it is thus clearly not a prior sanction for potassium or sodium nitrite.

Even if one or more of the documents in Tabs H and I of Ref. 2 (the most recent of which was issued on October 21, 1953) were found to meet the requirements for prior sanctions, they would not constitute valid prior sanctions because they were superseded by the subsequently issued documents expressing FDA's disapproval of the substances (Tabs F and G, Ref. 2). The prior sanction provision in section 201(s)(4) of the act was intended only to carry forward approvals that were in effect at the time the Food Additives Amendment was enacted; it was not intended to create new approvals on the basis of sanctions that had been given and rescinded before the enactment of the amendment.

In the absence of any acceptable evidence to the contrary, FDA must conclude that no prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for the use of nitrates and nitrites in poultry. Based on this conclusion, FDA is proposing to amend § 170.60(b) to eliminate any

reference to the use of nitrates and nitrites in poultry products as falling within any prior sanction and to add new § 170.70 (21 CFR 170.70) stating that no prior sanction exists. In addition, FDA intends to withdraw its earlier-mentioned November 3, 1972 proposal, which proposed to specify the conditions under which nitrates and nitrites in poultry were thought to be prior-sanctioned.

IV. Opportunity for Comment

FDA solicits comments from all interested persons concerning the question of whether a prior sanction exists under the Federal Food, Drug, and Cosmetic Act for nitrates and nitrites in poultry. FDA is especially interested in receiving comments, and supporting documentation, from those who believe a prior sanction exists. The prior sanction provision of the act, 21 U.S.C. 321(s)(4), is an exception provision, excepting a class of substances from the requirements of a regulatory statute. For that reason, the burden of proof rest, as a matter of law, upon those who contend that a particular use of a substance falls within the exception. *United States v. Shock*, 379 F. 2d 29, 33 (8th Cir. 1967); *United States v. Allan Drug Corp.*, 357 F. 2d 713, 718 (10th Cir.), *cert. denied* 395 U.S. 899 (1966); *United States v. 1,048,000 Capsules . . . Afrodex*, 347 F. Supp. 768, 770 (S.D. Tex., 1972), *aff'd*, 494 F. 2d 1158 (5th Cir. 1974). Persons intending to submit evidence in support of the existence of a prior sanction should refer to FDA's regulations in Part 181 (21 CFR Part 181) interpreting section 201(s)(4) of the act, particularly § 181.5(a):

A prior sanction shall exist only for a specific use(s) of a substance in food, i.e., the level(s), condition(s), product(s), etc., for which there was explicit approval by the Food and Drug Administration or the United States Department of Agriculture prior to September 6, 1958.

As noted earlier, FDA is considering in this proceeding only the question of whether FDA has granted a prior sanction for nitrates and nitrites under the Federal Food, Drug, and Cosmetic Act. If, in response to this proposal, the agency receives comments relating to the question of whether USDA has issued a prior sanction under the Poultry Products Inspection Act or the Meat Inspection Act, the agency will forward those comments and any supporting documentation to USDA for its consideration and for any action it deems appropriate.

FDA considers it important to the efficient administration and enforcement of the law to finally resolve in this rulemaking the regulatory status

of nitrates and nitrites in poultry products. Therefore, in keeping with the policy underlying § 181.5(d), FDA will consider the failure of any person to come forward with proof of an applicable prior sanction in response to this notice to constitute a waiver of the right to assert or rely on such a prior sanction at any later time.

Finally, in the event acceptable evidence of a prior sanction granted under the Federal Food, Drug, and Cosmetic Act is submitted in response to this proposal, FDA intends to withdraw this proposal and issue a second proposal recognizing the existence of the prior sanction. This course of action would be necessary and appropriate as a means of providing all interested persons an opportunity to comment on the validity of any such proposed prior sanction.

V. References

The following material is on file with the FDA Hearing Clerk (HFA-305), address above, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

1. Letter from Carol Tucker Foreman, Assistant Secretary of Agriculture for Food and Consumer Services, to Donald Kennedy, Commissioner of Food and Drugs, April 22, 1977.

2. Memorandum from Acting Chief, Petitions Control Branch (HFF-334) to Richard Cooper, Chief Counsel, Food and Drug Administration, with accompanying attachments (Tabs A through L), July 18, 1979.

PART 170—FOOD ADDITIVES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 701(a), 72 Stat. 1784, 52 Stat. 1055 (21 U.S.C. 321(s) and 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 170 be amended as follows:

1. In § 170.60 by revising paragraph (b) to read as follows:

§ 170.60 Nitrites and/or nitrates in curing premixes.

(b) Nitrites and/or nitrates, when packaged separately from flavoring and seasoning in curing premixes, may continue to be used under prior sanctions in the commercial curing of meat and meat products and in accordance with the provisions of §§ 172.170 and 172.175 of this chapter that apply to meat curing preparations for the home curing of meat and meat products, including wild game. As used in this section, the term "nitrite" includes sodium nitrite (NaNO₂) and potassium nitrite (KNO₂), and the term

"nitrate" includes sodium nitrate (NaNO_3) and potassium nitrate (KNO_3). To assure safe use of such ingredients, the labeling of the premixes shall bear instructions to the user that such separately packaged ingredients are not to be combined until just before use. Encapsulating or coating some or all of the ingredients does not constitute separate packaging.

2. By adding new § 170.70 to read as follows:

§ 170.70 Nitrates and nitrites in poultry products.

The Food and Drug Administration has determined that no prior sanction or approval granted under the Federal Food, Drug, and Cosmetic Act, within the meaning of section 201(s)(4) of that act (21 U.S.C. 321(s)(4)), exists for the use of nitrates or nitrites in the manufacture of poultry products. As used in this section, the term "nitrate" includes sodium nitrate (NaNO_3) (also known as soda niter, nitrate of soda, and chile saltpeter) and potassium nitrate (KNO_3) (also known as saltpeter and nitrate of potash). Similarly, the term "nitrite" includes sodium nitrite (NaNO_2) and potassium nitrite (KNO_2).

Interested persons may, on or before February 19, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: December 13, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79-38935 Filed 12-17-79; 10:30 am]

BILLING CODE 4110-03-M

21 CFR Part 357

[Docket No. 79N-0379]

Exocrine Pancreatic Insufficiency Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; Notice of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) exocrine pancreatic insufficiency drug products are generally recognized as safe and effective and not misbranded. Exocrine pancreatic insufficiency drug products are used to compensate for the insufficient secretion of pancreatic enzymes important to the digestive process. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by March 20, 1980; reply comments by April 21, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on November 19, 1978, a report of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the Commissioner of Food and Drugs issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded (i.e., Category I); (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding (i.e., Category II); (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify those conditions under either (1) or (2) above (i.e., Category III); and (4) the conclusions and recommendations of the Panel. The Panel's conclusions on exocrine pancreatic insufficiency drug products contained no Category III conditions.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully

evaluated the report. The Panel's findings appear in this document as a formal proposal to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. After FDA has carefully reviewed all comments submitted in response to this proposal, the agency will issue a tentative final regulation in the Federal Register to establish a monograph for OTC exocrine pancreatic insufficiency drug products.

In accordance with § 330.10(a)(2) (21 CFR 330.10(a)(2)), the Panel and FDA have held as confidential all information concerning OTC exocrine pancreatic insufficiency drug products submitted for consideration by the Advisory Review Panel. All this information will be put on public display at the office of the Hearing Clerk, Food and Drug Administration, after January 21, 1980, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address given above).

Based upon the conclusions and recommendations of the Panel, FDA proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and not misbranded (Category I), be effective 30 days after the date of publication of the final monograph in the Federal Register.

2. That the conditions excluded from the monograph because they would cause the drug to be not generally recognized as safe and effective or to be misbranded (Category II), be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the Federal Register, regardless of whether further testing is undertaken to justify their future use.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the Federal Register of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the Federal Register of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients

used in OTC miscellaneous internal drug products was issued in the Federal Register of November 16, 1973 (38 FR 31696). In the Federal Register of August 27, 1975 (40 FR 38179) a further notice supplemented the initial notice with a detailed list of ingredients included in OTC miscellaneous drug products.

The Commissioner appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness and labeling of the ingredients in those products:

John W. Norcross, M.D., Chairman
Ruth Eleanor Brown, R.Ph. (resigned May 1976)

Elizabeth C. Giblin, Ed.D.
Richard D. Harshfield, M.D.

Theodore L. Hyde, M.D.

Claus A. Rohweder, D.O.

Samuel O. Thier, M.D. (resigned November 1976)

William R. Arrowsmith, M.D. (appointed March 1976)

Diana F. Rodriguez-Calvert, Pharm.D. (appointed July 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm.D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph.D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator. Enrique Fefer, Ph.D., served as the Executive Secretary until July 1976, followed by George W. James, Ph.D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph.

In order to expand its medical and scientific base, the Panel called upon Ralph B. D'Agostino, Ph.D. (statistics), as a consultant for advice in areas which required particular expertise.

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel

presents its conclusions and recommendations for exocrine pancreatic insufficiency drug products in this document. This Panel also reviewed the ingredients in these drug products for different labeling claims in another document entitled "OTC Digestive Aid Drug Products," which will be published in a future issue of the Federal Register. The review of other categories of miscellaneous internal drug products will be continued by the Panel, and its findings will be published periodically in future issues of the Federal Register.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings were held on the following dates (the dates of those meetings which dealt with the topic of this document are in italics): *February 23 and 24, March 23 and 24, April 27 and 28, June 22 and 23, September 21 and 22, and November 16 and 17, 1975; February 8 and 9, March 7 and 8, April 11 and 12, May 9 and 10, July 11 and 12, and October 10 and 11, 1976; February 20 and 21, April 3 and 4, May 15 and 16, July 9, 10, and 11, October 15, 16, and 17, and December 2, 3, and 4, 1977; January 28, 29, and 30, March 10, 11, and 12, May 5, 6, and 7, June 23, 24, and 25, August 4, 5, and 6, September 29, 30, and October 1, and November 17, 18, and 19, 1978.*

The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

No person requested an opportunity to appear before the Panel to express his or her views on exocrine pancreatic insufficiency drug products.

The Panel has thoroughly reviewed the literature and data submissions and has considered all pertinent information submitted through November 19, 1978, in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel considered OTC drug products to treat exocrine pancreatic insufficiency with respect to the following three categories:

Category I. Conditions under which OTC drug products to treat exocrine pancreatic insufficiency are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC drug products to treat exocrine pancreatic insufficiency are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

A. Submission of Data and Information

Pursuant to the notices published in the Federal Register of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on OTC miscellaneous internal drug products, the following firms made submissions for products used in treating exocrine pancreatic insufficiency.

1. Submissions by firms.

Firms and marketed products

Parke-Davis & Co., Detroit, MI 48232.—Pantheric capsules, Pantheric tablets, Pantheric granules.

Hoechst-Roussel Pharmaceuticals, Inc., Somerville, NJ 08876.—Festal tablets.

2. Classification of ingredients—a. Labeled active ingredients contained in marketed OTC exocrine pancreatic insufficiency drug products submitted to the Panel.

Hemicellulase
Pancreatin

b. Labeled active ingredients contained in marketed OTC exocrine pancreatic insufficiency drug products which were not submitted but were reviewed by the Panel.
Pancrelipase

B. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the Federal Register of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on display after January 21, 1980 in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

C. General Discussion

Under normal circumstances the pancreas secretes a sufficient amount of enzymes into the intestine to account for a major portion of the digestive process. When the pancreas is not functioning properly or is partially removed surgically, lesser amounts of pancreatic digestive enzymes (e.g., lipase for fat digestion, protease for protein digestion, and amylase for starch digestion) are released into the intestine. Because the pancreas has a large functional reserve capacity, malabsorption (due to insufficient digestion) does not occur until the pancreatic enzyme output is reduced by more than 90 percent (Ref. 1), at which point the condition can usually be suspected by the increased fat content in the stool (steatorrhea). For the purpose of this document the Panel,

therefore, defines exocrine pancreatic insufficiency as a condition which requires diagnosis by a physician and in which the symptoms are due to inadequate exocrine pancreatic secretion.

For many years this condition has been effectively treated by the administration of pancreatic preparations consisting of varying proportions of lipase, protease, and amylase activity. The Panel considers these preparations acceptable only when all three of the components are combined into a single dosage form.

According to the National Formulary (N.F.) XIV, pancreatin contains, in each milligram (mg), not less than 25 N.F. Units of amylase activity, not less than 2.0 N.F. Units of lipase activity, and not less than 25 N.F. Units of protease activity. Pancreatin of a higher digestive power may be labeled as a whole-number multiple of the three minimum activities, e.g., the term "triple strength pancreatin" indicates that the preparation contains three times the activity of each enzyme per mg. Pancrelipase, also listed in N.F. XIV, contains, in each mg, not less than 100 N.F. Units of amylase activity, not less than 24 N.F. Units of lipase activity, and not less than 100 N.F. Units of protease activity. The N.F. Units of activity for pancreatin and pancrelipase are defined in the N.F. (Refs. 2 and 3).

With regard to labeling, the Panel has carefully reviewed the submitted labeling claims and has categorized them according to their acceptability. The Panel is aware that there may be other terms that would be acceptable in expressing the same Category I indications.

References

- (1) Graham, D. Y., "Enzyme Replacement Therapy of Exocrine Pancreatic Insufficiency in Man," *The New England Journal of Medicine*, 23:1314-1317, 1977.
- (2) "The National Formulary," 14th Ed., American Pharmaceutical Association, Washington, DC, pp. 519-521, 1975.
- (3) "The National Formulary," 14th Ed., American Pharmaceutical Association, Washington, DC, pp. 523-525, 1975.

D. Combination Policy

The Panel has reviewed FDA's general combination policy on OTC drug products (21 CFR 330.10(a)(4)(iv)) and concurs with this policy for this condition.

This policy is as follows:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not

decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel insists that all combination products which are used to treat exocrine pancreatic insufficiency must conform to all three requirements of this general combination policy. At the present time, no combination product has been submitted to the Panel, nor is the Panel aware of any such combination product which would satisfy the above requirements.

E. Category I Conditions for Exocrine Pancreatic Insufficiency Drug Products

The following are Category I conditions under which drug products used for the treatment of exocrine pancreatic insufficiency are generally recognized as safe and effective and are not misbranded.

1. *Category I active ingredients—pancreatin or pancrelipase.* The Panel concludes that pancreatin preparations (pancreatin or pancrelipase) are generally recognized as safe and effective for OTC use in treating conditions of physician-diagnosed exocrine pancreatic insufficiency in the dosage noted below.

a. *Safety.* The Panel has determined that pancreatin preparations (pancreatin or pancrelipase) are safe in the usual recommended daily dosage of up to 14 grams (g) of triple-strength pancreatin when given in divided doses (Ref. 1). Side effects of nausea, vomiting, and diarrhea may occur at high doses (Ref. 1). Since pancreatin preparations are usually obtained from hogs, they should not be used by those individuals allergic to pork. The Panel recommends that the product labeling for pancreatin preparations contain a warning against the use of such products by individuals allergic to pork.

b. *Effectiveness.* The pancreatic enzymes are collectively known as pancreatin. Pancreatin is an amorphous substance obtained from fresh hog pancreas. It contains principally amylase, protease, and lipase (Ref. 1). Pancrelipase is obtained in a similar manner; it differs from pancreatin mainly in that it has a higher lipase concentration. Both pancreatin and pancrelipase are employed in the treatment of conditions in which the secretion of pancreatic enzymes is deficient. In the absence of adequate pancreatic enzymes, the patient is unable to properly digest food; and, as a result stools contain excessive amount of undigested foodstuff, especially fats which lead to steatorrhea, diarrhea, and

malnutrition. Pancreatic enzymes, taken by mouth with meals, are effective in controlling these conditions when due to decreased pancreatic secretion (Refs. 2 through 7). However, it should be noted that the pancreas has such a large capacity to produce and secrete the necessary enzymes that, except in patients who have had excessively fatty meals, symptoms of pancreatic insufficiency are rarely noted even when 75 to 80 percent of that organ is removed (Ref. 2).

Although pancreatic enzymes taken by mouth are rapidly inactivated by pepsin in the high acidity of normal gastric juice (Ref. 8), gastric acidity is usually markedly reduced in patients with exocrine pancreatic insufficiency (Ref. 2). Pancreatic enzymes in enteric-coated preparations (designed for release and absorption in the intestines) may be less effective than preparations without such coating (Ref. 2).

The Panel concludes that both pancreatin and pancrelipase are generally recognized as effective for OTC use in treating physician-diagnosed exocrine pancreatic insufficiency.

c. *Dosage.* The Panel concludes that pancreatin preparations (pancreatin or pancrelipase) for OTC use in conditions of prediagnosed exocrine pancreatic insufficiency are safe and effective in the usual and recommended daily dose of up to 14 g of triple-strength pancreatin, or its equivalent, when given in divided doses with meals as recommended by the physician. The proportional activity of amylase, lipase, and protease may vary in these preparations.

d. *Labeling.* The Panel recommends Category I labeling for ingredients used to treat conditions of exocrine pancreatic insufficiency. (See paragraph E.2. below—Category I labeling.)

2. *Category I labeling.* The Panel recommends the following Category I labeling for drug products used to treat exocrine pancreatic insufficiency as being generally recognized as safe and effective and not misbranded:

a. *Indication.* "For the treatment of exocrine pancreatic insufficiency when conducted under the care of a physician."

b. *Warning.* For preparations obtained from pork the following warning should be used: "If you are allergic to pork, do not take this product."

References

- (1) AMA Drug Evaluation, 3d Edition, Publishing Sciences Group, Inc., Littleton, MA, pp. 1085-1086, 1977.
- (2) Graham, D. Y., "Enzyme Replacement Therapy of Exocrine Pancreatic Insufficiency in Man," *The New England Journal of Medicine*, 23:1314-1317, 1977.

(3) Littman, A., and D. H. Handscom, "Pancreatic Extracts," *The New England Journal of Medicine*, 281:201-204, 1969.

(4) Kalser, M. H., C. A. Leite, and W. D. Warren, "Fat Assimilation After Massive Distal Pancreatectomy," *The New England Journal of Medicine*, 279:570-576, 1968.

(5) Marks, I. N., S. Bank, and E. M. Airth, "Pancreatic Replacement Therapy in the Treatment of Pancreatic Steatorrhea," *Gut*, 4: 217-22, 1963.

(6) Jordan, P. H., and M. I. Grossman, "Effect of Dosage Schedule on the Efficacy of Substitution Therapy in Pancreatic Insufficiency," *Gastroenterology*, 36:447-451, 1959.

(7) Marks, I. N., and S. Bank, "Treatment of Steatorrhea Due to Pancreatic Insufficiency," *Modern Treatment*, 2:326-334, 1965.

(8) Heizer, W. D., C. R. Cleveland, and F. L. Iber, "Gastric Inactivation of Pancreatic Supplements," *Bulletin of the Johns Hopkins Hospital*, 116:261-270, 1965.

F. Category II Conditions for Exocrine Pancreatic Insufficiency Drug Products.

The following are Category II conditions under which drug products used for the treatment of exocrine pancreatic insufficiency are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredient—hemicellulase.* The Panel concludes that hemicellulase is safe for OTC use in the dose noted below, but it is not generally recognized as effective in treating exocrine pancreatic insufficiency.

a. *Safety.* No safety data were submitted. Hemicellulase is obtained from molds such as *Aspergillus oryzae* and *Penicillium notatum* as well as from various other sources (Refs. 1 and 2). Hemicellulase has been utilized as a digestive aid in the intestinal tract in the usual doses of 50 to 100 mg three times daily (Refs. 3 and 4). The Panel concludes that it is safe when used to treat exocrine pancreatic insufficiency in these doses.

b. *Effectiveness.* Hemicellulase is capable of hydrolyzing hemicellulose contained in ingested food plants. However, it has no relationship to the pancreatic enzymes, and it has not been demonstrated to be of value in the treatment of exocrine pancreatic insufficiency.

c. *Evaluation.* The Panel concludes that hemicellulase is generally recognized as safe for OTC use in the dose specified, but its effectiveness has not been demonstrated in treating exocrine pancreatic insufficiency.

2. *Category II labeling.* The following indications require close physician supervision and are, therefore, classified as Category II labeling for OTC use.

- a. "Enteritis."
- b. "Postgastrectomy syndrome."
- c. "Chronic hepatitis."

d. "Gall-bladder disease."

e. "Surgical patients following cholecystectomy, subtotal gastrectomy, and other surgery of the upper gastrointestinal tract, except pancreatectomy."

References

(1) Pigman, W., "Enzymes Acting on Hemicelluloses, Gum, and Wood," in "The Enzymes," Vol. 1, Edited by Sumner, J. B., and K. Myrback, Academic Press, New York, pp. 739-744, 1951.

(2) Courtois, J. E., "Some Biochemical Aspects of Cellulases and Hemicellulases," *Glasnik Hemijskog Drugstava*, 32:365-388, 1967.

(3) OTC Volume 170034.

(4) OTC Volume 170144.

The Food and Drug Administration has determined that this document is exempt from the requirement of preparing an Environmental Impact Statement as specified under 21 CFR 25.1(f)(4).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding to Part 357 a new Subpart E to read as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart E—Exocrine Pancreatic Insufficiency Drug Products

Sec.

357.401 Scope.

357.403 Definition.

357.410 Exocrine pancreatic insufficiency active ingredients.

357.450 Labeling of exocrine pancreatic insufficiency drug products.

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart E—Exocrine Pancreatic Insufficiency Drug Products

§ 357.401 Scope.

An over-the-counter exocrine pancreatic insufficiency drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart, in addition to each of the

general conditions established in § 330.1 of this chapter.

§ 357.403 Definition.

Exocrine pancreatic insufficiency. A condition in which the symptoms are due to inadequate exocrine pancreatic secretion as diagnosed by a physician.

§ 357.410 Exocrine pancreatic insufficiency active ingredients.

The active ingredient of the product consists of any one of the following when used within the dosage limits established:

- (a) Pancreatin.
- (b) Pancrelipase.

§ 357.450 Labeling of exocrine pancreatic insufficiency drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as one which treats exocrine pancreatic insufficiency.

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase: "For the treatment of exocrine pancreatic insufficiency when conducted under the care of a physician."

(c) *Warning.* The labeling of the product contains the following warning under the heading "Warnings": "If you are allergic to pork, do not take this product."

(d) *Directions—(1) For products containing Pancreatin, N.F. XIV.* The daily dose is up to 42 grams when given in divided doses with meals as recommended by a physician.

(2) *For products containing Pancrelipase, N.F. XIV.* The daily dose is up to 3.5 grams when given in divided doses with meals as recommended by a physician.

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before March 20, 1980. Comments should be addressed to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replying to comments may also be submitted on or before April 21, 1980. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed,

and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 13, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-36110 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-150-78; EE-101-78]

Reasonable Funding Methods; Amortization of Experience Gains by Pension Plans Funded by Group Deferred Annuity Contracts; Public Hearings on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearings on proposed regulations.

SUMMARY: This document provides notice of public hearings on proposed regulations relating to reasonable funding methods and proposed regulations relating to amortization of experience gains by pension plans funded by group deferred annuity contracts.

DATES: The public hearings will be held on February 21, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 7, 1980.

ADDRESS: The public hearings will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines for oral comments on the proposed regulations relating to reasonable funding methods, should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-150-78), Washington, D.C. 20224. The outlines for oral comments on the proposed regulations relating to the determination of actuarial cost under the minimum funding standards should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-101-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel,

Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subjects of the public hearings are:

1. Proposed regulations relating to reasonable funding methods under section 412(c)(3) of the Internal Revenue Code of 1954, and section 3(31) of the Employee Retirement Income Security Act of 1974. These proposed regulations appeared in the *Federal Register* for Friday, October 5, 1979 (44 FR 57423).

2. Proposed regulations relating to the determination of actuarial cost under the minimum funding standards under section 412(b)(3) of the Internal Revenue Code of 1954. These proposed regulations appeared in the *Federal Register* for Friday, December 29, 1978 (43 FR 60964).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearings. Persons who have submitted written comments within the time prescribed in the respective notices of proposed rulemaking and who desire to present oral comments at the respective hearing on such proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 7, 1980. Each speaker will be limited to 10 minutes for an oral presentation on each of the above listed proposed regulations for which timely comments have been submitted, exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 39228 Filed 12-20-79; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1, 16, 17, and 160

[LR-71-78]

Vinson-Trammell Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of Time for Comments and Requests for a Public Hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking with respect to the Vinson-Trammell Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft. The extended deadline for submission of comments and requests for a public hearing is February 26, 1980.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 26, 1980.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attn: CC:LR:T (LR-71-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: H. Benjamin Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the *Federal Register* for Friday, October 26, 1979 (44 FR 61611), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-71-78), Washington, D.C. 20224, by December 26, 1979. The date by which comments or requests must be delivered or mailed is hereby extended to February 26, 1980.

Note.—This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-39227 Filed 12-20-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1379-4]

Approval and Promulgation of Implementation Plans; Mississippi: Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On April 25, 1978, the Mississippi Air & Water Pollution Control Commission adopted, after public notice and public hearing, a revision to Mississippi's Air Quality Regulations, APC-S-1, Section 4.2(b), concerning the incineration of hydrogen sulfide in gas streams emitted to the atmosphere. This revision provides a more flexible and improved regulation for attaining and maintaining the National Ambient Air Quality Standards for sulfur dioxide. The purpose of this notice is to announce these regulations as proposed rulemaking and to solicit public comment.

DATES: Comments must be received on or before January 21, 1980 to be considered.

ADDRESSES: Written comments on the proposed revisions should be addressed to Mr. Melvin Russell of EPA's Air Programs Branch in Atlanta (see address below). Copies of the materials submitted by Mississippi may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA (PM-213), 401 M Street SW., Washington, D.C. 20406, EPA Region IV, 345 Courtland Street NE., Atlantic, Georgia 30308, Mississippi Air & Water Pollution Control Commission, Robert E. Lee Building, Jackson, Mississippi 39205.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, Air Programs Branch, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, 404/881-3286.

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with the requirements of 40 CFR 51.4, the Mississippi Air and Water Pollution Control Commission on April 25, 1978, adopted a revision to its Air Quality Regulations, APC-S-1, Section 4.2(b), concerning the incineration of hydrogen sulfide in gas streams emitted to the atmosphere. The intent of this revision was to establish a regulation which does not place unnecessary

economic limitation of 2000 ppm sulfur dioxide in the gas stream, but will have very little impact on the environment.

The revision also requires a case-by-case determination for each emission point to ensure that maximum ground level concentrations of sulfur dioxide will be in compliance with the National Ambient Air Quality Standards. This regulatory approach establishes an emission limitation without specifying the type of control required, thereby allowing industry flexibility and incentive to achieve the ambient standard by the most expeditious means while conserving energy and economic resources. The revised regulations were submitted to EPA as proposed plan revisions on July 3, 1978.

EPA reviewed the proposed plan revisions to assess how much, if any, PSD increment would be consumed. This evaluation showed that the new emission limits would cause a violation of the PSD increments around some sources. EPA requested the Mississippi agency to revise the submitted emission limits for those specific areas where violations of the PSD increment were predicted. Mississippi adopted the necessary changes and submitted them to EPA on September 13, 1979. The affected sources, their emission limits are as follows:

Source/perm. No.	(Lbs./hr) SO ₂ emission limit	H ₂ S emission limit (grains/100 scf)
Mobil Oil Corp/2840-00006	262.0	1.0
Amerada Hess Corp/2840-00001	78.4	1.0
Amerada Hess Corp/0440-00001		
Flare No. 1	20.8	1.0
Flare No. 2	15.5	1.0
Hess Pipeline/2840-00021	242.4	1.0
American Ouzar Petroleum/2840-00024	28.2	1.0
Shell Oil Company/2500-00027	27.6	1.0
Getty Oil Company/1300-00012	0.8	1.0
Shell Oil Company/1300-00014	4.1	1.0
Pierremont Petroleum Co/2420-0007	89.1	1.0
Shell Oil Co/0860-00005-002	125.8	1.0
Pruett & Hughes/0440-00018	62.4	1.0
Getty Oil Co/0440-00011	12.1	1.0
Getty Oil Co/0440-00012	1.8	1.0
Getty Oil Co/0440-00014	17.4	1.0
Crystal Oil Co/1720-00043	65.0	1.0
Continental Oil Co/0440-0009	58.6	1.0
Shell Oil Co/0360-00005-001	169.0	1.0

EPA proposes to approve these new limits as adequate to prevent violations of PSD increments. The public is invited to participate in this rulemaking by submitting written comments on the proposed revisions (see addresses above). After reviewing all relevant comments received together with all

other information available to him, the Administrator will take action on the proposed changes in the Mississippi Air Quality Regulations.

(Sec. 110, Clean Air Act [42 U.S.C. 7410])

Dated: December 7, 1979.

Paul Traina,

Acting Regional Administrator, Region IV.

[FR Doc. 79-39123 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1378-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. Environmental Protection Agency (USEPA) proposes to approve a revision to the Ohio State Implementation Plan for sulfur dioxide for Wright Patterson Air Force Base. The revision is requested in order to reflect SO₂ emission reductions anticipated from an ongoing facility modification program in which new boiler units and stacks are being constructed and older boiler units have been eliminated. The purpose of this notice is to invite public comment on USEPA's proposed revision to the Ohio State Implementation Plan (SIP).

DATE: Comments must be received on or before January 21, 1980. Requests for a public hearing on this revision must be received no later than January 7, 1980.

ADDRESSES: Comments and requests for a hearing should be submitted to Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The Technical Support Document and the docket (5A-79-4) for this revision are in file at the above address and at: Central Docket Section, Room 2903B, U.S.

Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

They may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION

CONTACT: Patricia Powell, Assistant Regional Counsel, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6062.

SUPPLEMENTARY INFORMATION: This proposed rule is an amendment to the federally promulgated Ohio State

Implementation Plan (SIP) for sulfur dioxide (SO₂). This revision is specifically for sources owned and operated by Wright Patterson Air Force Base (WPAFB). Wright Patterson Air Force Base operates a space heating steam facility. On August 27, 1976, (41 FR 36324) the U.S. Environmental Protection Agency (USEPA) promulgated regulations establishing the SIP for the control of SO₂ for the State of Ohio.

On December 27, 1978, Wright Patterson Air Force Base (WPAFB) requested a revision of the Ohio SIP for SO₂ for its Dayton facility because SO₂ emission reductions were anticipated from a modification of the facility because new boiler units and stacks were being constructed and older boilers units were being eliminated. This SIP is exempted from PSD requirements because the modification does not increase the potential emissions rate of sulfur dioxide. Therefore, it does not contribute to the deterioration of the air quality. Wright Patterson's analysis procedure conformed to USEPA methodology. USEPA's methodology is outlined in the Final Technical Support Document dated August 1976, and in the Supplemental Technical Support Document, dated May 1977.

The rural version of the USEPA RAM model was used to address the air quality impacts of SO₂ emissions from the WPAFB boiler units for the existing and final plant configurations. The maximum SO₂ concentrations were predicted for both 3 and 24-hour averaging periods. As a result of the proposed revision there will be a large reduction in maximum concentrations because of lower emissions for the final plant configurations. One year of meteorological data was used in model calculations. In August, 1976 the WPAFB facility was modeled with 21 boiler units vented to 19 stacks. The boiler units and stacks for each boiler building are the following:

Building 10271—four boilers, four stacks.
Building 20066—seven boilers, five stacks.
Building 20770—two boilers, two stacks.
Building 0170—five boilers, five stacks.
Building 31240—three boilers, three stacks.

The existing WPAFB plant is restricted to emit less than 1.0 lb. SO₂/MMBtu from its 21 boiler units to comply with the National Ambient Air Quality Standards (NAAQS). The final plant configuration will show closure of three of the five buildings and the discontinuation of 17 of the 21 boilers and 17 of the 19 stacks. The reduction of heat capacity will be compensated by construction of three new boiler units and three stacks at Building 1240 and three new boilers and one stack at

Building 20770. Thus, the final plant configuration will have the following number of boilers and stacks:

Building 20770—five boilers, one stack.
Building 31240—five boilers, four stacks.

The purpose of the WPAFB SIP revision request is to determine the SO₂ emission limitation appropriate for the final plant configuration which will allow the NAAQS to be attained and maintained. The SIP revision analysis has accounted for the phase out of operation and the new plant configuration and has demonstrated the plan will attain and maintain the National Ambient Air Quality Standards (NAAQS).

The following regulations for the control of SO₂ for the WPAFB have been found acceptable by USEPA. The supporting data is in the Technical Support Document which is available for review at the above locations. Final promulgation of this revision will follow analysis of the comments and will depend on consistency with section 110 of the Clean Air Act. A 30-day comment period will be observed because the emissions limitation is not significantly changed. Comments are being solicited. Note: The USEPA has determined that this document is not a significant regulation does not require preparation of a regulatory analysis under Executive Order 12044.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. Section 52.1881 is amended by revising paragraph (b)(2)(ii) as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(29) In Greene County:

* * * * *

(ii) The present or any subsequent owner of the Wright-Patterson Air Force Base in Greene County, Ohio, shall not cause or permit emissions of sulfur dioxide in excess of 2.04 pounds of sulfur dioxide per million BTU from any stack.

* * * * *

Dated: December 13, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-39124 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Health Services Administration

42 CFR Parts 31, 32, and 35

Medical Care for Members of the Coast Guard, Public Health Service, National Oceanic and Atmospheric Administration, and Former Lighthouse Service, Merchant Marine and Certain Other Persons and Public Health Service Hospital and Clinic Management; Decision To Develop Regulations

AGENCY: Health Services Administration, PHS, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: This notice announces the Public Health Service's intention to propose revisions and editorial changes in the following regulations:

Part 31—Medical, dental, and surgical care for members of the U.S. Coast Guard, the Commissioned Corps of the U.S. Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA), ships' officers, crew members (and dependents) of vessels of the National Ocean Survey (NOS), and members and retired members of the former Lighthouse Service. The regulations provide for the care of these persons at PHS facilities and at non-PHS facilities in the United States and overseas, as required by the PHS Act and Executive Order. This revision is proposed to update the regulations in accordance with current organizational arrangements and management operations.

Part 32—Medical, dental, and surgical care from the Public Health Service (PHS) for seafarers (formerly identified as American seamen) employed on documented vessels of the United States, state school ships, vessels of the U.S. Government, owner-operators of commercial fishing vessels, maritime cadets, foreign seafarers, nonbeneficiaries, and persons afflicted with Hansen's Disease. These regulations provide for the care of these persons at PHS and non-PHS facilities within the United States, as required by the PHS Act. This revision is proposed to update the regulations in accordance with current organizational structure and medical practice.

Part 35—The administration of Public Health Service hospitals and outpatient clinics. The regulations provide for the operation of these facilities by the Surgeon General as required by the Public Health Service Act. This revision

is proposed to update the regulations in accordance with current PHS organizational structure and managerial requirements.

The revision of these Parts will also reflect HEW's commitment to revise and clarify its regulations to promote public understanding of its programs and operations.

FOR FURTHER INFORMATION CONTACT: Mr. Walter W. Ward, Policy Coordination Branch, Bureau of Medical Services, HSA, PHS, HEW, 6525 Belcrest Road, West Hyattsville, Maryland 20782, Telephone: (301) 436-6261.

Dated December 12, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

[FR Doc. 79-59264 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-64-M

Health Care Financing Administration

42 CFR Part 455

Medicaid Agency Fraud Detection and Investigation Program; Verification of Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish a uniform procedure to verify whether services billed to the Medicaid program were actually received by recipients. A written verification notice sent to recipients would summarize the services claimed, request a response, and provide a means for the recipient to respond at no cost. Current verification procedures are varied and range from simple notification of services billed to personal interviews with recipients to determine if the services were actually received. The various verification methods are not equally effective. The purpose of the uniform system is to deter fraud and abuse in the Medicaid program and to facilitate detection when it occurs.

DATES: Consideration will be given to written comments or suggestions received by February 19, 1980.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. In commenting, please refer to OPI-03-P. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5220 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday

through Friday of each week from 8:30 a.m. to 5 p.m. (202) 245-0365.

FOR FURTHER INFORMATION CONTACT: Irwin Cohen, (301) 594-8212.

SUPPLEMENTARY INFORMATION:

Background

Past experience with the Medicare and Medicaid programs indicates that it is necessary to verify with individuals whether services billed were actually rendered. In addition to providing leads in potential fraud or abuse cases, a verification of services program serves as a strong deterrent to potential violators of both programs.

Current Medicare procedures provide that a written notification be sent to each beneficiary for every claim which is paid by the Medicare program. In addition to this 100 percent notification system, a sample of Supplementary Medical Insurance (Part B) claims is audited. Under this external audit procedure, the Medicare carrier selects a sample of one assigned claim per 1,000 assigned claims processed during the month. Each beneficiary in the sample is sent a form requesting that he verify whether the services billed were actually furnished. A self-addressed franked envelope is provided with the form to facilitate a response by the beneficiary. To ensure the maximum number of replies, beneficiaries who do not initially respond are contacted again, either through an additional letter, a telephone call, or a personal interview.

Medicaid regulations at 42 CFR 455.20(a) require that a State Medicaid agency "must have a method for verifying with recipients whether services billed by providers were received." States that receive 75 percent Federal matching funds for the operations of mechanized claims processing and information retrieval system (Medicaid Management Information System—MMIS) are allowed to meet this requirement by following the procedures outlined in 42 CFR 433.113 (which implements Section 1903(a)(3)(B) of the Act).

Under that regulation, each MMIS State is required to send written notice to all, or a sample of, recipients who have received Medicaid services. These "explanation of benefit" forms (sent within 45 days of the payment of the claim) must specify the services furnished, the name of the provider furnishing the service, the date the service was furnished, and the amount billed to Medicaid for the service. Although it is not required by regulation, many States place a statement on the form that directs recipients who desire

more information or who did not receive the stated service to contact the State agency. A mailing address or a telephone number is typically provided for this purpose.

Regulations applicable to States that do not receive MMIS funding (42 CFR 455.20(c)) do not specify methods for fulfilling the verification requirement. These regulations only provide that verification may be made by:

1. A random sample of recipients for each provider that is paid significant amounts; and
2. A random sample of recipients for groups of providers that are not paid significant amounts.

The Medical Assistance Manual (Section 6-91-00) provides that verification may be made through written notification, personal interview, or through review and investigation of unusual recipient and provider profiles.

Verification is often little more than notification of services billed. In our view, the failure to request and facilitate response by the recipient is a serious deficiency, particularly in the Medicaid program. The recipient usually has no financial responsibility for Medicaid services, and would therefore be less concerned about billing errors than a Medicare beneficiary who pays deductibles and coinsurance. We believe that a uniform written verification system for all States will serve as a significant deterrent to fraud and abuse and as an additional source of leads for actual cases of fraud and abuse.

Regulatory Provisions

We are proposing that all States implement a program of written verification of services. This new requirement would parallel existing requirements for the Part B External Audit Program in Medicare.

The verification program would consist of a written notice sent to the Medicaid recipient within 45 days after payment is made for claimed services. Each verification notice would contain the following information: a short summary of the services furnished, the name of the provider, the date and place where the services were furnished, and the amount billed to Medicaid for the services. As under existing requirements, the notice would not specify confidential services (as defined by the State) and no notice would be sent if the only service billed was confidential.

The verification notice would request the recipient to return the form to the agency, noting on it whether the services billed were actually provided to him, and specifying any discrepancies in the

information. A self-addressed, postage paid envelope (or other device that allows the recipient to respond at no cost to himself) would be enclosed for this purpose. State agencies would maintain a record of all verification notices and all responses and would make at least one follow-up by letter, telephone, or personal contact to recipients who do not respond to the initial notice within thirty (30) days. This procedure would demonstrate to the recipient the importance of the verification program and maximize the response rate.

The number of verification notices required to be sent each month would equal one-tenth ($\frac{1}{10}$) of one percent of the number of claims paid per month. The proposed one in a thousand sampling requirement has been chosen so as not to unduly burden State agencies and to be consistent with the sampling requirements established under the external audit procedure in the Medicare program. However, to ensure States verify a representative sampling of the services rendered and to provide an adequate workload in States with smaller claims processing operations, all States would be required to send at least 300 verification notices monthly. The required minimum of 300 notices would be sent to recipients selected through valid statistical (random) methods developed by the State agency.

State agencies with large claims processing operations (more than 300,000 claims paid per month) would be required to send more than 300 notices per month to meet the one in a thousand sampling requirement. The additional verification notices would be sent to recipients selected through a sampling procedure devised and implemented according to particular State agency needs and initiative. The sampling requirement could be met by a continuation of the random sampling procedures used to send the minimum 300 notices, a random sampling of claims paid from particular providers and/or recipients, a sampling of claims from particular types of services, or any combination of these methodologies. Any type of sampling methodology would be allowable (no requirement for statistical validity) as long as the required number of verification notices (1 for every 1,000 claims paid monthly) was sent. States would also be free to increase sample size at their discretion.

Freedom in devising the sampling methodology would allow States to focus their verification efforts on particular providers, using available indicators of possible fraud or abuse

(such as provider profiles). The experience of carriers in the Medicare External Audit Program and of particular State agencies suggests that selective sampling is the most cost efficient means of identifying possible problem providers.

As State agencies gain experience under the verification program, the minimum sampling requirements would be closely monitored to determine their usefulness in a valid and cost effective verification of services program.

State agencies would be required to completely investigate recipient responses indicating possible fraud or abuse as currently required for all fraud and abuse complaints received (see 42 CFR 455.14-455.16). State agencies may also wish to use information gained from the verification program which indicates patterns of possible fraud or abuse from particular providers or types of services in implementing effective pre- and post-payment screening programs.

In States that receive MMIS funding, the proposed verification program would be in addition to the system of sending prompt written notices (explanation of benefit forms) to recipients as required by section 1903(a)(3)(B) of the Act. The minimum number of verification notices required to be sent under the proposed program would usually be substantially less than the number of explanation of benefit forms sent under the MMIS requirement. The proposed verification program aims to increase recipient response by providing for the return of the notice at no cost to the recipient, and by requiring a follow-up procedure for nonrespondents. Because of these differences, we believe that State agencies would find it to their advantage to administer the proposed requirement separately from or only as a component of the MMIS "explanation of benefit" notice requirement. However, if an MMIS State modifies, or has already modified, its prompt written verification program, a single system could fulfill both requirements. Costs of an "explanation of benefit" program which was modified to incorporate the requirements of the proposed verification procedures would continue to be reimbursed with 75 percent FFP as an appropriate MMIS operational expense.

PART 455—PROGRAM INTEGRITY

42 CFR 455.20 is revised to read as follows:

§ 455.20 Recipient verification procedures.

(a) *Basic requirements.* (1) In order to determine whether services billed by

providers were actually furnished to recipients, the agency must send verification notices to a sample of those for whom Medicaid payments were made.

(2) The verification procedures must meet the requirements of paragraphs (b) through (g) of this section.

(b) *Sample size and selection.* (1) The number of verification notices sent each month must equal at least one-tenth of one percent (1 for every 1,000) of the number of claims that are paid each month.

(2) If the State pays less than 300,000 claims monthly, at least 300 verification notices must be sent.

(3) The agency must send at least 300 notices to recipients who are selected according to statistically valid sampling techniques. Sampling methodologies used to send additional notices required under paragraph (b)(1) of this section, include, but are not limited to—

(i) A random sampling of all claims paid;

(ii) A random sampling of all recipients;

(iii) A random sampling of all providers;

(iv) A random sampling of claims from particular groups of providers (e.g., high and low volume providers); or

(v) A selective sampling of claims from particular providers.

(c) *Timing and content of notice.* The verification notice must be sent within 45 days from the date the claim is paid and contain the following information:

- (1) The services furnished;
- (2) The name of the provider furnishing the services;
- (3) The place where the services were furnished;
- (4) The date on which the services were furnished;
- (5) The amount of Medicaid payment for the services; and
- (6) The fact that the notice is not a bill.

(d) *Confidential services.* The verification notice must not specify confidential services (as defined by the State) and must not be sent if the only service furnished was confidential.

(e) *Recipient response.* The verification notice must:

(1) Request the recipient to indicate whether he received the services billed and to identify any discrepancies in the information; and

(2) Be accompanied by a stamped addressed envelope (or similar device) that will permit the recipient to reply at no cost to himself.

(f) *Record-keeping and follow-up.* The agency must maintain a record of all verification notices sent and recipient responses. The agency must make at

least one follow-up by letter, telephone, or personal contact to any recipient who does not respond to the notice within 30 days after it is sent.

(g) *Investigation of recipient responses.* The agency must investigate all recipient responses which indicate possible fraud or abuse in accordance with §§ 455.14-455.16.

(h) *MMIS systems.* The written notice system required under § 433.113(b)(2) of this subchapter will fulfill the requirements of this section only if it also complies with paragraphs (b) through (g) of this section.

(Sections 1102 and 1902(a)(4)(A) of the Social Security Act (42 U.S.C. 1302 and 1396a(a)(4)(A)))
(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: August 28, 1979.

Earl M. Collier, Jr.,
Acting Administrator, Health Care Financing Administration.

Approved: December 6, 1979.

Patricia Roberts Harris,
Secretary.

[FR Doc. 79-38486 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FE-5593]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction to proposed rule for the Town of Walkersville, Frederick County, Maryland.

SUMMARY: Due to a typographical error at 44 FR 37634, June 28, 1979, the location listed as 300 feet upstream of driveway to the Microbiological Lab under the Source of Flooding of Glade Creek, should be corrected to read 3,000 feet upstream. The elevation is correct as cited.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of

proposed determinations of base (100-year) flood elevations for selected locations in the Town of Walkersville, previously published at 44 FR 37634 on June 28, 1979, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: December 6, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-38237 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5758]

National Flood Insurance Program; Proposed Base Flood Zone Designation for the Town of Cromwell, Conn.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation described below.

The proposed zone designation will be the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspapers of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed zone designation are available for review at the First Selectman's Office, Town Hall, Cromwell, Connecticut.

Send comments to: Mr. Paul R. Harrington, First Selectman, Town of Cromwell, Town Hall, 5 West Street, Cromwell, Connecticut 06416.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6570 or toll free line, (800) 424-8872 or (800) 424-8873.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation (100 year flood) for the Town of Cromwell, Connecticut, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448, 42 U.S.C. 4001-4128, and 44 CFR 67.4(a) (presently appearing at its former Section 24 CFR 1917.4(a)).

The zone designation, together with the flood plain management measures required by § 60.3 (presently appearing at its former Section 24 CFR 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. The proposed zone will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year zone designation for selected locations are:

Source of flooding	Location	Zone designation
Mattabasset River.....	Area between State Route 72 and the dam above Pasco Hill Road.	Zone A 10.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 19, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-38237 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office for Civil Rights

45 CFR Part 87

Equal Opportunity in Employment
Provisions Applicable to the Public
Broadcasting Service, National Public
Radio, and Public Telecommunications
Entities Receiving Federal Funds From
the Corporation for Public
Broadcasting

AGENCY: Office for Civil Rights, U.S. Department of Health, Education, and Welfare.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office for Civil Rights (OCR), U.S. Department of Health, Education, and Welfare, seeks public comment on proposed rules to govern administration of the equal opportunity in employment provisions under the Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405, 47 U.S.C. 393. The Act requires that equal opportunity in employment be afforded to all persons, and that no person be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

DATES: Comments should be submitted on or before February 19, 1980.

ADDRESS: Comments should be filed with: Director, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, P.O. Box 8219, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Wendy B. Pailen, (202) 472-3220.

SUPPLEMENTARY INFORMATION: 1. The Office for Civil Rights (OCR), U.S. Department of Health, Education, and Welfare (HEW) published a *Notice of Decision to Develop Regulations* on March 13, 1979, 44 FR 14582.

2. The Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405, modifies the Communications Act of 1934, as amended, 47 U.S.C. 1, *et seq.* (statutory references are to the Communications Act). The equal employment opportunity provisions of the Act:

(i) Require that equal opportunity in employment be afforded to all persons by the Public Broadcasting Service, National Public Radio, and all public telecommunications entities receiving funds from the Corporation for Public

Broadcasting (hereinafter referred to as recipients);

(ii) Prohibit discrimination in employment by recipients on the grounds of race, color, religion, national origin, or sex;

(iii) Require the Corporation for Public Broadcasting (hereinafter referred to as "the Corporation") to satisfy itself that applicants for grants or contracts are affording equal opportunity in employment and to monitor the equal employment opportunity practices of recipients; and

(iv) Require the Secretary of Health, Education, and Welfare to promulgate regulations to guide the Corporation and to make final determinations of compliance with the Act.

Organization of the Proposed Regulation

3. The proposed regulation is divided into five subparts. Subpart A contains general provisions. Subpart B sets forth the obligations of recipients under the Act, including prohibited discrimination, affirmative action, and reporting requirements. Subpart C describes the responsibilities of the Corporation for Public Broadcasting and contains the guidelines for making initial determinations of compliance. Subpart D sets forth the responsibilities of the Department of Health, Education, and Welfare including compliance, investigation, conciliation, and enforcement procedures. Subpart E describes the effect of other requirements on this regulation.

Discussion of the Proposed Regulation

4. The Department encourages comment on all sections of the proposed regulation; the following discussion focuses only on those sections within each subpart that raise significant issues.

Subpart A—General Provisions

5. Definitions, § 87.3. The pertinent definition of the Act have been included in the proposed regulation. Of significance are the definitions of "recipient" and "applicant," which include the Public Broadcasting Service, National Public Radio (or any successor organization), and all public telecommunications entities that receive or apply for grants or contracts from the Corporation. As defined by the Act and the proposed regulation, public telecommunications entities are primarily public radio and television licensees that receive production, community service, and other grants or contracts from the Corporation. The proposed regulation does not apply to independent producers and other

enterprises not included in the definition of a public telecommunications entity.

6. According to the Corporation's 1978 statistics, a total of 480 stations employing approximately 10,350 full-time employees constitute virtually the entire universe of recipients subject to the provisions of the proposed regulation. There are 163 public television licensees operating 280 stations that receive annual community service grants from the Corporation. Of these stations, approximately 100 have fewer than 50 employees. In public radio, 188 licensees operating 200 stations receive annual community service grants and employ an average of 10 full-time employees. A small number of public telecommunications entities that do not receive an annual community service grant may receive other grants or contracts from the Corporation and are covered by the proposed regulation.

7. Although the industry-wide percentage of minority employment increased from 9.6 percent in 1972 to 13.6 percent in 1978, relatively few minorities are employed in decision-making positions. Minorities hold only 6 percent of the official/managers positions at television stations and 9 percent of these positions at radio stations. In the top three job categories, 59 percent of the radio stations and 33 percent of the television stations employ no minority persons. Industry-wide employment of women also rose significantly between 1972 and 1978, from 26.9 percent to 34.7 percent of all positions. However, as in the case of minority employment, women remain underrepresented in the higher job categories. For instance, only 15.9 percent of the officials in public broadcasting are women.

Subpart B—Obligations of Recipients

8. *Discrimination Prohibited*, § 87.10. The Act prohibits discrimination in employment on the grounds of race, color, religion, national origin, or sex. This section of the proposed regulation details the specific employment activities covered, prohibits retaliation, and provides standards for determining compliance.

9. The Department has patterned the substantive portions of this section after the requirements of other Federal statutes and regulations, and has not created any new or unique standards for recipients. Rather, it is proposed that the Department, the Corporation and recipients be bound by the applicable published policies, interpretations and guidelines for the Equal Employment

Opportunity Commission (EEOC).¹ This avoids duplication and permits a recipient to rely on these EEOC standards in order to assure itself that it is in compliance with this section of the proposed regulation.

10. The Department also intends to rely on the principles developed through court decisions under Title VII of the Civil Rights Act of 1964² in determining the remedial actions necessary to achieve compliance. For this reason, a recipient that has discriminated against any person or persons in violation of this section may be required to reinstate, promote, and provide back pay to victims of discrimination as a condition of receiving further Federal funds from the Corporation.

11. *Affirmative Action*, § 87.11. In addition to prohibiting discrimination, the Act requires "equal opportunity in employment." Our regulations interpret this language to require that recipients undertake affirmative action. In considering this legislation, Congress noted the " * * * shameful record of public broadcasting in the area of equal employment opportunities and affirmative action" and recognized the need for the industry to " * * * take steps at all levels to train, recruit and promote minorities and women."³ Senator Hollings offers further support for affirmative action:

This bill institutes clear and forceful standards to assure that recipients of Federal money do not discriminate, and that they take affirmative steps to seek out new employees from the minority communities and among women.⁴

Although the Act does not explicitly limit affirmative action to minorities and women, the legislative history as discussed above clearly indicates that Congress did not intend to include religious minorities under the affirmative action requirements of the Act.

12. The Department proposes that recipients adopt an affirmative action program and submit reports along with employment data to the Corporation. However, a recipient that demonstrates, through a utilization analysis and employment data, that it fully utilizes women and minorities will not be required to adopt an affirmative action

program or submit an affirmative action report to the Corporation. Each affirmative action program will commit the recipient to seek qualified minority and female applicants for each position, eliminate unnecessary eligibility criteria that may impede the employment of minorities or women, encourage the promotion of minorities and women, develop or participate in training programs, and establish a reasonable period of time for achieving the goal of full utilization. The program would not have to be complex, and can be easily implemented by small employers.

13. While recipients that demonstrate full utilization of minorities and women would be exempted from developing a written affirmative action program as discussed in paragraph 12, they must refrain from taking any action that would result in employment discrimination and must periodically review their employment policies and practices to ensure that they do not discriminate against any person on the basis of race, color, religion, national origin, or sex.

14. Recipients that seek to be exempted from the requirement of an affirmative action program must demonstrate full utilization of minorities and women in the overall workforce and in the top three job categories (officials and managers, professionals, and technicians). In establishing full utilization, recipients must conduct utilization analyses that compare the percentages of minorities and women in their workforce with the percentages of women and minorities with the requisite skills in the recipient's labor market areas. Recipients employing fewer than 50 full time employees must conduct separate analyses for minorities as a whole⁵ and for women. Recipients that employ 50 or more full time employees must conduct an analysis for women and separate analyses for each minority group.

15. As used in the proposed regulation, the term "requisite skills" means the minimum skills necessary to qualify for an entry-level position in any job category.

16. "Labor market area" is defined in the proposed regulation as the area from which a recipient may reasonably be expected to draw employees. In many cases, the labor market area will be the

same as the Standard Metropolitan Statistical Area (S.M.S.A.). When a recipient asserts that the nature of the position being filled requires a broader definition of the labor market area, the recipient must justify its assertion. In determining the participation of minorities and women in the labor market area, recipients may seek the assistance of the Corporation.

17. The Department recognizes that a utilization analysis may indicate that less than one person needs to be hired to reach full utilization. In such instances, the Department proposes that the recipient be deemed to be at full utilization. As a result, several small recipients located in labor market areas with few minority persons would be considered at full utilization in their overall workforce even though they employ no minority persons.⁶ However, the absence of minorities in the workforce may be one of the factors considered by the Department in determining whether to review the employment practices of a recipient on its own initiative.

18. Full utilization may also exist in any of the top three job categories of a recipient when the hiring of one additional minority or one additional woman would lead to greater percentages of those groups in the job category than in the labor market area. For instance, a recipient employing one female professional and three male professionals would be fully utilizing women in that category even if women made up 45 percent of professionals in the labor market area.

19. An initial determination of full utilization may be used by a recipient to forego the requirement that it develop and implement an affirmative action program. This application differs from the traditional use of a comparison of workforce and labor market percentages to establish a presumption of discrimination. The Department therefore believes that requiring full utilization to be based on a showing that workforce percentages of women and minorities "are equal to or greater than" their labor market percentages, is appropriate in light of its application.

20. The Department encourages comment on its approach of requiring affirmative action of all recipients that are not fully utilizing minorities and women and on its definition of full utilization, which may exempt some

⁶ The most recent employment data of the Corporation for Public Broadcasting identifies 67 public radio stations with no minority employees. However, the average number of employees at these stations is 6.8 employees. Many of these stations in labor market areas with few minorities would be considered fully utilized as to minorities.

¹ Such standards include: Guidelines on Discrimination because of Sex, 29 CFR Part 1604; Guidelines on Discrimination because of Religion, 29 CFR Part 1605; Guidelines on Discrimination because of national origin, 29 CFR Part 1609; Uniform Guidelines on Employee Selection Procedures, 29 CFR 1607; Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964, 29 CFR Part 1608.

² 42 U.S.C. 20003e, *et seq.*

³ H.R. Rep. No. 95-1178 at 38-39.

⁴ 124 Cong. Rec. S15441 (daily ed. Sept. 19, 1978).

⁵ "Minority" as defined in Section 87.2 of the proposed regulation includes: American Indian or Alaskan Native; Asian or Pacific Islander; Black not of Hispanic origin; and Hispanic. This definition conforms to 28 C.F.R. 42.402(e)(1)-(4) and to Statistical Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting" of the Department of Commerce, 43 Fed. Reg. 19269 (May 4, 1978).

smaller recipients from the affirmative action requirements.

21. *Compliance Information, § 87.12.* This section details the reporting requirements of recipients both to the Corporation and to the Department, and requires the maintenance of employment records and information for inspection by the Department.

22. Recipients are required to submit employment reports in the same form as is presently required by the Corporation. The proposed regulation does not impose any new reporting requirements. Virtually all of the entities covered by the proposed regulation apply annually to the Corporation for a community service grant and will continue to report employment data to the Corporation once each year, in connection with this grant. Recipients that apply for more than one grant during the year will be permitted to refer to the employment survey submitted as part of its application for the community service grant, unless the Corporation requests more current data.

23. The Act provides that the Department shall coordinate its data gathering activities with the Federal Communications Commission so that each agency's requirements are based on uniform definitions and categories of information. The proposed regulation does not introduce any new definitions or categories of information but asks for a more detailed breakdown. The Commission's data report form requests the job category, minority status, and sex of its employees; the Corporation's present form requires an additional breakdown of employees by title and salary within each category. This information, which is presently collected by the Corporation, will enable the Corporation and the Department to ensure that employees are being accurately categorized by recipients.

24. The Department is aware that recipients will also have to report data to the Federal Communications Commission and some must also report annually to the EEOC. The Department intends to pursue the development of a memorandum of understanding with the other Federal enforcement agencies to ensure that Federal equal employment opportunity reporting requirements placed on the public broadcasting industry are well coordinated and do not impose an undue burden on recipients.⁷

⁷ The recently promulgated rules governing grants under the Public Telecommunication Facilities Program of the U.S. Department of Commerce recognize the need to coordinate equal employment enforcement with HEW, FCC and EEOC through an interagency agreement. 44 Fed. Reg. 30898, May 29, 1979.

25. Recipients that do not demonstrate that they fully utilize minorities and women must report the steps taken to increase the employment of these groups during the prior grant or contract period. Recipients must describe their efforts in detail but need not provide underlying documentation unless requested by the Corporation or Department. Recipients that submit an affirmative action report to the Corporation in connection with their application for a community service grant may refer to that report in applying for any other grants or contracts during the same community service grant year.

26. The Department has concluded that it cannot rely on the affirmative action reports that are submitted to the Federal Communications Commission once every three years. The designation of the Department of Health, Education, and Welfare to oversee the affirmative action performance of the public broadcasting industry is in part the result of Congressional dissatisfaction with the prior efforts of Federal agencies. In the Department's view, the Act contemplates an increased level of compliance activity and supports the requirement of annual reporting by recipients not fully utilizing minorities and women.

Subpart C—Corporation for Public Broadcasting Procedures

27. *Application review, § 87.20.* The Act requires the Corporation to satisfy itself that each applicant for a grant or contract is affording equal opportunity in employment. This section of the proposed regulation includes guidelines for making the initial determination of compliance. Under the proposed regulation the Corporation must review and approve the utilization analyses of recipients that claim full utilization. For those recipients that do not demonstrate full utilization, the Corporation must review the affirmative action reports submitted to assure itself that the applicant has complied with the requirements of the regulation during the prior grant or contract period.

28. The Corporation is obligated to offer technical assistance to applicants and recipients to aid them in complying with all sections of the proposed regulation. It is the Department's view that the Corporation has the requisite expertise to provide the assistance needed by recipients.

29. When the Corporation determines that an applicant is in non-compliance with this regulation, it must refer the matter to the Department and must provide funds to the applicant, if it would have provided such funds in the absence of its determination.

30. *Post-approval monitoring, § 87.22.* The Department does not propose that the Corporation adopt a detailed post-approval monitoring program at this time. Given the routine review of virtually all recipients at the time they apply for the annual community service grant, extensive monitoring by the Corporation does not appear necessary. The regulation does require that all recipients that do not receive a community service grant but receive a long term grant or contract must be reviewed at least once a year. The Corporation and the Department retain the authority to implement a more extensive monitoring program in the future.

Subpart D—Department of Health, Education, and Welfare Compliance Procedures

31. The proposed compliance procedures are similar to those in effect under the Department's Title VI regulations.⁸ These procedures provide for compliance reviews, complaint investigations, hearings before an administrative law judge, and appeals to HEW's Civil Rights Reviewing Authority and the Secretary.

However, section 398 of the Act requires two modifications to the compliance procedures presently followed by the Department. First, the Act provides for a mandatory 120-day voluntary compliance period after a final determination of noncompliance. Secondly, it gives the Department the discretion to reduce rather than suspend funds to a noncomplying recipient. The Department is especially interested in the suggestions of the public on the circumstances that would warrant a reduction of funds instead of suspension. One situation being considered by the Department is when an entity such as the National Public Radio or the Public Broadcasting Service is found out of compliance. The heavy reliance of member stations on the programming of these entities may make a reduction of funds appropriate.

Subpart E—Miscellaneous

32. *Effect of other requirements, § 87.40.* A significant number of the recipients covered by the proposed regulation are affiliated with colleges or universities that may exercise some control over their personnel policies. Also, the hiring practices of these recipients may be subject to state civil service laws. Such recipients may not avoid any requirement of the proposed regulation because of a conflicting requirement of an institution with which

⁸ 45 CFR Parts 80 and 81.

they are affiliated. The Department also recognizes that recipients affiliated with colleges and universities are frequently covered by other Federal equal employment laws such as Executive Order 11246.

The Department believes, however, that the Act requires that recipients of funds from the Corporation be treated as independent entities. Given the deference that these regulations accord to EEOC's substantive regulations and policies, and the new mandate in Executive Order 12067 for EEOC to coordinate Federal equal employment requirements, this regulation should not create conflicting obligations for recipients.

33. *Compliance with Executive Order 12067.* Pursuant to Executive Order 12067, the notice of proposed rulemaking was reviewed by the Equal Employment Opportunity Commission, the Department of Justice, the Federal Communications Commission, and the Department of Commerce. The majority of the comments received from these agencies have been incorporated into the proposed regulation. The EEOC has reviewed this proposed regulation and has approved it for publication. However, it has asked that the Department specifically solicit comment on the following issues:

(a) *Aggregation of minorities for utilization analysis purposes.* Should recipients be allowed to aggregate minority groups for utilization analysis purposes? The Department recognizes that § 87.11(c) of the regulation, which allows recipients with fewer than 50 full-time employees to combine minority groups for the utilization analysis, may sometimes mask the need for affirmative action, for particular minority groups. The Department believes, however, that a separate utilization analysis for each minority group by employers of this size will be more effective because it is more likely to require an increase in the number of minorities than would separate analyses for each minority group. In addition, the more detailed analysis would be unduly burdensome for employers of this size. Therefore, the Department believes that an aggregate utilization procedure is more appropriate for these recipients. Moreover, because the data collection requirements of the proposed regulation provide for information on the employment of each minority group, it will be possible to identify discrimination against a particular group in violation of Section 87.10, and the Department and the Corporation will take appropriate action where discrimination is found. Another

aggregation standard that has been considered is limiting aggregation to those minority groups that individually constitute less than five percent of the labor market area. Specific comment is invited on the feasibility of requiring the conducting of separate utilization analyses for each minority group, by employers with less than 50 employees.

(b) *Reporting the educational levels of employees.* Should recipients be required to include data on the educational levels of employees by job category, race and sex, in their employment surveys? Inclusion of these data in the employment survey might enable the Corporation and the Department to determine whether employment policies and practices for women and minorities differ from those for nonminority males with comparable levels of education, in the areas of hiring, promotions and work assignments.

(c) *Exemption of recipients that fully utilize women and minorities from written affirmative action programs and reports.* Should recipients that demonstrate full utilization of women and minorities be exempted from establishing written affirmative action programs and from submitting affirmative action reports to the Corporation? The proposed regulation establishes full utilization as the goal of the affirmative action process. Thus, recipients who demonstrate attainment of this goal are not required to establish a written affirmative action program. However, these recipients will be required to periodically review their employment policies and practices to ensure that they do not discriminate. Further, they will continue to submit an annual employment survey which will enable the Corporation to determine whether full utilization is being maintained. Where recipients fail to maintain full utilization they must reinstate their affirmative action programs.

34. Interested parties are encouraged to submit written comments on the Notice. Comments should be filed on or before February 19, 1980, with: Director, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, P.O. Box 8219, Washington, D.C. 20024. Comments will be available for inspection during regular business hours in Room 5146, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Wash., D.C. 20201.

Dated: November 29, 1979.

Albert T. Hamlin,
Acting Director, Office for Civil Rights,
Department of Health, Education, and
Welfare.

Dated: December 8, 1979.

Patricia Roberts Harris,
Secretary, Department of Health, Education,
and Welfare.

It is proposed that title 45 of the Code of Federal Regulations be amended by establishing a new part 87, as follows:

PART 87—EQUAL OPPORTUNITY IN EMPLOYMENT PROVISIONS APPLICABLE TO THE PUBLIC BROADCASTING SERVICE, NATIONAL PUBLIC RADIO, AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

Subpart A—General Provisions

Sec.

- 87.1 Purpose and scope.
- 87.2 Definitions.

Subpart B—Obligations of recipients.

- 87.10 Discrimination prohibited.
- 87.11 Affirmative action.
- 87.12 Compliance information.

Subpart C—Corporation for public broadcasting procedures.

- 87.20 Application review.
- 87.21 Assurances.
- 87.22 Post-approval monitoring.
- 87.23 Initial determination of noncompliance by the Corporation.
- 87.24 Referral of complaints to the department.
- 87.25 Annual report to the department.
- 87.26 Cooperation with the department.

Subpart D—Department of Health, Education, and Welfare Compliance Procedures

- 87.30 Conduct of investigations.
- 87.31 Hearings.
- 87.32 Voluntary compliance.
- 87.33 Suspension or reduction of Federal assistance.
- 87.34 Review of annual reports of the corporation.
- 87.35 Judicial review.

Subpart E—Miscellaneous

- 87.40 Effect of other requirements
- Authority: Pub. L. 95-567, 92 Stat. 2405 (47 U.S.C. 398).

Subpart A—General Provisions

§ 87.1 Purpose and scope.

The purpose of this regulation is to carry out the provisions of section 398 of the Communications Act of 1934, as amended by the Public Telecommunications Financing Act of 1978 (47 U.S.C. 398). Section 398 of the Act requires "equal opportunity in

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employment" and prohibits "discrimination in employment" on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio or any successor organization, and all public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

§ 87.2 Definitions.

(a) The following terms shall have the following meanings when used in this regulation:

(1) "Act" means Subpart C of Part IV of the Communications Act of 1934, as amended, (47 U.S.C. 396-98).

(2) "Applicant" means the Public Broadcasting Service, National Public Radio or any successor organization, and any public telecommunications entity that submits an application to the Corporation for a grant or contract.

(3) "Commission" means the Federal Communications Commission.

(4) "Corporation" means the Corporation for Public Broadcasting.

(5) "Department" means the Department of Health, Education, and Welfare.

(6) "Director" means the Director of the Office for Civil Rights, of the Department, or the Director's designee.

(7) "Minority" includes: American Indian or Alaskan Native; Asian or Pacific Islander; Black not of Hispanic Origin; and Hispanic.

(8) "Noncommercial telecommunications entity" means any enterprise that:

(i) Is owned and operated by a State, a political or special purpose subdivision of a State, a public agency, or a nonprofit foundation, corporation, or association; and

(ii) Has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

(9) "Public telecommunications entity" means any enterprise that:

(i) Is a public broadcast station or a noncommercial telecommunications entity; and

(ii) Disseminates public telecommunication services to the public.

(10) "Recipient" means the Public Broadcasting Service, National Public Radio or any successor organization, and all public telecommunications entities receiving Federal funds from the Corporation;

(11) "Secretary" means the Secretary of Health, Education, and Welfare, or the Secretary's designee.

(12) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Island, and the Trust Territory of the Pacific Islands.

Subpart B—Obligations of Recipients

§ 87.10 Discrimination prohibited.

(a) *General.* No person shall be subjected to discrimination in employment by any recipient on the grounds of race, color, religion, national origin, or sex. A recipient shall not take any action or implement any employment policy or practice in a manner that discriminates against any person on the basis of race, color, religion, national origin, or sex.

(b) *Specific.* Each recipient shall periodically review its employment policies and practices to ensure that they are established and implemented in a nondiscriminatory manner, and shall take such steps as are necessary to correct any discriminatory policy or practice. The prohibition against discrimination in employment on the basis of race, color, religion, national origin, or sex extends to but is not limited to the following employment activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, demotion, transfer, layoff, termination, right to return from layoff, and rehiring;

(3) Rates of pay or other forms of compensation;

(4) Job assignment and job classification;

(5) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(6) Training, including selection and financial support for training, participation in apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(7) Employer-sponsored services and activities, including social and recreational programs; and

(8) Any other term, condition, or privilege of employment.

(c) *Retaliation and intimidation prohibited.* A recipient may not retaliate, intimidate, threaten, coerce, or discriminate against any person because the person has opposed a practice forbidden by this regulation, made a complaint, participated in an investigation or hearing under this regulation, or otherwise attempted to

obtain any right or privilege secured by this regulation.

(d) *Standards.* In determining whether a recipient has discriminated against any person or persons in violations of this regulation, the Department, the Corporation and recipients shall be bound by applicable published policies, interpretations, and guidelines of the Equal Employment Opportunity Commission, and by applicable case law under Title VII of the Civil Rights Act of 1964.

(e) *Violations of nondiscrimination requirements.* If a recipient has discriminated against any person or persons in violation of this section, it must provide any remedy necessary to correct the discrimination, including, but not limited to, reinstatement, back pay, and retroactive seniority.

§ 87.11 Affirmative action.

(a) *General.* Recipients shall take steps necessary to ensure that all persons are afforded equal opportunity in employment without regard to race, color, national origin, or sex.

(b) *Affirmative action program.* Each recipient shall conduct a utilization analysis to assess the presence of women and minorities in its overall workforce and in its three highest job categories compared to their presence in its labor market area. If the analysis fails to demonstrate full utilization in accordance with paragraph (c) of this section, the recipient must establish and implement a written affirmative action program. An acceptable affirmative action program shall indicate that, and where applicable describe how, the recipient shall do at least the following:

(1) Designate a program administrator, define the responsibility of each level of management and supervision to ensure vigorous enforcement of the program, and establish a procedure to ensure that managerial and supervisory employees meet their obligations under this regulation;

(2) Provide a written notice to persons applying for employment, employees, and recognized employee organizations indicating the recipient's commitment to nondiscrimination and equal employment opportunity and describing the rights of aggrieved persons under this regulation;

(3) Communicate the affirmative action program and employment needs to sources of minority and female employment applicants, including educational institutions in the labor market area with significant minority or female enrollments, and solicit their recruitment assistance in filling each position;

(4) Advertise all positions in minority news media and women's interest news media; and

(5) Conduct a continuing review of all employment policies and practices and adopt measures to ensure equality of opportunity in all occupations and levels of responsibility. Such measures should include:

(i) Eliminating selection and promotion criteria that have a disproportionately adverse effect on the employment opportunities of women and minorities unless the criteria have been validated to show job-relatedness and valid alternative criteria with a lesser adverse effect are unavailable; and

(ii) Establishing or participating in employee training programs that would enhance promotion opportunities for women and minorities.

(6) Establish a reasonable period of time for achieving the goal of full utilization.

(c) *Full utilization of minorities and women.* A recipient is not required to submit an affirmative action program pursuant to subparagraph (b) above if it demonstrates "full utilization of minorities and women."

(1) Full utilization of minorities and women exists when a recipient fully utilizes minorities and women in its overall workforce and in each of the following job categories: officials and managers; professionals; and technicians. (2) A recipient that seeks to demonstrate full utilization shall conduct separate utilization analyses for minorities as a whole and for women, except that recipients employing 50 or more full-time employees, must conduct separate utilization analyses for each minority group and for women. A recipient with multiple facilities or stations shall conduct a separate analysis for each minority group if the total number of full-time employees at these facilities is 50 or more. Recipients shall use the data submitted in the employment survey required by § 87.12(a) of this regulation, and labor market data. (3) Full utilization exists when the percentage of minorities and women employed on a full-time basis in the recipient's overall workforce and in the job categories of officials and managers, professionals, and technicians is equal to or greater than the percentages of minorities and women with the requisite skills in the recipient's labor market area. (4) Full utilization will be deemed to exist when the hiring of less than one person would result in full utilization or the hiring of one person would result in higher than full utilization. (5) A recipient's labor market area is the area from which the recipient may reasonably be expected to

draw employees. In determining the participation of minorities and women in the labor market area, the recipient may seek the assistance of the Corporation in obtaining current labor market data. However, in the absence of such assistance, a recipient shall perform this analysis to the best of its ability.

§ 87.12 Compliance information.

(a) *Employment survey.* Each application to the Corporation shall include an employment survey that will provide information by job category, job title, and salary, indicating the employment status of minority and women employees. If an applicant demonstrates full utilization in accordance with section 87.11(c) above, it must do so through this survey. Applicants that submit an employment survey in connection with an application for a community service grant need not submit an employment survey with any other application for a grant or contract submitted during the same community service grant year, unless requested by the Corporation or Department. The content and format of the employment survey shall be determined by the Department.

(b) *Affirmative action report.* If an applicant's employment survey does not demonstrate that it fully utilizes minorities and women, the applicant shall submit to the Corporation with its application for a grant or contract, or to the Corporation or Department upon request, a copy of its affirmative action program and an affirmative action report. The affirmative action report shall detail the steps taken to implement the applicant's affirmative action program during the prior grant or contract period. Applicants that submit an affirmative action report in connection with an application for a community service grant need not submit a report with any other application for a grant or contract submitted during the same community service grant year, unless requested by the Corporation or Department. The report shall include at least the following:

(1) The name, authority, and responsibilities of the program administrator;

(2) The names of the sources of minority and female referrals contacted prior to filling each position and a summary of the results of these contacts;

(3) The names of other recruitment sources, including educational institutions in the labor market area with significant minority or female enrollments, contacted prior to filling

each position, and a summary of the results of these contacts;

(4) The methods used to advertise each position filled;

(5) The conclusions of the recipient's analysis of its eligibility criteria for each position filled, and an explanation of the criteria;

(6) A copy of the notice provided to all job applicants and all employees;

(7) The opportunities for training and promotion provided to minority, female, and other employees and the results of these efforts;

(8) The time period established for achieving the goal of full utilization;

(9) the existence, status, and disposition of any employment discrimination complaints;

(10) A narrative discussion of the effectiveness of the efforts to increase the employment of minorities and women and, where underutilization persists, the additional steps that will be taken in the coming year to eliminate it; and

(11) Such other information as the Corporation or Department may require.

(c) *Additional reports.* Applicants and recipients shall submit, upon request, additional reports to the Corporation or the Department during application reviews and monitoring subsequent to the approval of applications. These reports shall include such information as the Corporation or the Department deems necessary. Each recipient shall also keep such records and other information, as the corporation or department may request, relevant to determining compliance with this regulation.

(d) *Access to sources of information.* Each applicant and recipient shall permit access by the Department, to its facilities and to such of its books, records, accounts, and other sources of information that may be pertinent to determining compliance with this regulation. This access shall be permitted during normal business hours. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating and seeking to enforce compliance with this section. Information of a confidential nature obtained under this regulation shall not be disclosed except when required by law.

Subpart C—Corporation for Public Broadcasting Procedures

§ 87.20 Application review.

(a) *General.* Prior to the approval of any grant or contract, the Corporation shall determine whether the applicant is in compliance with this regulation. If an applicant was found in compliance with

this regulation at the time of its application for a community service grant the Corporation may, in the absence of new indications of a possible violation, deem the applicant in compliance with this regulation as to all other applications submitted during the same community service grant year.

(b) *Guidelines.* In order to make a determination of compliance, the corporation shall review the employment survey, affirmative action report, and take such other steps as the Corporation or department may deem necessary. Compliance exists where:

(1) Full utilization in accordance with § 87.11(c) has been demonstrated; or

(2) An affirmative action program that satisfies all elements of § 87.11(b) is being implemented and the Corporation determines that the recipient has made good faith efforts to achieve full utilization within a reasonable period of time. Factors that shall be considered in making this determination include but are not limited to the size of the workforce, the rate of employee turnover, and the degree of improvement in the utilization of women and minorities; and

(3) The employment survey is complete and appears to be accurate; and

(4) The recipient is complying with all outstanding compliance agreements entered into under this regulation; and

(5) There is no other information indicating a possible violation of this regulation.

(c) *Technical assistance.* The Corporation shall provide current labor market data to applicants and, where it is unable to do so, shall assist applicants in obtaining such data. Further, it shall provide technical assistance upon request. Such technical assistance shall include: assisting in the identification of employment criteria that impede the employment opportunities of women and minorities and of alternative criteria with a lesser adverse effect; aiding in the development of recruitment and training programs to increase the employment of minorities and women; and other actions needed to comply with this regulation.

§ 87.21 Assurances.

The Corporation shall incorporate into each grant agreement or contract with any recipient entered into on or after the effective date of this regulation a statement that the recipient shall comply with the provisions of Section 398 of the Act and this regulation.

§ 87.22 Post-approval monitoring.

The Corporation shall establish and maintain an effective monitoring program that shall include:

(a) An annual review of compliance with the equal employment opportunity requirements of this regulation by recipients of grants or contracts that extend longer than one year. In each annual review the Corporation shall use the procedures and make the determinations set forth in § 87.20(b) of this regulation. When the recipient of a long-term grant or contract also submits an application annually for a grant or contract, the annual review may be conducted in conjunction with the application review.

(b) Such other monitoring activities as the Corporation or the Department may deem necessary to carry out the Corporation's responsibilities under this regulation.

§ 87.23 Initial determination of noncompliance by the Corporation.

(a) If the Corporation determines that an applicant or recipient is not complying with this regulation, the Corporation shall immediately refer the matter to the Director for a final determination of compliance or noncompliance, and shall notify the applicant or recipient. The Corporation shall continue to provide technical assistance, if the applicant or recipient requests it. If the Corporation subsequently determines that the applicant or recipient is complying or will comply with this regulation, it shall notify the Director and the applicant or recipient. This notification shall explain and document the basis for the Corporation's determination, and the Director may thereafter suspend action on the matter.

(b) The Corporation shall continue to fund a recipient that it determines to be in noncompliance with this regulation, pending the final determination of the Department.

(c) The Corporation shall reduce or suspend funds to a recipient if it is directed to do so by the Director in accordance with § 87.33 of this regulation.

§ 87.24 Referral of complaints to the Department.

If the Corporation receives a complaint alleging that a recipient has engaged in a discriminatory employment practice, or receives any other information indicating possible discrimination, the Corporation shall immediately refer the matter to the Director for investigation and a final determination.

§ 87.25 Annual report to the Department.

Beginning in 1981, the Corporation shall submit an annual report to the Secretary on or before the annual reporting date specified by the Act. The report shall:

(a) Describe in detail the steps taken during the preceding fiscal year to carry out the Act;

(b) Contain data from the employment surveys of applicants and recipients in such form as the Secretary may require;

(c) Contain evaluations and information that the Corporation determines is useful in analyzing the progress made by recipients in providing equal employment opportunity; and

(d) Contain such other data as the Department may require.

§ 87.26 Cooperation with the Department.

The Corporation shall provide technical assistance to the Department, upon request, and shall cooperate fully with the Department. The Corporation shall maintain all records and information developed and collected in carrying out its responsibilities under this regulation and shall provide full access to the Department to such records and information.

Subpart D—Department of Health, Education, and Welfare Compliance Procedures

§ 87.30 Conduct of investigations.

(a) *Compliance reviews.* The Director may on his or her own initiative, periodically investigate the practices of recipients to determine whether they are complying with this regulation.

(b) *Complaints.* Any person who believes himself or herself or any specific class of individuals to be subjected to discrimination prohibited by this regulation may individually or through a representative file a written complaint with the Director or with the Corporation. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Director pursuant to a showing of good cause for the delay.

(c) *Form of complaint.* Each complaint alleging employment discrimination in violation of this regulation should contain the following:

(1) The full name and address of the complainant and, if different, the name and address of the aggrieved person or persons, if any;

(2) The full name and address of the recipient against which the charge is made; and

(3) A clear and concise statement of the facts that gave rise to the allegation of unlawful employment discrimination.

(d) *Investigations.* The Director will promptly investigate whenever a complaint or any other information indicates a possible failure to comply with this regulation. Any investigation by the Director will include, where appropriate, an on-site review of the pertinent practices and policies of the recipient, of the circumstances under which the possible noncompliance occurred, and of other factors relevant to a determination of compliance.

(e) *Investigation of determinations by the Corporation.* When the Corporation reports to the Department that an applicant or recipient is not complying with the regulation the Director shall review the matter. The Director may adopt the determination of the Corporation as the initial finding of the Department, without further investigation.

(f) *Investigative findings.* The Department's initial finding, upon completion of an investigation or review of a determination by the Corporation, will be communicated to the recipient, complainant, and the Corporation in writing.

(g) *Services of the Corporation and Federal agencies.* Before or during an investigation, the Director may use the services of the Corporation, and of appropriate Federal agencies charged with the administration of fair employment practices, and, to the extent relevant, may use the information gathered by these entities.

§ 87.31 Hearings.

(a) *Opportunity for hearing.* If an initial finding of noncompliance is made by the Department, and if voluntary compliance efforts pursuant to § 87.32(a)(2) fail, or no such efforts are made, the recipient shall be given an opportunity for hearing. There shall be an express finding on the hearing record of a violation of this regulation before the Department takes any adverse action against the recipient.

(b) *Hearing procedures.* The procedures applicable to hearings under Title VI of the Civil Rights Act of 1964 apply to hearing procedures under this regulation. The applicable Title VI procedures are found at 45 CFR 80.9–80.10 and 45 CFR Part 81. The decision by the Department resulting from these procedures shall be its final determination of compliance or noncompliance.

(c) *Notice of final determination.* The Department shall send written notice of its final determination to the recipient within 10 days of such determination.

§ 87.32 Voluntary compliance.

(a) *Pre-hearing voluntary compliance.* (1) At any time after an investigation or review of a recipient's compliance status has begun, the Director may engage in conciliation discussions with the recipient. (2) Immediately following an initial finding of noncompliance by the Department, but prior to a hearing, the Director shall engage in voluntary compliance efforts with the recipient if it is determined that conciliation efforts are likely to be successful. The recipient and Director shall have up to 30 days from the date of receipt of the written notice of noncompliance to achieve voluntary compliance. The Director shall approve voluntary compliance plans on behalf of the Department.

(b) *Post-hearing voluntary compliance.* A recipient found to be in noncompliance in a final determination shall have 120 days after receipt of a written notice of the final determination to correct its violations or to execute a compliance agreement that is approved by the Director.

§ 87.33 Suspension or reduction of Federal assistance.

(a) *Suspension of funds.* If the Department makes a final determination that a recipient is in noncompliance with this part and compliance is not achieved through voluntary means within the 120 day period prescribed in § 87.32(b) of this regulation, the Director shall direct the Corporation to suspend further payment of funds under any grant or contract to the recipient. The Corporation shall comply with any such order.

(b) *Reduction of funds.* In certain cases the Director may direct the Corporation to reduce funds to a noncomplying recipient.

(c) *Post-suspension or reduction proceedings.* Procedures applicable to Title VI of the Civil Rights Act of 1964, found at 45 CFR 80.10(g), shall apply to post-suspension or reduction proceedings under this regulation.

§ 87.34 Review of annual reports of the Corporation.

The Director will review the annual reports submitted by the Corporation and, on the basis of his review, may take whatever steps are deemed necessary to effect compliance with this regulation. The Director may request the Corporation to provide additional information to assist in a review, and the Corporation shall comply with this request.

§ 87.35 Judicial review.

Suspension or reduction of funds pursuant to section 398 of the Act is

subject to judicial review in accordance with 5 U.S.C. 704.

Subpart E—Miscellaneous

§ 87.40 Effect of other requirements.

(a) *Requirements of other Federal agencies.* The requirements imposed by this regulation are independent of requirements imposed by any other Federal agency pursuant to any other Act of Congress or Federal regulation governing nondiscrimination in employment by recipients.

(b) *Effect of State or local law or other requirements.* The obligation to comply with this regulation is not obviated by any State or local law, merit system, any inconsistent term of a collective bargaining agreement, or any contractual arrangement to which a recipient may be a party, or any other requirement relating to the employment practices of recipients.

[FR Dec. 79-36917 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-325; RM-3444]

FM Broadcast Station in Bernalillo, N. Mex.; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Bernalillo, New Mexico, in response to a petition filed by RFC Partners. The proposed channel could be used to provide a first local aural broadcast service to the community.

DATES: Comments must be filed on or before February 8, 1980 and reply comments must be filed on or before February 28, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Bernalillo, New Mexico) Notice of Proposed Rule Making.

Adopted: December 10, 1979.

Released: December 18, 1979.

By the Acting Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments.* (a) *Notice of Proposed Rule Making* is hereby given concerning amendment of the FM Table of Assignments, Section 73.202(b), of the Commission's Rules, as it relates to Bernalillo, New Mexico.

(b) A petition for rule making¹ was filed on behalf of RFC Partners ("petitioner"), licensee of AM Station KXEW, Tucson, Arizona, proposing the assignment of either FM Channel 269A or Channel 292A to Bernalillo.²

(c) Petitioner asserts that it will apply for the channel, if assigned, and construct a station, if authorized.

2. *Community Data.* (a) *Location.* Bernalillo, seat of Sandoval County, is located in central New Mexico, approximately 27 kilometers (17 miles) north of Albuquerque, New Mexico, and 72 kilometers (45 miles) south of Santa Fe, New Mexico.

(b) *Population.* Bernalillo—2,016;³ Sandoval County—17,492.

(c) *Local Aural Broadcast Service.* There is no local aural broadcast service in Bernalillo or Sandoval County.

3. *Economic Considerations.* Petitioner states that Bernalillo is the trading center for the surrounding area and bases its economy on manufacturing, wholesale and retail trade, and construction/building trades. According to the Current Population Reports, U.S. Department of Commerce, Bernalillo had a 24% population increase between 1970-1976. Petitioner has submitted demographic data in order to show the need for a first FM channel to Bernalillo.

4. Because the preclusive impact on otherwise possible assignments is substantially less on Channel 269A than on Channel 292A, we are proposing to assign Channel 269A to Bernalillo.

5. In view of the fact that the proposed FM channel could provide the community with a first local aural broadcast service, the Commission proposes to amend the FM Table of Assignments (Section 73.202(b) of the Rules), with regard to Bernalillo, New Mexico, as follows:

City	Channel No	
	Present	Proposed
Bernalillo, New Mexico.....		269A

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are

¹ Public Notice of the petition was given on August 17, 1979, Report No. 1168.

² Petitioner has previously proposed to assign Channel 288A to Bernalillo but amended its petition when it discovered the pendency of two conflicting proposals for adjacent channel assignments at Santa Fe and Pecos, New Mexico.

contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before February 8, 1980, and reply comments on or before February 28, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or oral) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission,
Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply

comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-39257 Filed 12-20-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 657

Mid-Atlantic Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Public Hearings.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold public hearings for the purpose of receiving public input on Amendment Number 1 to the Butterfish Fishery Management Plan (FMP).

DATES: *Comments:* The Mid-Atlantic Council is soliciting public comments on the amendment under consideration and will accept oral or written statements at the hearings specified below. Interested persons may also submit written comments directly to the Council no later than January 8, 1980.

Public Hearings.

January 7, 1980—Narragansett, Rhode Island;

January 8, 1980—Riverhead, New York;

January 9, 1980—Philadelphia, Pennsylvania.

All of the above hearings will start at 7:00 p.m.

ADDRESS: *Send Comments to:* Chairman, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901, Telephone (302) 674-2331.

Hearing Locations

January 7, 1980—Dutch Inn, Great Island Road, Narragansett (Galilee), Rhode Island 02882;

January 8, 1980—Holiday Inn, Route 25, Riverhead, New York 11901;

January 9, 1980—Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania 19153.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901, Telephone (302) 674-2331.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan (FMP) for Atlantic Butterfish was approved by the Assistant Administrator for Fisheries, NOAA, on November 9, 1979. The FMP is for fishing year 1979-1980 (April 1, 1979-March 31, 1980). The purpose of Amendment Number 1 is to extend the FMP through the end of fishing year 1980-1981 (April 1, 1980-March 31, 1981).

The plan is intended to accomplish the following objectives:

- Promote the growth of the U.S. butterfish export industry;
- Minimize cost of harvesting butterfish;
- Increase employment opportunities for commercial fishermen;
- Prevent exploitation of the resource beyond that level producing the maximum sustainable yield (MSY); and

e. Minimize costs of enforcement and management of the resource.

The management unit for the FMP is all butterfish under U.S. jurisdiction north of Cape Hatteras.

The following management measures are included in the FMP:

1. The fishing year 1979-1980 optimum yield (OY) for butterfish is 11,000 metric tons (mt). The harvesting capacity (estimated Domestic Annual Harvest) (DAH) and U.S. processing capacity (estimated Domestic Annual Processing) (DAP) for butterfish for the 1979-1980 fishing year has been estimated to be 7,000 mt. Foreign fishermen, therefore, have been allocated an initial surplus (total allowable level of foreign fishing (TALFF)) of 4,000 mt. of butterfish.

2. Any owner/operator of a vessel (foreign or domestic) desiring to catch butterfish within the Fishery Conservation Zone (FCZ) (other than individual U.S. fishermen for their own use), or transport or deliver for sale any butterfish caught within the FCZ, must possess a valid permit signed by the National Marine Fisheries Service (NMFS).

3. Foreign fishing for butterfish is governed by Part 611 of Title 50, Code of Federal Regulations (the Foreign Fishing Regulations).

4. Weekly catch reports must be filed by domestic fishermen possessing a valid permit for the butterfish fishery, and domestic dealers and processors must submit weekly reports on transactions involving butterfish.

5. Any significant fraction of the U.S. butterfish capacity not harvested by U.S. fishermen may be reallocated to foreign fishermen.

Alternatives for Amendment Number 1 are:

1. Take no action at this time—this alternative would mean that the FMP would lapse at the end of fishing year 1979-1980, unless extended by a Secretarial amendment. NMFS could be required to prepare a Preliminary Management Plan (PMP) to regulate the foreign fishery.

2. Continue the current FMP through fishing year 1980-1981 with no other changes. The following values would apply to 1980-1981: OY=11,000 mt, DAH=DAP=7,000 mt, and TALFF=4,000 mt.

3. Increase/Decrease OY, DAH, DAP and/or TALFF. The probable biological consequences of a wide range of OY's are described in sections V-2, V-3 of the original FMP (as updated by the most recent butterfish stock assessment—Appendix 1 of Amendment Number 1). The MSY for this species, given the present mix of fishing gear, both domestic and foreign, is about 16,000 mt.

The stock currently appears able to sustain an annual harvest of that magnitude, barring any significant declines in future recruitment. It is recognized that, if the predominant mesh sizes used in the fishery change significantly, the estimate of MSY will probably require adjustment. The estimates of DAH and DAP were reviewed in June of 1979 and considered reasonable for fishing year 1980-1981.

The hearings will be tape recorded and the tapes will be filed as official transcripts of the proceedings. A written summary will be prepared on each hearing.

Dated: December 17, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-39232 Filed 12-20-79; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 144, 151, and 159

Open Conference for Discussion and Clarification of Issues Raised in Comments Concerning Proposed Amendments to the Customs Regulations Relating to Public Gaugers of Imported Petroleum and Petroleum Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Conference.

SUMMARY: This document announces that an open conference will be held on January 8, 1980, for the discussion and clarification of issues raised in comments submitted in regard to proposed amendments to the Customs Regulations relating to public gaugers of imported petroleum and petroleum products.

DATES: The open conference will be held on January 8, 1980, at 9:30 a.m. Persons expecting to be present at the conference should contact the person listed in "For Further Information Contact" below by noon, January 7, 1980.

ADDRESS: The conference will be held in Room 3428, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Alfred G. Scholle or Marvin Amernick, Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1979, the Customs Service published in the Federal Register (44 FR 64434), notice of a proposal to amend Parts 4, 144, 151, and 159, Customs Regulations (19 CFR Parts 4, 144, 151, 159), to incorporate recommendations of a Customs Petroleum Imports Task Force for establishing guidelines and procedures applicable to the use of public guagers in monitoring imports of petroleum and petroleum products. As fully explained in that notice, the purpose of the proposed amendments is to ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating to the importation of these products.

Comments were to have been received on or before December 7, 1979. However, in order to permit interested persons additional time to prepare and submit more detailed comments, the time for the submission of comments was extended to December 14, 1979, by notice published in the Federal Register on November 21, 1979 (44 FR 66835).

In response to the notice, Customs received comments from 16 corporations, cooperatives, and organizations. Certain of the commenters requested that, prior to the issuance of a final rule, public discussion be devoted to the issues raised in the comments.

In view of these requests, and because several of the other commenters indicate that there is confusion regarding the impact of the proposals, Customs has determined that a conference should be held to afford an opportunity to discuss and clarify the issues raised.

Accordingly, Customs will hold an open conference at 9:30 a.m., on Tuesday, January 8, 1980, in Room 3428, Headquarters, U.S. Customs Service. Interested members of the public are invited to participate.

In order that Customs may ensure adequate accommodations for all who wish to attend, it is requested that those persons expecting to be present contact Alfred G. Scholle or Marvin Amernick by noon, January 7, 1980, by telephone (202-566-8237).

Dated: December 19, 1979.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 79-39979 Filed 12-20-79; 9:29 am]

BILLING CODE 4810-26-M

Notices

Federal Register

Vol. 44, No. 247

Friday, December 21, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

Sale of Magnetic Tapes by Government Printing Office

AGENCY: Administrative Committee of the Federal Register.

ACTION: Notice of sale of magnetic tapes.

SUMMARY: The magnetic tapes produced by the Government Printing Office to photocompose the daily Federal Register and the annual Code of Federal Regulations will be sold by the Government Printing Office.

DATE: The magnetic tapes will be for sale after March 1, 1979.

FOR FURTHER INFORMATION CONTACT: James L. Payne, Government Printing Office, telephone 202-275-2287.

SUPPLEMENTARY INFORMATION: The Administrative Committee of the Federal Register has given its approval for Customer Services Division, Government Printing Office, to sell magnetic tapes of the daily Federal Register and of the Code of Federal Regulations.

The cost of each daily issue of the Federal Register on magnetic tape will be \$75, and it will be available three working days after the issue is published.

For the Code of Federal Regulations each magnetic tape will cost \$55 and will be available as soon as the production requirements of the Government Printing Office are met.

Note.—The number of tapes necessary to print one volume or title of the Code will vary with the length of the volume or title.

Also included on the magnetic tapes are the printing instructions or codes used to print the Federal Register. The tapes will not include all the material just as it appears in the Federal Register. Illustrations, graphic designs, and certain documents that were

photographed in order to be printed will not be on the tapes. Certain last-minute corrections may not be on the tapes.

Buyers of the tapes will be able to consult with the Government Printing Office on the printing codes and what information is on a magnetic tape. There will be a charge to each buyer of \$31 for one hour of this type of consultation.

Ernest J. Galdi,

Secretary, Administrative Committee of the Federal Register.

December 19, 1979.

[FR Doc. 79-39253 Filed 12-20-79; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1980 Upland Cotton Program; Determinations Regarding Proclamation of the 1980 Crop Established (Target) Price, National Program Acreage, and Other Provisions for Upland Cotton

AGENCY: Agricultural Stabilization and Conservation Service

ACTION: Notice of Determination of the 1980 Crop Established (Target) Price, National Program Acreage, and Other Provisions for Upland Cotton

SUMMARY: The purpose of this notice is to determine and proclaim with respect to the 1980 crop of upland cotton (referred to as "cotton"); (1) Established (target) price; (2) national program acreage; (3) voluntary reduction percentage; (4) no set-aside requirement; (5) no land diversion payments; and (6) no limitation on planted acreage. These determinations are required to be made by the Secretary in accordance with provisions of section 103(f) of the Agricultural Act of 1949, as amended, and the Food and Agriculture Act of 1977, as amended. The 1949 Act requires that the national program acreage for the 1980 crop of upland cotton be announced no later than December 14, 1979. This notice is needed to satisfy statutory requirements.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Production Adjustment Division, ASCS-USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: 10Alfred Oberg (ASCS) (202) 447-7901.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the Federal Register on September 18, 1979 (44 FR 54077), in accordance with 5 U.S.C. 553 and Executive Order 12044. A total of 69 comments were received, 50 from individual producers, 6 from cotton farm organizations, 9 from general farm organizations and 2 from nonfarm public. Twenty seven commented on the target price level. Seven comments recommended that the target price for 1980 be adjusted for increased production costs; other recommendations on the target price level and the number received were: one recommended 60 cents; eight recommended 61.7 cents; three recommended 64 cents; one recommended 70 cents; and one recommended 90 cents. Five recommended it be set at 100 percent of parity, and two recommended 70 percent of parity. Three comments related to the national program acreage were received. One recommended that the national program acreage be set at the statutory minimum of 10 million acres, one recommended 10.8 million acres, and one recommended 12.5 million acres. Thirty comments were received concerning set-aside. Four recommended no set-aside. Of the 26 comments recommending a set-aside, 6 recommended a 10 percent requirement, 3 recommended 15 percent, 1 recommended 20 percent, 2 recommended 25 percent, 2 at 28 percent, 1 at 30 percent, 1 at 50 percent and 10 did not specify a percentage. Two stated that if a feed grain set-aside was proclaimed, then there should be a corresponding set-aside level established for upland cotton. Fifteen comments were received concerning voluntary diversion. Five comments opposed and 10 favored voluntary paid diversion, three comments recommended a 10 percent diversion requirement, 1 recommended 20 percent, 1 recommended 25 percent, 1 recommended 28 percent, 1 recommended 30 percent, and 8 did not specify a percentage. One comment favored a 10 percent set-aside and a higher paid diversion. Two comments suggested a payment rate of 20 cents per pound on a 10 percent voluntary diversion. Two comments opposed the bid system for setting the diversion

payment rate. One comment was received favoring a 28 percent reduction. Five comments recommended that there be no limitation on planted acreage, while four comments recommended a limitation. All comments received were duly considered where within the statutory authority.

It is essential that these decisions be made effective as soon as possible since the proclamation of the national program acreage is required to be made not later than December 14, 1979, and farmers need to know the other provisions as soon as possible so that they can make their farming and marketing plans. Accordingly, the Secretary has made the following determinations:

Final Determinations

1. *Established (Target) Price.* Based on the formula required by law, the 1980 established (target) price for upland cotton is expected to be between 57.0 and 61.0 cents per pound. Based on preliminary cost of production data, the 1980 target price is indicated to be 59.5 cents per pound. However, this level is subject to change depending upon final 1979-crop costs of production and the final 1979 upland cotton yield per planted acre. It is anticipated that the final 1980 target price will be announced about mid-March, 1980.

2. *National Program Acreage.* In accordance with Section 103(f)(7) of the 1949 Act, it is hereby proclaimed that the national program acreage for the 1980 crop of cotton shall be 11,602,285 acres based on the following data:

a. Estimated domestic consumption, 1980-81 (480-lb net weight bales).....	6,500,000
b. Plus estimated exports, 1980-81 (480-lb net weight bales).....	6,400,000
c. Minus estimated imports, 1980-81 (480-lb net weight bales).....	10,000
d. Minus adjustment to decrease stocks to desired level (480-lb net weight bales).....	200,000
e. Times 480-lb per bale (lb).....	6,091,200,000
f. Divided by estimated weighted national average of farm program yields (lb/acre).....	525
g. Equals: 1980 national program acreage (acres).....	11,602,285

3. *Voluntary Reduction Percentage.* In accordance with Section 103(f)(9) of the 1949 Act, it is hereby determined and proclaimed that producers who voluntarily reduce their 1980 cotton acreage from that planted and considered planted in 1979 by at least 10 percent shall be guaranteed any deficiency payments on the normal production of their entire planted acreage. In applying the voluntary reduction for 1980, the 1979 cotton acreage planted and considered planted shall be the sum of:

1. Any acreage that failed and was not replanted during the normal planting period, and,

2. Any cotton acreage that was planted and subsequently destroyed for designation as set-aside or diverted acreage, under the wheat or feed grain programs.

b. The approved prevented planted acreage.

c. The acreage voluntarily reduced in 1979 from 1978 (total of planted and approved prevented planted acreage), not to exceed the 1979 voluntary reduction of 15 percent, or

d. The increase in the normal crop acreage for the farm in 1980 resulting from a change from skip-row planting in 1979 to solid planting in 1980 with a consequent reduction in the farm established (payment) yield.

The reduction percentage is calculated as follows:

1. Estimated 1979 harvested acreage.....	12,958,000
2. Plus considered harvested acreage.....	50,000
3. Equals: Harvested and considered acreage.....	13,008,000
4. Minus 1980 national program acreage.....	11,602,285
5. Equals: Acreage reduction needed in 1980.....	1,405,715
6. Divided by estimated 1979 considered harvested acreage.....	13,008,000
7. Equals: 1980 reduction percentage (rounded to nearest 5 pct).....	10

4. *Set-Aside Requirement.* It is hereby determined that there will be no set-aside requirement under the 1980-crop cotton program. Without a set-aside, it is expected that cotton acreage in 1980 will be around 13.5 million acres—0.5 million (3.4 percent) below 1979. With normal weather and yields of around 485 pounds per harvested acre, production would likely total 12.8 million bales—1.9 million (11 percent) below 1979. With adverse weather conditions and yields of around 445 pounds per harvested acre, production would total around 11.7 million bales—2.7 million (19.0 percent) below 1979. With very favorable weather and yields of around 525 pounds per harvested acre, production would total around 14.0 million bales—0.4 million (2.8 percent) below 1979.

In spite of the record yield in 1979 (534 pounds per harvested acre) and the highest production in 14 years, the stock build-up is not expected to become burdensome. Very strong export sales during the 1979 season are expected to hold the stock increase to about 1.3 million bales, for a total carryout from the 1979 crop of 5.2 million. Current expectations for 1980-crop production, domestic use and exports lead to a projected 1980-crop carryout of around 5.2 million bales, same as for 1979. Had a set-aside been imposed for the 1980 crop, it was projected that under normal weather ending stocks on July 31, 1981, would be 4.8 million bales, a reduction of 0.4 million from the projected level with no set-aside.

However, a poor yield was projected to reduce stocks to 3.7 million bales, a level considered less than adequate. For this reason it has been determined that a cotton set-aside will not be implemented in 1980.

5. *Land Diversion Payments.* It is hereby determined that there will be no land diversion payments under the 1980-crop cotton program for the same reason that there is no set-aside requirement.

6. *Limitation on Planted Acreage.* It is hereby determined that there will be no limitation on acreage planted to upland cotton in 1980 since there is no set-aside requirement.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Final Impact Statement is available from Alfred Oberg (ASCS) (202) 447-7901.

Signed at Washington, D.C. on December 14, 1979.

Jim Williams,
Acting Secretary.

[FR Doc. 79-36864 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

USDA-FDA-Swine Industry Task Force Report on Sulfonamide Residue Program; Public Meeting

Notice is hereby given of a public meeting to report on the sulfonamide residue program to be held at the Frerer Gallery of Art Auditorium, 12th and Independence Avenue, S.W., Washington, D.C., on January 9 and 10, 1980, at 9:00 a.m. All interested persons are encouraged to attend.

Sulfonamide drugs are used in swine feeds to promote growth and help control such diseases as atrophic rhinitis, bacterial pneumonia and dysentery. From monitoring drug levels in late 1974, USDA detected violative levels of sulfonamide residues in tissues of swine being sent to slaughter. These tissues were collected as part of the Department's program for monitoring residues in the meat and poultry supply. Results from the program indicated violative levels of residue were occurring in 30-35 percent of the pork tissues being sampled. Such violations are a cause of adulteration within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*).

On January 16, 1978, the Department held a public meeting to discuss the issues raised by these high residue levels (42 FR 62512). On April 4, 1978, the Secretary, after considering recommendations made during and after the public meeting, delegated to the Assistant Secretary for Marketing Services, authority to administer a program to investigate the use of

sulfonamides in swine production (43 FR 14004).

The purpose of this meeting is to report the results of the 18-month Sulfa Action Program which was developed by this Department in conjunction with the Food and Drug Administration, American Feed Manufacturers Association, Animal Health Institute, and the National Pork Producers Council. The agenda for Wednesday, January 9, 1980, includes background information, industry involvement, analytical methodology and an explanation and summary of the field Program. The agenda for Thursday, January 10, 1980, includes an explanation and summary of feed mill studies, USDA and Industry sponsored research, and a panel comprised of Government and industry representatives to answer questions from the audience.

The meeting will be open to the public on a first come, first served basis. For more detailed information concerning the meeting, contact Dr. R. I. Brown, Assistant to the Deputy Administrator, Veterinary Services, APHIS, USDA, 202-447-6631.

Done at Washington, D.C. on December 18, 1979.

F. J. Mulhern,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 79-39174 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

Technical and Supervisory Assistance Grants; Deadline for Submission of Preapplications and Use of Funds for Fiscal Year 1980

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) gives notice of the deadline for submission of preapplications for Technical and Supervisory Assistance (TSA) funds to FmHA field offices.

The TSA grant program provides funding to eligible applicants primarily to provide preoccupancy and delinquency counseling to future and present FmHA borrowers. TSA funds may also be used on a limited basis to expand the use of housing loan and grant programs by low-income families in rural areas.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Pentecost, MF Special Authorities Division, FmHA, Room 5321 South Agriculture Building, Washington,

D.C. 20250; telephone number: 202-447-7207.

SUPPLEMENTARY INFORMATION: A. On November 27, 1979, FmHA published a notice in the Federal Register regarding its allocation of all FmHA loan and grant funds for FY 1980 (44 FR 67682). This notice includes specific policies for use of FY 1980 TSA grants and the preapplication submission deadline in Attachment D, Paragraph X. This notice extends the deadline as published on November 27, 1979 for submission of TSA preapplications to the appropriate FmHA District Office from January 15, 1980, to close of business February 15, 1980. Preapplications received by FmHA after February 15 will be returned to the applicant.

B. As noted in the November 27, 1979 Notice, \$1.5 million is available for TSA grants of which \$1.2 million is to be used primarily for preoccupancy and delinquency counseling programs and \$300,000 for combined outreach and counseling programs. Applicants for the counseling programs should focus their program on the counseling aspect of supervisory assistance as described in Part 1944, Subpart K, Paragraph 1944.506(h)(1). The combined program must include both the counseling and the outreach aspects of supervisory assistance as described in Subparagraphs 1944.506(h)(1) and (2), respectively.

C. Each FmHA State Director will select either a counseling or combined program for transmittal to the FmHA National Office. Only one preapplication per State will be accepted by the National Office for review and consideration for funding. Applicants for the combined program will also be considered for the counseling program if the applicant requests such consideration and agrees to budget revisions as necessary. Approximately 20 projects will be selected by the National Office for funding under the project selection criteria contained in the TSA regulations.

D. Due to limited funds, FmHA is not making allocations to specific States for use of FY 1980 funds.

E. The term of the TSA grant is two years. Grant requests should not exceed \$75,000 (\$37,500 per year) for the counseling program and \$100,000 (\$50,000 per year) for the combined program.

F. All potential applicants will be advised, upon their request, of the priority areas within their State. Priority areas are generally those areas with high delinquency rate for FmHA single family housing and/or those areas with

a concentration of low-income and low-income minority families needing housing assistance.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)).

Dated: December 17, 1979.

James E. Thorton,
Associate Administrator, Farmers Home Administration.

[FR Doc. 79-39145 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-07-M

Food and Nutrition Service

Donated Foods to Nutrition Programs for the Elderly; Level of Assistance—Fiscal Year 1980

Notice is hereby given that pursuant to section 311(a)(4) of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f), the level of assistance in food commodities or, where applicable, cash in lieu thereof, to be provided by the Secretary of Agriculture to recipients of grants or contracts for the operation of nutrition services under Title III of the Act will be increased for the period October 1, 1979 through September 30, 1980, to 43.00 cents per meal. The legislation requires the Secretary in donating foods or cash in lieu thereof to nutrition programs for the elderly funded under Title III, to maintain a minimum level of assistance during that period and during the succeeding fiscal year of not less than 30 cents per meal. That amount shall be adjusted on an annual basis for each fiscal year after June 30, 1975 to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics (BLS) of the Department of Labor. The minimum level of assistance at 43.00 cents per meal includes such an adjustment and reflects an increase in that series of 11.90 percent as reported by BLS for the period September 1978 through August 1979.

Effective date: This notice is effective as of October 1, 1979.

Dated: December 17, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-39044 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-30-M

Forest Service**Regional Foresters and Deputy Regional Foresters; Delegation of Authority**

Pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, authority is hereby delegated through the Deputy Chief for the National Forest System to the Regional Forester and Deputy Regional Forester of each Forest Service Region to perform the following Acts under the authority of the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 533), and in accordance with the Regulations of the Secretary, 36 CFR 212.10:

- (1) Grant easements for road rights-of-way.
- (2) Execute Road Rights-of-Way Construction and Use Agreements and Supplements.
- (3) Terminate easements granted under this authority with the consent of the owner of the easement.

Effective date: This delegation of authority supersedes the delegation published in 43 FR 1633 dated January 5, 1978, and shall be effective December 21, 1979.

Done at Washington, D.C., this 14th day of December 1979.

R. Max Peteson
Chief, Forest Service.

[FR Doc. 79-39116 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-11-M

Wild and Scenic River Study North Fork Kern River, Calif.; Sequoia National Forest and Sequoia National Park Tulare and Kern Counties, Calif.; Intent To Conduct the Study and Prepare an Environmental Impact Statement

The Wild and Scenic Rivers Act (16 U.S.C. 1271, et seq.), as amended by the National Parks and Recreation Act of 1978, directed the study of the main stem of the North Fork Kern River to determine its eligibility and suitability for inclusion in the National Wild and Scenic Rivers System.

The USDA-Forest Service, as the lead agency, is commencing the study and the preparation of the environmental impact statement. The draft environmental impact statement is scheduled for completion in June 1981, followed by a three-month review period. The final environmental impact statement will be filed on or about February 1982.

The study will analyze and evaluate a range of alternatives which will include at least: (1) a "no-action" or non-designation alternative which represents a continuation of present use and management, (2) one or more

alternatives which recommend that segments of the river be designated and classified as wild, scenic, or recreation, and (3) designation and classification of all eligible segments of the river.

A meeting with affected and interested Federal and State of California agencies, as well as interested organizations, groups, and local governments will be held on January 5, 1980 at 1:00 p.m. in the Kernville Elementary School, Sierra Way, Kernville, California. The purpose of the meeting will be to identify cooperating agencies, to identify the issues and concerns to be addressed, and those that should be addressed in depth. Written comments and suggestions are encouraged. To be most useful, they should be received before March 7, 1980, by the Forest Supervisor, Sequoia National Forest.

For further information about the river study or the environmental impact statement, contact: Norman Arseneault, Recreation Staff Officer, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257. (Phone: 209-784-1500).

Dated: December 12, 1979.

Philip L. Thornton,

Acting Chief, Forest Service.

[FR Doc. 79-39117 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-11-M

Director of Lands and Deputy Director of Lands; Delegation of Authority

Pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, authority is hereby delegated through the Deputy Chief for the National Forest System to the Director and Deputy Director of Lands, Forest Service to execute all documents for the acquisition and disposition of lands and interest in land as may be required in the program of the Forest Service and authorized by law.

Effective date: This delegation of authority supersedes that delegation published in 43 FR 1633 dated January 5, 1978, and shall be effective December 21, 1979.

Done at Washington, DC, this 14th day of December, 1979.

R. Max Peterson,
Chief, Forest Service.

[FR Doc. 79-39915 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-11-M

1980 Spruce Budworm Suppression Project, Northeastern Area, State and Private Forestry, Broomall, Pa.; Corrected Notice of Intent To Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the 1980 Spruce Budworm Suppression Project was published in the **Federal Register**, Vol. 44, No. 179, Thursday, September 13, 1979 (44 FR 53261).

That notice is corrected to indicate a date of about December 21, 1979 for the completion of the Draft Environmental Impact Statement and a date of about March 14, 1980 for filing the Final Environmental Impact Statement.

Robert D. Raisch,

Area Director.

December 3, 1979.

[FR Doc. 79-39239 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration**Brazos Electric Power Cooperative, Inc.; Final Supplement to Environmental Impact Statement**

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Final Supplement to a previously published Environmental Impact Statement (EIS) in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with a possible reclassification of guaranteed loan funds for Brazos Electric Power Cooperative, Inc. (Brazos), P.O. Box 6296, Waco, Texas 76706.

In August 1976, REA issued a Final EIS (76-7-F) related to the G&T Cooperative Project (San Miguel Project) Lignite Unit No. 1 and Associated Mine and Transmission Lines. One transmission line contemplated in that EIS was a 345 kV, single-tower, double-circuit line which was to extend some 254 miles from the San Miguel lignite-fired steam generating plant now under construction in Atascosa County, Texas, to the Lake Whitney area, northwest of Waco, Texas. On January 31, 1978, REA approved a loan guarantee commitment for constructing this line and associated terminal facilities. Brazos now proposes to reduce the total mileage of this transmission line by approximately 176 miles. Under the proposed plan, the transmission corridor would follow the previously financed corridor for approximately 56 miles from the San Miguel Plant to northern Wilson County, Texas. From that point, the line would follow a new corridor approximately 22 miles to a tie-in point with facilities owned by the Lower Colorado River

Authority (LCRA) at the LCRA Marion Substation, located in Guadalupe County, Texas. From this point power would be transferred over LCRA facilities to a point of interconnection with Texas Power & Light Company (TP&L) for delivery to Brazos at existing and future Brazos-TP&L points of interconnection. The proposal would require construction by Brazos of a 345 kV switching facility at or near the LCRA Marion Substation, but would eliminate the need for the 345:138 kV transmission substation required at Whitney under the original plan.

Additional information may be obtained by request submitted to Mr. Joseph S. Zoller, Assistant Administrator--Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, or from Brazos at the above mailing address, or at their headquarters location, 2404 LaSalle Avenue, Waco, Texas, telephone (817) 752-2501. The Final Supplement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C., Room 2868 or at the headquarters of Brazos, given above. Limited supplies of this document are available for mailing upon request. Final action may be taken with respect to this matter after thirty (30) days from the date of publication of this notice, January 21, 1980.

Any change in the financing assistance previously provided by REA in connection with the proposed change in facilities will be subject to, and release of funds will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969, and by other environmentally related statutes, regulations, Executive Orders, and Secretary's Memoranda normally considered by REA.

Dated at Washington, D.C., this 17th day of December 1979.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 79-39175 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-15-M

Colorado-Ute Electric Association, Inc., Montrose, Colo.; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with section

102(2)(C) of the National Environmental Policy Act of 1969, in connection with a proposed financing application to the Rural Electrification Administration from Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401, to finance the construction of a third 400 MW coal-fired generating unit at the Craig electric generating station. This statement examines the impacts of this 400 MW generating unit located adjacent to the Yampa River in Moffat County near Craig, Colorado.

Additional information may be secured on request, submitted to Mr. Joe S. Zoller, Assistant Administrator--Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of the REA Final Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 1268, or at the borrower's address indicated above.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Zoller at the address given above. Comments must be received on or before January 21, 1980, to be considered in connection with the proposed action.

Final REA action, with respect to this matter (including any release of funds), will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 13th day of December 1979.

Susan T. Sheppard,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-39176 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-15-M

Sho-Me Power Corp., Marshfield, Mo.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of

\$16,960,000 to Sho-Me Power Corporation of Marshfield, Missouri, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of \$10,000,000 to this cooperative. These loan funds will be used to finance approximately 53 miles of 161 kV transmission line, 124 miles of 69 kV transmission line and related facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John K. Davis, Manager, Sho-Me Power Corporation, P.O. Box D, Marshfield, Missouri 65708.

In order to be considered, proposals must be submitted on or before January 21, 1980 to Mr. Davis. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Sho-Me Power Corporation and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 13th day of December 1979.

Susan T. Sheppard,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-39176 Filed 12-20-79; 8:45 am]
BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket No. 37274; Order 79-12-86]

Boise-Burbank/Fresno/Las Vegas et al.; Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-12-86 (Boise-Burbank/Fresno/Las Vegas/Los Angeles/Long Beach/Phoenix/San Diego/Stockton/Sacramento/Show-Cause Proceeding), Docket 37274.

SUMMARY: The Board is proposing to award air route nonstop authority under section 401 of the Federal Aviation Act of 1958, as amended, between the terminal point Boise and the alternate terminal points Burbank, Fresno, Las

Vegas, Los Angeles, Long Beach, Phoenix, San Diego, Stockton and Sacramento to Pacific Southwest Airlines and any other fit, willing and able carrier the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than January 18, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and additional applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year and a statement as to the availability of fuel are directed to do so no later than January 3, 1980.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 37274, which we have entitled the *Boise-Burbank/Fresno/Los Vegas/Los Angeles/Long Beach/Phoenix/San Diego/Stockton/Sacramento Show-Cause Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428.

FOR FURTHER INFORMATION CONTACT: Samuel J. Lebowich, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5329.

SUPPLEMENTARY INFORMATION: Objections and additional applications with the accompanying data should also be served upon the following persons: Pacific Southwest Airlines, the Majors and Airport Managers of Boise, Burbank, Denver, Fresno, Spokane, Las Vegas, Los Angeles, Long Beach, Oakland, Ontario, Portland, Ore., Phoenix, Reno, San Diego, Stockton, Seattle, San Francisco, Salt Lake City, San Jose and Sacramento, the Departments of Transportation of Arizona, California, Oregon and Utah, the Aviation Transportation Section of the Colorado Department of Highways, The Idaho Division of Aeronautics and Public Transportation, the Nevada Public Service Commission and the Washington State Aeronautics Commission.

By the Civil Aeronautics Board: December 14, 1979.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-39135 Filed 12-20-79; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 36620; Order 79-12-94]

Denver-Sacramento-Fresno Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-12-94) (Denver-Sacramento-Fresno Subpart Q Proceeding, Docket 36620).

SUMMARY: The Board is instituting the *Denver-Sacramento-Fresno Subpart Q Proceeding* and is proposing to grant Denver-Fresno/Sacramento and Fresno-Sacramento nonstop authority to National Airlines under the expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than January 21, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 36620, which we have entitled the *Denver-Sacramento-Fresno Subpart Q Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon National Airlines; Governors of California and Colorado; Mayors of Denver, Fresno and Sacramento; Airport Manager, Stapleton International Airport, Denver, Colorado; Airport Manager, Fresno Air Terminal; and Airport Manager, Metro Airport, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Richard E. Clusman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5105.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-12-94 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard

request for Order 79-12-94 to that address.

By the Bureau of Domestic Aviation, December 17, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39134 Filed 12-20-79; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 35752]

Wild Card Route Case Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on January 16, 1980, at 10:00 A.M. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before January 4, 1980, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., December 18, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39133 Filed 12-20-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: Amendment #1 to the Butterfish Fishery Management Plan, other fishery Management matters, and Administrative matters.

DATES: The meeting will convene on Wednesday, January 9, 1980, at approximately 1 p.m. and will adjourn on Friday, January 11, 1980, at approximately 1 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania 19153. (215) 385-7000.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115—Federal Building, Dover,

Delaware 19901, Telephone: (302) 674-2331.

Dated: December 18, 1979.
Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-39248 Filed 12-20-79; 8:45 am]
BILLING CODE 3510-22-M

Pacific Fishery Management Council's Salmon Advisory Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Salmon Advisory Subpanel (AP), which will meet to review the draft proposed 1980 amendment to the Ocean Salmon Fishery Management Plan (FMP).

DATES: The meeting will convene on Monday, January 7, 1980, at 1:30 p.m. and will adjourn at 5 p.m.; reconvening on Tuesday, January 8, 1980, at 8 a.m. adjourning at 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the Mission Bay Lounge, at the Bahi Motor Hotel, 998 West Mission Bay Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: December 17, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-39247 Filed 12-20-79; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 21, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 19, 1979 and July 20, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 FR 60352) and (44 FR 42755) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

Class 7210

Insect Bar, Nylon
7210-00-266-9736
7210-00-266-9736 GFM

Class 9905—NO NSN

Marker, I.D., Plastic
P.S. #01036 White
P.S. #01036-A Blue
P.S. #01036-B Orange
P.S. #01036-C Green
P.S. #01036-D Violet
P.S. #01036-E Yellow
P.S. #01036-F Pink

C. W. Fletcher,
Executive Director.

[FR Doc. 79-39152 Filed 12-20-79; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 23, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below

from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7210

Sheet, Bed, Cotton, Green
7210-00-209-9611

NO NSN

Bag, Plastic
1½" x 6¾" medium duty
1½" x 6¾" heavy duty
5¼" x 3½" medium duty
5¼" x 3½" heavy duty
(The above for requirements of Naval Weapons Support Center, Crane, Indiana only.)

C. W. Fletcher,
Executive Director.

[FR Doc. 79-39153 Filed 12-20-79; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1980; Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletions from Procurement List.

SUMMARY: The Committee has received proposals to delete from Procurement List 1980 services provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 23, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following services from Procurement List 1980, November 27, 1979 (44 FR 67925):

SIC 7641

Furniture Rehabilitation (excluding upholstery portion) Sacramento, CA plus 60 mile radius, excluding San Joaquin County.

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters, 26 Federal Plaza, 1515 Broadway, 32 Old Slip, 6 World Trade Center, New York, New York.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-39154 Filed 12-20-79; 8:45 am]
BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contract; Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on a Value Line Average futures contract submitted by the Kansas City Board of Trade. Copies of this proposed contract will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission will also furnish copies upon request made to the Executive Secretariat.

Any person interested in expressing views on the terms and conditions of this proposed contract should send comments by January 21, 1980, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. (202) 254-6314. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on December 17, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-39080 Filed 12-20-79; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[Petitions CP 79-8 and CP 79-9]

Amendment of the Safety Standard for Architectural Glazing Materials

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petitions.

SUMMARY: The Commission denies two petitions requesting that the Safety Standard for Architectural Glazing Materials be amended to postpone for two years enforcement of the standard as it applies to polished wired glass used in doors and glazed panels. The Commission is denying the petitions because (1) petitioners have failed to present any new evidence that polished wired glass possesses safety characteristics that warrant either an exemption from application of the standard or a two year delay in enforcement of the standard and (2) petitioners have failed to present persuasive evidence that enforcement would cause unreasonable economic harm. However, in order to allow for orderly administration of the standard

and sufficient time for the Commission's staff to inform affected parties of the resumption of enforcement of the standard as it applies to polished wired glass in certain doors, the Commission, as an act of administrative discretion, will postpone enforcement of the standard as it applies to such products until February 19, 1980. Enforcement of the standard as it applies to polished wired glass in glazed panels has already been stayed until the proceeding commenced on May 31, 1979, to revoke the glazed panel provisions of the standard is concluded.

FOR FURTHER INFORMATION CONTACT: Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6453.

Background

Section 10 of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance, amendment or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reason for denial in the Federal Register.

In March and April 1979, the National Glass Dealers Association and the Flat Glass Marketing Association, respectively, petitioned the Commission to amend the Safety Standard for Architectural Glazing Materials to postpone for two years enforcement of the standard as it applies to polished wired glass used in doors and glazed panels adjacent to doors. The two-year postponement was requested to commence on the date the United States of Appeals dissolved the judicial stay of enforcement which it issued in April, 1977, preventing the Commission, pending consideration of a petition for judicial review, from enforcing the standard as it applies to polished wired glass. The petition for judicial review was decided on January 31, 1979, in the case of *ASG Industries, Inc., et al. v. CPSC*, 593 F. 2d 1323 (D.C. Cir., 1979). This decision was stayed, however, pending consideration by the United States Supreme Court of a petition for certiorari to review the Court of Appeals decision. The petition for certiorari was denied by the U.S. Supreme Court on October 1, 1979. Therefore, except for two aspects of the standard not addressed by the petitions under consideration here (discussed further below), the legal barriers to enforcement of the standard as it applies to polished wired glass have been removed as of

October 1, 1979. Accordingly, the postponement of enforcement of the standard as requested by petitioners would extend to October 1, 1981.

The petitioners request postponement of enforcement of the standard as it applies to polished wired glass used both in doors and glazed panels adjacent to doors. As to this latter use, however, the Commission, by notice published in the Federal Register of May 31, 1979 (44 FR 31218), has stayed enforcement of the standard as it applies to polished wired glass used in glazed panels located within 12 inches of a door in a residential building and within 48 inches of a door in a non-residential building pending completion of the proceeding to partially revoke the standard initiated in the May 31, 1979 notice. This proceeding to partially revoke the standard is presently expected to be completed sometime during the spring of 1980.

Commission Evaluation of Petitions

After examining the petitions and the Commission staff's analysis of the issues raised by the petitions, the Commission has decided to deny the petitions.

The petitioners request a two year postponement of enforcement in order to allow distributors, retailers and fabricators of polished wired glass or products incorporating polished wired glass to deplete inventories. In support of this request, petitioners cite (1) the severe economic hardship that they allege would result from immediate enforcement of the standard and (2) the purported safety of polished wired glass, specifically its breakage characteristics and the presence of the wire mesh imbedded in the glass. These characteristics, it is claimed, make polished wired glass distinguishable from other types of glass covered by the standard. According to petitioners, the wire mesh serves as a visual barrier which prevents inadvertent impact with the glass by consumers who might not be aware of the presence of solid material in an opening. Further, petitioners claim that while polished wired glass fails to meet the performance requirements of the Commission's standard, it meets the safety test of the American National Standards Institute (ANSI) voluntary standard Z97.1, and is therefore reasonably safe.

This precise issue of the safety of polished wired glass has previously been thoroughly explored by the Commission during the proceeding for development of the architectural glazing standard. In addition, the record of that proceeding has been subject to judicial

review in the U.S. Court of Appeals for the District of Columbia District. That Court, in *ASG Industries, Inc., supra*, upheld the application of the standard's impact-performance requirements to polished wired glass, stating that

[s]o long as the impact-performance standards comply with the statutory requirements, it is irrelevant to judicial review whether the failure of wired glass to meet the standards is by a narrow or wide margin. 593 F. 2d at 1331.

As to the question of whether the wire mesh imbedded in the glass increases the product's visibility and therefore reduces the risk presented by the product, the Court conceded that enhanced visibility of the product is a dissimilarity which could distinguish, for some purposes, polished wired glass from, for example, annealed glass. However, the Court pointed out that with respect to all but one product-use, the characteristic of visibility is not pertinent to the risk that concerns the Commission. The Court correctly noted that while

"[t]he definition of one category of glazed panels (section 1201.(a)(10)(iii) manifests a Commission determination that the unreasonable risk of injury associated with that use results from the possibility that a victim will mistake a glazed panel for an open passageway * * * with respect to all other products covered by the standard—doors, bathroom enclosures, and panels that are closely associated with doors—the Commission apparently has concluded that an unreasonable risk of injury arises from collisions occurring even when the victim is aware of the presence of the barriers * * * 593 F. 2d at 1331.

Thus, on the basis of a claim that polished wired glass used in doors and glazed panels adjacent to doors is safe, the petitioners request for a two-year postponement of enforcement must be denied.

Petitioners also claim that the failure of the Commission to postpone enforcement of the standard would cause undue economic hardship to distributors, dealers, fabricators, and installers of polished wired glass. This claim is based on the fact that throughout the period during which the judicial review proceeding has been underway (April, 1977 to October, 1979), these firms have continued to accumulate substantial inventories of polished wired glass in reliance on the judicial stay of enforcement and the possibility of success before the Court.

The petitioners' reliance on the successful outcome of the petition for judicial review was in part justified, since the Court remanded to the Commission for further consideration (1) whether polished wired glass used in

glazed panels located in a non-residential building more than 48 inches from a door, less than 18 inches above walking surfaces, and more than nine square feet in area should be included in the standard and (2) whether the existing temporary exemption to January, 1980 for polished wired glass used in fire doors and related fire-retardant barriers where required by fire codes should be extended or made permanent. Thus, a portion of the accumulated inventory of polished wired glass may continue to be used for the applications covered by the Court's remand.

In addition, if the Commission issues, as a final rule, the partial revocation of the glazed panel provisions of the standard as proposed on May 31, 1979 (44 FR 31218), the present restriction in the Commission's standard on the use of polished wired glass in glazed panels adjacent to doors will be removed. Thus, the Commission believes that a substantial portion of the accumulated inventories of polished wired glass will ultimately be absorbed through uses of the material permitted (or not covered) by the standard. The petitioners have presented no persuasive evidence to contradict this conclusion.

If the Commission decides not to issue the glazed panel partial revocation as a final rule, it could nevertheless act to ease any economic hardship that might result. For example, the Commission might decide to extend its stay of enforcement until accumulated inventories could be absorbed. Neither the appropriateness of nor necessity for such an action need be decided at this time.

Conclusion

Accordingly, after careful consideration of the petitions, the staff's analysis of the petitions, and the record of judicial review of the architectural glazing standard, the Commission has decided to deny the petitions. However, in order to allow for orderly administration of the standard and sufficient time for the Commission's staff to inform affected parties of the resumption of enforcement of the standard as it applies to polished wired glass in doors, the Commission will postpone until February 19, 1980, enforcement of the standard as it applies to polished wired glass used in doors other than where required by a Federal, State, local or municipal fire ordinance. In addition, the Commission has already stayed enforcement of the standard as to glazed panels adjacent to doors until the proceeding to revoke the glazed panel provisions of the standard,

commenced on May 31, 1979 (44 FR 31218), is concluded.

Copies of the petitions and the Commission staff's analysis of the petitions may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

Dated: December 14, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-39080 Filed 12-20-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App I), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training will meet on January 16-17, 1980. The session on January 16, 1980, will commence at 8:30 a.m. and terminate at 4:00 p.m. The session on January 17, 1980 will commence at 8:30 a.m. and terminate at 11:30 a.m. The meeting will be held at the Admiral Kidd Club, Naval Training Center, San Diego, California.

As part of the meeting, the Board will receive a series of briefings on the recruitment, utilization, and retention of minorities and women and will discuss a committee report on improving processes for identifying education and training research and development requirements.

Dated: December 14, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-39159 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Science Board Task Force on Acquisition Policy; Advisory Committee Meeting

An aircraft subgroup under the Defense Science Board Task Force on Acquisition Policy will meet in closed session on 16-17 January 1980 in Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as

they affect the perceived needs of the Department of Defense.

The aircraft subgroup will review the management of evolving aircraft technology in the 16-17 January meeting. The Task Force on Acquisition Policy is addressing specific issues in evolving DoD acquisition policy.

In accordance with 5 U.S.C. App. I 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

December 18, 1979.

[FR Doc. 79-39118 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 10-11 January 1980, at the Naval Ocean System Center, 271 Catalina Boulevard, San Diego, California 92152.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. I, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: December 18, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-39114 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 17-18 January 1980 at 201 Varick Street (9th floor), New York, NY 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging,

communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. I, 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: December 18, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-39165 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in January 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by

the various task groups. The task group scheduling a meeting is the Tight Gas Reservoirs Task Group. The time, location and agenda of the meeting follows:

The thirteenth meeting of the Tight Gas Reservoirs Task Group will be held on Wednesday, January 9, 1980, starting at 1:00 p.m., and Thursday, January 10, 1980, starting at 9:00 a.m., in the Pier 1 Room of the Marina Hotel, 3805 Las Vegas Boulevard South, Las Vegas, Nevada.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the report outline of the Tight Gas Reservoirs Task Group.
3. Review the preliminary results of the Tight Gas Reservoirs Task Group.
4. Review of the Tight Gas Reservoirs Task Group's assignments.
5. Discussion of any other matters pertinent to the overall assignment of the Tight Gas Reservoirs Task Group.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 17, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations Resource Applications.

[FR Doc. 79-39183 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Amtel, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: December 10, 1979.

COMMENTS BY: January 21, 1980.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Jeannie C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On December 10, 1979, the Office of Enforcement of the ERA executed a Consent Order with Amtel, Inc. of Rhode Island. Under 10 CFR § 205.199(c), a Consent Order which involves a sum of \$1,250,000 in the aggregate, excluding penalties and interest, becomes effective 30 days after publication.

I. The Consent Order

Amtel, Inc. (Amtel), with its home office located in Hanover, New Hampshire, is a firm engaged in the marketing of motor gasoline and heating oil to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Amtel, the Office of Enforcement, ERA, and Amtel entered into a Consent Order.

The Consent Order encompasses Amtel's sale of covered products during the period November 1, 1973 through May 3, 1979.

II. Disposition of Refunded Overcharges

In this Consent Order, Amtel agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of one million and two hundred and fifty thousand dollars (\$1,250,000) 30 days after receipt of written notice that

Consent Order is executed. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocable disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816-374-5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Amtel Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on January 21, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 12th day of December, 1979.

William D. Miller,

District Manager of Enforcement.

[FR Doc. 79-39180 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Ancora-Citronelle Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Ancora-Citronelle Corporation, 332 Pine Street, Suite 508, San Francisco, California, on November 2, 1979. This PRO charges Ancora-Citronelle Corporation with pricing violations in the amount of \$677,650.71 connected with the sale of crude oil during the period September 1, 1973, through March 18, 1975, in the State of Alabama.

A copy of the November 2, 1979, PRO, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309. Phone: (404) 881-2661. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 14th day of November, 1979.

Approved for Signature.

Len Bittner,

Chief Enforcement Counsel.

James C. Easterday,

District Manager.

[FR Doc. 79-39181 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of October 1979. These Consent Orders concern prices charged by retail motor gasoline dealers in excess of the maximum lawful selling price for motor gasoline since August 1, 1979, failure to properly post the maximum lawful selling price or certification, and engaging in business practices which are either discriminatory with respect to purchasers of motor gasoline, resulting in a higher price than permitted, or tied the sale of gasoline to the purchase of another service. The purpose and effect of these Consent Orders is to bring the consenting firms into compliance with the Mandatory Petroleum Allocation and Pricing Regulations from August 1, 1979, and they do not address or limit any liability with respect to consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

A. With respect to selling prices:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;
2. Roll back prices to achieve refund of overcharges;
3. Properly maintain records required under the aforementioned regulations.

B. With respect to business practices:

1. Cease and desist from employing any form of discriminatory practice;
2. Cease and desist from employing any practice designed to obtain a price higher than is permitted by the regulations;
3. Cease and desist from employing any practice making the sale of gasoline contingent upon the purchase of another service, charging for services by means of a fee computed on a cents per gallon basis, or charging a fee to dispense gasoline.

C. With respect to posting requirements:

1. Properly post the maximum lawful selling price or certification;
2. Rollback the maximum lawful selling price for failure to post. For further information regarding these Consent Orders, please contact Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, telephone number 214/767-7745.

Firm's Name, Address, and Date of Consent Order

Sal Rodriguez's Exxon, 3802 Reveille, Houston, Tx 77017—Sept. 27, 1979
Dudley Ponder Mobil 3801 Alameda, Houston, Tx 77004—Oct. 4, 1979
Greer's Exxon, P.O. Box 1418, Imperial, Tx 79743—Oct. 3, 1979
H. M. Buettmeyer 4850 S. 14th St. Abilene, Tx 79605—Sept. 26, 1979
F & W Shell 761 Arnold Blvd Abilene, Tx 79605—Sept. 18, 1979
Haney Exxon 209 S. Kaufman Ennis, Tx 75119—Sept. 19, 1979
Davis Exxon 1107 E. Central Comanche, Tx 76442—Sept. 4, 1979
Jose R. Loera Exxon 2347 E. South Cross San Antonio, Tx 78223—Oct. 1, 1979
J. V. Govan 3106 Martin Luther King Dr. San Antonio, Tx 78220—Oct. 2, 1979
Andy's Gulf 8327 McCullough San Antonio, Tx 78216—Oct. 3, 1979
Sanders Oil Company General Delivery Georgetown, Tx—Oct. 4, 1979
Garcia's Texaco 5812 S. Pan American Expwy San Antonio, Tx 78211—Oct. 1, 1979
Ingram Mobil 4803 Callaghan San Antonio, Tx 78228—Oct. 2, 1979
Joe's Service Station 2754 Culebra San Antonio, Tx 78228—Oct. 3, 1979
Gonzales Exxon 3851 Culebra San Antonio, Tx 78228—Oct. 3, 1979
Kandis Mobil, 210 E. Rio Grande, Victoria, Tx 77901—Oct. 4, 1979
Joseph P. Magee, Jr., 1207 S.W. White Rd., San Antonio, Tx 78776—Oct. 1, 1979
Keith W. Ziel, 3719 S.E. Military Dr., San Antonio, Tx 78773—Oct. 1, 1979
Robert F. McCarter 2102 Goliad Dr. San Antonio, Tx 78223—Oct. 1, 1979
Jose Salinas 4402 S. New Braunfels San Antonio, Tx 78211—Oct. 1, 1979
Thompson Exxon 2811 E. Houston Hwy Victoria, Tx 77901—Oct. 5, 1979
Theodore Nemec, Jr. Rt. 1, Box 28 Jarrell, Tx 76537—Oct. 9, 1979
Pruski, Inc., d.b.a. Pruski Service Station Route 2 Stockdale, Tx 78160—Oct. 10, 1979
Jim Sun Han Texaco 1818 S. New Braunfels San Antonio, Tx—Oct. 10, 1979
W. S. Pearce Mobil 1029 Broadway San Antonio, Tx 78215—Oct. 9, 1979
Cary Record, d.b.a. Gary's Downtown Gulf 701 East Pierce Luling, Tx 78648—Oct. 12, 1979
Domingo Villanueva H'way 181, Box 153 Kames City, Tx 78118—Oct. 11, 1979
Roseudo Garza U.S. H'way 181 Kames City, Tx 78118—Oct. 11, 1979
Robert Morris 206 H'way 123 Kames City, Tx 78118—Oct. 12, 1979
Daniel Garza Gulf 200 W. Main Kenedy, Tx 78119—Oct. 12, 1979
Jose M. Guillen, d.b.a. Guillen Texaco, P.O. Box 244, Van Horn, Tx 79855—Oct. 4, 1979
O'Donnell Oil and Butane Co., Inc., P.O. Box 536, O'Donnell, Tx 79351—Oct. 10, 1979
Burks Gulf Service, 901 W. Commerce, Brownwood, Tx 76801—Oct. 10, 1979
Weldon Tiesman's Gulf Rt. 2, Box 42 Brownwood, Tx 76801—Oct. 10, 1979
Wm. R. Gattis Texaco P.O. Box 686 Cisco, Tx 76437—Sept. 14, 1979
C. F. Allison Phillips 66 705 W. Commerce Brownwood, Tx 76801—Oct. 10, 1979
Clydes Texaco 1511 S. Medford Lufkin, Tx 75901—Oct. 10, 1979

Similey Barnett Texaco 3020 W. Gentry Pkwy Tyler, Tx 75702—Sept. 15, 1979
All-N-One Rt. 3 (H'way 1171) Roanoke, Tx 76262—Aug. 29, 1979
Four M Market 702 Moody Nat'l Bank Bldg. Galveston, Tx—Oct. 11, 1979
Norton Texaco 1201 E. Pasadena Fway Pasadena, Tx 77550—Oct. 10, 1979
Avanti, Inc. 2301 Broadway Galveston, Tx 77550—Oct. 12, 1979
Martin L. King Gulf Service 7446 Martin L. King Dr. Houston, Tx 77033
Presely Gulf 2221 Pine & Timber Dickenson, Tx
Chick's Texaco Service 6628 Steward Rd. Galveston, Tx —Oct. 17, 1979
Ruben Lavato, d.b.a. Lavato's Shell, Main H'way #44, Cuba, N.M. 87013—Oct. 11, 1979
Johnny's Holiday Shell, Box 1075, Grants, N.M. 87020—Sept. 11, 1979
Larry's Service Center, 705 Camino Del Pueblo, Bernalillo, N.M. 87004—Oct. 3, 1979
Bernalillo Feed & Conoco 1220 Camino Del Pueblo Bernalillo, N.M.—Oct. 3, 1979
Lewis Chevron Box 538 Bernalillo, N.M. 87004—Oct. 3, 1979
Jim Woods, d.b.a. Woods Oil Co. & Circle W Food & Fuel 1104 California, N.E. Socorro, N.M. 87801—Oct. 11, 1979
Linda Vista Exxon 3116 N. Main Roswell, N.M. 88201—Sept. 27, 1979
Thoreau Chevron P.O. Box 718 Thoreau, N.M. 87323—Oct. 1, 1979
Kendallworth Exxon 6501 Morrison Rd. New Orleans, La. 70128—Oct. 4, 1979
White's Texaco 12930 Chef Mentuer H'way New Orleans, La. 70129—Oct. 3, 1979
Go-Shop 6930 Plank Road Baton Rouge, La. 70811—Oct. 3, 1979
Dempsey Texaco Service 8558 Goodwood Blvd. Baton Rouge, La. 70806—Oct. 5, 1979
Hayes Taxaco Service 721 Brashear Avenue Morgan City, La. 70380—Oct. 5, 1979
Lanni's Kar Kare P.O. Box 1904 Morgan City, La 70380—Oct. 2, 1979
Broadway Texaco 1039 West Broadway Ardmore, Ok 73401—Oct. 2, 1979
Earl's Skelly, 1747 S. Memorial, Tulsa, Okla 74112—Oct. 3, 1979
I-40 Gulf, Route 4, Elk City, Ok 73644—Oct. 4, 1979
Montgomery Texaco, 7901 Broadway Ext., Oklahoma City, Ok 73114—Oct. 4, 1979
Caulkins Bros. Gulf 902 E. Main Weatherford, Okla. 73096—Oct. 4, 1979
John McHenry's Champlin 222 W. Main Weatherford, Okla. 73096—Oct. 4, 1979
Emery L. Lawler, d.b.a. 2700 N. Broadway Moore, Okla 73160—Oct. 9, 1979
Max Cuthrie, d.b.a. I-35 & U.S. 70, Rt. 2 Ardmore, Okla 73401—Oct. 10, 1979
Burt Barbre, d.b.a. Carrollton-St. Charles 601 S. Carrollton Ave. New Orleans, La. 70118—Oct. 10, 1979
Willis Tanner, Jr., d.b.a. Tanner's Exxon 10982 Greenwell Springs Rd. Baton Rouge, La. 70815—Oct. 10, 1979
Raoul Marcantel, d.b.a. Lake Front Exxon 1112 N. Lakeshore Dr. Lake Charles, La. 70601—Oct. 10, 1979
Mrs. Fay Stainback, 8143 Bruton Road, Dallas, Texas 75217—Oct. 16, 1979
C. R. Case, 3002 S. Carrier Pkwy #106, Grand Prairie, Tx—Oct. 15, 1979

Ben Sandoval, 717 Singleton, Dallas, Texas 75212—Oct. 19, 1979
Chris Tabor, 1680 S. University Dr., Fort Worth, Texas—Oct. 18, 1979
Joe Barker, 409 E. Thornhill, Fort Worth, Texas—Oct. 17, 1979
Thomas Merritt, 725 W. Main, Lewisville, Tx—Oct. 18, 1979
Fleming Exxon, 301 S. High, Longview, Tx 75601—Oct. 9, 1979
H. L. Norris Exxon, H'way 80 & H'way 146, Martindale, Tx 78655—Oct. 15, 1979
Luck's Food Store, H'way 71 & H'way 154, West Point, Tx 78963—Oct. 19, 1979
D. S. Buckner Mobil, 201 Colorado, Lockhart, Tx 78644—Oct. 19, 1979
Dawson Perry Phillips 66, 101 S. Colorado, Lockhart, Tx 78644—Oct. 19, 1979
Calvin E. Homann Exxon, 101 N. Colorado, Lockhart, Tx 78644—Oct. 19, 1979
James Adams Exxon, 4718 Lockhart H'way, Austin, Tx 78744—Oct. 19, 1979
Lakes Gulf Station, 441 N. Sunset Strip, Kenedy, Tx 78119—Oct. 15, 1979
Charles Reagan Gulf, U.S. 181 & H'way 72, Kenedy, Tx 78119—Oct. 12, 1979
Ed Fendrzey Arco, Box 2, Route 245, Yorktown, Tx 78164—Oct. 15, 1979
Joe Reiman Phillips 66, P.O. Box 252, Runge, Tx 78151—Oct. 15, 1979
Hill Garza, Jr. Mobil, P.O. Box 328, Runge, Tx 78151—Oct. 15, 1979
William V. Migal Exxon, 512 W. Grand Ave., Yoakum, Tx 77995—Oct. 16, 1979
Joseph L. Machalec Exxon, 315 Irvine St., Yoakum, Tx 77995—Oct. 17, 1979
Boehm Exxon Service Sta, 219 N. Avenue E, Shiner, Tx 77984—Oct. 18, 1979
Ron Garrett's Texaco, 100 East Florida St., Midland, Tx 79701—Oct. 10, 1979
Morrison Oil Company, P.O. Box 1822, Midland, Tx 79701—Oct. 11, 1979
Homer Grimes, Jr., dba Patsy's Place, 810 W. Broadway, Sweetwater, Tx 79556—Oct. 17, 1979
Gaston's Gulf Station, P.O. Box 543, Sterling City, Tx 76951—Oct. 18, 1979
Sanders "66" Gulf Service Sta., 1017 W. Beauregard, San Angelo, Tx 76901—Oct. 17, 1979
Louis Halfman Texaco, 1313 N. Bryant, San Angelo, Tx 76903—Oct. 17, 1979
Carl Miller's Texaco, 1229 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 18, 1979
Lowance Conoco, Inc., P.O. Box 4186, Santa Fe, N.M. 87501—Oct. 18, 1979
Roybal's Texaco Service, Box 4622, Santa Fe, N.M. 87501—Oct. 17, 1979
Paul's Texaco Service, 328 Calisteo, Santa Fe, N.M. 87501—Oct. 17, 1979
Santa Fe Motor Co., 418 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 18, 1979
Peter's Capitol Chevron, 502 Old Santa Fe Trail, Santa Fe, N.M. 87501—Oct. 18, 1979
Edgewood Chevron, P.O. Box 261, Edgewood, N.M. 87015—Oct. 15, 1979
Roadrunner Shell, P.O. Box 35, Edgewood, N.M. 87015—Oct. 15, 1979
Horseman's Haven Texaco, Rt. 2, Albuquerque H'way, Santa Fe, N.M. 87501—Oct. 18, 1979
Plaza Princessa Phillips 66, 3140 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 18, 1979
Earl Clark's Service Sta, 701 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 17, 1979
Tom Sandoval Chevron, 2700 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 18, 1979

Willie's St. Francis Gulf, 1009 St. Francis Dr., Santa Fe, N.M. 87501—Oct. 17, 1979
Bill's Exxon Service, Box 72, Eunice, N.M. 88231—Oct. 18, 1979
Marland Exxon, 100 E. Marland, Hobbs, N.M. 88240—Oct. 17, 1979
Wall's Texaco, 728 East Bender, Hobbs, N.M. 88240—Oct. 17, 1979
Boyd Service Station, 1630 North Dal Paso, Hobbs, N.M. 88245—Oct. 18, 1979
Stamper's Phillips 66, Box 27, Rush Springs, Okla 73082—Oct. 19, 1979
Southside Texaco, 1200 S. Rock Island, El Reno, Okla 73036—Oct. 19, 1979
Minit Saver, Inc., P.O. Box 7032, Houma, La. 70374—Oct. 15, 1979
Prien Lake Mobil, 237 W. Prien Lake Road, Lake Charles, La. 70601—Oct. 15, 1979
Interstate Shell, 1555 Plank Road, Baton Rouge, La.—Oct. 16, 1979
Neighborhood Gulf, 2201 12th Street, Lake Charles, La. 70601—Oct. 15, 1979
James P. Chambers, 6279 S. Stemmonds, Corinth, Tx 76201—Sept. 26, 1979
Don Chambers, 652 Randal Mill Road, Arlington, Tx 76012—Sept. 25, 1979
Lloyd H. Carroll, 611 W. Main, Lewisville, Tx 75067—Sept. 26, 1979
Earl Jacks, Jr., 216 N. Patrick, Dublin, Texas 76446—Sept. 5, 1979
Hundley Boat Co., Inc., P.O. Box 307, Lake Dallas, Texas 75065—Sept. 23, 1979
Home Town Oil, Inc., 2700 North Main, Baytown, Texas 77521—Sept. 19, 1979
Bruce's Texaco, 9142 Long Point, Houston, Tx 77055—Sept. 26, 1979
Jim Class Gulf Service, P.O. Box 1340, Madisonville, Tx 77864—Oct. 24, 1979
J. R. Kitchen Gulf, P.O. Box 947, Fairfield, Tx 75840—Oct. 24, 1979
Homer White Gulf Station, 2100 Crockett St., Palestine, Tx 75801—Oct. 25, 1979
Jerry Grizzle Exxon, 3503 E. Main, Madisonville, Tx 77864—Oct. 24, 1979
A. K. Castellou Mobil, 26860 H'way 75, Spring, Texas 77373—Oct. 23, 1979
F. D. Bryant's Texaco, Box 8901, Conroe, Texas 77301—Oct. 23, 1979
Marilyn Sides Phillips 66, P.O. Box 799, Hillsboro, Tx 76645—Oct. 22, 1979
Jimmy Jones Mobil, 6300 Camp Bowie Blvd., Fort Worth, Tx 76116—Oct. 26, 1979
Rick Russell Phillips 66, 607 Corsicana, Hillsboro, Tx 76645—Oct. 22, 1979
A. J. Hudson Texaco, 819 W. Palestine Ave., Palestine, Tx 75801—Oct. 25, 1979
Minter Exxon Service, 609 E. Goliad, Crockett, Tx 75835—Oct. 24, 1979
Gensel Conoco Service, Rt. 3, Box 135, Huntsville, Tx 77340—Oct. 24, 1979
Ronald N. Allen Exxon, US 190 & H'way 19, Huntsville, Tx 77340—Oct. 23, 1979
Ron Knighten Exxon, Rt. 5, Box 491, Huntsville, Tx 77340—Oct. 23, 1979
Don Conover Texaco, 1558 11th Street, Huntsville, Tx 77340—Oct. 23, 1979
W. D. Dickerson Texaco, Rt. 1, Box 2082, Huntsville, Tx 77340—Oct. 23, 1979
J. E. Galloway Exxon, P.O. Box 1396, Huntsville, Tx 77340—Oct. 23, 1979
Patton's Exxon, 402 N. 4th St., Crockett, Texas 75835—Oct. 24, 1979
Longino Gonzales Gulf, Main & East, Uvalde, Texas 78801—Oct. 24, 1979
Henry Claps Phillips 66, 201 S. Getty, Uvalde, Texas—Oct. 24, 1979

Sam Allen Exxon, 1403 N. Getty, Uvalde, Texas 78801—Oct. 24, 1979
Evans Rutledge, dba Rutledge Mobil, 302 E. Zavola St., Crystal City, Texas 78839—Oct. 25, 1979
Bob Matthews Texaco, U.S. H'way 83 & 3rd St., Crystal City, Tx 78839—Oct. 25, 1979
Fernando Lopez Gulf, H'way 83 & Route 2, Crystal City, Tx 78839—Oct. 25, 1979
Escabedo Gulf Station, P.O. Box 388, Big Wells, Tx 78830—Oct. 25, 1979
Ice Box #4, H'way 35 & H'way 881, Rockport, Tx 78382—Oct. 15, 1979
Interstate Gulf, I-10 & H'way 80, Luling, Texas 78648—Oct. 23, 1979
Turner Gas & Grocery, H'way 21, Cedar Creek, Tx 78602—Oct. 24, 1979
Barisch Tire Co., 104 Austin H'way 71, Bastrop, Tx 78602—Oct. 24, 1979
Daniels Gulf, H'way 71 & Pecan, Bastrop, Tx 78602—Oct. 24, 1979
Davis Texaco, 320 W. 3rd St., Smithville, Tx 78957—Oct. 25, 1979
Nevse Grocery, Rt. 1, Box 8, H'way 90, Kingsburg, Tx 78634—Oct. 25, 1979
Samuel J. Zerr Gulf, H'way 90, D'Hanis, Tx 78850—Oct. 23, 1979
Magic Car Wash, 1921 Sherwood Way, San Angelo, Tx 78901—Oct. 25, 1979
Hugh Howard Exxon, 100 W. San Antonio, Marfa, Tx 79843—Oct. 25, 1979
De Lao Exxon, 308 W. Holland, Alpine, Tx 79830—Oct. 25, 1979
De Vore Texaco, I-420 & San Antonio, Big Springs, Tx—Oct. 25, 1979
Western Manor Gulf, 1901 County Road West, Odessa, Tx 79763—Oct. 25, 1979
Gulf Observatory Station, P.O. Box 395, Fort Davis, Tx. 79734—Oct. 25, 1979
Moore's Shamrock, 1606 H'way 90, Alpine, Tx. 79830—Oct. 24, 1979
Mando's Auto Repair Chevron, P.O. Box 754, Marfa, Tx. 79843—Oct. 24, 1979
Jimenez Chevron P.O. Box 791, Marfa, Tx. 79843—Oct. 24, 1979
C & S Store #1, 902 E. Holland, Alpine, Tx. 79643—Oct. 23, 1979
Highland Motor & Parts, 202 W. Holland, Alpine, TX. 79830—Oct. 23, 1979
Bill McClain Service, 2305 Andrews H'way, Odessa, Tx. 79761—Oct. 24, 1979
Howard's Petroleum Co., Box 785, Marfa, Tx. 79843—Oct. 25, 1979
Tom Massey Service, P.O. Box 607, Madisonville, Tx. 77864—Oct. 24, 1979
J. R. Coy Texaco, 3202 E. Main, Madisonville, Tx. 77864—Oct. 24, 1979
Medina's Phillips 66, 138 Riverside Drive, Espanola, N.M. 85732—Oct. 23, 1979
Eunice Gulf Service, 1315 N. Main, Eunice, N.M. 88231—Oct. 23, 1979
Hobb's Shamrock, 415 N. Turner, Hobbs, N.M. 88246—Oct. 24, 1979
Lewis 66 Service, 424 S. Main, Lovington, N.M. 88260—Oct. 26, 1979
The Bubble Machine, 905 St. Francis Drive, Santa Fe, N.M. 87501—Oct. 22, 1979
Maestas Oil Co., 816 W. Onate St., Espanola, N.M. 87532—Oct. 23, 1979
Ganderts Service Station, Box 422, Mora, N.M. 87732—Oct. 25, 1979
Pachica Phillips 66, Box 324, Mora, N.M. 87732—Oct. 23, 1979
Art's Service Station, Box 367, Mora, N.M. 87732—Oct. 24, 1979
Vsarrago's Texaco, Box 278, Penarco, N.M. 87553—Oct. 24, 1979

Big Rock Chevron, 437 Riverside Drive, Espanola, N.M. 85732—Oct. 23, 1979
 Johnson's Conoco, 2601 NE 10th Oklahoma City, Okla. 73117—Oct. 16, 1979
 James Ellis Texaco, 21 NW 63rd Oklahoma City, Okla. 73114—Oct. 19, 1979
 Robert's Conoco, 7 E 2nd, Edmond, Okla. 73034—Oct. 18, 1979
 University Texaco, 7125 Scenic H'way, Baton Rouge, La. 70807—Oct. 22, 1979
 Contraband Bayou Marina, 1245 Giovannia St., Lake Charles, La. 70601—Oct. 22, 1979
 Short Food Shop, 6517 W. 70th St., Shreveport, La. 71129—Oct. 22, 1979
 Issued in Dallas, Texas, this 30th day of November, 1979.

Wayne I. Tucker,
*District Manager, Southwest District
 Enforcement Economic Regulatory
 Administration.*

[FR Doc. 79-39162 Filed 12-20-79; 8:45 am]
 BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-93 and CP80-74, et al.]

Border Gas, Inc., et al.; Assignment of Additional Docket Numbers to Requests Filed Pursuant to Section 503(c) of the Natural Gas Policy Act and Consolidation

Border Gas, Inc. (Docket No. CP80-93, CP80-75), Texas Eastern Transmission Corporation, Florida Gas Transmission Company, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., Transcontinental Gas Pipe Line Corporation (Docket No. CP80-89), Texas Eastern Transmission Corporation (Docket No. CP80-90), Florida Gas Transmission Company (Docket No. CP80-91), Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Docket No. CP80-92), Border Gas, Inc., (Docket No. SA80-51), and Texas Eastern Transmission Corporation (Docket No. SA80-52).

On November 16, 1977, Border Gas, Inc. (Border), filed in Docket No. CP80-93 an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act. In addition to its request for a certificate, Border seeks an adjustment pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) to prevent special hardship, inequity, and unfair distribution of burdens. The details of Border's application were described in the Commission's previous notice issued on November 30, 1979. Those portions of Docket No. CP80-93 which deal with Border's request for adjustment under the NGPA are hereby redesignated as Docket No. SA80-51.

In a related and consolidated application filed November 16, 1979, in

Docket No. CP80-90, the Texas Eastern Transmission Corporation (Texas Eastern) also requested a certificate pursuant to Section 7 of the Natural Gas Act, with a concurrent request for an adjustment pursuant to Section 502(c) adjustment are hereby redesignated as Docket No. SA80-52.

Assignment of these numbers is ministerial in nature and in no way is intended to sever these requests pursuant to Section 502(c) of the NGPA from the noticed and consolidated proceedings in Docket Nos. CP80-93, et al. Therefore, petitions to intervene or protests related to the above dockets may be filed in accordance with the Commission's notice of November 30, 1979. Intervenor in Docket Nos. CP80-93, et al., need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39271 Filed 12-20-79; 8:45 am]
 BILLING CODE 6450-01-M

[Docket No. ER80-37]

Central Illinois Public Service Co.; Order Accepting for Filing, Consolidating and Suspending Proposed Service Agreement

December 13, 1979.

Central Illinois Public Service Company (CIPSCO) on October 15, 1979 filed with the Commission an executed copy of a wholesale electric service agreement between CIPSCO and the City of Marshall, Illinois (Marshall). The agreement calls for service to Marshall at the rates specified in CIPSCO's currently effective W-2 full requirements rate schedule and provides for an effective date of October 27, 1979.¹ CIPSCO requests a waiver of the 60 day notice requirements pursuant to Section 35.3 of the Commission's Rules of Practice and Procedure to permit the proposed rate to become effective October 27, 1979. Notice of the filing was issued on October 25, 1979. No comments, protests or petitions to intervene were received.

CIPSCO's W-2 full requirements rate schedule is currently in effect subject to refund. The lawfulness of the W-2 rate schedule is at issue in Docket No. ER78-80. The presiding administrative law judge issued an initial decision in Docket No. ER78-80 on July 26, 1979. Briefs on exceptions to the initial decision were filed on October 1, 1979, and the proceeding is now before the Commission.

¹ CIPSCO provided electric service to Marshall prior to October 27, 1979 pursuant to the terms of a service agreement dated May 12, 1969. This agreement expired October 26, 1979.

The Commission in its order initiating the proceeding in Docket No. ER78-80 found that CIPSCO's W-2 rate schedule proposed in this docket had not been shown to be just and reasonable and that it might be unjust, unreasonable, unduly discriminatory or otherwise unlawful. It is therefore appropriate to suspend the rate schedule proposed by CIPSCO in this docket and consolidate this docket with Docket No. ER78-80.

The Commission will accept for filing the proposed new wholesale electric service agreement between Central Illinois Public Service Company and the City of Marshall, Illinois and suspend the proposed rate for one day from the proposed effective date of October 27, 1979 to allow the proposed rate to go into effect as of October 28, 1979 subject to refund.²

The Commission orders:

(A) The request of Central Illinois Public Service Company for waiver of the sixty day notice requirement is hereby granted.

(B) Central Illinois Public Service Company's proposed rate is hereby accepted for filing and suspended for one day to become effective as of October 28, 1979, subject to refund pending the Commission's decision in Docket No. ER78-80.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39272 Filed 12-20-79; 8:45 am]
 BILLING CODE 6450-01-M

[Docket No. CP 80-105]

Columbia Gulf Transmission Co.; Application

December 14, 1979.

Take notice that on November 26, 1979, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP80-105 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221(c) of the Commission's Rules for a certificate of public convenience and necessity authorizing the transportation of natural gas for other interstate pipelines, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it requests blanket authorization to transport

² Rate schedule designation: *Central Illinois Public Service Company Service Agreement* under FPC Electric Tariff, Original Volume No. 2. (Supersedes Rate Schedule FPC No. 65.)

natural gas on behalf of other interstate pipelines for periods up to two years. It is further stated that Applicant would comply with the provisions and reporting requirements of Section 284.221 of the Commission's Rules.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39273 Filed 12-20-79; 8:45 am]
 BILLING CODE 6450-01-M

[Docket No. GP80-45]

Eastern Shore Natural Gas Co.; Third-Party Protests¹

December 18, 1979

Take notice that on December 14, 1979, in accordance with the procedures established by the Federal Energy

¹ The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

Regulatory Commission (Commission) in Order No. 23-B², and "Order on Rehearing of Order No. 23-B,"³ the staff of the Commission (Staff) filed a third-party protest contesting the assertion by Eastern Shore Natural Gas Company (Eastern Shore) as buyer and Dover Exploration Company (Dover) as seller that the contracts identified in its protest constitute contractual authority for Dover to charge and collect maximum lawful prices under section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA).

Staff states in its protest that the language of the contract dated October 5, 1976, does not constitute authority for the Dover to collect more than the maximum lawful applicable under section 104 of the NGPA. See Appendix A.

Any person, other than Eastern Shore and Dover, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before January 3, 1980, a petition to intervene in accordance with 18 CFR § 1.8. Dover need not file a petition to intervene because under 18 CFR § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,
Secretary.

Appendix A

October 5, 1976.

Gas Purchase Contract Between Dover Exploration Co. as Seller and Eastern Shore Natural Gas Co. as Buyer

Article X

Price

1. Subject to the other provisions of this agreement, Buyer shall pay Seller the initial price of \$1.42 per Mcf for all gas delivered hereunder, based on measurements made in accordance with Article II of the Exhibit "C". This price shall be increased each calendar quarter at the rate of one cent (\$0.01) per Mcf per quarter. This initial base price shall be adjusted for BTU content above or below 1,000 per cubic foot.

In the event that the price of natural gas subject to this agreement ceases to be subject to regulation by the Federal Government, the provisions of this paragraph 1 of this Article shall be open for renegotiation by Buyer and Seller.

2. If, at any time during the term of this agreement, the Federal Power Commission (or any governmental

² "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

³ Docket No. RM79-22, issued August 6, 1979.

authority having jurisdiction in the premises) shall prescribe, in an area rate proceeding, a statement of general policy, a rulemaking proceeding, or comparable proceeding, for the area in which gas is delivered hereunder, a rate which is applicable to the gas involved herein and higher than the price herein provided to be paid, then the price to be paid by Buyer to Seller for gas delivered or for which payment is due hereunder shall be increased to equal such higher rate, effective as of the date such higher rate is made effective.

In the event the provisions of this paragraph 2 of Article X are activated, the price or prices thereby established shall remain in effect for a period of one year each from their effective dates unless they are earlier increased under paragraph 1 of this Article X or the preceding of this paragraph 2. At the end of said one-year period and each one year thereafter for the remaining term of this agreement, the price shall increase four cents (\$0.04).

FR Doc. 79-39274 Filed 12-20-79; 8:45 am]
 BILLING CODE 6450-01-M

[Docket No. CP80-107]

El Paso Natural Gas Co.; Application

December 14, 1979

Take notice that on November 26, 1979, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-107 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing certain arrangements with its California customers during the period through April 30, 1980, for the purpose of diverting gas from its California customers in order to assist in protecting Applicant's east-of-California (EOC) customers' Priority 1 and 2 service requirements, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant states that it has entered into a letter agreement with Southern California Gas Company (So Cal) dated November 9, 1979, and a letter agreement with Pacific Gas and Electric Company (PG and E) dated November 15, 1979, which provide for arrangements designed to allow Applicant to fulfill its EOC customers' peak day Priority 1 and 2 requirements during the 1979-80 heating season. Such arrangements, hereinafter referred to as the "California Back-off" arrangements, would permit Applicant to divert from its otherwise scheduled deliveries to So Cal and/or to PG and E during the 1979-

60 heating season, such quantities of gas, not to exceed 200,000 Mcf daily from each company, as are required for use in protecting EOC Priority 1 and 2 service, it is asserted. Such diversions from otherwise scheduled deliveries to So Cal and/or PG and E would only be imposed on those peak days during the 1979-80 heating seasons when the quantities of gas otherwise available for service to Applicant's EOC customers, as augmented by maximum withdrawals from Applicant's Rhodes Reservoir and Clay Basin Interim Storage projects, are not alone sufficient to protect full service to the EOC customers' Priority 1 and 2 requirements, it is asserted. Additionally, it is stated that diversions of gas from otherwise scheduled deliveries to either So Cal or PG and E under the back-off arrangements can only be made during periods when, in that California customer's sole judgement, no impairment would result in (i) its ability to meet the requirements of service, including storage operations, to its high priority customers and those of its wholesale customers; (ii) its ability to maintain service levels to its remaining customers as required by the Public Utilities Commission of the State of California; or (iii) its ability to meet its obligations to the other California customer of Applicant pursuant to that certain contract between them dated August 31, 1965, as amended or superseded. It is stated that diversions of gas from otherwise scheduled deliveries to either California customer are not to exceed a cumulative net total of 2,000,000 Mcf at any one time.

Applicant further states that the in-kind restoration (pay-back) to So Cal and/or PG and E by Applicant of gas diverted from either or both of those customers under the back-off arrangements would be accomplished as soon as operationally possible after the diversions to which the pay-back relates through the withdrawals from Applicant's Rhodes Reservoir storage facility, and secondly from Applicant's Clay Basin Interim Storage facility.

It is stated that in consideration of the respective participation of PG and E and So Cal in such California back-off arrangements, Applicant would reduce its monthly billings to each of those customers by an amount equal to \$1.05 per Mcf (in the case of So Cal) and \$1.52 Mcf (in the case of PG and E), multiplied by the volumes actually diverted from otherwise scheduled deliveries to that California customer during the preceding month.

Further, each agreement provides that none of the cost incurred by Applicant would be allocated in any of Applicant's

rate proceedings to the cost of rendering service to its California customers, and that any Commission order authorizing the instant proposal must so specifically provide.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39275 Filed 12-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2743, Terror Lake]

**Kodiak Electric Association, Inc.;
Intent To Prepare Environmental
Impact Statement and Notice of
Scoping Meeting**

December 17, 1979.

An application has been filed with the Federal Energy Regulatory Commission by the Kodiak Electric Association, Inc., for a major Federal license for the construction and operation of the

proposed Terror Lake Hydroelectric Project, FERC No. 2743, Kodiak Island, Alaska. This project would affect lands of Alaskan Natives, the State of Alaska, and Federal lands under the administration of the Departments of the Interior and Transportation. The application was mailed out for agency review and comment on July 12, 1979. The Commission's staff has determined that issuance of the proposed license would be a major Federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed fully in the environmental impact statement. Presently, the alternatives include no action or continued use of diesel generation.

Representatives from several Federal, State, and local agencies, as well as the public, participated in meetings conducted by the staff in Kodiak, Alaska, on August 14 and 17, 1979, to discuss the proposed Terror Lake project and the environmental impacts expected from its development. As a continuation and in furtherance of the scoping process already initiated by the staff, interested persons are invited to participate in a scoping meeting to be convened by the staff at 10:00 a.m. on January 22, 1980 in room 9306 of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The meeting will be recorded by a stenographer.

The primary goal of this meeting is to encourage affected parties to assist the staff in determining the scope of and identifying the significant issues to be analyzed in depth in the environmental impact statement; and identifying and eliminating from detailed study issues which are not significant or which have been covered by prior environmental review.

The Commission staff will identify, and requests that interested persons also identify, the significant issues that should be addressed in the environmental impact statement. If you are unable to send a representative to this meeting you are encouraged to provide detailed comments by mail. If we do not receive your comments by January 18, 1980, we will assume that you have no further comments concerning the issues to be discussed in depth in the environmental impact statement.

Questions concerning the proposed action and the environmental impact statement should be directed to: Mr. Eddie Crouse, Federal Energy

Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at (202) 376-4010.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39276 Filed 12-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-104]

**Mississippi River Transmission Corp.;
Application**

December 14, 1979.

Take notice that on November 23, 1979, Mississippi River Transmission Corporation (Applicant), P.O. Box 14521, St. Louis, Missouri 63124, filed in Docket No. CP80-104 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has entered into a gas transportation agreement with United dated October 5, 1979, which would provide for the receipt, by Applicant on a best-efforts basis, of up to 20,000 Mcf per day of natural gas made available by United at the outlet side of the Woodlawn Field processing plant of Dorchester Gas Processing Company located in Harrison County, Texas. It is further stated that Applicant would redeliver equivalent quantities to United at Applicant's Perryville Compressor site located in the Monroe Field, Ouachita Parish, Louisiana, by reducing quantities of gas Applicant would otherwise receive from United at that point under a separate purchase arrangement.

Applicant states that the proposed transportation would provide United with an immediate means of receiving natural gas, purchased from East Texas Industrial Gas Company, into its system without a substantial investment in additional facilities. It is further stated that other sales and services now rendered by Applicant would not be affected.

Applicant proposes to charge United 22.73 cents per Mcf for providing the transportation service and would retain 1.0 percent of the quantities received as compensation for fuel and company-use gas. It is stated that any imbalances would be corrected during the month following the month in which such imbalances occur.

Applicant states that the primary term of the transportation agreement is for

two years from the date of initial delivery and year-to-year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39277 Filed 12-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-124]

Missouri Utilities Co.; Filing

December 17, 1979.

The filing Company submits the following:

Take notice that Missouri Utilities Company on December 7, 1979, tendered for filing an "Electric Service Agreement" in accordance with the changes heretofore filed in its FPC Electric Tariff, Volume No. 1, 3rd Revised Sheets.

The proposed contract provides the mechanism by which Missouri Utilities

Company can provide electric wholesale power to the City of Jackson, Missouri, on and after March 2, 1980, upon the termination of its existing Electric Service Agreement with the City of Jackson.

Copies of the filing were served upon Missouri Utilities Company's jurisdictional customer, to-wit the City of Jackson, Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39278 Filed 12-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-125]

**Missouri Utilities Co.; Termination and
Cancellation**

December 17, 1979.

The filing Company submits the following:

Take notice that Missouri Utilities Company (MUCO) on December 7, 1979, tendered for filing a Notice of Termination and Cancellation of the Electric Service Agreement between the City of Jackson, Missouri and MUCO.

MUCO indicates that the agreement will terminate under its own terms on March 2, 1980 and states that the City of Jackson was given Notice of Termination in accordance with the terms of the Contract on February 28, 1979.

Notice of the proposed cancellation has been served upon the Honorable Carlton Meyer, Mayor of the City of Jackson, City Hall, 225 S. High, Jackson, Missouri 63755, and upon the Honorable Charles F. Wheatley, Jr., Wheatley & Wollesen, Suite 1112, Watergate Office Building, 2600 Virginia Avenue NW., Washington, D.C. 20037, attorney of record for the City of Jackson.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39279 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-117]

Mountain Fuel Supply Co.; Application
December 17, 1979.

Take notice that on November 30, 1979, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-117 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport natural gas for other interstate pipeline companies. It states that it would comply with § 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

¹The application was initially tendered for filing on November 30, 1979; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 4, 1979, thus filing was not completed until the latter date.

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39280 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-118]

Mountain Fuel Resources, Inc.; Application
December 17, 1979.

Take notice that on November 30, 1979, Mountain Fuel Resources, Inc. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-118 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket certificate authorization to transport natural gas for other interstate pipeline companies. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

¹The application was initially tendered for filing on November 30, 1979; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 4, 1979, thus filing was not completed until the latter date.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39281 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP70-7 (Phase II)]

Southern Natural Gas Co.; Petition To Amend
December 14, 1979.

Take notice that on November 14, 1979, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend the order issued October 29, 1969,¹ as amended, in the instant docket, pursuant to Section 7 of the Natural Gas Act so as to authorize an increase in contract

¹This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

demand volume sales of natural gas to Atlanta Gas Light Company (Atlanta), the delivery of such additional gas at the delivery point formerly used to serve the City of Bowdon, Georgia, and the deletion of authorization to sell natural gas to the City of Bowdon, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order issued on October 29, 1969, authorized Petitioner, *inter alia*, to sell and deliver to the City of Bowdon, Georgia, a maximum delivery obligation of 1,457 Mcf per day. It is further stated that on September 27, 1979, Atlanta received approval from the Georgia Public Service Commission to purchase the City of Bowdon's natural gas distribution system and for the assignment to Atlanta of Petitioner's service agreement with the City of Bowdon.

It is stated that Petitioner's maximum delivery obligation to the City of Bowdon of 1,457 Mcf per day was assigned to Atlanta. Petitioner, therefore, proposes to: (1) increase Atlanta's contract demand volumes with Petitioner from 744,535 Mcf per day to 745,992 Mcf per day, (2) add as a delivery point to Atlanta for service to the City of Bowdon the former delivery point of the City of Bowdon, and (3) abandon the sale of gas to the City of Bowdon.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39282 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-620]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Petition To Amend
December 14, 1979.

Take notice that on November 15, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-620 a petition to amend the order issued November 14, 1977, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of a maximum daily quantity of 600 Mcf of natural gas for the account of Burlington Industries, Inc. (Burlington) for an additional two-year period commencing November 22, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued November 14, 1977, Petitioner was authorized to transport up to 1,000 Mcf of gas per day for Burlington, which gas Burlington owns as a participant in an oil and gas exploration development joint venture operated by C & K Petroleum Company. The transportation service, as authorized, was for a period of two years from the date of initial deliveries, it is stated. Petitioner now requests an extension of this transportation service for an additional two-year period commencing November 21, 1979, and for a maximum daily quantity of 600 Mcf per day.

Petitioner states the transportation service would be performed pursuant to a contract between it and Burlington. Petitioner asserts that the contract provides for Burlington to pay Petitioner each month:

(1) A demand charge to be determined by multiplying 7.0 cents by the specified maximum daily transportation quantity; and

(2) A monthly volume charge equal to the product of 93.0 cents per Mcf multiplied by the greater of (a) the total scheduled daily volumes delivered during such month or (b) the minimum monthly volume determined by multiplying the number of days in such month by 66 2/3 percent of the specified maximum daily transportation quantity.

Petitioner states the transportation service would enable Burlington to receive natural gas to offset curtailments in sales and deliveries which Transcontinental Gas Pipe Line Corporation is forced to make.

Petitioner states no new facilities are required to continue the transportation service, nor would the service have any impact on any existing service now rendered by it.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39283 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Correction

In FR Doc. 37086 appearing at page 69340 in the issue for Monday, December 3, 1979, on page 69352, in the third column, in the third line, "7. 108" should read "7. 148".

BILLING CODE 1505-01-M

[Docket No. GP80-40]

El Paso Natural Gas Co.; Extension of Time

Take notice that on December 17, 1979, the Federal Energy Regulatory Commission's Director of the Office of Pipeline and Producer Regulation (Director) granted relief to El Paso Natural Gas Company for the time period in which it is required to mail third party protests to affected sellers pursuant to Section 154.94(j)(4)(iii). The extension of time to December 21, 1979, is granted pursuant to the authority delegated to the Director in 18 C.F.R. § 3.5(f)(5).

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

[FR Doc. 79-39131 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-43]

Northern Natural Gas Co.; Extension of Time

Take notice that on December 17, 1979, the Federal Energy Regulatory Commission's Director of the Office of Pipeline and Producer Regulation (Director) granted relief to Northern Natural Gas Company for the time period in which it is required to mail third party protests to affected sellers pursuant to Section 154.94(j)(4)(iii). The extension of time to December 24, 1979, is granted pursuant to the authority delegated to the Director in 18 CFR § 3.5(f)(5).

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

[FR Doc. 79-39130 Filed 12-20-79; 8:45 am]

BILLING CODE 5450-01-M

Office of Hearings and Appeals

Cases Filed; Week of October 5, 1979, Through October 12, 1979

Notice is hereby given that during the week of October 5, 1979 through October 12, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of

receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

December 14, 1979

Melvin Goldstein,
Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 5 through Oct. 12, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 5, 1979	Davis & Forbes, Washington D.C.	BRD-0024, BRH-0004	Motions for Discovery and Evidentiary Hearing. If granted: An evidentiary hearing would be convened and discovery would be granted to Davis & Forbes with respect to its Statement of Objections submitted in response to the Proposed Remedial Order.
Oct. 5, 1979	J. Hus Hawkins, Acadia Parish, La.	BEE-0095	Price Exception (Section 212.73). If granted: J. Hus Hawkins would be permitted to sell the crude oil produced from the L. Johnson Lease, located in Acadia Parish, Louisiana, at upper tier ceiling prices.
Jan. 9, 1979	Leonard E. Belcher, Inc., Springfield, Mass.	BMR-0003	Request for Modification. If granted: The January 18, Decision and Order issued to Leonard E. Belcher, Inc., would be modified.
Oct. 9, 1979	Long Beach Gas Department, Long Beach, Calif.	BEE-0082	Exception to Reporting Requirements. If granted: Long Beach Gas Department would not be required to file Parts III and IV of Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Lunday-Thagard Oil Company, South Gate, Calif.	BEX-0002	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Lunday-Thagard Oil Company during its fiscal year ended June 30, 1979, in order to determine whether the level of relief accorded the firm was appropriate.
Oct. 9, 1979	Occidental Petroleum Corp./The Permian Corporation, Washington, D.C.	BEX-0001	Supplemental Order. If granted: The Stay issued in the October 3, 1979, Decision & Order (Case Nos. DEL-8112, DES-8112) to Energy Cooperative, Inc., would be extended to October 31, 1979.
Oct. 9, 1979	Vickers Petroleum Corporation, Wichita, Kans.	BED-0005	Motion for Discovery. If granted: Discovery would be granted to Vickers Petroleum Corporation with respect to information contained in Highway Oil, Inc.'s Application for Exception (Case No. DEE-6872).
Oct. 9, 1979	W. E. Schroeder, Wharton County, Tex.	BEE-0088	Price Exception (Section 212.73). If granted: W. E. Schroeder would be permitted to sell the crude oil produced from the J. B. Ferguson Lease, located in Wharton County, Texas, at upper tier ceiling prices.
Oct. 10, 1979	City of Douglas, Douglas, Ga.	BEE-0115	Exception to Reporting Requirements. If granted: The City of Douglas would not be required to file Form EIA-149 "Natural Gas Supply, Distribution, and Usage."
Oct. 10, 1979	Crown Central Petroleum Corporation, Baltimore, Md.	BEA-0007	Appeal of Assignment Order. If granted: The August 24, 1979, Assignment Order issued by the Economic Regulatory Administration, Office of Petroleum Operations, to Kerr-McGee Corporation with regard to Crown Central Petroleum Corporation's supply obligations of motor gasoline to the firm would be rescinded.
Oct. 10, 1979	DeMier Oil Operating, Inc., Miami, Okla.	BEE-0002	Price Exception (Section 212.73). If granted: DeMier Oil Operating, Inc., would be permitted to sell the crude oil which the firm produces at upper tier ceiling prices.
Oct. 10, 1979	West Texas Gas, Inc., Midland, Tex.	BEE-0037	Exception to Reporting Requirements. If granted: West Texas Gas, Inc., would not be required to file Form EIA-149 "Natural Gas Supply, Distribution and Usage."
Oct. 10, 1979	Young Refining Corporation, Washington, D.C.	BMR-0004	Request for Modification/Rescission. If granted: The June 19, 1979, Supplemental Order issued to Young Refining Corporation would be modified with respect to the firm's entitlements purchase obligations under the provisions of 10 CFR 211.67.
Oct. 11, 1979	City of Dublin, Dublin, Ga.	BEE-0108	Exception to Reporting Requirements. If granted: The City of Dublin would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 11, 1979	Eagle Oil Company, Waukegan, Ill.	BEE-0035	Allocation Exception. If granted: Eagle Oil Company would receive an exception from the provisions of 10 CFR 211, permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 11, 1979	HRW Systems, Inc., Bethesda, Md.	BEE-0109	Allocation Exception. If granted: HRW Systems, Inc., would receive an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of No. 2 fuel oil.
Oct. 11, 1979	Pester Refining Company, Des Moines, Iowa	BES-0007	Request for Stay. If granted: The July 10, 1979, Interim Decision and Order (Case No. DEN-3168) issued to Midland Energy Corporation would be stayed with respect to Pester Refining Company's supply obligations to the firm.
Oct. 11, 1979	Rookwood Oil Company, Cincinnati, Ohio	BEE-0102	Allocation Exception. If granted: Rookwood Oil Company would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 11, 1979	Scott Paper Company, Philadelphia, Pa.	BEE-0099 BES-0099	Exception to Reporting Requirements. If granted: Scott Paper Company would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage." The firm would receive a stay pending a determination of Scott Paper Company's application for exception.
Oct. 12, 1979	Fulbright & Jaworski, Washington, D.C.	BFA-0021	Appeal of Information Request Denial. If granted: The DOE's September 4, 1979, Information Request Denial issued by the Office of Petroleum Price Regulations would be rescinded and Fulbright & Jaworski would receive access to certain DOE documents regarding natural gas liquids or natural gas liquid products.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 5 through Oct. 12, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 12, 1979	Exxon Company, U.S.A., Washington, D.C.	BEA-0020 BES-0020	Appeal of Assignment Order and Request for Stay. If granted: The Assignment Order issued by DOE Region I on September 12, 1979, directing Exxon Company, U.S.A., to supply Elm City Filling Stations, Inc., with No. 2 heating oil would be rescinded.
Oct. 12, 1979	North Tahoe-Truckee Gasoline Retailers, San Francisco, Calif.	BEE-0124	Price Exception. If granted: North Tahoe-Truckee Gasoline Retailers would be granted an exception from the provisions of 10 CFR 212, permitting the firm to sell motor gasoline above the applicable ceiling price.
Oct. 12, 1979	Peerless Petrochemicals, Inc., Washington, D.C.	EEE-0116	Allocation Exception. If granted: Peerless Petrochemicals, Inc., would receive an exception from the provisions of 10 CFR 211.65, permitting the firm to receive an increased allocation of crude oil through the Buy/Sell Program.
Oct. 9, 1979	Great River Gas Company, Hannibal, Mo.	BEE-0087	Exception to Reporting Requirements. If granted: Great River Gas Company would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Ajo Improvement Company, Ajo, Ariz.	BEE-0086	Exception to Reporting Requirements. If granted: Ajo Improvement Company would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Natural Gas System, Elberton, Ga.	BEE-0083	Exception to Reporting Requirements. If granted: Natural Gas Systems would not be required to file Form-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Miles Farm Supply, Inc., Owensboro, Ky.	BEE-0089	Allocation Exception. If granted: Miles Farm Supply, Inc., would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.

Notices of Objection Received

[Week of Oct. 5 to Oct. 12, 1979]

Date	Name and location of applicant	Case No.
10/9/79	Meek, William J., Jr., Hurst, Tex.	BEO-0011
10/5/79	Little America Refining Company, Evansville, Wyo.	DEE-7391
10/9/79	Huntington Corner Grocery, Camand Island, Wash.	BEO-0012
10/10/79	Gateway Texaco, San Francisco, Calif.	DEE-5550
10/10/79	Thomas Oil Company, Tallahassee, Fla.	DEE-2312
10/10/79	Fields Field Company, Beauregard Parish, La.	DEE-3706
10/10/79	Arnold Sholl, Arnold, Calif.	DEE-7478
10/10/79	Commodities Exchange Center, Inc., New York City, N.Y.	BEO-0017
10/10/79	Faith Oil Company, Oxnard, Calif.	BEO-0016
10/10/79	Bolduc Service Centers, Inc., Indian Orchard, Mass.	DEE-4670
10/10/79	Baxter's Marathon Service, Inc., Indianapolis, Ind.	BEO-0014
10/11/79	Quick Six #3 and Quick Six #9, Longmont, Colo.	DEE-6536, DEE-6537

Notices of Objection Received—Continued

[Week of Oct. 5 to Oct. 12, 1979]

Date	Name and location of applicant	Case No.
10/12/79	Fitzgerald's Gulf Service, Petersburg, Fla.	BEO-0019

[FR Doc. 79-39120 Filed 12-20-79; 8:45 am]

BILLING CODE 5450-01-M

Cases Filed; Week of October 12, 1979 Through October 19, 1979

Notice is hereby given that during the week of October 12, 1979 through October 19, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 12 through Oct. 19, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 12, 1979	E. I. Du Pont de Nemours and Company, Wilmington, Del.	BEE-0156, BEE-0199	Exception to the Emergency Building Temperature Restrictions. If granted: E. I. Du Pont de Nemours and Company would receive an Exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Oct. 15, 1979	Ashland Oil/Koch Refining Company, Washington, D.C.	BEH-0006, BED-0006	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened with respect to Mobil Oil Corporation's appeal of three assignment orders (Case Nos. DEA-0235, DEA-0387, and DEA-0589).
Oct. 15, 1979	Atlantic Richfield Company, Los Angeles, Calif.	BEE-0123	Allocation Exception. Price Exception. If granted: Atlantic Richfield Company would receive an exception from the provisions of 10 CFR 212.83, permitting the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasohol. The firm would also receive an exception to the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 15, 1979	Casson, Caffigaro and Mutryn, Washington, D.C.	BFA-0019	Appeal of Information Request Denial. If granted: The September 19, 1979, Information Request Denial issued by the Economic Regulatory Administration, Office of Enforcement, Region VI, to Casson, Caffigaro and Mutryn, would be rescinded, and the firm would be granted access to certain DOE documents.
Oct. 15, 1979	Ethanol Corporation, Los Angeles, Calif.	EEE-0119	Allocation Exception. If granted: Ethanol Corporation would receive an exception from the provisions of 10 CFR 211, permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 16, 1979	Calhoun Engineers, Inc., Dallas, Tex.	BEE-0136	Price Exception. If granted: Calhoun Engineers, Inc., would receive an exception from the provisions of 10 CFR 212, with respect to increased product costs as applied to gas plant operators.
Oct. 16, 1979	Marvel Heat Corporation, Boston, Mass.	EEE-0231	Exception to Reporting Requirements. If granted: Marvel Heat Corporation would not be required to file Form EIA-9.
Oct. 16, 1979	New York State Office for the Aging, Albany, N.Y.	BEE-0129	Emergency Building Temperature Restrictions. If granted: The New York State Office for the Aging would receive an exception from the provisions of the Emergency Building Temperature Restrictions (10 CFR Part 490).
Oct. 16, 1979	Price, Waterhouse, and Company, Washington, D.C.	BFA-0022	Appeal of Information Request Denial. If granted: The Information Request Denial issued by the Office of Enforcement to Price Waterhouse and Company would be rescinded, and the firm would receive access to certain DOE documents.
Oct. 16, 1979	Southwestern Refining Company, Washington, D.C.	EEE-0136	Allocation Exception. If granted: Southwestern Refining Company would receive an exception from the provisions of 10 CFR 211.67, with respect to the firm's entitlements purchase obligations.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 12 through Oct. 19, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 16, 1979	Southwestern Refining Company, Washington, D.C.	BES-0005	Request for Stay. If granted: Southwestern Refining Company would receive a stay of the provisions of 10 CFR 211.67, regarding its entitlement purchase obligations.
Oct. 16, 1979	William N. Tipka, Dover, Ohio	BEE-0131	Exception to Reporting Requirements. If granted: William N. Tipka would not be required to file Form EIA-23.
Oct. 17, 1979	Pedco, Cincinnati, Ohio	BEE-0145	Allocation Exception. If granted: Pedco would receive an exception from the provisions of 10 CFR 211, permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 17, 1979	New York State Energy Office, Albany, N.Y.	BFA-0023	Appeal of Information Request Denial. If granted: The September 23, 1979, Information Request Denial issued by the Economic Regulatory Administration, Office of Petroleum Operations, to the New York State Energy Office would be rescinded, and certain DOE documents would be disclosed.
Oct. 17, 1979	Systems Technology Corporation, Xenia, Ohio	BFA-0024	Appeal of Information Request Denial. If granted: The October 5, 1979, Information Request Denial issued by the Economic Regulatory Administration, Office of Fuel Conversion, to Systems Technology Corporation would be rescinded, and the firm would receive access to certain DOE documents.
Oct. 18, 1979	Boswell Oil, et al., Washington, D.C.	BRD-0084	Motion for Discovery. If granted: Discovery would be granted to Boswell Oil, et al., with respect to a Proposed Remedial Order issued to Ashland Oil, Inc. (Case No. DRO-0084).
Oct. 18, 1979	Gas Appliance Manufacturers Association, Inc., Arlington, Va.	BEE-0153	Exception to Test Procedures. If granted: Gas Appliance Manufacturers Association, Inc., would receive an exception from the provisions of 10 CFR Part 430, permitting it to modify the energy efficiency test procedures applicable to vented home heating equipment.
Oct. 18, 1979	Mallard Resources, Inc., Houston, Tex.	BES-0008 BST-0008	Request for Stay and Temporary Stay. If granted: Mallard Resources, Inc., would receive a Stay and Temporary Stay from the provisions of 10 CFR 211.67, with respect to the firm's entitlements purchase obligations.
Oct. 19, 1979	Dow Chemical U.S.A., Midland, Mich.	BEE-0055	Allocation Exception. If granted: Dow Chemical U.S.A. would receive an exception from the provisions 10 CFR 211, permitting the firm to maintain its status as a "small refiner."
Oct. 19, 1979	Nelson Oil Company, Lenoir, N.C.	BEE-0144	Allocation Exception. If granted: Nelson Oil Company would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 19, 1979	Teledyne Laars and Raypak, Inc., Glendora, Calif.	BES-0009	Request for Stay. If granted: Teledyne Laars and Raypak, Inc., would receive a Stay from the provisions of 10 CFR Part 430, permitting the firms to modify the energy efficiency test procedures applicable to finned copper tube type boilers pending a final determination of the firms' Application for Exception (Case No. DEE-03439).

Notices of Objection Received

[Week of October 12, 1979 through October 19, 1979]

Date	Name and location of applicant	Case No.
10/11/79	Laketon Asphalt Refining Co., Evansville, IN	DXE-6995
10/12/79	Fitzgerald's Gulf Service, Petersburg, FL	BEO-0019
10/12/79	Miramar Shell, Miramar, FL	BEO-0018
10/15/79	Chevron U.S.A. Inc., San Francisco, CA	DEE-7909
10/15/79	DeLozier Chevron, Decatur, GA	DXE-6067
10/15/79	Diamond Gas & Fuel Co., Englewood, CO	DEE-2248
10/15/79	Finnegan's Inc., Washington, DC	BEO-0027
10/15/79	Gordon Mandt's Arco, Tacoma, WA	BEO-0024
10/15/79	Laketon Asphalt Refining, Inc., Evansville, IN	DXE-6995
10/15/79	Malrose Park Shell, Fort Lauderdale, FL	BEO-0023
10/15/79	Mockus, Walter, Addison, IL	BEO-0021
10/15/79	Monarch Products Ltd., Milwaukee, WI	DEE-3566
10/15/79	Wally's Arco, Arlington Heights, IL	BEO-0022
10/16/79	Atlantic Richfield Co., Houston, TX	DXE-7854
10/16/79	Gulf Oil Corporation, Houston, TX	BEO-0026
10/16/79	Siesta Shell Service, Tampa, FL	BEO-0025
10/17/79	Florida Studio Theatre, Sarasota, FL	BEO-0031
10/17/79	Miller-Carborn Oil Company, Texarkana, AR	DEE-4183
10/17/79	Nick's Gulf, Rockland, MA	DEE-7303
10/17/79	Schneider's Arco, Lester, PA	BEO-0030
10/18/79	Community Interfaith Services, Inc., Wintersville, OH	BEO-0033
10/18/79	Independent Oil & Tire Co., Elyria, OH	DEE-4273
10/18/79	Southern Hills DX, Tulsa, OK	BEO-0028
10/19/79	Stafelt, Gary, Oswego, IL	BEO-0032
10/19/79	Abraham Oil Company, Austin, TX	DEE-7397
10/19/79	Bryn Mawr & Ashland Standard, Chicago, IL	BEO-0036
10/19/79	Kingsport Publishing Corp., Kingsport, TN	DEE-4655
10/19/79	Morgan Oil Co., Bloomfield, Iowa	BEO-0034
10/19/79	Quik Savv Marts, Inc., Riviera Beach, FL	BEO-0035
10/23/79	Patick, Herbert H., Washington, DC	DEE-0656

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of October 12 Through October 19, 1979

If granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

October 12, 1979

Blair Service Station, BEE-0121, California.
Loma Rica Store, BEE-0075, California.
Lubrizol Corporation, BEE-0125, Ohio.
Sullivan Drive Texaco, BEE-0117, Louisiana.

October 15, 1979

Black's Shell Service, BXE-0128, South Carolina.
New Jersey Bell, BEE-0118, New Jersey.
Sissie Car Wash, Inc., BXE-0127, Arizona.

October 16, 1979

Dale & Vern's, BEE-0135, California.
Dixon Motor Co., BEE-0130, Maryland.
H.L. Mills Petroleum Products, BXE-0139, District of Columbia.

Malibu Petroleum, BEE-0137, California.
Reeves, Ray W., BXE-0132, Georgia.
Schultz Oil Co., BEE-0134, Minnesota.
Wood County Electric Coop., BEE-0133, Texas.

October 17, 1979

Bargeron Grocery, BEE-0143, Georgia.
H & H Manhattan Shell, BXE-0141, New York.
Hudson Police Department, BEE-0146, New Hampshire.

John's Service Center, BEE-0147, California.
Lake Oil Company, BEE-0150, Iowa.
Lloyd R. Crais Oil, Inc., BXE-0149, Louisiana.

MacCullum Service Inc., BEE-0148, District of Columbia.

McDaniel's Grocery & Meat Market, BXE-0276, Texas.

Pine Grove Exxon, BXE-0278, California.

October 18, 1979

Imperial Refineries, Corp., BEE-0154, Missouri.
Lindsay Cadillac Co., BEE-0152, Virginia.
Peck's Arco Mini Mart, BXE-0142, California.

October 19, 1979

Vredenburg, Lance E., BEE-0155, New York.
Items Retrieved, 27.

[FR Doc. 79-39121 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; November 9, 1979, Through November 16, 1979

Notice is hereby given that during the week of November 9, 1979 through November 16, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of

publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such

comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: December 14, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Notices of Objection Received

[Week of November 9, 1979 through November 16, 1979]

Date	Name and location of applicant	Case No.
11/13/79	Bill's Automotive, Los Angeles, CA	DEE-6710
11/13/79	58 Highway Shell, Chattanooga, TN	BEO-0127
11/13/79	Kingsville Exxon, Kingsville, OH	BEO-0128
11/13/79	Mallard Resources, Inc., Washington, DC	DEE-6318
11/13/79	Pittsburg & Midway Coal Mining, Denver, CO	BEO-0130, BEO-0131
11/13/79	Shoreline Texaco, San Francisco, CA	BEE-6710
11/13/79	Tri-Car Petroleum, Inc., Washington, DC	DEE-5457
11/13/79	Wash and Dry, Hialeah, FL	BEO-0129
11/14/79	American Auto Salvage, Riverview, FL	BEO-0132
11/14/79	James M. Borg, Rohnert Park, CA	DEE-4240
11/14/79	Bryn-Mawr-Ashland Standard, Chicago, IL	BEO-0148
11/14/79	Chief's Gift Shop, Cottonwood, TN	BEO-0145
11/14/79	Citizen Tribune, Morristown, TN	BEO-0138
11/14/79	Colonial Shell, Sarasota, FL	BEO-0136

Date	Name and location of applicant	Case No.
11/14/79	E. I. Dupont de Nemours & Co., Wilmington, DE	BEE-0156 through BEE-0199, BEE-0235
11/14/79	Ernie's General Store, Inc., Stockton, CA	DEE-3763
11/14/79	Fort Pierce Tomato Growers, Fort Pierce, FL	BEO-0147
11/14/79	George's Chevron Service, Silverdale, WA	BEO-0146
11/14/79	Green Spring Chevron, Birmingham, AL	BEO-0135
11/14/79	Haynes Mobile Service, Hartford, MI	BEO-0141
11/14/79	Holiday Foods, Inc., Des Moines, WA	BEO-0133
11/14/79	Jimbo's Fast Food, Baton Rouge, LA	BEO-0137
11/14/79	Laurel Texaco, Inc., Laurel, MD	BEO-0142
11/14/79	M. L. Mayfield, Houston, TX	DEE-1957
11/14/79	McCall Marketing Co., Los Angeles, CA	DEE-7867

Date	Name and location of applicant	Case No.
11/14/79	Quick Six Standard, Edwardsville, IL	BEO-0134
11/14/79	Rudolphs, Inc., Yoakum, TX	DEE-3056
11/14/79	Simpson County Fiscal Court, Franklin, KY	BEO-0139
11/14/79	Thurston Fertilizer Co., Paducah, KY	BEO-0144
11/15/79	Cash 'N' Dash, Nevada, MO	BEO-0151
11/15/79	Goodall Shell Service, Dearborn, MI	BEO-0150
11/15/79	Keston's Shell Service, Chicago, IL	BEO-0149
11/15/79	U.S. Oil Co., Washington, DC	DEE-3174, DEE-6387
11/15/79	Village Mini Market, Pittsburgh, PA	BEO-0152
11/16/79	Arzie's Arco, Hollister, CA	BEO-0153
11/16/79	W.L. Fife, Salisbury, NC	BEO-0154
11/16/79	Kanes Furniture Corp., St. Petersburg, FL	BEO-0157
11/16/79	G & M Fuel Oil Co., Inc., Stowe, PA	BEO-0158
11/16/79	M-B Food Corp., Knoxville, TN	BEO-0156
11/16/79	Thompson Irrigation, Inc., Paducah, KY	BEO-0159

List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 9 through Nov. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 8, 1979	Chevron U.S.A. Inc., Washington D.C.	BEA-0054	Appeal of Assignment Orders. If granted: The October 19, 1979, Assignment Orders issued by the Economic Regulatory Administration to Fine Jobbers Association, Inc., would be rescinded with respect to the following firms' supply obligations to American Petrofina, Inc.: Chevron U.S.A. Inc., Exxon Company, U.S.A., Getty Refining and Marketing Company, Marathon Oil Company, Mobil Oil Corporation, and Tosco.
Nov. 13, 1979	Champlin Petroleum Company, Corpus Christi, Tex.	BEE-0321	Price Exception. If granted: Champlin Petroleum Company would receive an exception from the provisions of 10 CFR 212.83, which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 13, 1979	Exxon Company, U.S.A., Houston, Tex.	BEA-0053	Appeal of Assignment Order. If granted: The October 19, 1979, Order for the Redirection of Product issued to Exxon Company, U.S.A., by the Economic Regulatory Administration Region IV Office of Petroleum Operations regarding Exxon's supply obligations to Suncoast Oil Company would be rescinded.
Nov. 13, 1979	Exxon Company, U.S.A., Washington, D.C.	BEA-0058	Appeal of Assignment Order. If granted: The October 15, 1979, Assignment Order issued to Exxon Company, U.S.A., by the Economic Regulatory Administration Region IV Office of Petroleum Operations regarding Exxon's supply obligations to Publix Oil Company would be rescinded.
Nov. 13, 1979	Gulf Energy Development Corporation, Dallas, Tex.	BRD-0014	Motion for Discovery. If granted: Discovery would be granted to Gulf Energy Development Corporation with respect to the firm's Statement of Objections submitted in response to the August 5, 1979, Proposed Remedial Order issued to it by the Economic Regulatory Administration.
Nov. 13, 1979	Gulf Energy Refining Corporation, Washington, D.C.	BEA-0060, BEA-0061	Appeals of Inventory Adjustments. If granted: The October 11, 1979, Order issued to Gulf Energy Refining Corporation by the Economic Regulatory Administration which suspended all start-up inventory adjustments and the Entitlements Notice for August 1979, would be modified and the firm would receive a start-up inventory adjustment for its refinery in Brownsville, Texas.
Nov. 13, 1979	La Gloria Oil & Gas Company, Houston, Tex.	BEA-0056, BEA-0056	Appeal of Assignment Order, Request for Stay. If granted: The October 11, 1979, Assignment Order issued to La Gloria Oil & Gas Company by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding La Gloria's supply obligations to American Agri-Fuels Corporation would be rescinded, and a Stay would be granted pending a final determination on the Appeal.
Nov. 13, 1979	Mobil Oil Corporation, Washington, D.C.	BEA-0057	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Mobil Oil Corporation by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Mobil's supply obligations to American Agri-Fuels would be rescinded.
Nov. 13, 1979	Mobil Oil Corporation, Washington, D.C.	BEJ-0001	Protective Order. If granted: A Protective Order would be issued in order to ensure the confidentiality of certain information provided to Mobil Oil Corporation by Koch Refining Company and Ashland Refining Company pursuant to Mobil's appeals regarding the Canadian Crude Oil Allocation Program (Case Nos. DEA-0235, DEA-0387, and DEA-0589).
Nov. 13, 1979	Total Petroleum, Inc., Detroit, Mich.	BEL-0017, BES-0017, BST-0017	Temporary Exception, Request for Stay, Request for Temporary Stay. If granted: Total Petroleum, Inc., would receive a Temporary Exception from the provisions of 10 CFR 212.83, which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasohol. The firm would also receive a Stay and Temporary Stay pending a final determination on its application for Temporary Exception.
Nov. 13, 1979	Texaco, Inc., White Plains, N.Y.	BEA-0052	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Texaco, Inc., by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Texaco's supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 13, 1979	Sinclair Marketing, Inc., Washington, D.C.	BEA-0059, BES-0059, BST-0059	Appeal of Assignment Order, Request for Stay, Request for Temporary Stay. If granted: The October 11, 1979, Assignment Order issued to Sinclair Marketing, Inc., by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Sinclair's supply obligation to American Agri-Fuels Corporation would be rescinded, and a Stay and Temporary Stay would be granted pending a final determination on the Appeal.

List of Cases Received by the Office of Hearings and Appeals—Continued

(Week of Nov. 9 through Nov. 16, 1979)

Date	Name and location of applicant	Case No.	Type of submission
Nov. 10, 1979	Vickers Petroleum Corporation, Wichita, Kans.	BEA-0055, BEB-0055, BST-0055	Appeal of Assignment Order, Request for Stay, Request for Temporary Stay. If granted: The October 11, 1979, Assignment Order issued to Vickers Petroleum Corporation by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Vickers' supply obligations to American Agri-Fuels Corporation would be rescinded. Vickers Petroleum Corporation would also receive a Stay and Temporary Stay of the Assignment Order pending a determination on its Appeal.
Nov. 14, 1979	American Petrofina, Inc., Dallas, Tex.	BEX-0008	Supplemental Order. If granted: A Supplemental Order would be issued clarifying orders issued to Fina Jobbers Association, Inc., and American Petrofina, Inc., on August 29, 1979, and September 14, 1979.
Nov. 14, 1979	Cliff Adams, d.b.a. Adams' Exxon et al. Washington, Pa.	BRR-0011	Request for Modification/Rescission. If granted: The September 12, 1979, Interlocutory Order issued by the Office of Hearings and Appeals regarding Interim Remedial Orders for Immediate Compliance issued to Cliff Adams, d.b.a. Adams' Exxon, et al., would be modified.
Nov. 14, 1979	Exxon Company, U.S.A., Washington, D.C.	BEA-0060	Appeal of Assignment Order. If granted: The October 12, 1979, Assignment Order issued to Exxon Company, U.S.A., by the Economic Regulatory Administration Region IV Office of Petroleum Operations regarding Exxon's supply obligations to Publix Oil Company would be rescinded.
Nov. 14, 1979	Getty Refining and Marketing Company, Tulsa, Okla.	BEA-0062	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Getty Refining and Marketing Company by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Getty's supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 14, 1979	M. J. Mitchell, Dallas, Tex.	BXE-0342	Extension of relief granted in <i>M. J. Mitchell</i> , 3 DOE Par. (July 30, 1979). If granted: M. J. Mitchell would be permitted to continue to sell the crude oil produced from Well No. 1, located in Campbell County, Wyoming, at upper tier ceiling prices.
Nov. 14, 1979	Northern Natural Gas Company, Washington, D.C.	BSG-0904	Petition for Special Review. If granted: The September 27, 1979, Notice of Probable Violation issued by the Office of Enforcement regarding Northern Natural Gas Company's sales of natural gas liquids would be rescinded.
Nov. 14, 1979	Red Rock Petroleum Company, Inc., Oklahoma City, Okla.	BEE-0307	Allocation Exception. If granted: Red Rock Petroleum Company, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.
Nov. 14, 1979	Reserve Oil, Inc., Carbon County, Utah.	BEE-0325	Price Exception. If granted: Reserve Oil, Inc., would receive an exception from the provisions of 10 CFR 212, which would permit the firm to sell the crude oil produced from the Jack Canyon field, located in Carbon County, Utah, at upper tier ceiling prices.
Nov. 14, 1979	Schaeffer Oil, Inc., Winner, S. Dak.	BEE-0326	Allocation Exception. If granted: Schaeffer Oil, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasoline.
Nov. 14, 1979	Tomahawk Oil Company, Hiawatha, Kans.	BEE-0331	Allocation Exception. If granted: Tomahawk Oil Company would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.
Nov. 15, 1979	Board of Public Works, Bamberg, S.C.	BEE-0344	Exception from the Reporting Requirements. If granted: The Board of Public Works would not be required to complete and submit Form EIA-149 ("Natural Gas Supply, Requirements and Usage").
Nov. 15, 1979	City of Long Beach, Long Beach, Calif.	BXE-0341	Extension of relief granted in <i>City of Long Beach</i> , 3 DOE Par. (July 31, 1979). If granted: The City of Long Beach would be permitted to continue to sell the crude oil produced from the Wilmington Oil Field, located in Los Angeles County, California, at upper tier ceiling prices.
Nov. 15, 1979	Gulf Oil Corporation, Logan County, Colo.	BXE-0350	Extension of relief granted in <i>Gulf Oil Corporation</i> , 3 DOE Par. (September 9, 1979). If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the NW Graylin "D" Sand Unit, located in Logan County, Colorado, at upper tier ceiling prices.
Nov. 15, 1979	Occidental Petroleum Corporation and Permian Corporation, Los Angeles, Calif.	BEX-0009	Supplemental Order. If granted: The October 3, 1979, Decision and Order issued to Energy Cooperative, Inc., regarding the supply obligations of Occidental Petroleum Corporation and the Permian Corporation to Energy Cooperative, Inc., would be modified.
Nov. 15, 1979	Pennzoil Producing Company, Tinsley, Miss.	BXE-0348	Extension of relief granted in <i>Pennzoil Producing Company</i> , 3 DOE Par. (July 9, 1979). If granted: Pennzoil Producing Company would be permitted to continue to sell the crude oil produced from the Woodruff Sand Waterflood Unit, located in Tinsley Field, Mississippi, at upper tier ceiling prices.
Nov. 15, 1979	Welsh Oil Company, Gary, Ind.	BEE-0360	Allocation Exception. If granted: Welsh Oil Company would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an allocation of unleaded gasoline for the purpose of blending gasoline.
Nov. 16, 1979	C&B Warehouse Distributing, Inc., Virginia, Minn.	BEA-0064	Appeal of Assignment Order. If granted: The Assignment Order issued by the Economic Regulatory Administration Region VII Office of Petroleum Operations to Phillips Petroleum Company, supplier of C&B Warehouse Distributing, Inc., regarding Phillips' supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 16, 1979	Chevy Chase Exxon, Chevy Chase, Md.	BEE-0346	Price Exception. If granted: Chevy Chase Exxon would receive an exception from the provisions of 10 CFR 212.93, which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 15, 1979	Long Point Marina, Bemus Point, N.Y.	BEE-0347	Price Exception. If granted: Long Point Marina would receive an exception from the provisions of 10 CFR 212.93, which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 16, 1979	Mobil Oil Corporation, Washington, D.C.	BEO-0015	Motion for Discovery. If granted: Discovery would be granted to Mobil Oil Corporation with respect to the firm's Appeals regarding the Canadian Crude Oil Allocation Program (Case Nos. BEA-0235, DEA-0367, DEA-0593).
Nov. 16, 1979	Standard Oil Company of Indiana, Chicago, Ill.	BMR-0012	Request for Modification/Rescission. If granted: The July 19, 1978, Decision and Order issued to Standard Oil Company of Indiana (Amoco), would be modified to permit Amoco to exclude certain base period costs associated with recently divested marketing assets from the calculation of its maximum allowable prices for propane.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of November 9 Through November 16, 1979

If Granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

November 13, 1979

Crites Oil Company, BEE-0324, Texas.
Greenwood Petroleum, Co., BXE-0323, South Carolina.

November 14, 1979

Joe Rayl, Inc., BEE-0327, Missouri.
McDuff Exxon, BXE-0330, Florida.

November 16, 1979

Academy Service Station, BEE-0355, Massachusetts.
Adams, Erwin, BEE-0353, Ohio.
Lincoln Coach Lines, BEE-0354, Pennsylvania.
Mission Car Care, BEE-0351, California.
Pickering Petroleum Co., BEE-0356, Massachusetts.
Rogers Oil Company, BEE-0358, Georgia.
Wahl, Carl H., BEE-0352, Texas.
[FR Doc. 79-39122 Filed 12-20-79; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of November 12 Through November 15, 1979

Notice is hereby given that during the week of November 12, 1979 through November 16, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy,

Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
December 14, 1979.

Proposed Remedial Orders

Crescent Refining and Oil Co., Petroleum Fuel Co., Los Angeles, Calif., BRO-0155, fuel oil.

On November 16, 1979, the Crescent Refining and Oil Company; Petroleum Fuel Company (Crescent), 2404 East 28th Street, Los Angeles, California 90058, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on September 28, 1979. In the Proposed Remedial Order the Western District found that during the period September 1, 1973 to October 31, 1975, Crescent violated the DOE price regulations with respect to certain resales of fuel oil in the State of California. According to the Proposed Remedial Order the Crescent violation resulted in \$514,454.03 of overcharges.

Harmar Marina, Harmerville, Pa., BRO-0143, motor gasoline.

On November 14, 1979, Harmar Marina, 2526 Wenzel Drive, Harmerville, PA 15238, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement, Pittsburgh Audit Office, issued to the firm on October 29, 1979. In the Proposed Remedial Order, the Northeast District found that during the period August 1, 1979 to August 29, 1979, Harmar Marina sold regular motor gasoline at prices in excess of the maximum lawful selling price. According to the Proposed Remedial Order, the Harmar Marina violation resulted in \$456 of overcharges.

Steven Toth, Kenmore, N.Y., BRO-0140, motor gasoline.

On November 14, 1979, Steven Toth d/b/a Professional Towing, 3174 Delaware Avenue, Kenmore, New York 14217 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on October 9, 1979. In the Proposed Remedial Order the Northeast District found that during the period August 2, 1979 to October 2, 1979 Steven Toth sold motor gasoline at a price exceeding the maximum allowable price as specified by the DOE motor gasoline price regulations. According to the Proposed Remedial Order the Toth violation resulted in \$866.20 of overcharges.

[FR Doc. 79-39119 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1378-4; OPP-50446]

Issuance of Experimental Use Permit

The Environmental Protection Agency (EPA) has issued an experimental use permit to the following applicant. Such a permit is in accordance with, and

subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 21137-EUP-3. EM Laboratories, Inc., Elmsford, NY 10523. This experimental use permit allows the use of 137 pounds of the plant growth regulator methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate on cucumbers to evaluate its ability to induce seedless fruit set in all-female cultivars of pickling cucumbers. A total of 1,365 acres is involved; the program is authorized only in the States of Arkansas, California, Colorado, Delaware, Florida, Georgia, Maryland, Michigan, Minnesota, Nebraska, North Carolina, Ohio, South Carolina, Texas, and Wisconsin. The experimental use permit is effective from March 19, 1980 to March 19, 1981. A temporary tolerance for residues of the active ingredient in or on cucumbers has been established. (PM-25, Robert Taylor, Room: E-359, Telephone: 202/755-2196)

Interested parties wishing to review the experimental use permit are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for the permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136])

Dated: December 14, 1979.

Douglas D. Campt,
Director, Registration Division.

[FR Doc. 79-39094 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1379-6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of December 10 to December 14, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from December 21, 1979 and will end on February 4, 1980. The 30-day review period for final EIS's as calculated from December 21, 1979 will end on January 21, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice, you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request, you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, D.C. 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street, NW, Suite 316, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS received during the week of December 10, 1979 to December 14, 1979 the 30-day review period will be calculated from December 21, 1979. The review period will end on January 21, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of December 10, 1979 to December 14, 1979. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the

Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: December 18, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104)

Appendix I—EIS's Filed With EPA During the Week of December 10, 1979, Through December 14, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A Admin. Building, Washington, D.C. 20250, (202) 447-3965.

Forest Service

Draft

Chetco-Grayback Planning Unit, Siskiyou National Forest, Curry, Josephine, and Del Norte Counties, Oreg., December 10: Proposed is a land management plan for the Chetco-Grayback Planning Unit Located in the Siskiyou National Forest in Josephine, Curry, and Del Norte Counties, California. Five alternatives are considered. The preferred alternative includes: (1) A high level of timber harvest, (2) protection of the Illinois River which has been recommended for inclusion in the National Wild and Scenic River System, (3) reserve of wilderness for recreation and other uses, (4) recreational opportunities, and (5) protection and management of other resources (USDA-FS-R6-FES-(ADM)-79-2). Comments made by: USDA, DOT, DOE, FERC, EPA, HUD, DOI, State and Local Agencies, Groups, Individuals and Businesses. (EIS Order No. 91236.)

Rural Electrification Administration

Draft

Colorado-Ute Coal-Fired Powerplant, Craig Unit 3, Moffat County, Colo., December 14: Proposed is the awarding of a loan guarantee for the construction of a 400-MW coal-fired steam-electric generating unit, to be known

as Craig Unit 3, located at Craig Station on the Yampa River, in Moffat County, Colorado. The unit will produce approximately 400 MW of power with fuel being supplied from local coal reserves and water from the Yampa River. Some transmission system modifications will be made to an existing line. (USDA-REA-EIS-(ADM)-79-10-F). Comments made by: COE, EPA, DOT, FERC, USDA, DOI, State Agencies. (EIS Order No. 91254.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Jacksonville Harbor, Mill Cove, Navigation, Duval County, Fla. December 14: Proposed is a navigation, flow and circulation improvement project for Jacksonville Harbor (Mill Cove) located in Duval County, Florida. The project would include: (1) Widening the existing weir at the eastern end of Quarantine Island, (2) use of excavated material to form dikes to facilitate construction of a groin-type structure at the southeastern end of Quarantine Island, (3) excavation and filling of about 14 acres of the disposal island, and (4) construction of a small boat navigation channel. (Jacksonville District). (EIS ORDER No. 91250.)

East Bay Marina, Olympia Harbor, Budd Inlet, Thurston County, Wash., December 10: Proposed is the construction of the East Bay Marina located in Olympia Harbor, Budd Inlet in the City of Olympia, Thurston County, Washington. The marina would include moorage for 800 boats with recreational facilities on the floating breakwater. Included is the filling of 24.2 acres for a cargo handling area for the Port of Olympia. The alternatives consider 10 different marina sites and five marina plans at the selected site in addition to no action and dryland storage. (Seattle District) (EIS Order No. 91232.)

Final

Louisville Lake, Little Wabash River Basin, Clay and Effingham Counties, Ill., December 12: Proposed is the development of Louisville Lake as a multipurpose project for flood control, water supply, general recreation, and fish/wildlife related recreation in Clay and Effingham Counties, Illinois. Elements of the project would include a multipurpose impoundment with associated structures, general recreation areas and wildlife mitigation areas. Louisville Lake would be created by the construction of a dam on the Little Wabash River. The total land required is approximately 20,950 acres. (Louisville district). Comments made by: DOE, EPA, FERC, USDA, DOT, DOC, HEW, State agencies, individuals. (EIS Order No. 91242.)

Lockwoods Folly Inlet, Brunswick County, N.C., December 14: Proposed is the modification of an existing navigation project at Lockwoods Folly Inlet, Brunswick County, North Carolina. Plans consist of deepening the existing channel to 12 feet by a channel excavation-sand bypassing system with the

disposal of excavated material in the surf zone of Long Beach at a distance of 1 to 1.5 miles from the inlet. The alternatives consider: (1) Dredging of the inlet with construction of one or two jetties, (2) various channel depths by sidecast dredge, and (3) no project (Wilmington District). Comments made by: EPA, DOI, DOC, USDA, HEW, State agencies, groups and individuals. (EIS Order No. 91253.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Barbara Taylor, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2307.

Draft

Steuben Lakes WWT Systems, Cast Study No. 4, Steuben County, Ind., December 14: Proposed is a wastewater treatment plan for the Steuben Lakes Regional Waste District located in Steuben County, Indiana. The recommended action is the limited action alternative and includes: (1) Site specific analysis of onsite system, (2) repair and renovation of on-site systems, (3) management of the on-site systems by a Small Waste Flows District, and (4) continued monitoring of surface water quality as well as ground water quality. (EIS Order No. 91248.)

City of Portage WWT Facilities, Columbia County, Wis., December 11: Proposed is the replacement of the existing wastewater treatment plant on the Fox River with a new one adjacent to the Wisconsin River in the City of Portage, Columbia County, Wisconsin. A new interceptor would be built to the plant eliminating five existing lift stations. The new plant would have a design capacity of 2.6 million gallons per day and would provide secondary treatment by rotating biological contractors prior to chlorination and discharge to the Wisconsin River. (EIS Order No. 91239.)

Contact: Ms. Norma Hughes, EPA Headquarters, Office of Water Programs Operation, Marine Protection Branch, 401 M Street Southwest, Washington, D.C. 20460, (202) 245-3051.

Draft

N.Y. Bight Acid Waste Disposal site Designation, New York, December 14, 1979: Proposed is the designation of the New York Bight Acid Waste Disposal Site for continuing use, which is used by two industries in the New Jersey Area. The alternatives consider: (1) No action, (2) use of the existing site, and (3) use of the 106-mile chemical waste disposal site and the northern and southern areas near the Hudson Canyon. (EIS Order No. 91249.)

GREAT LAKES BASIN COMMISSION

Contact: Mrs. Lee Botts, Chairman, Great Lakes Basin Commission, P.O. Box 999, 3475 Plymouth Road, Ann Arbor, Michigan 48106, (313) 668-2300, FTS 8 378-2300.

Draft

Hazardous Materials Strategy, Great Lakes Basin, several, policy, December 10: Proposed is a policy statement concerning the management and control of hazardous materials and guard public health, lakes,

streams, the Great Lakes and groundwater resources in the Great Lakes region. The alternatives consider: (1) The status quo, (2) the recommended action which emphasizes full and timely implementation of existing laws and programs and recommends new programs in a few cases, and (3) the high risk assumption which emphasizes maximum efforts to eliminate or minimize risks of hazardous materials. (EIS Order No. 91221.)

Great Lakes Basin Water Quality Plan, several, policy, December 10: Proposed is a water quality plan for the Great Lakes Basin region. The plan is a statement of regional policy concerning all pollutant sources on the Great Lakes and their tributaries. The alternatives consider: (1) No additional measures to control point and nonpoint sources of pollution, (2) implementation of best available treatment technologies to reduce pollutant inputs from all sources to minimal levels, and (3) implementation of those measures which are cost-effective in reducing pollutant inputs to the lakes. (EIS Order No. 91231.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Staten Island Industrial Park, CDBG, New York, December 13: Proposed is the development of the Staten Island Industrial Park, New York. The site consists of approximately 777 acres. The alternatives considered are: (1) No action, (2) development of the Charleston area of Staten Island, (3) partial development totaling 547 acres and the creation of a tidal wetland corridor along Saw Mill Creek, and (4) full development. (EIS Order No. 91243.)

Final

South Chattanooga CBD Improvement (UDAG), Hamilton, Tenn., December 10: Proposed is the awarding of a UDA grant for the improvement of the south Chattanooga CBD in the City of Chattanooga, Hamilton County, Tennessee. The project will encompass a 20.2 acre site and will include an industrial trade center; street, sewer, and utility improvements; a 2,000 space parking garage; a pedway system, central mall, open space, and landscaping; a TVA computer center and office complex; a major hotel facility; and an office tower and parking garage. Comments made by: EPA, TVA, State and local agencies. (EIS Order No. 91235.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256,

Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Reclamation

Draft

Salmon Falls Division, Snake River, Twin Falls and Cassia Counties, Idaho, December 14: Proposed is the construction of an irrigation and wildlife project in the Salmon Falls Division of the Upper Snake River Project. The Salmon Falls Division is located in the Counties of Twin Falls and Cassia, Idaho. The project would provide a water supply from the Snake River and would include: (1) Three pumping plants, (2) a well field, (3) a 47 mile main channel, (4) various other canals, (5) laterals and wasteways, (6) powerlines and (7) drainage facilities. (EIS Order No. 91247.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration

Draft

I-75 Reconstruction, Northside Drive to I-285, Fulton and Cobb Counties, Ga., December 14: Proposed is the widening and reconstruction of I-75 from four lanes to eight lanes between Northside Drive and I-285 in Fulton and Cobb counties, Georgia. Also included would be the rebuilding of the following five interchanges: (1) Northside Drive, (2) Howell Mill Road, (3) Moores Mill Road, (4) West Paces Ferry Road, and (5) Mt. Paran Road. The entire highway section which extends 7.75 miles would continue to be a grade separated limited access highway facility. (FHWA-GA-EIS-79-03-D) (EIS Order No. 91244.)

US 27/GA-1, Chickamauga-Chattanooga NP, Walker and Catoosa Counties, Ga., December 14: Proposed is the improvement or relocation of US 27/GA-1 through the Chickamauga-Chattanooga National Military Park in Walker and Catoosa Counties, Georgia. The project begins 1,500 feet south of the southern boundary of the park on US 27 to either the proposed extension of the new GA-2 or extension of US 27 and the old GA-2. The length of the project varies from 3.27 to 5.85 miles and would be a free access, rural or urban section. (FHWA-GA-EIS-79-01-D) (EIS Order No. 91245.)

N. Rome Bypass, Redmond Rd./W. 14th St. Extension, Floyd County, Ga., December 14: Proposed is the extension of either Redmond Road or West 14th Street, commonly known as the North Rome Bypass, located in Floyd County, Georgia. The alternatives considered include: (1) The extension of Redmond Road from US 27/GA-1 to relocated GA-53, (2) the extension and upgrading of West 14th Street from US 27/GA-1 to relocated GA-53, and (3) no build. (FHWA-GA-EIS-79-04-D) (EIS Order No. 91246.)

Draft

East-West Expressway, Hampton and Newport News, Va., December 11: Proposed is the construction of a four-lane divided urban highway to be known as the East-West Highway within the Cities of Newport News

and Hampton, Virginia. The project would begin at the intersection of route 17/143 (Jefferson Avenue) and Route 306 (Harpersville Road) in Newport News and terminate at the intersection of Little Back River Road and Clemwood Parkway in Hampton. The alternatives include no-build, a highway transit alternative, and four construction alternatives. Two different tie-in configurations are under consideration at the eastern terminus. (FHWA-VA-EIS-79-04-D) (EIS Order No. 91237.)

Final

Port Everglades Expressway, Construction, Broward County, Fla.: This proposal concerns construction of Port Everglades Expressway which would extend approximately 8 miles from FL-817 (University Drive) to the proposed FL-A1A in Broward County, Florida. The facility is proposed as a limited access, six and eight lane expressway in the FL-84 corridor. Five alternatives are considered, all of which extend from FL-817 on the west to FL-A1A on the east. The project lengths of these alignments range from approximately 7.3 miles to 8.1 miles. (FHWA-FLA-EIS-78-5-F). Comments made by: DOI, DOT, HEW, USDA, EPA, State and local agencies. (EIS Order No. 91234.)

Rt. 9, Cedar Pl. to Beach Rd., Village of Ossining, Westchester County, N.Y. December 10: Proposed is the improvement of a mile-long portion of Rt. 9 from Cedar Place to Beach Road in the Village of Ossining, Westchester County, New York. The limits of the project include most of the length of NY-5432 and all of NY-9266 and NY-1899. Within these limits Rt. 9 presently has one traffic lane in each direction. In addition to no build, three design alternatives are considered. (FHWA-NY-EIS-76-03-F). Comments made by: DOT, DOC, FPC, NRC, EPA, DOI, COE, HEW, State and local agencies, groups and businesses. (EIS Order No. 91233.)

Final

US 2, Surry to Souris River and Towner to Rugby, Ward, McHenry, and Pierce Counties, N. Dak., December 11: The proposed project is the construction of a two-lane roadway

parallel to the existing roadway on US 2 from Surry to the Souris River crossing and from Towner to Rugby in Ward, McHenry and Pierce Counties, North Dakota. The project would provide a four-lane divided highway approximately 46 miles long. The proposed improvement requires purchasing additional right of way. The existing roadway will remain in place to serve as part of the four lane facility (FHWA-ND-EIS-78-03-F). Comments made by: COE, DOI, USDA, NWF, EPA, State and local agencies. (EIS Order No. 91238.)

US 176, Union City to existing US 176, Spartanburg and Union Counties, S.C., December 14: Proposed is the improvement of US 176 from the City of Union in Union County to the point where US 176 becomes a four-lane highway in Spartanburg County. The total length of the project is 19.6 miles. Several alternative alignments are actively being considered. Three of these alternatives consist of widening the existing highway, constructing a highway on new location, and widening the existing highway with bypasses constructed around the towns of Pacolet and Jonesville (FHWA-SC-EIS-77-01-F). Comments made by: EPA, COE, DOI, DOT, State and local agencies. (EIS Order No. 91251.)

TN-153/FAU 603, Hixon Connector to Southern RR, Hamilton County, Tenn., December 14: The proposed action is the construction of TN-153/FAU 603 in Hamilton County and within the City of Chattanooga, Tennessee. The project begins at the interchange of FAU 603 and the Hixon Pike Connector south of Hamill Road and extends northeastward across existing TN-153 to the Southern Railroad. The alternatives consider: (1) No action, (2) an alternative alignment, (3) lower level of service, and (4) public transportation (FHWA-TN-EIS-77-01-F). Comments made by: TVA, EPA, DOT, HEW, DOI, State and local agencies. (EIS Order No. 91252.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Harry C. Moore, Jr., Acting Director, Division of Environmental Planning, Tennessee Valley Authority, 268 401 Building,

Chattanooga, Tennessee 37401, (615) 755-3161 FTS 854-3161.

Final

Crownpoint Uranium Mining Project, McKinley County, N. Mex., December 12: The proposed action involves the construction of a mine at the Crownpoint project located in McKinley County, New Mexico. The proposed action is threefold: The approval by DOI of new leases at the project; approval of the mine and reclamation plans for uranium mines constructed and operated by Mobile Oil Corporation; and participation by the TVA with Mobile in the construction and operation of these mines. Conventional underground mining is planned as the primary method to extract the uranium ore with possible situ leaching employed in some areas. This EIS has been prepared jointly by TVA and USDI. Comments made by: AHP, DOT, HEW, DLAB, USDA, NRC, DOI, EPA, HUD, State and local agencies, individuals and businesses. (EIS Order No. 91242.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sittler Director, Office of Environmental Affairs (904A), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2526.

Final

VA Medical Center, Hospital Addition, Seattle, King County, Washington, December 12: Proposed is the construction of a 515-bed hospital as an addition to the Seattle VA Medical Center in King County, Washington. Alternative 1 proposes remodeling/new construction as follows: (1) Major remodeling/complete utilization of existing facilities plus limited additional new space, (2) minimal remodeling/complete utilization of existing facilities plus limited additional new space, and (3) partial abandonment/minimal remodeling of existing space plus major addition of new space. Alternative 2 involves replacement of existing facilities and new construction. Comments made by: DOI, DOE, EPA, HUD, CSA, State and local agencies, groups and individuals. (EIS Order No. 91240.)

EIS's Filed During the Week of December 10 Through 14, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Colorado	Moffat	Final	Colorado-Lite Coal-Fired Powerplant, Craig Unit 3	91254	12-14-79	USDA
Florida	Broward	Final	Port Everglades Expressway, Construction	91234	12-10-79	DOT
	Duval	Draft	Jacksonville Harbor, Mill Cove, Navigation	91250	12-14-79	COE
Georgia	Calhoun	Draft	U.S. 27/GA-1, Chickamauga-Chattanooga NP	91245	12-14-79	DOT
	Cobb	Draft	I-75 Reconstruction, Northside Drive to I-285	91244	12-14-79	DOT
	Floyd	Draft	N. Rome Bypass, Redmond Rd./W. 14th St. Extension	91246	12-14-79	DOT
	Fulton	Draft	I-75 Reconstruction, Northside Drive to I-235	91244	12-14-79	DOT
	Walker	Draft	U.S. 27/GA-1, Chickamauga-Chattanooga NP	91245	12-14-79	DOI
Iowa	Cassia	Draft	Salmon Falls Division, Snake River	91247	12-14-79	DOI
	Twin Falls	Draft	Salmon Falls Division, Snake River	91247	12-14-79	DOI
Illinois	Clay	Final	Louisville Lake, Little Wabash River Basin	91241	12-12-79	COE
	Elkington	Final	Louisville Lake, Little Wabash River Basin	91241	12-12-79	COE
Indiana	Stauben	Draft	Stauben Lakes WWT Systems, Case Study No. 4	91248	12-13-79	EPA
New Mexico	McKinley	Final	Crownpoint Uranium Mining Project	91242	12-13-79	TVA
New York		Draft	Staten Island Industrial Park, CDBG	91243	12-14-79	BUD
		Draft	N.Y. Bight Acid Waste Disposal Site Designation	91249	12-14-79	EPA
	Westchester	Final	Rt. 9, Cedar Pl. to Beach Rd., Village of Ossining	91233	12-10-79	DOT
North Carolina	Brunswick	Final	Lockwoods Folly Inlet	91253	12-14-79	COE
North Dakota	McHenry	Final	U.S. 2, Surry to Souris River and Towner to Rugby	91238	12-11-79	DOT
	Pierce	Final	U.S. 2, Surry to Souris River and Towner to Rugby	91238	12-11-79	DOT
	Ward	Final	U.S. 2, Surry to Souris River and Towner to Rugby	91238	12-11-79	DOT

EIS's Filed During the Week of December 10 Through 14, 1979—Continued

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Oregon	Curry	Final	Chetco-Grayback Planning Unit, Siskiyou NF	91236	12-10-79	USDA
	Del Norte	Final	Chetco-Grayback Planning Unit, Siskiyou NF	91236	12-10-79	USDA
	Josephine	Final	Chetco-Grayback Planning Unit, Siskiyou NF	91236	12-10-79	USDA
Policy		Draft	Hazardous Materials Strategy, Great Lakes Basin	91221	12-10-79	GLBC
		Draft	Great Lakes Basin Water Quality Plan	91231	12-10-79	GLBC
Several		Draft	Hazardous Materials Strategy, Great Lakes Basin	91221	12-10-79	GLBC
		Draft	Great Lakes Basin Water Quality Plan	91231	12-10-79	GLBC
South Carolina	Spartanburg	Final	U.S. 176, Union City to Existing U.S. 176	91251	12-14-79	DOT
	Union	Final	U.S. 176, Union City to Existing U.S. 176	91251	12-14-79	DOT
Tennessee	Hamilton	Final	South Chattanooga CBD Improvement (UDAG)	91235	12-10-79	HUD
		Final	TN-153/FAU 603, Hixon Connector to Southern RR	91252	12-14-79	DOT
Virginia		Draft	East-West Expressway, Hampton and Newport News	91237	12-11-79	DOT
Washington	King	Final	VA Medical Center, Hospital Addition, Seattle	91240	12-12-79	VA
	Thurston	Draft	East Bay Marina, Olympia Harbor, Budd Inlet	91232	12-10-79	COE
Wisconsin	Columbia	Draft	City of Portage WWT Facilities	91239	12-11-79	EPA

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: Daen-cw-p, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue N.W., Washington, D.C. 20314, (202) 272-0121	Marco Island/Vicinity Wetlands Development, Permit, Collier County, Fla.	Draft 90950	Oct. 28, 1979	Extension	See below
The termination of the review period for this EIS has been postponed indefinitely until further notification from the COE. COE Contact: Dr. Moulding, Jacksonville District, 6-946-2266.					

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Status/No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None.				

[FR Doc. 79-39184 Filed 12-20-79; 8:45 am]

BILLING CODE 6550-01-M

[FRL 1380-2]

Science Advisory Board Executive Committee; Open Meeting

As required by Pub. L. 92-463 notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9 a.m., January 9 and 10, 1980, in the Administrator's Conference Room (Room 1101 West Tower), EPA Headquarters, 401 M Street, SW., Washington, D.C.

The agenda includes a report by the Technology Assessment and Pollution Control Advisory Committee on Hazardous Waste Control Technology; report of the Environmental Measurements Advisory Committee on Monitoring of Hazardous Waste Sites; a briefing on the use of scientific information in the development of Hazardous Wastes Regulations; a briefing/discussion with the Hazardous Wastes Research Committee; a review of the Agency's Five Year Research Plan with special emphasis on hazardous waste research; a discussion with the director, National Center for Health Statistics; and an overview of legislative developments in Congress.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Richard M. Dowd, Director, Science Advisory Board, 202-755-0263, by close of business January 2, 1980.

Richard M. Dowd,

Director, Science Advisory Board.

[FR Doc. 79-39331 Filed 12-20-79; 8:45 am]

BILLING CODE 5550-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY**Finding of No Significant Impact on Environment of Relocation of the Emergency Management Institute by the Federal Emergency Management Agency**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1509), the Federal Emergency Management Agency (FEMA) has prepared an environmental assessment of the relocation of resources resulting from the relocation of the Emergency Management Institute from Battle Creek, Michigan, to a colocation with the United States Fire Academy at Emmitsburg, Maryland.

The assessment concludes that there will be no significant impact on the

natural or manmade environment as a result of the relocation of staff, equipment, and functions of the Emergency Management Institute. The assessment concludes that the transfer will have little or no effect on the environment of Battle Creek, Michigan, and Emmitsburg, Maryland.

It is, therefore, found that there will be no significant impact on the environment caused by the relocation of the Emergency Management Institute by FEMA. On this basis, an environmental impact statement will not be prepared.

Copies of the environmental assessment are available for inspection at: Federal Emergency Management Agency, Room 802, 1725 I Street, NW., Washington, D.C. 20472, telephone (202) 634-4100.

A limited number of single copies are available and may be obtained by writing the above offices.

Dated: December 17, 1979.

John W. Macy, Jr.,

Director.

[FR Doc. 79-39172 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-01-M

[Docket No. 79-1]

City of Cape Coral, Fla.; Proceedings and Opportunity for Hearing

Pursuant to 42 U.S.C. 4104, 44 CFR Parts 57 and 58 (formerly 24 CFR Parts 1917 and 1918).

The Director in administering the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, 44 CFR 59 *et seq.* (formerly 24 CFR Part 1909 *et seq.*) finds his public files disclose that:

A. The Federal Insurance Administration has issued proposed base flood elevations for the City of Cape Coral, Florida.

B. The City of Cape Coral, Florida, has appealed the proposed base flood elevations in its own name and for all affected citizens as their interests may appear.

C. The Director will provide an opportunity for a public hearing to resolve the appeal of the City of Cape Coral, Florida.

II

The hearing shall be conducted pursuant to 44 CFR 68 (formerly 24 CFR Part 1918) as follows:

A. The judge shall be responsible for the fair and expeditious conduct of the proceedings.

B. The Federal Insurance Administrator shall be represented by the General Counsel or his designee.

C. One administrative hearing shall be made for the City of Cape Coral unless

the judge for good cause shown grants a separate appeal or appeals.

D. The Chief Executive Officer of Cape Coral, Florida, or his designee shall represent all appellants from Cape Coral. Any appellant may petition the judge to allow such appellant to make an appearance on his own behalf. Such a petition shall be granted only on a showing of good cause.

E. The Federal Insurance Administrator shall assure that a transcribed verbatim record is made of the proceeding which shall be available for inspection by any appellant. An appellant may order copies of the transcribed verbatim record directly from the reporter and shall be responsible for payments.

III

Review at the administrative hearing shall include an examination of knowledge or information presented by each appellant indicating that elevations proposed by the Federal Insurance Administrator are scientifically or technically incorrect.

IV

A. Legal rules of evidence shall not be in effect. Evidence relevant to issues within the scope of review under Paragraph III above shall be admissible.

B. The City of Cape Coral's flood elevation determination docket (FEDD) shall be admissible.

C. Documentary and testimonial evidence shall be admissible.

D. Admissibility of non-expert testimony shall be within the discretion of the judge.

E. The community's statement of reasons for appealing shall be admissible.

F. All testimony shall be under oath.

V

The burden of proof shall be on appellants to prove that the flood elevation determination is not scientifically or technically correct.

VI

The judge may submit conflicting technical or scientific data to an independent scientific body or appropriate Federal agency for advice.

VII

The judge shall make a written determination on the evidence presented at the hearing after the submission of proposed findings of fact and conclusions of law by both parties on a date to be established at the conclusion of the hearing based upon the date the transcript of the hearing record will be received.

VIII

The sole relief which shall be granted is a modification of the Federal Insurance Administrator's proposed determination by the judge in accordance with his determination under paragraph VII above. This modification shall be binding on the Administrator.

IX

Notice is hereby given that a public hearing for the purposes set forth in Paragraph I.C. hereof be held before the undersigned Administrative Law Judge duly designated by the U.S. Office of Personnel Management, at 9:30 a.m., on January 28, 1980, in the City Council Chamber of the City Hall, located on the corner of Country Club Road and Nicholas Parkway, Cape Coral, Florida.

This Notice of proceeding shall be served upon all appellants of the proposed base flood elevations pursuant to 44 CFR 68.6(b) (formerly 24 CFR 1918(b)).

Dated: December 14, 1979.

Paul N. Pfeiffer,

Administrative Law Judge, U.S. Consumer Product Safety Commission.¹

Served Upon: Richard Roosa, Esq., City Attorney, P.O. Box 535, Cape Coral, Florida, 33904. John Scheibel, Esq., Office of General Counsel, Federal Emergency Management Agency, Room 802, 1725 I. St., N.W., Washington, D.C. 20472. Honorable Lyman Moore, Mayor, City of Cape Coral, P.O. Box 900, Cape Coral, Florida, 33904. Honorable Robert Proctor, City Manager, City of Cape Coral, P.O. Box 900 Cape Coral, Florida, 33904.

[FR Doc. 79-39246 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-101]

Loresco International, Inc. v. Yamashita-Shinnihon Steamship Co., Ltd.; Filing of Complaint

Notice is given that a complaint filed by Loresco International, Inc. against Yamashita-Shinnihon Steamship Company, Ltd. was served December 14, 1979. The complaint alleges that respondent has collected greater compensation for transportation of property than specified in its tariffs, in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before June 14, 1980. The hearing shall include oral

¹ *pro hac vice*, by designation of U.S. Office of Personnel Management, Nov. 21, 1979, Room 302, 1111 18th St., N.W., Washington, D.C. 20207. Phone: (202) 634-7171.

testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-39992 Filed 12-20-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-100]

United Aero Marine Services, Inc. v. Pacific Westbound Conference, et al.; Filing of Complaint

Notice is given that a complaint filed by United Aero Marine Services, Inc. against Pacific Westbound Conference and its member lines was served December 12, 1979. Complainant alleges that it has been subjected to payments of rates for transportation which are unduly or unreasonably preferential, prejudicial or disadvantageous in violation of 42 (sic) U.S.C. 816 and unjust and unreasonable in violation of 46 U.S.C. 817 and contrary to 46 U.S.C. 814.

Hearing in this matter, if any is held, shall commence on or before June 12, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-39593 Filed 12-20-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Highland Park Bancshares, Inc.; Formation of Bank Holding Company**

Highland Park Bancshares, Inc., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Highland Park, Highland Park, Illinois. The factors that are considered

in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39166 Filed 12-20-79; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancshares, Inc.; Formation of Bank Holding Company

Peoples Bancshares, Inc., Van Buren, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.26 percent or more of the voting shares of Peoples Bank & Trust Company, Van Buren, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 12, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39167 Filed 12-20-79; 8:45 am]

BILLING CODE 6210-01-M

Wichita Bancshares, Inc.; Formation of Bank Holding Company

Wichita Bancshares, Inc., Snyder, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Wichitas, Synder, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 14, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-39168 Filed 12-20-79; 8:45 am]
BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE**Regulatory Reports Review; Receipt of Report Proposal**

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, CAO, on December 14, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 8, 1980, and should be addressed to Mr. John M.

Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

The NRC requests an extension-without-change clearance of the voluntary reporting requirement associated with the publication of its Construction Status Report. The NRC receives schedule and status information from utilities on the construction of nuclear power plants, testing, and fuel loading. This information is needed by NRC for scheduling and meeting licensing commitments to the utilities, for forecasting licensing issuance, and to effectively utilize available NRC technical manpower for inspection and evaluation to assure the safe operation of nuclear facilities. The information obtained from the utilities is combined with information provided by NRC Regional Offices. NRC staff reviews and analyzes all submissions of data, and incorporates changes to the construction networks and data sheets into the "Construction Status Report" issued 3 times annually. Respondents are utilities with nuclear power plants under construction who submit data to the NRC every 4 months. The NRC estimates that each report requires approximately one hour to prepare and that 40 respondents each file 3 reports annually.

Norman F. Heyl,
Regulatory Reports Review Officer.

[FR Doc. 79-39144 Filed 12-20-79; 8:45 am]
BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**Food and Drug Administration**

[Docket No. 79F-0435]

Wisconsin Protective Coating Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Wisconsin Protective Coating Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3-(aminoethyl)-3,5,5-trimethylcyclohexylamine and silane coupled silica as components of an epoxy coating intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug

Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3361) has been filed by the Wisconsin Protective Coating Corp., P.O. Box 216, Green Bay, WI 54305, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended to provide for the use of 3-(aminomethyl)-3,5,5-trimethylcyclohexylamine and silane coupled silica as components of an epoxy coating intended for food-contact use.

The agency has determined that the proposed action falls under § 25.1(f)(3) (21 CFR 25.1(f)(3)) and is exempt from the need of an environmental impact analysis report and that no environmental impact statement is necessary.

Dated: December 13, 1979.
Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 79-39937 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-03-M

[Dockets Nos. 75N-0139, 75N-139A, 75N-139B, 75N-139C, 75N-139D, 75N-139E, and 75N-139F]

Oral Proteolytic Enzymes; Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is granting a hearing on the proposal to withdraw approval of the new drug applications (NDA's) for Orenzyme (Docket No. 75N-139A), Chymoral (Docket No. 75N-139B), Papase (Docket No. 75N-139C), Ananase (Docket No. 75N-139D), Avazyme (Docket No. 75N-139E), Wilzyme (Chymolase) (Docket No. 75N-139F), oral proteolytic enzymes that are recommended for the control of edema and inflammation associated with (1) surgical or accidental trauma anywhere in the body or (2) infections or allergic manifestations.

DATES: Prehearing conference on January 28, 1980, at 10 a.m.; written notices of participation due by January 21, 1980; disclosure of data and information by February 19, 1980.

ADDRESSES: Prehearing conference will be held in FDA Hearing Rm. 4A-35, 5600 Fishers Lane, Rockville, MD 20857; written notices of participation and disclosure of data and information to the

Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9955) published in the Federal Register of June 25, 1970 (35 FR 10393), following the evaluation of reports received from the National Academy of Sciences-National Research Council Drug Efficacy Study Group, FDA announced its conclusion that oral proteolytic enzymes were "possibly effective" and "lack substantial evidence of effectiveness," and that additional evidence was required to establish their effectiveness fully. In response to this notice, data were submitted to establish the effectiveness of certain of these drugs. After reviewing the data, the Director of the Bureau of Drugs, in a notice of opportunity for hearing published in the Federal Register on July 24, 1975 (40 FR 30395), concluded that the drugs lacked substantial evidence of effectiveness for all indications and proposed to withdraw approval of the following NDA's: Cytolav Capsules (NDA 9-955), Orenzyme enteric coated tablets (NDA 11-783), Chymar Buccal tablets (NDA 11-908), Chymoral enteric coated tablets (NDA 12-178), Papase tablets (NDA 12-293), Ananase enteric coated tablets (NDA 12-527), Avazyme enteric coated tablets (NDA 12-626), and Wilzyme, Haugase, and Chymolase enteric coated tablets (NDA 12-724).

In response to the notice of opportunity for hearing, Armour Pharmaceutical Co. (for Chymoral, Cytolav, and Chymar), Merrell-National Laboratories (for Orenzyme), William H. Rorer, Inc. (for Ananase), Carter-Wallace, Inc. (for Avazyme), Warren-Teed Pharmaceuticals, Inc. (for Chymolase), Inolex Corp. (for Wilzyme), and Warner-Lambert Pharmaceutical Co. (for Papase) requested a hearing. Because Armour did not submit any data or arguments in support of its hearing requests for Cytolav or Chymar, and because no hearing was requested for Haugase, approval of the NDA's for these three products was withdrawn in a notice published in the Federal Register on May 2, 1978 (43 FR 18770).

Because there are questions of fact requiring resolution for the remaining drugs for which hearings were requested, FDA is ordering a formal evidentiary hearing on the following

issue: whether there are adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of oral proteolytic enzymes on the basis of which it can fairly and responsibly be concluded that oral proteolytic enzymes are effective for their labeled conditions.

The drugs under consideration at the hearing, therefore, will be Orenzyme enteric coated tablets, Chymoral enteric coated tablets, Papase tablets, Ananase enteric coated tablets, Avazyme enteric coated tablets, and Wilzyme (Chymolase) enteric coated tablets.

The following will be parties to the hearing:

1. The Bureau of Drugs of FDA.
2. Merrell-National Laboratories, division of Richardson-Merrell, Inc.
3. Armour Pharmaceutical Co., division of Armour and Co.
4. Warner-Chilcott Laboratories, division of Warner-Lambert Pharmaceutical Co.
5. William H. Rorer, Inc.
6. Wallace Laboratories, division of Carter-Wallace, Inc.
7. Warren-Teed Pharmaceuticals, Inc., subsidiary of Rohm and Haas Co.
8. Inolex Corp., formerly Wilson Pharmaceutical and Chemical Corporation.

FDA is ordering one hearing for all of the oral proteolytic enzymes. The agency recognizes, however, that it may be desirable to hold separate proceedings concerning one or more of the drugs or concerning one or more questions. Therefore, the Administrative Law Judge is given authority to devise whatever procedure the Judge believes will best develop the evidence on all the relevant questions and to separate or combine the proceedings as he finds appropriate.

A prehearing conference will take place on January 28, 1980 at 10 a.m. in the FDA Hearing Room. Participants who are drug sponsors should come to the conference prepared to narrow the issues by stating which studies they rely on.

The Bureau of Drugs has filed with the Hearing Clerk a narrative statement of its position on the issue in the hearing and a summary of the evidence to be introduced in support of its position. Also, the Bureau has filed with the Hearing Clerk as part of the administrative record copies of the NDA's, published studies, and other data bearing on the question of whether oral proteolytic enzymes are effective.

Interested persons may obtain a copy of the narrative statement from the office of the Hearing Clerk at the address given above and may there

examine the administrative record on oral proteolytic enzymes from 9 a.m. to 4 p.m., Monday through Friday.

The hearing will take place in the FDA Hearing Room on dates to be set at the prehearing conference. Administrative Law Judge Daniel J. Davidson will preside. Written notices of participation must be filed with the Hearing Clerk not later than January 21, 1980.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard with respect to relevant matters. Participants other than the Bureau of Drugs shall disclose data and information pursuant to § 12.85 (21 CFR 12.85) by February 19, 1980. Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)) and § 314.200(g) (21 CFR 314.200(g)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is ordered that a public hearing be held on the issue set forth in this notice.

Dated: December 7, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-38134 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-03-M

Health Care Financing Administration**Statement of Organization, Functions, and Delegations of Authority**

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Health Care Financing Administration, (44 FR 41331-41353 dated July 16, 1979), is amended to add an Office of Beneficiary Services in the Office of the Administrator. This addition requires the following changes to Part F:

1. Add to Section F. 10: R. Office of Beneficiary Services (F-5).
2. Add to Section F. 20: Section F. 20 Office of Beneficiary Services (F-5) (function). Provides advisory services to the Administrator and HCFA components concerning the services for, needs of, and initiatives relating to HCFA beneficiaries and recipients. Evaluates beneficiary services initiatives. Promotes an awareness of the concerns of the elderly and needy among HCFA components developing program policies and regulations, and legislative proposals. Analyzes the impact of proposed HCFA policies, regulations and instructions on beneficiaries. Maintains close working relationships with HCFA central and regional

components, Social Security Administration District Offices, other Federal agencies, State agencies, and beneficiary consumer groups to identify and assess the need for information, benefits and services; the impact of proposed HCFA actions; and the effects that operating systems and programs have on health care recipients. Presents the overall HCFA mission and promotes its acceptance by health care beneficiaries. Participates with other HCFA components in the development and implementation of program objectives and strategies pertaining to beneficiary services. Through direct contact with elderly and needy, and/or their representative groups, determines their health care requirements and provides this information to HCFA components. Responds to beneficiary and recipient referrals concerning unique health or health-related problems.

Dated: December 13, 1979.

Patricia Roberts Harris,
Secretary.

[FR Doc. 79-39171 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-35-M

Health Resources Administration

Health Planning Agency Review of Energy Conservation Projects

AGENCY: Health Resources Administration, PHS.

ACTION: Notice of Health Planning Agency Responsibility for Review of Hospital Applications for Assistance for Energy Conservation Measures Under the National Energy Conservation Policy Act, Pub. L. 95-619.

SUMMARY: This is to give notice that any project application for which a grant is sought under the National Energy Conservation Policy Act (Pub. L. 95-619) and which requires a Certificate of Need or section 1122 approval must be reviewed by the appropriate health planning agencies under the provisions of Title XV of the Public Health Service Act and section 1122 of the Social Security Act.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Mr. Burt Kline, Director, Division of Energy Policy and Programs, Bureau of Health Facilities Financing, Compliance, and Conversion, Health Resources Administration, Center Building, Room 10-22, 3700 East-West Highway, Hyattsville, Maryland 20782, (telephone: (301) 436-7263).

SUPPLEMENTARY INFORMATION: The recently enacted National Energy Conservation Policy Act authorizes the Secretary of Energy to make grants to States and to public and nonprofit hospitals to assist them in identifying and implementing energy conservation procedures and measures to reduce the energy use and anticipated energy costs

of hospitals. The Department of Energy (DOE) will allocate funds over a three year period to State Energy Policy Offices (SEPOs) on the basis of a formula including such factors as population, climate, fuel cost, and fuel availability. As a result of the availability of these funds, energy capital improvement projects in hospitals will be developed which in many cases will require review under the Certificate of Need (C/N) and section 1122 programs administered by the health systems agencies (HSAs) and State health planning and development agencies (SHPDAs) funded under Title XV of the Public Health Service Act.

Each State administers (or will soon administer) an C/N program under section 1523 of the PHS Act, and, in participating States, administers the capital expenditure review program under section 1122 of the Social Security Act. For States with satisfactory C/N programs, Federal regulations provide that any expenditure made (with certain exceptions) "by or on behalf of a health care facility or HMO (health maintenance organization) in excess of \$150,000 (or such lesser amount as the State may specify)" is a capital expenditure subject to C/N review. (See 42 CFR 123.404(a)(2); 44 FR 19322). Under section 1122, in order to be reimbursed under titles V, XVIII, and XIX of the Social Security Act, certain capital expenditures (including those which exceed \$100,000) must have been submitted to SHPDAs for review before being made. For reviews under both of these programs, SHPDAs are required to consult with, and take into account the recommendations of, the appropriate HSAs.

The Health Resources Administration (HRA) is working with DOE to ensure that grant applications for hospital projects requiring review under the C/N and section 1122 programs will be transmitted to the appropriate SHPDAs and HSAs. Additionally, a guide for handling these applications was sent to the health planning agencies on September 7, 1979 (Program Notice No. 79-15). DOE has been requested to instruct SEPOs, after their ranking of approvable hospital energy conservation grant applications, to advise those hospitals whose applications are likely to be funded to submit a full C/N or section 1122 application to the appropriate HSAs and SHPDAs where review would be required under those programs.

Dated: December 5, 1979.

Henry A. Foley,
Administrator, Health Resources
Administration.

[FR Doc. 79-39156 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-83-M

Office of the Assistant Secretary for Planning and Evaluation

National Long-Term Care Channeling Demonstration Program; Intent To Initiate Program

This notice sets forth the intent of the Department of Health, Education and Welfare to initiate the National Long-Term Care Channeling Demonstration Program. Approximately \$18 to \$20 million will be available in Fiscal Year 1980 to develop, fund and evaluate channeling demonstration projects. These projects will be designed to test the extent to which a local structure is able to manage, coordinate and arrange provision of in-home, community-based, and institutional long-term care services (with the introduction of additional services resources in a subset of projects) in order to assure that people who need long-term care receive the appropriate types and levels of services in the least restrictive setting and in the most cost-effective manner.

HEW has three key expectations with respect to the demonstration initiative:

1. To stimulate system level changes in the organization of the delivery system, the relationship among service providers, and in the way existing long-term care dollars are allocated;
2. To create at the community level the structures that are necessary to coordinate, manage and arrange for the provision of appropriate and efficient long-term care services on behalf of the clients who need such services; and
3. To collect comparable information across the demonstration projects that will assist HEW in the development of a comprehensive long-term care policy including the Legislative and Administrative specifications required to implement policy objectives.

The principal target population for the Channeling Demonstration Program will be the functionally impaired elderly.

Funds will be made available for State or local government agencies and existing or new non-profit agencies and organizations to participate as demonstration sponsors. It is expected that relevant State agencies will play a key role in the identification of potential project sites and will support the implementation of any project selected within the state.

It is currently anticipated that final specifications for the National Channeling Demonstration Program will

be announced in March, 1980. No applications will be accepted until after the formal solicitation. Written comments on this Notice will be considered by HEW in the development of the final specifications.

Background

Long-term care, especially with its current emphasis on nursing home services, is placing a major strain on personal resources and on Federal, State and local public finances. Future increases in the proportion of elderly in the population will further increase the demand for and associated costs of long-term care services. Spending on long-term care, which will have doubled between 1975 and 1980, will more than double between 1980 and 1985 under existing programs and current policies. Despite this projected increase in public and private spending, many people needing services may still not receive them.

Increasingly, the Congress, Federal officials, representatives of State and local government, service providers and consumers are in agreement that the large and growing resources devoted to long-term care are not being efficiently used. The following types of problems have been identified in current long-term care programs and policies:

Publicly supported long-term care programs are fragmented, difficult to access, inequitable in their coverage, and do not capitalize on existing social support networks.

Federally subsidized long-term care programs foster an excessive reliance on costly medical and institution-based services.

There is an inadequate supply of accessible and affordable in-home and community-based services which might deter institutional placement or reduce the length of stay.

There are relatively few mechanisms at the local level for managing and coordinating the wide range of social, health-related, and medical services that are needed by many of the functionally impaired.

Over the past five years, some promising programs have emerged to address these perceived inadequacies. At the core of many of these programs has been a commitment to develop, at the local level, a capacity to organize and manage a range of in-home, community and institutional services on behalf of individuals who need long-term care.

HEW would like to further explore alternative conceptions of community long-term care agencies in a systematic fashion and in so doing to determine: Which approaches to organizing and

delivering long-term care services have the greatest potential for achieving particular policy objectives; what the barriers to their implementation might be; and what their cost implications are.

Therefore, HEW requested and the Congress has appropriated approximately \$20 million to support a coordinated initiative to test the ability of community long-term care projects to address many of the inefficiencies in the existing long-term care system and to assess the factors which influence their structure, process, and impact. A portion of the funds will be used to gather baseline data necessary to evaluate the sites and to derive national estimates from the demonstration experience.

These channeling demonstrations are intended to obtain information on system change which will enable government and long-term care recipients and their families to overcome some of the critical barriers to effective long-term care delivery present in existing policies and programs.

Because the Channeling Demonstration Program is an intradepartmental effort with joint funding and demanding evaluation requirements, a special management and review structure has been developed. A Steering Committee, composed of the Assistant Secretary for Planning and Evaluation and representatives of the Health Care Financing Administration, the Office of Human Development Services including the Administration on Aging, and the Public Health Service has been established to set the broad goals and policy purposes of the initiative and to recommend projects to be funded.

Program Design Requirements

In order for the Department to test the impact of the channeling projects and their potential for allocating long-term care resources more efficiently under a variety of circumstances, the demonstration program will: Be national in scope; include a number of sites; and permit comparisons of structure, process, and outcomes across sites.

This will require the application of a consistent design for certain components and data-gathering mechanisms common to all projects. Therefore:

1. Because local coordination and management of long-term care services for the benefit of individuals is the core of this program, each channeling demonstration project must include a carefully controlled case management process to perform the following six functions:

Screen Clients for Eligibility for Service. (Eligibility will be based on

criteria to be developed by HEW.) As currently envisioned, it is the Department's intent that potential clients of the demonstration project will be selected from among those functionally impaired persons who need assistance in activities of daily living for an extended period of time. The vast majority, if not all, of the clients should be elderly.

Assessment of Service Needs. In each project, a structured assessment will be performed using a uniform assessment methodology to be prescribed by HEW. This assessment will include identification of (a) functional limitations, (b) the client's social and environmental situation, and (c) other physical, mental, social and health factors which will assist in defining need for services.

Prescription of Services. Based on a comprehensive assessment of client need, project staff will develop a service plan that identifies the type, amount and duration of the services needed by the client in the least restrictive setting; the most feasible source of the services including private or volunteer sources; and the cost of purchased services. HEW will provide training in the development of care plan to project staff in order that care planning decisions are made according to comparable sets of professional assumptions.

Acquisition and Coordination of Services. Each project must develop and delineate its relationships to the health care, income maintenance and social services system, and to clients' informal support networks, to insure prompt and responsive service delivery.

Monitoring of Services. The project staff will be responsible for adapting service resources to changes in the clients' needs and for on-going monitoring of the quality of services being provided.

Reassessment. Clients' needs must be reassessed at prescribed intervals by project staff.

In general, channeling projects are not expected to directly deliver services beyond performing the above functions.

2. Each channeling site, at a minimum, will be expected to provide access to a broad range of services in addition to case management. These services will be identified in the final design and will include such services as homemaking, chore services, and transportation in addition to those traditionally funded by major public health programs.

3. So that each project can be evaluated in a comparative context, all channeling sites must: Use a common client assessment instrument to be selected by HEW; use standard service definitions; follow a common cost-

accounting methodology; adopt a uniform management reporting system; and employ common output measures to assess differences between a participant and a control population.

HEW expects a significant amount of natural variation to occur among project sites with respect to the ways in which functions are organized and the auspices under which they are carried out. A key assumption of the National Demonstration Program is that the channeling project must be responsive to and will be influenced by the local system of providers and agencies of which it is a part.

HEW, through outside contractors, will develop and provide technical assistance in the utilization of all prescribed methodologies and procedures. The sites must cooperate fully in the evaluation activities of HEW and its evaluation contractor(s).

4. Notwithstanding the substantial discretion left to project sponsors in determining the ways in which to organize projects, HEW intends to systematically vary across sites a number of key variables. Current planning indicates the importance of testing at least three design variations: The degree of authority within the channeling system over service provision e.g., voluntary cooperation, control over client utilization of services, and mandatory pre-screening of nursing home admissions.

The extent to which the channeling project is provided resources to expand the supply of services not present within the community.

The method by which long-term care services are reimbursed under the demonstration e.g., average per capita or cost reimbursement.

It is anticipated that three different approaches or models of channeling will be supported within the national program, based on further elaboration of the above variables. The final design specifications will describe in detail the deliberate design variations that HEW intends to stimulate.

Procurement Schedule

A separate site solicitation for channeling demonstration projects will be developed and at least two rounds of proposals for initial funding will be accepted to permit interested applicants with more complex proposals more time to prepare their applications.

Proposals for the first round are tentatively scheduled to be received in HEW by May of 1980.

A second round of proposals will be accepted in the first-half of Fiscal Year 1981.

It is anticipated that an evaluation contractor will be in place and base line data activities initiated before channeling agency sites begin to provide services.

Potential applicants should note that HEW will not entertain any proposals for new demonstrations—including waiver only projects—in which a key purpose is to manage and coordinate a range of institutional and non-institutional long-term care services outside of the National Channeling Demonstration solicitation.

Funding Strategy

Two phases of support of new channeling projects are now contemplated: (1) a development phase of six to twelve months to permit projects to develop and put into place a program meeting HEW design specifications; and (2) an operational phase of three to four years during which services are delivered.

Although some channeling projects will receive multi-year funding, the operational phase of the projects will begin only after the site sponsor has submitted to HEW an amended project proposal delineating final project specifications that conform to the evaluation design and this amended proposal has been accepted.

Some expansion of federally-supported services through waivers is contemplated in one or more channeling models. HEW will identify in the solicitation the general types of waivers appropriate to each channeling model. Application for specific waivers must be submitted to HEW at the time of initial application for channeling agency funds.

Program Announcement

Anyone wishing to be placed on a mailing list to receive copy of the official Channeling Demonstration Program announcement should mail the request to: Department of Health, Education, and Welfare, Office of the Assistant Secretary for Planning and Evaluation, Division of Long-Term Care Policy, Room 416-E, H. H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Evaluation and Technical Assistance

Because of the scope and complexity of the Channeling Demonstration Program, HEW intends to seek outside assistance to carry out specific evaluation and technical assistance tasks. Final specifications for these tasks will be announced during the first quarter of 1981.

Potential offerors should note that all of the evaluation and technical assistance tasks and sub-tasks specified

below may be combined into a single Request for Proposals (RFP). Since in some instances one organization may not possess the necessary expertise to carry out all of the work required, the Department may entertain proposals that sub-contract for certain tasks and/or proposals that only bid against a specified subset of the tasks.

The following tasks associated with the implementation and evaluation of the Channeling Demonstration Program will require the assistance of outside contractors.

Task I. Preparation of Evaluation Design Specifications

The Department intends to evaluate channeling demonstration projects against a common set of design specifications to permit comparisons to be made across sites. The key questions to be addressed by the evaluation are expected to include:

The extent to which a channeling project can improve the match between client need and services received without the introduction of a significant amount of new service dollars;

- The extent to which a channeling project can limit unnecessary utilization of acute hospitals and long-term care institutions and maximize the use of in-home and community services in a manner that is economically feasible and supports the informal care rendered by family and friends.

- The impact of various demonstration projects on the demand for and utilization of long-term care services and on the relative supply of community and institutional services;

- The impact of demonstration projects on the costs of providing long-term care services and the distribution of these costs among various levels of government and between public and private sources;

- Whether control over certain service dollars strengthens the ability of channeling projects to achieve desired outcomes; and

- Whether alteration of the method of reimbursing for long-term care services strengthens the ability of demonstration projects to achieve desired outcomes.

The common evaluation of all projects will require that the national evaluation team work closely and cooperatively with HEW and with each site. Activities that are preliminary to the actual evaluation also require close relationships with the sites.

Initial planning indicates that the activities associated with the preparation of the evaluation design specifications will include:

A. *Overall Evaluation Plan.* The design contractor will develop an

overall evaluation plan which supports the objectives of the Channeling Agency Demonstration Program. This design will refine the critical policy issues to be pursued; define the relationships among key variables; and propose relevant hypotheses, outcome measures, and associated data requirements. The contractor will be responsible for recommending both experimental and quasi-experimental methodologies for selecting the study sample. Potential offerors should note that HEW will give preference in selecting demonstration sites to applicants that are willing to employ randomized procedures for identifying the experimental group.

B. *Base-line Data Collection.* The design contractor will prepare a plan for collecting baseline data to permit the evaluator to relate the study sample back to a known population. Data will be collected on the health and functional status of persons in the target area who have characteristics similar to those of the population eligible for channeling services; the service utilization patterns of the above population; the supply of long-term care services in the target area; the cost of long-term care services and the source of expenditures.

C. *Instrumentation.* The design contractor will develop (or identify) the instrumentation required to measure the impact of various interventions. This includes field testing, validation, and making necessary modifications as appropriate. Potential offerors should note that HEW intends to prescribe common methodologies for:

- Assessing client need for services;
- Maintaining reliable records of the costs of channeling agency services;
- Collecting management information.

D. Data Collection and Processing.

The design contractor will be responsible for developing a plan to insure timely and efficient data collection, including procedures for: (1) establishing field operations; (2) hiring and training staff; (3) supervising and monitoring of field staff; and (4) storing, retrieving, and statistically processing large quantities of detailed data.

E. *Research Analysis.* The design contractor will be responsible for refining, elaborating, and extending the specific research questions developed by HEW and will propose appropriate quantitative and qualitative procedures for exploiting the data generated from the demonstrations.

Task II. Implementation of the Evaluation Plan

Upon completion of the evaluation design specifications (Task I), HEW expects to enter into negotiations with the same contractor to arrive at a

agreement for conduct of the evaluation, provided that the contractor has satisfactorily prepared the evaluation plan specified in the Request for Proposals.

The national evaluation team selected by HEW will be responsible for organizing and processing all data required for research purposes and for preparing required analyses. However, personnel employed by the demonstration sites will be responsible for administering the assessments required for clinical purposes and for maintaining accurate records of services provided, the duration of services, and the associated costs.

The following activities are indicative of those that will be the responsibility of the evaluation contractor:

a. Collecting required baseline data at each project site prior to the implementation of the channeling agency intervention and updating this data at the end of the study;

b. Preparing specific procedures at each site which permit the collection of a uniform set of recorded information with respect to:

- Administrative and Financial Management;
- Service Delivery;
- Provider/Client Reimbursement;
- Intake and Eligibility; and
- Case Management.

c. Recording the detailed operations of the demonstration sites to identify whether the operations of the project (including data collection) are consistent with the intended design; and

d. Collecting information on the impact of the demonstration sites e.g., service utilization, costs and client outcomes.

Task III. Design and Implementation of Technical Assistance Activities

HEW expects to initiate a variety of activities to support the implementation and evaluation of channeling projects according to the required design specification. The following types of activities may be required:

1. Assistance to sites during their program development phase, including development of an information exchange and technical assistance network among project sites to permit the identification of common problems, the sharing of experiences and linkage to additional sources of help and expertise.

2. Initiation of a uniform process for training case managers to carry out the functions of assessment and case management (including the preparation of necessary training materials).

3. Preparation of narrative descriptions of what occurred at each

site and among other key agencies and actors during all phases of project planning and implementation.

4. Assistance to HEW in overseeing the implementation of project sites and in monitoring the activities of the national evaluation team. This will include identifying problems associated with the implementation of the required evaluation design as well as reviewing analytic products developed by the evaluation team and suggesting additional analyses as required.

Organizations wishing to receive copies of the solicitations associated with evaluation and technical assistance activities should submit a request to: Department of Health, Education, and Welfare, Office of the Assistant Secretary for Planning and Evaluation, Division of Long-term Care Policy, Re: Evaluation/T.A. RFP, Room 416-E, H. H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. John L. Palmer, Acting Assistant Secretary for Planning and Evaluation.

December 17, 1979.

[FR Doc. 79-32170 Filed 12-20-79, 8:45 am]

BILLING CODE 4110-12-M

Office of Education

Follow Through Program; Technical Assistance; Closing Date for Transmittal of Applications

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for New Projects for Fiscal Year 1980.

Applications are invited for new technical assistance projects under the Follow Through Program.

Authority for this program is contained in sections 551-557 of the Economic Opportunity Act of 1964, as amended by Pub. L. 95-568.

(42 U.S.C. 2929 et. seq.)

The program makes technical assistance awards generally to State educational agencies (SEAs).

The purpose of the awards is to provide funds to SEAs and other appropriate agencies, organizations, or institutions so that they may provide technical assistance to local Follow Through projects and otherwise exercise leadership in regard to Follow Through activities in the State.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by February 29, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of

Education, Application Control Center, Attention: 13.433C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: In formulating applications for technical assistance awards, potential applicants should give special attention to 45 CFR 158.42 of the Follow Through regulations which contains specific program funding criteria.

In fiscal year 1980 it is anticipated that up to 52 new awards will be made. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Grants are for a one year duration.

Available Funds: It is estimated that approximately \$700,000 will be made available for technical assistance awards in fiscal year 1980. It is anticipated that the grants will range from approximately \$6,300 to \$50,000. However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is

otherwise specified by statute and regulations.

Applications Forms: Application forms and program information packages are expected to be ready for mailing by December 21, 1979. They may be obtained by writing to the Division of Follow Through, U.S. Office of Education, (Room 3624, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 10 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special Procedures: Every applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A-95 but did not receive any clearinghouse comments.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Follow Through Program (45 CFR Part 158) published in the Federal Register on June 29, 1977.

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published as a Notice of Proposed Rulemaking in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR, Part 100a: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the

Education Division Use to Get Compliance?).

FURTHER INFORMATION: For further information contact Mrs. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education (Room 3624, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245-9846.

(42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assistance No. 13.433, Follow Through Program).

Dated: December 17, 1979.

John Ellis,
Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-39097 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-02-M

Follow Through Program; Closing Date for Transmittal of Applications

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for Noncompeting Continuation Projects.

Applications in the following two categories are invited for noncompeting continuation awards under the Follow Through Program:

(1) grants for carrying out local Follow Through projects;

(2) grants or contracts for demonstration (Sponsors).

Authority for these categories is contained in sections 551-557 of the Economic Opportunity Act of 1964, as amended by Pub. L. 95-568. (42 U.S.C. 2929 et. seq.)

The local project grants are generally awarded to local educational agencies, and the sponsors awards are generally made to institutions of higher education or regional educational laboratories.

The purpose of the awards is to provide comprehensive services to low-income children in grades k-3, and to demonstrate successful practices of these services.

Closing date for transmittal of applications: To be assured of

consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by February 29, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.433A for Follow Through local Projects, and 13.433B for grants or

contracts for demonstration (Sponsor) awards; Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing:

(1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturday, Sundays, and Federal holidays.

Program information: In formulating applications for a local project grant an applicant should give special attention to 45 CFR 158.15 of the Follow Through regulations which explains the criteria used in awarding these grants.

In formulating applications for a sponsor award, an applicant should give special attention to 45 CFR 158.52 of the Follow Through regulations which provides an explanation of the criteria used in awarding these grants or contracts.

Available funds: It is estimated that FY 1980 funds will support the existing 153 local projects and the existing 19 sponsors. In FY 1979 the local project grants ranged from approximately \$77,000 to \$1,783,000; and the sponsor awards ranged from approximately \$65,000 to \$597,000. In FY 1980, an amount not to exceed \$6,127,000 will be available for grants to sponsors.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute and regulations.

Applications forms: Application forms and program information packages are expected to be ready for mailing by December 21, 1979.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Special procedures: Every applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A-95 but did not receive any clearinghouse comments.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Follow Through Program (45 CFR Part 158) published in the Federal Register on June 29, 1977.

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published as a Notice of Proposed Rulemaking in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR, Part 100a: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); and Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact, Mrs. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, (Room 3624, Regional Office Building 3), 400 Maryland Avenue S.W., Washington, D.C. 20202. Telephone (202) 245-9846.

(42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assistance No. 13.433, Follow Through Program).

Dated: December 17, 1979.

John Ellis,
Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-39097 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-02-M

Title I—Elementary and Secondary Education Act, Notice That Certain Title I, ESEA Requirements Are Waived for Puerto Rico

AGENCY: Office of Education, HEW.

ACTION: Notice that Certain Title I, ESEA Requirements are Waived for Puerto Rico.

SUMMARY: On September 7, 1979, the Commissioner of Education published in the Federal Register (44 FR 52333) a notice of his intent to grant Puerto Rico a waiver of certain requirements under title I of the Elementary and Secondary Act of 1965 and the terms and conditions upon which that waiver would be granted. The Office of Education received several comments in response to that notice of intent and gave serious consideration to each of them. Notice is hereby given that—on November 28, 1979—the Office of Education granted a waiver for the Puerto Rico Department of Education, during the period of July 1, 1979 through July 1, 1980. This notice contains the terms and conditions upon which the waiver was granted. These final terms and conditions are the same as those which were published in the September 7, 1979 notice, except that they reflect the Office of Education's decision to disapprove the use of any funds covered by the waiver for the remodeling of classrooms that have walls built with asbestos cement.

EFFECTIVE DATES: This waiver is effective during the period July 1, 1979 through July 1, 1980.

ADDRESSES: Division of Education for the Disadvantaged, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 3642-E, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mrs. Genevieve Dane, (202) 245-2506.

SUPPLEMENTARY INFORMATION:

A. Title I, ESEA Requirements That Are Waived

In accordance with section 1004(b) of the Elementary and Secondary Education Act of 1965 (as amended by the Education Amendments of 1978), and subject to the terms and conditions stated below, the Office of Education has—

(1) Waived the applicability of the requirements contained in the following

sections of the title I statute to all title I, ESEA, funds obligated by Puerto Rico during the period from July 1, 1979 through July 1, 1980:

Sections 123(a).
Sections 124(a).
Sections 124(b).
Sections 124(g)(1).
Sections 126(b).
Sections 126(c).
Sections 126(e).
Sections 183(f).

(2) Exempted Puerto Rico from any regulations or guidelines that are promulgated to implement or interpret the sections of the title I statute listed above in paragraph (1); and

(3) Limited the Puerto Rico Department of Education's obligation to monitor and enforce compliance with title I requirements (under part C of the title I statute) to those requirements which have not been waived by the above paragraphs (1) and (2).

B. Terms and Conditions Upon Which the Waiver Was Granted

The Office of Education granted this waiver subject to the following terms and conditions, which the Puerto Rico Department of Education has formally agreed to comply with:

(1) All title I funds that are obligated by the Puerto Rico Department of Education during the period covered by the waiver must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, except those specifically waived;

(b) These terms and conditions;

(c) The management plan that was submitted in conjunction with the June 15, 1979 waiver request, as modified by the U.S. Office of Education's decision to not approve the proposed use of title I funds to—

(i) pay the salaries of, or provide training to, district managers; and

(ii) remodel classrooms that have walls built with asbestos cement; and

(d) The Puerto Rico Department of Education's title I budget for the period covered by the waiver.

(2) If the Puerto Rico Department of Education wishes to deviate from the proposed use of \$20,350,000 in title I funds for the training of uncertificated teachers which will lead to degrees and certification, it shall obtain the prior approval of the Commissioner of Education.

(3) The Puerto Rico Department of Education shall, on the following dates, submit a status report to the Commissioner which indicates specifically how many teachers from rural and urban areas have received training leading to certification:

(a) January 1, 1980; and
(b) April 1, 1980.

(4) In carrying out the title I funded training of uncertificated teachers, the Puerto Rico Department of Education shall ensure that at least an equitable number of uncertificated teachers who receive training are employed in rural areas.

(5) During the period covered by the waiver, the Puerto Rico Department of Education shall make all staff and documents that relate to title I activities available when representatives of the U.S. Office of Education conduct site visits. A team representing the U.S. Office of Education will make at least one visit to Puerto Rico during the period covered by the waiver to observe title I activities. This team may also hold public meetings to elicit comments from interested persons.

(6) By October 1, 1980, the Puerto Rico Department of Education shall submit a report to the Commissioner which includes—

(a) A breakdown of all title I obligations that were incurred during the period covered by the waiver; and

(b) A list of all uncertificated teachers who received training with title I funds, that indicates whether each teacher is employed by a school in a rural or urban area and whether the training resulted in that teacher becoming certificated.

(7) By January 15, 1980, the Puerto Rico Department of Education shall submit to the Commissioner its plan for meeting all title I requirements as of July 2, 1980.

(Catalog of Federal Domestic Assistance No. 13-428, Educationally Deprived Children Local Educational Agencies)

Dated: December 13, 1979.

John Ellis,
Executive Deputy Commissioner for Educational Programs.

[FR Doc 79-39098 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Women's Educational Programs.

AGENCY: Office of Education, National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy, Practices and Programs, Civil Rights and WEEA Program Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory

Committee Act (P.L. 920463). This document is intended to notify the general public of their opportunity to attend.

DATE: January 23, 1980, 9:00 a.m. to 9:00 p.m.; January 24, 1980, 8:30 a.m. to 5:00 p.m. and January 25, 1980, 8:30 a.m. to 12:30 p.m.

ADDRESS: The Howard Johnson's Motor Lodge, 225 E. Apache Blvd., Tempe, Arizona 85281. A Public Hearing will be held at the Scottsdale Community College, Student Center, Turquoise Room, 9000 East Chaparral, Scottsdale, Arizona 85253.

FOR FURTHER INFORMATION CONTACT: Laura R. Summers, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., No. 821, Washington, D.C., 20036 (202) 653-5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95-561. The Council is mandated to (a) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Federal Policy, Practices and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on January 23, 1980 from 9:00 a.m. to 3:30 p.m.

The meeting of the Executive Committee will take place on January 23, 1980 from 7:00 p.m. to 9:00 p.m. The agenda will include plans for the Council meeting as well as discussion of current activities and future plans. There will also be discussion on Council structure.

The agenda for the Federal Policy, Practices and Programs Committee will include discussion on the vocational education study, the Higher Education Act and the Department of Education.

The agenda for the Civil Rights Committee will include discussion of matters concerning Title IX of the Education Amendments of 1972 and

Title IV of the 1964 Civil Rights Act and other Civil Rights provisions.

The agenda for the WEEA Program Committee will include discussion on selection of project sites to be visited in conjunction with the evaluation of the WEEA Program for FY 1979 and a status report on WEEA Contract activities.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 8:30 a.m. to 11:30 a.m. January 24; and from 8:30 a.m. to 12:30 p.m. on January 25, 1980. The agenda will include committee reports, program plans and discussion on the new Department of Education. A public hearing on the special educational needs of Indian women and girls will be held from 1:30 p.m. to 5:00 p.m. January 24, 1980 at the Scottsdale Community College, Student Center, Turquoise Room, 9000 East Chaparral, Scottsdale, Arizona 85253.

Records will be kept of the proceedings and will be available for public inspection at the Council offices at 1832 M Street, N.W., Suite 821, Washington, D.C.

Joy R. Simonson,
Executive Director.

[FR Doc. 79-39132 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-02-M

National Advisory Council on Extension and Continuing Education; Committee Meetings

AGENCY: National Advisory Council on Extension and Continuing Education.
ACTION: Notice of Meetings.

SUMMARY: This notice sets forth the schedules and proposed agenda of a meeting of the Ad Hoc Committee on the Media in Continuing Education and of the Executive Committee of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meetings.

DATE: January 24-25, 1980.

ADDRESS: National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004.

FOR FURTHER INFORMATION: Williams G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004, Telephone: (202) 376-8539.

The National Advisory Council on Extension and Continuing Education is

authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW of Part B (Lifelong Learning Activities) of the title.

Meetings of the Council are open to the public. However, because of limited space, those interested in attending any meeting are requested to call the Council's office beforehand. Available seats will be assigned on a first-come basis.

The meeting of the Ad Hoc Committee on the Media in Continuing Education will begin at 7:00 p.m. on January 24 and recess at 9:00 p.m. The meeting will resume on January 25 at 9:00 a.m. and adjourn at 12:00 Noon. The committee will hold consultations with broadcast and Government officials and develop the year's plan of action.

The Executive Committee will meet from 1:00 p.m. to 5:00 p.m. on January 25. The agenda for the meeting will include discussion of:

- Bylaws and Council Mandate.
- Committee Assignments.
- Budget.
- Plans for year's activities and meeting locations.
- Staff evaluations.

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, N.W., Washington, D.C.

Dated: December 19, 1979.

William G. Shannon,
Executive Director.

[FR Doc. 79-39270 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-02-M

Social Security Administration

Supplemental Energy Allowance Program for the Low-Income Population Under Public Law 96-126

AGENCY: HEW.

ACTION: Notice.

SUMMARY: Public Law (Pub. L.) 96-126 was signed by the President on November 27, 1979. The law provides, among other funding, \$1.2 billion for distribution by the Department of Health, Education, and Welfare (HEW) and States to aid low income persons during the winter heating season.

Approximately four hundred million dollars of the funds are to be used for a direct, Federally administered one-time payment to supplemental security income (SSI) program recipients (except those persons who are in medical care institutions in which more than 50 percent of the cost of their care is paid by Medicaid). This notice gives public announcement of the rules under which these payments will be made.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: SSA Regional Commissioners or Michael D. Johnson, Department of Health, Education, and Welfare, Social Security Administration, Office of Operational Policy and Procedures, Room 500 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235 (telephone: (301) 597-1622).

SUPPLEMENTAL INFORMATION: Pub. L. 96-126 allocates \$400 million to the Secretary of HEW to be paid as a special one-time energy allowance to recipients of SSI payments. Payments to SSI recipients will be based on the amounts distributed among the States according to the following formula: (1) 33 1/3 per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 33 1/3 per centum based on the difference in home heating energy expenditures between 1978 and 1979; (3) 33 1/3 per centum based on the number of SSI recipients (other than those who are in medical care institutions in which more than 50 percent of the cost of their care is paid by Medicaid) in each State relative to the national total of SSI recipients. The portion of the allocation formula that distributes funds based on increases in home heating costs from 1978 to 1979 was applied by looking to the number of heating degree days for each State (from which heating needs may be derived); the relative use of each type of fuel; the efficiency of each fuel and the price of each fuel.

Thus, the amount paid an SSI recipient will vary from State to State because it is determined by the amount allocated to the State divided by the estimated SSI recipient population in the State. No SSI recipient will receive more than \$250 from the funds provided for SSI recipients. The remainder of any funds that would have been allotted to any State for SSI recipients if no maximum payment limitation had been in existence will be added to the amount available for States (as provided in P.L. 96-126) through State programs for energy allowances to low income families. A separate notice was

published in the Federal Register for these State programs on November 30, 1979, at 44 FR 69032.

The eligibility requirements for these special energy allowances payments are that an individual:

1. is a recipient of SSI or a federally administered State supplement as an eligible individual or eligible spouse; and

2. receives an SSI or a federally administered State supplemental payment for the month of December 1979 provided that the payment is made no later than March 31, 1980; and

3. does not receive such payment for December 1979 based on residence in a medical institution for which Medicaid pays more than one-half the cost.

Each person who meets these criteria will be paid separately regardless of whether the persons is an eligible individual or eligible spouse. In order to meet the need for payment early in the heating season, an automated payment process was established with a minimum of manual functions. The essential parts of that process are as follows:

—No application for the energy allowance is necessary.

—Eligibility will be solely determined on the basis of December 1979 data on the automated master supplemental security record as of the time the energy allowance payment is generated.

—The first payment is scheduled for January 7, 1980, with additional payments in February and March 1980 to individuals whose eligibility is established after the initial payments. No payments will be made after March 31, 1980.

—Each individual meeting the eligibility criteria will receive a separate check. Payment for individuals who receive SSI benefits by means of direct deposit will be sent to the residence address on the master supplemental security record rather than to the financial institution.

—No adjustments in payment amount will be made where payment is based on the information (for example State of residence) reflected on the master supplemental security record at the time the payment is generated.

—Individuals who received SSI payments for December 1979 before April 1, 1980, and did not receive the special energy payment or received a payment for an incorrect amount as a result of machine error may request correction by SSA field offices.

—Where it is found that individuals who allege incorrect payment were paid correctly or are ineligible under the above criteria, an explanation will be provided by SSA field offices (in writing

if requested). No further administrative appeal procedure is provided.

—Payments under this program shall not be considered as income or resources under any public or publicly assisted program, except under the Energy Crisis Assistance Program.

All payments under this program to SSI recipients will be made by green check bearing the legend "Energy Allowance" and will include the following explanatory insert:

Federal Energy Allowance Check

This is a special check to help you pay bills for electricity, gas, or oil this winter. You are getting this check because you receive supplemental security income (SSI) payments. The amount is based in part on the average winter temperature in your State. This money is in addition to your monthly SSI payment. You will continue to get your monthly SSI Check in the usual way.

Unlike your monthly SSI checks, the enclosed check is a one-time payment. However, you may be able to get additional help from your State or local government if you cannot pay your fuel costs.

Your local Social Security Office can answer any questions you have regarding this energy allowance.

Supplemental Energy Allowance Payments by State

State or place	Amount
Alabama.....	\$44.00
Alaska.....	250.00
Arizona.....	55.00
Arkansas.....	48.00
California.....	44.00
Colorado.....	156.00
Connecticut.....	250.00
Delaware.....	166.00
District of Columbia.....	102.00
Florida.....	99.00
Georgia.....	46.00
Hawaii.....	94.00
Idaho.....	250.00
Illinois.....	170.00
Indiana.....	229.00
Iowa.....	250.00
Kansas.....	131.00
Kentucky.....	69.00
Louisiana.....	39.00
Maine.....	226.00
Maryland.....	140.00
Massachusetts.....	144.00
Michigan.....	177.00
Minnesota.....	250.00
Mississippi.....	41.00
Missouri.....	97.00
Montana.....	250.00
Nebraska.....	222.00
Nevada.....	117.00
New Hampshire.....	250.00
New Jersey.....	185.00
New Mexico.....	76.00
New York.....	150.00
North Carolina.....	73.00
North Dakota.....	250.00
Ohio.....	151.00
Oklahoma.....	58.00
Oregon.....	218.00
Pennsylvania.....	157.00
Rhode Island.....	190.00
South Carolina.....	53.00
South Dakota.....	250.00

Supplemental Energy Allowance Payments by State—Continued

State or place	Amount
Tennessee.....	58.00
Texas.....	45.00
Utah.....	250.00
Vermont.....	244.00
Virginia.....	106.00
Washington.....	180.00
West Virginia.....	88.00
Wisconsin.....	204.00
Wyoming.....	250.00
Northern Mariana Islands.....	34.00

Individuals who are not eligible for a supplemental energy allowance or who need assistance in addition to the allowance will be referred by social security offices to the State or local agency administering the Energy Crisis Assistance Program(s) in their State.

The Department is not providing for a public comment period on these rules. The rules are effective upon publication due to the urgency with which the energy allowance payment must be made to the low-income population in order for them to be available this winter.

Dated: December 13, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

[FR Doc. 79-39169 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-6]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of certain projects under various HUD programs as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information that reports other environmental studies planned or completed in the project area; issues and data which the EIS should consider; recommended mitigating measures and alternatives if one identifies a major issue associated with the proposed project. Federal

agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., December 3, 1979.

Richard H. Broun,
Director, Office of Environmental Quality.

Appendix

1. EIS on Rancho Isabella, Brazoria County, Tex.

The Dallas Area Office of the Department of Housing and Urban Development intends to file an environmental impact statement for the proposed Rancho Isabella Subdivision located in Brazoria County, Texas. The purpose of this notice is to solicit from all interested persons, local, state and Federal agencies recommendations regarding (1) the issues to be addressed in depth in the environmental impact statement and (2) to identify and eliminate from detailed study the issues which are not significant.

Description. The sponsor proposes to develop within a 15 year period a site of 3,440 acres which is located immediately north and adjacent to the City of Angleton, Brazoria County, Texas. When fully developed, the Rancho Isabella Subdivision will contain approximately 9,840 single family units and will accommodate a population of approximately 27,060 persons.

Need. Due to the size and scope of the proposed project, the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969, and in compliance with the final regulations as published by the Council on Environmental Quality in the Federal Register on November 29, 1978. The Draft EIS is expected to be completed and distributed approximately 45 days after the expiration date of the comment period identified in this notice.

Alternatives perceived. The alternatives under consideration by the Department of Housing and Urban Development in this action are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. All relevant comments and recommendations received within 21 days after the date of publication of this notice, will be given consideration; comments should be sent to the Environmental Office, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

2. San Antonio Areawide Environmental Impact Statement, San Antonio, Tex.

The HUD Area Office in San Antonio, Texas, intends to prepare an Areawide Environmental Impact Statement (EIS) on the area described below and solicits information for inclusion in the EIS.

Description. The area under consideration is the North and West Growth Area of San Antonio, Texas, an area defined by the City of San Antonio as Growth Impact Areas "A", "B" and "D" in the *San Antonio Growth*.

Sketch. Preliminary estimates indicate that the EIS area includes approximately 300 square miles.

Need. HUD has developed the Areawide EIS concept as an alternate to the traditional project EIS approach. It is designed to more adequately assess the aggregate impact of development, identify need for Areawide solutions and reduce delays in approvals and construction of housing developments that often result from EIS preparation on a project-by-project basis. Additionally, the Areawide approach is designed to reduce paperwork in accordance with CEQ regulations of November 29, 1978. Other Federal agencies have been invited to participate in the NEPA process as cooperating agencies with HUD as the lead agency.

Alternatives Perceived. Prepare EIS on a project-by-project basis and update three completed EIS for housing subdivision development thereby extending delays and unnecessary paperwork.

Scoping. HUD plans a scoping meeting with Federal, State and local agencies. This meeting will be held in Room 206A, San Antonio HUD Area Office. Inquiries on time and date of meeting should be addressed to Don King, telephone (512) 730-6583. The purpose will be to identify significant issues and select data that the EIS should address.

Comments. Comments must be in written form and should be forwarded within 21 days following publication in the Federal Register to Mr. Finnis E. Jolly, Area Manager, San Antonio HUD Area Office, Post Office Box 9163, San Antonio, Texas 78285.

3. EIS on Urban Corridor Growth, Solano County, California

The San Francisco Area Office of the U.S. Department of Housing and Urban Development proposes to publish and distribute in the Fall of 1979, an Area-Wide Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) on the prospective residential growth over the next five years in the Solano County urban corridor growth area along the I-80 Freeway. Expected commercial and industrial growth may be noted, but as adjuncts to the anticipated residential growth. This document will be developed pursuant to the CEQ guidelines in 40 CFR Part 1500 dated 11-29-78.

Description. The proposed Draft EIR/EIS is expected to satisfy the requirements of the California Environmental Quality Act (CEQA) as well as those of the National Environmental Protection Act (NEPA). The document is being prepared in cooperation with the planning departments of Solano County and the Cities of Vacaville, Fairfield and Suisun City. This joint effort is intended to 1) resolve regional environmental problems on a uniform basis; 2) eliminate duplication and accelerate the process of obtaining environmental clearance of proposed housing projects in the Solano County urban corridor growth area; and 3) establish a single data base for the development of future environmental studies under CEQA and NEPA.

Need. Due to the large size of the area to be covered by this EIR/EIS and the complexity

of regional and local concerns to be addressed, HUD has determined that a written initiation of the scoping process would be more appropriate to determine the scope of issues to be addressed and for identifying the significant issues related to the future residential growth.

Scoping. In accordance with 40 CFR 1501.7 you are invited to submit a list of the significant issues which you or your agency believes should be analyzed in depth in this EIR/EIS. If any of the significant issues listed by you or your agency involve an area of expertise not generally known to be a part of HUD's interdisciplinary capability, your assistance may be requested in preparing the environmental analysis in accordance with 40 CFR 1501.6. Please submit the name, address and telephone number of a designated person whom we may contact if necessary concerning both the issues and needed assistance.

Should you have or be aware of any pertinent documents concerning any of the issues you have listed, HUD requests a copy of each of them either on a permanent or loan basis for use in preparing the EIR/EIS. In addition, HUD would appreciate a list (with addresses and telephone numbers) of any individuals or agencies who might be able to provide information concerning any of these issues.

Comments. Please submit the requested information and direct any questions about the proposed action and the environmental impact statement within 21 days of publication in the Federal Register to George B. Adams, Project Manager, Environmental Staff, San Francisco Area Office, Department of Housing and Urban Development, One Embarcadero Center, Suite 1600, San Francisco, California 94111. Telephone (415) 558-6642.

[FR Doc. 79-39237 Filed 12-20-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Narragansett, Tribe of Indians; Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

December 12, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the

Narragansett Tribe of Indians, c/o Mr. Eric Thomas, Route 2, Charlestown, Rhode Island 02813.

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on October 22, 1979. The petition was forwarded and signed by Eric Thomas.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Rick Lavis,
Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-39250 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6648-0]

Alaska Native Claims Selection

The purpose of this decision is to modify Federal Register pages 67537, 67538 and 67539 of the decision dated November 26, 1979.

Page 67537—T. 8 S., R. 53 W., Seward Meridian, Alaska (Unsurveyed)

1. The description for Secs. 3 to 12 and township acreage now reads:

Secs. 3 to 12, inclusive, all;
Containing approximately 20,411 acres.

The description is hereby modified to read:

Sec. 3, excluding Native allotment AA-7686;
Secs. 4 to 12, inclusive, all;
Containing approximately 20,251 acres.

1. State selected acreage rejected now reads:

Aggregating approximately 43,028 acres.
The acreage is modified to read:
Aggregating approximately 42,868 acres.

2. The paragraph beginning "In view of" now reads in part:

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 102,161 acres, is considered proper for acquisition by the Aleknagik Natives Limited * * *

The paragraph is hereby modified to read in part:

In view of the foregoing, the surface estate of the following described lands,

selected pursuant to Sec. 12(a), aggregating approximately 102,001 acres, is considered proper for acquisition by the Aleknagik Natives Limited * * *

Page 67538—T. 8 S., R. 53 W.

1. The description for Secs. 3 to 12, and township acreage now reads:

Secs. 3 to 12, inclusive, all;
Containing approximately 20,411 acres.

The description is hereby modified to read:

Sec. 3, excluding Native allotment AA-7686;
Secs. 4 to 12, inclusive, all;
Containing approximately 20,251 acres.

Page 67538

1. The paragraph beginning "Total aggregated acreage" now reads:

Total aggregated acreage, approximately 102,161 acres.

This paragraph is hereby modified to read:

Total aggregated acreage, approximately 102,001 acres.

Page 67539

1. Paragraph beginning "Aleknagik Natives Limited" now reads:

Aleknagik Natives Limited is entitled to conveyance of 115,200 acres of land pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 102,161 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 13,039 acres will be conveyed at a later date.

This paragraph is hereby modified to read:

Aleknagik Natives Limited is entitled to conveyance of 115,200 acres of land pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 102,001 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 13,199 acres will be conveyed at a later date.

Except as modified by this decision, the decision of November 26, 1979, stands as written.

Sue A. Wolf,
Chief, Branch of Adjudication.

[FR Doc. 79-39269 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-84-M

Request for Comments and of Intent To Rank Tracts In the Uinta-Southwestern Utah Federal Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Request for public comment on the ranking factors and the potential lease tracts and notice of regional coal team meeting.

SUMMARY: This notice is to advise the public that the regional coal team for the Uinta-Southwestern Utah Federal Coal Production Region will meet (1) to discuss the team's recommendation on the Federal coal leasing target for the region, (2) to review and discuss the tract profile data for each of the identified potential lease tracts, (3) to review and discuss the comments on the potential lease tracts and on the ranking factors, (4) to rank the potential lease tracts and (5) to select preliminary coal lease tracts. Comments on the tracts that have been identified and factors that may be considered by the regional coal team in the tract ranking process are requested.

DATES: Comments on the tracts and the ranking factors must be received by the regional coal team chairperson by January 25, 1980. The regional coal team will meet on February 5, 6, and 7, 1980, at 8:30 a.m.

ADDRESSES: Comments on the potential lease tracts and the ranking factors should be addressed to Edward F. Spang, Nevada State Director, Bureau of Land Management, Chairperson, Regional Coal Team, Federal Building, 300 Booth Street, Reno, Nevada 89509. The regional coal team will meet at the Utah State office, Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, Regional Coal Team Chairperson, (702) 784-5451.

SUPPLEMENTARY INFORMATION: This notice advises the public that the regional coal team for the Uinta-Southwestern Utah Federal Coal Production Region will meet on February 5, 6, and 7, 1980, at 8:30 a.m. (1) to discuss the team's recommendation on the Federal coal leasing target for the region, (2) to review and discuss the tract profile data for each of the identified potential lease tracts, (3) to review and discuss the comments received in response to this notice on the potential lease tracts and on the ranking factors, (4) to rank the potential lease tracts, and (5) to select preliminary coal lease tracts.

On November 19, 1979, a notice appeared in the Federal Register (44 FR 66256-66257) requesting comments on the tentative Federal coal leasing target for the Uinta-Southwestern Utah Coal Production Region. Pursuant to its responsibilities under 43 CFR 3400.4(b)

(44 FR 42612, July 19, 1979), the regional coal team will discuss its recommendation to the Secretary of the Interior on a Federal Coal leasing target for the region. The Secretary will establish the final leasing target which will be used by the regional coal team when it makes a final selection of possible lease tracts to be evaluated in a regional lease sale environmental impact statement.

Fifteen potential lease tracts have been identified in the Utah portion of

the Uinta-Southwestern Utah Coal Production Region. The potential lease tracts identified below are being delineated, will be analyzed on a site-specific basis, and will be ranked and considered for possible leasing in 1981. All acreages and tonnages are preliminary and are subject to change. The legal description only identifies the general location of the potential lease tracts; a complete legal description will be available after tract delineation is completed.

Tract name	General location	Approximate acreage	In-place reserves (million tons)
Gordon Creek	About 13 miles west of Helper, Utah; T. 13 S., R. 7, 8, E.	3,970	42.24
Trail Mountain	About 13 miles northwest of Castle Dale, Utah; T. 17 S., R. 6 E.	1,042	12.00
Slaughterhouse Canyon	About 4 miles south of Scofield, Utah; T. 13 S., R. 7 E.	440	2.19
North Trough Springs Ridge	About 7 miles south of Scofield, Utah; T. 14 S., R. 8, 7 E.	2,200	(9)
Little Bear Canyon	About 14 miles northwest of Huntington, Utah; T. 15, 16 S., R. 6, 7 E.	5,275	91.00
Muddy Creek East	About 5 miles northwest of Emery, Utah; T. 21 S., R. 5, 6 E.	5,730	72.6
Muddy Creek West	About 7 miles northwest of Emery, Utah; T. 21 S., R. 5 E.	5,880	99.5
Meetinghouse Canyon	About 9 miles northwest of Huntington, Utah; T. 16, 17 S., R. 7 E.	1,100	33.8
Cottonwood	About 10 miles northwest of Castle Dale, Utah; T. 17 S., R. 7 E.	2,400	60.0
North Horn Utah	About 10 miles west of Castle Dale, Utah; T. 18, 19 S., R. 6, 7 E.	9,600	217.0
Castle Valley Ridge	About 16 miles southwest of Price, Utah; T. 14, 15 S., R. 7 E.	3,000	29.5
Mudwater Canyon	About 10 miles southwest of Price, Utah; T. 15 S., R. 8 E.	880	(9)
Emery North	About 3 miles east of Emery, Utah; T. 22 S., R. 6 E.	2,201	(9)
Emery Central	About 6 miles southeast of Emery, Utah; T. 22, 23 S., R. 6 E.	2,950	42.0
Emery South	About 11 miles south of Emery, Utah; T. 23, 24 S., R. 6 E.	743	11.6

¹ Figure not yet determined.

The regional coal team will rank the tracts on the basis of high, medium, and low desirability for leasing using three categories. These categories are coal economics, impacts on the natural environment, and social and economic impacts that could result if the tracts are leased and mined. These major categories may be further divided by the team into subcategories such as tons of coal that could be mined, effects on air quality, population increases, etc. For use in the ranking process, the regional coal team will determine the emphasis to be placed on, or the degree of importance of, each of the categories and subcategories.

The boundaries of the tracts may be modified by the regional coal team based on the analyses contained in the tract profiles. The team may also defer the ranking of any potential lease tract if it is determined that insufficient tract information is available.

In ranking the tracts, the regional coal team will use tract profile data (tract delineation report, social-economic profile, site-specific environmental analysis report, and summary matrices).

The team will also use information obtained as a result of consultations with Federal and State agencies, the views of the public as voiced at the EIS scoping meetings, comments received in response to this notice, and other considerations such as guidance provided by the Department of the Interior and the Bureau of Land Management.

Upon completion of the ranking process, the regional coal team will select preliminary tracts for possible Federal lease sale beginning in July 1981. Tracts will be selected to meet or exceed the Federal coal leasing target for the region that will be decided by the Secretary of the Interior. Generally, the tracts selected for possible competitive sale will be chosen from those tracts that are in a high desirability range, followed by those that are in the medium desirability range. Tracts in the low desirability range will be the tracts least likely to be selected. However, special conditions or factors may exist that would warrant the selection of a tract that falls in the medium or low desirability range.

Once selected, the preliminary lease tracts will be analyzed on a cumulative basis. This will be followed by a final selection of the tracts that may be offered for competitive sale. The selected tracts and alternate tract combinations will be analyzed for individual and cumulative impacts as part of a regional lease sale environmental impact statement.

The public is invited to comment on these potential lease tracts and on the factors that may be considered by the regional coal team in ranking the tracts. The comments should be addressed to the regional coal teams chairperson at the address provided above. Comments must be received by the team chairperson by January 25, 1980. At the February 1980 meeting, the regional coal team will review the comments received in response to this announcement before the team ranks the identified potential lease tracts and makes a preliminary selection of Federal coal lease tracts.

Material concerning the potential lease tracts will be available for public review by January 18, 1980, at the Bureau of Land Management's Utah State Office, Office of Public Affairs, University Club Building, 136 East South Temple, Salt Lake City, Utah.

Dated: December 17, 1979.

Ed Hasteley,
Associate Director.

[FR Doc. 79-39088 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-84-M

Nevada BLM Announces Progress on Wilderness Instant Study Areas

In the Federal Land Policy and Management Act, Congress directed the Bureau of Land Management through the Secretary of Interior to make an early inventory of all primitive and natural areas under Bureau jurisdiction for wilderness characteristics. Congress said reports on these areas must be completed by June 1980, rather than the 1991 deadline for the rest of the public lands.

In Nevada, there are 11 natural areas that come under this accelerated study. To accomplish this effort, the Bureau has already inventoried four of the areas through earlier special intensive inventories done to expedite needed public land projects. These areas, which have already undergone public comment, were found to lack wilderness characteristics as identified by Congress. Another two areas were released from further wilderness consideration during the initial wilderness inventory because they also lacked wilderness characteristics. That

initial inventory has also been reviewed by the public.

On the remaining five areas, the Bureau has just completed accelerated inventories to ascertain the presence or absence of wilderness characteristics in these areas. Those inventories which recommend that the areas be released from further wilderness consideration because they, as a separate entity, do not possess wilderness characteristics, are now open for public comment until January 30, 1980. Open houses to discuss these findings with the public are planned in the three BLM districts involved on the following schedule: January 9, Las Vegas District Office, 1 to 4 p.m. and 7 to 9 p.m.; January 11, Winnemucca District Office, 1:30 to 4:30 p.m.; and January 14, Ely District Office, 1 to 4 p.m. Detailed information on the five areas under consideration can be obtained from any of those offices, or the BLM state office in Reno.

The special inventory of these areas was done only on the designated acreage within the natural areas, and not on surrounding roadless acreage. The surrounding lands that have not already been eliminated from further wilderness consideration will be analyzed with the statewide intensive wilderness inventory slated to be released for a 90-day public comment period in April 1980. At that time, the natural areas involved, which may not possess wilderness characteristics such as size, outstanding solitude, or outstanding opportunities for a primitive and unconfined type of recreation by themselves will be considered in the context of the total surrounding roadless area to determine if the whole area, including the natural area, does or does not contain wilderness values.

To meet the June 1980 deadline for reporting of these areas to the President, the Bureau will be submitting a "deferred report" on the five areas. A final report on the natural area and its surrounding roadless acreage will be submitted as a supplement when those studies are complete. The final reports on the six areas and their contiguous lands that were previously cleared will be submitted in June.

The areas involved and their location are given below:

- Natural Areas that have already been studied and reviewed by the public and were found to lack wilderness characteristics: (1) Swamp Cedar, Ely District, within wilderness inventory unit NV-040-089; (2) Shoshone Ponds, Ely District, within NV-040-180; (3) Pygmy Sage, Ely District, within NV-040-099; (4) Virgin Mountain, Las Vegas District, within NV-050-0222; (5) Sunrise Mountain, Las Vegas District, within

NV-050-0420; (6) Mountain Meadow, Battle Mountain District, within NV-060-221.

- Natural Areas now undergoing public review of recommendation that they be released from further wilderness consideration because they lack wilderness characteristics: (1) Pine Creek Canyon, Las Vegas District, within NV-050-414; (2) Pinyon-Joshua Tree Transition, Las Vegas District, within NV-050-0337 and 050-0338A; (3) Bristlecone Pine, Ely District, within NV-040-048A; (4) Goshute Canyon, Ely District, within NV-040-015; and (5) Lahontan-Cutthroat Trout, Winnemucca District, within NV-020-622 and 020-617.

Dated: December 12, 1979.

Edward F. Spang,
State Director, Nevada.

[FR Doc 79-39157 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-84-M

[W-69996]

Wyoming; Application

December 14, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct, operate, maintain, repair, replace and remove a 24" buried pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 98 W.,
Sec. 8.
T. 19 N., R. 99 W.,
Secs. 2, 4, and 12.
T. 20 N., R. 99 W.,
Sec. 32.
T. 20 N., R. 100 W.,
Secs. 26, 28, 30 and 36.
T. 20 N., R. 101 W.,
Secs. 8, 22 and 24.
T. 20 N., R. 102 W.,
Secs. 12, 14, 20 and 30.
T. 19 N., R. 103 W.,
Secs. 4 and 8.
T. 20 N., R. 103 W.,
Secs. 26 and 34.
T. 18 N., R. 104 W.,
Secs. 4 and 6.
T. 19 N., R. 104 W.,
Secs. 2, 10, 22 and 28.
T. 18 N., R. 104 W.,
Secs. 12 and 18.
T. 18 N., R. 106 W.,
Sec. 24.

This proposed pipeline designated as "Desert Springs West Loop Line" will extend from Colorado Interstate Gas Company's Desert Springs field Compressor facilities located in Section

9, T. 19 N., R. 98 W., to a point of connection with Mountain Fuel Supply Company's proposed Nightingale Station facilities in Section 24, T. 18 N., R. 106 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-39160 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-84-M

Geological Survey

Proposed Notice to Lessees and Operators, Gulf of Mexico Region; Planning and Conduct of Operations in Vicinity of Existing Pipelines

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed Notice to Lessees and Operators in the Gulf of Mexico Region concerning planning and conduct of operations in the vicinity of existing pipelines.

SUMMARY: The purpose of this Notice is to solicit comments on the proposed Notice to Lessees and Operators. The proposed Notice would require the lessee to perform a hazards survey for the purpose of locating existing pipelines before lease activities involving mobile drilling rigs, pipeline lay barges, and derrick barges are undertaken. The location of existing underwater pipelines is essential in precluding the possibility of serious accidents and/or damaging the pipeline with the anchors that are normally used with the aforementioned equipment. This Notice is being proposed in light of a recent pipeline accident in which two lives were lost and several people injured. In addition, there have been a number of pipeline failures in the last 6 years which may have been prevented had the requirements of the proposed Notice been in effect.

DATES: Comments must be received on or before January 25, 1980.

ADDRESSES: Comments should be sent to Deputy Division Chief for Offshore

Minerals Regulation, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Mr. R. B. Krah, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, (703/860-7531).

Don E. Kash,
Chief, Conservation Division.

Pursuant to 30 CFR 250.45 and 30 CFR 250.46, the lessee shall take all steps necessary to prevent accidents and fires, perform all operations in a safe and workmanlike manner, and maintain equipment to assure protection of the environment and the health and safety of all personnel. Recent accidents involving mobile bottom-founded structures and anchors associated with drilling rigs, derrick barges, and pipe lay-barges indicate the need for specific guidelines relative to the planning and conduct of operations in the vicinity of existing pipelines.

The lessee shall take the necessary steps to assure that all operations on the lease are conducted in a safe manner. Responsibility for safe conduct of these operations cannot be delegated to the contractor performing the operations.

Prior to performing operations from a mobile drilling rig, derrick barge, or pipe lay-barge on an Outer Continental Shelf lease, the lessee shall, at a minimum, perform the following:

1. Conduct a hazard survey to determine the location of all existing pipelines or other hazards within a 500-foot radius of the operation to be performed including anchor patterns. (See enclosure for guidelines.)

In conjunction with this survey, the location of all existing pipelines or other hazards shall be buoyed.

2. Using the above information, prepare a plat with a scale of at least 1 inch=2,000 feet, depicting the location of the proposed activity, all associated anchor locations, and existing pipelines or other hazards in the area.

3. Provide copies to this plat of all drilling rigs, derrick barges, pipe lay-barges, and any anchor-handling vessels associated with the operations.

4. Utilities a survey vessel if there is any question as to the ability to safely locate a drilling rig, derrick barge, or pipe lay-barge near an existing pipeline or other subsea hazard. For example, in the event the pipeline buoys were destroyed subsequent to a hazards survey, a survey vessel shall be utilized to reestablish the pipeline location.

Data collected during other required hazards surveys may be substituted for that required by this Notice with the approval of the Oil and Gas Supervisor.

D. W. Solanas, Oil and Gas Supervisor, Operations Support, Gulf of Mexico Area, J. B. Lowenhaupt, Oil and Gas Supervisor, Field Operations, Gulf of Mexico Area.
Approved: December 19, 1979.

Don E. Kash,
Chief, Conservation Division.

Minimum Geophysical Survey Requirements for Hazards Survey

Prior to the drilling of any well or the installation of any structure or pipeline, the lessee shall conduct a high-resolution geophysical survey in the immediate area to determine the possible existence of hazards. The following equipment is required in performing the survey. All equipment shall be representative of the state of the art of technological development.

1. *Magnetometer.* The sensor of the magnetometer should be trailed as near as possible to the seafloor; 6 meters or less is recommended. Knowledge of the sensor depth of tow above the bottom is highly recommended for future analyses; therefore, recording of the tow depth is required. Deep tow is not required in water depths less than 25 feet; magnetic sampling is required on all survey lines.

2. *Dual Side-Scan Sonar.* Coverage of the seafloor at a range width of at least 125 meters to 150 meters per side in the proposed area is needed. Side-scan sonar is required for water depths greater than 25 feet.

3. *Depth Sounder and Subbottom Profiler.* An analog recorder shall be used for bathymetric data, and the profiler shall be capable of resolving the upper 50 feet of sediment. The subbottom profiler is required on all survey lines.

Navigation for the survey shall utilize state-of-the-art positioning systems correlated to annotated geophysical records. Navigation accuracy shall be on the order of ± 100 feet at 200 miles.

Supplemental tools could include cameras, underwater TV, divers, and cores. Any engineering soil borings which are obtained shall be made available for inspection. These data shall be evaluated for indication of hazards to pipeline and mobile rig installations.

A qualified geophysical-survey operator must accompany the survey party to insure that the equipment is properly tuned and records are accurate and readable. The records shall be inspected by the geophysicist who shall advise the lessee as to record quality and hazard occurrences. The data will be maintained by the lessee and shall be available to the USGS upon request.

[FR Doc. 79-39289 Filed 12-21-79; 8:45 am]
BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

Extension of Public Comment Period on Texas Amended Program Submission for the Regulation and Control of Surface Coal Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement ("OSM"), U.S. Department of the Interior.

ACTION: Notice of extension of public comment period on the Texas Amended Program Submission for the regulation and control of surface coal mining.

SUMMARY: On November 13, 1979, Texas submitted its amended state program. On November 20, 1979 (44 FR 66764) OSM published in the Federal Register notice of the receipt of the program, the dates for public hearings and the public comment period. In the notice it was stated that the comment period would end at 5:00 p.m. on December 20, 1979, the same day as the last public hearing. OSM has received a request to extend the public comment period for an additional 30 days after the close of the public hearing so that the commenters could have the full benefit of the discussion and issues raised at the hearings. Because of the Secretary's statutory deadline for decision on the proposed program, an extension of 30 days is impossible; however, OSM agrees that it is desirable to allow opportunity for comment after the public hearings, and accordingly, has decided to extend the public comment period to 5:00 p.m. on December 23, 1979.

DATES: All comments must be received on or before 5:00 p.m. on December 28, 1979, to be considered in the Secretary's decision on the proposed Texas regulatory program.

ADDRESSES: Written comments should be sent to: Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, MO 64106, or may be hand-delivered to the Regional Office.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, MO 64106, Telephone (816) 374-3920.

SUPPLEMENTARY INFORMATION: Since the publication of the November 20, 1979, notice of receipt of the amended Texas program submission, OSM and the Texas Railroad Commission have had further discussions about the program and as a result, Texas has informed OSM of its intention to make certain minor changes in its program submission, as follows:

1. Amend the definition of "Valid Existing Rights" at Section 051.07.04.070 to include a paragraph equivalent to 30 CFR 761.5(c) concerning the interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon Texas case law concerning the interpretation of documents conveying mining rights or, where no Texas case law exists, upon showing by the applicant that the parties to the document actually contemplated a right to conduct the same be based either upon Texas case law concerning the interpretation of documents conveying mining rights or, where no Texas case law exists, upon showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right."

2. Amend the definition of "close of public comment period" at section 051.07.04.070 to clarify the distinction between those permit applications on which a hearing is held, and those on which no hearing is held. The amended definition will be:

"Close of public comment period means, where a public hearing is conducted, at the close of such hearing, or, where no public hearing is held, within 30 days after the last publication of the newspaper notice required by Section .207(a)."

3. Delete the last sentence on page VII-28 of the amended state program submission, and insert the following sentence: "Should failure to abate within the time allotted or extended occur, the Commission or its authorized representative shall order a cessation of the portion of the mining operation relevant to the violation."

4. Insert language at page III-185 of the amended submission stating that Texas does not need an equivalent of 30 C.F.R. 843.17 because of its general inspection authority under Sections .051.07.04.670 and .671 of the Texas regulations. All correspondence between OSM and Texas on these matters, summaries of oral communications and records of all other contacts between OSM and the State or the public are available for public inspection at the OSM Region IV office in Kansas City, Missouri (address listed above).

Date: December 18, 1979.

Raymond L. Lowrie,
Regional Director.

[FR Doc. 79-39319 Filed 12-21-79; 8:45 am]
BILLING CODE 4310-05-M

[Federal Lease No. 1420-0252-4088]

Availability for Public Review of Proposed Modification to the Absaloka Mine; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections (Availability for Public Review of Proposed Modification to a Coal Mining and Reclamation Plan).

SUMMARY: This document corrects the notice that begins on page 70238 of the Federal Register of Thursday, December 6, 1979.

Pursuant to Part 211 of Title 30 and Section 1500.2 of Title 40, Code of Federal Regulations, the Department's notice is given that the Office of Surface Mining has received a modification to an existing mining and reclamation plan. The proposed modification is described below:

Location of Lands To Be Affected by Modification

Applicant: Westmoreland Resources, Inc.
Mine Name: Absaloka.
State: Montana.
County: Big Horn, Crow Indian Ceded Area.
Township, Range, Section: T. 1N, R. 38 E.; 30; T. 1N, R. 37 E.; 24, 25.
Office of Surface Mining Reference Number: MT-0007.

The mine is located approximately 26 miles east of Hardin, Montana, and immediately north of the Crow Indian Reservation. The proposed modification involves mining and associated disturbance on 625 acres of the total lease area of 14,746 acres in Tract III. The mine is proposed to continue as a multiple (two) seam, dragline operation removing Indian-owned coal. The coal is shipped, via railroad, to power stations in the Midwest. The proposed modification would allow the company to continue mining at the current rate of production of 5 million tons per year through 1984. The proposed modification would extend mining activities northward and eastward from the presently mined area. The multiple seam operation would include the extraction of coal from two primary seams, the Rosebud-McKay and Robinson seams. The area scheduled for mining under the proposed modification is within the boundaries of the 20-year mine plan which was approved by the Department on August 15, 1977. However, the proposed modification would involve a number of changes in the approved 20-year mine plan.

The Absaloka Mine was the subject of site-specific analyses of impacts, mitigation measures, and alternatives in two Environmental Impact Statements.

Final Environmental Impact Statement (74-8) was issued by the Bureau of Indian Affairs in 1974, and another Final Environmental Impact Statement (77-17), which addressed the 20-year mining plan approval, was issued by the U.S. Geological Survey on May 31, 1977.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining and the Bureau of Indian Affairs have not yet determined whether the proposed modification is technically adequate. It is possible that the Department will request additional information from the company during the forthcoming technical review. Any further information so obtained would also be available for public review.

No action with respect to approval of the proposed coal mining and reclamation plan shall be taken by the Department for a period of 30 days after publication of this Notice of Availability in the Federal Register (until January 21, 1980). Prior to taking any action on this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

The mine plan modification submitted by Westmoreland Resources, Inc. for the Absaloka Mine is available for public review during normal working hours in the Library, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado, the Bureau of Indian Affairs, Crow Agency, Montana, and the Crow Tribal Council, Crow Agency, Montana. Comments on the proposed modification may be submitted during the 30 days after publication of this notice to the Regional Director, Office of Surface Mining, at the same address.

FOR FURTHER INFORMATION CONTACT: Dan Kimball or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Donald A. Crane,
Regional Director.

[FR Doc. 79-39208 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-05-M

National Park Service

Andersonville National Historic Site; Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the Federal Register (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Andersonville

National Historic Site announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows:

Wednesday, January 16, 1 p.m. to 4 p.m., Park Headquarters, Route 49, Andersonville, Georgia.

Persons desiring further information about the open house should write or call the Superintendent, Andersonville National Historic Site, Andersonville, Georgia 31711, (912) 924-0343. In addition, copies of the draft plan are available from the Superintendent.

Following the public forum, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: December 6, 1979.

Joe Brown,
Regional Director, Southeast Region,
National Park Service.

[FR Doc. 79-39143 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-70-M

Carl Sandburg Home National Historic Site; Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the Federal Register (Vol. 44, No. 82) on April 26, 1979, (44 FR 24790), the Superintendent of Carl Sandburg Home National Historic Site announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows:

Friday, January 18, 1980, 1:00-3:00 p.m., Park Headquarters, Little, River Road, Flat Rock, North Carolina.

Persons desiring further information about the open house should call the Superintendent, Carl Sandburg Home National Historic Site, Box 395, Flat Rock, North Carolina 28731, (704) 693-

4178. In addition, copies of the draft plan are available from the Superintendent.

Following the public forum, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: December 7, 1979.

Neal G. Guse,
Acting Regional Director, Southeast Region,
National Park Service.

[FR Doc. 79-39125 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 1:30 p.m. CST on January 22, 1980, at the Saint Bernard Parish Police Jury Conference Room, 8201 West Judge Perez Drive, Chalmette, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The members of the Delta Region Preservation Commission are:

Mrs. William R. (Linda) Adams, New Orleans, Louisiana
Ms. Celestine S. Cook, New Orleans, Louisiana
Mr. LeRoy E. Demarest, Harahan, Louisiana
Mr. D. David Duplantis, Marrero, Louisiana
Mr. Charles J. Eagen, Jr., New Orleans, Louisiana
Mr. John Eckerle, West Wago, Louisiana
Mr. Frank Ehert, Marrero, Louisiana
Mr. Robert B. Evans, Jr., Gretna, Louisiana
Mr. Frank Fernandez, St. Bernard Parish, Louisiana
Mr. Barry Kohl, New Orleans, Louisiana
Mrs. Diane Ribando, Marrero, Louisiana
Mrs. Mercedes Munster, Chalmette, Louisiana
Mr. Sidney Rosenthal, Jr., Jefferson, Louisiana
Dr. Frederick W. Wagner, New Orleans, Louisiana

The matters to be discussed at this meeting include:

1. Election of officers.
2. Establishment of committees.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-

served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 200, New Orleans, Louisiana, 70130, telephone area code 504 589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: December 8, 1979.

Lorraine Mintzmyer,
Regional Director, Southwest Region,
National Park Service.

[FR Doc. 79-39128 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-70-M

Fort Frederica National Monument Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the Federal Register (Vol. 44, No. 82) on April 26, 1979, (44 FR 24790), the Superintendent of Fort Frederica National Monument announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows: Monday, January 7, 1980, 7:30 p.m., Monument Visitor Center, Frederica Road, St. Simons Island, Georgia.

Persons desiring further information about the open house can write or call the Superintendent, Fort Frederica National Monument, Route 4, Box 286C, St. Simons Island, Georgia 31522, (912) 638-3630. In addition, copies of the draft plan are available from the Superintendent.

Following the public forum, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: December 7, 1979.

Neal G. Guse,
Acting Regional Director, Southeast Region,
National Park Service.

[FR Doc. 79-39126 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-M

**John D. Rockefeller, Jr., Memorial
Parkway; Availability of the
Environmental Review for the General
Management Plan Assessment of
Alternatives**

An Environmental Review of the
Assessment of Alternatives for John D.
Rockefeller, Jr., Memorial Parkway has
been prepared and is ready for
distribution.

The review identifies the alternatives
selected from the assessment of
alternatives for the general management
plan, the rationale for the selections,
potential environmental impacts, and
mitigating measures involved in
implementing the preferred alternative.
Also presented are the other
alternatives which were considered in
the initial assessment of alternatives as
well as a summary of public
involvement to date.

The review identifies the proposed
action as being minor with no potential
for causing significant environmental
impact or controversy; consequently, an
environmental impact statement will not
be required.

Copies of the document may be
obtained by contacting either of the
following: Superintendent, Grand Teton
National Park, P.O. Drawer 170, Moose,
Wyoming 83012; or Regional Director,
Rocky Mountain Region, National Park
Service, 655 Parfet Street, P.O. Box
25287, Denver, Colorado 80225.

Any comments should be submitted to
the Superintendent at the above address
on or before January 21, 1980.

Dated: December 14, 1979.

James B. Thompson,
Acting Regional Director, Rocky Mountain
Region.

[FR Doc. 79-39129 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-M

**Wind Cave National Park; Boundary
Revision**

Notice is hereby given that the
boundary of Wind Cave National Park,
established by the Act of January 9,
1903, (32 Stat. 765), as modified by the
Act of March 4, 1931, (46 Stat. 1518), the
Act of June 15, 1935 (49 Stat. 378), and
the Act of August 9, 1946, (60 Stat. 970),
is adjusted to include approximately 228
acres pursuant to the authority
contained in Section 301 of Pub. L. 95-
625 (92 Stat. 3475), which provides for

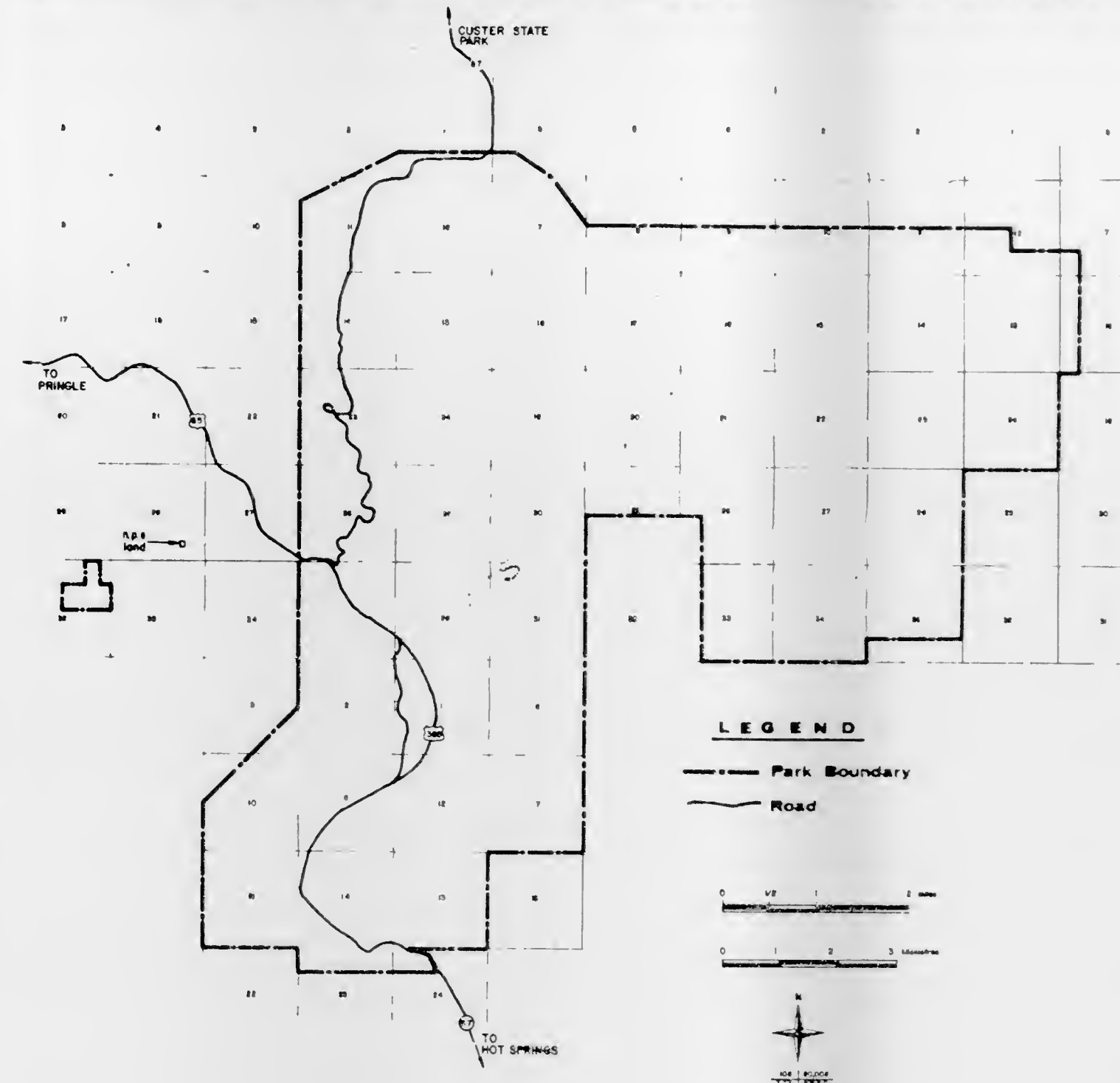
the addition of the 228 acres to the
national park.

The revised boundary is depicted on
the accompanying map entitled
"Boundary Map, Wind Cave National
Park, Custer County, South Dakota,
(Drawing 108-80, 008), dated July 1977."
All new areas included within that
boundary shall be administered in
accordance with the laws and
regulations applicable to the national
park.

Dated: December 10, 1979.

Cecil D. Andrus,
Secretary of the Interior.

BILLING CODE 4310-70-M



**BOUNDARY MAP
WIND CAVE NATIONAL PARK
CUSTER CO., SOUTH DAKOTA
U.S. Dept. of the Interior / Nat'l Park Service**

[FR Doc. 79-39127 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-C

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-76]

Certain Food Slicers and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 5, 1979, amended on November 28, 1979, and further amended November 30, 1979, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Prodyne Enterprises, Inc., P.O. Box 212, Montclair, California 91763, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain food slicers, or in their sale, because such food slicers are allegedly covered by claim 7 of U.S. Letters Patent 3,766,817. As amended, the complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests that the Commission order temporary exclusion from entry into the United States of the imports in question during the pendency of the investigation, and permanent exclusion after a full investigation has been conducted.

Having considered the complaint, the Commission on December 4, 1979, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to believe there is a violation and whether there is a violation of subsection (a) of this section in the unlawful importation of certain food slicers and components thereof into the United States, or in their sale, because of the alleged infringement by such food slicers of claim 7 of U.S. Letters Patent No. 3,766,817, the effect or tendency of which is to destroy or injure substantially an industry, efficiently and economically operated, in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Prodyne Enterprises, Inc., P.O. Box 212, Montclair, California 91763.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of certain food

slicers and components thereof into the United States, or in their sale, and are parties upon whom the complaint is to be served:

E. Mishan & Sons, 1170 Broadway, New York, New York 10001.

Albert E. Price, Inc., Interstate Industrial Park, Bellmawr, New Jersey 08031.

Crest Industries, Corp., 593 Acorn Street, Deer Park, New York 11729.

Taiwan timing Trading Co., Taichung, Taiwan.

(c) JoAnn Miles, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. DuVall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S.

International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York Office, 6 World Trade Center, New York, New York 10048.

Issued: December 13, 1979.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-39241 Filed 12-20-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-67]**Certain Inclined-Field Acceleration Tubes and Components Thereof; Prehearing Conference and Hearing**

Notice is hereby given that a prehearing conference will be held in this case at 9:30 a.m. on January 10, 1980, in Room 610, Bicentennial Building, 600 E Street, NW., Washington, D.C. The Purpose of this prehearing conference is to review the prehearing statements submitted by the parties, to complete the exchange of exhibits, and to resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 9:30 a.m. on January 14, 1980, in Room 610 Bicentennial Building, 600 E Street, NW., Washington, D.C.

Issued: December 17, 1979.

The Secretary shall publish this notice in the Federal Register.

Janet D. Saxon,
Administrative Law Judge.

[FR Doc. 79-39242 Filed 12-20-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-60]**Certain Automatic Crankpin Grinders; Commission Determination and Order****Introduction**

The U.S. International Trade Commission conducted investigation No. 337-TA-60 pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the unauthorized importation and sale of certain automatic crankpin grinders. On December 4, 1979, the Commission unanimously determined that there was a violation of the statute in the importation or sale of certain automatic crankpin grinders which infringe claims 8, 16, and 19 of U.S. Letters Patent No. 3,118,258. The Commission determined, however, that the public interest factors enumerated in subsections (d) and (f) of the statute preclude the imposition of a remedy.

Determination

Having reviewed the record in this matter, the Commission has determined—

1. That there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation and sale of certain automatic crankpin grinders which infringe claims 8, 16, and 19 of U.S. Letters Patent No. 3,118,258, the effect or tendency of which is to destroy or substantially injure an industry,

efficiently and economically operated, in the United States;

2. That the effect of a remedy upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers precludes the issuance of an exclusion order or a cease and desist order pursuant to subsection (d) or (f) of section 337 of the Tariff Act of 1930, as amended.¹

Order

Accordingly, it is hereby ordered, That—

1. Investigation No. 337-TA-60 is terminated by the issuance and publication of the Commission determination and order in the Federal Register and by the issuance of this Commission determination, order, and opinions; and

2. This order shall be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, and the Federal Trade Commission.

Issued: December 17, 1979.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-39243 Filed 12-20-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-62]**Certain Rotary Scraping Tools; Commission Procedure on the Presiding Officer's Recommended Determinations and Relief, Bonding, and the Public Interest, and of the Schedule for Filing Written Submissions****Recommendations of Violation Issued**

In connection with this investigation by the U.S. International Trade

Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation of certain rotary scraping tools into the United States, or in their sale, and by reason of misleading packaging and/or deceptive advertising of the imported rotary scraping tools, including the simulation of complainant's trade dress, the presiding officer recommended on July 25, 1979, that the Commission—

(1) Grant a joint motion for summary determination as to six of the seven named respondents,

(2) Determine that there is a violation of section 337 as to these respondents, and

(3) Determine that there is no violation as to one respondent, Caprice Products.

The presiding officer further recommended on September 18, 1979, that the Commission—

(1) Grant a second joint motion for summary determination as to twenty additional named respondents, and

(2) Determine that there is a violation of section 337 as to these respondents.

The presiding officer certified to the Commission for its consideration two joint motions Motions, Nos. 62-5 and 62-6, and the supporting papers submitted therewith. Interested persons may obtain copies of the presiding officer's recommended determinations of July 25, 1979 and September 18, 1979 (and all other public documents), by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

Requests for Oral Argument and Oral Presentation

At present, no oral argument is planned with respect to the recommended determinations of the presiding officer. Similarly, no oral presentation is planned with respect to the subject matter of § 210.14(a) of the Commission's Rule of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding, and the public-interest factors set forth in subsections (d), (f), and (g)(3) of section 337 of the Tariff Act of 1930, as amended which the Commission is to consider if it determines that there should be relief. However, the Commission will consider written requests for an oral argument or an oral presentation if they are received by the Secretary to the Commission no later than the close of business (5:15 p.m., e.d.t.), on January 2, 1980.

Written Submissions to the Commission

The Commission requests that written submissions of three types be filed no later than the close of business on January 2, 1980.

1. *Briefs on the presiding officer's recommended determination.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommended determination. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by reference to the record. Persons with the same positions are encouraged to consolidate their briefs, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These submissions should include a proposed remedy, a proposed determination of bonding, and a discussion of the effect of the proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. These written submissions will be very useful to the Commission if it determines that there is a violation of section 337 and that relief should be granted.

3. *Requests for oral argument and oral presentation.* Written requests that the Commission hold oral argument and/or oral presentation must be filed with the Secretary to the Commission as described above.

Additional Information

The original and 19 true copies of all briefs, written comments, and any written request must be filed with the Secretary to the Commission.

Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the *Federal Register* of January 10, 1979 (44 FR 2207); notice of the Commission's amendment to the supplemented complaint and notice of investigation was published in the *Federal Register* of July 18, 1979 (44 FR 41972).

Issued: December 19, 1979.
By order of the Commission.
Kenneth R. Mason,
Secretary.

[FR Doc. 79-39240 Filed 12-20-79; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Competitive Research Grant on the Relationships Between Crime and the Abuse of Drugs and Alcohol; Solicitation

The National Institute of Law Enforcement and Criminal Justice (NILECJ) announces a competitive research grant program on the relationships between crime and the abuse of drugs and alcohol. The goals of the program are to improve our basic knowledge of these relations and provide informational support for national strategies and policies directed toward the control of drug abuse and crime.

NILECJ's intent is to provide support for the establishment of a Research center on these issues. This initial award is for two years and is not to exceed \$650,000. Later additional support may be possible for a total program period of up to five years. The center is planned to build upon prior interagency agenda development efforts on the relations of drug abuse to crime, as outlined in the solicitation. The overall program will consist of a coordinated set of research studies on these issues, negotiated between NILECJ and the grantee, plus self-initiated studies by the center and related support efforts.

The solicitation asks for submission of preliminary proposals rather than formal applications. Proposals will be reviewed by a panel designated by NILECJ. Requests for formal applications will be based on the results of this peer review process, in accordance with criteria indicated in the solicitation.

In order to be considered, all preliminary proposals must be received by April 1, 1980. Formal applications are expected to be invited by the end of May, with grant award anticipated for August, 1980.

Copies of the solicitation may be obtained by writing to: Program Solicitation Office, National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850.

Dated: December 14, 1979.
Approved:
Harry M. Bratt,
Acting Director, NILECJ.
[FR Doc. 79-39158 Filed 12-20-79; 8:45 am]
BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-weeks period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C., this 18th day of December 1979.

Earl T. Klein,
Director, Office of Program Services.

Applications Received During the Week Ending December 22, 1979

Name of Applicant, and Location of Enterprise, and Principal Product or Activity

Lancer Enterprises, Inc., Whitfield, Georgia—Manufacture of grass (outdoor) carpet.

H. W. Richardson & Co., Craven County, North Carolina—Repairing of railroad cars.

[FR Doc. 79-39204 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-157-C]

A. A. & W. Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

A. A. & W. Coals, Inc., P.O. Box 458, Pikeville, Kentucky 41501, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 8 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:
1. The petition concerns the use of canopies on electric face equipment in

the petitioner's mine, specifically a cutting machine, a roof bolter, and a scoop.

2. The petitioner is mining coal seams ranging from 43 to 56 inches in height, with irregularities in the top and bottom.

3. The height of the equipment prevents the safe addition of canopies.

4. For these reasons, the petitioner believes canopies in the heights encountered in its mine would result in a diminution of safety.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39038 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-178-C]

Double Q Corp.; Petition for Modification of Application of Mandatory Safety Standard

The Double Q Corporation, Route #1, Box 191-A, Clairfield, Tennessee 37715, has filed a petition to modify the application of 30 CFR 75.805 (couplers) to its Angela No. 1 Mine located in Claiborne County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner requests permission to use junction boxes constructed of 1/2 inch thick steel and equipped with insulated strain clamps. The cover of the box is hinged, bolted down and padlocked to prevent entry. The line potential is 4,160 volts and all insulators are 8KV type rated. All cables used are 8KV constructed and terminations are in accordance with standard electrical practice.

2. The petitioner states that these boxes have been used for three years and have proved to be reliable and safe. The safety of the miners will not be diminished.

3. Junction boxes shall be located in dry, well rock-dusted areas or supported above wet locations on concrete blocks or the equivalent.

4. When different size cables are used, fittings for the cable entrance shall be

properly sized and secured to prevent strain on the electrical connections.

5. High voltage cables shall be terminated in accordance with the termination kit manufacturer's recommendations.

6. The junction boxes and cables shall be protected in accordance with the provisions of 30 CFR 75.807 and 30 CFR 75.1107-1(a)(3).

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39041 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-216-C]

Howell Branch Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Howell Branch Coal Company, Inc., Box 47, Drift, Kentucky 41619 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that use of currently available lighting equipment would diminish worker safety by requiring continual changes in light exposure levels which require adaptation time.

3. The petitioner proposes exemption from the standard until new equipment is available and obtained.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,
Director, Office of Standards, Regulations, and Variances.

[FR Doc. 79-39042 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-237-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, AL 35283 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 3 Mine, located in Jefferson County, Alabama, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164, as amended by Pub. L. 95-164.

The substance of the petition is as follows:

1. The petitioner operates both continuous miner and longwall sections.

2. The coal seam contains large quantities of methane (CH₄); the porosity of the seam is high, but the permeability is low.

3. Measurements indicate that the development (chain) pillars are yielding.

4. The petitioner proposes a two entry system which utilizes the return air entries as belt entries. Intake air entries will continue to be isolated from combined belt and return air entries with the use of continuous permanent type stoppings. An escapeway will continue to be ventilated with intake air and effectively separated from the combined belt and return air entries. The drive motor of the belt conveyor and its electrical components will be located out of the return air entry and in a neutral air belt entry.

5. A haulage system used for mantrap and supply purposes will be located in the intake air entry. Only battery powered locomotives will be operated in the entry.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.
Frank A. White,
*Director, Office of Standards, Regulations
 and Variances.*
 [FR Doc. 79-39039 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-43-M

Petitions for Modification of Application of Mandatory Safety Standard

The following companies have a Petition for Modification of 30 CFR 75.1400 (hoisting equipment, general). All petitions are filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. The petitions have been filed to modify the application of that standard for all the mines listed below.

Bush Coal Co., R.D. Box 44, Tower City, Pa., 17980. The Middle Split of the Skidmore Slope (Docket No. M-79-204-C) and the Skidmore Slope (Docket No. M-79-224-C) mines are located in Schuylkill County, Pennsylvania.

Hegins Mining Co., Zerbe, Pa., 17981. The No. 5 Slope (Docket No. M-79-172-C) and the No. 3 Skidmore Slope (Docket No. M-79-211-C) mines are located in Schuylkill County, Pennsylvania.

Bernitsky Bros. Coal Co., 17 Water Street, New Philadelphia, Pa., 17959. The Bernitsky No. 2 Mine is located in Schuylkill County, Pennsylvania. Docket No. M-79-184-C.

Colket Coal Co., 117 School Row, Branchdale, Pa., 17923. The Tracy Slope Mine is located in Schuylkill County, Pennsylvania. Docket No. M-79-221-C.

The substance of the petitions follows:
 1. The petitions concern the requirement for the use of safety catches on gunboats used to transport persons in shafts and slopes. The safety catches must act quickly and effectively in an emergency.

2. Petitioners state that all of the affected mines are Anthracite mines which have steeply pitching and undulating slopes with numerous curves and knuckles in the main haulage slopes.

3. Petitioners have requested permission to operate the gun boat without safety catches because, they state, no such safety catch or device is available which functions in these type slopes.

4. The petitioners believe that makeshift safety catches or devices, if installed, would be activated on knuckles and curves when no emergency existed, causing a tumbling effect on the conveyance, increasing the hazard to miners.

5. In view of this, the petitioners propose to:
 a. Operate their man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device; and
 b. Use hoisting ropes which have a factor of safety in excess of the 4 to 8 to 1 as suggested in the American Standards Specifications—Use of Wire Ropes for Mines.

6. Petitioners aver that the modification, if granted, would provide no less than the same measure of protection afforded miners under the existing standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,
*Director, Office of Standards, Regulations
 and Variances.*

[FR Doc. 79-39040 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-218-C]

Leeco, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Leeco, Inc., Route 9, Box 15, London, Kentucky 40741, has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its No. 22 mine located in Leslie County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. The petition concerns the use of automatic couplers on haulage equipment in underground mines.

2. The petitioner states that use of automatic couplers is hazardous in the No. 22 mine, because the couplers disengage due to vertical track undulations.

3. The petitioner further states that attempts to level the track have been unsuccessful due to limited height and low clearance.

4. The petitioner proposes an alternate coupling method using metal tongues and coupling pins.

5. The petitioner states that the proposed alternative coupling method will preclude disengagement, while the

automatic couplers do not, and request a variance from the standard on that basis.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 13, 1979.

Frank A. White,
*Director, Office of Standards, Regulations
 and Variances.*

[FR Doc. 79-39178 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-163-C]

Thelma Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Thelma Coal Company, Box 301, Warfield, Kentucky 41267, has filed a petition to modify the application of 30 CFR 75.1719-1 (illumination) to its No. 2 mine, located in Martin County, Kentucky, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Public Law 95-164.

The substance of the petition is as follows:

1. The petition concerns the illumination of underground mining equipment.

2. The petitioner states that installation of added illumination would create a safety hazard to the equipment operators because it would have a blinding effect on the operators and would cause adaptation problems when travelling from a dark area to a highly lighted area.

3. Petitioner feels the blinding effect caused by those systems now being used could contribute to several different types of accidents, thus diminishing the miners' safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington,

Virginia 22203. Copies of the petition are available for inspection at that address.

Frank A. White,
*Director, Office of Standards, Regulations
 and Variances.*

December 13, 1979.

[FR Doc. 79-39179 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting and Meeting of the Subgroup on Health Standards

Notice is hereby given that the Subgroup on Health Standards of the Advisory Committee on Construction Safety and Health will meet on January 7, 1980, in Room C-5515-Seminar Room 6, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. The meeting is open to the public and will begin at 9:30 a.m.

The Subgroup will thoroughly review OSHA health standards as they relate to the construction industry and will subsequently submit a report to the Advisory Committee on Construction Safety and Health containing their findings and including their recommendations.

The meeting agenda includes a discussion of major issues for the Subgroup report.

The full Advisory Committee on Construction Safety and Health will meet on January 9-10, 1980, in Room N-5437, New Department of Labor Building, Washington, D.C.

The meeting is open to the public and will begin at 9:00 a.m.

The meeting agenda includes a status report from the Subgroup on Health Standards, a status report on proposals for regulation of abrasive blasting, continued discussion of work in confined spaces, proposed revisions to the tunnel standard, and general discussion on construction safety and health standards.

The Advisory Committee on Construction Safety and Health was established under section 107(c)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman, depending on the extent to which time permits. Communications may be mailed to:

Ken Hunt, Committee Management Officer,
 Office of Information and Consumer
 Affairs, Room N-3635—OSHA, 3rd Street
 and Constitution Avenue NW.,
 Washington, D.C., Telephone 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 12th day of December, 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79-38815 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-26-M

Office of the Secretary

Deferral of Federal Unemployment Tax Credit Reductions; Findings of the Secretary of Labor

Pursuant to section 110(b) of Pub. L. 94-45, approved June 30, 1975, [89 Stat. 236, 239] a finding must be made as of November 10, 1979, with respect to each State named herein as to whether the incremental reduction in total credits under section 3302(c)(2) of the Internal Revenue Code of 1954, on account of an outstanding balance of advances made to each State pursuant to Title XII of the Social Security Act, shall apply with respect to the taxable year 1979.

A State may qualify for deferral of the incremental reduction in credit with respect to 1979 if it takes certain actions set forth in clause (i) or clause (ii), of § 601.5(f)(2), Title 20, Code of Federal Regulations.

Clause (i) requires amendment of the tax provisions of the State unemployment compensation law, so as to be estimated by the Secretary of Labor to achieve: (A) an average employer tax rate based on total wages in employment covered by the State unemployment compensation law which exceeds the State's average annual benefit cost rate for the 10-year period, preceding 1979; (B) an effective minimum employer tax rate which is not less than 1.0 percent of the wages of any employer which are subject to the Federal Unemployment Tax Act; and (C) an effective maximum employer tax rate which exceeds 2.7 percent of the wages

of any employer which are subject to the Federal Unemployment Tax Act, or provision for no reduced tax rates.

Clause (ii) requires: (A) amendment of the State unemployment compensation law so as to be estimated by the Secretary of Labor to result in increased contributions to the State unemployment fund for the taxable year involved, and allocation from the increased contributions of a sum sufficient to make the repayment in the amount and within the time limit prescribed in (B); (B) repayment to the Federal unemployment account prior to November 10, 1979, of a sum equal to the reduction in credit that otherwise would be payable by taxpayers with respect to that State; and (C) a determination by the Secretary of Labor that the State unemployment fund will have sufficient funds for benefit expenditures during the 6-month period beginning November 1, 1979, without the necessity of obtaining further Title XII advances.

Findings Under Clause (i)

The following States have taken appropriate action to satisfy the criteria in clause (i) of § 601.5(f)(2), Title 20, Code of Federal Regulations. Each such State has an effective minimum employer tax rate of not less than 1.0 percent, and an effective maximum employer tax rate exceeding 2.7 percent (or has suspended reduced rates), and also has an average employer tax rate which exceeds the State's 10-year average benefit cost rate as set forth in the following schedule:

	Av. emp. tax rate	Benefit cost rate
District of Columbia.....	1.51	1.24
Illinois	1.38	1.13
Maine	1.78	1.77
Michigan	1.63	1.48
Puerto Rico	2.95	2.93
Rhode Island	2.46	2.35

I hereby find that the District of Columbia, Illinois, Maine, Michigan, Puerto Rico, and Rhode Island have satisfied the criteria specified in clause (i) of 20 CFR 601.5(f)(2) for 1979. Therefore, the incremental reduction in total credits pursuant to section 3302(c)(2) of the Internal Revenue Code of 1954 shall not apply to those States with respect to the taxable year beginning on January 1, 1979.

Findings Under Clause (ii)

The States of Connecticut, Massachusetts, Montana, New Jersey, Vermont, and the Virgin Islands have taken appropriate action to satisfy the criteria in clause (ii) of section 601.5(f)(2). Each of these States has paid

into the Federal unemployment account in the Unemployment Trust Fund, from its unemployment fund, an amount equal to the amount of the additional tax that otherwise would be payable with respect to each State for 1979 through the reduction in total credits under section 3302(c)(2) of the Internal Revenue Code of 1954. The amount indicated below was paid by each State prior to November 10, 1979.

	Amount of repayment
Connecticut.....	39,600,000
Massachusetts.....	33,300,000
Montana.....	3,400,000
New Jersey.....	43,000,000
Vermont.....	5,636,000
Virgin Islands.....	500,000

Each of the States qualifying under the criteria of clause (ii) has submitted data to justify a determination by the Secretary that, under current economic conditions and reasonable projections, unemployment reserves and income from contributions in each State's unemployment fund will be adequate to meet benefit payment obligations without Title XII advances during the 6-month period beginning November 1, 1979.

I hereby make a finding that, as of November 10, 1979, the States of Connecticut, Massachusetts, Montana, New Jersey, Vermont, and the Virgin Islands have satisfied the criteria specified in clause (ii) of 20 CFR 601.5(f)(2). Therefore, the incremental reduction in total credits pursuant to section 3302(c)(2) of the Internal Revenue Code of 1954 shall not apply to those States with respect to the taxable year beginning on January 1, 1979.

The States of Delaware and Pennsylvania had an outstanding

balance of Title XII advances on January 1, 1978, and on January 1, 1979, and were granted deferral in 1978, but did not qualify in 1979 for deferral of a reduction in credit pursuant to 20 CFR 601.5(f)(2). Therefore, the tax credit reduction prescribed by section 3302(c)(2) of the Internal Revenue Code of 1954 will apply to the States of Delaware and Pennsylvania for taxable year 1979.

Signed at Washington, D.C., on December 7, 1979.

Ray Marshall,
Secretary of Labor.

[FR Doc. 79-39035 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-30-M

**Investigations Regarding
Certifications of Eligibility To Apply for
Worker Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or

subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of December 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
ACF Industries, Carter Carburetor Division (UAW).....	St. Louis, Mo.....	12/5/79	11/30/79	TA-W-6,604	Carburetor and fuel pumps.
A. O. Smith Corp., Automotive Division (Smith Steelworkers Union, D.A.L.U.).....	Milwaukee, Wis.....	12/6/79	11/30/79	TA-W-6,605	Front end assemblies for AMC Pacer.
Amherst Coal Co., Amherst No. 5 Mine (USWA).....	Lundale, W. Va.....	12/3/79	11/28/79	TA-W-6,606	Metallurgical coal.
Best Maid Sportswear Company (ILGWU).....	Brooklyn, N.Y.....	12/3/79	11/28/79	TA-W-6,607	Ladies' sportswear.
Curfée Clothing Company, Inc. (workers).....	Winchester, Ky.....	11/23/79	11/19/79	TA-W-6,608	Men's tailored coats, also contracting men's casual shirts.
J.D.R., Inc. (ILGWU).....	Rockaway, N.J.....	11/26/79	11/20/79	TA-W-6,609	Contractor of blouses.
Republic Steel Corp. (workers).....	Buffalo, N.Y.....	11/27/79	11/27/79	TA-W-6,610	Carbon and alloy steel bars.
Roberts & Schaefer Company, McClure No. 1 Mine (UMWA).....	McClure, Va.....	12/6/79	11/29/79	TA-W-6,611	Construction of coal tipples, shafts, etc.

[FR Doc. 79-39036 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-29-M

**Investigations Regarding
Certifications of Eligibility To Apply for
Worker Adjustment Assistance**

Petitions have been filed with the

Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions,

the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to

section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under

Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of December 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Barlar, Inc. (IPSEU).....	New York, N.Y.....	12/7/79	12/3/79	TA-W-6,612	Elastic for the garment trade.
Cara Casuals, Inc. (ILGWU).....	Brooklyn, N.Y.....	12/10/79	12/4/79	TA-W-6,613	Ladies' skirts and some slacks.
Gina Sportswear, Inc. (workers).....	Philadelphia, Pa.....	12/10/79	12/5/79	TA-W-6,614	Ladies' sportswear.
Huntington Industries Company, Inc. (ILGWU).....	Huntington, W. Va.....	12/10/79	12/5/79	TA-W-6,615	Ladies' dresses and two-piece suits.
Immont Corp. (Teamsters).....	St. Louis, Mo.....	12/10/79	12/4/79	TA-W-6,616	Insulation for autos.
Longyear Company (workers).....	Max Meadows, Va.....	12/10/79	11/27/79	TA-W-6,617	Mineral drilling.
Madrone Novelty Corp. (ILGWU).....	Long Island City, N.Y.....	12/3/79	12/3/79	TA-W-6,618	Shoulder straps for brassieres.
Mutual Provision, Inc. (workers).....	Bayonne, N.J.....	10/22/79	9/15/79	TA-W-6,619	Boned fresh meat (beef).
Rockingham Shoe Company (workers).....	Newmarket, N.H.....	12/7/79	12/3/79	TA-W-6,620	Children's shoes.
Royal Park, Inc. (workers).....	Jacksboro, Tex.....	12/7/79	12/3/79	TA-W-6,621	Ladies' jackets and blouses.
Sanford Manufacturing Co. (ACTWU).....	Wilkes-Barre, Pa.....	12/7/79	12/3/79	TA-W-6,622	Ladies' slacks and skirts.
Tokelo Spring Company (T.T.W.I.S.E.U.).....	Toledo, Ohio.....	12/10/79	12/3/79	TA-W-6,623	Automotive leaf springs.

[FR Doc. 79-39037 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6216]

**Apollo Dyeing & Finishing Co.,
Paterson, N.J.; Negative Determination
Regarding Eligibility To Apply for
Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 17, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Amalgamated

Clothing and Textile Workers Union on behalf of workers and former workers of Apollo Dye, Paterson, New Jersey, a commission printer of fabric. The investigation revealed that the company's correct name is Apollo Dyeing and Finishing Company and that the workers produce dyed and/or printed finished fabric. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric into the United States decreased during the first six months of 1979 as compared to the

same period in 1978. The ratio of imports to domestic production has not exceeded two percent from 1974 through 1978.

Results of a U.S. Department of Labor survey of Apollo's customers indicated that those customers who responded to the survey did not purchase imported dyed and/or printed finished fabric and did not contract dyeing, printing and finishing services overseas during the period surveyed, while decreasing such contracts with Apollo.

Conclusion

After careful review, I determine that all workers of Apollo Dyeing and Finishing Company, Paterson, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39191 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6240]

Arthur Richards, Ltd., New York, N.Y.; Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 23, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing tailored clothing at Arthur Richards, Ltd., New York, New York. The investigation revealed that the plant primarily produces men's suits and sportcoats and women's suits, jackets and skirts. In the following determinations, without regard to whether any of the other criteria have been met for workers producing women's suits, jackets and skirts, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales of women's suits, jackets and skirts at Arthur Richards increased in 1978 compared with 1977 and increased in each quarter of 1979 compared with the same quarters of 1978.

For workers producing men's suits, sportcoats and slacks, all of the criteria have been met.

U.S. imports of men's and boys' suits increased relative to domestic production in the first half of 1979 compared with the same period of 1978.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased absolutely and relative to domestic production in 1978 compared with 1977.

The Department surveyed customers of the men's suits and sportcoats

produced by Arthur Richards. A number of the respondents indicated that they increased purchases of imported men's suits and sportcoats while decreasing purchases from Arthur Richards in the first three quarters of 1979 compared with the like period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's suits and sportcoats produced at Arthur Richards, Ltd., New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Arthur Richards, Ltd., New York, New York engaged in employment related to the production of men's suits and sportcoats including company executive officers who became totally or partially separated from employment on or after November 25, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39192 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6200]

Avenue Fashions, Inc., Wyoming, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 16, 1979 in response to a worker petition received on October 9, 1979 on behalf of workers and former workers producing dresses, pantsuits and sportswear at Avenue Fashions, Incorporated, Wyoming, Pennsylvania. The investigation revealed that the plant produces dresses, pantsuits, jumpsuits, long dresses, long skirts and blouses. In the following determination, without regard to whether any of the other

criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales by Avenue Fashions increased from 1977 to 1978 but then declined in the January-October 1979 period compared to the same period of 1978.

The Departmental survey of the only manufacturer for whom Avenue Fashions performed contract work revealed that this manufacturer did not import women's or misses' dresses, pantsuits or jumpsuits from 1977 through October 1979. A secondary survey was conducted with the major retail customers of the manufacture for whom Avenue worked. The survey revealed that the customers either did not import or decreased their imports of dresses, pantsuits and jumpsuits in the January-June 1979 period compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Avenue Fashions, Incorporated, Wyoming, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39193 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6190]

Botany 500, Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 10, 1979 which was filed on behalf of workers and former workers producing men's suits and sportcoats at Botany 500,

Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boy's tailored suits decreased absolutely and relative to domestic production and consumption in 1978 compared to 1977 and in the first three quarters of 1979 compared to the same period of 1978.

U.S. imports of men's and boys' tailored dress coats and sportcoats decreased absolutely in the first three quarters of 1979 compared to the same period of 1978.

Total company sales of men's suits and sportcoats increased in 1978 compared to 1977 and increased in the first ten months of 1979 compared to the same period of 1978. Compared to the same quarter of the previous year, sales increased in six consecutive quarters from the second quarter of 1978 through the third quarter of 1979. Monthly fluctuations in sales are the result of normal seasonal fluctuations.

Total company production of jackets and pants increased in 1978 compared to 1977 and increased in the first ten months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Botany 500, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39194 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6112 and TA-W-6114]

Devon, Inc., Thurmont, Md., and Haas Tailoring Co., Baltimore, Md.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 27, 1979 in response to a worker petition received on August 27, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's tailored clothing at Devon, Incorporated, Thurmont, Maryland and Haas Tailoring Company, Baltimore, Maryland. The investigation revealed that the plants produce primarily men's tailored suits. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' tailored suits decreased absolutely and relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first half of 1979 compared to the same period of 1978.

The Department conducted a survey of customers of Haas Tailoring Company. The survey revealed that customers either did not purchase or decreased purchasing imported men's tailored suits while decreasing purchases from the subject firm in 1978 compared to 1977 or in the first nine months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Devon, Incorporated, Thurmont, Maryland and Haas Tailoring Company, Baltimore, Maryland are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39195 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6230]

Excel Corp., Elkhart, Ind.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 18, 1979 in response to a worker petition received on October 11, 1979 which was filed by the United Auto Workers on behalf of workers and former workers producing window assemblies at the Elkhart, Indiana plant of the Excel Corporation. It is concluded that all of the requirements have been met.

U.S. imports of window assemblies increased, in value, from MY (model year) 1978 to MY 1979.

Excel Corporation also owns and operates a plant in Ontario, Canada. This plant also produces window assemblies. In July 1979 the Excel Corporation began shifting production of a van push-out window from the Elkhart plant to Ontario. This was completed by September 1979. A significant proportion of the Ontario plant's window assemblies are brought back into the U.S. by the Excel Corporation for sale to domestic users.

The Department surveyed some of the customers purchasing window assemblies from the Excel Corporation. Customers indicated they reduced purchases from the Excel Corporation and increased purchases of imported window assemblies in MY 1978 (September 1977-August 1978) compared to MY 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with window assemblies produced at the Elkhart, Indiana plant of the Excel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Elkhart, Indiana plant of the Excel Corporation who became totally or partially separated from employment on or after October 1, 1978 are eligible to apply for

adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39196 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6244]

Globe Union, Inc., Seawater Battery Department, Milwaukee, Wis.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 23, 1979 in response to a worker petition received on October 16, 1979 which was filed by the Allied Industrial Workers of America on behalf of workers and former workers producing seawater batteries at the Seawater Battery Department of the Milwaukee, Wisconsin plant of Globe Union, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Industry sources indicate that U.S. imports of seawater batteries are negligible.

A survey conducted by the Department revealed that customers which purchased seawater batteries from Globe Union, Incorporated in 1978 and the first ten months of 1979 did not purchase imported seawater batteries.

Globe Union sold its seawater battery patent rights to a foreign company. That company produces for the foreign market. There is no evidence to indicate that this company currently exports seawater batteries to the U.S. or plans to commence exporting to the U.S. in the future.

Conclusion

After careful review, I determine that all workers of the Seawater Battery Department of the Milwaukee, Wisconsin plant of Globe Union, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39197 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6232]

Gold Medal Cedar Products, Garibaldi, Ore.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 18, 1979 in response to a worker petition received on October 16, 1979 which was filed on behalf of workers and former workers producing cedar roofing (shingles and shakes) at Gold Medal Cedar Products, Garibaldi, Oregon. It is concluded that all of the requirements have been met.

U.S. imports of red cedar shingles and shakes increased absolutely in 1978 from 1977 and in the first nine months of 1979 compared with the same period of 1978.

A survey of Gold Medal's customers revealed that a major customer reduced purchases of shingles and shakes from the company and increased purchases of imports in the first ten months of 1979 compared with the same period of 1978. This customer stated that it expects to continue to increase import purchases in the future.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cedar shingles and shakes produced at Gold Medal Cedar Products, Garibaldi, Oregon contributed importantly to the

decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gold Medal Cedar Products, Garibaldi, Oregon who became totally or partially separated from employment on or after October 9, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39199 Filed 12-20-79; 8:15 am]

BILLING CODE 4510-28-M

[TA-W-6296]

H. W. Gossard Co., Logansport, Ind.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a Certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing girdles at H. W. Gossard Company, Logansport, Indiana. The investigation revealed that the plant also produces brassieres and corsets. It is concluded that all of the requirements have been met.

U.S. imports of corsets and girdles increased absolutely in the first six months of 1979 compared with the same period of 1978. U.S. imports of brassieres, bralettes and bandeaux increased absolutely in the first six months of 1979 compared with the same period of 1978.

The Logansport plant of Gossard produces foundation garments (corsets, girdles and brassieres). Company imports of foundation garments increased absolutely in 1978 compared with 1977. Company imports increased relative to company sales and production in the first ten months of 1979 compared with the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with corsets, girdles and brassieres produced at H. W. Gossard Company, Logansport, Indiana contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of H. W. Gossard Company, Logansport, Indiana who became totally or partially separated from employment on or after July 27, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39199 Filed 12-20-79; 8:15 am]

BILLING CODE 4510-28-M

[TA-W-6246]

Jay Garment Co., Inc., Clarksville, Tenn.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 23, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers of the Clarksville, Tennessee plant of Jay Garment Company, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' work shirts and one-piece work suits decreased absolutely in the first nine

months of 1979 compared to the same period of 1978.

The Department surveyed all of Jay Garment Company's customers of men's work suits and work shirts. The survey revealed that none of the respondents purchased any imported work shirts. The respondents who stated they were purchasing imported work suits decreased their reliance on imports in 1978 compared to 1977 and increased purchases from Jay Garment in the first nine months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of the Clarksville, Tennessee plant of Jay Garment Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

James T. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-39200 Filed 12-20-79; 8:15 am]

BILLING CODE 4510-28-M

[TA-W-6219, 6220, 6221]

Kay Windsor, Inc., Hohenwald, Tenn., Lawrenceburg, Tenn., and Savannah, Tenn.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 17, 1979 in response to a worker petition received on October 16, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses, sportswear and blouses at the Hohenwald, Lawrenceburg and Savannah, Tennessee plants of Kay Windsor, Incorporated, a division of V. F. Corporation, Reading, Pennsylvania. The investigation revealed that the plants produce primarily women's and misses' dresses. In the following determination, without regard to whether any of the other criteria have

been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U. S. imports of women's and misses' dresses decreased absolutely in the first six months of 1979 compared to the first six months of 1978. The ratio of imports to domestic production was less than five percent in each year of the 1974-1978 time period.

The Office of Trade adjustment Assistance conducted a survey of customers of Kay Windsor, Incorporated. Customers responding to the survey, who reduced purchases from Kay Windsor and increased purchases of imported women's and misses' dresses, from 1977 to 1978 and in the first nine months of 1979 as compared to the first nine months of 1978, were an insignificant proportion of Kay Windsor's 1977 sales.

Conclusion

After careful review, I determine that all workers of the Hohenwald, Lawrenceburg and Savannah, Tennessee plants of Kay Windsor, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D. C. this 14th day of December, 1979.

James T. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-39201 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6152]

Libbey Owens Ford Co., Inc., Charleston, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 4, 1979 in response to a worker petition received on September 21, 1979

which was filed by the Glass Bottle Blowers' Association of the United States and Canada on behalf of workers and former workers producing sheet glass at the Charleston, West Virginia plant of the Libbey Owens Ford Company, Inc. in the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of flat glass (including sheet, plate and float glass) decreased absolutely during the first six months of 1979 compared to the first six months of 1978. U.S. imports of sheet glass decreased absolutely during the first six months of 1979 compared with the first six months of 1978. U.S. imports of sheet glass from Eastern European countries in particular decreased absolutely in the first six months of 1979 compared with the first six months of 1978. Increases in U.S. imports of glass that occurred during 1978 coincided with increases in employment, sales and production at the Charleston, West Virginia plant of Libbey Owens Ford.

A survey of customers of the Charleston plant of the Libbey Owens Ford Company was conducted by the Department. Survey results indicate that most customers did not reduce purchases from Libbey Owens Ford while increasing purchases from foreign sources during 1979 compared to 1978. Customer comments indicate that declines in sales at the plant in 1979 occurred primarily because the sheet glass method of production is obsolete and has been largely replaced in the industry by the float glass production process. One major customer of picture glass did shift significantly to foreign sources—however, the decline of this product accounted for an insignificant percentage of total plant output and sales. Workers at the plant are not separately identifiable by proud line.

Conclusion

After careful review, I determine that all workers of Libbey Owens Ford Company, Incorporated, Charleston, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

James T. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-39202 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6301]

Mackel, Corp., Logan, W. Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed on behalf of workers and former workers constructing and maintaining mining equipment at Mackel Corporation, Logan, West Virginia. It is concluded that all of the requirements have been met.

While U.S. imports of metallurgical coal have been negligible, U.S. imports of coke increased in 1978 compared to 1977 and in the first half of 1979 compared to the same period in 1978.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke are considered in determining injury to workers engaged in employment related to mining metallurgical coal at Mackel Corporation, Logan, West Virginia.

Mackel Corporation is a subsidiary of Logan Mohawk Coal Company, Logan, West Virginia. Mackel Corporation maintains mining equipment used in mining metallurgical coal. A major portion of Mackel's maintenance work is performed for its parent company.

On June 4, 1979 the Department issued a certification of eligibility to apply for worker adjustment assistance applicable to workers and former workers of Logan Mohawk Coal Company, Logan, West Virginia (TA-W-5383). Employment declines at Mackel Corporation late in 1978 and throughout 1979 were directly due to production declines at its parent firm, Logan Mohawk Coal Company.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at Logan Mohawk Coal Company, contributed importantly to the decline in sales or production and to the total or partial separation of workers of Mackel Corporation, Logan, West Virginia. In accordance with the provisions of the Act, I make the following certification:

All workers of Mackel Corporation, Logan, West Virginia who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1979.

C. Michael Aho,
*Director, Office of Foreign Economic
Research.*

[FR Doc. 79-39203 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6180]

Manhattan Coat Corp., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suitcoats, sportcoats and vests at Manhattan Coat Corporation, New York, New York. The investigation revealed that the plant also produces ladies' suits, skirts and jackets, and some men's and ladies' overcoats. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The bulk of production at Manhattan Coat Corporation is of men's suit coats, sportcoats and vests. These garments are sold as parts of men's suits. U.S. imports of men's suits declined absolutely and relative to domestic production in 1978 compared with 1977, and declined absolutely in the first nine month of 1979 compared with the same period of 1978.

Manhattan Coat produces men's and women's apparel primarily for a single manufacturer. This manufacturer's sales increased in 1978 compared with 1977 and in the first ten months of 1979 compared with the same period of 1978. The manufacturer does not import any men's or women's apparel. Workers of the manufacturer were denied eligibility to apply for trade adjustment assistance on December 10, 1979, because sales had increased.

Conclusion

After careful review, I determine that all workers of Manhattan Coat Corporation, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

C. Michael Aho,
*Director, Office of Foreign Economic
Research.*

[FR Doc. 79-39204 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6029]

Mode Art Jewelers Co., Inc., New York, N. Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 11, 1979 which was filed on behalf of workers and former workers producing costume jewelry at Mode Art Jewelers Company, Incorporated, New York, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that although U.S. imports of costume jewelry increased absolutely in 1978 compared to 1977 and further increased during the first half of 1979 compared to the same period in 1978, the ratio of imported costume jewelry to domestic consumption and shipments decreased during the same periods.

The Department conducted a survey of customers of Mode Art. Results of survey indicated that as a percentage of total purchases of costume jewelry by the respondents, costume jewelry from foreign sources decreased during the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review, I determine that all workers of Mode Art Jewelers Company, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

C. Michael Aho,
*Director, Office of Foreign Economic
Research.*

[FR Doc. 79-39205 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6471]

Park Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 26, 1979 which was filed on behalf of workers and former workers producing women's coats at Park Fashions, Incorporated, Hoboken, New Jersey. In the following determination, without regard to whether any of the other

criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Park Fashions, Incorporated is a contractor producing women's coats. The company began production in May, 1978 and experienced seasonal declines in production and employment from December, 1978 through March, 1979. Production and employment increased in the period May through October, 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Park Fashions, Inc., Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,
*Director, Office of Foreign Economic
Research.*

[FR Doc. 79-39206 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6472]

Penco Products, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 28, 1979 in response to a worker petition received on November 21, 1979 filed on behalf of workers at Penco Products, Inc., Oaks, Pennsylvania.

Penco Products, Inc. was formerly a subsidiary of Alan Wood Steel Company. Alan Wood Steel Company ceases production in August 1977. On October 21, 1977 and February 28, 1978 certifications were issued which applied to all workers and former workers who became totally or partially separated from employment on or after July 15, 1976 at the Alan Wood Steel Company facilities in Conshohocke Pennsylvania and all workers of the District Sales Offices of Alan Wood Steel Company in Syracuse, New York; Boston, Massachusetts; Charlotte, North Carolina; and Philadelphia, Pennsylvania (TA-W-2266, 2267). In 1978 an employee of Alan Wood Steel Company assumed position at Penco Products, Inc. and thereby caused the separation of the employee from Penco Products, Inc. The original certification was extended to cover this worker. No

other workers employed by Penco Products, Inc. were separated under these circumstances. Hence a new investigation would serve no purpose and it is recommended that this investigation be terminated.

Signed at Washington, D.C. this 14th day of December 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-39215 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5881]

Perry Knit, Inc.; Revised Determination on Reconsideration

On November 28, 1979, (44 FR 69749), the Department of Labor granted administrative reconsideration of the Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance which it had made on October 19, 1979, (44 FR 60430) pursuant to section 223 of the Trade Act of 1974 for all workers at the Union City, New Jersey, plant of Perry Knit, Inc., producing knitted outerwear for men, women and children.

In its reconsideration, the Department reviewed its file on Perry Knit, Inc. The review revealed that workers at Perry Knit did not meet the "contributed importantly" test of section 222 of the Trade Act of 1974.

The Department of Commerce certified Perry Knit for firm adjustment assistance on November 2, 1979. Additional evidence showed that two of Perry Knit's manufacturers who represented substantially all of Perry Knit's sales in 1978 and 1979 reduced purchases from Perry Knit because their own businesses were experiencing declines as a result of increasing competition from imports. In addition, Perry Knit's only customer during the past two years was a firm certified for firm adjustment assistance by the Department of Commerce on October 1, 1979.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production from 115.0 in 1977 to 115.8 percent in 1978. U.S. imports of men's and boys' sweaters increased both absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production for men's and boys' sweaters increased from 68.0 percent in 1977 to 94.1 percent in 1978.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the

Act, I make the following revised determination:

All workers at the Union City, New Jersey, plant of Perry Knit, Inc., who became totally or partially separated from employment on or after September 24, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December, 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-39216 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6249]

Phoenix Clothes, Division of Genesco, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 23, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's coats and vests at the Vineland, New Jersey plant of Phoenix Clothes Division of Genesco, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' dress coats and sportcoats increased both absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of men's and boys' tailored suits in 1978 exceeded the average level for the period 1974 through 1977.

A survey of the customers of Phoenix Clothes revealed that customers decreased purchases of suits and sportcoats from Phoenix and increased purchases of imported suits and sportcoats in the first eight months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like

or directly competitive with men's suits and sportcoats sold by Phoenix Clothes Division of Genesco, Incorporated contributed importantly to the decline in sales or production of men's coats and vests and to the total or partial separation of workers at the Vineland, New Jersey plant of Phoenix Clothes, Division of Genesco, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of the Vineland, New Jersey plant of Phoenix Clothes, Division of Genesco, Incorporated who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39217 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6336]

Phoenix Clothes, Division of Genesco, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 6, 1979 in response to a worker petition received on October 30, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's coats at the Allentown, Pennsylvania plant of Phoenix Clothes. The investigation revealed that the name of the company is Phoenix Clothes, Division of Genesco, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased both absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of men's and boys' tailored suits in 1978 exceeded the average level for the period 1974 through 1979.

A survey of the customers of Phoenix Clothes revealed that customers decreased purchases of suits and sportcoats from Phoenix and increased purchases of imported suits and sportcoats in the first eight months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits and sportcoats sold by Phoenix Clothes, Division of Genesco, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Allentown, Pennsylvania plant of Phoenix Clothes, Division of Genesco, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of Allentown, Pennsylvania plant of Phoenix Clothes, Division of Genesco, Incorporated who became totally or partially separated from employment on or after October 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39218 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5430]

Singer Co., Controls Division; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 221 and 223(a) of the Trade Act of 1974 (19 U.S.C. 2271, 2273) on July 2, 1979 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Wauwatosa, Wisconsin plant of Singer Company, Controls Division. That certification included all workers who became totally or partially separated from employment on or after September 1, 1978 and before July 1, 1979.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry regarding workers who became separated after July 1, 1979. It was learned that other automotive air conditioning valves produced at the Wauwatosa plant have experienced sales declines and that employment declines have occurred since July 1, 1979.

Company imports of automotive air conditioning valves assumed a greater percentage of total company sales of all auto air conditioning valves in the third quarter of 1979 compared with all previous quarters.

The largest buyer of auto air conditioning valves from Singer Company, Controls Division revealed that they had decreased purchases of valves currently made at the Wauwatosa plant while increasing purchases of foreign-made Singer valves in 1979 when compared with 1978. That customer indicated that the auto air systems were interchangeable and that air conditioning systems with the foreign-made Singer valve were being substituted for those with the Wauwatosa-made valve.

Conclusion

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised certification:

All workers of Singer Company, Controls Division, Wauwatosa, Wisconsin who became totally or partially separated from employment on or after September 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39219 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6209]

Singer Co., Controls Division; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 16, 1979, in response to a workers petition received on October 10, 1979, which was filed on behalf of workers and former workers producing A/C valves for autos at the Wauwatosa, Wisconsin plant of the Singer Company, Controls Division.

The petitioning group of workers was certified as eligible to apply for adjustment assistance in a revised determination issued on December 14, 1979 (TA-W-5430). Since workers of the Wauwatosa plant of Singer Company, Controls Division newly separated, totally or partially, from employment on or after September 1, 1978 (impact date) and before December 14, 1981 (expiration date of revised certification) are covered by an existing determination, a new investigation

would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 14th day of December 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-39220 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6210]

Sportwhirl, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 16, 1979 in response to a worker petition received on October 10, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Sportwhirl, Incorporated, New York, New York. The investigation revealed that the sportswear consists of women's dresses, skirts, blouses, sweaters, blazers, pants and suits. It is concluded that all of the requirements have been met.

Aggregate imports of women's and misses' dresses, and women's, misses' and children's skirts, blouses and shirts, coats and jackets, slacks and shorts, and suits each respectively increased absolutely and relatively in 1978 as compared to 1977. Aggregate imports of women's, misses' and children's sweaters increased relatively in 1978 as compared to 1977. The ratio of imports to domestic production of sweaters was 115.8 percent in 1978.

Total company imports of women's sportswear (consisting of dresses, skirts, sweaters, blazers, suits, blouses, and pants) increased during the period January through September 1979 as compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sportswear, consisting of dresses, skirts, sweaters, blazers, pants and suits, produced at Sportwhirl, Incorporated, New York, New York contributed

importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sportwhirl, Incorporated, New York, New York who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December, 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-39221 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6197]

**Standard Pyroxoloid Corp.;
Certification Regarding Eligibility To
Apply for Worker Adjustment
Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Wholesale Department Store Union on behalf of workers and former workers producing hair brushes, brush and mirror sets, and combs at Standard Pyroxoloid Corporation, Fitchburg, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports of toiletry brushes increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of non-automotive mirrors increased absolutely and relative to domestic production in 1978 compared with 1977, and increased absolutely during the period January through August, 1979 compared with the same period in 1978.

U.S. imports of combs increased absolutely in 1978 compared with 1977, and increased during the period January through August 1979 compared with the same period in 1978.

Import statistics for comb, brush and mirror sets, and children's toy sets are included in the above categories and cannot be isolated.

The Department conducted a survey of Standard Pyroxoloid's customers. The survey indicated some customers had decreased purchases of hair brushes, hand mirrors, and comb, brush and mirror sets from Standard Pyroxoloid during the period January 1977 through September 1979, and increased purchases of imports during the same period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hair brushes, comb, brush and mirror sets, and combs produced at Standard Pyroxoloid Corporation, Fitchburg, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Standard Pyroxoloid Corporation, Fitchburg, Massachusetts who became totally or partially separated from employment on or after October 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,
*Director, Office of Foreign Economic
Research.*

[FR Doc. 39222 filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

**Suburban Casuals, Inc., et al.;
Certifications Regarding Eligibility To
Apply for Worker Adjustment
Assistance**

TA-W-6265: Suburban Casuals, Incorporated, Beebe, Arkansas; TA-W-6265(A): Suburban Casuals Factory Outlet, Beebe, Arkansas; TA-W-6340: Westport Casuals, Incorporated, Batesville, Arkansas; TA-W-6394: Braemoor Garment Company, Pleasanton, Kansas; TA-W-6405: Stern-Slegman-Prins Company, Incorporated, Kansas City, Missouri; TA-W-6405(A): Nor-Kay Factory Outlet, Raytown, Missouri; TA-W-6405(B): Nor-Kay Factory Outlet, Kansas City, Missouri; TA-W-6405(C): Nor-Kay Braemoor Outlet, Pleasanton, Kansas; TA-W-6405(D): Westport Casuals Factory Outlet, Batesville, Arkansas; TA-W-6405(E): Suburban Miss, Overland Park, Kansas.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on October 24, 1979 in response to a worker petition received on October 19, 1979 which was filed on behalf of workers and former workers producing ladies' coats and complements at Suburban Casuals, Incorporated, Beebe, Arkansas (TA-W-6265). The investigation revealed that Suburban Casuals is a wholly-owned subsidiary of Stern-Slegman-Prins Company, Incorporated, Kansas City, Missouri. The facility produces ladies' coats, suits, skirts, pants and blouses. The investigation was expanded to include the Suburban Casuals Factory Outlet Store also located in Beebe, Arkansas (TA-W-6265(A)).

On November 2, 1979, the Office received another petition filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' outer apparel at Westport Casuals, Batesville, Arkansas (TA-W-6340), another wholly-owned subsidiary of Stern-Slegman-Prins Company. The investigation revealed that the plant produced ladies' coats and blazers.

On November 12, 1979, the Office received another petition filed on behalf of workers and former workers producing ladies' coats, blazers and jackets at Stern-Slegman-Prins Company Incorporated, Kansas City, Missouri and all of its subdivisions and subsidiaries including its major production facility and corporate offices in Kansas City, Missouri (TA-W-6405) and its wholly-owned subsidiary, Braemoor Garment Company, Pleasanton, Kansas (TA-W-6394). The investigation was expanded to include Stern-Slegman-Prins Company's factory outlet stores in Raytown, Missouri (TA-W-6405(A)), Kansas City, Missouri (TA-W-6405(B)), Pleasanton, Kansas (TA-W-6405(C)), Batesville, Arkansas (TA-W-6405(D)), and Overland Park, Kansas (TA-W-6405(E)).

It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's raincoats increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's suits increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's skirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

A survey conducted by the U.S. Department of Commerce revealed that customers of Stern-Slegman-Prins Company, accounting for a substantial proportion of the Company's sales decline in 1978 compared to 1977, reduced purchases of ladies' coats from Stern-Slegman-Prins and increased purchases of imported ladies' coats in 1978 compared to 1977. The Department of Commerce on May 15, 1979 certified Stern-Slegman-Prins Company, Incorporated as eligible to apply for firm adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at Stern-Slegman-Prins Company, Incorporated and its subsidiaries contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certifications:

All workers of the following subsidiaries and facilities of Stern-Slegman-Prins Company, Incorporated who became totally or partially separated from employment on or after the indicated impact date are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

**Investigation Number, Facility and Location,
and Impact Date**

TA-W-6265 Suburban Casuals, Incorporated, Beebe, Arkansas—October 11, 1978.

TA-W-6265(A) Suburban Casuals Factory Outlet, Beebe, Arkansas—October 11, 1978.

TA-W-6340 Westport Casuals, Incorporated, Batesville, Arkansas—October 14, 1978.

TA-W-6394 Braemoor Garment Company, Pleasanton, Kansas—October 14, 1978.

TA-W-6405 Stern-Slegman-Prins Company, Incorporated, Kansas City, Missouri—October 14, 1978.

TA-W-6405(A) Nor-Kay Factory Outlet, Raytown, Missouri—October 14, 1978.

TA-W-6405(B) Nor-Kay Factory Outlet, Kansas City, Missouri—October 14, 1978.

TA-W-6405(C) Nor-Kay Braemoor Outlet, Pleasanton, Kansas—October 14, 1978.

TA-W-6405(D) Westport Casuals Factory Outlet, Batesville, Arkansas—October 14, 1978.

TA-W-6405(E) Suburban Miss, Overland Park, Kansas—October 14, 1978.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,
*Director, Office of Foreign Economic
Research.*

[FR Doc. 79-39223 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6355]

**Weiss Shirt Co., Inc.; Certification
Regarding Eligibility To Apply for
Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 8, 1979, in response to a worker petition received on November 2, 1979 which was filed on behalf of workers and former workers producing ladies' shirts at Weiss Shirt Company Incorporated New York, New York. The investigation revealed that Weiss Shirt operated two facilities in New York, New York. One was an executive office which handled administrative and marketing duties. The other was a cutting plant. It is concluded that all of the requirements have been met.

U.S. imports of ladies' shirts and blouses increased absolutely and relative to domestic production in 1978 compared to 1977.

The New York, New York executive office handled the major portion of the administrative and marketing duties for the Lebanon, Pennsylvania plant of Weiss Shirt. The New York, New York cutting plant cut all the material that was then finished at the Lebanon, Pennsylvania plant. Production at the Lebanon plant accounted for a major portion of ladies' shirts associated with Weiss Shirt. On February 6, 1979, the Department of Labor issued a certification of eligibility to apply for worker adjustment assistance for all workers and former workers at the

Lebanon, Pennsylvania plant of Weiss Shirt Company, Incorporated (TA-W-4523).

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' shirts and blouses produced by Weiss Shirt Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm's New York, New York executive office and cutting plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the New York, New York executive office of the Weiss Shirt Company, Incorporated, who became totally or partially separated from employment on or after September 1, 1979 and all workers of the New York, New York cutting plant of the Weiss Shirt Company, Incorporated who became totally or partially separated from employment on or after July 1, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,
*Director, Office of Foreign Economic
Research.*

[FR Doc. 79-39224 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

Workplace Privacy; Notice of Hearings

On Friday, October 5, 1979, at 44 FR 57537-38, the Department announced a series of informational hearings on the subject of workplace privacy. In response to this notice, approximately 50 individuals, labor unions, businesses, associations, and other organizations have requested to testify. Numerous others have submitted copies of existing policies for the record.

The hearings will begin in Washington, D.C. on Monday, January 7, 1980, in the Auditorium of the Frances Perkins Department of Labor Building, 1st Floor, 200 Constitution Avenue, N.W. The Hearing will start at 9:30 am and shall continue in the afternoon. This opening day will consist of presentations by administration officials, staff of the Privacy Protection Study Commission, and others who will provide an overview of the workplace privacy issues identified in the October 5 notice.

The hearings will resume in Washington, D.C. on Monday through

Thursday, January 28-31, 1980, in Room S4215 A-C of the Frances Perkins Department of Labor Building. The hearings will begin at 9:30 am and will continue in the afternoon. Testimony from public witnesses will be taken at these hearings.

Subsequent hearings will be held in accordance with the following schedule:

Week of February 17, 1980, New York, New York.

Week of March 2, 1980, Chicago, Illinois.

Week of March 16, 1980, San Francisco, California.

Additional details about these hearings will be published in a subsequent issue of the Federal Register.

Persons who have requested the opportunity to testify will be contacted by the Department in the near future to arrange the exact time and location for their presentation. The Department will honor additional requests to testify to the extent time permits. All persons testifying will be asked to submit two copies of any prepared statement to the Department no later than two weeks prior to their testimony.

Any person unable to testify may submit written views for the record on the workplace privacy issues contained in the October 5 Federal Register notice. The deadline for submission of written views is February 1, 1980. Two copies of such written statements should be submitted to Mr. Zinman at the address listed below.

The public record for the hearings is available for inspection and copying at the Frances Perkins Department of Labor Building in Washington, D.C. Persons desiring to examine the record shall contact Mr. Shapiro at the telephone number listed below to arrange a time for such inspection. In accordance with the fee schedule published at 29 CFR § 70.62, copies of all documents will be provided at the rate of \$0.10 per page.

All correspondence and inquiries on the above matters should be addressed to:

Seah D. Zinman or Robert A. Shapiro, Office of the Solicitor, U.S. Department of Labor, Room N2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Phone: Mr. Zinman (202) 523-8291 or Mr. Shapiro (202) 523-8176.

Signed at Washington, D.C., this 18th day of December, 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79-39213 Filed 12-20-79, 8:45 am]

BILLING CODE 4510-23-M

Pension and Welfare Benefit Programs

Proposed Class Exemption for Certain Transactions Involving Purchases of Securities Where Issuer May Use Proceeds To Reduce or Retire Indebtedness to Parties in Interest; Hearing

By notice published in the Federal Register on July 27, 1979 (44 FR 44286), the Department of Labor (the Department) proposed a class exemption from certain of the prohibited transaction restrictions contained in the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The proposed exemption would apply to transactions involving purchases of securities by an employee benefit plan when the proceeds from the sale of such securities may be used by the issuer to reduce or retire indebtedness to parties in interest with respect to such employee benefit plan.

A hearing on the proposed class exemption has been requested. In light of this request, the Department has decided to hold a public hearing on January 24, 1980, beginning at 10:00 AM in Room S 4215-B of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:30 PM, January 17, 1980: (1) a written request to be heard, and (2) an outline (preferably five copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompanying outline should be submitted to the Office of Fiduciary Standards, Pension and Welfare Benefits Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application D-690 Hearing. Individuals who do not file written comments regarding the proposed class may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allotted ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after January 22, 1980 by telephoning William J. Flanagan, Esq., Washington, D.C. (202) 523-7931. (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who

make oral comments at the hearing should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 15th day of December, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-39006 Filed 12-20-79, 8:45 am]

BILLING CODE 4510-23-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Procedures and Administration Subcommittee; Meeting

The ACRS Procedures and Administration Subcommittee will hold an open meeting on January 9, 1980, in Room 1010, 1717 H St., N.W., Washington, DC 20555.

The agenda for subject meeting shall be as follows:

Wednesday, January 9, 1980—1:00 p.m. Until Conclusion of Business

The Subcommittee will discuss procedures for conduct of ACRS activities including procedures for strengthening the role of the ACRS in the regulatory process.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Raymond F. Fraley (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39013 Filed 12-20-79, 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Reactor Safety Research Subcommittee Meeting

The ACRS Reactor Safety Research Subcommittee will hold a meeting on January 9, 1980, in Room 1046, 1717 H St., N.W., Washington, DC 20555 to continue its discussion regarding preparation of the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program. This meeting will be closed to the public.

The agenda for subject meeting shall be as follows:

Wednesday, January 9, 1980—8:30 a.m. Until Conclusion of Business

The Subcommittee will meet in closed sessions to hold discussions with representatives of the NRC Staff, and their consultants, regarding items pertinent to the ACRS review.

In addition the Subcommittee will meet in closed Executive Session to exchange their preliminary opinions regarding preparation of a draft report to be submitted to the ACRS.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that it is necessary to close these sessions to protect information, the premature disclosure of which might significantly frustrate implementation of proposed action. See 5 U.S.C. 552b(c)(9).

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39012 Filed 12-20-79, 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Babcock & Wilcox Water Reactors; Meeting

The ACRS Subcommittee on Babcock and Wilcox Water Reactors will hold a meeting on January 8, 1980 in Room 1046, 1717 H St. NW., Washington, DC 20555 to discuss the sensitivity to transients of once-through steam generators (OTSG) and other features of Babcock and Wilcox designed nuclear plants. Notice of this meeting was published December 20, 1979.

In accordance with the procedures outlined in the Federal Register on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, January 8, 1980—8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, Babcock and Wilcox, and their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Ragnwald Muller (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39010 Filed 12-20-79, 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Ad Hoc Subcommittee on Three Mile Island, Unit 2 Accident Action Plan; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Action Plan will hold a meeting on January 7, 1980 in Room 1046, 1717 H St., NW., Washington, DC 20555 to discuss the NRC "Draft Action Plans for Implementing Recommendations of the President's Commission and Other Studies of the Three Mile Island, Unit 2 Accident," NUREG 0660, December 10, 1979. Notice of this meeting was published December 20, 1979.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday, January 7, 1980—8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39011 Filed 12-20-79, 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Adoption of Official Seal by the Office of Personnel Management

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This document, under the authority of Reorganization Plan 2,

transmits the OPM's Official Seal. It is intended that the seal be OPM's official graphic representation for purposes such as judicial documents, flags, credentials, etc.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Steven Van Rees, 632-4642.

Office of Personnel Management.

Beverly M. Joos,

Issuance System Manager.



[FR Doc. 79-39106 Filed 12-20-79; 8:45 am]
BILLING CODE 6325-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Report of Staff Contacts

The President's Commission on Pension Policy has directed its staff to maintain and publish for the public record a listing of contacts of a substantive nature made with individuals, organizations, and groups interested in the activities of the Commission.

The following is the staff report of such contacts for the month of November:

Stuart Lewis, Attorney
Everett T. Allen, Jr., Association of Private Pension and Welfare Plans
Michael Batten, Federal Council on Aging
Gabriel Rodney, Treasury Department
Ronald Ehrenburg and Robert Smith, Cornell University
Public Affairs Broadcasting
John Magruder, Office of Management and Budget
Tom Boraziller, Consultant
Rick Cooper and Andrew Lawlor, Cooper and Lybrand
Toni Thomas and Chuck Van Nostram, Department of Defense
Hay Associates
Gayle Thompson and Martha Yohalem, Social Security Administration
Robert Shoenlein, Social Security Administration
Richard Ross, Market Facts, Inc.
Robert Spiegelman, SRI International

Aldona E. DiPietro, Treasury Department
Xerox Corporation
Julie French and Michael Batten, Federal Council on the Aging
Lois Copperman and Fred Keast, Institute on Aging, Portland State University
Dave Mathieson, Office of Management and Budget
Phyllis Berman, Forbes Magazine
Peter Lynn, General Accounting Office
Barbara Selfridge, Office of Management and Budget
Ross A. Marcou, Office of Personnel Management
Harold Beebout, Mathematica Policy Research
Nelson McClung, Treasury Department
Dave Norwood, Office of Management and Budget
Sue Lind, Office of Management and Budget
Russ Mueller and Barbara Mehlsack, House Pension Task Force
Robert Moore, Alexander & Alexander
Jack Curtis, Senate Finance Committee Staff
Knox Walkup, Senate Committee on Government Operations Staff
David Allen, Senator Bentsen's Office
Peter Turza, Senator Javits' Office
Tennessee Employee Benefits Council
Robert Kalman, William M. Mercer, Inc.
Jim Hacking, American Association for Retired Persons.

Signed at Washington, D.C., this 17th day of December 1979.

Thomas C. Woodruff,
Executive Director.

[FR Doc. 79-39206 Filed 12-20-79; 8:45 am]
BILLING CODE 6820-99-M

POSTAL SERVICE

Temporary Change in Mail Classification Schedule; Third-Class Carrier Route Presort

On December 4, 1979, the Governors of the Postal Service rejected the Recommended Decision of the Postal Rate Commission in Docket No. MC78-2, issued on November 28, 1979. The Board of Governors authorized the Postal Service to resubmit the request for a third-class carrier route presort subclass to the Postal Rate Commission for reconsideration and a further recommended decision. The Postal Service resubmitted its request at 4:12 p.m. on December 4, 1979. As authorized by the Board of Governors, and pursuant to 39 U.S.C. 3641(e), the temporary changes initially published in the Federal Register on January 18, 1979 (44 FR 3797), which have been in effect since January 28, 1979, and which will continue through December 28, 1979, will again take effect at 4:12 p.m. (EST) on January 3, 1980, if the Postal Rate Commission has not transmitted its

further recommended decision by that time.

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

[FR Doc. 79-39163 Filed 12-20-79; 8:45 am]
BILLING CODE 7710-12-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1695; Amdt. No. 3]

Mississippi; Declaration of Disaster Loan Area

The above-number Declaration and amendments thereto (See 44 FR 61719, 64147 and 65852) are further amended by extending the filing date for applications for physical damage until the close of business on January 14, 1980. The economic injury date remains the same, July 14, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 13, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39101 Filed 12-20-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1745]

New Mexico; Declaration of Disaster Loan Area

Union County and adjacent counties within the State of New Mexico constitute a disaster area as a result of natural disaster as indicated:

County—Union; Natural Disaster(s)—Snowstorm and High Winds; Date(s)—10/30/79–10/31/79.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 16, 1980, and for economic injury until the close of business on September 15, 1980, at: Small Business Administration, District Office, 5000 Marble Avenue, NE., Room 320, Patio Plaza Bldg., Albuquerque, N.M. 87110.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 14, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39103 Filed 12-20-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1743]

New Mexico; Declaration of Disaster Loan Area

The following two counties and adjacent counties within the State of New Mexico constitute a disaster area as a result of natural disaster as indicated:

County—Chaves; Natural Disaster(s)—Hail Storm and Inclement Weather; Date(s)—8/4/79, 8/18, 8/20, 8/26/79.

Eddy; Hail Storm and Inclement Weather; 8/20/79, 8/21/79.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 13, 1980, and for economic injury until the close of business on September 15, 1980, at: Small Business Administration, District Office, 5000 Marble Avenue, NE., Room 320, Patio Plaza Bldg., Albuquerque, N. Mex. 87110.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 13, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39104 Filed 12-20-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1708; Amdt. No. 1]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 61720) is amended by change in the incidence period for the following County.

County—Upton; Natural Disaster(s)—Hail; Date(s)—8/21/79, 8/27, 8/30/79.

All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on April 10, 1980, and for economic injury until the close of business on July 10, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 12, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39102 Filed 12-20-79; 8:45 am]
BILLING CODE 8025-01-M

[License No. 02102-0383]

S&S Venture Associates, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing Small Business Investment Companies (13 CFR 107.102 (1978)), under the name of S&S Venture Associates Ltd. (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York, and it will commence operations with a capitalization of \$510,000.

The Applicant will have its place of business at 352 Seventh Avenue, New York, New York 10001, and it intends to conduct operations primarily in the State of New York.

The Officers, Directors and Stockholders of the Applicant will be:

- (1) Donald Smith, Osborn Road, Harrison, New York 10528—President, Director; 9 percent
 - (2) Lawrence E. Smith, Haviland Road, Harrison, New York 10528—Vice President, Treasurer, Director; 9 percent
 - (3) Marc Smith, 400 East 55th Street, New York, New York 10022—Director; 9 percent
 - (4) Bernard Sandler, 50 Irma Drive, Oceanside, New York 11572—Vice President, Secretary and Secretary; 9 percent
 - (5) Alan J. Popmerantz, 9 East 96th Street, New York, New York 10028—Director
 - (6) B. Smith & Sons, Inc., 352 Seventh Avenue, New York, New York 10001—55 percent
- (1) President and Director of B. Smith & Sons, Inc.
(2) Vice President and Director of B. Smith & Sons, Inc. Both of the above own two thirds of the stock of B. Smith & Sons, Inc.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person, may not later than January 7, 1980, submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, DC 20416.

A copy of the Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalogue of Federal Domestic Assistance Programs, No. 59.011 Small Business Investment Companies).

Dated: December 6, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-39210 Filed 12-20-79; 8:45 am]
BILLING CODE 8025-01-M

[Proposed License No. 09/09-0252]

Southern California Capital Venture Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102(1979)) by Southern California Capital Venture Corporation, 9356 Santa Monica Boulevard, Beverly Hills, California 90210, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors and principal stockholders are:

Jerrold H. Rubinstein, 630 Siena Way, Los Angeles, Ca. 90024—Chairman of the Board, Chief Executive Officer; 33.3 percent
Arthur Mogull, 326½ N. La Cienega, Los Angeles, Ca. 90048—Secretary and Director; 33.3 percent
Saul Brandman, 9051 Briarcrest Lane, Beverly Hills, Ca. 90210—Chief Financial Officer, Director; 33.3 percent

The SBIC will begin operations with an initial capitalization of \$1.5 million. No concentration in any particular industry is planned. The Applicant will primarily provide venture capital to small businesses in the form of equity financing and long-term debt.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purposes of the Act.

Notice is hereby given that any person may not later than January 7, 1980, submit written comments to the Acting Associate Administrator for Finance

and Investment, Small Business Administration, 1441 L Street, NW, Washington, D.C. 20418.

A similar Notice shall be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Assistance Programs No. 95.011, Small Business Investment Companies)

Dated: December 14, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-39211 Filed 12-20-79; 8:45 am]

BILLING CODE 9025-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 156]

Assignment of Hearings

December 18, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 52858 (Sub-114F), Convoy Company, now assigned for hearing on February 6, 1980 (3 days) at Denver, CO, location of hearing room will be designated later.

MC 111545 (Sub-265F), Home Transportation Company, Inc., now assigned for hearing February 11, 1980 (1 week), at Denver, CO, location of hearing room will be designated later.

MC 134082 (Sub-18F), K. H. Transport, Inc., now assigned for hearing on December 18, 1979, at Washington, DC, is canceled and dismissed application.

MC 143702 (Sub-5F), All Freight Systems, Inc., now being assigned for hearing on January 21, 1980 (1 week), at Kansas City, MO, location of hearing room will be designated later.

MC 103051 (Sub-482F), Fleet Transport Company, Inc., now assigned for hearing on January 23, 1980, will be held in Room No. 936, Federal Building, 187 North Main Street, Memphis, TN.

MC 116254 (Sub-241F), Chem-Haulers, Inc., now assigned for hearing on January 28, 1980, will be held at the U.S. Courthouse, Room No. 651, 801 Broadway, Nashville, TN.

MC 145779F, Oil Service Company, Inc., now assigned for hearing on January 30, 1980, will be held in Room No. 651, U.S. Courthouse, 801 Broadway, Nashville, TN.

AB 8 (Sub-69F), Burlington Northern, Inc., Abandonment Between West Quincy, and Kirksville, MO, now being assigned for hearing on February 25, 1980 (1 week), at Edina, MO, in a hearing room to be designated later.

MC 48958 (Sub-168F), Illinois-California Express, Inc., is transferred to Modified Procedure.

37166, Detention Charges on Coal From Oklahoma to Missouri, VIA SLSF, now being assigned for hearing on January 8, 1980 (3 days), at St. Louis, MO, in a hearing room to be designated later.

MC 133194 (Sub-8F), Woodline Motor Freight, Inc., is transferred to Modified Procedure.

MC 129032 (Sub-68F), Tom Inman Trucking, Inc., now assigned for hearing on December 18, 1979, is canceled and transferred to Modified Procedure.

MC -C-10341, Catawese Coach Lines, Inc., v. B.K.W. Coach Lines, Inc., now assigned for hearing on January 7, 1980, will be held at the New U.S. Courthouse, 601 Market Street, Philadelphia, Pa.

MC-F-77834, Plymouth Transport, Inc., Transeree and Danella Bros., Inc., Transferor, now assigned for hearing on January 9, 1980, will be held at the New U.S. Courthouse, 601 Market Street, Philadelphia, Pa.

MC 31389 (Sub-273F), McLean Trucking Company, a Corporation, now assigned for hearing on January 28, 1980, will be held in Room 322, U.S. Court & Customs House, 1114 Market Street, St. Louis, MO.

MC 65895 (Sub-5F), Reddaway's Truck Line, a corporation, now assigned for hearing on January 28, 1980, will be held in Hearing Room F, Labor & Industrial Building, Capitol Mall (the one on the left as you enter the city of Portland), Salem, OR.

MC 37165, Southern Pacific Transportation Company Rates and Classification of Iron Ore Within Texas, now assigned for hearing on January 28, 1980 (5 days), Dallas, TX, is canceled and reassigned for hearing on January 28, 1980 (5 days), in Room No. 600—4th floor, 411 West 7th Street, Neil P. Anderson Building, Fort Worth, TX.

MC 109294 (Sub-28F), Commercial Truck Co., Ltd., is transferred to Modified Procedure.

MC 145539 (Sub-1F), Ohio Northern Transit Company, now being assigned for hearing on February 5, 1980 (9 days), at Columbus, OH, in a hearing room to be designated later.

96434, Commuter Fares-Consolidated Rail Corporation, New Jersey and New York, and No. 36474, Benjamin A. Gilman v. Consolidated Rail Corporation, Et al., now being assigned for hearing on February 28, 1980 (4 days), at Goshen, NY, in a hearing room to be designated later.

MC 2253 (Sub-90F), Carolina Freight Carriers Corporation, now being assigned for prehearing conference on February 5, 1980, at the Office of the Interstate Commerce Commission in Washington, DC.

MC-C-10424, Brink's Incorporated v. Brooks Armored Car Service, Inc., now being assigned for hearing on February 5, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 41406 (Sub-131F), Artim Transportation System, Inc., now being assigned for

hearing on February 6, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 146703 (Sub-12F), Robert & Oake, Inc., now being assigned for hearing on March 25, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 128270 (Sub-31F), Redlebs Interstate, Inc., now being assigned for hearing on February 25, 1980 (2 weeks), at Chicago, IL, in a hearing room to be designated later.

MC 124070 (Sub-34F), Chemical Hauling, Inc., now assigned for hearing on January 22, 1980 (1 day) at Chicago, IL, in Room 1944C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 120364 (Sub-19F), A & B Freight Lines, Inc., now assigned for hearing on January 23, 1980 (3 days) at Chicago, IL, in Room 1944C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 85934 (Sub-97F), Michigan Transportation Company, now assigned for hearing on January 28, 1980, at Chicago, IL, in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 128030 (Sub-121F), The Stout Trucking Company, Inc., now assigned for hearing on January 29, 1980 (1 day), at Chicago, IL, in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 145601 (Sub-1F), Morgan County Trucking, Inc., now assigned for hearing on January 30, 1980 (3 days), at Chicago, IL, in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39238 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: December 7, 1979.

Arizona Western, Inc. (MC-136983) has filed an application for approval of Contract Carrier Rental Contract No. 6-13011 with Chemical Distributors, d/b/a Arizona Agrochemical Company of Phoenix, Arizona, lessee, pursuant to paragraph 1057.41(d) of the Lease and Interchange of Vehicles regulations (49 CFR 1057.41(d)), *Lease and Interchange of Vehicles*, 131 M.C.C. 141 (1979).

Findings

1. Arizona Western Transport, Inc. is presently authorized as a contract carrier to transport commodities for named shippers, including Arizona Agrochemical.

2. Prior to filing of this petition Arizona Western applied for permanent common carrier authority. (MC-136602, Sub-No. 7F.) That application is pending final decision.

It is ordered:

1. Applicant's request for approval of Contract Carrier Rental Contract No. 6-

13011 is granted on condition that such approval remain effective only for as long as applicant remains an authorized contract carrier.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, W. F. Sibbald, Jr. Board Member Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39299 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

HG-45-79 (Special certificate—Used household goods), filed December 14, 1979. Applicant: Henry Jacob & Sons, Inc., 2510 Dickman Rd., Battle Creek, MI 49015. Representative: Ned Johnson, Henry Jacob & Sons, Inc., 1330 Healy St., Kalamazoo, MI 49001. Authority sought: Between points in Van Buren, Kalamazoo, Calhoun, Berrien, Cass, St. Joseph and Branch Counties, MI, serving Selfridge Air National Guard Base, at or near Mt. Clemons, MI.

HG-46-79 (Special certificate—Used household goods), filed December 14, 1979. Applicant: Aaro Moving and Storage, Inc., 8411 Old Marlboro Pike, Upper Marlboro, MD 20870.

Representative: Ned L. Upright (same address as applicant). Authority sought: Between points in Arlington, Fairfax and Prince William Counties, VA, City of Alexandria and City of Falls Church, VA, Fairfax City, VA, Dulles International Airport, VA (Fairfax and Loudoun Counties), District of Columbia, Charles, Montgomery, and Prince Georges Counties, MD, serving Cameron Station, Joint Personal Property Shipping Office, Alexandria, VA.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39300 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: December 18, 1979.

In our decisions of November 13, 20, 27, and December 4 and 11, 1979, a 10-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 10.5 percent. Accordingly, we are authorizing a 10.5-percent surcharge for this category of traffic. All owner-operators are to receive compensation at the 10.5-percent level. In addition, no change will be made in the existing authorization of a 1.8-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, nor in the authorization of a 3.9 percent surcharge for the bus carriers.

There will be no decisions issued during the weeks beginning Monday, December 24 and Monday, December 31, 1979. The above-named surcharges will remain in effect during this period. The next decision will be issued January 8, 1980.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the director, Office of the Federal Register, for publication therein.

It is ordered: this decision shall become effective Friday, 12:01 a.m., December 32, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexix.

Agatha L. Mergenovich,

Secretary.

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)
January 1, 1979..... 63.5¢

Date of current price measurement and price per gallon (including tax)
December 17, 1979..... 103.1¢

	(1) From transportation performed by owner-operators ¹	(2) Other ²	(3) Bus carriers
Average percent Fuel expenses (including taxes) of total revenue.....	16.9	2.9	6.3
Percent surcharge developed.....	10.5	1.8	3.9
Percent surcharge allowed.....	10.5	1.8	3.9

¹ Apply to all truckload rated traffic.

² Including less-truckload traffic.

[FR Doc. 79-38303 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 216]

Motor Carrier Temporary Authority Applications

November 21, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 908 (Sub-8TA), filed October 12, 1979. Applicant: CONSOLIDATED CARTAGE CO., INC., 4528 South McDowell Ave., Chicago, IL 60609 (P.O. Box 171, Argo, IL 60501—Mailing Address). Representative: Eugene L. Cohen, One North LaSalle St., Chicago, IL 60602. *Containers, Metal, Fibreboard, Ccn Ends, Materials, equipment and supplies used in the manufacture and distribution of containers*, between the Chicago, IL Commercial Zone, as defined by the Commission, on the one hand, and on the other hand, Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Continental Group, Inc., 5401 West 65th Street, Chicago, IL 60638. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 2229 (Sub-223TA), filed October 5, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as above). *Common carrier, regular routes, General Commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, (1) between Mobile, AL and Atlanta, GA, serving no intermediate points: From Mobile over US Hwy 31 to Montgomery, AL (also IS Hwy 65) then over IS Hwy 85 to Atlanta and return over the same route; (2) Between Atlanta, GA and Chattanooga, TN, serving no intermediate points: From Atlanta over IS Hwy 75 to Chattanooga and return over the same route; (3) Between Atlanta, GA and Greenville, SC, serving no intermediate points: From Atlanta over IS Hwy 85 to Greenville and return over the same route; (4) Between Gulfport, MS and Chattanooga, TN, serving no intermediate points: From Gulfport over US Hwy 49 to junction IS Hwy 59 or US Hwy 11, then over IS Hwy 59 or US Hwy 11 to Chattanooga, TN and return over the

same route for 180 days. Underlying ETA filed. Applicant intends to tack its authority; it also intends to interline with other carriers. Supporting shipper(s): There are 58 supporting shippers. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 5649 (Sub-31TA), filed September 21, 1979. Applicant: KULP & GORDON INC., Pothouse Rd., P.O. Box 628, Phoenixville, PA 19460. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Precast-concrete products*, from the facilities of Universal Concrete Products Corp. located in Montgomery County, PA, to points in CT, DE, MD, NJ, NY, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal Concrete Products Corp., Crosstown Rd., Stowe, PA 19464. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 41849 (Sub-47TA), filed October 25, 1979. Applicant: KEIGHTLEY BROS., INC., 3675 Chouteau Ave., St. Louis, MO 63110. Representative: Patrick M. Browne (same address as applicant). *Salt*, in bulk, in tank vehicles, from the plant site of Cargill, Inc. Cohokia, IL to the plant site of Armour-Dial Corporation, Ft. Madison, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, MN. Send protests to: Peter E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 41629 (Sub-18TA), filed October 26, 1979. Applicant: STERNBERGER MOTOR CORP., 45-55 Pearson Street, Long Island City, NY 11101. Representative: Lawrence E. Lindeman, 425 13th St., N.W.—Suite 1032, Washington, DC 20004. *New furniture and new household furnishings, uncrated, when moving from retail department stores or retail furniture merchants or from storage or terminal facilities maintained by such stores*, between New York, NY, and its commercial zone, on the one hand, and on the other, points in OH, IL, MI, IN, and WI; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 1. W & J Sloane Co., 414 Fifth Ave., New York, NY; 2. Bloomingdale's Div. Federated DS, Inc., 1000 Third Ave., New York, NY 10022; 3. John Stuart, Inc., 979 Third Ave., New York, N.Y. 10022; 4. The Pace Collection, Inc., 11-11 34th Ave., Long Island City, NY 11106. Send protests to: Maria B. Keijs, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 49368 (Sub-108TA), filed October 15, 1979. Applicant: COMPLETE AUTO TRANSIT, INC., East 4111 Andover Road, Bloomfield Hills, MI 48013. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Contract carrier: irregular routes: Motor vehicles, in initial movement, in truckway service*, from the facilities of General Motors Assembly Division at St. Louis, MI to points in MN, NY, ND and SD. The operations described herein are limited to a transportation service to be performed under continuing contracts with General Motors Corporation for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GM Logistics Operations, General Motors Corporation, 30007 Van Duke, Warren, MI 48090. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 99749 (Sub-6TA), filed October 24, 1979. Applicant: BOURNE'S TRANS., INC., 1029 Pearl Street, Brockton, MA 02401. Representative: Jon F. Hollengreen, 1032 Pennsylvania Bldg., Washington, DC 20004. *Boots and shoes, and boot and shoe factory materials, supplies and equipment*: (a) from Windsor, VT and points in ME and NH to Brockton, MA and its Commercial Zone and (b) from Brockton, MA and its Commercial Zone to points in ME and NH. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 18 supporting shippers (see attached application). Send protests to: John B. Thomas, D/S, ICC, 150 Causeway Street, Boston, MA 02114.

MC 99888 (Sub-6TA), filed October 19, 1979. Applicant: MAYFIELD TRANSFER CO., INC., 3200 West Lake Street, Melrose Park, IL 60160. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *Regular routes: General commodities, [except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment]*: Between Rockford, Illinois and Portage, Wisconsin, serving all intermediate points; From Rockford over U.S. Highway 51 to Portage and return over the same route. Between Portage, Wisconsin and Port Washington, Wisconsin, serving all intermediate points; From Portage over Wisconsin Highway 33 to Port Washington and return over the same route. Between Milwaukee, Wisconsin and Two Rivers, Wisconsin, serving all intermediate points; From Milwaukee over Interstate Highway 43 to junction U.S. Highway 141, then over U.S. Highway 141 to

junction Wisconsin Highway 42, then over Wisconsin Highway 42 to Two Rivers and return over the same route. Between Sheboygan, Wisconsin and Chilton, Wisconsin, serving all intermediate points; From Sheboygan over Wisconsin Highway 42 to junction Wisconsin Highway 32, then over Wisconsin Highway 32 to Chilton and return over the same route. Between Sheboygan, Wisconsin and Plymouth, Wisconsin, serving all intermediate points; From Sheboygan over Wisconsin Highway 23 to Plymouth and return over the same route. Serving Random Lake, Cedar Grove, and Gibsonville, Wisconsin, and all points in Wisconsin on and east of U.S. Highway 51 and south of Wisconsin Highway 33 as off-route points in connection with each of the above routes. Supporting shipper(s): There are 28 supporting shippers. Their applications can be reviewed at the address below or headquarters. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 106398 (Sub-992TA), filed October 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Glass and Accessories*, from the facilities of Pittsburgh Corning Corporation located at Port Alleganey, PA, to points in GA, WI, LA, TX, MS, CA, MI, & MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pittsburgh Corning Corporation, 800 Presque Isle Drive, Pittsburgh, PA 15239. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-993TA), filed October 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). (1) *Decking iron and steel*; (2) *materials and supplies used in the manufacture of iron and steel decking*, (1) from the facilities of Southeast Metal Deck, Inc., at Norfolk, VA, to states of NC, SC, GA, FL, VA, MD, WV, NJ, PA, DE, NY, MA, OH, MI, CT & RI, and (2) from the states of NC, SC, GA, FL, VA, MD, WV, NJ, PA, DE, NY, MA, OH, MI, CT, & RI, to the facilities of Southeast Metal Deck, Inc. at Norfolk, VA, for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Southeast Metal Deck, Inc., 1400 Cavalier Blvd., Chesapeake, VA 23323. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-994TA), filed October 25, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Buildings, complete, knocked down, or in sections, including component parts and accessories*, from the facilities of Engineered Components, Inc., located at Stafford, TX, to points in OK, KS, AR, MO, IL, MS, LA, AL, NM, AZ, CA, & CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Engineered Component, Inc., 13410 Murphy Road, Stafford, TX 77477. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107678 (Sub-75TA), Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown (same as applicant). *Grain milling and processing machinery and component parts thereof*, between the facilities of Ferrell-Ross, Inc., at or near Oklahoma City, OK and points in the United States including AK but excluding HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ferrell-Ross, Inc., 6501 S. Interpace, Oklahoma City, OK 73126. Send protests to: John F. Mensing, DS, I.C.C., 515 Rusk Ave. #8610, Houston, TX 77002.

MC 107839 (Sub-182TA), filed October 10, 1979. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue (P.O. Box 16106), Denver, CO 80216. Representative: David E. Driggers, Suite 1600, Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, from (a) Denver, CO and (b) Plainview, TX to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cudahy Foods Company, 4801 Brighton Blvd., Denver, CO. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 111548 (Sub-25TA), filed October 18, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, NW., Washington, D.C. 20004. *Foodstuffs, canned or preserved* from the facilities of Heinz, USA at Holland, MI to the facilities of Heinz, USA at Greenville, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Heinz, USA, Division of H. J. Heinz Company, PO Box 57, Pittsburgh, PA 15230. Send protests to: Sheila Reece, T/A, 800 Briar

Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 113658 (Sub-19TA), filed October 22, 1979. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Richard P. Loose, (same address as applicant). *Meat and packinghouse products* from Philadelphia, PA; Camden, Port Elizabeth and Port Newark, NJ; Wilmington, DE and Norfolk, VA to Kenosha, WI and No. Chicago, IL for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Birchwood Meats/Kenosha International Beef, P.O. Box 639, Kenosha, WI 53141. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113658 (Sub-20TA), filed October 22, 1979. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Richard J. Loose (same address as applicant). *Meat and packinghouse products* from Kenosha, WI to Des Moines, IA; Omaha, NE and Denver, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Birchwood Meats/Kenosha Beef International, P.O. Box 639, Kenosha, WI 53141. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-851TA), filed October 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). (1) *Plastic articles (except in bulk)* and (2) *materials, equipment and supplies* used in or useful in the manufacture, sales, and distribution of the commodity named in (1) above, (1) from points in AL, AZ, CA, IL, and UT, to points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mahoney Plastics Corporation of Arizona, P.O. 700, Glendale, AZ 85311. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-852 TA), filed October 23, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Bakery products*, from facilities of Stella D'Oro Biscuit Co., Inc. near St. Elmo, IL, to points in CA, CO, and TX (representative points: Denver, Colorado Springs and Ft. Morgan, CO; San Francisco, Sacramento, Los Angeles and San Diego, CA; Dallas, Ft. Worth, and Houston, TX), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stella D'Oro, 184

West 237th Street, Bronx, NY 10462. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 114098 (Sub-53 TA), filed October 3, 1979. Applicant: LOWTHER TRUCKING CO., INC., P.O. Box 3117 CRS, Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, 425 14th Street, Northwest, Suite 1032, Washington, DC 20004. *Lumber*, from Clarendon County, SC to points in NC, SC, VA, GA, TN and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pat Brown Lumber Corp., P.O. Box 1103, Lexington, NC 27292. Send protests to: E. E. Strotheld, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 114939 (Sub-54 TA), filed October 31, 1979. Applicant: BULK CARRIERS L.D., Box 10, Cooksville Post Office, Mississauga, ON L5A 2W7. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Petroleum naphtha, in bulk, in tank vehicles*, from ports of entry on the International Boundary between the United States and Canada in NY and MI to points in AL, AR, CT, GA, IA, FL, KS, KY, LA, ME, MD, MA, MN, MS, MO, NE, NJ, NC, ND, OK, RI, SC, SD, TN, TX, VT, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Safety Kieen Corp., 18325 West Ryerson, New Berlin, WI 53151. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 115669 (Sub-194TA), filed October 29, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicant). *Salt and salt products* from the plantsite of Carey Salt Company at Hutchinson, KS to points in GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carey Salt, Division of Processed Minerals Inc., Guy Mallonee, Jr., Vice President—Transportation, Processed Minerals Inc., First National Center, One North Main, P.O. Box 459, Hutchinson, KS 67501. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 117119 (Sub-785TA), filed October 26, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Canned and preserved foodstuffs* (except in bulk), from the facilities of Heinz USA at or near Iowa City and Muscatine, IA to the Heinz USA facilities at Stockton and Tracy,

CA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Heinz USA, Div. of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 118159 (Sub-365TA), filed October 24, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Bakery racks*, from Broken Arrow, OK, to High Point and Salisbury, NC and Lynchburg, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sooner Fabricating & Sales Company, 509-E North Redbud, Broken Arrow, OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119399 (Sub-112TA), filed October 29, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Tom O'Hara (same address as applicant). *Adhesives, adhesive cement, fabricated and shaped metal articles, carpet tacking, rims and strips, building materials, polyurethane, plastic and fiberglass articles, laminated fiberglass articles and materials and supplies used in the manufacture, production, and installation of the above named commodities, between the facilities of Kinkead Industries, Inc., at or near Kewanee, IL; Pittsburgh, KS; and Union City, TN on the one hand and on the other, points in the U.S. except (AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kinkead Industries, Inc., 2801 S. Finley RD, Downers Grove, IL 60515. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.*

MC 119399 (Sub-113TA), filed October 30, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Tom O'Hara (same address as applicant). *Bakery goods, flour, meal, dough, chips, twists or puffs, nuts, cheese spreads*, from the facilities of Nabisco, Inc., at Houston, TX, to points in AR, CO, IA, IN, IL, KS, MI, MN, MO, ND, NE, OH, OK, SD, TN, WI, AND WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Nabisco, Incorporated, East Hanover, NJ 07936. Send protests to: Vernon V. Cobles, DS, ICC Room 600 Fed. Bldg., 911 Walnut St., Kansas City, MO, 64106.

MC 119789 (Sub-637TA), filed October 19, 1979. Applicant: CARAVAN

REFRIGERATED CARGO, INC., P.O. box 226188, Dallas, TX 75268. Representative: James K. Newbold, Jr. (same address as above). *Liquid plastic, in containers, in mechanically refrigerated equipment* from Metairie, LA, Baytown and Houston, TX to points in the U.S. (except AK and HI) for 180 days. An underlying ETA seek 90 days authority. Supporting shipper: Foam Systems Co., P.O. Box 5347, Riverside, CA 92507. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 121598 (Sub-5TA), filed October 15, 1979. Applicant: SHELBYVILLE EXPRESS, INC., Deery St., P.O. Box 187, Shelbyville, TN 37160. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. *Common carrier: regular route: General Commodities with Usual Exceptions*. 1. Between Nashville and Shelbyville, TN via US Hwy 41-A, serving all intermediate points, and points within five miles of Shelbyville as off-route points. 2. Between Shelbyville and Memphis, TN, (a) From Shelbyville via US Hwy 231 to Fayetteville, thence via US Hwy 64 to Memphis, and return over the same route, serving no intermediate points. (b) From Shelbyville via US Hwy 231 to its junction with I-24, thence via I-24 to Nashville, thence via I-40 to Memphis, and return over the same route, serving Nashville as an intermediate point. Restriction: Restricted against the handling of traffic which originates at or is destined to points in Davidson County, on the one hand, and, on the other, that which originates at or is destined to Memphis, TN, and points in its commercial zone. 3. Between Memphis, TN and the Junction of AR Hwy 160 with the AR-TX State Line, From Memphis via US Hwy 79 to its junction with US Hwy 82 at or near Magnolia, AR, thence via US Hwy 32 to junction with US Hwy 29, thence via US Hwy 29 to junction with AR Hwy 160, thence via AR Hwy 160 to the AR-TX State Line, and return over the same route, serving all intermediate points in AR, and serving all points in AR south and east of said route as off-route points. 4. Between Memphis, TN and Helena, AR, From Memphis via US Hwy 61 to junction with US Hwy 49, thence via US Hwy 49 to Helena, AR, and return over the same route, serving intermediate points, for 180 days. Applicant proposes to tack all of the above routes; to interline traffic with other carriers at Nashville, Memphis and Shelbyville, TN, and at all authorized points in AR; and to serve the commercial zone of all authorized points. Supporting shipper(s): There are

approximately 82 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121658 (Sub-27TA), filed October 29, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., 1205 Percy St., Winnsboro, LA 71295. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Shreveport, LA and Dallas, TX; from Shreveport to Dallas over Interstate 20, and return over the same route, serving no intermediate points, for 180 days. Applicant intends to tack with existing authority at Shreveport, LA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 57 supporting shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124078 (Sub-1000TA), filed October 22, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Motor cement*, in bags, from Milwaukee, WI to Minneapolis/St. Paul, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DCS Color & Supply Co., Inc., 1050 E. Bay St., Milwaukee, WI 53207. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 124078 (Sub-1001TA), filed November 6, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Ground limestone, in bulk, in tank vehicles*, from Gantt's Junction, AL to Pasadena & Plano, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson, Weinman & Co., P.O. Box 130, Cartersville, GA 30120. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 126118 (Sub-202TA), filed October 22, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Agricultural chemicals (except in bulk in tank vehicles)* from the facilities of Stauffer Chemical Company at Omaha, NE to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND,

OH, SD, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stauffer Chemical Company, R. A. Yarosh, Transportation Manager, Distribution Department, Westport, CT 06880. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 129189 (Sub-5TA), filed October 10, 1979. Applicant: WING CARTAGE COMPANY, 4141 George Place, Schiller Park, IL 60176. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Salt*, from Chicago, IL to points in the State of WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: International Salt Company, 1414 Rockefeller Bldg., Cleveland, OH 44113. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 133189 (Sub-33TA), filed November 2, 1979. Applicant: VANT TRANSFER, INC., 1257 Osborne Rd., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Bldg., St. Paul, MN 55101. *Salt*, (1) from Whitewood, SD to points in IA, MN, WI and MI; and (2) from points in AR, OK, TX, LA and MS to Whitewood, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Whitewood Post and Pole, P.O. Box 97, Whitewood, SD 57793. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133189 (Sub-34TA), filed November 2, 1979. Applicant: VANT TRANSFER, INC., 1257 Osborne Rd., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Bldg., St. Paul, MN 55101. (1) *Fireplace stoves and fireplace accessory items* from the facilities of Thermograte, Inc. in the Minneapolis/St. Paul, MN Commercial Zone to the facilities of Log Power Distributors, Inc. in Allentown, NJ, Home Energy Dynamics in Weymouth, MA and Frey Company in Kalamazoo, MI; and (2) *Materials, equipment and supplies used in the manufacture and distribution of fireplace stoves and fireplace accessory items* from Peru, IL, Wallingford, CT and Cassville, MO to the facilities of Thermograte, Inc. located in the Minneapolis/St. Paul, MN Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Thermograte, Inc., 2785 N. Fairview Ave., St. Paul, MN 55113. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

1MC 33689 Sub-316TA), Filed October 10, 1979. Applicant: OVERLAND

EXPRESS, INC., 8651 Naples St., NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Plastic film and sheeting* from Griffin, GA to points in NC, SC, VA, WV, MD, DE and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden Chemical, One Clark St., N. Andover, MA 01845. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 135518 (Sub-24TA) filed July 24, 1979. Applicant: WESTERN CARRIERS, INC., 53 S. Dawson, Seattle, WA 98104. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Frozen meat products*, from Stockton, CA to points in OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Craig & Hamilton, 721 North Union, P.O. Box 8423, Stockton, CA 95208. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 136818 (Sub-97TA), filed October 22, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Plastic pipe and pipe fittings*, from Shafter, CA to points in NM and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Polaris Pipe Co., Inc., 7120 Hayvenhurst, Van Nuys, CA 91406. Send Protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85024. Supporting shipper(s): Polaris Pipe Co., Inc., 7120 Hayvenhurst, Van Nuys, CA 91405. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 138469 (Sub-188TA), filed October 31, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Frozen foods*, except in bulk, from the facilities of I.T.T. Continental Baking Company, located in WI and the lower peninsula of MI, to Russellville and Crossett, AR, Rome, GA, Chicago, IL, Landover, MD, Natic and Watertown, MA, Minneapolis, MN, St. Louis, MO, Omaha, NE, Oklahoma City, OK, Cleveland and Cincinnati, OH, Dallas, TX, and the District of Columbia, and points in their respective commercial zones, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ITT Continental

Baking Co., P.O. Box 731, Rye, NY 10580. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138459 (Sub-195TA), filed October 31, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Chemicals, plastics, plastic articles and materials, equipment and supplies used in the manufacture and distribution of chemicals, plastics and plastic articles*, (except commodities in bulk, in tank vehicles), from the facilities of U.S. Industrial Chemical Company, located at or near Tuscola, IL, Indianapolis, IN, and Deer Park and Houston, TX, to points in the United States, (except AK and HI), restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Industrial Chemicals, Co., 900 Park Avenue, New York, NY 10016. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 139349 (Sub-20TA), filed October 23, 1979. Applicant: E Z FREIGHT LINES, 70 Gould and East 40th Streets, Bayonne, NJ 07002. Representative: Robert B. Pepper, 188 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes for 180 days. Games or toys, from plantsite of Revell, Incorporated, Venice, CA to all points in the United States. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revell, Incorporated, 4223 Glencoe Avenue, Venice, CA 90291. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 140823 (Sub-331TA), filed October 26, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). *Paper and pulpboard cores and tubes and such materials and supplies as are used in the manufacture of paper cores and tubes* between Boone, IA, on the one hand, and on the other, points in IL, KS, MN, MO, NE, ND, SD and WI for 180 days. An underlying ETA seeks 90 days authority. Restricted to shipments originating at or destined to the facilities of Sonoco Products Co. located at or near Boone, IA. Supporting shipper(s): Sonoco Products Co., A. L. Moon, Corporate Traffic Manager, Hartsville, NC 28650. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-332TA), filed October 12, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). *Food preparations* from Franklin Park, IL to points in IA, KS, LA, MO, NH, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fearn International, Inc., Ron Williamson, Corp. Director of Distribution, 9353 West Belmont Ave., Franklin Park, IL 60131. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141269 (Sub-3TA), filed November 6, 1979. Applicant: CHAS. R. MORGAN, INC., 16574 South Highway 99E, Oregon City, Oregon 97045. Representative: Earle V. White, White & Southwell, 2400 S.W. 4th Avenue, Portland, Oregon 97201. Contract, irregular—*Malt beverages* from Portland, Oregon to points in California north of the counties of Monterey, San Benito, Fresno, and Inyo, and points in NV in the counties of Washoe, Carson City, Douglas, Storey, Lyon, and Churchill for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blitz Weinhard Company, 1133 West Burnside Street, Portland, Oregon 97209. Send protests to: A. E. Odums, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 141548 (Sub-7TA), filed October 18, 1979. Applicant: INTERIOR TRANSPORT, INC., P.O. Box 3347, Spokane, WA 99220. Representative: George H. Hart, 1100 I.B.M. Building, Seattle, WA 98101. *Chairlifts and Tramways, K.D.*, from the plant site of Riblet Aerial Tramway Co., Inc. in Spokane, WA to points in and west of PA, MI, OH, IN, IL, MO, AR and TX (except AK, HI and WA), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riblet Aerial Tramway Co., Inc., E. 814 Grace, Spokane, WA 99207. Send protests to: Shirley M. Holmes, T/A, ICC, 853 Federal Building, Seattle, WA 98174.

MC 142505 (Sub-123TA), filed October 9, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10910 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat, meat products and meat by-products (except in bulk) restricted to traffic having a subsequent movement by water* from points in CO, IL, IN, IA, KY, MI, MN, MO, NE, OK, OH, TN and WI to Wilmington, DE; Jacksonville, Miami and Tampa, FL; New Orleans, LA; Boston, MA; Newark, NJ; New York, NY; Charleston, SC; Houston, TX; Philadelphia, PA; Norfolk, VA and

Kenosha, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. J. Cunningham Packing Corp., Rajesh Gundavda, Export Traffic, 1776 Heritage Drive, Quincy, MA 02171. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-124TA), Filed October 9, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 0810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Commodities dealt in and sold by automotive parts stores* from the facilities of Standard Motor Products in Edwardsville, KS to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Motor Products, Ernest Kent, Traffic Manager, 380 Southern Boulevard, Bronx, NY. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 144398 (Sub-5TA), filed October 12, 1979. Applicant: WAYNE TRANSPORT, INC., Box 366, Milaca, MN 56353. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Sugar, in bulk*, from the facilities utilized by North Central Sugar Marketing Cooperative at or near Wahpeton, ND and Renville, MN to points in IA, MN, NE, SD and WI, for 180 days. Supporting Shipper(s): North Central Sugar Marketing Cooperative, 400 S. City Rd. 18, Room 490, Shelard Plaza, Minneapolis, MN 55426. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 144858 (Sub-25TA), filed October 29, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72203. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam St., Omaha, NE 68102. *Such commodities as are manufactured and/or distributed by the Eastman Kodak Company (except commodities in bulk)*, (1) between Rochester, NY on the one hand, and on the other, Hollywood, Lyoth, Los Angeles, Oakland, Palo Alto, San Francisco, San Ramon, Travis AFB and Whittier, CA and (2) between Windsor, CO on the one hand, and on the other, Hollywood, Lyoth, Los Angeles, Oakland, Palo Alto, San Francisco, San Ramon, Travis AFB and Whittier, CA, for 180 days. Supporting Shipper(s): Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145359 (Sub-18TA), filed September 21, 1979. Applicant:

THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Copper, brass, aluminum and bronze articles, cable materials, wire, wire products and materials and supplies used in the distribution thereof* from the facilities of Revere Copper and Brass Incorporated at Rome, NY to Paducah, KY, Trenton and Joplin, MO; Minneapolis and St. Paul, MN; Emporia, KA, LaPorte, IN; Pemberville, OH; Logansport, IN; Bloomington, IL and Jefferson City, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Revere Copper and Brass Incorporated, P.O. Box 191, Rome, NY 13440. Send Protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 145559 (Sub-4TA), filed October 5, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment)*, from Nashville, Lebanon, Milledgeville, Green Brier, Cookeville, Murfreesboro and McMinnville, TN, and points in their commercial zones, to points in CA, OR, WA, CO, NV, UT, AZ, ID, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-South Shippers Association, Inc., 230 Willow, Nashville, TN 37210. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 146078 (Sub-12 TA), filed October 26, 1979. Applicant: CAL-ARK, INC., P.O. Box 394, Malvern, AR 72104. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and (2) materials, equipment and supplies used in manufacture, distribution and sale of commodities in (1):* between points in AR, TN, LA, TX, MS, GA, and KS on the one hand, and on the other, facilities of Ralston Purina Company at or near Oklahoma City, OK, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 146379 (Sub-3TA), filed October 16, 1979. Applicant: AUTO EXPRESS, INC., 1520 Paterson Plank Road, North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Used passenger automobiles, in secondary movements, in truckaway service, (1) from points in NY to point in CA; FL; Phoenix, AZ; St. Louis, MO; Dallas, TX; Detroit, MI; Chicago, IL; Cleveland, OH; and Minneapolis, MN and their commercial zones, (2) from St. Louis, MO; Detroit, MI; Chicago, IL; Cleveland, OH and their commercial zones to points in FL and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven (7) supporting shippers on file at the Newark, NJ and Washington, D.C. offices. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146989 (Sub-5TA), filed October 30, 1979. Applicant: GOLDEN-HAMMONS CARTAGE CO., INC., d.b.a. G & H CARTAGE, 1749 Florida, Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *General commodities, moving on freight forwarders bills of lading*, between Memphis, TN; St. Louis, MO; Cincinnati, OH; Cleveland, OH; Kansas City, MO; and Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Burlington Northern Air Freight, Inc., 2785 Rudder Road, Memphis, TN. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 146998 (Sub-2TA), filed October 15, 1979. Applicant: SERVALL TRANSPORT LTD., 123 Rexdale Boulevard, Rexdale, On Canada M9W 1P3. Representative: S. Harrison Kahn, Attorney at Law, Kahn & Kahn, suite 733 Investment Building, 1511 K Street NW., Washington, D.C. 20005. *Concrete Pipe*, from ports of entry on the Niagara Frontier between the United States and Canada and Hamburg, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bestpipe Limited, Kitchener, Ontario Canada. Send protests to: R.H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 147348 (Sub-4TA), filed October 26, 1979. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 71224. Representative: James M. Duckett, 927 Pyramid Life Building, Little Rock, AR 72201. *General commodities (with the usual exceptions)*, from Little Rock, AR, to points in TX, LA, MS, TN, MO, KS, and OK, restricted to shipments

destined to the facilities of Electrolux Division of Consolidated Foods, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Electrolux Corporation, 2777 Summer Street, Stamford, CT 06905. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 147379 (Sub-3TA), filed October 31, 1979. Applicant: GERALD LEE WEBER d.b.a. JERRY WEBER TRUCKING, P.O. Box N, Akron, CO 80720. Representative: Nancy P. Bigbee of Jones, Meiklejohn, Kehl & Lyons, 1660 Lincoln Street, suite 1600, Denver, CO 80264. *Malt Beverages*, from Ft. Worth, TX, to Wolcott and Glenwood Springs CO, for 180 days. Restricted to service provided under a continuing contract/s with Orrison Frontier & Distributing d.b.a. Orrison Distributing, Inc., 302 W. 8th, Box 128, Glenwood Springs, CO. Authority sought for underlying 90-day ETA. Supporting shipper: Orrison Distributing, Inc., 302 West 8th, P.O. Box 128, Glenwood Springs, CO 81601. Send protests to: District Supervisor R.L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 147948 (Sub-6TA), filed October 16, 1979. Applicant: A. J. ROSS ENTERPRISES, INC., 225 Smith Street, Keasbey, NJ 08832. Representative: Morton E. Kiel, suite 1832, 2 World Trade Center, New York, NY 10048. *Structural steel* from Newington, CT to Keasbey, NJ and New York, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Levinson Steel Co., P.O. Box 1617, Pittsburgh, PA 15230. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148198 (Sub-1TA), filed October 15, 1979. Applicant: A. MATTEO TRUCKING, INC., 1465 Crown Point Road, Verga, NJ 08093. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. *Aluminum powder*, from Flemington, NJ to New Kensington, PA. *Empty containers* used in the transportation of aluminum powder, from New Kensington, PA to Flemington, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Conoco, Inc., P.O. Box 2197, Houston, TX 77001. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 148389 (Sub-1TA), filed October 2, 1979. Applicant: MILBAX TRUCKING, INC., P.O. Box 1124, Aurora, IL 60507. Representative: Meyer & Maton, 10 South LaSalle Street, room 1620, Chicago, IL 60603. *Metal cutting fluids and soaps and materials and supplies used in the manufacture of such fluids*

and soaps, between St. Charles, IL and points in CA, CO, TX, OK, LA, NY, NJ, VA, NC, GA, PA, OH, KY, MI, MO, WI and MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: S. H. Mack and Company, Inc., 445 Kautz Road, St. Charles, IL 60174. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148439 (Sub-1TA), filed October 25, 1979. Applicant: CONDON TRANSPORT, INC., 126 East Jackson Street, Ripon, WI 54971. Representative: James Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. Contract carrier, irregular routes; (a) *Tires and such commodities as are dealt in by retail and wholesale automotive stores* (b) (1) From Ripon, WI to points on MN and the UP of MI and (2) from Chicago, IL and its commercial zone, Columbus, OH; Fort Wayne, IN; Minneapolis-St. Paul, MN and its commercial zone, Manchester, IA; Miami, OK; Oaks, PA and Tuscaloosa, AL to points in the UP of MI, MN and WI, under continuing contract(s) with Payless Tire Stores, Inc., Ripon, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Payless Tire Stores, Inc., P.O. Box 184, Ripon, WI 54971. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin, Ave., Rm. 619, Milwaukee, WI 53202.

MC 148488 (Sub-1TA), filed October 25, 1979. Applicant: ROBERT J. FUTCH d.b.a. BAMBI'S, 206 Clifton Drive, Port Wentworth, GA 31407. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract Carrier*, irregular routes, *transporting (1) lumber (2) molding and materials, supplies and machinery used in the manufacture of molding*, (1) from Port Wentworth, GA to Greenville, SC (2) from Greenville, SC to points in GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lawton Lumber Co., Inc., Washington & Florida Avenue, Greenville, SC 29602. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 148498 (Sub-1TA), filed October 25, 1979. Applicant: GREELEY COMMUTER SYSTEM, LTD., 2628 65th Avenue, Greeley, CO 80631. Representative: Ronald L. Frazier (same address as applicant). General commodities, limited to packages of less than 100 lbs. between points in Weld, Adams and Larimer, Counties, on the one hand, and on the other, Stapleton Airport, Denver, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 17 statement of support can be seen at Headquarters or the Denver field office

Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 148528 (Sub-TA), filed October 2, 1979. Applicant: RAUNKER, INC., 220 Fairway Drive, Carl Junction, MO 64834. Representative: Clyde Christy, Suite 110L, Credit Union Building, 1010 Tyler, Topeka, KS 66612. *Gasoline, Gasohol and Diesel Fuel*, (1) From the facilities of Farmland Industries, Inc. at or near Coffeyville, KS to points in Barton, Newton, Christian, Jasper, Lawrence, McDonald and Vernon Counties, MO, and points in OK east of I-35 and north of I-40, except Oklahoma City, OK. (2) From the facilities of Sun Oil Co., at or near Tulsa, OK and the facilities of OKC Refining, Inc. at or near Okmulgee, OK to points in Barton, Christian, Jasper, Lawrence, McDonald, Newton and Vernon Counties, MO and Cherokee, Labette, Montgomery, Crawford, Bourbon and Neosho Counties, KS. (3) From the Pipeline Terminals at or near Jasper and Mt. Vernon, MO to points in OK east of I-35 and north of I-40 except Oklahoma City, OK and Cherokee, Labette, Montgomery, Crawford, Bourbon, and Neosho Counties, KS. Supporting shipper(s): Derby Refining Co., Box 1030, Wichita, KS 67201; Hale Petroleum Co., Inc., P.O. Box 167, Columbus, KS 66725; Consumers Oil Stations, Inc., Box 1949, Tulsa, OK 74101; Addis Oil Co., Inc., 527 Maple, Box 212, Chetopa, KS 67336; Langford Oil Company, 202 North Joplin, Pittsburg, KS 66762; and B & M Oil Company, Inc., P.O. Box 1173, Bartlesville, OK 74003. Send protests to: Vernon Coble D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 148609 (Sub-TA), filed October 17, 1979. Applicant: A M & M, Inc., 33 Bolivar Highway, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Room 909, 100 North Main Street, Memphis, TN 38103. *Foodstuffs, except meat, meat products, meat by-products, not frozen, and except commodities in bulk*, from the facilities of Vlasic Foods, Inc. at (1) Millsboro, DE to WV, PA, MD, NY and NJ; (2) Greenville, MS to KS, AL, AR, TN and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Rd., West Bloomfield, MI 48033. Send protests to: Floyd A. Johnson, Rm. 2006-100 N. Main St., Memphis, TN 38103.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39301 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[No. 37244]

Petition for Modification of Outstanding Order In Docket No. 15234 Delivery Charge Before Pro Rating Rates on Steel Bars

AGENCY: Interstate Commerce Commission.

ACTION: Notice of petition filing.

SUMMARY: The Southwestern Freight Bureau (Southwestern or petitioner), on behalf of carriers operating in Western Trunk Lines and Southwestern territories, has requested permission to deduct a delivery charge of \$20.00 per trailer before prorating the balance of the revenue on a Commission formula prescribed in docket No. 15234, *In The Matter of Divisions of Freight Rates In Western And Mountain Pacific Territories*, 156 I.C.C. 94 (1929). Petitioner seeks to deduct the delivery charge on shipments of steel bars moving in trailer on flat car service. The deduction would be subject to a minimum weight of 80,000 pounds, when loaded in or on not more than two trailers, moving from Inver Grove and St. Paul, MN, to Tulsa, OK. Petitioner alleges that the revenue generated at the X-357 level is insufficient because of increased drayage, fuel, and labor costs. The Commission seeks comments on whether petitioner should be authorized to depart, as requested, from the prior rate prescription. Following the comment period, the Commission will decide whether to allow the delivery charge before prorating rates on steel bars.

DATE: Comments on or before January 21, 1980. Comments should be filed under docket No. 37244.

ADDRESS: Comments should be submitted to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275-7693.

Dated: December 10, 1979.

By the Commission, Division 1,
Commissioners Clepp, Trantum and Alkexis.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39302 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission.	1, 2
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Securities and Exchange Commission.	5

1

FEDERAL COMMUNICATIONS COMMISSION. PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, December 19, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Broadcast—1—Memorandum Opinion and Order (BC Docket No. 79-219): "Motion for Rescission of Notice and Other Procedural Relief" filed by the ACLU and other parties asking the Commission to rescind its *Notice of Inquiry and Notice of Proposed Rule Making* in BC Docket 79-219, radio deregulation, and for other relief.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 18, 1979.

[S-2468-79 Filed 12-19-79; 10:57 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION. PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, December 19, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Private Radio—8—Title: Notice of Proposed Rule Making to allow operation of low power limited coverage systems in the 22,000 to 23,600 MHz band. Summary: The FCC proposed to allow operational-fixed licensees to operate in the 22,000 to 23,600 MHz band. Systems in this band would be

used for traffic control, closed circuit TV, energy monitoring and control, digital voice, transmissions of high speed digital data and other short haul communications whose maximum distance would not exceed 25 miles. Operation of these systems would be similar to operational-fixed systems in the 12,200 to 12,700 MHz band. The 12,000 to 12,700 MHz band is presently proposed for broadcast satellite service. If this proposal is adopted, the 22,000 to 23,600 MHz band would be used to accommodate some existing and future operations which are now authorized in the 12,200 to 12,700 MHz band.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 17, 1979.

[S-2469-79 Filed 12-19-79; 10:57 am]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, December 17, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Bank of Baroda, Bombay, India, a United States branch of a foreign bank, located at One Park Avenue, New York, New York, for Federal deposit insurance.

Application of Israel Discount Bank Ltd., Tel Aviv, Israel, two United States branches of a foreign bank, located at 511 Fifth Avenue, New York, New York, and 1350 Broadway, New York, New York, for Federal deposit insurance.

Application of Bank Hapoalim B.M., Tel Aviv, Israel, a United States branch of a foreign bank, located at 3 Penn Center Plaza, Philadelphia, Pennsylvania, for Federal deposit insurance.

Application of the Trust Company of New Jersey, Jersey City, New Jersey, for Federal deposit insurance coincident with

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withdrawal from the Federal Reserve System.

Recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 44,152-L).

Recommendation regarding the liquidation of assets acquired by the Corporation from State Bank of Clearing, Chicago, Illinois (Legal Division memorandum dated December 7, 1979).

Recommendation with respect to payment for legal services rendered and expenses incurred by Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Recommendation with respect to payment for legal services rendered by Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Memorandum re: Possible Conflicts of Interest in Connection with Attorneys' Fees to Directors, Trustees, Officer or Stockholders.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Notice of acquisition of control: Ennis State Bank, Ennis, Texas; and Recommendation regarding the liquidation of assets acquired by the Corporation from United States National Bank, San Diego, California (Case No. 44,144-NR).

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2465-79 Filed 12-18-79; 5:00 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, December 17, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Issac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Audit Report: Review of Electronic Data Processing Services Provided to the Division of Bank Supervision by the Division of Management Systems and Financial Statistics, dated September 10, 1979.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger of The Citizens National Bank and Trust Company, Wellsville, New York, and the State Bank of Belmont, Belmont, New York.

Memorandum and Resolution re: Policy Statement on Interagency Coordination of Formal Corrective Action by the Federal Bank Regulatory Agencies.

Memorandum and Resolution re: Policy Statement on Interagency Coordination of Bank Holding Company Inspections and Subsidiary Bank Examinations.

Memorandum and Resolution re: Joint Notice of Statement of Policy on Disclosure of Statutory Enforcement Actions.

Memorandum re: Report of Condition for U.S. Branches and Agencies of Foreign Bank.

Proposed contract for assistance in relocating Corporation employees and their families.

Recommendation with respect to payment for legal services rendered and expenses incurred by Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Recommendation with respect to payment for legal services rendered by Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Memorandum and Resolution re: Joint Notice of Proposed Policy Statement on Disposition of Credit Life Insurance Income.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2466-79 Filed 12-18-79; 5:00 pm]

BILLING CODE 6714-01-M

5

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 24, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, December 27, 1979, at 10:00 a.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, December 27, 1979, at 10:00 a.m., will be:

1. Consideration of whether to adopt Rules 2a-6 and 15a-4 of the Investment Company Act of 1940 to modify its requirements regarding the assignment of contracts for services of an investment adviser or principal underwriter and the temporary service by an investment adviser without a written contract approved by investment company shareholders. For further information, please contact Mark Goldfus at (202) 272-2048.

2. Consideration of whether to grant the application by A. T. Broad & Co. for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272-2644.

The subject matter of the closed meeting scheduled for Thursday, December 27, 1979, immediately following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Freedom of Information Act appeal.
Personnel matter.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.
Litigation matter.
Institution of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Order compelling testimony.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272-2091.

December 18, 1979.

[S-2467-79 Filed 12-18-79; 5:10 pm]

BILLING CODE 6010-01-M

federal register

Friday
December 21, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of

publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas
Decisions to General Wage
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is

encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination
Decisions

New York.—NY79-3038.

Modification to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Connecticut:	
CT79-2010	Apr. 6, 1979.
CT79-2011	Apr. 6, 1979.
District of Columbia:	
DC79-3039	Oct. 19, 1979.
Illinois:	
IL79-2031	May 4, 1979.
Maryland:	
DC79-3039	Oct. 19, 1979.
New York:	
NY79-3011	May 18, 1979.
Pennsylvania:	
PA78-3064	Sept. 22, 1978.
PA78-3065	Sept. 22, 1978.
PA78-3070	Sept. 29, 1978.
PA78-3089	Dec. 15, 1978.
PA79-3004	Mar. 16, 1979.
Virginia:	
DC79-3039	Oct. 19, 1979.
VA78-3075	Nov. 3, 1978.

Supersedeas Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Massachusetts:	
MA78-2088(MA79-2085)	Sept. 22, 1978.
New York:	
NY78-3095(NY79-3036)	Dec. 1, 1978.
Ohio:	
OH79-2043(OH79-2086)	May 4, 1979.
Virginia:	
VA79-3032(VA79-3355)	Feb. 23, 1979.
VA75-3094(VA79-3056)	Sept. 19, 1975.

Cancellation of General Wage
Determination Decisions

None

Signed at Washington, D.C. this 14th day of December 1979.

Dorothy P. Come,
Assistant Administrator, Wage and Hour
Division.

BILLING CODE 4510-27-M.

Page 2

DECISION NO. NY79-3038

BUILDING, HEAVY AND HIGHWAY
CONSTRUCTION (CONTD.)

Basic Hourly Rates	Fringe Benefits Payments			Education Appr. Tr.
	H & W	Pensions	Vocational	
\$10.75	.40	.25	c	.01
9.41	.80	.75		.01
10.16	.80	.75		.01
10.46	.80	.75		.01
9.41	.80	.75	d	.01
11.75	1.10	1.90		.15
10.00	1.90	.80	1.30	.05
11.70	1.00	1.95		.35
11.20	1.00	1.95		.35
8.70	1.00	1.95		.35
9.20	1.00	1.95		.35
10.97	1.645	2.28	1.04	.12
13.54	.75	1.05		.08

LEADWORKERS
PAINTERS:
Brush, Roller & Tapers
Steel, Structural Steel,
Towers, Smokestacks, Fire
Escapes, Flagpoles &
Bridges
Sandblasting & Spray
Paper & Vinyl Hangers,
Tapers
PLUMBERS & STEAMFITTERS:
Tps. of Wawarsing, Platte-
kill, Marlboro & Shawangunk
Remainder of County
ROOFERS:
Cold Tar Pitch, Mopping &
Dipping Application or rip-
ping off
Asphalt Builtup, Asbestos
Tile, Tile, Ceramic tile,
Slate, Tectum, Spray Ins-
ulation
Cold process & Resaturat-
ion, Asphalt Shingle
Pitch
SHEET METAL WORKERS
SPRINKLER FITTERS
WELDERS—receive rate pre-
scribed for craft perfor-
ming operation to which
welding is incidental.

STATE: New York
DECISION NO.: NY79-3038
DESCRIPTION OF WORK: Building Construction (does not include
single family homes and apartments up to and including 4 stories),
Heavy and Highway Construction projects.

NEW DECISION

COUNTY: Ulster

DATE: Date of Publication

Basic Hourly Rates	Fringe Benefits Payments			Education Appr. Tr.
	H & W	Pensions	Vocational	
\$12.67	.95	.41	7s	.02
13.19	5s	15s		.02
9.55	2.25	2.10	a	.06
8.40	1.65	1.40	a	
10.75	.75	1.05	.55	.05
10.05	2.25	2.10	b	.06
10.60	.75	3s+1.05	.50	.5s
11.45	7.4s	3s+1.00	.60	.5s
12.85	.66	1.01	.67	.01
10.75	1.78	2.38	1.60	
9.57	1.05	.15	1.00	.01

ASBESTOS WORKERS
BOILERMAKERS
BRICKLAYERS:
Bricklayers, Caulkers,
Cleaners, Cement Masons,
Plasterers, Pointers, Mar-
ble Masons, Stone Masons,
Tile & Terrazzo Workers:
Building
Where General Contract
does not exceed \$100,000
& the masonry contract in-
cluding labor & material
does not exceed \$500,000
CARPENTERS:
Carpenters, Millwrights,
Piledrivers, Dockbuilders,
& Soft Floor Layers
CEMENT MASONS, HEAVY & HIGH-
WAY
ELECTRICIANS:
Hardenburg, Denning, Roch-
ester, Wawarsing Tps. &
that portion of Gardiner &
Shawangunk Tps. west of
a line following the Swan-
gunk Kill from the Orange
County line north to the
Walkill River & continuing
north along the Walkill
River & Lloyd, New Paltz,
Esopus, Rosendale, Marble-
town, Ulster, Hurley, Olive
Kingston, Saugerties, Wood-
stock & Shandaken Tps.
Remainder of County
GLAZIERS
IRONWORKERS
LATHERS

PAID HOLIDAYS:
 A-New Year's Day
 B-Memorial Day
 C-Independence Day
 D-Labor Day
 E-Thanksgiving Day
 F-Christmas Day

- EXEMPTIONS:**
 a. 2 hours off with pay on Election Day.
 b. Paid holidays: A through F, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, November Election Day and Veteran's Day.
 c. Paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee works the 30 full days during the 90-calendar days prior to the holiday and the regularly scheduled work days immediately preceding and following the holiday.

- d. Employee receives \$1 per day extra when handling vinyl or fabric.

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LABORERS, BUILDING:					
Common Laborers, Flagmen, Mason Tenders, Mortar Mixers, Rod Carriers, Scaffold Builders, Concrete Men, Signalmen, Vibrator Men, Pouring Cypsum roof work, wrecking, Walking Power Buggy, Landscaper, Chipping Hammer (air or electric 1" or under), all operation and tending of all power driven hand fed mortar or concrete mixers, pumpcrete machines, plastering, fireproofing, and Acoustic Pumps and Mixers	9.60	1.05	1.05		
Asphaltmen, Pipelayers, Air or Electric Jackhammer, Air Track, Wagon, Joy and Jib Drills, Powdermen, Gunite or Sandblasting, Barmen, Chain Saw Operator, Riding Power Buggy, Vibro, Barco, Joy Tamer or similar type Tamer (air or gas), Walk Behind Roller, Granite Curbing, All Fork Lifts and Laser Operations	9.85	1.05	1.05		
Blasters, Form Setters, Burner Acetylene Torch, Ingersoll Rand, Heavy Duty Crawler-Master type HCMZ, Drill Machine or equivalent All wrecking work 50' or more above the ground	10.25	1.05	1.05		
Small construction, alteration, and repair where the general construction contract price does not exceed \$250,000 (all classifications)	6.80	1.05	1.05		

LABORERS:
 HEAVY AND HIGHWAY CONSTRUCTION
 GROUP I
 GROUP II
 GROUP III

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$9.70	1.05	1.05	a		
9.95	1.05	1.05	a		
10.35	1.05	1.05	a		

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
 Laborer, pitman, flagman, chuck tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barricades and all reflective type materials for traffic control.

GROUP II
 Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunite and sandblasting, coal passers and other machines op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self-propelled power saw walk behind rollers and tamers of all types, wrecking laborers (including barmen and burners), all sheeting and shoring coming under the laborers jurisdiction bit grinder, operator of form pin pullers and drivers, joint and jet sealers, and filling and wiring of baskets for gabion walls, permanent sign man.

GROUP III
 Concrete finisher on highways, form setter, granite stone layer, Ingersoll rand heavy duty crawler-master type HCMZ or equivalent or any drill using a 4" or larger bit.

HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
 a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; Good Friday; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LINE CONSTRUCTION					
Electrical Overhead and Underground Distribution Work:					
Linemen and Technicians	10.50	38+.75	a		3 1/2
Cable Splicers	13.70	38+.75	a		3 1/2
Groundman Digging Machine Operator and Groundman Dynamite man	9.45	38+.75	a		3 1/2
Groundman Mobile Equipment Operator, Mechanic 1st Class, groundman Truck Driver (tractor trailer units)	8.40	38+.75	a		3 1/2
Groundman Truck Driver, Driver-Mechanic, Groundman All Overhead Transmission Line Work and Lighting For Athletic Fields:	7.825	38+.75	a		3 1/2
Lineman and Technicians	11.85	38+.75	a		3 1/2
Groundman Digging Machine Operator, Groundman Dynamite man	10.665	38+.75	a		3 1/2
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit)	9.48	38+.75	a		3 1/2
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced) All Pipe Type Cable Installation:	8.8875	38+.75	a		3 1/2
Lineman and Groundman Equipment Operator Cable Splicer	12.45	38+.75	a		3 1/2
Groundman Truck Driver	13.695	38+.75	a		3 1/2
Groundman (experienced) Sub-station, Switching Structures (when not part of the line), Traffic	9.3375	38+.75	a		3 1/2

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
LINE CONSTRUCTION (CONT'D): Signals, Street Lighting and Electrical, Telephone or CATV Commercial Work: Cable Splicers Groundman Digging Machine Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit) Groundman Truck Driver, Driver-Mechanic, Ground- man Groundman dynamometer, operator Telephone and other Commu- nication Systems, both overhead and underground: Linemen and Installer Relaymen Splicers Groundman Digging Machine Operator Groundman Groundman Truck Driver Groundman Dynamometer	12.45 13.695 9.96 9.3375 11.205 8.34 8.89 7.73 5.72 6.82 6.60	1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00	34.75 34.75 34.75 34.75 34.75 34.75 34.75 34.75 34.75 34.75 34.75	34% 34% 34% 34% 34% 34% 34% 34% 34% 34% 34%

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES

A. Paid Holidays: A through F, Washington Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION GROUP 1 GROUP 2 GROUP 3 GROUP 4 GROUP 5 GROUP 6 GROUP 7 GROUP 8 GROUP 9 GROUP 10 GROUP 11 GROUP 12 GROUP 13 GROUP 14 GROUP 15	\$15.63 13.81 12.93 12.82 12.59 12.10 11.81 11.64 11.59 11.64 11.42 11.59 10.78 10.61 10.27	12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84 12.84	10% 10% 10% 10% 10% 10% 10% 10% 10% 10% 10% 10% 10% 10% 10%	34% 34% 34% 34% 34% 34% 34% 34% 34% 34% 34% 34% 34% 34% 34%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY,
HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1
Helicopters pilot/engineer

GROUP 2

Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar type); backhoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks - land or floating (building & heavy construction rate only); drillmaster, quarry master (down the hole drill); draglines; elevator graders; engines, large & over; gradalls; grader; pump; front end loaders (5 yds. & over); gradalls; grader; rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); muck-ing machines; pavers (21E and over); paver, resinous, Broymill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treecracker with boom; trench machines.

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY,
HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D.)

GROUP 3
Pump, staging

GROUP 4

A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumperete, squeezecrete & similar types; conveyors, 125' & over; econobiles (hilo, lull, hystor similar type equipment); forklifts; front end loaders (2 yds. but less than 5 yds.); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, D's Ukes, pumperete-unit type; pumperete machines, squeezecrete & concrete pumping; scrapers, LeTourneau, D's Ukes, side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting).

GROUP 5

Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists.

GROUP 6

Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop.

GROUP 7

Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slip-form (CMI & similar types); barbeding machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hotzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd. & over but less than 2 yds.) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds.) - building and heavy construction rates only; generators; giraffe graders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibrator (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only;

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD,
STREET AND SEWER CONSTRUCTION (CONT'D.)

GROUP 7 (Cont'd.)

laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers-small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, sor-vices & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic.

GROUP 8

Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building and heavy construction rate only.

GROUP 9

Brooms & Sweepers; bulldozer, D5 and over; fireman; sprinkler & water pump trucks (used on job site or in conjunction with job site); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site).

GROUP 10

Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only.

GROUP 11

Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only.

GROUP 12

Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8.

GROUP 13

Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 or less than 4 inch suction including submersible pumps); pumps, diesel engineer & hydraulic (immature of power) highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propane, natural gas or flow type units); welding machines, gas or electric converters of any type -

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY,
ROAD, STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 13 (Cont'd.)

single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance).

GROUP 14

Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street & sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street & sewer construction rate only); mulching equipment; road finishing machines (small type) - highway, road, street & sewer construction rate only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street & sewer construction rate only).

GROUP 15

Assistant engineer/oiler; mechanics helper; tire repair and maintenance.

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceding the holiday and the first work day after the recognized holiday.

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POWER EQUIPMENT OPERATORS:
STEEL ERECTION

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP 1	\$17.44	12%+.40	10%	a	3%
GROUP 2	15.63	12%+.40	10%	a	3%
GROUP 3	14.72	12%+.40	10%	a	3%
GROUP 4	13.98	12%+.40	10%	a	3%
GROUP 5	12.20	12%+.40	10%	a	3%
GROUP 6	11.81	12%+.40	10%	a	3%
GROUP 7	11.66	12%+.40	10%	a	3%
GROUP 8	11.29	12%+.40	10%	a	3%
GROUP 9	10.73	12%+.40	10%	a	3%

50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground level and less than 140 feet; 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceding the holiday and the first work day after the recognized holiday.

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POWER EQUIPMENT OPERATORS: STEEL ERECTION

GROUP 1

Helicopters pilot/engineer.

GROUP 2

Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer.

GROUP 3

Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground); derricks (land or floating with booms including jib, less than 140 feet above the ground).

GROUP 4

Aerial platform used as hoist; A-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms.

GROUP 5

Compressors (2 or 3 in battery); generators; welding machines (gas or electric converters of any type 2 or 3 in battery multiple welders) welding system multiple (rectifier transformer type).

GROUP 6

Maintenance engineer

GROUP 7

Fireman

GROUP 8

Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single).

GROUP 9

Assistant engineer/oiler; straddle carrier.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BUILDING CONSTRUCTION					
TRUCK DRIVERS: Drivers on Letourneau tractors, double barrel tractors, Athey wagon & similar equipment (except when hooked to scrapers), low beds, I-beam, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	\$10.50	.95	1.05		a
Equipment 25 yds. & over up to and including 30 yd. bodies cable dump trailers powder and dynamite trucks	10.40	.95	1.05		a
Equipment up to and including 24 yds. bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	10.20	.95	1.05		a
Ten wheelers, grease trucks and tiller men	10.10	.95	1.05		a
Straight trucks	10.00	.95	1.05		a
Pick-up trucks used for hauling material parts escort man over the road	10.00	.95	1.05		a

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F;

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA78-3064 MOD. NO. 8 (43 FR 43224 - September 22, 1978) Schuylkill County, Pennsylvania				
CHANGE: ASBESTOS WORKERS ELECTRICIANS: North Manheim, South Manheim, West Brunswick, Wayne, Wash- ington, Pottsville, Schuyl- kill Haven Twp. SPRINKLER FITTERS	\$11.61	.90		.01
	12.49	374.30		.03
	13.55	1.05		.08
DECISION NO. PA78-3065 MOD. NO. 7 (43 FR 43226 - September 22, 1978) Sullivan County, Pennsylvania				
CHANGE: CEMENT MASONS ELECTRICIANS: Western Part of County SPRINKLER FITTERS	10.60			
	9.98	374.85	.75	.02
	13.55	1.05		.08
DECISION NO. PA78-3070 MOD. NO. 8 (43 FR 45162 - September 29, 1978) Lancaster County, Pennsylvania				
CHANGE: ASBESTOS WORKERS ELECTRICIANS: W. Calico, E. Calico, Breck- nock, E. Carl & Caernarvon Twp. Tps.	11.61	.90		.01
	12.49	374.30		.03
	10.45	37		1/87
	9.20	.45		
	13.55	1.05		.08
	9.20	.45		
	9.20	.45		

Basic Hourly Rates	Fine Grade Payments	H & W	Pensions	Vacation	Education
					and/or Appr. Tr.
ASBESTOS WORKERS	12.41	1.20	1.10		.10
BOILERMAKERS	11.80	1.05	1.08		.02
BRICKLAYERS & STONEMASONS	11.95	.85	1.40		.12
Residential CARPENTERS & SOFT FLOOR LAYERS	8.84	.85	1.40		.12
CEMENT MASONS	11.05	.90	1.00		.07
ELECTRICIANS	11.55	1.15	.60		.20
ELEVATOR CONSTRUCTORS	13.53	.75	38+.55		.07
ELEVATOR CONSTRUCTORS, HELPERS	12.815	1.045	.82	a+b	.035
ELEVATOR CONSTRUCTORS, HELPERS (PROB.)	8.97	1.045	.82	a+b	.025
GLAZIERS	50AIR				
IRONWORKERS:	11.85	.77	.69		.03
Ornamental, Reinforcing and Structural LABORERS (BUILDING):	11.64	1.00	1.50		.06.
Wrecking Laborers:					
Jackhammer Op., Pavement Breakers, Asphalt Rakers, Grubbing, Chain Saw Op., Machine, Chain Saw Op., Pipelayer, Bato Type Jumping Tampers; Laser Beam, Concrete Pump, Mason Tenders, Motorized Mixers, Ride-on Motorized buggy, Fence and Beam Rail Erec- tors	8.95	.70	1.00		.10
Air Track, Block, Pavers, Runners Cutb Setter Blasters, Powdermen Pe Cast Floor and Roof Plank Erectors	9.20	.70	1.00		.10
LATHERS	9.70	.70	1.00		.10
	9.95	.70	1.00		.10
	9.45	.70	1.00		.10
	11.30	1.00	.55		.03

DECISION NO. IL79-2031 - MOD. #4 (44 FR 26424 - May 4, 1979) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodward Counties, Illinois	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation and/or Appr. Tr.
ADD: GLAZIERS: Bureau, LaSalle, East 1/3 of Marshall, North 4/5 of Livingston & Putnam Count- ies	\$12.46	.60	.30	.01

DECISION #NY79-3011 - Mod. #2 (44 FR 29249 - May 18, 1979) Bronx, Kings, Queens, New York & Richmond Counties, New York	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation and/or Appr. Tr.
Change: Bricklayers Carpenters, Building: Carpenters, Dock Builders, File- driversmen, Soft Floor Layers Carpenters, Heavy: Carpenters, Dock Builders, and Filedriversmen Ironworkers: Ornamental Finisher Structural Painters: Brush Spray Gun, Scaffold Work Roofers: Composition, Damp, Waterproofers Stonemasons Stone Derricks and Riggers Terrazzo Workers Tile Setters	11.50 12.48 12.38 11.23 12.25 10.92 13.26 10.50 13.00 13.62 11.88 11.225	1.28 1.70 1.70 1.48 1.78 9 1/2 % 9 1/2 % 2.69 1.75 .98 1.32 1.15	3.68 1.78 1.78 3.05 3.58 1.04+q 1.04+q 2.70 1.00 1.01 1.50 1.10	.04 .04 .14 .11 3% 3% 10

DECISION NO. PA78-3009 MOD. NO. 8 (43 FR 58729 - December 15, 1978) Bradford, Tioga, Union Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CHANGE: ASBESTOS WORKERS CEMENT MASONS ELECTRICIANS: ZONE I SPRINKLER FITTERS	\$11.875 10.60 9.98 13.55	.80 .60 .75	.60 374.85 1.05			.01 .02 .08
DECISION NO. PA79-3004 MOD. NO. 5 (44 FR 16319 - March 16, 1979) Northumberland County, Pennsylvania						
CHANGE: ELECTRICIANS: Delaware, Lewis & Trubut Taps. SPRINKLER FITTERS	9.98 13.55	.60 .75	374.85 1.05	.75		.02 .08
DECISION NO. 1A78-3075-Mcd. #5 (43 FR 51590-November 3, 1978) York County and the Cities of Harrisburg and Newport News (Inclu- ding Langley AFB, Fort Belvoir and Fort Monroee) Virginia						
CHANGE: SEWER AND WATER CONSTRUCTION Laborers Pipefitters Truck Drivers Riggers Cranes	\$3.38 4.59 3.50 6.50 7.90					

DECISION NO. MA79-2085
LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
Linenmen	\$12.50	.70	38+.50	d	3/8of18	
Equipment Operators	11.17	.70	38+.50	d	3/8of18	
Driver Groundman	8.93	.70	38+.50	d	3/8of18	
Groundman	8.18	.70	38+.50	d	3/8of18	
MARBLE & TILE SETTERS,						
TERRAZZO WORKERS	10.40	.85	1.50			
MILLWRIGHTS	11.70	.95	1.00		.10	
PAINTERS:						
Brush, New Construction	11.51	.82	1.20		.04	
Structural Steel	13.63	.82	1.20		.04	
Spray & Sandblasting	12.51	.82	1.20		.04	
Repaint, Alterations:						
Residential						
Brush	9.71	.82	1.20		.04	
Structural Steel	13.63	.82	1.20		.04	
Spray & Sandblasting	10.71	.82	1.20		.04	
PILEDRIVMEN	11.60	.85	1.00			
PLASTERERS	10.50	.45	1.30		.02	
VENEER PLASTERERS	10.15	.45	.30		.02	
PLASTERERS' TENDERS	8.75	.60	.80		.10	
PLUMBERS	13.30	1.02	1.48		.05	
ROOFERS:						
Journeyman Mechanic	10.20	.70	1.55		.05	
Reroofing & Repair	9.65	.70	1.55		.05	
Pitch Work	11.20	.70	1.55		.05	
SHEET METAL WORKERS	12.08	1.16	1.50		.10	
SPRINKLER FITTERS	12.66	.65	.95		.04	
STEAMFITTERS	13.36	.94	1.20		.07	

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PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

- a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
- b. Holidays: A through F and the day after Thanksgiving Day.
- d. Holidays: A through F, Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

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HEAVY & HIGHWAY LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
CLASS I	\$ 8.95	.70	1.00		.10	
CLASS II	9.20	.70	1.00		.10	
CLASS III	9.70	.70	1.00		.10	
CLASS IV	11.50	.70	1.00		.10	

CLASSIFICATIONS

- CLASS I - Carpenter Tenders, Cement Finisher Tenders, Laborers, Wrecking Laborers
- CLASS II - Asphalt Rakers, Fence and Guard Rail Erectors, Laser Beam Op., Mason tender, Pipelayer, Pneumatic Drill Op., Pneumatic Tool Op., Wagon Drill Op.
- CLASS III - Air Track Op., Block Rakers, rammer, Curb Setters
- CLASS IV - Blasters, Powdermen

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BUILDING CONSTRUCTION:

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
CLASS I	\$12.71	1.13	1.15	a	.03	
CLASS II	12.59	1.18	1.15	a	.03	
CLASS III	10.62	1.18	1.15	a	.03	
CLASS IV	11.58	1.18	1.15	a	.03	
CLASS V	9.39	1.18	1.15	a	.03	
CLASS VI	9.97	1.18	1.15	a	.03	

- CLASS I - Cranes, Shovels, Truck cranes, Cherry Pickers, Draglines, Trench Hoes, Backhoes, Three Drum Machines, Derricks, Pile Drivers, Elevator Towers, Hoists, Gradalls, Shovel Dozers, Front End Loaders, Fork Lifts, Augers, Boring Machines, Rotary Drills, Post Hole Hammers, Post Hole Bidders, Pumpcrete Machines, Asphalt Plant (on Site), Concrete Batching and/or Mixing Plant (on Site), Crusher Plant (on Site), Paving Concrete Mixers, Timber Jacks, Boom over 150' including Jib additional \$1.25 per hour; Boom over 185' including Jib - additional \$1.25 per hour; Boom over 210' including Jib - additional \$1.25 per hour; Boom over 250' including Jib - additional \$1.25 per hour; Boom over 295' including Jib - additional \$2.65 per hour
- CLASS II - Sonic or Vibratory Hammer, Graders, Tandem Scrapers, Concrete Pumps, Bulldozers, Tractors, York Rakes, Mulching Machines, Portable Steam boiler, Portable Steam Generators, Rollers, Spreader, Tampers (Self Propelled or Tractor Drawn), Asphalt Pavers, Mechanic Maintenance, Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Cal Trucks, Ballast Regulators, Switch Tampers, Rail Anchor Machinery, Tire Trucks (when operated by the Employer on the job Site)
- CLASS III - Pumps (1-3 Grouped), Compressors, Welding Machines (1-3 Grouped), Generators, Concrete Vibrators, Lighting Plants, Heaters (Power Driven 1-5), Well-Point Systems (Operating and Installing), Syphons-Pullometers, Concrete Mixers, Values Controlling Permanent Plant Air to Steam, Conveyors, Jackson Type Tampers, Single Diaphragm Pump, Lighting Plants
- CLASS IV - Assistant Engineers (Firemen)
- Class V - Oilers (other than truck cranes and gradalls)
- CLASS VI - Oilers on Truck Cranes and Gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; D-Independence Day; D-labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

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HEAVY & HIGHWAY CONSTRUCTION:

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1 Hourly premium for boom lengths including jib over 150 feet + \$-.50 Over 185 feet + \$-.90 Over 210 feet + 1.25 Over 250 feet + 1.90 Over 295 feet + 2.65	\$12.71	1.18	1.15	a	.03
GROUP 2	12.59	1.18	1.15	a	.03
GROUP 3	10.62	1.18	1.15	a	.03
GROUP 4	11.58	1.18	1.15	a	.03
GROUP 5	9.39	1.18	1.15	a	.03
GROUP 6	9.97	1.18	1.15	a	.03

GROUP 1 - Power Shovels, Cranes, Truck Cranes, Derricks, Pile Driver, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines, Uke Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Port Hole Diggers, Asphalt Plant on Job Site, concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2 - Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozer, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machine, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines used in place thereof, Tampers, Self Propelled or Tractor Drawn, Cal Truck, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3 - Pump (1-3 Grouped), Compressors, Welding Machine (1-3 Grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent plant Air Steam,Conveyors, Wellpoint System (Operating and Installing)

CLASSIFICATIONS CONT'D

GROUP 4 - Assistant engineers (Fireman)

GROUP 5 - Oilers (Other than Truck Cranes & Gradalls)

GROUP 6 - Oilers (On Truck Cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA79-2085

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	\$12.71	1.18	1.15	a	.03
GROUP II	13.89	1.18	1.15	a	.03
GROUP III	12.66	1.18	1.15	a	.03
GROUP IV	12.59	1.18	1.15	a	.03
GROUP V	10.62	1.18	1.15	a	.03
GROUP VI	11.58	1.18	1.15	a	.03
GROUP VII	9.39	1.18	1.15	a	.03
GROUP VIII	9.97	1.18	1.15	a	.03

GROUP I - Shovels, Cranes, Truck Cranes, Cherry pickers, Derricks, Pile Drivers two or more Drum Machines, Lighters, Derricks Boats, Trenching, Mechanics Hoists Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Pumpcrete Machines, Elevating Graders, Shovel Dozers, Front End Loaders, Backhoe, Gradalls, Cable Way, Boring Machines, Rotary Drills, Post Hole Hammer, Post Hole Diggers, Fork Lifts, Timber Jacks, asphalt plant (on Site), Concrete Batching &/or Mixing Plant (on Site), Crusher Plant, (on site) Paving Concrete Mixers; Booms over 150' including Jib - additional \$.50 per hour - Booms over 185' including Jib - additional \$.90 per hour; Booms over 210' including Jib - additional \$1.25 per hour; Booms over 250' including Jib - additional \$1.90 per hour; Booms over 295' including Jib additional \$2.65 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable Steam Boilers, Portable Steam Generators, Sonic or Vibratory Hammer, Graders, Scrapers, Tandem Scrapers, Concrete Pumps, Bulldozers, Tractors York Rakes, Mulching Machines, Rollers, Spreaders, Taper Self-propelled or Tractor Drawn, Asphalt Pavers, Concrete Mixers with side Loaders, Mechanics - Maintenance, Cal Trucks, Ballast, Regulator, Switch Tampers, Rail Anchor Machines, Tire Trucks

GROUP V - Pumps, Compressors, Welding Machines, Heaters (Power Driven), Valves controlling Permanent plant Air or Steam, Well Point Systems, Augers Powered by Independence Engines & Attached to Pile Drivers, Hydraulic Saws, Generators, Lighting Plants, Syphons-Pulsometers, Concrete Mixers, conveyors.

DECISION NO. MA79-2085

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP VI - Assistant Engineers (Firemen)

GROUP VII - Oiler (other than truck Cranes and Gradalls)

GROUP VIII - Oilers on truck Cranes and Gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A Through F; Washington's Birthday; Patriots' Day; Columbus & Veterans' Day

DECISION NO. MA79-2085

BUILDING, HEAVY & HIGHWAY
CONSTRUCTION

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS I	\$ 8.515	.75	.80	a+b	
CLASS II	8.665	.75	.80	a+b	
CLASS III	8.715	.75	.80	a+b	
CLASS IV	8.815	.75	.80	a+b	
CLASS V	8.915	.75	.80	a+b	
CLASS VI	9.165	.75	.80	a+b	
CLASS VII	9.415	.75	.80	a+b	

CLASS I - Station Wagons, Panel Trucks and Pickup Truck

CLASS II - Two Axle Equipment; Helpers on Low Bed when Assigned at the Discretion of the Employer, Warehousemen, Forklift Operators

CLASS III - Three Axle Equipment and Tiremen

CLASS IV - Four and Five Axle Equipment

CLASS V - Specialized Earth Moving Equipment Under 35 Tons other than Conventional Type Trucks, Low Bed, Vachual, Mechanics, Paving Restoration Equipment, Mechanics

CLASS VI - Specialized Earth Moving Equipment over 35 Tons

CLASS VII - Trailers for Earth Moving Equipment (Double Hookup)

FOOTNOTES:

a. One Half Day's Pay Each Month in which an Employee has Worked 15 Days Provided he has been Employed for 4 Months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day Provided an Employee works two Days of the Calendar Week in which the Holiday falls.

Note: Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDES DECISION

STATE: NEW YORK COUNTY: ONEIDA
DECISION NO.: NY79-3036 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY78-3095 dated December 1, 1978 in 43 FR 56402

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and apartments up to and including 4 stories), heavy and highway construction projects

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$12.78	.90	.43		.06
BOILERMAKERS	11.80	1.05	1.08		.02
BRICKLAYERS, CEMENT MASONS, POINTERS, CAULKERS, CLEANERS, PLASTERERS AND STONE MASONS, BUILDING CEMENT MASONS, (HEAVY AND HIGHWAY)	10.85	.60	.90		
CARPENTERS, (BUILDING): Carpenters & Soft Floor Layers	10.30	.70	.70		
Filedrivermen & Mill- wrights	9.85	.70	.65	a	.03
CARPENTERS, (HEAVY AND HIGH- WAY)	10.10	.70	.65	a	.03
ELECTRICIANS: Verona and Vienna Twp. west of State Highway 13: Electricians	10.10	.70	.65	a	.03
Cable Splicers	13.30	.77	3x+1.10		.05
Remainder of County:	14.15	.77	3x+1.10		.05
Electricians	12.10	.80	3x+.60		.07
Cable Splicers	13.30	.80	3x+.60	b+c	.07
ELEVATOR CONSTRUCTORS	11.18	.745	.56		.025
HELPERS	7.83	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	5.59				
GLAZIERS: Twp. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Lee, Rome City, Ava, Western, Floyd, Boonville and Steuben	10.00	.80			.01
Remainder of County	8.435	.175	.30		

DECISION NO. NY79-3036

IRONWORKERS:

Structural, Ornamental,
Reinforcing, Machinery
Mover, Rigger, Rodmen,
Fence Erector and Stone
Derrickman
Sheeters
Buckers-up
LABORERS, (BUILDING):
Twp. of Forestport,
Rensen, Trenton, Marcy,
Deerfield, Whitestown,
New Hartford, Kirkland,
Marshall, Paris, Sanger-
field, Bridgewater and the
City of Utica:

Laborers
Pipelayers, mortar mixers
(hand or machine), motor
buggy operator, (walk be-
hind), power high lift
Blasters, form setters
and motor buggy rider
type
Wagon drill operator
Remainder of County:
Laborers, Common
All rock drilling equip-
ment
Blasters
Vibrator op., chain saw
op., air or electric tool
op., gas buggy op., on
acetylene torch op., on
demolition work, pipe-
layers, scaffold builders,
mortar mixer, pavement
breaker op.

LATHERS
LEAD BURNERS
MARBLE SETTERS, TERRAZZO
WORKERS & TILE SETTERS
MARBLE, TILE, TERRAZZO
FINISHERS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
10.27	1.11	1.02			.04
10.52	1.11	1.02			.04
10.395	1.11	1.02			.04
8.00	1.20	.95	d		
8.15	1.20	.95	d		
8.50	1.20	.95	d		
8.40	1.20	.95	d		
7.825	.60	.65	e		
8.225	.60	.65	e		
8.425	.60	.65	e		
8.025	.60	.65	e		.01
8.93	.65	.40	f		.01
10.75	.40	.25			
9.57	.60	.90			
8.30	.50				

DECISION NO. NY79-3036

PAINTERS:

Twp. of Florence, Camden,
Vienna, Annsville, Verona,
Vernon, Augusta, Rome City,
Ava, Western, Floyd, Boon-
ville and Steuben:

New Construction:
Brush and Roller
Paperhangers, Vinyl
Hangers and Tapers
Metalizing
Steel, Working with
picks, Bosun Chair,
Window Jacks, Swing
Stage, Safety Belts,
Steeple Jack, Spray,
Sandblasting, Steamclean-
ing, Epoxy, Bridge and
Hydro-blasting
Repaint Work:
Brush and Roll
Paperhangers, Vinyl
Hangers and Tapers
Metalizing
Steel, Working with
picks, Bosun Chair,
Window Jacks, Swing
Stage, Safety Belts,
Steeple Jack, Spray,
Sandblasting, Steam-
cleaning, Epoxy, Bridge
and Hydro-blasting
Remainder of County:

Brush
Spray
Sandblasting
Paper and Vinyl Hangers,
Epoxy, Steel, Taping,
Swing Stage, Bosun Chair
and Monkey Suit

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
11.62	.80	.50	g		
12.20	.80	.50	g		
13.77	.80	.50	g		
12.31	.80	.50	g		
9.84	.80	.50	g		
10.43	.80	.50	g		
12.01	.80	.50	g		
10.54	.80	.50	g		
8.70	.175	.30			
9.20	.175	.30			
9.70	.175	.30			
8.95	.175	.30			

DECISION NO. NY79-3036

Tps. of Florence, Camden, Annsville, Lee, Ava, Boonville, Western, Steuben, Vienna, Rome, Floyd, Westmoreland, Veron, Augusts and Verona

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS: HEAVY AND HIGH-WAY CONSTRUCTION					
CLASS A	9.19	.65	.65	a	a
CLASS B	9.39	.65	.65	a	a
CLASS C	9.59	.65	.65	a	a
CLASS D	9.79	.65	.65	a	a

PAID HOLIDAYS:

- a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, motor mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

DECISION NO. NY79-3036

PLUMBERS AND STEAMFITTERS
ROOFERS
SHEET METAL WORKERS
SPRINKLER FITTERS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PLUMBERS AND STEAMFITTERS	11.26	.89	1.36		.05
ROOFERS	11.60	1.00	1.35		.07
SHEET METAL WORKERS	10.655	.60	.80		.08
SPRINKLER FITTERS	13.54	.75	1.05		

Welders - Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:

- A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

- a. Holidays: B and D provided the employee is on the payroll the week before and the week after the holiday.
b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
c. Holidays: A through F, Day after Thanksgiving.
d. Holidays: B and D provided the employee works the day immediately before and the work day immediately following the holiday.
e. Holidays: A through F, plus 2 hours off with pay on Election Day for the purpose of voting, provided the employee works the day before the holiday and the day after the holiday.
f. Holidays: A through F; Washington's Birthday and Good Friday, X-mas Eve, providing employee has worked 30 full days the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

- g. Holidays: C, D, and E.

DECISION NO. NY79-3036

LABORERS: HEAVY AND HIGH-WAY CONSTRUCTION
Remainder of County:

CLASS A
CLASS B
CLASS C
CLASS D

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS: HEAVY AND HIGH-WAY CONSTRUCTION					
CLASS A	7.99	1.40	1.10	a	
CLASS B	8.19	1.40	1.10	a	
CLASS C	8.39	1.40	1.10	a	
CLASS D	8.59	1.40	1.10	a	

PAID HOLIDAYS:

- A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

- a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A

Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B

Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C

All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D

Blasters, form setter, stone or granite curb setters.

DECISION NO. NY79-3036

LINE CONSTRUCTION
Electrical Overhead and Underground Distribution Work:

Linemen and technicians
Cable splicers
Groundman Digging Machine Operator and Groundman Dynamiteman
Groundman Mobile Equipment Operator, Mechanic list Class, Groundman Truck Driver, (tractor trailer units)
Groundman Truck Driver, Driver-Mechanic, Groundman
All Overhead Transmission Line Work and Lighting For Athletic Fields:
Linemen and Technicians
Groundman Digging Machine Operator, Groundman Dynamiteman
Groundman Mobile Equipment Operator, Mechanic list Class, Groundman Truck Driver, (tractor trailer unit)
Groundman Truck Driver, Driver-Mechanic, Groundman
All Pipe Type Cable Installations:
Linemen and Groundman Equipment Operator
Cable Splicer
Groundman Truck Driver, Groundman

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LINE CONSTRUCTION					
Electrical Overhead and Underground Distribution Work:					
Linemen and technicians	10.50	1.00	3%+.75	a	3½
Cable splicers	13.70	1.00	3%+.75	a	3½
Groundman Digging Machine Operator and Groundman Dynamiteman	9.45	1.00	3%+.75	a	3½
Groundman Mobile Equipment Operator, Mechanic list Class, Groundman Truck Driver, (tractor trailer units)	8.40	1.00	3%+.75	a	3½
Groundman Truck Driver, Driver-Mechanic, Groundman	7.825	1.00	3%+.75	a	3½
All Overhead Transmission Line Work and Lighting For Athletic Fields:					
Linemen and Technicians	11.85	1.00	3%+.75	a	3½
Groundman Digging Machine Operator, Groundman Dynamiteman	10.665	1.00	3%+.75	a	3½
Groundman Mobile Equipment Operator, Mechanic list Class, Groundman Truck Driver, (tractor trailer unit)	9.48	1.00	3%+.75	a	3½
Groundman Truck Driver, Driver-Mechanic, Groundman	8.8875	1.00	3%+.75	a	3½
All Pipe Type Cable Installations:					
Linemen and Groundman Equipment Operator	12.45	1.00	3%+.75	a	3½
Cable Splicer	13.695	1.00	3%+.75	a	3½
Groundman Truck Driver, Groundman	9.3375	1.00	3%+.75	a	3½

DECISION NO. NY79-3036		Fringe Benefits Payments			
Basic Hourly Rates		H & W	Pensions		Education end/or Appr. Tr.
			Vocational	General	
11.48	POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION	1.15			
11.09	GROUP I	1.15	.85	a	.15
10.01	GROUP II	1.15	.85	a	.15
9.05	GROUP III	1.15	.85	a	.15
	GROUP IV	1.15	.85	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION
GROUP I - Automated concrete spreader (CMI), automatic fine grade, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (purpose-hydraulically operated), gradall or similar, fork lift (factor rated 15 ft. and over), front end loader (4 c.y. and over), head tower (saucerman or equal), hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scrapet, shovel, sideboom, slip form paver tractor drawn belt-type loader, truck crane, tunnel shovel.

DECISION NO. NY79-3036		Fringe Benefits Payments			
Basic Hourly Rates		H & W	Pensions		Education end/or Appr. Tr.
			Vocational	General	
12.45	LINE CONSTRUCTION (CONT'D): Sub-station, Switching Structures (when not part of the line), Traffic Signals, Street Lighting and Electrical, Telephone or CATV Commercial Work: Linemen and Technicians	1.00	38+.75	a	3½
13.695	Cable Splicers	1.00	38+.75	a	3½
9.96	Groundman Mobile Equipment Operator, Mechanic	1.00	38+.75	a	3½
9.3375	Truck Driver (tractor-trailer unit)	1.00	38+.75	a	3½
11.205	Groundman Truck Driver, Driver-Mechanic, Groundman Dynamiteman, Groundman Digging Machine Operator	1.00	38+.75	a	3½
8.34	Telephone and other Communication Systems, both overhead and underground: Linemen and Installer	.40	38+.25	a	1½
8.89	Repairmen	.40	38+.25	a	1½
7.73	Groundman Digging Machine Operator	.40	38+.25	a	1½
5.72	Groundman	.40	38+.25	a	1½
6.82	Groundman Truck Driver	.40	38+.25	a	1½
6.60	Groundman Dynamiteman	.40	38+.25	a	1½

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

DECISION NO. NY79-3036

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, engine hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 165), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kohn plant loader and similar type loaders locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pumpcrete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), quine machines, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type of combination), concrete paver or mixer (165 and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jack-ing system), light plants, mulching machine, oiler parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinthus widener, shell winder, steam cleaner, tractor.

DECISION NO. NY79-3036

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

DECISION NO. NY79-3036		Fringe Benefits Payments			
Basic Hourly Rates		H & W	Pensions		Education end/or Appr. Tr.
			Vocational	General	
11.78	CLASS 1	1.05	.75	a	.15
11.18	CLASS 2	1.05	.75	a	.15
11.18	CLASS 3	1.05	.75	a	.15
12.47	CLASS 4	1.05	.75	a	.15
12.28	CLASS 5	1.05	.75	a	.15
13.78	CLASS 6	1.05	.75	a	.15
12.78	CLASS 7	1.05	.75	a	.15
12.28	CLASS 8	1.05	.75	a	.15

FOOTNOTES:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

CLASS 1: Asphalt and blacktop roller; automated concrete spreader (CMI or equivalent); automated fine grade machine (CMI); backhoe; belt placer; blacktop spreader (such as Barber Greene and Blackbox); blacktop plant (automated); Blast or rotary drill (truck or cat mounted); boom truck; cableway; caisson auger; carry-all-scraper-self loading; central mix plant (automated); cherry picker machine (5) ton capacity; compressors; pump; generator or welding machine (when used in a battery of not more than four (4); crane; crusher-rock; derrick; diesel power unit; dragline; dredge; dual drum paver; elevating grader (self-propelled or towed); elevator hoist - two cage; excavator - all purpose - hydraulically operated; fork lift (factory rating 15 ft. or more); front end loader (4 c.y. and over); gradall; grader (power); head tower (saucer man or equal); hoist (2 or 3 drums); locomotive; maintenance engineer; maintenance welder; mine hoist; mucking machine or mole; overhead crane fixed permanent; pile driver; quarry master or equivalent; refrigeration equipment - for soil stabilization; shovel; side boom; slip form paver; straddle buggy (ross carrier, lumber carrier) tractor drawn belt type loader (euclid loader); trenching machine (digging capacity of over 4 ft. depth); truck crane operator; tunnel shovel; vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

DECISION NO. NY79-3036

DECISION NO. NY79-3036

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION (CONT'D)

CLASS 2: "A" frame truck; blacktop plant (non-automatic); boring machine; bulldozer; cage hoist; carry-all scraper; central mix plant (non-automatic); Cherry picker five (5) tons and under; compressor (315 c.f. and over); concrete paver (single drum over 16S); concrete pump; core boring machine; drill rig-tractor mounted; elevator - as a material hoist; fork lift (factory rating less than 15 ft.); front end loader (under 4 cu. yds.); gunnite machine; high pressure boiler (15 lbs. and over); hoist (one drum); hydraulic breaking hammer (drop hammer); Kolman plant loader (screening gravel); maintenance grease man; mixer for stabilized base - self-propelled (seaman mixer); monorail machine; parapet concrete or pavement grinder; post hole digger (truck or tractor mounted); power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; road widener (front end of grader or self-propelled); shell winder (motorized); snorkel (overhead arms); roller; trenching machine (digging capacity of 4 ft. or less); tugger hoist; vibro tamper; well drill; well point system (submersible pumps when used in lieu of well-point system); winch (motor driven); winch cat; winch truck

CLASS 3: Compressor (under 315 cu. ft.); concrete paver or mixer (under 16S); concrete pavement spreaders and finishers (not automatic); conveyor (over 12 ft.); electric submersible pump (4" and over); farm tractor with or without accessories; fine grade machine (not automatic); fireman; form tamper; generator (2,500 watts and over); hydraulic pump; mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating); mulching machine; oiler; power driven welding machine - 300 amp. and over (other than all electric); one welding machine under 300 amp. will not require an engineer unless in a battery; power heat-erman (hay drier) pump (under 4"); revinut widner (road widener); steam cleaner or Jenny; tractor with or without towed accessories; post driver (truck or tractor mounted)

CLASS 4: Master Mechanic

CLASS 5: Tower Crane

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION (CONT'D)

CLASS 6: Crane or Derrick with a boom length over 300 ft. including jib

CLASS 7: Crane or Derrick with a boom length over 150 ft. including jib, and on a piledriver with leads or boom length of over 100 ft.

CLASS 8: Quad 9 bulldozer or multibowl scraper

DECISION NO. NY79-3036

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS 1
CLASS 2
CLASS 3
CLASS 4
CLASS 5

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
9.13	1.01	.75	a	
9.18	1.01	.75	a	
9.23	1.01	.75	a	
9.28	1.01	.75	a	
9.53	1.01	.75	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, greeners, truck tire-men, mechanic helpers

CLASS 2 - Tandems, batch trucks, mechanics

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (cross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDES DECISION

STATE: OHIO
COUNTIES: Statewide
DECISION NO: OH79-2086
DATE: Date of Publication
Supersedes Decision No. OH79-2043, dated May 4, 1979 in 44 FR 26504
DESCRIPTION OF WORK: Heavy and Highway Construction (Does not include Railroad Construction)

BRICKLAYERS & STONE MASONS

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.90	.50			.05
12.29	.60			.02
12.23				
12.23	.70	1.00		.02
12.23	.70	1.00		.02
12.92	.95	1.00		.05
13.17	.95	1.00		.05
12.35	.70	1.00		.05
13.595	.65	.45		.02
12.29	.95	.70		.01
10.47	.85	1.10		.03
10.00				
12.595	.75	1.00		.02

ADAMS & SCIOTO COUNTIES
ALLEN, AUGLAIZE, MERCER
& VAN WERT COS.
ASHLAND, CRAWFORD, HARDIN,
HOLMES, MARION, MORROW,
RICHLAND, & WAYNE (except
Twps. of Milton & Chippewa)
Cos. & WYANDOT Co. (except
Twps. of Crawford, Rich-
land, Ridge & Tynochtee)
Bricklayers
Sewer Bricklayers
ASHTABULA COUNTY
Bricklayers
Sewer Bricklayers
ATHENS COUNTY
BROWN, BUTLER, CLEMMONT, of
HAMILTON, PREBLE (Twps. of
Dixon, Gratiot, Isreal, Lanier, & Somers), &
WARREN COS.
CARROLL, COLUMBIANA (Twps. of
Butler, Hanover, Knox &
West), MAHONING (Twp. of
Smith), STARK, & TUSCARA-
WAS COS.
CHAMPAIGN, CLARK & LOGAN
COS.
CLINTON & HIGHLAND COS.
COLUMBIANA CO., (Twps. of
Center, Elk Run, Fairfield,
Middletown, New Waterford,
Perry, Salem & Unity),
MAHONING CO. (except Smith
Twp.)

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DECISION NO. OH79-2086
BRICKLAYERS & STONEMASONS
(CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.33 12.30 11.50	.50 .70	.40 .50		.02 .05 .05
13.60		.80	a	.01
12.91	.88	.80		.02
11.85 13.09	.70 .75	.50 .50		.05 .02
FOOTNOTE: a. 2 pd. Holidays: Independence Day and Labor Day				
11.80 12.09	.55 .55	1.00 1.00		.03 .03
11.47 12.12	.60 .60	1.00 1.00		.04 .04

DECISION NO. OH79-2086
BRICKLAYERS & STONEMASONS
(CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.90 11.05	.70 .70	.50 1.30		.10
13.66 11.18	1.15 .85	1.33 1.10		.04 .03
12.68 12.44	1.20 .80	.50 1.00		.03
12.44	.70	1.10		.01
11.05 12.86	.70 1.06	1.30 1.40		.10 .05
13.175 14.52	.70 .70	1.00 1.00		.01 75.00p/y
11.93	.85	.75		.03

DECISION NO. OH79-2086

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.70 11.72 12.51	1.20 1.29 1.29	.75 1.20 1.20		.05 .05 .05
12.85 13.60	.60 .95	1.00 1.67		.02 .05
FOOTNOTE: b. 2 Paid Holidays: Memorial Day & Independence Day.				
12.08	.60	.45		.02
12.73 11.53	.60 .60	.45 .45		.02 .02
12.50	.50	38+.60	1.00	.04
13.20	.60	38+.43		.04

DECISION NO. OH79-2086

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.82 13.60	.70 .95	1.00 1.67	b	.08 .05
13.87 13.60	.95 .95	1.40 1.67		.05 .05
11.47 12.12	.60 .60	1.00 1.00		.04 .04
10.75 11.82	.92 .50	.95 .50		.02 .03
13.55 13.55	.60 .60	.65 .65		.075 .075
11.88 12.36	.60 .60	.70 .70		.02 .02
10.75 11.85	.92 5.5%	.95 10%		.02 .5%
11.55 11.55	.90 .90	1.25 1.25		.07 .07
13.12 13.70	1.20 1.20	.75 .75		.05 .05
12.82 13.70	.70 1.20	1.00 .75	b	.08 .05

DECISION NO. OH79-2086

ELECTRICIANS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
ASHLAND, CRAWFORD, HURON (Twps. of Greenwich, New Haven, Richmond, & Ripley), Knox (N ^h incl. Clinton, Howard, Liberty, Monroe, & Union Twps.), MARION, MORROW, RICHMOND, & WYANDOT (Rem. of Co.) COS.	.60	38+50			.18
ASHTABULA Co. (all but Williamsfield & Windsor Twps.)	1.00	38+1.00			.28
ASHTABULA (Rem. of Co.), GEauga (Twps. of Auburn, Middlefield, Parkman, & Troy), MAHONING (Milton Twp.), PORTAGE (Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, & Windham & TRUMBULL (except Hubbard & Liberty Twps.) COS.	.75	78	.78+c		
ATHENS, MEIGS, MONROE, MORGAN, NOBLE, VINTON (East of Clinton, Elk and Swan Twps.) & WASHINGTON COS.	.50	38+80	1.25		.04
BELMONT Co.	.50	38+35	1.00		.04
BROWN, CLERMONT & HAMILTON COUNTIES					
Within 18 Mi. of Hamilton County Court House	13.70	38+80			.88
From 18 to 21 Miles	14.00	38+80			.88
From 21 to 25 Miles	14.10	38+80			.88
Over 25 Miles	14.25	38+80			.88
BUTLER Co. & WARREN Co. (excluding Clear Creek, Franklin & Wayne Twps.): West of Interstate 75	.50	38+75			.88
East of Interstate 75	.50	38+75			.88
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON, & JEFFERSON COS.	78	108	108		.88

DECISION NO. OH79-2086

ELECTRICIANS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
CARROLL (Rem. of Co.), COLUMBIANA (Knox Twp.), HOLMES, MAHONING (Smith Twp.), STARK, TUSCARAWAS (N ^h excl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, & Wayne Twps.), & WAYNE (S. of Baughman, Chester, Green, & Wayne Twps.) COS.	.55	38+60			.38
CHAMPAIGN & CLARK COS. & MADISON Co. (Twps. of Paint, Pike, Somerford, Stokes & Union), CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS. & WARREN Co. (Rem. of Co.)	.75	38+90			.04
Within 11 Mi. Radius of Dayton					
3rd & Main Streets, Beyond 11 Mi. Radius	.75	38+1.00			.58
COLUMBIANA Co. (except Twps. of Butler, Fairfield, Knox, Perry, Salem & Unity)	.75	38+1.00			.58
COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), MAHONING (excl. Milton & Smith Twps.), & TRUMBULL (Twps. of Hubbard & Liberty) COS.	1.63	38+50			.08
	13.73	98			.58

DECISION NO. OH79-2086

ELECTRICIANS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
COSHOCTON Co., GUERNSEY, KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, and College Twps.), LICKING Co., MUSKINGUM, PERRY, TUSCARAWAS Co. (S ^h incl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, and Bucks)					
CUYAHOGA, GEauga (Twps. of Bainbridge, Chester, & Russell), and LORAIN (Twp. of Columbia) COS.	12.10	38+1.02			.03
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD COS.	14.62	38+51			.03
DELAWARE, FAIRFIELD, FRANKLIN, MADISON (Rem. of Co.) & PICKAWAY Co. (Excl. Deer Creek, Perry, Pickaway, Salt Creek & Wayne Twps.) & UNION COS.	14.90	38+55			.18
ERIE Co., HURON Co. (Rem. of Co.), HIGHLAND, HOCKING, JACKSON Co. (Rem. of Co.), PICKAWAY, PIKE, ROSS, & VINTON COS.	13.15	38+1.02			.06
GALLIA Co.	14.05	38			.18
GEauga (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.), & LAKE COS.	.40	38	1.00		.02
LAWRENCE COUNTY	.50	38+1.00			.04
LORAIN Co. (Rem. of Co.) and MEDINA Co. (Twps. of Litchfield & Liverpool)	.85	38+70	1.00		.28
	.50	38+1.00			.04
	.75	38+1.00			.18

DECISION NO. OH79-2086

ELECTRICIANS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
MEDINA (Rem. of Co.), PORTAGE (excl. Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, & Windham), SUMMIT, & WAYNE (Rem. of Co.) COS.	13.66	38+65			.28
FOOTNOTE: c. \$25.00 per year					
IRONWORKERS:					
ADAMS (S ^h), GALLIA, JACKSON (S ^h), LAWRENCE, PIKE (S ^h), & SCIOTO COS.	.90	1.05			.01
Up to 10 miles from Union Hall in Ashland, Ky.					
10 to 15 miles from Union Hall in Ashland, Ky.	.90	1.05			.01
15 to 30 miles from Union Hall in Ashland, Ky.	.90	1.05			.01
20 Miles & over from Union Hall in Ashland, Ky.	.90	1.05			.01
ADAMS (W ^h), BROWN, BUTLER (S ^h), CLERMONT, CLINTON (S. of a line drawn from Blanchester to Lynchburg), HAMILTON, HIGHLAND (excl. E 1/5 and portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall) & WARREN (S ^h) COS.	12.18	2.25			.02
Reinforcing Ornamental; Structural ALLEN (S ^h), Auglaize, BUTLER (N ^h), CHAMPAIGN (W 2/3), CLARK (W 3/4), CLINTON (excl. S. of a line drawn from Blanchester to Lynchburg), Darke, Greene, Highland (inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), LOGAN (W 2/3),	13.08	1.45			.03

DECISION NO. OH79-2086

IRONWORKERS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
12.36	1.00	1.45		.06
12.51	1.00	1.45		.06
12.35	1.00	1.70		.02
12.58	.80	.95		.05
13.00	1.86	1.01		.15

MERCER (S), MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (N) COS. Within 15 miles radius of Local Union Office #290 Outside 15 miles radius of Local Union Office #290

ALLEN (N), DEFIANCE (except portion S. of a line drawn from where Rt. 66 meets the N. line through Independence to the E. Co. border), MERCER (N), PAULDING, PUTNAM (except portion E. of a line drawn from the N. border down thru Miller city to where 696 meets the S. border), VAN WERT, & WILLIAMS (except portion E. of a line drawn from Pioneer thru Stryker to the S. border) Cos. ASHLAND, CARROLL, COSHOCTON (exclu. portion W. of a line beginning at NW Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), HOLMES, RICHLAND, STARK, TUSCARAWAS, & WAYNE Cos.

ASHTABULA (NE & Co. ASHTABULA (S), CUYAHOGA, ERIE (exclu. W 1/3), GAUGA (except portion E. of a line from Austinsburg to Middlefield & South), HURON (exclu. portion W.

DECISION NO. OH79-2086

IRONWORKERS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
13.72	1.04	1.45		.03
13.00	.75	1.30		.09
11.17	.90	1.20		.01
12.36	.90	1.75		.05
12.35	1.00	2.20		.05

of a line drawn from the N. border through Monroeville & Millard), LAKE, LORAIN, MEDINA, PORTAGE (exclu. Medina Ordinance Depot), & SUMMIT Cos. ASHTABULA (NW & Co. COLUMBIANA, GAUGA (E. of a line from Austinsburg to Middlefield & South), MAHONING, PORTAGE (E. of a line from Middlefield to Shalersville to Deerfield), & TRUMBULL Cos.

ATHENS, MEIGS, MORGAN, NOBLE & WASHINGTON Cos. BELMONT, GUERNSEY, HARRISON, JEFFERSON, MONROE, & MUSKINGUM (except portion W. of a line starting at Adams Mill going to Adamsville & going from Blue Rock to the S. border) Cos. CHAMPAIGN (E 1/3), CLARK (E), COSHOCTON (W. of a line beginning at NW Co. line going through Walhonding & Tunnel Hill to the S. Co. line), CRAWFORD (S. of Rte 30), FAYETTE, HARDIN (except a line drawn from Roundhead to Maysville), HIGHLAND (E 1/5), HOCKING, JACKSON (N of Co.), KNOX, LOGAN (E 1/3), MARION, MORROW, MUSKINGUM (W. of a line starting at Adams Mill going to Adamsville and going from Adamsville thru Blue Rock to the S. border), PERRY, PIKE (N), ROSS, VINTON, & WYANDOT (S. of Rte 30) Cos.

DECISION NO. OH79-2086

IRONWORKERS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
13.45	1.06	1.48		.06
12.25	1.00	2.20		.05
12.10	1.00	2.20		.05
12.55		.60		
13.55		.60		
10.80	.73	.50		.03
9.80		.50		
10.30		.50		
10.55		.50		

CRAWFORD (Area between lines drawn from where Hwy 598 & 30 meet thru N. Liberty to the N. border & from said Hwy junction point due W. to the border), DEFIANCE (S. of a line drawn from where Rte. 66 meets the N. line thru Independence to the E. Co. border), ERIE (W 1/3), FULTON, HANCOCK, HARDIN (N. of a line drawn from Maysville to a point 4 miles S. of the N. line on the E. line), HENRY, HURON (W. of a line drawn from the N. border thru Monroeville & Willard), LUCAS, OTTAWA, PUTNAM (E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), SANDUSKY, SENECA, WILLIAMS (E. of a line drawn from Pioneer thru Stryker to the S. border), WOOD, & WYANDOT (Area N. of Rte. # 30) Cos. DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY, & UNION COUNTIES FRANKLIN COUNTY

PAINTERS:

ADAMS, HIGHLAND, JACKSON, PIKE & SCIOTO COUNTIES

Brush Spray

ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT & WILLIAMS COUNTIES ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Cos.

Brush Structural Steel Spray

DECISION NO. OH79-2086

PAINTERS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
13.31	.82	1.00		.05
14.01	.82	1.00		.05
13.71	.82	1.00		.05
12.00				
12.65				
10.05	.50	.40		
13.70		.35		25.00P/Yr
14.20		.35		25.00P/Yr
11.73				
12.23				
11.46	.93	.60		.02
11.99	.93	.60		.02
12.17	.93	.60		.02
12.59		.80		.08
12.99		.80		.08
13.09		.80		.08
12.65	.75	1.00		
13.35	.75	1.00		
8.10				
8.60				
7.60				

ASHTABULA, CUYAHOGA, GAUGA, & LAKE Cos, LORAIN (North East Part) and PORTAGE & SUMMIT Cos. (North of the Ohio Turnpike)

Brush Bridge and Open Steel; Closed Steel Over 55'; Closed Steel Below 55'; Spray

ATHENS & HOCKING Counties

Brush Spray

BELMONT, HARRISON & JEFFERSON Cos.

BROWN, CLEVELAND & HAMILTON Cos.

Brush Spray

BUTLER & WARREN Counties

Brush Spray

CARROLL, HOLMES, STARK, TUSCARAWAS & WAYNE Cos.

Brush Spray

CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE COUNTIES

Brush; Roller Structural Steel

COLUMBIANA, MAHONING, PORTAGE (Ravenna Ordinance Depot), & TRUMBULL Cos

Brush Sandblasting; Spray COSHOCTON COUNTY

Brush; Roller Spray; Sandblasting Sandblasting pot tend

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DECISION NO. OH79-2086

PAINTERS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY & UNION COS.					
Brush	.85	.85			.02
Structural Steel	.85	.85			.02
ERIE, HAMCOCK, HURON, SANDUSKY, SENECA & WYANDOT COUNTIES					
Brush	.70	.70			50.00p/yr
Structural Steel	.70	.70			50.00p/yr
FULTON, HENRY, LUCAS, OTTAWA & WOOD COUNTIES					
Brush	1.06	1.30			
Spray	1.06	1.30			
Bridge Railings	1.06	1.30			
GALLIA, LAWRENCE, MEIGS, & VINTON COUNTIES					
Brush; Roller			d		
Sandblasting; Spray; Waterblasting			d		
GUERNSEY County	10.70				
Brush; Roller; Sandblasting and Steamcleaning	9.50				
KNOX, LICKING, MUSKINGUM and PERRY COUNTIES					
Sandblasting; Steel; Bridge	9.00				
Spray	9.45				
LORAIN COUNTY (Rem. of Co.)					
Brush	11.85	.10	e		
Spray; Sandblasting	12.35	.10	e		
Roller	12.10	.10	e		
MONROE, MORGAN, NOBLE, & WASHINGTON COS.					
Bridges; Guard Rails; & Structural Steel	11.72	.40			.02
ROSS COUNTY					
Brush	11.00				
Spray	11.25				

FOOTNOTES: d. 6 paid holidays: Decoration Day; July 4th; Thanksgiving Day; Christmas Day; New Year's Day; & Veterans Day
e. 2 paid holidays: Labor Day and July 4th

DECISION NO. OH79-2086

PLUMBERS AND STEAMFITTERS

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
ADAMS, ATHENS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCHIOTO, & VINTON COS.					
Brush	13.17	1.00			.05
Allen, Auglaize, Hardin, Mercer, Shelby & Van Wert COS.	13.65	.90			
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, LORAIN, MORROW, RICHLAND & WYANDOT COS.	14.28	.80	.95		.05
ASHTABULA, CUYAHOGA, GEauga & LAKE COS., MEDINA CO. N. of Rt. 18 & Smith Rd. & SUMMIT Co. N. of Rt. 303					
Plumbers	14.13	.90	1.10		.02
Pipefitters	13.61	1.31	1.30		.15
BELMONT CO. & MONROE CO.					
South of Rt. 78	11.20	.40	98	108	.05
BROWN, CLERMONT, HAMILTON & WARREN COS. (N. of Rte #63 excluding Lebanon and S. Lebanon)					
Plumbers; Gas Fitters	13.82	1.05	1.20		.07
Steamfitters; Pipefitters	13.00	1.025	1.30		.08
BUTLER Co. (North Half) & BUTLER Co. (South Half) & Warren (S. of Rte. #63 including Lebanon and S. Lebanon) COS.	14.10	.90	1.00		.05
CARROLL Co. (except Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), STARK & WAYNE COS.	14.12	.80	1.10		.02
CARROLL (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), COSHOCTON, GUERNSEY, HOLMES, MORGAN (South of State Rte. #78 & from McConnellsville West on State Rte #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS COS.	13.32	.50	.70	.60	.10
	13.80	.70	.60		.08

DECISION NO. OH79-2086

PLUMBERS & STEAMFITTERS (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
CHAMPAIGN, CLARK, GREENE (Twps. of Cedarville, Caesar Creek, New Jasper, Jefferson, & Ross), LOGAN, MADISON (West of Rt. 38 including the city of London) COS.					
CLINTON, DARKE, FAYETTE, GREENE (Rem. of Co.), MIAMI, MONTGOMERY, & PREBLE COUNTIES	13.06	1.05	1.05		.03
COLUMBIANA (excluding Washington & Yellow Creek Twps. & Liverpool Twp. secs. 35 & 36 - West of County Rd. #427), MAHONING Cos. & TRUMBULL Co. (Hubbard & Liberty Twps. Youngstown Municipal Airport & the Filtration Plant of the Mahoning Valley Sanitary District) COLUMBIANA (Washington & Yellow Creek Twps., & Liverpool Twp. secs 35 & 36 West of County Rd. #427), HARRISON AND JEFFERSON COUNTIES	13.30	.83	.85		.04
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	13.44	1.07	.80		.05
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MADISON (Rem. of Co.), MARION, PERRY, PICKAWAY, ROSS & UNION Cos.	12.86	.80	8%	8%	.12
MEDINA (Rem. of Co.), PORTAGE, & SUMMIT (S. of Rte #303) Cos.	14.38	1.25	1.05		.12
Plumbers; Pipefitters	13.77	.96	.82		.06
MEIGS, MONROE (Rem. of Co.), MORGAN (Rem. of Co.), & WASHINGTON COS.	13.20	.85	1.20		.05
TRUMBULL Co. (Rem. of Co.)	12.83	.62	.75		.06
	13.60	1.07	.99		.03

FOOTNOTE: f. One paid holiday: Labor Day providing employee has worked 5 consecutive days before and after the holiday

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Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
GROUP I	11.08	10.00	9.57	.80	.10
GROUP II	11.205	10.125	9.595	.80	.10
GROUP III	11.26	10.20	9.77	.80	.10
GROUP IV	11.43	10.35	9.92	.80	.10
GROUP V	11.73	10.65	10.22	.80	.10

GROUP I - Asphalt Laborer; Carpenter Tender; Concrete Curing Applicator; Dump Man (Batch Trucks); Flagman; Grade Checker; Guardrail & Fence Installers; Joint Setter; Laborers (Construction); Landscape Laborer; Mesh Handlers & Placers; Plant Laborers or Yardmen; Right-of-way Laborers; Riprap Laborer & Grouter; Scaffold Erector; Seal Coating Surface Treatment or Road Mix Laborer; Sign Installer; Slurry Seal; Utility Man or Handymen; & Waterproofing Laborer
GROUP II - Asphalt Raker; Concrete Puddler; Kettle Man (Pipe-line); Machine Driven Tools; Mason Tender; Mortar Mixer; Power Buggy or Power Wheelbarrow; Sheetting & Shoring Man; & Surface Grinder Man
GROUP III - Air Track & Wagon Drill; Bottom Man; Car Pusher (Without Air); Cofferdam (Below 25 feet deep); Concrete Saw Man; Cutting with Burning Torch; Form Setter; Hand Spiker (Railroad); Pipelayer; Tunnel Laborer (Without Air) and Caisson; Undergroundman (Working in Sewer & Waterline, Cleaning, Repairing & Reconditioning); & Welder Tender (Pipe-line)
GROUP IV - Blaster; Muckers; Powder Man; Top Lander; Wrencher (Mechanical Joints & Utility Pipeline); & Yarnier
GROUP V - Concrete Crew in Tunnels; Curb Setter & Cutter; Gunnite Nozzle Man; Miner Without Air; Utility Pipelining Tapper; & Water-line Caulker

ZONE DEFINITIONS

ZONE 1 - Cuyahoga, Geauga & Lake Cos.
ZONE 2 - Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull & Wood Cos.
ZONE 3 - Remainder of Counties

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POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana,
Mahoning & Trumbull Cos.

	Basic Hourly Rate	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS I	\$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt Planer Heater; Austin Western & Similar Type; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Beam Builder-Automatic; Backfiller W/Drum Attachments; Boat Derrick; Boat-Tug; Boring Mach. Attached to Tractor; Bulldozer; Bulldozer; C.M.I. Road Builder & Similar Types; Cable Placer & Layer; Carrier-Straddle; Carryall - Scraper or Scoop; Chicago Boom; Compactor W/Blade attached; Concrete Spreader Finisher Comb.; Crane; Crane-Stationary or climbing; Crane-Electric Overhead; Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-Wheel (Not Trencher or Road Widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Electric; Fork Lift; Frankie Pile; Gradall; Grader-Power; Gurry; Gurry-Self-Propelled; High Lift; Hoist-Monorail; Hoist-Stationary & Mobile Tractor; Hoist-2 or 3; Jackall; Jumbo Mach.; Kocal or Kuhlman; Land-Seagoing Vehicle; Loader - Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester w/Boom; Mucking Mach.; Paver-Asphalt Finishing Mach.; Paver - Road Concrete; Paver-Slippform; Place Crete Mach.; Post Driver; Power Driven Hydraulic Pumps & Jacks; Pump Crete Machine; Regulator-Ballast; Rigs-Drilling; Shovel; Spikemaster; Stonerusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor w/Attachments; Trucks-Boom; Truck-Tire-Assigned to Job; French Mach.; Tunnel Machine (Mark 21 Java or Similar); Whirley

CLASS II - Asphalt Plant; Bending Machine; Boring Mach.; Chip Harvester w/O Boom; Cleaning Mach.- Pipeline Type; Coating Mach.- Pipeline Type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Mach.; Grease Truck Op.; Grout Pump; Gunnite Mach.; Huck Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Sagen Derrick; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; Hoist-Single Drum; Soil Stabilizer (Pump Type); Spray Cure Mach.-Self-Propelled; Straw Blower Mach.; Sub-Grader; Tube Finisher or Broom C.M.I. or Similar Type; Tugger Hoist

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POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana, Mahoning & Trumbull Counties (Cont'd)

CLASS III - Batch Plant-Job Related; Boiler Op.; Compressor (125 CFM or Over); Curb Builder (Self-Propelled); Generator- Steam; Jack-Hydraulic Driven; Mixer-Concrete; Mulching Mach.; Pin Puller; Pulverizer; Pump; Road Finishing Mach. (Pulley); Roller; Saw-Concrete-Self-Propelled; Signal Man; Spray Cure Mach. Motor Powered; Spreader (Side Driver Shoulder Attachment); Tractor; Trencher-Form; Water Blaster

CLASS IV - Brake Man; Compressor Under 125 CFM; Conveyor; Deck Hand; 12 Feet or Under Other Than Servicing Bricklayers; Deck Hand; Drill Wagon; Fireman; Generator Sets; Heaters-Portable Power (2 to 5); Ladavator; Roller (Walk Behind 1 Ton or over); Steam Jenny; Synphons; Tender-Mechanic; Jacks Hydraulic (Railroad); Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)

CLASS V - Oilier

CLASS VI - Rigs-Pile Driving or Caisson Type

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	Basic Hourly Rate	Basic Rate Zone 2	Basic Rate Zone 3	Fringe Benefits Payments			Education and/or Appr. Tr.
				H & W	Pensions	Vacation	
CLASS A	\$13.33	\$12.59	.96	1.00			.15
CLASS B	13.23	12.47	.96	1.00			.15
CLASS C	12.19	11.43	.96	1.00			.15
CLASS D	11.72	11.00	.96	1.00			.15
CLASS E	9.53	8.64	.96	1.00			.15

CLASS A - Air Compressor On Steel Erection; Asphalt Plant Engineer (Cleveland District Only); Boiler Op.; Compressor or Generator When Mounted On Rig; Cableway; Combination Concrete Mixer & Tower; Concrete Plants (Over 4 Yds. Cap.); Concrete Pumps; Cranes (All Types Incl. A Frames, Boom Trucks, Cherry Pickers); Derricks; Draglines; Dredge (Dipper Clam or Suction); Elevation Grader or Euclid Loader; Floating Equipment (All Types); Helicopter Crew (Hoist or Winch); Hoes (All Types); Hoisting Engines (Including Shaft & Tunnel Work); Industrial Type tractor; Jet Engineer Dryer (D8 or D9) Diesel Tractor; Locomotives (Standard Gauge); Maintenance Op. Class A; Mixer (Paving Single or Double Drum); Mucking Mach.; Multiple Scraper; Filledriving Mach. (All Types); Power Shovel; Quad 9 (Double Pusher); Refrigerating Mach. (Freezer Operation); Rotary Drill on Caisson Work; Slip Form Paver; Tower Derricks; Tree Shredder; Trench Mach. (Over 24" Wide); Truck Mounted Concrete Pump; Tug Boat; Tunnel Mach. and/or Mining Machine; Wheel Excavator

CLASS B - Asphalt Paver; Automatic Subgrader Mach.-Self-Propelled (CMI Type); Boring Mach. Op. (More than 48"); Bulldozers; Endloader; Kolman Loader (Production Type Dirt); Lead Grease Man; Maintenance Op., Class B (in Zone 2 Portage & Summit Cos. only); Power Grader; Power Scraper; Push Cat; French Mach. (24" Wide & Under)

CLASS C - Air Compressor on Tunnel Work (Low Pressure); Asphalt Plant Engineer (in zone 2 Portage & Summit Cos. Only); Locomotive (Narrow Gauge); Concrete Mixers (More than 1 Bag Cap.); Mixers (1 Bag Cap. Side loader); Power Boiler over 15 lb. Pressure; Pump Op. Installing & Operating Well Points; Pumps (4" & Over Discharge); Rollers (Asphalt); Utility Op. (Small Equipment); Welding Mach. & Generators.

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS D - Back Fillers; Bar (Joint & Mesh Installing Mach.); Batch Plant; Boring Mach. Op. (48" or less); Bull Floats; Burlap & Curing Mach.; Compressor (Portable, Sewer, Hwy. & Hwy.); Concrete Plant (4 Yd. & Under Cap.); Concrete Saw (Multiple); Conveyors (Hwy.); Crusher, Deckhand; Drill Highway (W. Integral Power); Farm Type Tractors w/ Attachs. (Hwy.); Finishing Mach.; Fireman (Floating Equipment, All Types); Fork Lift (Hwy.); Form Trenchers; Hydro Hammer; Hydro Seeder; Pavement Breaker; Plant Mixers; Post Driver; Post Hole Digger (Power Auger); Power Brush Burner; Power Form Handling Equip.; Road Widening Trencher; Rollers (Brick, Grade, Macadam); Self-Propelled Power Spreader; Self-Propelled Power Subgrader; Steam Fireman; Tractor (Pulling Sheepfoot Roller or Grader); Vibratory Compactor w/Integral Power

CLASS E - Drum Fireman (Asphalt Plant); Inboard-Outboard, Motor Boat-Launch; Oil Heaters (Asphalt plant); Oilers; Power Driven Heaters; Pumps (Under 4" Discharge); Signalmen; Tenders; Tire Repairs

ZONE DEFINITIONS

ZONE 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage & Summit Counties

ZONE 3 - Remainder of Counties

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TRUCK DRIVERS
ZONE I - CUYAHOGA, LAKE &
GEAUGA COUNTIES

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 8.70	26.00a	26.00a	b6c		
8.85	26.00a	26.00a	b6c		
9.20	26.00a	26.00a	b6c		
9.20	26.00a	26.00a	b6c		

CLASS I
CLASS II
CLASS III
CLASS IV

CLASS I - Straight & Dumps (Including Asphalt); Straight Fuel; Warehousemen
CLASS II - Semi Fuel; Semi Pole Drivers (Hauling Steel Pipe); & Semi Tractor Drivers
CLASS III - Agitator or Bulk Concrete Drivers; Dry Batch Truck; Ready-Mix
CLASS IV - Carry-All Driver; Darts; Double Hook-up Tractor Trailers including Team Truck & Railroad Siding; Euclid; Extra Long Trailers & Semi Pole Trailers, Except When Hauling Steel Pipe; Fork Lifts; Hi-Lifts; Low Boys; Semi-Tractor & Tri-Axle Trailer; Tag Along Trailer, Expandable Trailers, Load (Requiring Road Permits); Tandem Tractor, Tandem Trailer & Tri-Axle Trailer; Tank Asphalt Spreaders; & Tournatochers

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Per Week Per Employee
b. One week's paid vacation for one year of service; two weeks for five years; three weeks for ten years & four weeks for seventeen years.
c. Seven paid holidays: A through F Plus National Election Day

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TRUCK DRIVERS

ZONE II - Remainder of the State

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 9.97	25.00a	18.50a			.05
10.02	25.00a	18.50a			.05
10.07	25.00a	18.50a			.05
10.17	25.00a	18.50a			.05
10.27	25.00a	18.50a			.05
10.44	25.00a	18.50a			.05

CLASS I
CLASS II
CLASS III
CLASS IV
CLASS V
CLASS VI

CLASS I - Asphalt Distributors; Batch Trucks; 4 Wheel Service Truck; 4 Wheel Dump Trucks; & Oil Distributors
CLASS II - Landfills
CLASS III - Fuel Trucks; Pole Trailers; Ready Mix Trucks; & Semi-Tractor Trucks
CLASS IV - All Trucks Five Axle & Over
CLASS V - Asphalt Oiler Spraybar Man When Operated From Cab
CLASS VI - Euclid Wagons; Euclid End Dumps; Heavy Duty Equipment; & Low Boys

FOOTNOTE:

- a. Per Week Per Employee

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LINE CONSTRUCTION

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$14.00	.50	38+.50	1.00		
12.73	.50	38+.50	1.00		
10.18	.50	38+.50	1.00		
8.27	.50	38+.50	1.00		
13.53	.60	38			
12.18	.60	38			
8.95	.60	38			
12.30					
8.00					
.7.38					
12.30	.60	38+.50			
8.00	.60	38+.50			
.7.38	.60	38+.50			
12.05	.90	38+.85			
9.80	.90	38+.85			

ADAMS, ATHENS, GALLIA, LAW-RENCE, MEIGS, & SCIOTO COS., JACKSON CO. (except Coal, Jackson, Liberty, Milton & Washington Twp.), PIKE CO. (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), VINTON CO. (E. of Clinton, Elk & Swan Twp.); Cable Splicers; Linemen
Welders
Linemen
Operators: All Mechanized Equipment
Groundmen
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem) Cos.;
Linemen
Equipment Operators
Groundmen; Truck Drivers
ASHLAND, CRAWFORD, HURON (Twps. of Richmond, New Haven, Ripley & Greenwiche)
KNOX (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), MARION, MORROW, RICHLAND, & WYANDOT (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee) COS.; Equipment Operators
Linemen
Line Truck Driver
Groundmen
ASHTABULA, except Twps. of Colebrook, Orville, Wayne, Williamsfield, & Windsor; Cable Splicers; Equipment Ops.; Line Truck Drivers; & Linemen
Groundmen

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LINE CONSTRUCTION (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$14.07	.45	38			
11.26	.45	38			
12.60	.50	38+.35	1.00		.04
12.85	.50	38+.35	1.00		.04
10.08	.50	38+.35	1.00		.04
13.90	.70	38+.60			
10.41	.70	38+.60			
14.20	.70	38+.60			
10.65	.70	38+.60			
14.30	.70	38+.60			
10.73	.70	38+.60			
14.45	.70	38+.60			
10.84	.70	38+.60			

ASHTABULA (Twps. of Colebrook, Wayne, Williamsfield, Orville, & Windsor), COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), GEauga (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy), MAHoning (excl. Smith Twp.), PORTAGE (Charleson, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, Windom Twp.), & THUMBULL COS.; Cable Splicers; Linemen; Operator - Poleclimbing Equipment
Groundmen
BELMONT COUNTY: Equipment Operators; Linemen & Technicians
Cable Splicers; Welders
Groundmen
BROWN, CLERMONT, & HAMILTON COS.;
ZONE I: Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati
Linemen; Machine Ops.
Groundmen
ZONE II: Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati
Linemen; Machine Ops.
Groundmen
ZONE III: Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati
Linemen; Machine Ops.
Groundmen
ZONE IV: Over 25 mi. radius from Hamilton Co. Court House, Cincinnati
Linemen; Machine Ops.
Groundmen

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LINE CONSTRUCTION (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twp.) COS.: Zone I: West of Interstate #75: Linemen	.50	34+.75		½
Cable Splicers	.50	34+.75		½
Groundmen	.50	34+.75		½
Zone II: East of Interstate #75: Linemen	.50	34+.75		½
Cable Splicers	.50	34+.75		½
CARROLL (N & incl. Fox, Harrison, Rose & Washington Twp.), COLUMBIANA (Knox Twp.), HOLMES, WASHINGTON (Smith Twp.), STARK, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twp.), & WAYNE (S. of Baughman, Chester, Green & Wayne Twp.) COS.: Cable Splicers; Linemen	.55	34+.60		.38
Line Equipment Ops.	.55	34+.60		.38
Groundmen; Truck Drivers	.55	34+.60		.38
CARROLL (S. of Fox, Harrison, Rose & Washington Twp.), HARRISON, & JEFFERSON COS.: Linemen	.78	108	108	½
Line Equipment Ops.; Truck Drivers	.78	108	108	½
Cable Splicers	.78	108	108	½
Groundmen				

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LINE CONSTRUCTION (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
CHAMPAIGN, CLARK, CUYAHOGA, GAUGA (Rainbridge, Russell & Chester Twp.), LORAIN (Columbia Twp.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twp.) COS.: Cable Splicers; Equipment Ops.; Linemen	15.43	38		½
Groundmen	10.03	38		½
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, WARREN (Wayne, Clear Creek, & Franklin Twp.), COS.: Cable Splicers; Linemen	13.28	38+1.00		½
Operators: Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket				
Line Truck with Winch or Pole & Steel Handling	13.28	38+1.00		½
None-Specialized Truck & Misc. Equipment; Groundmen - Truck Drivers	9.96	38+1.00		½
COLUMBIANA (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twp.): Linemen; Heavy Equipment Ops.	7.76	38+1.00		½
Groundmen & Truck Drivers	12.58	78		½
COSHOTO, GUERNSEY, MUSK-INGUM, PERRY, & TUSCARAWAS (Rem. of Co.): Cable Splicers; Equipment Ops.; Linemen	11.35	78		½
Groundmen	13.00	38		½
	7.88	38		½

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LINE CONSTRUCTION (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
DEETANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAUL-DING, PUNAW, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.: Linemen	\$14.92	38	a	½
Technicians	14.39	38	a	½
Cable Splicers	15.17	38	a	½
Operator Class I	11.88	38	a	½
Operator Class II	10.47	38	a	½
Groundmen	8.97	38	a	½
DELAWARE, FRANKLIN, MADISON, (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twp.), PICKAWAY (Twp. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.: Cable Splicers; Equipment Ops. & Linemen	13.98	38		½
Groundmen	7.68	38		½
ERIE, & HURON (Lyne, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twp.): Cable Splicers; Equipment Ops. & Linemen	14.05	38		½
Truck Driver (Winch)				
Groundman; Groundman	9.13	38		½
FAIRFIELD, KNOX (Butler, Clay, College, Harrison, Hilliar, Jackson, Morgan, Milford, Miller, & Pleasant), & LICKING COS.: Cable Splicers; Linemen; Operators: All Mechanized Equipment				
Groundmen - Truck Driver	12.90	38		½
Groundmen	10.21	38		½
	7.85	38		½

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LINE CONSTRUCTION (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twp.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twp.), PIKE (Excl. Camp Scioto, Sunfish, & Union Twp.), ROSS, VINTON (W & of Co. incl. Clinton, Elk & Swan Twp.) COS.: Linemen; Equipment Operators	13.35	38		½
Truck Drivers	7.92	38		½
Groundmen	7.57	38		½
GAUGA (Excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twp.), & LAKE COS.: Cable Splicers; Equipment Ops. & Linemen	14.13	38+.70		½
Truck Drivers (Winch)				
Groundman; Groundman	9.18	38+.70		½
LORAIN (Excl. Columbia Twp.), & MEDINA (Litchfield & Liverpool Twp.) COS.: Cable Splicers; Equipment Ops. & Linemen	13.95	38+1.00		½
Truck Driver (Winch)				
Groundman; Groundman	9.07	38+1.00		½
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hincley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twp.), PORTAGE (Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro & Suffield Twp.), SUMMIT, & WAYNE (Northern & of Co.) COS.:				

DECISION NO. OH79-2086
LINE CONSTRUCTION (CONT'D)
MEDINA CO. (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.66	.74	38+.65		48
14.46	.74	38+.65		48
10.25	.74	38+.65		48
6.83	.74	38+.65		48
13.98	.60	38		48
7.88	.60	38		48
7.60	.34	.27	a6b	

FOOTNOTES:

- a. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve Day; & Christmas Day
b. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

STATE: VIRGINIA

SUPERSEDES DECISION

COUNTIES: Bedford, Botetourt, Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski & Roanoke. The Cities of Bedford, Galax, Martinsville, Radford, Roanoke & Salem.

DECISION NO. VA-79-3055
41 FR 10961
DATE: Date of Publication
February 23, 1979 in

SUPERSEDES DECISION NO. VA-79-3002 dated February 23, 1979 in
DESCRIPTION OF WORK:
Highway Construction Proj-
ects.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$3.71				
5.15				
3.82				
4.58				
4.05				
5.00				
3.26				
5.00				
3.50				
5.00				
3.00				
3.26				
4.64				
3.30				
5.38				
3.00				
3.78				
4.00				
4.91				
4.64				
3.50				
3.75				
5.45				
5.54				
4.25				
4.01				
4.53				
5.50				
5.00				
4.22				
4.24				
3.74				
3.72				
5.00				

Asphalt Raker
Carpenter, Structure
Carpenter Structure Helper
Concrete Finisher
Concrete Finisher Helper
Electrician
Fence Erector/Guardrail
Ironworker, Reinforcing
Ironworker, Reinforcing
Helper
Ironworker, Structural
Laborer, Unskilled
Landscape Worker
Mechanic
Mechanic Helper
Painter, Bridge
Pipelayer
Asphalt Distributor Operator
Asphalt Paver Operator
Backhoe Operator
Bulldozer Operator
Bulldozer Operator, Utility
Concrete Paving Machine
Operator
Crane, Derrick & Dragline:
1 yd. & under
Over 1 yd.
Drill Operator
Loader:
2 yds. & under
Over 2 yds.
Motor Grader Operator:
Fine Grade
Rough Grade
Oiler/Greaser
Power Tool Operator
Roller Operator:
Finish
Rough
Scraper Fan Operator

DECISION NO. VA-79-3055

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$3.99				
3.50				
3.45				
4.00				
3.50				
3.70				

Stone Spreader Operator
Tractor Operator-Utility
Truck Driver, Heavy Duty:
7 C.Y. & under
over 7 C.Y.
Truck Driver:
Single Rear Axle
Multi Rear Axle
Welder-receive rate prescri-
bed for craft performing
operation to which welding
is incidental.
Unlisted classifications
needed for work not includ-
ed within the scope of the
classifications listed may
be added after award only
as provided in the Labor
Standards Contract Clauses
(29 CFR, 5.5 (a) (1) (ii)).

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SUPERSIDES DECISION

STATE: Virginia

COUNTIES: Albemarle County & the Independent City of Charlottesville

DATE: Date of Publication

Supersides Decision No. VA75-3056 dated September 19, 1975 in 40 FR 43415

DESCRIPTION OF WORK: Building construction, (excluding single family homes & garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
BRICKLAYERS	\$7.75				
CARPENTERS	5.50				
CEMENT MASONS	7.50				
DRY WALL MECHANIC	6.50				
ELECTRICIANS	6.75				
GLAZIERS	4.00				
IRONWORKERS:					
Structural & Reinforcing	5.33				
LABORERS, UNSKILLED	3.78				
LATHERS	7.50				
PAINTERS, BRUSH	4.94				
PLUMBERS & STEAMFITTERS	6.00				
ROOFERS	6.00				
SHEET METAL WORKERS	6.50				
SPRINKLER FITTERS	8.50				
TILE SETTERS	6.23				
TRUCK DRIVERS	4.50				
POWER EQUIPMENT OPERATORS:					
Backhoe Operators	4.89				
Buildozer Operators	5.00				
Loaders	5.00				
Scraper Pan Operator	5.00				
Roller Operators	4.50				
WELDERS: receive rate prescribed for craft performing operation to which welding is incidental.					
Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the Labor Standards Contract Clauses (29 CFR, 5.5 (a) (1) (ii)).					

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federal register

Friday
December 21, 1979

Part III

Office of the Special Counsel

Prohibited Personnel Practices and Activities; Procedures for the Receipt and Investigation of Allegations

**OFFICE OF THE SPECIAL COUNSEL,
MERIT SYSTEMS PROTECTION
BOARD****5 CFR Parts 1250-1269****Prohibited Personnel Practices and
Activities: Procedures for the Receipt
and Investigation of Allegations**

AGENCY: Office of the Special Counsel.
ACTION: Final rules.

SUMMARY: These regulations set forth the procedures for the receipt and investigation by the Office of the Special Counsel of allegations of prohibited personnel practices in Federal agencies and activities prohibited by other civil service law, rule, or regulation. The regulations also establish procedures for the receipt and referral of whistleblower allegations to agencies for investigation or a report.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mary Eastwood, Associate Special Counsel (Investigations), Office of the Special Counsel, 1717 H. Street, N.W., Washington, D.C. 20419 (202-653-7140).

SUPPLEMENTARY INFORMATION: The Special Counsel published interim procedures for operations in the *Federal Register* on January 30, 1979 (44 FR 6060). On August 24, 1979, proposed final regulations were published for comment (44 FR 49956). These regulations supersede the interim regulations. Comments were received from eleven Federal agencies, one labor organization, and five public interest groups. Following is a summary of the major comments and changes in the regulations as published on August 24.

Definitions

(§ 1250.3). The definition of "whistleblower" has been revised to make clear that disclosure of information prohibited by statute is not protected except as noted below. The definition is also expanded to make clear that protected disclosures may be either oral or written, and that the information may be disclosed to any person, whether within or outside the agency. Further, protected disclosures include disclosures to the Special Counsel, an agency Inspector General, or other agency employee designated by the agency head to receive such information, even if the disclosure would otherwise be prohibited by statute or required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

One commentator suggested the deletion of the statement that where the

information disclosed affects only the personnel situation of the complainant it will be treated as an allegation of a prohibited personnel practice or violation of other civil service law, rule, or regulation, and the complainant will not be considered a whistleblower. This change has not been made in the regulations because the Special Counsel has direct investigative jurisdiction in such cases. The intent of the statement is to retain investigative authority in this Office rather than referring the matter to the agency, as in the case of whistleblower allegations.

A definition of "abuse of authority" has been added (§ 1250.3(f)).

The definition of prohibited personnel practices (§ 1250.3(b)(9)) relating to reprisal for exercising an appeal right granted by law, rule, or regulation, has been revised to make clear that the exercise of an appeal right includes the initial filing of a complaint or a grievance. Employees who win their complaints or grievances of course do not have to "appeal". It would be contrary to the purpose of the Civil Service Reform Act if only employees who lost their complaints or grievances and had to appeal to another entity were protected from reprisals.

One commentator suggested that the definition of prohibited personnel practices (§ 1250.3(b)(10)), relating to discrimination based on conduct that does not adversely affect the performance of the employee or applicant or the performance of others, be amended to make explicit that discrimination based on union activity or membership is covered. Such discrimination is an unfair labor practice and, of course, is within the primary responsibility of the Federal Labor Relations Authority (5 U.S.C. 7116). Although discrimination because of union activities could also constitute a prohibited personnel practice, specific examples of protected conduct are not set forth in the definition to avoid any construction that may limit the applicability of the provision to the type of conduct expressly mentioned.

**Matters Subject to Special Counsel
Investigation**

(§ 1251.1). A new paragraph (d) has been added to § 1251.1 to include the Special Counsel's authority to investigate matters and order corrective action, under the Freedom of Information Act and the Right to Financial Privacy Act of 1978 on the basis of court findings.

**Deferral to Administrative Appeals
Procedures**

(§ 1251.2). One commenter suggested that the Special Counsel should not investigate any allegation that could have been the subject of an appeal or grievance, except where the complainant can show cause for not filing a timely appeal or grievance. This would be unduly restrictive on the authority of the Special Counsel, particularly since most matters are grievable. Section 1206(e)(2) of title 5, United States Code, contemplates deferral to an administrative proceeding only if the Special Counsel determines that the matter may be more appropriately resolved by that procedure. Many complaints received in the Special Counsel's Office allege that agency procedures are not effective or that there is failure of the agency to process the grievance or other matter. Thus, in some instances where there is an available agency procedure the Special Counsel could not make the statutory determination that the matter may be more appropriately resolved by the agency procedure. Deferral in those situations would not be proper.

Section 1251.2(c) has been revised to provide that where a complainant failed to file a timely administrative appeal, the Special Counsel would not defer if the complainant can show that he was not notified of the time limit and was not aware of it, or that circumstances beyond his control prevented him from filing a timely appeal.

**Exhaustion of Agency Procedures as
Prerequisite to Special Counsel Action**

One commentator suggested that a policy statement can be included in the regulations on whether all other administrative remedies should be exhausted before a whistleblowing complaint is brought to the Special Counsel. Such a statement is not included because the statute clearly provides for direct submission of allegations to the Special Counsel (5 U.S.C. 1206(b)(1)(B)), as well as for submitting allegations to the Special Counsel after they have been disclosed in the agency or elsewhere.

Notice of Terminating Investigations

(§ 1251.4). One agency recommended that the agency, as well as the complainant, be notified when an investigation is completed or terminated. The statute requires that the complainant be notified in all cases (5 U.S.C. 1206(a)(2)). However, in many cases the inquiry or investigation is terminated after review of the material submitted by the complainant and

without any contact with the agency. There are cases in which, even if all allegations were proven, they could not constitute a prohibited personnel practice or violation of any civil service law, rule, or regulations, and cases in which it is clear the Special Counsel has no jurisdiction. No useful purpose would be served in notifying the agency in these cases. Accordingly, this change has not been made in the regulations. However, the Special Counsel's Office does notify agencies of the results of an investigation or the termination of an investigation if there has been some contact with the agency in the case.

Stay of Personnel Actions

(§ 1254.2). Several public interest groups noted that paragraph (d) of § 1254.2 providing that the Special Counsel will not seek a stay where the taking or failing to take a personnel action does not impose an undue hardship on the employee and the matter can be addressed through an available appeals procedure, is inconsistent with Congressional intent. In order to avoid unduly restricting the stay authority, paragraph (d) has been deleted.

One agency recommended that advance notice of requests for 15 day stays pursuant to 5 U.S.C. 1208(a) be given to the agency. The proposed regulation provided that such notice would be given only "where administratively practicable." This provision for notice to the agency has been deleted entirely because the statute does not contemplate any agency response to a Special Counsel petition for a 15 day stay, and no notice is required. As a matter of policy, the Special Counsel will nevertheless promptly inform agencies of all actions taken by the Office affecting them.

**Protection of Rights of Alleged
Offenders**

One commentator suggested that the regulations should require that an alleged offender be informed when a complaint is filed so that he has an opportunity to defend himself during the course of the investigation. It is the Special Counsel's view that the rights of alleged offenders are amply protected by the statute, the regulations of the Merit Systems Protection Board (5 CFR Parts 1200-1202, as added by 44 FR 38342), and the disclosure policy of the Office of the Special Counsel (Appendix I to Part 1261, § F). Moreover, the normal investigative procedures of the Office include opportunity for all witnesses having information regarding a matter to submit their views to the investigator.

Accordingly, no change is made in the regulations.

Internal Operating Procedures

Several of the public interest groups made constructive suggestions relating to internal operating procedures for the Office of the Special Counsel. For example, it was suggested that complainants be furnished copies of Special Counsel referrals of whistleblower allegations to agencies for investigation or report under 5 U.S.C. 1206(b) (3) or (7), and any extensions of time given the agency; that the allegations be clearly defined to the agency; and that the complainant be afforded an opportunity to comment on agency reports prior to the Special Counsel's review under 5 U.S.C. 1206(b)(6). A number of these suggestions will be incorporated into the Operations Manual of the Office.

Accordingly, title 5 of the Code of Federal Regulations is amended by revising Parts 1250-1269, as set forth below.

Dated: December 14, 1979.

H. Patrick Swygert,
Special Counsel.

**Subchapter B—Office of the Special
Counsel****PART 1250—JURISDICTION AND
DEFINITIONS**

Sec.
1250.1 General authority of the Special
Counsel.

1250.2 Scope.

1250.3 Definitions.

Authority.—5 U.S.C. 1206(k); Sec. 204(g) of Reorganization Plan No. 2 of 1978, unless otherwise noted.

**§ 1250.1 General authority of the Special
Counsel.**

The Special Counsel is authorized to carry out the following general functions, as described in this subchapter:

(a) To receive and investigate allegations of prohibited personnel practices and certain other violations of law, rule or regulation.

(b) To receive and refer to agencies for investigation or a report certain disclosures of information reasonably believed by the discloser to evidence a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) To recommend corrective action to the agency involved when it is determined that there is reasonable ground to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

(d) To file with the Merit Systems Protection Board requests to order

corrective action (if the agency has not taken the corrective action recommended after a reasonable period), requests for stays of prohibited personnel actions, and complaints for disciplinary action against federal employees, and intervene or otherwise participate in any proceeding before the Board.

§ 1250.2 Scope.

(a) The Special Counsel is required to receive and to investigate allegations of prohibited personnel practices and certain other activities prohibited by civil service law, rule, or regulation involving any Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, except that the prohibited personnel practices set forth below do not apply to:

(1) A Government corporation.
(2) The Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and certain other intelligence agencies excepted by the President.

(3) The General Accounting Office.
(4) The United States Postal Service and the Postal Rate Commission.

(b) The Special Counsel will investigate allegations of Hatch Act violations in any Executive agency, the U.S. Postal Service, and Postal Rate Commission and the District of Columbia Government.

(c) The Special Counsel will receive and act on information which evidences a violation of any law, rule, or regulation, or of mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, involving any Executive agency.

§ 1250.3 Definitions.

As used in this subchapter:

(a) "Personnel action" means—

(1) An appointment;
(2) A promotion;
(3) An adverse action under chapter 75 of title 5, United States Code or other disciplinary or corrective action;
(4) A detail, transfer, or reassignment;
(5) A reinstatement;
(6) A restoration;
(7) A reemployment;
(8) A performance evaluation under chapter 43 of title 5, United States Code;
(9) A decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other personnel action; or

(10) Any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level.

(b) "Prohibited personnel practice" means action by an employee who has authority to take, direct others to take, recommend, or approve any personnel action.

(1) That discriminates for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation, as prohibited by certain specified laws (see 5 U.S.C. 2302(b)(1)).

(2) To solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless the recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of an evaluation of the work performance, ability, aptitude, or general qualifications of the individual, or an evaluation of the character, loyalty, or suitability of such individual;

(3) To coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) To deceive or willfully obstruct any person with respect to such person's right to compete for employment;

(5) To influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) To grant any preference or advantage not authorized by law, rule or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

(7) To appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 3110) of the employee if the position is in the agency in which the employee is serving as a public official (as defined in 5 U.S.C. 3110) or over which the employee exercises jurisdiction or control as an official;

(8) To take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal

for being a whistleblower, as defined in paragraph (c) of this section.

(9) To take or fail to take a personnel action against an employee or applicant for employment as a reprisal for the exercise of any appeal right granted by law, rule or regulation;

(10) To discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; or

(11) To take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in 5 U.S.C. 2301.

(c) "Whistleblower" means a present or former Federal employee or applicant for Federal employment who discloses information he reasonably believes evidences a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial or specific danger to public health or safety, if the disclosure is not specifically prohibited by statute and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. A protected disclosure may be oral or written and to any person within or outside the agency. Disclosure of information to the Special Counsel, agency Inspector General, or other employee designated by the agency head to receive such information is protected even if the disclosure would otherwise be prohibited by statute or is otherwise required by Executive order to be kept secret. Where the information disclosed affects only the personnel situation of the complainant, it will normally be treated as an allegation of a prohibited personnel practice or violation of other civil service law, rule or regulation, and the complainant will not be considered to be a whistleblower.

(d) "Gross waste of funds" means unnecessary expenditure of substantial sums of money, or a series of instances of unnecessary expenditures of smaller amounts.

(e) "Mismanagement" means wrongful or arbitrary and capricious actions that may have an adverse effect on the efficient accomplishment of the agency mission.

(f) "Abuse of authority" means an arbitrary or capricious exercise of power by a Federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or to preferred other persons.

PART 1251—INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

Sec.

1251.1 Matters subject to investigation.

1251.2 Deferral to administrative appeals procedures.

1251.3 Investigation policy in discrimination complaints.

1251.4 Closing cases and terminating investigations.

1251.5 Actions on results of investigations.

§ 1251.1 Matters subject to investigation.

The Special Counsel is authorized—

(a) To receive and investigate allegations of prohibited personnel practices, as defined in section 1250.3 of this subchapter, and to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken (5 U.S.C. 1206(a)).

(b) In addition to matters described in paragraph (a) of this section, to conduct an investigation of any allegation concerning—

(1) Political activity by Federal employees and employees of the District of Columbia Government, prohibited by Subchapter III of Chapter 73 of title 5, United States Code (Hatch Act);

(2) Political activities by certain State and local officers and employees prohibited by Chapter 15 of title 5, United States Code (Hatch Act);

(3) Arbitrary or capricious withholding of information prohibited under section 552 of title 5, United States Code (Freedom of Information Act), except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counter-intelligence information the disclosure of which is specifically prohibited by law or by Executive order;

(4) Activities prohibited by any civil service law, rule, or regulation, including partisan political intrusion in personnel decisionmaking, except when the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure; and

(5) Involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action, except when the Special Counsel determines that such allegation may be resolved more appropriately under an administrative appeals procedure. (5 U.S.C. 1206(e)).

(c) In the absence of an allegation, the Special Counsel is authorized to conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a

prohibited personnel practice has occurred, exists, or is to be taken.

(d) To conduct an investigation for the purpose of determining whether disciplinary action is warranted against an agency officer or employee—

(1) whenever a court orders the production of agency records improperly withheld under the Freedom of Information Act and finds that the circumstances surrounding the withholding raise questions of whether agency personnel acted arbitrarily or capriciously (5 U.S.C. 552(a)(4)(F)), and

(2) whenever a court determines that an agency or department of the United States has violated the Right to Financial Privacy Act of 1978 and finds that the circumstances surrounding the violation raises questions of whether an officer or employee acted willfully or intentionally with respect to the violation (section 1117 of Pub. L. 95-630).

§ 1251.2 Deferral to administrative appeals procedures.

Section 1206(e)(2) of title 5, United States Code, provides that the Special Counsel shall make no investigation of allegations described in § 1251.1(b)(4) or (5) of this part, if he determines that the matter may be resolved more

appropriately under an administrative appeals procedure. The Special Counsel generally will not initiate an investigation in the following circumstances:

(a) The employee has a pending appeal on the same matter before the Merit Systems Protection Board, the Office of Personnel Management, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority, or a pending grievance under a formal agency or negotiated grievance proceeding, unless there is sufficient evidence submitted with the complaint to the Special Counsel to indicate the matter is not being properly processed.

(b) An administrative appeal proceeding has been completed, unless there is sufficient evidence submitted with the complaint to the Special Counsel to indicate the matter was not properly processed.

(c) An administrative proceeding was available to the complainant but the complainant did not file a timely appeal or otherwise failed to pursue the matter, unless the complainant can show that he was not notified of the prescribed time limit and was not aware of it or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limits.

(d) The complainant alleges a violation of law, rule, or regulation in connection with a promotion action,

particularly complaints of nonselection or general charges of "preselection", when the information submitted with the complaint to the Special Counsel does not evidence any prohibited personnel practice, as defined in § 1250.3 of this subchapter. In such circumstances the complainant should utilize the agency or negotiated grievance procedure if the matter is grievable.

§ 1251.3 Investigative policy in discrimination complaints.

The Special Counsel is authorized to investigate allegations of discrimination prohibited by law, as defined in § 1250.3(b)(1) of this subchapter. Since procedures for investigating discrimination complaints have already been established in the agencies and the Equal Employment Opportunity Commission, the Special Counsel will normally avoid duplicating those procedures and will defer to those procedures rather than initiating an independent investigation. However, the Special Counsel will—

(a) Assert independent investigative jurisdiction in those circumstances where it appears that the agency is not processing the complaint consistent with provisions of applicable statutes and regulations; and

(b) In lieu of asserting independent jurisdiction over a complaint, monitor agency or EEOC processing of the complaint, whenever he determines this to be necessary or appropriate.

§ 1251.4 Closing cases and terminating investigations.

(a) The Special Counsel will notify the complainant of the closing of the case and the reasons therefore, when the matter complained of is not within the investigative jurisdiction of the Special Counsel.

(b) The Special Counsel will notify the complainant of the termination of any investigation under this part and the reasons therefore, and any action taken by the Special Counsel on the allegation.

§ 1251.5 Actions on results of investigations.

(a) If the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice, as defined in § 1250.3 of this subchapter, has occurred, exists, or is to be taken, which requires corrective action, he reports his determinations, findings and recommendations to the agency, the Merit Systems Protection Board, and the Office of Personnel Management, and may report such finding to the President (5 U.S.C. 1206(c)(1)). If the agency involved fails

to take the action recommended within a reasonable period specified by the Special Counsel, the Special Counsel may request the Board to consider the matter pursuant to 5 U.S.C. 1206(c)(1)(B).

(b) If the Special Counsel has reasonable cause to believe any other violation of any law, rule or regulation has occurred (*i.e.*, violations other than or in addition to a prohibited personnel practice), he is required to report this to the agency head concerned and to require, within 30 days, a certificate by the agency head which states that (1) the agency head has personally reviewed the report of the Special Counsel, (2) what action has been, or is to be taken, and (3) when the action will be completed (5 U.S.C. 1206(c)(3)). Agency head certifications are included in the public list, provided for in § 1260.1 of this subchapter.

(c) When the investigation indicates that disciplinary action against any employee subject to disciplinary charges by the Special Counsel is warranted, the Special Counsel may file a complaint, together with a statement of supporting facts with the Merit Systems Protection Board. The complaint and statement of supporting facts shall be served on the employee at the same time it is filed with the Board. Additionally, in the case of violations of provisions of Chapter 15 of title 5, United States Code (political activity of certain State and local officers and employees), the complaint, including the statement of supporting facts, shall be served on the State or local agency as well as the officer or employee (5 U.S.C. 1206(g)).

(d) In the case of a complaint for disciplinary action against an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the Special Counsel shall submit the complaint including a statement of supporting facts and the employee's response to the complaint to the President for appropriate action in lieu of presenting the complaint before the Merit Systems Protection Board. (5 U.S.C. 1206(g)).

(e) When the Special Counsel believes that there is in an agency a pattern of prohibited personnel practices not otherwise appealable to the Merit Systems Protection Board under any law, rule or regulation, the Special Counsel may file a complaint with the Board against the agency involved to obtain an order for appropriate corrective action. (5 U.S.C. 1206(h)).

(f) If, in connection with any investigation under this part, the Special

Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, he shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget. The referral of an alleged criminal violation to the Attorney General does not preclude the Special Counsel from conducting any investigation or proceeding concerning prohibited personnel practices instituted under this part. (5 U.S.C. 1206(c)(2)).

PART 1252—DISCLOSURES OF INFORMATION (WHISTLEBLOWING)

- Sec.
1252.1 Applicability.
1252.2 Referral to agency heads under 5 U.S.C. 1206(b)(3); reports from agency heads.
1252.3 Referral to agency heads under 5 U.S.C. 1206(b)(7).
1252.4 Failure of agency head to file report.
1252.5 Review of agency report.
1252.6 Foreign intelligence or counterintelligence information.

§ 1252.1 Applicability.

This part applies to disclosures of information not specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, which the discloser reasonably believes evidences a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to the public health or safety.

§ 1252.2 Referral to agency heads under 5 U.S.C. 1206(b)(3); reports from agency heads.

(a) If after review of the information received under this part the Special Counsel determines that there is a substantial likelihood that the information discloses a violation of any law, rule or regulation, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety, he will, if the information was transmitted to him by an employee or former employee or applicant for employment in the agency which the information concerns, or by an employee who obtained the information in connection with the performance of his duties and responsibilities, require the head of the agency to conduct an investigation of the information and any related matters and to submit to the Special Counsel a written report setting

forth the findings of the head of the agency.

(b) Any report required by the Special Counsel under this section shall be submitted within sixty (60) calendar days after the date on which the Special Counsel transmitted the information to the head of the agency, or within any reasonable longer period of time agreed to in writing by the Special Counsel or designee of the Special Counsel. In the event the agency finds that it is unable to adequately investigate and report within the time limit imposed by the statute, the agency shall as soon as practicable, but not less than 15 days before the date the report is due to the Special Counsel, the President, and the Congress, submit a written request to the Special Counsel specifying the additional time required and the reasons therefore.

(c) Any report required under this section shall be reviewed and signed by the agency head and shall include: (1) A summary of the information with respect to which the investigation was initiated; (2) a description of the conduct of the investigation; (3) a summary of any evidence obtained from the investigation; (4) a listing of any violation or apparent violation of any law, rule, or regulation; (5) a description of any corrective action taken or planned to be taken as a result of the investigation, including, but not limited to, changes in agency rules, regulations, or practices, restoration of any aggrieved employee, disciplinary action against any employee, and referral to the Attorney General of any evidence of a criminal violation.

(d) Any report required under this section shall be submitted, by the agency head, to the Congress and the President, as well as to the Special Counsel.

(e) The Special Counsel will transmit a copy of the agency head's report to the party who made the disclosure to the Special Counsel, except when the report includes evidence of criminal violations referred to the Attorney General.

§ 1252.3 Referral to agency heads under 5 U.S.C. 1206(b)(7).

If the Special Counsel does not require an investigation by the head of the agency, the agency head shall, within a reasonable time (but no later than 60 days) after the information was transmitted to him by the Special Counsel, review the information, make any inquiry necessary, and inform the Special Counsel, in writing, of what action has been or is to be taken and when such action will be completed. The Special Counsel will inform the

complainant of the report of the agency head.

§ 1252.4 Failure of agency head to file report pursuant to § 1252.2.

Whenever the Special Counsel does not receive a required report from an agency head within the time specified in the letter of referral, the Special Counsel may transmit a copy of the information which he sent to the agency head to the President and to the Congress, together with a statement noting the failure of the agency head to file the required report.

§ 1252.5 Review of agency report.

Upon receipt of any report of the head of an agency under § 1252.2, the Special Counsel shall review the report and determine whether the findings of the head of the agency appear reasonable and whether the agency's report contains the information required.

§ 1252.6 Foreign intelligence or counterintelligence information.

Any disclosure under this part involving foreign intelligence or counterintelligence information, the disclosure of which is specifically prohibited by law or Executive order, shall be transmitted by the Special Counsel to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

PART 1253—FILING OF COMPLAINTS AND ALLEGATIONS

- Sec.
1253.1 Place of filing.
1253.2 Form and content.
1253.3 Withdrawal of complaint.
1253.4 Request for stay of personnel action.
1253.5 Disclosure of identity of complainant or whistleblower.

§ 1253.1 Place of filing.

All complaints, allegations, and information under this subchapter should be submitted to the Office of the Special Counsel, Merit Systems Protection Board, 1717 H Street, NW, Washington, DC 20419, or to the appropriate field office listed below:
450 Golden Gate Avenue, Room 11454, Box 36007, San Francisco, CA. 94102
1100 Commerce Street, Room 9E23, Dallas, Texas 75242

§ 1253.2 Form and content.

(a) Complaints, allegations and information may be submitted in any written form, but should include:

(1) The name and mailing address of the complainant or whistleblower, unless the matter is submitted anonymously;

(2) The department or agency, location and organizational unit complained about;

(3) A concise description of the actions complained about, names and positions of employees who took these actions, if known to the complainant, and dates, preferably in chronological order, together with any documentary evidence the complainant may have;

(4) In the case of any allegation of a prohibited personnel practice, the personnel action, as defined in section 1250.3, that has been taken or is proposed to be taken;

(5) In the case of reprisal for disclosure of information by a whistleblower, the information believed to evidence violation of law, rule, or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety and when, to whom, and how or in what form it was disclosed;

(6) In the case of reprisal for exercising appeal rights, the action or specific matter that was appealed or grieved, the procedure involved, dates, and name of official or officer appealed to, and decision on or status of the appeal.

(7) A statement as to whether or not the complainant consents to the Special Counsel revealing the complainant's identity to the agency.

(b) If the complainant or whistleblower does not furnish sufficient information, the Special Counsel may request the complainant to do so before acting on the complaint.

§ 1253.3 Withdrawal of complaint.

A complaint may be withdrawn at any time. However, the Special Counsel may conduct an investigation in the absence of a complaint and withdrawal of a complaint does not necessarily result in termination of the investigation.

§ 1253.4 Request for stay of personnel action.

(a) A request for a stay of personnel action should be submitted to the Special Counsel as early as possible and should include:

(1) Any available documentary evidence of the personnel action taken or to be taken; and

(2) A chronology of facts evidencing a prohibited personnel practice, as defined in § 1250.3 of this subchapter, has occurred or is to be taken.

(b) If possible, the facts supporting a request for a stay of personnel action should be sworn to or affirmed by the complainant.

§ 1253.5 Disclosure of identity of complainant or whistleblower.

(a) The identity of any complainant or whistleblower may not be disclosed without his consent, unless the Special Counsel determines that the disclosure of the identity is necessary in order to carry out his functions.

(b) The Special Counsel will determine to disclose the identity of a complainant or whistleblower without express consent only if:
(1) It is clear from the submissions of the complainant or whistleblower that his identity has already been disclosed with respect to the matter complained of (e.g. where the party has filed a grievance, complaint, or appeal on the matter or reported the matter to the agency inspector general or equivalent official without anonymity), or

(2) Immediate action by the Special Counsel is necessary and there is not sufficient time to secure express consent to disclose identity. In such cases, the complainant or whistleblower will be notified of the disclosure immediately.

PART 1254—PROSECUTIONS

- Sec.
1254.1 Complaint.
1254.2 Stay of personnel actions.
1254.3 Enforcement of board decisions.
1254.4 petition for withholding order.
1254.5 Hearings on complaints filed by the Special Counsel.
1254.6 Dismissal by the Special Counsel.

§ 1254.1 Complaint.

The Special Counsel is authorized to file with the Merit Systems Protection Board, a complaint for disciplinary action against an employee, specifying the law, rule, or regulation violated, together with a statement of supporting facts. The rights of employees against whom complaints are filed are set forth in the Board's regulations (5 CFR 1201.124).

§ 1254.2 Stay of personnel actions.

(a) The Special Counsel may request any member of the Board to order a stay of any personnel action for 15 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice. The stay shall be effective on order of the Board member or on the fourth calendar day (excluding Saturdays, Sundays, and legal holidays) following submission of the petition to the Board member provided the Board member does not deny the stay within three calendar days of submittal.

(b) The Special Counsel may request any member of the Board to extend the

period of any stay for a period of not more than 30 calendar days.

(c) The Special Counsel may request the Board to order a further extension of the stay for such period as the Board considers appropriate.

§ 1254.3 Enforcement of Board decisions.

(a) If the Special Counsel determines that disciplinary action should be taken against an employee for knowing and willful refusal or failure to comply with an order of the Board, he is authorized to file a complaint setting forth the substance of the violation charged with specificity, including a statement of supporting facts, and to file the complaint with the Board.

(b) The complaint, including the statement of supporting facts, must be served upon the employee at the same time it is filed with the Board.

§ 1254.4 Petition for withholding order.

When the Special Counsel determines that a State or local agency has failed to remove an employee after a decision requiring such action by the Merit Systems Protection Board under 5 U.S.C. 1505, or that the employee was reemployed within 18 months in a State or local agency of the same State, the Special Counsel may initiate proceedings for a withholding order as provided under 5 U.S.C. 1506, by filing a petition for a withholding order with an administrative law judge designated by the Board.

§ 1254.5 Hearings on complaints filed by the Special Counsel.

Any employee against whom the Special Counsel presents a complaint to the Merit Systems Protection Board shall, pursuant to the regulations of the Board, have the right to a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer, to be represented by an attorney or other representative, to a hearing before the Board or an administrative law judge designated by the Board, to have a transcript kept of any hearing, to a written decision and reasons therefor, and a copy of any final order on the complaint.

§ 1254.6 Dismissal by the Special Counsel.

The Special Counsel or his designee may, with leave of the Board or administrative law judge, file a dismissal of all or part of a complaint at any time prior to the close of the hearing before the Board or administrative law judge. Prosecution by the Special Counsel with respect to any of the charges so dismissed shall thereupon terminate.

PART 1255—ANCILLARY MATTERS**Subpart A—Discovery**

- Sec.
1255.1 Subpenas.
1255.2 Testimony and evidence.
1255.3 Depositions and interrogatories.
1255.4 Witness fees.

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel

- 1255.5 Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel.

Subpart C—Advisory Opinions; Intervention; Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations

- 1255.6 Advisory Opinions.
1255.7 Intervention.
1255.8 Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations.

Subpart A—Discovery**§ 1255.1 Subpenas.**

(a) The Special Counsel may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. A subpoena may be served by a representative of the Special Counsel, or a U.S. Marshal or Deputy Marshal.

(b) The subpoena must be signed by the Special Counsel, or by his designee upon a specific delegation by the Special Counsel. Subpenas may not be signed in blank.

(c) In the case of contumacy or failure to obey a subpoena issued by the Special Counsel or his designee, the Special Counsel may request the United States District Court for the judicial district in which the person to whom the subpoena is addressed resides, or is served, to issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Upon any failure to obey an order of the court granted pursuant to the application of the Special Counsel, the Special Counsel may request the court to hold the person or persons to whom the order was directed in contempt of court.

(d) Application to a federal court for enforcement of a subpoena issued under this section may be made by the Special Counsel or his designee.

§ 1255.2 Testimony and evidence.

(a) Pursuant to Civil Service Rule V (5 CFR 5.4) all officers and employees in the executive branch, or applicants or eligibles for positions therein, shall give

to the Special Counsel, or his authorized representative, all information, testimony, and documentary evidence in regard to matters inquired of arising under the laws, rules, and regulations administered by the Special Counsel.

(b) Whenever required by the Special Counsel or his authorized representative, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths. Such oath may be administered by any officer or employee of the Office of the Special Counsel authorized to administer such oaths.

§ 1255.3 Depositions and interrogatories.

The Special Counsel may order the taking of depositions and order responses to written interrogatories. Depositions shall be taken before an officer authorized to administer oaths. Reasonable notice shall be given to the person to be deposed concerning the time, place and subject of the deposition. Answers to interrogatories shall be served upon the Special Counsel or his authorized representative within thirty (30) days of the date of receipt of the interrogatories unless an extension of time has been granted by the Special Counsel or his representative.

§ 1255.4 Witness fees.

(a) Except as provided in paragraph (c) of this section, witness fees and mileage allowances shall be paid by the party requesting the witness to appear, or asking for and receiving a subpoena requiring the attendance of a witness or the production of documents or other materials, and shall be tendered to the witness or person who is directed to produce documents or other materials along with the subpoena, or, if the witness appears voluntarily, at the time of appearance. When the witness is subpoenaed or appears at the request of the United States or an officer or agency thereof, fees and mileage need not be tendered with the subpoena or prior to the appearance of the witness or production of evidence; payment shall be made by the agency on whose behalf the witness appeared or was subpoenaed, upon the certificate of the Special Counsel or his designee that the witness appeared or produced documents or other evidence.

(b) Witness fees and mileage allowances payable under this section shall be the same as those paid subpoenaed witness in the courts of the United States, as set forth in section 1821 of title 28, United States Code.

(c) Employees of the Federal Government who appear voluntarily or

pursuant to subpoena and who appear in official duty status shall not be entitled to any witness fees or mileage allowance (other than that to which they are entitled under the Federal Travel Regulations). All costs relating to federal employee witnesses shall be paid by the agency against whom the complaint or allegation is filed.

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel**§ 1255.5 Prohibition on disciplinary action during pendency of investigation by Special Counsel.**

During any investigation initiated by the Special Counsel, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity, without the express approval of the Special Counsel.

Subpart C—Advisory Opinions; Intervention; Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations**§ 1255.6 Advisory opinions.**

The Special Counsel is not authorized to issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 of title 5, U.S. Code, dealing with political activity of State and local officers and employees, or subchapter III of chapter 73 of title 5, United States Code, dealing with political activity of Federal officers and employees).

§ 1255.7 Intervention.

The Special Counsel may intervene or otherwise participate in any proceeding before the Merit Systems Protection Board.

§ 1255.8 Request to the Merit Systems Protection Board to review Office of Personnel Management regulations.

The Special Counsel may file a written complaint with the Merit Systems Protection Board, requesting the Board to review the validity of any provision of any rule, or regulation issued by the Director of the Office of Personnel Management. Such complaint shall specify the manner in which application of specific provisions of the rule or regulation has resulted or will result in causing any employee or agency to take a prohibited personnel practice.

PARTS 1256 THROUGH 1259 (RESERVED)**PART 1260—PUBLIC INFORMATION**

- Sec.
1260.1 Public list.
1260.2 Freedom of Information Act policy.
1260.3 Procedures for obtaining records.
1260.4 Service charge for information.
1260.5 Appeals.
1260.6 Disclosures by authorized officials.

§ 1260.1 Public list.

A public list of certain noncriminal whistleblower allegations and Special Counsel findings of violations of law, rule, or regulation, together with reports and certifications by heads of agencies, pursuant to 5 U.S.C. 1206(b)(3) and (c), is available to the public between 8:30 a.m. and 5:00 p.m., weekdays (except legal holidays) in the Office of the Special Counsel, Room 215, 1717 H Street, NW., Washington, D.C. 20419.

§ 1260.2 Freedom of Information Act policy.

Upon receipt by the Office of the Special Counsel of a request for agency records under the Freedom of Information Act (5 U.S.C. 552) that are reasonably described, the records shall be provided promptly unless it is determined that one or more of the exemptions under subsection (b) of that Act should be applied to withhold the records. See Appendix I, Disclosure Policy of the Office of the Special Counsel.

§ 1260.3 Procedures for obtaining records.

Requests for records may be made in person or in writing and, except in unusual circumstances, a determination shall be made on a request within 10 days (excluding Saturdays, Sundays, and legal holidays). Requests in writing should be addressed to the Office of the Special Counsel, 1717 H Street, NW., Washington, D.C. 20419. Requests in person may be made by appearing at that address during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Freedom of Information Act Request".

§ 1260.4 Service charge for information.

(a) Requests for records of the Office of the Special Counsel are subject to the following fees for search and duplication:

Photocopies, per page, \$0.10.
Manual record search, \$5.00 per hour.
Where copies of records have already been made available to an individual in the course of agency proceedings or otherwise, the cost of photocopies to that individual or his representative

shall be fifteen (15) cents per page. Fees for search and duplication of automated records shall be provided upon request.

(b) Requests that do not specify that whatever fees are involved shall be acceptable or acceptable up to a designated amount will be deemed not received for purposes of the time limits for a determination until the requester, after being promptly notified of the anticipated fees, agrees to payment.

(c) When the anticipated fees exceed fifty (\$50.00) dollars, a deposit of twenty (20%) percent of that amount must be made within thirty (30) days after the requester is so advised. Records will not be released until the deposit is received.

§ 1260.5 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel may be appealed to the Special Counsel or his designee. The appeal shall be in writing and addressed to the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419. Except in unusual circumstances, the Special Counsel or his designee shall make a determination on the appeal within twenty (20) days (excluding Saturdays, Sundays, and legal holidays) after it is received. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

§ 1260.6 Disclosures by authorized official.

No employee or former employee of the Office of the Special Counsel shall, in response to a demand of a court or other authority, produce or disclose any information or records acquired as part of the performance of his official duties or because of his official status without the prior approval of the appropriate official of the Office of the Special Counsel. This section does not apply in cases where the Government is a party.

PART 1261—PRIVACY

- Sec.
1261.1 Records maintained on individuals.
1261.2 Access to records and identification.
1261.3 Medical records.
1261.4 Requests for amendment of records.
1261.5 Appeals.
1261.6 Exemptions.

Appendix I—Disclosure Policy of the Office of the Special Counsel.

Authority: 5 U.S.C. 522a.

§ 1261.1 Records maintained on individuals.

Information on individuals that are maintained in any group or system of records by the Office of the Special Counsel and which are retrieved by the name of the individual or some identifying particular assigned to the individual, is subject to the Privacy Act

(5 U.S.C. 552a). The terms used in this part that are defined in that section shall have the meanings set forth therein.

§ 1261.2 Access to records and identification.

(a) Individuals may request access to records pertaining to them that are maintained as described in section 1261.1 by addressing an inquiry to the Office of the Special Counsel either by mail or by appearing in person at the offices of the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419, during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Privacy Act Request". Requests for copies of records shall be subject to duplication fees set forth in § 1260.4 of this subchapter.

(b) Individuals making a request in person shall be required to present satisfactory proof of identity, preferably a document bearing the individual's photograph. Requests by mail or submitted other than in person should contain sufficient information to enable the Office of the Special Counsel to determine that the requester and the subject of the record are one and the same. To assist in this process, individuals should submit their name and address, date and place of birth, social security number, and any other known identifying information such as an agency file number or identification number and a description of the circumstances under which the records were compiled.

§ 1261.3 Medical records.

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

§ 1261.4 Requests for amendment of records.

Individuals may request amendment of records pertaining to them that are subject to this part. Requests should be addressed, in writing, to the Special Counsel and be clearly and prominently marked "Privacy Act Request". Requests for amendment should include identification of the records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requests for amendment shall be acknowledged not later than ten (10)

days (excluding Saturdays, Sundays, and legal holidays) after receipt and a determination on the request shall be made promptly.

§ 1261.5 Appeals.

When a request for access or amendment has been denied, a written appeal may be submitted to the Special Counsel or his designee. A final determination on the appeal shall be issued within thirty (30) days (excluding Saturdays, Sundays, and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional thirty (30) working days after the requesting individual has been advised in writing of the reasons for the extension and the estimated date a determination will be made. Where the final determination denies a request for amendment, the requesting individual shall be notified of his right to file a concise statement of reasons for disagreeing with the final determination. A copy of the statement shall be appended to the disputed record and provided to persons to whom the record is disclosed and to prior known recipients of the record. The Office of the Special Counsel may also attach to the statement a concise account of its reasons for not making the amendments requested. The final determination shall contain a notice of the right to judicial review.

§ 1261.6 Exemptions.

The Office of the Special Counsel may claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices or political activity and to protect identities of confidential sources of information. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. The Office of the Special Counsel also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the Office of the Special Counsel may refuse access to

information compiled in reasonable anticipation of a civil action or proceeding.

PARTS 1262 THROUGH 1269 [RESERVED]

Appendix I to Part 1261.—Disclosure Policy of the Office of the Special Counsel.

A. *General Statement of Policy.* The purpose of this statement is to express the policies of the Office of the Special Counsel regarding the disclosure of information about cases handled by the office in order to both protect the rights of individuals involved and meet the legitimate informational needs of the public through responsible disclosure.

The Office of the Special Counsel has broad statutory authority to receive and investigate allegations of prohibited personnel practices and certain disclosures of information ("whistleblowing"). To carry out these responsibilities, the identity of persons who provide information and cooperate during an investigation must be protected. Unless the Special Counsel can be assured of a free flow of information from complainants, witnesses, and agencies, the investigative and enforcement functions of the Office of the Special Counsel cannot be discharged in an effective and timely manner. If complainants and witnesses are subjected to reprisal, intimidation, or coercion, they may refuse to come forward with complaints and be hesitant to cooperate.

In the same vein, unless agency management officials feel confident that they will not be subjected to embarrassment and unfair publicity based on unwarranted disclosure of complaints and charges, cooperation from agencies may be limited to only that required by law.

At the same time, complainants and the Congress, as well as interested members of the public and press, should be kept fully informed about activities of the Special Counsel and the disposition of matters brought to his attention. The legislation creating the Office of the Special Counsel contains specific statutory mechanisms for disclosure of information to Congress, complainants, and the public. The legislation also contains restrictions on disclosure of information.

Where there appears to be a conflict between the enabling legislation of the Office of the Special Counsel and other statutes governing disclosure and nondisclosure of information, it shall be the policy of the Special Counsel to favor the former where such an interpretation is necessary to carry out its investigative and enforcement functions absent a well-defined and overriding public interest.

B. *Protecting the Identity of Complainants.* The Special Counsel is precluded from disclosing the identity of a complainant without his consent unless it is determined that disclosure is necessary in order to carry out the Special Counsel's functions. Where circumstances surrounding an investigation create a likelihood that the identity of the complainant may become known, the Special Counsel will weigh the public interest in proceeding with the investigation (based on the seriousness of the charges involved and

the likelihood of obtaining corrective action) against the possibility of harm to the complainant arising from disclosure of his identity. Except where it would jeopardize the likelihood of success in investigation and enforcement, the complainant will be notified when disclosure of the complainant's identity appears imminent.

C. *Protecting the Identity of Witnesses.* It shall be the policy of the Special Counsel to protect the identity of witnesses and sources of information who cooperate during an investigation. However, witnesses who provide affidavits or sworn statements will ordinarily be advised that the affidavit or statement is given without a pledge of confidentiality to the extent that it may be used in a proceeding or for official action arising from the investigation. Agency officials and other interested persons shall not, as a matter of right, be given access to statements of witnesses or information from sources collected by the Special Counsel during an investigation.

D. *Protecting the Privacy of Persons Named in an Investigation.* While an investigation is pending, disclosure of the identity of persons who are being investigated shall be limited to disclosures necessary to proceed with the investigation. When an investigation has been terminated, disclosure of information that would reveal the identity of persons associated with the investigation will be based on a determination of how the public interest would be served by disclosure when balanced against the invasion of personal privacy involved. Unless and until an agency official or employee is formally charged with a violation, the focus of the investigation, for disclosure purposes, shall be on prohibited personnel practices or violations of law of the agency concerned. The identity of a person together with the nature of the charges will be revealed when he is made the subject of a written complaint by the Special Counsel or an agency charging violations of law or prohibited personnel practices.

E. *Access to Information by the Complainant.* The Special Counsel will take reasonable steps to assure that a complainant is advised of the status of an investigation and is given the opportunity to provide information relevant to the investigation. When an investigation is terminated by the Special Counsel, the complainant whose allegation led to the investigation will be advised in writing why the investigation was terminated and the reasons for termination. Where the information provided results in an agency report at the direction of the Special Counsel, the report will be transmitted to the complainant, except when it contains evidence of a criminal violation or when disclosure of the information involved is specifically prohibited by law.

If the information provided by the complainant evidences a violation and the Special Counsel transmits the information to the agency head but does not require an investigation, the Special Counsel will inform the complainant in writing of the matters reported by the agency head.

F. *Access to Information by Employees Subjected to Disciplinary Action.* When the Special Counsel determines that disciplinary

action should be taken against any employee and has prepared and presented a complaint against the employee together with a statement of supporting facts to the employee and the Merit Systems Protection Board, the employee shall be entitled to review the documents and records relied upon to support the disciplinary action.

Access to the identity of a complainant or sources of information consulted during the investigation leading to the disciplinary action will not routinely be made available. Where the circumstances surrounding the proposal for disciplinary action and the information relied upon to support the complaint make it apparent that the employee should be entitled to such information as a matter of due process, access to the identity of the complainant or sources of information will be granted, as necessary, to meet this standard after the complaint against the employee is served on the employee and Merit Systems Protection Board.

G. *Disclosure of Information to Congress.* By statute, when the Special Counsel requires an agency to conduct an investigation and submit a written report within 60 days after a determination that there is a substantial likelihood of prohibited matters within its authority, the report shall be submitted to the Congress, to the President, and to the Special Counsel for transmittal to the complainant.

Agencies that are directed to submit a report under this authority shall transmit the report directly to the President of the Senate and the Speaker of the House of Representatives to satisfy the reporting requirement to Congress.

When any Member of Congress requests access to records or reports prepared by the Office of the Special Counsel or at its direction, and disclosure is not prohibited by law or Executive order, the records or reports requested, depending on the source of the request, shall be transmitted to the oversight committee for the Office of the Special Counsel in the House of Representatives or the oversight committee for the Office of the Special Counsel in the Senate, to be transmitted to the Member.

H. *Disclosure of Information Pertaining to a Pending Investigation.* While an investigation is pending, the Special Counsel will disclose the following information to a member of the public, generally only upon a written request, except where to do so would interfere with enforcement proceedings, constitute an unwarranted invasion of personal privacy or disclose the identity of the complainant:

(1) Confirmation that an investigation of the matter described by the requester is pending, including the name and location of the agency or agencies involved;

(2) The nature of the matters under investigation;

(3) A description of any formal action taken by the Special Counsel.

Generally, any request for access to records or documents pertaining to an investigation will be denied while the investigation is pending.

I. *Public Disclosure of Noncriminal Matters.* In the public interest, the Office of the Special Counsel has statutory authority to

make available to the public a list of noncriminal matters referred to heads of agencies together with the reports and certifications by heads of agencies specified by statute.

The list available to the public shall contain the following information in chronological sequence:

(1) The nature of the matter;

(2) The name and location of the agency involved;

(3) The disposition of the matter, including a description of any corrective action ordered;

(4) The names and position titles of any agency officials or employees disciplined by adverse action or by action of the Special Counsel, together with the nature of the action arising from the matter.

The information contained in the list together with any related reports or certifications shall be made available within 10 calendar days after final action by the Special Counsel in the matter.

J. *Control of Records.* Records, reports and related materials prepared by or submitted to the Office of the Special Counsel shall be subject to the exclusive control of the Office of the Special Counsel for purposes of disclosure. Any request for access to such records or reports shall be referred to the Special Counsel. When the request for access to reports or records prepared by agencies involves information that may be lawfully protected from disclosure, the Special Counsel will, where practicable, consult with the agency involved. Requests for access to reports or records of an agency in the custody of the Office of the Special Counsel, but not under its control as described above, shall be referred to the agency concerned.

[FR Doc. 79-38919 Filed 12-20-79; 8:45 am]

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Environmental Register

Friday
December 21, 1979

Part IV

Environmental Protection Agency

Petroleum Refining Point Source
Category Effluent Limitations Guidelines,
Pretreatment Standards, and New Source
Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 419

(FRL 1312-1)

Petroleum Refining Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes regulations to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities which are engaged in refining petroleum. These facilities are defined more specifically as those classed by the Bureau of the Census in Standard Industrial Classification (SIC) 2911. The purpose of this proposal is to provide effluent limitations guidelines for "best available technology," and "best conventional technology," and to establish new source performance standards and pretreatment standards under the Clean Water Act.

The effect of these regulations on the petroleum refining industry would be to require pretreatment of process wastewaters introduced into publicly owned treatment works (POTWs) and treatment of process wastewaters discharged to waters of the United States. After considering comments received in response to this proposal, EPA will promulgate a final rule.

The Supplementary Information section of this preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. That section also summarizes comments on a draft technical document circulated on April 21, 1978, and solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

These proposed regulations are supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*. EPA's technical conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Petroleum Refining Point Source Category*. The Agency's economic

analysis is found in *Economic Analysis of Proposed Revised Effluent Standards and Limitations for the Petroleum Refining Industry*.

DATE: Comments on this proposal must be submitted on or before February 19, 1980.

ADDRESS: Send comments to: Mr. William A. Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Attention: EGD Docket Clerk, Petroleum (WH-552). The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213, (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. William A. Telliard, (202) 755-7733 at the address listed above. The economic analysis may be obtained from Mr. Louis DuPuis, Water Economics Branch (WH-586), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, (202) 755-7733.

SUPPLEMENTARY INFORMATION:

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 2. Increased Reuse and Recycle of Wastewaters (52%)
 3. Segregation of Process Streams
 4. Powdered Activated Carbon
 5. Granular Activated Carbon

6. No Discharge of Wastewaters
- b. BAT Selection and Decision Criteria
- IX. BCT Effluent Limitations
- X. New Source Performance Standards (NSPS)

- a. NSPS Options Considered
1. Increased Reuse and Recycle of Wastewaters (52%)
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I. Legal Authority

The regulations described in this notice are proposed under authority of sections 301, 304, 306, 307, 308, and 501

of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act"). These regulations are also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979 and in response to the decision of the United States Court of Appeals in *American Petroleum Institute v. EPA* 540 F. 2d 1023 (10th Cir. 1976).

II. Background

(a) *The Clean Water Act.* The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" (BPT), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" (BAT), section 301(b)(2)(A). New industrial direct dischargers were required to comply with section 306 new source performance standards (NSPS), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works (POTWs) were subject to pretreatment standards under sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required

promulgation of regulations for NSPS, and sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984, of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Congress added section 304(e) to the Act, authorizing the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revised the control program for

non-toxic pollutants. Instead of BAT for "conventional" pollutants identified under section 304(a)(4) (including biological oxygen demand, suspended solids, fecal coliform and pH), the new section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived compared to the costs and effluent reduction benefits from the discharge of publicly owned treatment works (Section 304(b)(4)(B)). For non-toxic, nonconventional pollutants, sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of these proposed regulations is to provide effluent limitations guidelines for BAT and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

(b) *Prior EPA Regulations.* EPA promulgated BPT, BAT, NSPS, and PSNS for the Petroleum Refining point source category on May 9, 1974 (39 FR 16560, Subparts A-E). The BPT, BAT, and NSPS regulations were challenged in the courts by the American Petroleum Institute and others. Both BPT and NSPS were upheld by the court, but BAT was remanded for further consideration. Interim final PSES were promulgated on March 23, 1977 (42 FR 15684) in response to the Settlement Agreement.

The regulations proposed in this notice will supersede existing NSPS, PSNS and PSES. These proposed regulations will also establish BAT and BCT.

(c) *Overview of the Industry.* The petroleum refining industry is defined by Bureau of the Census Standard Industrial Classification (SIC) 2911. The raw material of this industry is petroleum material (generally, but not always, crude oil). Petroleum refineries process this raw material into a wide variety of petroleum products, including gasoline, fuel oil, jet fuel, heating oils and gases and petrochemicals. Refining includes a wide variety of physical separation and chemical reaction processes. The Development Document lists over one hundred processes used in the petroleum refining industry. Because of the diversity and complexity of the processes used and the products

produced, petroleum refineries are generally characterized by the quantity of raw material processed, rather than by the quantity and types of products produced.

EPA has identified 285 petroleum refineries in the United States and its possessions. The smallest refinery can refine fifty barrels of oil per day (one barrel equal 42 gallons), while the largest can refine 665,000 barrels per day.

The U.S. refining industry processes a total of about 15 million barrels per day. However, industry growth has slowed in recent years due to a number of factors including efforts to conserve petroleum supplies and competition from foreign suppliers. Growth has averaged about five percent per year and has resulted largely from additions to existing refineries rather than by construction of new ones. Largely because of encouragement from the Department of Energy's crude oil allocation program, a limited number of small, new refineries have been constructed. The ratio of growth in U.S. refining capacity by additions to existing refineries to the growth by construction of new refineries has been approximately 3.5 to 1.

The major sources of process wastewater are cooling water, water used to wash unwanted materials from a process stream, water used as part of a reaction process, and boiler blowdowns. Current treatment systems used by refineries for this process wastewater include (a) in-plant controls of ammonia and water use, and (b) end-of-pipe treatment consisting of oil/water separators, biological treatment and, in some cases, mixed media filtration. Although significant concentrations of toxic and other pollutants are found in untreated waste, data show that application of BPT results in substantial reduction of pollutants. Toxic pollutants were reduced to near or below the concentrations which can be accurately measured using available measurement techniques.

III. Scope of This Rulemaking and Summary of Methodology

These proposed regulations open a new chapter in water pollution control requirements for the petroleum refining industry. In EPA's 1973-1976 round of rulemakings, emphasis was placed on the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well known technologies for control of pollutants of traditional concern.

In this round of rulemaking, in contrast, EPA's efforts are directed

toward insuring the achievement by July 1, 1984, of the best available technology economically achievable (BAT), which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. In general, this technology level represents, at a minimum, the very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In the 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under section 307(a) of the Act. The "priority" pollutants have been relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience dealing with these pollutants. Additionally, these pollutants often appear and have toxic effects at concentrations which severely tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances. Thus, with the passage of the 1977 legislation, the Nation's water pollution control program was thrust toward the frontiers of science.

EPA's implementation of the Act required a complex development program described in this section and succeeding sections of this notice. Initially, because in many cases no public or private agency had done so, EPA and its laboratories and consultants had to develop analytical methods for toxic pollutant detection and measurement, which are discussed under Sampling and Analytical program. EPA then gathered technical and financial data about the industry, which are summarized under Data Gathering Efforts. With these data in hand, the Agency proceeded to develop these proposed regulations.

First, EPA studied the petroleum refining industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments of the industry. This study included the identification of raw waste and treated

effluent characteristics including: (1) the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant, and (2) the constituents of wastewaters, including toxic pollutants. EPA then identified the constituents of wastewaters which should be considered for effluent limitations guidelines and standards of performance.

Next, EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or capable of being used in the petroleum refining industry. The Agency compiled and analyzed historical data and newly generated data on the effluent quality resulting from the application of these technologies. The long term performance and operational limitations of each of the treatment and control technologies were also identified. In addition, EPA considered the nonwater quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, and energy requirements.

The Agency then estimated the costs of each control and treatment technology from unit cost curves developed by standard engineering analysis as applied to petroleum refining wastewater characteristics. EPA derived treatment process costs from plant characteristics (production and flow) applied to each treatment process unit cost curve (i.e., powdered activated carbon, metals precipitation, etc.). These unit process costs were added to yield total cost at each treatment level. The Agency evaluated the economic impacts of these costs. (Costs and economic impacts are discussed in detail under the various technology options, and in the section of this notice entitled Costs, Effluent Reduction Benefits and Economic Impacts).

Upon consideration of these factors EPA identified various control and treatment technologies as BCT, BAT, PSES, PSNS, and NSPS. The proposed regulations, however, do not require the installation of any particular technology. Rather, they require achievement of effluent limitations representative of the proper operation of these technologies or equivalent technologies.

The effluent limitations for BAT, BCT and NSPS are expressed as mass limitations (kg/1000 cubic meters raw material) and are calculated by multiplying three figures: (1) achievable long term effluent concentrations based on each control technology (2) achievable wastewater flow and (3) variability factors to account for short term variations in effluent

concentrations (daily and monthly variations). This basic calculation was performed for each regulated pollutant or pollutant parameter. Effluent limitations for PSES and PSNS are expressed as allowable concentrations in milligrams per liter (mg/l). For POTWs which may wish to impose mass limitations, the proposed regulations provide alternate equivalent mass limitations.

IV. Sampling and Analytical Program

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most of the toxic pollutants were relatively unknown until only a few years ago, and only on rare occasions has EPA regulated or has industry monitored or even developed methods to monitor for these pollutants. As a result, analytical methods for many toxic pollutants, under Section 304(h) of the Act, have not yet been promulgated. Moreover, state-of-the-art techniques involve the use of highly expensive, sophisticated equipment, with costs ranging as high as \$200,000 per unit of equipment.

When faced with these problems, EPA scientists, including staff of the Environmental Research Laboratory in Athens, Georgia and staff of the Environmental Monitoring and Support Laboratory in Cincinnati, Ohio conducted a literature search and initiated a laboratory program to develop analytical protocols. The analytical techniques used in this rulemaking were developed concurrently with the development of general sampling and analytical protocols and were incorporated into the protocols ultimately adopted for the study of other industrial categories. See *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April 1977.

Because section 304(h) methods were available for most toxic metals, pesticides, cyanide and phenol, the analytical effort focused on developing methods for sampling and analyses of organic toxic pollutants. The three basic analytical approaches considered by EPA were infra-red spectroscopy, gas chromatography (GC) with multiple detectors, and gas chromatography/mass spectrometry (GC/MS). In selecting among these alternatives, EPA considered their sensitivity, laboratory availability, costs, applicability to diverse waste streams from numerous industries, and capability for implementation within the statutory and court-ordered time constraints of EPA's program. The Agency concluded that infra-red spectroscopy was not

sufficiently sensitive or specific for application in water. GC with multiple detectors was rejected because it would require multiple runs and be incompatible with program time constraints. Moreover, because this method would use several detectors, each applicable to a narrow range of substances, GC with multiple detectors possibly would fail to detect certain toxic pollutants. EPA chose GC/MS because it was the only available technique that could identify a wide variety of pollutants in many different waste streams, in the presence of interfering compounds, and within the time constraints of the program. In EPA's judgment, GC/MS and the other analytical methods for toxics used in this rulemaking represent the best state-of-the-art methods for toxic pollutant analyses available when this study was begun.

As the state-of-the-art began to mature, EPA began to refine the sampling and analytical protocols, and intends to continue this refinement to keep pace with technology advancements. Resource constraints, however, prevent EPA from reworking completed sampling and analyses to keep up with the evolution of analytical methods. As a result, the analytical techniques used in some rulemakings may differ slightly from those used in other rulemaking efforts. In each case, however, the analytical methods used represent the best state-of-the-art available for a given industry study. One of the goals of EPA's analytical program is the promulgation of additional section 304(h) analytical methods for toxic pollutants, scheduled to be done within calendar year 1979.

Before proceeding to analyze petroleum refining wastes, EPA concluded that it had to define specific toxic pollutants for analyses. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants; and the expenditure of resources in government and private laboratories would be overwhelming if analyses were attempted for all of these pollutants. Therefore, in order to make the task more manageable, EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. The criteria for selection of these 129 pollutants included frequency of occurrence in water, chemical stability and structure, amount of chemical produced, availability of chemical standards for measurement, and other factors.

EPA ascertained the presence and magnitude of the 129 specific toxic pollutants in petroleum refining

wastewaters in a sampling and analysis program involving 23 refineries and two POTWs. The plants were selected primarily to be representative of the manufacturing processes, the prevalent mix of production among plants, and the current treatment technology in the industry. Compliance with BPT requirement is also one of the site selection criteria. Seventeen of these plants were direct dischargers and six were indirect dischargers.

The primary objective of the field sampling program was to obtain composite samples of wastewater to determine presence, absence and relative concentrations of toxic pollutants. Sampling visits were made to correspond to three consecutive days of plant operation. Raw wastewater samples were taken prior to biological treatment. Treated effluent samples were taken subsequent to biological treatment; in some instances samples were taken after effluent polishing (i.e., polishing pond, sand filter). EPA also sampled intake water to determine the presence of toxic pollutants prior to contamination by refining processes.

In all instances, grab samples taken every two hours were combined into twenty-four hour composites. Samples for conventional and nonconventional pollutants were obtained from the 24-hour composite samples. Aliquots from the remaining sample volumes were combined in equal portions at the laboratory to obtain the 72-hour composites for toxic pollutant analysis (acid and base-neutral extractable organics, pesticides, metals). Grab samples were taken in specially prepared vials for volatile (purgeable) organics, total phenols and cyanide. Prior to the plant visits, sample containers were carefully washed and prepared by specific methods, depending upon the type of sample to be taken. Samples were kept on ice prior to express shipment in insulated containers.

The analyses for toxic pollutants were performed according to groups of chemicals and associated analytical schemes. Organic toxic pollutants included volatile (purgeable), base-neutral and acid (extractable) pollutants, total phenols and pesticides. Inorganic toxic pollutants included heavy metals, cyanide and asbestos.

The primary method used in screening and verification of the volatiles, base-neutral, and acid organics was gas chromatography with confirmation and quantification of all priority pollutants by mass spectrometry (GC/MS). Total phenols were analyzed by the 4-AAP method. GC was employed for analysis of pesticides with limited MS

confirmation. The Agency analyzed the toxic heavy metals by atomic adsorption spectrometry (AAS), with flame or graphite furnace atomization following appropriate digestion of the sample. Duplicate samples were analyzed using plasma emission spectrometry after appropriate digestion. Samples were analyzed for cyanides by a colorimetric method, with sulfide previously removed by distillation. Analysis for asbestos was accomplished by microscopy and fiber presence reported as chrysotile fiber count. Analyses for conventional pollutants (BOD₅, TSS, pH, and Oil and Grease) and nonconventional pollutants (TOC and COD) were accomplished using "Methods for Chemical Analysis of Water and Wastes," (EPA 625/6-74-003) and amendments.

The high costs, slow pace and limited laboratory capability for toxic pollutant analyses posed difficulties unique to EPA's experience. The cost of each wastewater analysis for organic toxic pollutants ranges between \$650 and \$1,700, excluding sampling costs (based upon quotations recently obtained from a number of analytical laboratories). Even with unlimited resources, however, time and laboratory capability would have posed additional constraints. Although efficiency has been improving, when this study was initiated a well-trained technician using the most sophisticated equipment could perform only one complete organic analysis in an eight hour work day. Moreover, when this rulemaking study was begun there were only about 15 commercial laboratories in the United States with sufficient capability to perform these analyses. Today there are about 50 commercial laboratories known to EPA which have the capability to perform these analyses, and the number is increasing as the demand for such capability also increases.

In planning data generation for this rulemaking, EPA considered requiring dischargers to perform monitoring and analyses for toxic pollutants under Section 308 of the Act. The Agency refrained from using this authority in developing these regulations because it desired to keep direct control over sample analyses due to the developmental nature of the methodology and the need for close quality control. Additionally, EPA believed that the slow pace and limited laboratory capability for toxic pollutant analyses would have hampered a mandatory sampling and analytical effort. Although EPA believes that the available data support these regulations, the Agency would have preferred a larger data base for some of the toxic

pollutants and will continue to seek additional data. EPA will periodically review these regulations, as required by the Act, and make any revisions supported by new data. In developing these regulations, moreover, EPA has taken a number of steps to deal with the limits of science and available data.

V. Data Gathering Efforts

The data gathering effort is described in detail in Section IV of the Development Document. The effort consisted of two general phases—technical questionnaires sent to each of the refineries and sampling and analysis of wastewater streams at selected refineries.

(a) *Technical Questionnaires.* The purpose of the technical questionnaires was to characterize the industry and thus identify those factors which, pursuant to section 304 of the Act, must be considered in setting effluent limitations based on BAT, BCT, NSPS, PSES and PSNS. Questionnaires were sent to 299 facilities believed to be included in the petroleum refining point source category. Two hundred sixty completed questionnaires were returned; 25 did not return completed questionnaires and 14 claimed not to be operating refineries.

In addition to the engineering data needed to establish effluent limitations in accordance with the Act, the Agency also asked the refineries for any analytical data they may have collected measuring the presence and quantities of both traditional and toxic pollutants. It also asked the refineries to identify any raw materials used which could be a source of toxic pollutant discharge. The questions about raw materials were intended to form a basis for possible best management practices (BMP) regulations. BMP regulations might specify that alternate methods or raw materials be utilized to reduce or eliminate discharges of toxic pollutants (for example, in the refining industry, the use of organophosphate materials as biocides in cooling towers could be specified to replace the ones commonly used which contain chromium and zinc).

Although data existed on the presence and quantity of traditional pollutant parameters, very little data existed on either the presence or quantity of toxic pollutants. The major exceptions were the metallic toxic pollutants and phenol—many of which had been monitored as a result of previous water pollution abatement requirements.

(b) *Sampling and Analysis.* EPA selected seventeen direct discharging refineries to sample for the presence and concentration of toxic pollutants in untreated process wastewaters and to

sample for the efficiency of current treatment methods in reducing the quantities of these pollutants. The seventeen refineries represent a range of the factors required for consideration by EPA in setting effluent limitations, including size, location and age of equipment and facilities. EPA also selected six of the seventeen refineries to determine the effectiveness of granular activated carbon in further reducing amounts of toxic pollutants after presently used treatment but before discharge to waters of the United States. In addition, the effluent from four of the six plants with activated sludge processes were tested to determine the effectiveness of powdered activated carbon. No refineries currently use either of these treatments; EPA therefore installed the equipment to treat a portion of these refineries' effluent. EPA also took samples of the intake water source from all of the direct discharging refineries. The samples were intended to determine what percentage, if any, of the toxic pollutants in a plant's untreated effluent was attributable to its presence in the intake water. In addition to the 17 refineries sampled by RSKERL, Effluent Guidelines Division and its contractors, 8 refineries were sampled by teams from Surveillance and Analysis Divisions in EPA regional offices. These teams sampled the refineries in the course of their checks of facilities for compliance with current wastewater treatment requirements; the data collected was used to supplement other sources of information.

EPA also selected for sampling and analysis six indirect discharging refineries and the two POTWs into which they discharge. One POTW was a secondary plant (i.e., with biological treatment) and one was a primary plant (i.e., without biological treatment). The intent of this analysis was to determine the presence and concentration of toxic pollutants being discharged to POTWs by indirect discharging refineries and to measure the effectiveness of POTWs in removing these pollutants prior to their discharge into the waters of the United States. Additionally, the study involved sampling and analysis of the sludges produced by the POTWs.

During the above described sampling program, replicate samples at nine of the direct discharging refineries, three of the indirect discharging refineries, and one of the POTWs were given to representatives of the American Petroleum Institute and/or the company. These samples were analyzed separately by the industry and the results of the analyses at the nine direct discharging refineries have been made

available to EPA by the American Petroleum Institute. Analyses of the duplicate samples from the POTW sampling program have not yet been reported to EPA.

(c) *Results.—(1) Analytical Results.* The analytical data obtained on the concentration of toxic pollutants show significant concentrations of these pollutants in untreated refinery wastewaters. They include, among others, volatile and extractable organics, heavy metals, and cyanide. Results of analyses for traditional pollutant parameters also confirm the findings of the previous study that significant concentrations of traditional pollutant parameters are found in untreated refinery wastes.

During the sampling and analysis phase of the data gathering effort, EPA found that BPT treatment substantially reduces toxic pollutant concentrations. Most toxic pollutants are reduced to near or below the concentrations considered accurate for use in the Analytical Protocol developed by the Agency. Discharge of toxic pollutants into U.S. waters continues after BPT treatment, however, even though at much reduced concentrations from that of untreated effluent. Appendix D is a list of toxic pollutants which were found in treated effluents at more than one refinery in concentrations greater than nominal analytical detection limits and in concentrations greater than in the intake water source. Also included in Appendix D are those pollutants found in only one refinery but which could not be attributed to factors unique to that refinery (See discussion of POLLUTANTS NOT REGULATED below).

Analytical results were compared to those reported by the American Petroleum Institute (API) from the duplicate samples taken at nine of the 17 refineries sampled by EPA. While the quantitative concentrations measured by the industry generally differed from those reported by EPA contract laboratories (industry concentrations show a tendency to be higher than EPA concentrations), the conclusion drawn from the industry data is the same as EPA's. Industry data confirm that substantial concentrations of toxic pollutants are discharged in untreated refinery wastes; that BPT treatment makes substantial reductions in priority pollutant concentrations; and that toxic pollutants are still being discharged to the waters of the United States after BPT treatment.

Results of the analyses of samples taken from the two POTWs show that secondary POTWs reduce the concentration of the toxic pollutants

discharged by refineries to similar levels as that achieved by the BPT technology employed by direct discharges. This result is based on refineries operating at existing PSES levels. The analysis also shows that primary treatment (both the primary treatment phase of the secondary POTW and the primary POTW) does not significantly remove many of the toxics discharged by indirect discharging refineries. Analyses of POTW sludges shows that substantial concentrations of priority pollutants (heavy metals) accumulate in sludges of POTWs employing either primary or secondary treatment.

(2) *Achievable Pollutant Concentrations (Existing Treatment).* EPA reevaluated the final concentrations of regulated pollutants now achieved by existing technology. The results of the data gathering effort indicate that, with one exception, BPT technology is achieving concentrations comparable to those on which the original BPT limitations were based. The data also indicates, however, that plants are currently achieving concentrations of 4AAP phenol far lower than that assumed for BPT. Although BPT limitations for 4AAP phenols were based on a concentration of 100 µg/l, the average 4AAP phenol concentration in the final effluent from the seventeen samples refineries was 19 µg/l. The results ranged from "no phenol detected" to 64 µg/l. Without consideration of any variability factors for short term fluctuations, all of the 17 refineries were meeting concentrations of 4AAP phenol less than the achievable concentrations assumed for BPT.

VI. Industry Subcategorization

In developing these regulations, EPA carefully evaluated characteristics of petroleum refineries to determine if subcategorization of the industry was appropriate. In most industries, factors which affect the ability of facilities to achieve technology-based limitations vary among groups of plants. In such cases, EPA will establish different effluent limitations or standards for the various groups (i.e., subcategories). Additionally, the establishment in the 1977 amendments to the Act of a "cost reasonableness" analysis for BCT limitations provides another basis for subcategorization. Where one group of plants has higher costs per pound of pollutant removal, different BCT limitations may be established. Essentially, subcategorization allows the Agency to more precisely fine tune the requirements of technology based limitations to the capacity of a diverse industry.

The study in support of the previous regulations (BPT, BAT, NSPS, and PSNS) concluded that only one factor of—the total effluent flow per unit of production—significantly affected the ability of the various plants in the industry to achieve effluent reductions. However, rather than establishing limitations for various groups of plants based on their flow, EPA developed five mathematical models which allowed the Agency to predict the total effluent flow of a petroleum refinery based on its size and process characteristics. The Agency, therefore, divided the industry into five subcategories—topping, cracking, petrochemical, lube and integrated. Each subcategory included the refineries whose flow was predicted by one of the five models.

In developing these regulations, EPA reviewed those factors, including BCT costs, which might warrant subcategorization of the industry. Again, the Agency concluded that total effluent flow per unit of production is the only factor which significantly affects a refinery's ability to achieve effluent limitations. After review of the previously developed mathematical models, EPA found that while these models adequately predicted effluent flows before application of BPT, they do not adequately predict current industry effluent flow rates. Thus, other models were considered.

In developing its flow model, EPA evaluated which of the petroleum refinery's production processes were most significant in predicting its total effluent flow. Over one hundred distinct processes were considered, as well as a considerable number of process groupings. Ultimately, the Agency's analysis identified four groups of process variables which form the basis of the proposed flow model. These are crude oil capacity, cracking capacity, asphalt capacity and lube capacity. Together, these four groups represent a total of 49 different processes. Although these processes do not necessarily represent the largest contributions to total flow, EPA found that their use in the mathematical model generated the most accurate predictions of that flow (See Summary of Public Participation section below).

This flow model represents the core of EPA regulations for the petroleum refining industry and it is used in two important ways. First, by comparing a plant's actual flow to its predicted flow, EPA is able to determine which plants have higher or lower flows than the average for comparable plants in the industry. EPA has used this information to determine the capacity of plants to

reduce their level of flow to below that of the current industry average. (See BAT Effluent Limitations section below).

Second, EPA is using the model to determine specific effluent limitations for each plant in the industry. As with the previous regulations, EPA is using the model to adjust a facility's effluent limitations to account for its total wastewater generated per unit of production. (See Appendix H for sample calculations).

This model does adequately predict the flows of all direct discharging refineries. Since this single model supplants the five models which formed the basis for the previous subcategorization, the Agency concludes that no subcategorization of the industry is necessary with respect to effluent limitations and standards applicable to direct discharges.

Additionally, it is the Agency's general policy on pretreatment standards that such standards be expressed as concentration rather than mass limitations. (See 40 CFR Part 128.43 FR 27736). Since EPA has concluded that achievable concentrations of pollutants do not vary among classes of plants within the petroleum refining industry, subcategorization for pretreatment standards is not necessary.

VII. Available Waste Water Control and Treatment Technology

(a) *Status of In-Place Technology.* BPT regulations have been in effect since 1974 and there is significant uniformity in treatment performance among direct dischargers. Treatment is generally similar to the model BPT treatment. This includes in-plant control of ammonia and water use and end-of-pipe treatment consisting of oil/water separation, biological treatment, and a final polishing step (e.g. filtration). Many refineries have found that the polishing step is not necessary to meet BPT limitations, or that filtration is more effective before, rather than after, biological treatment. Types of biological treatment used in direct discharging refineries include activated sludge, aerated lagoons, oxidation ponds and trickling filters.

Current wastewater treatment practices by indirect dischargers generally are limited to physical oil/water separation and, in some cases, sour water stripping for ammonia and sulfide control. Substantial concentrations of organic toxic pollutants, metals, and cyanide were also found in the refinery wastes being discharged to POTWs.

(b) *Control Technologies Considered for Use in This Industry.* EPA identified

specific control and treatment technologies appropriate to the pollutants discharged by the petroleum refining industry. Some are currently in use in the petroleum refining industry and others have been successfully applied in other industries. The control and treatment technologies considered in the EPA study are the following:

(1) *Reuse and Recycle of Waste Waters.* Total effluent flow can be reduced by both in-plant control and the use of treated and untreated waste waters as alternative water sources for processes which currently use outside water sources. This is a demonstrated technology in the petroleum refining industry (examples include using treated effluent as make-up to cooling towers, pump gland cooling systems, washdown waters, and fire water systems).

Flow reduction is not a single, discrete option, but represents a range of options from no reduction to complete reduction (zero discharge). EPA has evaluated three levels of flow now met by refineries. These levels represent reductions of 27 percent, 52 percent and 100 percent (zero discharge) throughout the industry. In evaluating this option, EPA has assumed that a reduction in total flow will result in a corresponding reduction in total mass discharge of pollutants. A fuller discussion of this issue can be found in the development document and below in the summary of public participation section of this preamble.

(2) *Powdered Activated Carbon Enhancement of Biological Treatment.* Addition of powdered activated carbon to aerated biological systems, significantly improves the removal capabilities of biological treatment, as reported both in the petroleum refining and other industries.

(3) *Granular Activated Carbon Treatment After BPT Treatment.*

This treatment technology has not been demonstrated in the petroleum refining industry. It has been used on a limited basis in other industries and in treatment of municipal water supplies.

(4) *Metals Removal.* The removal of metals (such as chromium and zinc) by pH adjustment, precipitation, and clarification is a demonstrated technology in the petroleum refining industry as well as other industries.

(5) *Biological Treatment (Pretreatment).* Wastewaters discharged to POTWs were found to contain high concentrations of toxic pollutants. These concentrations are significantly reduced at direct discharging refineries which use biological treatment.

The costs of applying these technologies were developed through compilation of cost data supplied by

equipment manufacturers and by application of standard engineering data and cost estimation techniques. The technical contractor which supported EPA in the development of these proposed regulations has extensive experience in the preparation of engineering cost estimates.

None of the in-plant control or end-of-pipe treatment technologies considered in the development of these regulations is considered to be innovative. All of the in-plant controls and process modifications, as described in this preamble and, more specifically in the Development Document, have either been used or investigated for use in this industry and do not represent major process changes. The end-of-pipe treatment technologies have been applied in this industry or other industries.

VIII. BAT Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements) and the costs of application of such technology (Section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. Where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser v. Costle, supra*). In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT remains effluent reduction capability. Effluent limitations for the petroleum refining industry are expressed as mass limitations, i.e., restrictions on the total quantity of pollutants which may be discharged. Since the total mass of most pollutants in an effluent stream depends on both

the total effluent flow and the concentration of pollutants in that flow, the six options considered for BAT include various combinations of flow reduction and improved performance of waste treatment technology.

(a) *BAT options considered.* (1) *Option One—Require effluent*

limitations based on an average flow reduction of 27 percent achieved through greater reuse and recycle of wastewater. This option would not require additional end-of-pipe treatment since limitations would be based upon the performance of BPT end-of-pipe technology; phenol (4AAP) limitations, however, would be based on a long term achievable concentration of 19 µg/l (See discussion under BAT Selection and Decision Criteria below). Effluent limitations on ammonia, sulfide, COD and pH would be set at BPT levels.

The level of flow for this option is now achieved by 50 percent of the facilities in the industry. The Development Document contains a fuller discussion of the manner in which figures were derived. Since treatment of pH, ammonia, and sulfide is based on process changes or in-plant controls, no further reduction from BPT levels would be achieved by a reduction in final effluent flow. EPA does not have sufficient data to conclude that the concentration of COD in treated effluent remains constant as flow is reduced. Consequently, COD, pH, ammonia, and sulfide limitations are being maintained at BPT levels. (See Summary of Public Participation).

For the 165 direct discharging refineries affected by this regulation, \$19.3 million additional investment would be required with an annual cost of \$7.7 million including interest and depreciation. This amounts to \$0.0005 per gallon of product. No closures would be expected. Refining capacity and consumption would remain unaffected.

(2) *Option Two—Require effluent* limitations based on an average 52 percent flow reduction achieved through greater reuse and recycle of wastewater. This option would not require additional end-of-pipe treatment since limitations would be based on the performance of BPT end-of-pipe technology. In-plant side stream treatment may be required in a small number of facilities to remove corrosive or scale forming constituents. Mass limitations on 4AAP phenol would be based on the 19 µg/l currently achieved by industry. Effluent limitations on ammonia, sulfide, COD and pH would be set at BPT levels.

The level of flow for this option is now achieved by 34 percent of the industry; an average reduction of 52

percent would be required throughout the industry.

Although precise costs have not yet been calculated for this option, EPA has concluded, based on its technological evaluation of the industry, that the costs for Option Two approximate those projected for Option three below. For the 165 direct discharging refineries affected by this regulation, \$113.0 million additional investment would be required with an annual cost of \$48.7 million including interest and depreciation. This amounts to \$0.0002 per gallon of product. No closures would be expected. Refining capacity and consumption would remain unaffected.

In order to confirm its assessment of costs EPA intends to conduct an engineering field survey of the costs associated with Option Two. This survey will be completed and a report prepared prior to final promulgation of these regulations. EPA will publish a notice in the Federal Register when the report is available to the public. Comments on the cost approximation for Option Two are requested (see solicitation of Comments section below).

(3) *Option Three—Require effluent* limitations based on a combination of OPTION ONE flow reduction and improved end-of-pipe treatment. Improved end-of-pipe treatment was evaluated with the use of powdered activated carbon (PAC). Several pilot studies have demonstrated this technology; it has been used at full scale by one plant in the industry. This combination of treatment produces mass limitations equivalent to those produced by flow reduction alone under Option Two.

For the 165 direct discharging refineries affected by this regulation, \$113.0 million additional investment would be required with an annual cost of \$48.7 million including interest and depreciation. This amounts to \$0.0002 per gallon of product. No closures would be expected. Refining capacity, and consumption would remain unaffected.

(4) *Option Four.—Require mass* limitations based on Option Two plus segregation and separate treatment of cooling tower blowdown. Cooling tower blowdown would be treated for metals (reduction of hexavalent chromium to trivalent chromium, pH adjustment, precipitation and clarification). Limitations for other process streams would be based on treatment in existing BPT treatment systems.

Treatment of segregated streams may result in the removal of more toxics than would use of biological treatment on a combined, more dilute, waste stream. Potential contamination of biological sludges by cooling tower biocides

(generally containing chromium and zinc) would be reduced. Removal of organic toxic pollutants in the biological treatment system may be increased since the wastewater would not be diluted with cooling tower water prior to treatment.

EPA has not made a detailed cost analysis for this option. While the cost of metals treatment can be estimated, the cost of segregating cooling tower blowdown from other process streams cannot be estimated with available data. The engineering survey, described above (See Option 2) will also be used to collect data on the technical requirements and cost of cooling water segregation.

(5) *Option Five—Require effluent* limitations based on Option One flow reductions plus the addition of granular activated carbon (GAC) to control residual toxic organic pollutants dissolved in the wastewater discharged from Option 1 technology.

While GAC is not a demonstrated technology in the petroleum refining industry, it has been used in other industries and in treating municipal water supplies. EPA conducted pilot "treatability" tests at six refineries during the data gathering effort. Several technical articles have been published comparing GAC with other technologies in treating refinery wastes. Although results of the Agency study were inconclusive, it can be generally stated that toxic pollutant removal increases with the use of GAC. This removal, however, appears to be only marginally better than with PAC (Option Two) and the cost of GAC is much greater than PAC.

EPA evaluated the economic impact of this option during the previous round of guidelines (See Prior EPA Regulations discussion above). While EPA did not reevaluate the economic impact of this option, the earlier economic impact analysis predicted that some refineries could be expected to close if this option were adopted.

(6) *Option Six—Require zero* discharge from existing refineries. This could be achieved by further reuse and recycle, evaporation, and/or subsurface reinjection of wastewaters. Fifty-five existing refineries are now at zero discharge.

This is a demonstrated technology, but costs were not calculated for this option. While additional costs for building a new refinery to achieve zero discharge can be calculated (See New Source Performance Standards below), the costs of retrofitting an existing refinery are highly site specific. Costs, however, would be significantly higher

than costs for applying any of the other options.

(b) *BAT selection and decision criteria*—EPA has selected Option Two as the basis for proposed effluent limitations. This option was selected because it was best supported by available data and because it affords further reduction in total pollutant discharges through the use of proven technology. It provides reasonable further progress towards the Clean Water Act's goal of the elimination of the discharge of pollutants. Further, these limitations are also technologically and economically achievable through the use of Option Three. Thus, all facilities have several ways to achieve this limitation. They may meet it totally through flow reduction or through a combination of flow reduction and improved treatment.

Available data show that existing treatment is reducing the concentration of 4AAP phenols to 19 µg/l (See data gathering effort section above). Consequently mass limitations on phenols will be based on that achievable concentration. In order to validate this decision, EPA is presently requesting, under section 308 of the Act, that 37 refineries believed to have installed BPT model technology send data to EPA for further evaluation of what constitutes a proper achievable concentration of 4AAP phenols based on BPT treatment technology. That data will also allow EPA to make a determination of whether the variability factors used to determine daily and monthly fluctuations should be changed as a result of the lower concentrations. Mass limitations on all other pollutants are based on those final concentrations already part of the BPT limitations.

EPA does not have complete data on the cost of achieving these limitations solely through the use of flow reduction and requests comments on this matter. Further, EPA specifically requests comments and data regarding the proposed change in the achievable concentration of 4AAP phenol (see Solicitation of Comments section below).

Option Four still remains a serious candidate for the basis of final regulations. EPA has data establishing that greater quantities of metals and toxic organics can be removed when introduced into separate treatment systems at higher concentrations. EPA has only limited data on the costs required to segregate flows from cooling towers. This matter is presently under study and comments are requested.

Option Five was not selected because GAC allows only slightly better pollutant removal than PAC (Option

Three) and because the cost of GAC is considerably higher than the cost of PAC.

Option Six was not selected because, in the Agency's judgment, the costs of retrofitting for zero discharge on a uniform national basis would be significantly higher than the selected option and may result in a substantial number of plant closures. Nevertheless, this option still remains a serious candidate for any subsequent revisions of BAT limitations, especially for certain sizes and/or types of plants.

IX. BCT Effluent Limitations

The 1977 amendments added section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in section 304(b)(4)—BOD, TSS, fecal coliform and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1978, EPA designated oil and grease as a conventional pollutant (44 FR 44501).

BCT is not an additional limitation; rather it replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a new "cost-reasonableness" test which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works (POTW) to the cost and level of reduction of such pollutants from a class or category of industrial sources. As a part of its review of BAT for certain "secondary" industries, the Agency has promulgated a methodology for this cost test. (See 44 FR 50732, Aug. 29, 1979). The Agency compares industry costs with that of an "average" POTW with a flow of 2 mgd and costs (1977 dollars) of \$1.18 per pound of pollutant removal (BOD and TSS).

EPA applied this methodology to the costs for removing conventional pollutants in the petroleum refining industry and concluded that BCT limitations based on a 52 percent reduction in total effluent flow by greater recycle and reuse of wastewaters (Option Two) or a 52 percent reduction in pollutants discharged by a combination of flow reduction and powdered activated carbon enhancement of activated sludges (Option Three) are reasonable. At this level, the total annualized cost for BCT technology is \$48.7 million and EPA projects that 48.7 million pounds of BOD and TSS will be removed throughout the industry by Option Two

technology. Based on these figures, the cost to pollutant reduction ratio for Option Two is \$1.00 per pound of BOD and TSS removed (compared to a POTW cost of \$1.18 per pound of BOD and TSS). Therefore, EPA proposes, BCT effluent limitations at the proposed BAT (Option Two) level. BCT investment, annualized costs, and economic impact are included in the BAT analyses.

X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design the best and most efficient petroleum refining processes and wastewater treatment technologies; Congress, therefore, directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies capable of reducing pollution to the maximum extent feasible.

(a) *NSPS Options Considered*. (1) *Option One*—Require performance standards based on the same technology proposed for BAT, including wastewater flow control by recycle and reuse of wastewaters after BPT treatment. As discussed under BAT Option Two, application of this technology will ensure a high degree of removal of toxic pollutants. Similar reductions in pollutant mass discharge can be achieved by BAT Option Three. This level of treatment is similar to current NSPS, and no additional expenditures are required due to these revised standards.

(2) *Option Two*—Require performance standards based on granular activated carbon (BAT Option Five). As discussed under BAT Option Five, GAC allows somewhat better pollutant removals than NSPS Option One, but is considerably more expensive.

(3) *Option Three*—Require a performance standard of zero discharge. Unlike BAT Option Six, there is no cost of retrofitting to come into compliance with a zero discharge requirement. Zero discharge of refinery wastes is a demonstrated technology; fifty-five refineries have been identified by EPA which are currently achieving no discharge of wastewaters to U.S. waters. The American Petroleum Institute (API) has published a technical report which makes a detailed evaluation of the technologies capable of achieving no discharge of refinery wastes. The report also calculates the costs to be expected if those technologies were designed into a new refinery (i.e., without the need to retrofit existing equipment). This option

would require new source of the size and configuration likely to be built in the 1980's to incur additional investment of \$9.5 million with an annual cost of \$3.5 million including interest and depreciation. If a level of price protection is instituted that maintains industry capacity at current levels, these regulations will essentially have no effect, since new refineries will not be entering the industry in the foreseeable future. If a level of price protection is instituted that allows for growth in refinery capacity proportional to growth in consumption, the cost of compliance of \$0.01 a gallon will be reflected in higher product prices of the same amount.

(b) *NSPS Selection and Decision Criteria*—EPA has selected Option Three as the basis for proposed new source performance standards. Zero discharge is a demonstrated technology in the petroleum refining industry and, based on available data, can be economically achieved. Consequently, EPA believes that the Act requires that Option Three be the basis for NSPS. EPA, however, solicits other data which would support or refute the assumption that zero discharge is an achievable technology for new sources on a nationwide basis. Additionally, EPA solicits comments on the other options suggested. (See solicitation of comments section below.)

XI. Pretreatment Standards

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for both existing sources (PSES) and new sources (PSNS) of pollution which discharge their wastes into publicly owned treatment works (POTWs). These pretreatment standards are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTWs. In addition, the Clean Water Act of 1977 adds a new dimension to these standards by requiring pretreatment of pollutants, such as heavy metals, that limit POTW sludge management alternatives. The legislative history of the Act indicates that pretreatment standards are to be technology based and, with respect to toxic pollutants, analogous to BAT. The Agency has promulgated general pretreatment regulations which establish a framework for the implementation of these statutory requirements. (See 43 FR 27736, June 26, 1978).

A determination of which pollutants may pass through or be incompatible with POTW operations, and thus be subject to pretreatment standards, depends on the level of treatment

employed by the POTW. In general, more pollutants will pass through or interfere with a POTW employing primary treatment (usually physical separation by settling) than one which has installed secondary treatment (settling plus biological stabilization).

Section 301(b)(1)(B) of the Act requires most POTWs to have installed secondary treatment by July 1, 1977. There are, however, two groups of POTWs which have not yet met this requirement. One group remains subject to the obligation and contains POTWs which are scheduled to install secondary treatment within the next few years. A second group of POTWs will be exempt from the requirement to install secondary treatment. Under Section 301(h) of the Act, POTWs which discharge into marine waters may, under certain circumstances, receive a waiver from this requirement. EPA has promulgated regulations dealing with the issuance of section 301(h) waivers. (44 FR 34784, June 15, 1979).

(a) *Pretreatment Options Considered*. (1) *Option One*—Establish pretreatment for all refineries which requires metals (chromium) removal (pH adjustment, precipitation and clarification) and existing PSES controls of ammonia and oil and grease. Metals removal would be required only for cooling tower blowdown, since that is the major source of the heavy metals of concern—chromium and zinc. Under this option, organic priority pollutants would pass through primary POTWs which have not yet complied with Section 301(b)(1)(B) of the Act and those POTWs which are granted waivers under Section 301(h).

For the 53 indirect discharging refineries affected by this regulation \$9.6 million additional investment would be required with annual costs of \$5.2 million including interest and depreciation. No closures would be expected. A new indirect discharging refinery of the size and configuration likely to be built in the 1980's would incur additional investment of \$0.3 million with annual costs of \$0.2 million including interest and depreciation. Refining capacity and domestic consumption would be unaffected by this regulation.

(2) *Option Two*—Establish two pretreatment standards. Pretreatment for those refineries discharging into POTWs which have been granted waivers under Section 301(h) would be based on concentrations achievable after application of BPT technology. Pretreatment for other indirect discharging refineries would contain the limitations identified in Option One.

At this time the economic effects for this option are the same as for Option

One, since there are no POTWs which have been granted waivers under Section 301(h). Costs were developed, however, for seven indirect discharging refineries to install biological treatment. These costs are presented in the Development Document.

(b) *Selection of pretreatment technology and decision criteria*—EPA has selected Option Two as the basis for pretreatment standards. Based on its sampling and analysis program, EPA has determined that pollutants found in petroleum refining wastes after present PSES treatment do not pass through secondary POTWs and that only metals limit the POTW sludge management alternatives. Consequently, for metals only, EPA is proposing additional pretreatment standards for indirect dischargers whose wastes go to POTWs employing secondary treatment.

The Agency additionally proposes that this limitation apply to those indirect dischargers whose wastes go to a primary POTW which is scheduled to install secondary treatment. Although EPA has determined that petroleum refining wastes pass through primary POTWs, the Agency believes that it would be improper to require industrial sources discharging into such POTWs to install treatment systems which will be unnecessary when the POTWs come into compliance with the requirement of secondary treatment.

EPA is, however, proposing specific pretreatment standards based on application of BAT technology for those indirect dischargers whose wastes go to POTWs with 301(h) waivers. Since POTWs with 301(h) waivers will remain at primary treatment, only specific limitations on indirect dischargers will ensure that their wastes do not pass through into waters of the United States. Such standards, however, will apply only where a valid 301(h) waiver has been granted. Those sources discharging into a POTW which has a pending application for a 301(h) waiver will be subject to the generally less stringent pretreatment standards based on secondary treatment in the POTW until such time as the waiver is finally approved. The Agency requests comments on the approach it has adopted for determining which pollutants must be regulated through pretreatment standards. (See Solicitation of comments section below.)

XII. Regulated Pollutants

The basis upon which the controlled pollutants were selected is set out in Section VI of the Development Document.

(a) *BAT*. EPA has selected two toxic pollutants for control of toxic discharges

in the petroleum refining industry. Specific effluent limitations are being established for total phenol (4AAP) and chromium (both total chromium and hexavalent chromium). These pollutants are subject to limitations expressed in kilograms per 1000 cubic meters of raw material.

Pollutants which have the same requirement under BPT and BAT include COD, ammonia and sulfide.

(b) *BCT*. The pollutants selected for control by BCT technology are those pollutants limited by BPT which have been classified as conventional pollutants—BOD₅, TSS, and oil and grease. These pollutants are subject to limitations expressed in kilograms per 1000 cubic meters of raw material. Additionally, a BCT limitation for pH is set at BPT levels.

(c) *Pretreatment Standards*. In establishing existing PSES, EPA found that ammonia and oil and grease interfere with the operation of POTWs at levels which may be discharged by indirect dischargers in the petroleum refining industry. Although the existing PSES also contain a technology based limitation for chromium, this limitation was included only as guidance to those POTWs which found it necessary or desirable to limit chromium. The Agency proposes that the chromium limitation now be adopted as a mandatory pretreatment standard since EPA has found that chromium accumulates in POTW sludges and will limit the sludge management alternatives of the POTW. The same pollutants (chromium, oil and grease, and ammonia) are also selected for control in PSNS. The pretreatment standards are expressed as maximum daily concentrations (milligrams per liter). Informational mass limitations are also provided for those POTWs which find it necessary or desirable to limit total mass discharge of pollutants.

(d) *NSPS*. Since the new source performance standard is zero discharges all pollutants are regulated.

XIII. Pollutants Not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been re-written in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979.

It should be noted that the limitations in this regulation have been developed to cover the general case for this industry subcategory. In specific cases, it may be necessary for the NPDES permitting authority to establish permit limits on toxic pollutants which are not subject to

limitations in this regulation. (See relationship to NPDES permits section).

(a) *BAT Limitations*. Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. Data collected by EPA, the American Petroleum Institute, and individual companies were used in making decisions not to regulate specific toxic pollutants. Eighty-five toxic pollutants were not found at any of the seventeen refineries sampled. These pollutants are excluded, therefore, from regulation and are listed in Appendix B to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement also allows the Administrator to exclude from regulation toxic pollutants detected in the effluent from a small number of sources and uniquely related to those sources. Appendix C lists the 7 toxic pollutants which satisfy this criterion. Although certain other pollutants were found in the treated effluent at only one refinery, their presence in the untreated effluent of a number of facilities indicate that they are not uniquely related to that source.

Paragraph 8(a)(iii) of the Revised Settlement Agreement also allows the Administrator to exclude from regulation toxic materials which were detected but for which no treatment technology is known to the Administrator that will reduce discharges of the pollutant. Cyanide is discharged in significant amounts by the petroleum refining industry (see Section VI of the Development Document) but EPA is not aware of any end-of-pipe technology which will reduce cyanide discharges beyond those presently discharged by the petroleum refining industry. Based on the available data, EPA is not able to determine which processes generate cyanide found in the untreated waste. EPA, however, plans to continue study of this problem to determine whether cyanide discharges can be reduced by in-plant control.

Paragraph 8(a)(iii) of the Revised Settlement Agreement also allows the Administrator to exclude from regulation toxic pollutants which will be effectively controlled by the technology upon which are based other effluent limitations. The Agency believes that the technology upon which BAT effluent limitations for phenol (4AAP) and chromium are based will effectively control the organic and metallic toxic pollutants listed in Appendix D. The toxic pollutants listed in Appendix D are, therefore, excluded from regulation.

(b) *Pretreatment Standards*. On the basis of sampling at six refineries which practice indirect discharge and two POTWs, the Agency concludes that the organic priority pollutants listed in Appendix F discharged by refineries in compliance with existing PSES do not pass through or interfere with a secondary POTW. The Agency proposes in this notice to require pretreatment standards which limit the same pollutants at the same concentrations as interim final PSES. The pollutants limited under PSES include oil and grease and ammonia. Additionally, EPA establishes a standard for total chromium based on interim final PSES guidance. As with BAT, EPA will continue to study methods for reducing the discharge of cyanides.

This standard, however, only applies to those refineries which discharge into a POTW which is required by the Act to achieve effluent limitations based on secondary treatment. Appendix G is a list of those priority pollutants which were found to pass through POTWs which only apply primary treatment. Therefore, the Agency concludes that existing regulations cannot be used to exclude these pollutants from regulation when a POTW has been granted an exemption under section 301(h) of the Act from the requirement to achieve effluent limitations based on secondary treatment. As discussed above (Regulated pollutants section) the Agency proposes to limit the toxic pollutant total phenol (4AAP). As in the case of BAT, the Agency believes that the technology upon which pretreatment standards for phenol (4AAP) and chromium are based will effectively control the other organics and metals listed in Appendix F.

XIV. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption. This proposal was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations which it believes best serve often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with the proposed regulations:

Air Pollution—Imposition of BAT, BCT, NSPS, and pretreatment standards will not create any additional air pollution problems.

Solid Waste—A study by EPA's Office of Air Quality and Standards shows that considerable amounts of solid wastes are already being generated by the petroleum refining industry. Some of this solid waste is generated by current wastewater treatment equipment, but the majority is generated by other sources such as process sources, storage tank bottoms, etc. Proposed BAT and PSES will increase these wastes by as much as 15,000 metric tons per year beyond BPT levels. Most of this amount will be additional sludge from the use of powdered activated carbon, if used (BAT OPTION THREE) as an alternative to some of the flow reduction in BAT OPTION TWO. These sludges will contain additional organic toxic pollutants and some additional metals.

On the other hand, EPA estimates that implementation of proposed pretreatment standards will result in POTW sludges having lesser quantities and concentrations of toxic pollutants. POTW sludges will become more amenable to a wider range of disposal alternatives, possibly including beneficial use on agricultural lands.

Energy Requirements—EPA estimates that the achievement of proposed BAT and BCT effluent limitations will result in a net increase in electrical energy consumption of approximately 28.4 million kilowatt-hours per year. Proposed pretreatment standards are projected to add another 1.9 million kilowatt-hours to electrical energy consumption for existing indirect dischargers.

XV. Costs, Effluent Reduction Benefits, and Economic Impact

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analysis of certain regulations. 43 FR 12661 (March 23, 1978). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annual compliance costs of \$100 million or meeting other specified criteria. 43 FR 29891 (July 11, 1978). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives.

The proposed regulations for the petroleum refining industry do not meet the proposed criteria for a formal Regulatory Analysis. Nonetheless, this proposed rulemaking satisfies the formal Regulatory Analysis requirements.

EPA's economic impact assessment is set forth in *Economic Analysis of Proposed Revised Effluent Standards and Limitations for the Petroleum Refining Industry* November 1979, EPA 440/2-79-027. This report details the investment and annual costs for the industry as a whole and for individual plants covered by the proposed petroleum refining regulations. The data underlying the analysis were obtained from the "Estimation of Costs Associated with the Application of BAT Limitations for the Petroleum Refining Point Source Category on a Plant-by-Plant Basis", March, 1979 and supplements, publicly available economic information, and data from the Agency survey of the industry. The report assesses the impact of compliance costs in terms of plant closures, production changes, price changes, employment changes, local community impacts, and balance of trade effects.

Refined petroleum products hold such economic importance in our society that price fluctuations tend to have serious consequence; as a result, the U.S. government stringently controls the industry. Some of the major economic controls on the industry are crude oil price controls, product price controls, and price protection from imported refined products. The economic analysis assumes that crude oil and product price controls will be essentially eliminated by the time these regulations require compliance, but considers two scenarios of price protection. The first scenario assumes a level of price protection for domestic refineries that maintains the current capacity. The second scenario assumes a level of price protection such that capacity increases parallel to the increase in total domestic consumption. The economic impacts of the regulations, including refinery closings, are discussed separately for each of these scenarios. A more complete discussion of possible future scenarios and the selection of these two is presented in the Economic Analysis.

Refinery closures are evaluated on an individual refinery basis. Refineries with costs of more than \$.001 per gallon are analyzed in detail including a comparison of the estimated cash flow per unit of production with unit costs of complying with the regulations. If the refinery generates a cash flow greater

than the unit costs of compliance, it is not considered a potential closure.

For new sources, EPA considers the impact of the regulations on the costs of production of new capacity. The Department of Energy has predicted that during the period from 1985 to 2000 most of the growth of petroleum product consumption will be in gasoline, distillate fuels, and petrochemical feedstocks. In keeping with this prediction, the economic analysis for new sources was based on a 190,000 barrel a day refinery with a configuration appropriate for emphasizing production of these products.

Of the 285 domestic refineries, 218 are expected to incur additional costs to comply with these regulations. The investment required would be \$132.2 million with an annual cost of \$53.9 million including interest and depreciation. No refinery closures would be expected due to these regulations and the equivalent of 610 jobs to operate pollution control equipment would be added to current industry employment of 160,000. Other economic effects would depend on the course of public policy regarding refineries and are discussed below.

Scenario One—The first economic scenario assumes tariffs on imported goods are set in a manner that gives the industry a relatively low level of protection from imported products. As a result, current refining capacity is maintained and no new sources enter the industry. Price levels are unaffected by these proposed regulations, and the average pollution control cost of \$.0002 a gallon is absorbed by the refineries. The proposed regulations would not affect refining capacity, domestic consumption, or the balance of trade.

1. *BAT/BCT*—EPA estimates that 165 directly discharging refineries would incur additional costs to meet these requirements. Additional investment would be \$113.0 million with annual costs of \$48.7 million including interest and depreciation. These costs would be absorbed by the refineries rather than passed on as price increases. None of the refineries would be expected to close due to these regulations and refinery capacity would remain unchanged.

2. *PSES*—Approximately 53 indirect discharging refineries would incur additional costs to meet these requirements. Additional investment would be \$9.6 million with annual costs of \$5.2 million including interest and depreciation. These costs would be absorbed by the refineries rather than passed on as price increases. None of these refineries would have compliance

costs of \$0.01 or more per gallon of product. None of the refineries would be expected to close due to the regulation and refinery capacity would remain unchanged. Since prices would be unaffected, domestic consumption and the balance of trade would also remain unchanged by these regulations.

3. NSPS/PSNS—Since refinery capacity is held at current levels for this scenario, no major new capacity is constructed. These new source requirements then have no economic effects.

Scenario Two—The second economic scenario allows for a level of industry price protection such that refining capacity grows at the same rate as domestic consumption. In other words, domestic refineries retain the same share of the domestic market as they do now. In this scenario the price level is set high enough to attract new refineries, with new source pollution control equipment, into the industry. These proposed regulations increase the cost of production at new refineries by \$0.001 to \$0.01 a gallon of product, and raise the industry-wide price level by the same amount.

1. BAT/BCT—EPA estimates 165 direct discharging refineries would incur additional costs to meet these requirements. Additional investment would be \$113.0 million with an annual cost of \$48.7 million including interest and depreciation. None of this cost is absorbed by the refineries, however, since the price level is set high enough to attract new refineries. Existing refineries would be in a much more favorable financial situation compared to Scenario One because of the elevated price levels necessary to attract new refineries to the industry. No closures would be expected, and capacity, domestic consumption, and the balance of trade would be unchanged by these BAT/BCT regulations.

2. PSES—Approximately 53 indirect discharging refineries would incur additional costs to meet these requirements. Additional investment would be \$9.6 million with annual costs of \$5.2 million including interest and depreciation. As with direct dischargers, none of this cost is absorbed by the refineries. No closures would be expected, and capacity, domestic consumption, and the balance of trade would remain unchanged by these PSES.

3. New Sources—In economic Scenario Two, refinery capacity grows at the same rate as domestic consumption, encouraged by price increases due to higher tariffs. New capacity brought on stream is either a zero discharge facility (since NSPS allows no discharge) or a facility subject

to PSNS. The additional costs and resulting price increases are based on a 190,000 barrel a day refinery configured to emphasize products for which additional capacity is most needed. If this new refinery would discharge to a municipal treatment system, an additional \$0.3 million investment would be required with annual costs of \$0.2 million including interest and depreciation. This would amount to \$0.001 per gallon. Price increases would be no more than \$0.001 a gallon due to PSNS. If this refinery is at an acceptable site from which it could not discharge to a municipal treatment system, the refinery would have to achieve zero discharge to be in compliance with NSPS. Additional investment of \$9.5 million with annual costs of \$3.5 million including interest and depreciation would be required as compared to the costs of meeting current NSPS. This would amount to \$0.01 per gallon, causing price increases of up to \$0.001 a gallon. Depending on sites available for new refineries, prices would increase from \$0.001 to \$0.01 per gallon.

Effluent Reduction Benefits

EPA estimates that achievement of BAT effluent limitations will remove approximately 123,300 pounds per year of chromium, 86,180 pounds per year of phenols (total-4AAP), and substantial quantities of other toxic pollutants. EPA estimates that achievement of BCT effluent limitations will remove approximately 48.7 million pounds per year of conventional pollutants.

XVI. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"), described under Authority and Background. EPA intends to develop BMPs which are: (1) applicable to all industrial sites; (2) applicable to an designated industrial category; and (3) capable of guiding permit authorities in establishing BMPs required by unique circumstances at a given plant.

EPA is considering promulgating BMPs specific to the petroleum refining industry at some time in the future. One area of concern is the potential for leaks and spills of toxic pollutants stored in on-site facilities and not subject to controls under section 311(j)(1)(c) of the Act. Another process which might be controlled by BMPs is cooling tower blowdown. It is possible that refineries could be required to monitor for chromium and zinc in both cooling tower blowdown and in effluent discharge. In the event of persistently high discharges of these compounds, the permitting authority may require that

certain refineries cease using corrosion inhibitors which contain zinc and chromium and use alternate organophosphate corrosion inhibitors or other alternates. Additionally, EPA may promulgate BMPs requiring dikes, curbs, or other measures to contain leaks and spills of toxic pollutants not controlled under section 311(j)(1)(c) of the Act.

XVII. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur due to limitations in even properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co. v. EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser v. Costle, supra.* and *Corn Refiners Association, et al. v. Costle*, No. 78-1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute v. EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc. v. Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp. v. Train*, 539 F. 2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and has recently promulgated NPDES regulations which include upset and bypass permit provisions 44 FR 3285, (June 7, 1979). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitation. The bypass provision authorizes bypassing to prevent loss of life, personal injury or severe property damage. Consequently, although

permittees in the petroleum refining industry will be entitled to upset and bypass provisions in NPDES permits, these proposed regulations do not address these issues.

XVIII. Variances and Modifications

Both BAT and BCT effluent limitations are subject to EPA's "fundamentally different factors" variance. See *E. I. du Pont de Nemours and Co. v. Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co. v. Costle, supra.* This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973-1976 industry regulations and will not be included in the petroleum refining or other industry regulations. See the final NPDES regulations at 44 FR 32854, 32950 (June 7, 1979), for the text and explanation of the "Fundamentally different factors" variance. Final NPDES regulations will be promulgated shortly.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTW's. See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978). Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to modification through EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *duPont v. Train, supra.*

XIX. Relationship to NPDES Permits

The BAT, BCT, and NSPS limitations in these regulations will be applied to individual petroleum refining plants through NPDES permits issued by EPA or approved state agencies, under section 402 of the Act. Upon the promulgation of final regulations, the numerical effluent limitations must be applied in all federal NPDES permits thereafter issued to petroleum refining direct dischargers. Permits issued by States with NPDES authority may contain more stringent limitations than those proposed here. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

The previous section discussed the availability of variances and

modifications from national limitations, but there are other issues relating to the interaction of these regulations and NPDES permits. One matter which has been subject to different judicial views is the scope of NPDES permit

proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits prior to promulgation of these regulations must include a "re-opener clause," providing for permits to be modified to incorporate "toxics" regulations when they are promulgated. See 43 FR 22159 (May 23, 1978). To avoid cumbersome modification procedures, EPA has adopted a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. The Agency has published rules designed to encourage states to do the same. See 43 FR 58066 (Dec. 11, 1978). However, in the event that EPA finds it necessary to issue long term permits prior to promulgation of BAT regulations, EPA and states will follow essentially the same procedures utilized in many cases of initial permit issuance. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis, on consideration of the statutory factors. See *U.S. Steel Corp. v. Train*, 556 F. 2d 822, 844, 854 (7th Cir. 1977). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings. See 44 FR 32854 (June 7, 1979).

Another noteworthy topic is the effect of these regulations on the power of NPDES permit issuing authorities. The promulgation of these regulations does not restrict the power of any permit-issuing authority to act in any manner not inconsistent with law or these or any other EPA regulations, guidelines or policy. For example, the fact that these regulations do not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by these regulations (or require more stringent limitations on covered pollutants), such

limitations *must* be applied by the permit-issuing authority.

With respect to monitoring requirements, the Agency intends to establish a regulation requiring permittees to conduct additional monitoring when they violate permit limitations. The provisions of such monitoring requirements will be specific for each permittee and may include analysis for some or all of the toxic pollutants or the use of biomonitoring techniques. The additional monitoring is designed to determine the cause of the violation, necessary corrective measures, and the identity and quantity of toxic pollutants discharged. Each violation will be evaluated on a case-by-case basis by the permitting monitoring contained in the permit is necessary. A more lengthy discussion of this requirement appears at 44 FR 34407, (June 14, 1979).

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing these regulations. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

XX. Summary of Public Participation

On April 21, 1978, EPA circulated a draft technical development document to interested parties, including the American Petroleum Institute (API), the Natural Resources Defense Council (NRDC), and affected state and local authorities. That document did not include recommendations for specific effluent limitations and pretreatment standards. Instead it presented the technical basis for these proposed regulations. A public meeting was held on June 1, 1978 for presentation and discussion of comments by interested parties. A brief summary of major comments is presented below. The Agency received a number of comments relating to specific technical information in the Development Document. These have not been summarized here but have been considered in revising the Development Document.

(1) *Comment*—A number of participants expressed concern about the limited amount of data available to the Agency for establishing BAT limitations and pretreatment standards, especially for toxic pollutants.

Response—EPA recognizes that the data base for toxic pollutants is limited. Data limitations result from a history of infrequent monitoring or regulation, and the high costs, sophistication, time delays, and limited laboratory availability for toxic pollutant analyses. The Agency has sought and utilized all available data, except to the extent that it has not required mandatory sampling and analyses under Section 308 of the Act. EPA solicits additional voluntary data submissions.

(2) *Comment*—Reductions in flow have not been documented to result in reductions in pollutant discharge, particularly for Chemical Oxygen Demand.

Response—As stated in the section Available Waste Water Control and Treatment Technology, the Agency has concluded that effluent concentration from a given size treatment system will not change as effluent flow is decreased. EPA has recognized that Chemical Oxygen Demand may be an exception and is not regulating COD until sufficient information is available to establish the relationship between effluent COD concentration and flow reduction. A technical paper is referenced in the Development Document describing measurements made at one refinery which significantly decreased effluent flow (increased reuse/recycle of wastewaters). That refinery reported that effluent concentrations of all pollutants remained constant after the flow reductions except COD. Total COD discharged was reduced but not in direct proportion to the flow reduction.

(3) *Comment*—Wastewater reduction and reuse may require extensive additional treatment before it can be used for some applications. In areas where there is a scarcity of suitable raw water, extensive treatment of wastewater for reuse may be economically justified. However, there is a point considerably short of total recycle where it becomes uneconomical to treat wastewater for reuse.

Response—EPA recognizes that the establishment of BAT and NSPS considers factors such as cost and that zero discharge while technically feasible (some refineries have already achieved it) may require very high costs (particularly retrofit costs for existing refineries). EPA has carefully considered costs of technology options in selecting BAT and NSPS technologies. Thus, EPA

is proposing a stepwise approach toward higher recycle rates for existing refineries and zero discharge of pollutants only for new sources (see discussion under Option Two of Best Available Technology Economically Achievable and Option Three of New Source Performance Standards).

(4) *Comment*—Numerous comments were received stating that the flow model presented in the Draft Development Document was invalid for a number of statistical and technical reasons. The comments also stated that some of the data used in the model were not correct.

Response—EPA has mailed to each refinery which responded to the original questionnaires a printout of important information which EPA used to characterize their refinery and has asked them to verify or correct the information. Considerable additional flow modeling effort has also been expended with the result that a much improved flow model represents the basis for these proposed regulations. EPA will continue its flow modeling efforts, and any improvement will be reflected in the final regulations.

(5) *Comment*—All major sources of wastewater are not represented as variables in the flow model.

Response—The intent of the flow model is not to identify and quantify each source, or even major source, of wastewater in the refinery. The variables contained in the model are not necessarily the major contributors of wastewater (cooling tower blowdown, for example, although generally one of the largest contributors to wastewater flow is not a variable). The intent is to determine, if possible, the total refinery effluent flow by using a number of process or other variables. By considering the variables in the model (49 processes in 4 groups), the model does predict the effluent flow within statistical acceptability.

(6) *Comment*—Effluent limitations are obtained by multiplying achievable values of three parameters—(1) wastewater flow, (2) pollutant concentration, and (3) a variability factor to account for short term fluctuations in pollutant concentration. Wastewater flow rates also vary and an additional variability factor should be used to account for fluctuations in wastewater flow.

Response—Pollutant concentrations in final wastewater flow will vary somewhat even with good operation of the treatment system. Additional variability will occur in poorly operated treatment systems. The variability factors used to establish these proposed regulations are intended to account only

for uncontrollable variations in pollutant concentrations. The Agency believes that where variations can be controlled with available technology, these sources of variation should be controlled. A large part of the variation in effluent flow (about 75% of the variation) is attributable to variations in amount of crude oil processed. This variation will be considered by the establishment of limitations based on the mass pollutant discharged per unit of crude oil processed (kg of pollutant/1,000 cubic meters of crude throughput).

Technology is available to control the remaining variation in effluent flow. That technology is equalization—providing a large storage volume for the effluent and controlling the rate of discharge. Equalization was considered as a part of BPT technology, and costs and economic impacts for equalization were calculated when BPT was promulgated. Based on the use of equalization, no variability factors were used for flow variations in establishing BPT limitations, and the Agency believes that none are necessary in these regulations if available BPT technology is used.

XXI. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and data on the following issues:

(1) The Agency is reviewing the sampling and analytical methods used to determine the presence and magnitude of toxic pollutants, and solicits comments on the data produced by these methods, and the methods themselves.

(2) The Agency is considering the possibility of establishing numerical effluent limitations for toxic pollutants other than phenol and chromium. The Agency is considering mass limitations for the following additional toxic pollutants: ethylbenzene, 50 µg/l; naphthalene, 50 µg/l; 2,4 dimethylphenol, 50 µg/l; benzene, 50 µg/l; toluene, 50 µg/l. The concentrations being considered are thirty day average concentrations. Mass limitations would be calculated by multiplying the concentrations by the achievable flow for the selected option. Daily maximum limitations would be calculated by multiplying the thirty day limitation by a variability factor to account for daily fluctuations in pollutant concentration. The technical bases for these limitations

are presented in the development document. EPA requests comments on these limitations and their bases.

(3) In recognition of the limits of available data and the expense of monitoring for the toxic pollutants listed in solicitation of comment (2) above, EPA is also considering the possibility of regulating those toxic pollutants with limitations on "indicator" pollutants rather than or as an alternative to limitations on the specific toxic pollutants discussed above. The sampling and analysis data (see Data Gathering Efforts section above) show that when concentrations of certain traditional pollutants are reduced, concentrations of toxic pollutants are also reduced. While relationships between "indicator" pollutants and toxic pollutants may not be quantifiable on a one-to-one basis, control of the "indicator" would reasonably assure control of toxics with similar physical and chemical properties responsive to similar treatment mechanisms (e.g.: 2,4 dimethyl phenol is treated by biodegradation and could be controlled with BOD₅ as an "indicator" of biodegradation performance). This method of toxics regulation could obviate the difficulties, high costs, and delays of monitoring and analysis that could result from limitations solely on the toxic pollutants. Specifically, EPA is considering limitations on oil and grease, total suspended solids, biochemical oxygen demand, and total organic carbon as "indicator" pollutants. Limitations would be based on "indicator" pollutant concentrations and flows achievable with technologies identified as BAT and BADT (See Best Available Technology Economically Achievable and New Source Performance Standards sections above). It is the Agency's position that when used as "indicator" pollutants, BAT limitations may be established for conventional pollutants without regard to the BCT cost test. Moreover, when non-toxic, non-conventional pollutants (such as total organic carbon) are used as "indicator" pollutants, it is the Agency's position that such limitations are not subject to Section 301(c) or Section 301(g) modifications. EPA requests comments on the use of specific limitations on the discharge of "indicator" pollutants as an alternative to limitations on the toxic pollutants described above in this section.

(4) A study by an industry trade association (the American Petroleum Institute) (API) concludes that for new refineries total recycle (no discharge) is not only technically feasible, but may be economically more favorable than treatment for discharge to U.S. waters; fifty-five existing refineries already practice zero discharge. EPA specifically solicits comments and data which would support or refute the achievability of no discharge on a nationwide basis for new refineries. Comments on the other options identified for new source standards are also solicited.

(5) As stated in the section Data Gathering Efforts, EPA found that the seventeen refineries sampled during the data gathering effort were achieving a significantly lower effluent concentration of total phenol (4AAP) than that assumed in establishing BPT limitations. Other technical studies have reached the same conclusion. Therefore, the Agency is proposing to use 19 µg/l as the achievable long term concentration for total phenol (4AAP). EPA requests comments and data which would either verify or refute the assumption that a lower concentration of total phenol (4AAP) is achievable in petroleum refineries.

(6) EPA assumes that POTWs have installed secondary treatment in deciding whether pollutants pass through or are incompatible with POTWs. EPA makes this assumption regardless of whether a refinery is actually discharging into a POTW with secondary treatment. The only exception to this assumption would be if a refinery discharges into a POTW which is not required by the Clean Water Act to achieve effluent limitations based on secondary treatment. These are refineries discharging into a POTW which has received a waiver under section 301(h) of the Act. (See discussion under Pretreatment Standards above). EPA solicits comments on this approach to selecting pollutants for control by pretreatment standards.

(7) Possible underestimation of control technology costs was an issue raised during the public comment meeting and in written comments. In order to perform a meaningful comparison of EPA cost data and industry cost data, EPA requests detailed information on salient design and operating characteristics; actual installed cost (not estimates of replacement costs) for each unit treatment operation or piece of equipment, the date of installation and the amount of installation labor provided by plant personnel; and the actual cost for operation and maintenance, broken down into units of usage and cost for energy (kilowatt hours or equivalent), chemicals, and labor (work-years or equivalent).

(8) The Agency is considering best management practices (BMPs) for specific application in this industry (see

Best Management Practices). EPA requests comments on the clarity, specificity, and practicability of these BMPs, as well as information and suggestions concerning additional BMPs which may be appropriate.

(9) EPA has obtained from the industry a substantial data base for the control and treatment technologies which serve as the basis for the proposed regulations. Plants which have not submitted data, or which have compiled data more recent than that already submitted, are requested to forward these data to EPA. These data should be individual data points, not averages or other summary data, including flow, production, and all pollutant parameters for which analyses were run. Please submit any qualifications to the data, such as descriptions of facility design, operating procedures, and upset problems during specified periods.

(10) EPA requests that POTWs which receive wastewaters from petroleum refining plants submit data which would document the occurrence of interference with collection system and treatment plant operations, permit violations, sludge disposal difficulties, or other incidents attributable to the pollutants contained in POTW influent.

Dated: November 27, 1979.
Douglas M. Costle,
Administrator.

Appendix A—Abbreviations, Acronyms and Other Terms Used in this Notice
Act—The Clean Water Act.
Agency—The U.S. Environmental Protection Agency.
BAT—The best available technology economically achievable, under Section 304(b)(2)(B) of the Act.
BCT—The best conventional pollutant control technology, under Section 304(b)(1) of the Act.
BMP—Best management practices under Section 304(e) of the Act.
BPT—The best practicable control technology currently available, under Section 304(b)(1) of the Act.
Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95-217).
Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States.
Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.
NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.
NSPS—New source performance standards, under section 306 of the Act.
POTW—Publicly owned treatment works.

* Appendix A through H will not appear in the Code of Federal Regulations.

PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the Act.
 PSNS—Pretreatment standards for new sources of direct discharges, under section 307(b) and (c) of the Act.
 RCRA—Resource Conservation and Recovery Act (PL 94-580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Toxic Pollutants Not Detected in Treated Effluents (Direct Discharge)

Organics

acrolein
 acrylonitrile
 chlorobenzene
 1,1,1-trichloroethane
 1,1-dichloroethane
 1,1,2-trichloroethane
 chloroethane
 2-chloroethylvinyl ether
 chloroform
 methyl chloride
 methyl bromide
 bromoform
 trichlorofluoromethane
 dichlorodifluoromethane
 chlorodibromomethane
 vinyl chloride
 acenaphthene
 benzidine
 1,2,4-trichlorobenzene
 hexachlorobenzene
 hexachloroethane
 bis(chloromethyl) ether
 bis(2-chloroethyl) ether
 2-chloronaphthalene
 2,4,6-trichlorophenol
 2-chlorophenol
 1,2-dichlorobenzene
 1,3-dichlorobenzene
 1,4-dichlorobenzene
 3,3'-dichlorobenzidine
 2,4-dinitrotoluene
 2,6-dinitrotoluene
 1,2-diphenylhydrazine
 4-chlorophenyl phenyl ether
 4-bromophenyl phenyl ether
 bis(2-chloroisopropyl) ether
 bis(2-chloroethoxy) methane
 hexachlorobutadiene
 hexachlorocyclopentadiene
 isophorone
 nitrobenzene
 2-nitrophenol
 2,4-nitrophenol
 4,6-dinitro-o-cresol
 N-nitrosodimethylamine
 N-nitrosodiphenylamine
 N-nitrosodi-n-propylamine
 pentachlorophenol
 butyl benzyl phthalate
 di-n-octyl phthalate
 3,4-benzofluoranthene
 benzo(k) fluoranthene
 acenaphthylene
 dibenzo(a,h)anthracene
 ideno(1,2,3-cd)pyrene
 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Pesticides

aldrin
 dieldrin
 chlordane
 4,4 DDT
 4,4'-DDE

4,4'-DDD
 a-endosulfan-Alpha
 b-endosulfan-Beta
 endosulfan sulfate
 endrin
 endrin aldehyde
 heptachlor
 heptachlor epoxide
 a-BHC-Alpha
 b-BHC-Beta
 r-BHC-Gamma
 g-BHC-Delta
 PCB-1242
 PCB-1254

Others

asbestos (fibrous)

Appendix C—Toxic Pollutants Found in Only One Refinery Effluent (at Concentrations Higher Than Those Found in the Intake Water) and Which Are Uniquely Related to the Refinery at Which it Was Detected (Direct Discharge)

1. Organics

Carbon tetrachloride
 1,1-dichloroethylene
 1,2-dichloropropane
 1,2-dichloropropylene
 2,4-dichlorophenol
 di-n-butyl phthalate
 dimethyl phthalate

2. Pesticides

None

3. Metals

None

4. Others

None

Appendix D—Toxic Pollutants Detected in Treated Effluents of More Than One Refinery or Detected in the Treated Effluents of One Refinery But Not Uniquely Related to the Refinery at Which it Was Detected (Direct Discharge)

1. Organics

Benzene
 1,2-dichloroethane
 1,1,2,2-tetrachloroethane
 parachlorometa cresol
 1,2-trans-dichloroethylene
 2,4-dimethylphenol
 ethylbenzene
 fluoranthene
 methylene chloride
 dichlorobromomethane
 naphthalene
 4-nitrophenol
 N-nitrosodi-n-propylamine
 bis(2-ethylhexyl) phthalate
 diethyl phthalate
 benzo(a)anthracene
 benzo(a)pyrene
 chrysene
 anthracene
 benzo(ghi)perylene
 fluorene
 phenanthrene
 pyrene
 tetrachloroethylene
 toluene
 trichloroethylene

2. Metals

antimony (total)
 arsenic (total)
 beryllium (total)
 cadmium (total)
 copper (total)
 cyanide (total)
 lead (total)
 mercury (total)
 nickel (total)
 selenium (total)
 silver
 thallium (total)
 zinc (total)

Appendix E—Toxic Pollutants Not Detected in Discharges to POTWs (Indirect Discharge)

1. Organics

acrolein
 acrylonitrile
 carbon tetrachloride
 1,1-dichloroethane
 1,1,2-trichloroethane
 1,1,2,2-tetrachloroethane
 chloroethane
 2-chloroethylvinyl ether
 1,1-dichloroethylene
 1,2-trans-dichloroethylene
 1,2-dichloropropane
 1,2-dichloropropylene
 methyl chloride
 methyl bromide
 bromoform
 dichlorobromomethane
 trichlorofluoromethane
 dichlorodifluoromethane
 chlorodibromomethane
 trichloroethylene
 vinyl chloride
 benzidine
 1,2,4-trichlorobenzene
 hexachlorobenzene
 hexachloroethane
 bis(chloromethyl) ether
 bis(2-chloroethyl) ether
 2-chloronaphthalene
 2,4,6-trichlorophenol
 parachlorometa cresol
 2-chlorophenol
 1,2-dichlorobenzene
 1,3-dichlorobenzene
 1,4-dichlorobenzene
 3,3'-dichlorobenzidine
 2,4-dichlorophenol
 2,6-dinitrotoluene
 fluoranthene
 4-chlorophenyl phenyl ether
 4-bromophenyl phenyl ether
 bis(2-chloroisopropyl) ether
 bis(2-chloroethoxy) methane
 hexachlorobutadiene
 hexachlorocyclopentadiene
 nitrobenzene
 2-nitrophenol
 4-nitrophenol
 N-nitrosodiphenylamine
 N-nitrosodi-n-propylamine
 bis(2-ethylhexyl) phthalate
 diethyl phthalate
 benzo(a)anthracene
 benzo(a)pyrene
 chrysene
 anthracene
 benzo(ghi)perylene
 fluorene
 phenanthrene
 pyrene
 tetrachloroethylene
 toluene
 dimethyl phthalate
 benzo(a)pyrene

3,4-benzofluoranthene
 benzo(k)fluoranthene
 acenaphthylene
 benzo(ghi)perylene
 dibenzo(a,h)anthracene
 ideno(1,2,3-cd)pyrene
 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

2. Pesticides

dieldrin
 chlordane
 4,4'-DDD
 a-endosulfan-Alpha
 b-endosulfan-Beta
 endosulfan sulfate
 endrin
 endrin aldehyde
 heptachlor
 4-BHC-Gamma

g-BHC-Delta
 PCB-1242
 PCB-1254
 PCB-1221
 PCB-1232
 PCB-1248
 PCB-1260
 PCB-1016
 toxaphene

3. Metals

antimony (total)
 beryllium (total)
 cadmium (total)

silver (total)
 thallium (total)

4. Others (Asbestos, 4AAP Phenol)

Not analyzed

Appendix F—Toxic Pollutants Detected in Discharges to POTW (Indirect Discharge)

1. Organics

benzene
 chlorobenzene
 1,2-dichloroethane
 1,1,1-trichloroethane
 chloroform
 ethylbenzene
 methylene chloride
 tetrachloroethylene
 toluene
 acenaphthene
 2,4-dimethylphenol
 2,4-dinitrotoluene
 1,2-diphenylhydrazine
 isophorone
 naphthalene
 N-nitrosodiphenylamine
 pentachlorophenol
 phenol
 butyl benzyl phthalate
 di-n-butyl phthalate
 di-n-octyl phthalate
 diethyl phthalate
 benzo(a)anthracene
 chrysene
 anthracene
 fluorene
 phenanthrene
 pyrene

2. Pesticides

aldrin
 4,4'-DDT
 4,4'-DDE

heptachlor epoxide
 a-BHC-Alpha
 b-BHC-Beta

3. Metals

arsenic (total)
 chromium (total)
 copper (total)
 lead (total)

mercury (total)
 nickel (total)
 selenium (total)
 zinc (total)

4. Others (Asbestos, 4AAP Phenol)

Not analyzed

Appendix G—Toxic Pollutants Found to Pass Through POTW with Only Primary Treatment (Indirect Discharge)

1. Organics

benzene
 1,2-dichloroethane
 1,1,1-trichloroethane
 chloroform
 ethylbenzene
 methylene chloride
 tetrachloroethylene
 toluene
 2,4-dimethylphenol
 naphthalene
 phenol
 butyl benzyl phthalate
 di-n-butyl-phthalate
 di-n-octyl phthalate
 diethyl phthalate

2. Pesticides

4,4'-DDT
 4,4'-DDE

3. Metals

arsenic (total)
 chromium (total)
 copper (total)
 lead (total)

a-BHC-Alpha
 b-BHC-Beta
 mercury (total)
 nickel (total)
 selenium (total)
 zinc (total)

4. Others (Asbestos, 4AAP Phenol)

Not analyzed

Appendix H

The following derivation presents the development of mass limitations for phenol, based upon Option 2, from the flow model discussed in Section V.

(1) Mass = Flow x concentration x variability (equation 1)

BAT Mass = .48 x Mass (based on average 1976 industry flow)

(2) Flow Model (See Section IV of the Development Document) = 0.004C + 0.049K + 0.48(A + L) (equation 2)

Where:

Flow = million gallons per day/1000 barrels of petroleum liquid and natural gas liquids

C = summation of the crude oil and fed natural gas liquids to the atmospheric distillation, vacuum distillation, crude desalting (in units of 1,000 bbls/day)

K = summation of the petroleum liquids fed to the catalytic cracking processes (in unit of 1,000 bbls/day)

A = summation of the petroleum liquids fed to the asphalt processes (in units of 1,000 bbls/day)

L = summation of the petroleum liquids fed to the lube processes (in units of 1,000 bbls/day)

(3) Concentration and variability factor
 Phenol = 19 µg/l (concentration)

1.7 (variability factor for 30 day averages)

(4) Sample Calculation

Mass = Flow x concentration x variability

factor x .48 = (.004C + .046 K + .048

(A + L)) x .019 mg/l x 1.7 x 6.34 x .48

Mass (lbs of

Phenol) = 0.0005C + 0.0060K + 0.0062(A +

L)

Part 419 is revised to read as set forth below:

PART 419—PETROLEUM REFINING POINT SOURCE CATEGORY

General Provisions

Sec.

419.10 Applicability.

419.11 General Definitions.

BPT Limitations

Subpart A—Topping Subcategory

419.20 Applicability; description of the topping subcategory.

419.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart B—Cracking Subcategory

419.30 Applicability; description of the cracking subcategory.

419.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart C—Petrochemical Subcategory

419.40 Applicability; description of the petrochemical subcategory.

419.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart D—Lube Subcategory

419.50 Applicability; description of the lube subcategory.

419.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart E—Integrated Subcategory

419.60 Applicability; description of the integrated subcategory.

419.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

BAT, BCT Limitations and New Source and Pretreatment Standards

Subpart F—Petroleum Refining Point Source Category

419.70 Applicability; description of the petroleum refining subcategory.

419.71 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

419.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

419.73 New source performance standards (NSPS).

419.74 Pretreatment standards for new and existing sources.

419.75 Pretreatment standards for facilities discharging into certain publicly owned treatment works with only primary treatment.

Appendix—Sample calculation of phenol effluent limitations for a typical refinery. Authority: Sections 301, 304(b), (c), (e), and (g), 305(b) and (c), 307(b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977), (the "Act"); 33 United States, 1311, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

General Provisions

§ 419.10 Applicability.

This part applies to any petroleum refinery which discharges or may discharge pollutants to waters of the United States or which introduces or may introduce pollutants into a publicly owned treatment works.

§ 419.11 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) The term "ballast" means the flow of waters, from a ship, which is treated at the refinery.

(b) The term "feedstock" means the crude oil and natural gas liquids fed to the topping units.

(c) The term "once-through cooling water" means those waters discharged that are used for the purpose of heat removal and do not come into direct contact with any raw material, intermediate, or finished product.

(d) The term "crude throughput" or "C" means the summation of the crude oil and natural gas liquids fed to the crude processes in unit of 1,000 bbl/day (when using the English unit tables) or 1,000 cubic meters/day (when using the metric unit tables).

(e) The term "crude processes" means atmospheric distillation, vacuum distillation and crude desalting processes.

(f) The term "cracking throughput" or "K" means the summation of the petroleum liquids fed to the cracking processes in unit of 1,000 bbl/day (when using the English unit tables) or 1,000 cubic meters/day (when using the metric unit tables).

(g) The term "cracking processes" means hydrocracking, visbreaking, thermal cracking, fluid catalytic cracking and moving bed catalytic cracking processes.

(h) The term "asphalt and lube throughput" or "AL" means the summation of the petroleum liquids fed to the asphalt and lube processes in unit of 1,000 bbl/day (when using the English

unit tables) or 1,000 cubic meters/day (when using the metric unit tables).

(i) The term "asphalt and lube processes" means asphalt production, asphalt oxidizing, asphalt emulsifying, hydrofining, hydrofinishing, lube hydrofining, white oil manufacturing, propane dewaxing, propane deasphalting, propane fractionation, propane deresining, Duo Sol solvent treating, solvent extraction, duotreating, solvent dewaxing, solvent deasphalting, lube vacuum tower, oil fractionation, batch still (naphta strip), bright stack treating, centrifuge and chilling MEK dewaxing, butane dewaxing, MEK-Toluene dewaxing, deoiling (wax), naphthenic lube production, SO₂ extraction, wax pressing, wax plant (with neutral separation), furfural extracting, clay contacting-percolation, wax sweating, acid treat, phenol extraction, lube and fuel additives, sulfonate plant, MIBK, wax slabbing, rust preventives, petrolatum oxidation, grease manufacture processes. These processes are described in more detail in Sections IV and V of the development document.

(j) The term "process wastewater" means all the wastewater from the refinery with exception to storm water, ballast water, sanitary wastewater, and noncontact once through cooling water.

(k) The following abbreviations shall mean: (1) "bbl" means barrel (one barrel equals 42 gallons), and (2) "R" means the ratio of cooling tower blowdown flow to total effluent flow.

RPT Limitations

Subpart A—Topping Subcategory

§ 419.20 Applicability; Description of the topping subcategory.

The provisions of this subpart are applicable to discharges from any facility which produces petroleum products by the use of topping and catalytic reforming whether or not the facility includes any other process in addition to topping and catalytic reforming. The provisions of this subpart are not applicable to facilities which include thermal processes (coking, visbreaking, etc.) or catalytic cracking.

§ 419.21 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the

best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 m ³ of feedstock)		
BOD ₅	22.7	12.0
TSS.....	15.8	10.1
COD ¹	117	60.3
Oil and grease.....	6.9	3.7
Phenolic compounds.....	.168	.076
Ammonia as N.....	2.81	1.27
Sulfide.....	.148	.063
Total chromium.....	.345	.20
Hexavalent chromium.....	.028	.012
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 bbl of feedstock)		
BOD ₅	8.0	4.25
TSS.....	5.6	3.6
COD ¹	41.2	21.3
Oil and grease.....	2.5	1.3
Phenolic compounds.....	.060	.027
Ammonia as N.....	.99	.45
Sulfide.....	.053	.024
Total chromium.....	.122	.071
Hexavalent chromium.....	0.10	.004
pH.....	Within the range 6.0 to 9.0	

¹In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD₅. If in the judgment of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD₅.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9.....	1.02
25.0 to 49.9.....	1.06
50.0 to 74.9.....	1.16
75.0 to 99.9.....	1.26
100 to 124.9.....	1.28
125 to 149.9.....	1.59
150 or greater.....	1.57

(2) Process factor.

Process configuration:	Process factor
Less than 2.49.....	0.62
2.5 to 3.49.....	0.67
3.5 to 4.49.....	0.80
4.5 to 5.49.....	0.95
5.5 to 6.49.....	1.07
6.5 to 7.49.....	1.17
7.5 to 8.49.....	1.27
8.5 to 9.49.....	1.39
9.5 to 10.49.....	1.51
10.5 to 11.49.....	1.64
11.5 to 12.49.....	1.79
12.5 to 13.49.....	1.95
13.5 to 14.49.....	2.12
14.5 to 15.49.....	2.31
15.5 to 16.49.....	2.51
16.5 to 17.49.....	2.73

Process configuration:	Process factor
11.5 to 11.99.....	2.98
12.0 to 12.49.....	3.24
12.5 to 12.99.....	3.53
13.0 to 13.49.....	3.84
13.5 to 13.99.....	4.18
14.00 or greater.....	4.56

(3) See the comprehensive example Subpart D § 419.51(b)(3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph and attributable to ballast, which may be discharged after the application of best practicable control technology currently available, by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (b) of this section:

(1) Ballast. The allocation allowed for ballast water flow, as kg/cu m (lb/M gal), shall be based on those ballast waters treated at the refinery.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
metric units (kilograms per cubic meter of flow)		
BOD ₅	0.048	0.026
TSS.....	.033	.021
CAOD.....	.47	.24
Oil and grease.....	.015	.008
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 gal of flow)		
BOD ₅	0.40	0.21
TSS.....	.26	.17
COD.....	3.9	2.0
Oil and grease.....	.126	.067
pH.....	Within the range 6.0 to 9.0	

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

Subpart B—Cracking Subcategory

§ 419.30 Applicability; description of the cracking subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping and cracking, whether or not the facility includes any process in addition to topping and cracking. The provisions of this subpart are not applicable however, to facilities which include the processes specified in Subparts C, D, or E of this part.

§ 419.31 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 m ³ of feedstock)		
BOD ₅	28.2	15.6
TSS.....	19.5	12.6
COD.....	210	109
Oil and grease.....	8.4	4.5
Phenolic compounds.....	.21	.10
Ammonia as N.....	18.8	8.5
Sulfide.....	.18	.082
Total chromium.....	.43	.25
Hexavalent chromium.....	.035	.016
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 bbl of feedstock)		
BOD ₅	9.9	5.5
TSS.....	6.9	4.4
COD.....	74	38.4
Oil and grease.....	3.0	1.6
Phenolic compounds.....	.074	.036
Ammonia as N.....	6.6	3.6
Sulfide.....	.065	.029
Total chromium.....	.15	.089
Hexavalent chromium.....	.012	.0056
pH.....	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9.....	0.91
25.0 to 49.9.....	0.95
50.0 to 74.9.....	1.04
75.0 to 99.9.....	1.13
100 to 124.9.....	1.23
125.0 to 149.9.....	1.35
150.0 or greater.....	1.41

(2) Process factor.

Process configuration:	Process factor
Less than 2.49.....	0.58
2.5 to 3.49.....	0.63
3.5 to 4.49.....	0.74
4.5 to 5.49.....	0.88
5.5 to 6.49.....	1.00
6.5 to 7.49.....	1.09
7.5 to 8.49.....	1.19
8.5 to 9.49.....	1.29
9.5 to 10.49.....	1.41
10.5 to 11.49.....	1.53
11.5 to 12.49.....	1.67
12.5 to 13.49.....	1.82
13.5 to 14.49.....	1.89

(3) See the comprehensive example Subpart D § 419.51(b)(3).

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged a total organic carbon concentration not to exceed 5 mg/l.

Subpart C—Petrochemical Subcategory

§ 419.40 Applicability; description of the petrochemical subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping, cracking and petrochemical operations, whether or not the facility includes any process in addition to topping, cracking and petrochemical operations. The provisions of this subpart shall not be applicable however, to facilities which include the processes specified in Subparts D or E of this part.

§ 419.41 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutant or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for thirty consecutive days shall not exceed—
Metric units (kilograms per 1,000 m ³ of feedstock)		
BOD ₅	34.6	18.4
TSS.....	23.4	14.8
COD.....	210	109
Oil and grease.....	11.1	5.9
Phenolic compounds.....	.25	.120
Ammonia as N.....	23.4	10.6
Sulfide.....	.22	.099
Total chromium.....	.52	.30
Hexavalent chromium.....	.046	.020
pH.....	Within the range 6.0 to 9.0	

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (pounds per 1,000 bbl of feedstock)	
BOD ₅	12.1	6.5
TSS.....	6.3	5.25
COD.....	74	38.4
Oil and grease.....	3.9	2.1
Phenolic compounds.....	.088	.0425
Ammonia as N.....	8.25	3.8
Sulfide.....	.076	.035
Total chromium.....	.183	.107
Hexavalent chromium.....	.016	.0072
pH.....	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor:

1,000 bbl of feeds per stream day:	Size factor
Less than 24.9.....	0.73
25.0 to 49.9.....	0.76
50.0 to 74.9.....	0.83
75.0 to 99.9.....	0.91
100.0 to 124.9.....	0.99
125.0 to 149.9.....	1.08
150.0 or greater.....	1.13

(2) Process factor:

Process configuration:	Process factor
Less than 4.49.....	0.73
4.5 to 5.49.....	0.80
5.5 to 6.49.....	0.91
6.5 to 7.49.....	1.06
7.5 to 8.49.....	1.17
8.5 to 9.49.....	1.28
9.5 to 10.49.....	1.39
10.5 to 11.49.....	1.51
11.5 to 12.49.....	1.65
12.5 to 13.49.....	1.72

(3) See the comprehensive example Subpart D § 419.51(b)(3).

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the disclosure allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

Subpart D—Lube Subcategory

§ 419.50 Applicability; description of the lube subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping, cracking and lube oil manufacturing processes,

whether or not the facility includes any process in addition to topping, cracking and lube oil manufacturing processes. The provisions of this subpart are not applicable however, to facilities which include the processes specified in Subparts C and E of this part.

§ 419.51 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m ³ of feedstock)	
BOD ₅	50.6	25.8
TSS.....	35.6	22.7
COD.....	360	187
Oil and grease.....	16.2	8.5
Phenolic compounds.....	.38	.184
Ammonia as N.....	23.4	10.56
Sulfide.....	.33	1.0
Total chromium.....	.77	.45
Hexavalent chromium.....	.068	.030
pH.....	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 bbl of feedstock)	
BOD ₅	19.9	9.1
TSS.....	12.5	8.0
COD.....	127	66
Oil and grease.....	5.7	3.0
Phenolic compounds.....	.133	.065
Ammonia as N.....	8.3	3.8
Sulfide.....	.118	.053
Total chromium.....	.273	.160
Hexavalent chromium.....	.024	.011
pH.....	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

Example.—Lube Refinery 125,000 bbl per Stream Day Throughput

Process	Capacity (1,000 bbl per stream day)	Capacity relative to throughput	Weighting factor	Processing configuration
Crude:				
Atm.....	125	1		
Vacuum.....	60	.48		
Desalting.....	125	1		
Total.....		2.48	× 1 =	2.48

(1) Size factor:

1,000 bbl of feedstock per stream day:	Size factor
Less than 49.9.....	0.71
50.0 to 74.9.....	0.74
75.0 to 99.9.....	0.81
100.0 to 124.9.....	0.88
125.0 to 149.9.....	0.97
150.0 to 174.9.....	1.05
175.0 to 199.9.....	1.14
200.0 or greater.....	1.19

(2) Process factor:

Process configuration:	Process factor
Less than 6.49.....	0.81
6.5 to 7.49.....	0.88
7.5 to 8.49.....	1.00
8.5 to 9.49.....	1.09
9.5 to 10.49.....	1.19
10.5 to 11.49.....	1.29
11.5 to 12.49.....	1.41
12.5 to 13.49.....	1.53
13.5 to 14.49.....	1.67
14.5 to 15.49.....	1.82
15.5 to 16.49.....	1.98
16.5 to 17.49.....	2.15
17.5 to 18.49.....	2.34
18.5 to 19.49.....	2.44

(3) Example of the application of the above factors.

Calculation of the Process Configuration

Process category	Processes Included	Weighting factor
Crude.....	Atm. crude distillation..... Vacuum crude distillation..... Desalting..... Fluid cat. cracking.....	1
Cracking and coking.....	Vis-breaking..... Thermal cracking..... Moving bed cat. cracking..... Hydrocracking..... Fluid coking..... Delayed coking.....	6
Lube.....	Further defined in the development document.....	13
Asphalt.....	Asphalt production..... Asphalt oxidation..... Asphalt emulsifying.....	12

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to point source subject to the provisions of ballast water by this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

Example.—Lube Refinery 125,000 bbl per Stream Day Throughput—Continued

Process	Capacity (1,000 bbl per stream day)	Capacity relative to throughput	Weighting factor	Processing configuration
Cracking—FCC.....	41	.328		
Hydrocracking.....	20	.160		
Total.....		.488	× 6 =	2.93
Lubes.....	5.3	.042		
	4.0	.032		
	4.8	.039		
Total.....		.113	× 13 =	1.47
Asphalt.....	4.0	.032	× 12 =	.38
Refinery process configuration.....				7.28

NOTES

See table § 419.42(b)(2) for process factor. Process factor=0.88.
See table § 419.42(b)(1) for size factor for 125,000 bbl per stream day lube refinery. Size factor=0.93.
To calculate the limits for each parameter, multiply the limit § 419.42(a) by both the process factor and size factor.
BOD₅ limit (maximum for any 1 day)=17.8×0.88×0.93=14.6 lb. per 1,000 bbl of feedstock.

Subpart E—Integrated Subcategory

§ 419.60 Applicability; description of the integrated subcategory.

The provisions of this subpart are applicable to all discharges resulting from any facility which produces petroleum products by the use of topping, cracking, lube oil manufacturing processes, and petrochemical operations, whether or not the facility includes any process in addition to topping, cracking, lube oil manufacturing processes and petrochemical operations.

§ 419.61 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m ³ of feedstock)	
BOD ₅	54.4	28.9
TSS.....	37.3	23.7
COD.....	398	196
Oil and grease.....	17.1	8.1
Phenolic compounds.....	.40	.192
Ammonia as N.....	23.4	10.6
Sulfide.....	.35	.158
Total chromium.....	.82	.48
Hexavalent chromium.....	.068	.032
pH.....	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and the maximum average of daily values for thirty consecutive days.

(1) Size factor:

1,000 bbl of feedstock per stream day:	Size factor
Less than 124.9.....	0.73
125.0 to 149.9.....	0.76
150.0 to 174.9.....	0.83
175.0 to 199.9.....	0.91
200.0 to 224.9.....	0.99
225 or greater.....	1.04

(2) Process factor:

Process configuration:	Process factor
Less than 6.49.....	0.75
6.5 to 7.49.....	0.82
7.5 to 8.49.....	0.92
8.5 to 9.49.....	1.00
9.5 to 10.49.....	1.10
10.5 to 11.49.....	1.20
11.5 to 12.49.....	1.30
12.5 to 13.49.....	1.42
13.5 to 14.49.....	1.54
14.5 to 15.49.....	1.68
15.5 to 16.49.....	1.83
16.5 to 17.49.....	1.99
17.5 to 18.49.....	2.17
18.5 to 19.49.....	2.26

(3) See the comprehensive example Subpart D § 419.51(b)(3).

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants of pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

BAT, BCT Limitations and New Source and Pretreatment Standards

Subpart F—Petroleum Refining Point Source Subcategory

§ 419.70 Applicability; description of the petroleum refining subcategory.

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from any petroleum refinery.

§ 419.71 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

(a) The quantity of pollutants discharged from process wastewater shall not exceed the sum of the allocations specified below (3C means 3 multiplied by C):

Subpart F		
Pollutant or pollutant property	BAT crude allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
Phenol.....	0.0031C	0.0015C
Total chromium.....	0.0032C	0.0194C
Hexavalent chromium.....	0.0028C	0.0013C
	English units (pounds per day)	
Phenol.....	0.0011C	0.00056C
Total chromium.....	0.0116C	0.0068C
Hexavalent chromium.....	0.0010C	0.0005C

(2)		
Subpart F		
Pollutant or pollutant property	BAT cracking allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
Phenol.....	0.0351K	0.0170K
Total chromium.....	0.3612K	0.2234K
Hexavalent chromium.....	0.0326K	0.0147K
English units (pounds per day)		
Phenol.....	0.0123K	0.0059K
Total chromium.....	0.1336K	0.0795K
Hexavalent chromium.....	0.0114K	0.0052K

(3)		
Subpart F		
Pollutant or pollutant property	BAT asphalt and lube allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
Phenol.....	0.0365AL	0.0177AL
Total chromium.....	0.3975AL	0.2332AL
Hexavalent chromium.....	0.0340AL	0.0154AL
English units (pounds per day)		
Phenol.....	0.0126AL	0.0062AL
Total chromium.....	0.1393AL	0.0817AL
Hexavalent chromium.....	0.0119AL	0.0054AL

(b) The limitations for COD, ammonia (as N), sulfide and TOC are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

(c) The limitations for ballast water and once through cooling water are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

Note.—See Appendix to this regulation for sample calculation of a BAT effluent limitation.

§ 419.72 Effluent limitations guide lines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

(a) The quantity of pollutants discharged from process wastewater shall not exceed the sum of the

allocations specified below (3C means 3 multiplied by C):

(1)		
Subpart F		
Pollutant or pollutant property	BAT crude allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
BOD5.....	2.195C	1.166C
TSS.....	1.509C	0.9601C
Oil and grease.....	0.686C	0.366C
English units (pounds per day)		
BOD5.....	0.7691C	0.4086C
TSS.....	0.5288C	0.3365C
Oil and grease.....	0.240C	0.128C

(2)		
Subpart F		
Pollutant or pollutant property	BCT cracking allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
BOD5.....	25.24K	13.41K
TSS.....	17.35K	11.04K
Oil and grease.....	7.89K	4.21K
English units (pounds per day)		
BOD5.....	8.845K	4.699K
TSS.....	6.981K	3.870K
Oil and grease.....	2.76K	1.47K

(3)		
Subpart F		
Pollutant or pollutant property	BCT asphalt and lube allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
BOD5.....	26.33AL	13.99AL
TSS.....	18.10AL	11.52AL
Oil and grease.....	8.23AL	4.39AL
English units (pounds per day)		
BOD5.....	9.229AL	4.903AL
TSS.....	6.245AL	4.036AL
Oil and grease.....	2.86AL	1.54AL

(b) the pH shall be within the range of 6 to 9.

(c) The limitations for ballast water and once through cooling water are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

§ 419.73 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

(a) There shall be no discharge of

pollutants from process wastewaters to the waters of the United States.

(b) The limitations for ballast water and once through cooling water are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

§ 419.74 Pretreatment standards for new and existing sources.

Any point source subject to this subpart which introduces pollutants into a publicly owned treatment works which has not been granted a waiver from achieving effluent limitations based on secondary treatment under section 301(h) of the Act must achieve the following pretreatment standards (in addition to complying with 40 CFR Part 403 in the case of new sources and except as provided in 40 CFR Part 403.13 in the case of existing sources):

(a) The following standards apply to the total refinery flow contribution to the POTW.

Subpart F		
Pollutant or pollutant property	Pretreatment standards—Maximum for any 1 day	
	Metric units (kilograms per day)	
Oil and grease.....	100	
Ammonia.....	100	

(b) The following standard is applied to the cooling tower blowdown portion of the refinery flow to the POTW or may be applied to the total refinery flow by multiplying the standard by the ratio of the cooling tower blowdown flow to the total refinery flow to the POTW.

Subpart F		
Pollutant or pollutant property	Pretreatment standards—Maximum for any 1 day	
	Metric units (kilograms per day)	
Total chromium.....	1	

(c) Informational mass limitations are as follows:

Subpart F		
Pollutant or pollutant property	Pretreatment standards—Maximum for any 1 day	
	Metric units (kilograms per day)	
Oil and grease.....	9.57C + 109.52K + 114.30AL	
Ammonia.....	9.57C + 109.52K + 114.30AL	
Total chromium.....	R × (0.0957C + 1.0952K + 1.1430AL)	
English units (pounds per day)		
Oil and grease.....	3.35C + 38.35K + 40.02AL	
Ammonia.....	3.35C + 38.35K + 40.02AL	
Total chromium.....	R × (0.0335C + 0.3835K + 0.4002AL)	

§ 419.75 Pretreatment standards for facilities discharging into certain publicly owned treatment works with only primary treatment.

Any point source subject to this subpart which introduces pollutants into a publicly owned treatment works which has been granted a waiver from achieving effluent limitations based on secondary treatment under section 301(h) of the Act must achieve the following pretreatment standards (in addition to complying with 40 CFR Part 403 in the case of new sources and except as provided in 40 CFR 403.13 for Existing Sources):

Subpart F		
Pollutant or pollutant property	Pretreatment standards—301(h) Waivers	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
Phenol.....	0.067	0.032
Total chromium.....	0.725	0.425
Hexavalent chromium.....	0.06	0.03

(b) Information mass limitations are as follows:

(1)		
Pollutant or pollutant property	Crude allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
Phenol.....	0.0031C	0.0015C
Total chromium.....	0.0332C	0.0194C
Hexavalent chromium.....	0.0028C	0.0013C
English units (pounds per day)		
Phenol.....	0.0011C	0.00052C
Total chromium.....	0.0116C	0.0068C
Hexavalent chromium.....	0.0010C	0.0005C

(2)		
Pollutant or pollutant property	Cracking allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
Phenol.....	0.0351K	0.0170K
Total chromium.....	0.3612K	0.2234K
Hexavalent chromium.....	0.0326K	0.0147K
English units (pounds per day)		
Phenol.....	0.0123K	0.0059K
Total chromium.....	0.1336K	0.0795K
Hexavalent chromium.....	0.0114K	0.0052K

(3)		
Pollutant or pollutant property	Asphalt and lube allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Metric units (kilograms per day)		
Phenol.....	0.0365AL	0.0177AL
Total chromium.....	0.3975AL	0.2332AL
Hexavalent chromium.....	0.0340AL	0.0154AL
English units (pounds per day)		
Phenol.....	0.0126AL	0.0062AL
Total chromium.....	0.1393AL	0.0817AL
Hexavalent chromium.....	0.0119AL	0.0054AL

Appendix—Sample Calculation

The following example presents the derivation of a BAT phenol effluent limitation for a typical refinery

Refinery X Y Z	
Refinery processes	Refinery throughput 1000 bbl/day
Atmospheric crude distillation.....	100
Vacuum crude distillation.....	75
Desalting.....	50
Total crude processes (C).....	225
FCC.....	25
Hydrocracking.....	20
Total cracking processes(K).....	45
Asphalt production.....	5
Hydrotreating.....	3
Wax processing.....	1
Total asphalt and lube processes (AL).....	9
Monthly average phenol discharge (lbs/day) = 0.0005(225) + 0.0060(45) + 6.2 × 10 ⁻⁴ (9) = 0.44.	

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Federal Register

Friday
December 21, 1979

Part V

Department of Labor

Mine Safety and Health Administration

Employment Standards Administration

Miners Suffering From Pneumoconiosis,
Providing for a Central Processing Point
for Discrimination Complaints;
Memorandum of Understanding

DEPARTMENT OF LABOR

Mine Safety and Health Administration,
Employment Standards Administration

Memorandum of Understanding

The Mine Safety and Health Administration (MSHA), U.S. Department of Labor, and the Employment Standards Administration (ESA), U.S. Department of Labor, are entering into this agreement in order to provide a central processing point for discrimination complaints filed under sections 105(c) and 428 of the Federal Mine Safety and Health Act of 1977 (Mine Act). Section 105(c) (set forth below) prohibits discrimination against miners, representatives of miners, or applicants for employment in mines, including coal, metal, and nonmetal mines. Section 428, however, is part of the Black Lung Benefits title (Title IV) of the Mine Act, and only prohibits discrimination against coal miners who are suffering from pneumoconiosis. This agreement, therefore, deals only with complaints associated with coal mine employment, not with employment in metal and nonmetal mines.

Coordinating the handling of complaints which may be made by coal miners, representatives of such miners, or applicants for employment in coal mines will improve services to complainants and make more efficient use of Government resources. This agreement designates the agency to receive complaints of discrimination, sets forth a procedure for investigation and initiation of adjudication of these complaints, and provides for consultation and cooperation between MSHA and ESA.

A. Jurisdiction

1. MSHA jurisdiction includes complaints involving alleged violations of section 105(c) of the Mine Act, which provides in pertinent part: *

(c)(1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a

* (Full text of section 105(c) contained in Appendix A)

standard published pursuant to section 101 or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such miner, representative of miners or applicant or employment on behalf of himself or others of any statutory right afforded by this Act.

Miners, representatives of miners, and applicants for employment are entitled to make or file complaints under section 105(c). Such complaints may be filed within 60 days of the occurrence of the alleged violation.

2. ESA jurisdiction includes complaints involving alleged violations of section 428 of the Mine Act, which provides in pertinent part: ¹

(a) No operator shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

Only miners who are suffering from pneumoconiosis, but not applicants for employment, are covered by section 428. However, a miner may complain of discrimination under section 428 because he or she is suffering from pneumoconiosis, even though such miner has not filed a claim for black lung benefits. Section 428 provides that a complaint alleging discrimination is to be filed within 90 days after the occurrence of the alleged violation.

3. ESA and MSHA will have concurrent jurisdiction over complaints in which the facts of the situation could give rise to a claim under both section 105(c) and section 428. MSHA and ESA will consult with each other whenever such a "concurrent jurisdiction" complaint is received. ESA will make the final determination as to whether a violation of section 428 has occurred, and MSHA shall make the final determination as to whether a violation of 105(c) has occurred.

B. Offices Responsible for Coordination

The MSHA Coal Mine Safety and Health Branch of Special Investigations and the ESA Office of Worker's Compensation Programs, Division of Coal Mine Worker's Compensation Programs, will be responsible for coordination and consultation in the handling of the discrimination complaints covered by this agreements.

¹ (Full text of section 428 contained in Appendix B)

C. Procedure

1. Any complaint by a coal miner, representative of such miner, or applicant for employment in a coal mine which alleges discrimination prohibited by the Mine Act may be filed at any MSHA or ESA Black Lung office. Such complaints shall be considered filed for the purposes of both section 105(c) and section 428. Reports of such complaints will be transmitted to MSHA's Coal Mine Safety and Health Special Investigations Branch and will be assigned a number. All complaints will then be referred immediately to the appropriate MSHA district or subdistrict office for investigation. Since MSHA has a coal mine safety and health staff which regularly investigates discrimination complaints, MSHA will be responsible for investigation of all complaints and for preparation of an investigative report which will be sent to the Special Investigations Branch. The Special Investigations Branch will review and analyze the report. Based on this analysis, action will be taken on the complaint in one of the following ways:

(a) If a complaint involves a violation of section 105(c) only, MSHA will initiate proceedings before the Federal Mine Safety and Health Review Commission. If MSHA finds no violation of section 105(c), the complainant may file an action on his or her own behalf before the Commission within 30 days of notice of the Secretary's determination that no violation has occurred.

(b) If a complaint involves a violation of section 428 only, ESA will initiate proceedings pursuant to that section after receipt of the investigative report from MSHA. If, in ESA's judgment, further investigation is needed before a decision can be made, the complaint will be returned to MSHA with a request for additional information on specific issues of concern. If ESA finds no violation of section 428 or the dispute cannot be resolved amicably, any party may request a formal hearing conducted in accordance with the Administrative Procedure Act, 5 U.S.C. 551 et seq.

(c) If it appears to the Special Investigations Branch from the facts found in the investigative report that the complaint involves violations of both sections 105(c) and 428, MSHA will consult with ESA during the review of the report. If it is determined that a complaint gives rise to claims under both section 105(c) and section 428, the complainant will be so advised and will be informed of his or her rights under both sections. If the complainant wishes to proceed with both claims, MSHA will proceed first with the section 105(c) claim. The reason for proceeding first

with the section 105(c) complaint is that such cases must be processed within specific time frames, and in some instances, section 105(c) affords greater protection to miners exercising rights under the statute. Ordinarily, ESA will hold the section 428 claim in abeyance until the proceedings under section 105(c) are concluded.

D. Period of Agreement

This agreement shall continue in effect unless modified or terminated by mutual consent of both parties or terminated by either party upon thirty (30) days advance written notice to the other.

This agreement will become effective on the date of the last signature.

Dated: December 10, 1979.

Robert B. Logather,
Assistant Secretary of Labor for Mine Safety and Health.

Dated: December 10, 1979.

Donald Elisburg,
Assistant Secretary of Labor for Employment Standards.

Approved:

Dated: December 11, 1979.

Ray Marshall,
Secretary of Labor.

Appendix A

Section 105(c) states as follows:

(c)(1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101 or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding, or because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this Act.

(2) Any miner or applicant for employment or representative of miners who believes that he has been discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection may, within 60 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall forward a copy of the complaint to the respondent and shall

cause such investigation to be made as he deems appropriate. Such investigation shall commence within 15 days of the Secretary's receipt of the complaint, and if the Secretary finds that such complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner pending final order on the complaint. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall immediately file a complaint with the Commission, with service upon the alleged violator and the miner, applicant for employment, or representative of miners alleging such discrimination or interference and propose an order granting appropriate relief. The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary's proposed order, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation as the Commission deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay and interest. The complaining miner, applicant, or representative of miners may present additional evidence on his own behalf during any hearing held pursuant to this paragraph.

(3) Within 90 days of the receipt of a complaint filed under paragraph (2), the Secretary shall notify, in writing, the miner, applicant for employment, or representative of miners of his determination whether a violation has occurred. If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within 30 days of notice of the Secretary's determination, to file an action in his own behalf before the Commission, charging discrimination or interference in violation of paragraph (1). The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based upon findings of fact, dismissing or sustaining the complainant's charges and, if the charges are sustained, granting such relief as it deems appropriate, including, but not limited to, an order requiring the rehiring or reinstatement of the miner to his former position with back pay and interest or such remedy as may be appropriate. Such order shall become final 30 days after its issuance. Whenever an order is issued sustaining the complainant's charges under this subsection, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission to have been reasonably incurred by the miner, applicant for employment or representative of miners for, or in connection with, the institution and prosecution of such proceedings shall be assessed against the person committing such violation. Proceedings under this section shall be

expedited by the Secretary and the Commission. Any order issued by the Commission under this paragraph shall be subject to judicial review in accordance with section 106. Violations by any person of paragraph (1) shall be subject to the provisions of sections 108 and 110(a).

Appendix B

Section 428 (30 U.S.C.A. 938) states as follows:

Prohibition of discrimination by operators of mines suffering from pneumoconiosis; procedure; costs and penalties.

(a) No operator shall discharge or in any way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

(b) Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of Title 5. Each hearing examiner presiding under this section and under the provisions of subchapters I, II and III of this chapter shall receive compensation at a rate not less than that prescribed for GS-16 under section 5332 of Title 5. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(c) Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner, for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

[FR Doc. 79-39034 Filed 12-20-79; 8:45 am]

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Register Federal

Friday
December 21, 1979

Part VI

Department of
Energy

Office of Conservation and Solar Energy

Residential Conservation Service Program

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 456

[Docket No. CAS-RM-79-101]

Residential Conservation Service Program

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) is implementing the Residential Conservation Service (RCS) Program pursuant to Part 1 of Title II of the National Energy Conservation Policy Act (NECPA) (Pub. L. No. 95-619, 92 Stat. 3206, et seq.). The purpose of the Program is to encourage the installation of energy conservation measures, including renewable resource measures, in existing houses by residential customers of larger gas and electric utilities and home heating suppliers.

On November 7, 1979, DOE issued a final rule for the RCS program. (44 FR 64602). Included in the final rule were several reserved sections. This Proposed rule fills in these reserved sections, and proposes additional sections.

This Proposed Rule sets out requirements for certification of installers and inspectors of flue opening modifications (vent dampers) in gas-furnaces; installers and inspectors of automatic intermittent pilot ignition devices (IIP's) in gas-fired furnaces; installers and inspectors of wind energy devices, and installers and inspectors of active solar space heating systems, solar domestic hot water systems, and combined active solar space heating and solar domestic hot water systems. The Proposed Rule also sets out proposed requirements for interim material standards and installation standards for urea-formaldehyde (U-F) based foam insulation; standards for thermosiphon hot water heaters; standards for solar swimming pool heaters; loading requirements for installation of loose fill thermal insulation; installation standards for caulks and sealants; material standards for pipe insulation; material and installation standards for flue opening modifications (vent dampers); standards for wind energy devices; and material standards for IIP's.

DATES: Written comments must be received by February 19, 1980. 4:30 p.m., e.s.t., in order to ensure their consideration.

PUBLIC HEARING: January 21, 1980.

ADDRESSES: Comments and requests to speak at the hearing should be addressed to: Joanne Bakos, Office of Conservation and Solar Applications, Department of Energy, Mail Stop 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585. See "Comment Procedures" under Supplementary Information below.

HEARING LOCATION: A Public Hearing will begin at 9:00 a.m., January 21, 1980, at Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

James R. Tanck, Director, Residential Conservation Service Program, Office of Conservation and Solar Energy, Department of Energy, Room 3128, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376-4020.

Susan Caplan, Office of General Counsel, Department of Energy, Room 3228, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376-4100.

SUPPLEMENTARY INFORMATION:

- I. Introduction.
- II. Qualification Procedures.
- III. Proposed Standards.
- IV. Regulatory Analysis and Urban Impact Assessment.
- V. Environmental Impact Statement.
- VI. Consultation with Other Federal Agencies.
- VII. Contractor Contributions to the Rulemaking.
- VIII. Comment and Hearing Procedures.

I. Introduction

The Department of Energy (DOE) proposes to amend Part 456 of Chapter II of Title 10 CFR to complete the rulemaking requirements for Title II, Part 1 of the National Energy Conservation Policy Act (NECPA), Pub. L. No. 95-619. Several areas in the initial proposed rules issued March 19, 1979 (44 FR 16546) were reserved pending further study and investigation. Among these reserved areas were qualification procedures for installers and inspectors of wind energy devices and furnace retrofit devices. Other reserved sections were installation standards for urea-formaldehyde foam insulation, vent dampers, and automatic intermittent pilot ignition devices (IIP's). This proposed rulemaking fills in these reserved sections, replaces the previously proposed interim material standard for urea-formaldehyde foam insulation with a new proposed material standard and proposes installation standards for caulks and sealants.

II. Qualification Procedures

DOE determined that four program measures had sufficient potential safety hazards associated with the installation to merit special consideration. These measures included:

- Vent dampers.
- Automatic intermittent pilot ignition devices.
- Wind energy devices.
- Active solar space heating systems, solar domestic hot water systems, and combined active solar space heating and solar domestic hot water systems.
- U-F foam insulation.

Qualification procedures for the installers of U-F foam insulation are the responsibility of the manufacturer rather than the State and are addressed in Section IV below. Qualification procedures for installers and inspectors of vent dampers, IIP's, wind energy systems, active solar space heating systems, solar domestic hot water systems, and combined active solar space heating and solar domestic hot water systems are included in § 456.314 for comment. Specific procedures for testing qualifications are left to the discretion of the State.

Regarding furnace retrofit devices, DOE determined that some background in combustion heating systems, in electricity, in codes and regulations and in practical application is necessary to ensure a safe and effective installation.

Regarding installation of wind energy devices, DOE determined that some background in national and local codes and standards, and practical application is essential for an effective installation.

DOE considered three basic factors when developing the requirements for wind energy inspectors. First, the mechanisms whereby States operate quality assurance programs for other building systems vary considerably. DOE has attempted not to impose prescriptive requirements in an area which could lead to disruption in an existing State program. Second, the requirements proposed here reflect DOE's conviction that strong and direct relationships will exist between wind system manufacturers and the installers of those systems. Logically, the relationships should ease the problem of tracing compliance with the proposed standard. Finally, substantial strengthening of the wind system standards would affect the requirements for installers and inspectors, and may serve to ease the requirements for post-installation inspection to a point of verifying documentation. Until issues pertaining to the proposed standards are resolved, it appears unreasonable to prescribe any further specificity regarding qualifications for wind energy system inspectors.

DOE will provide, as part of its Technical Assistance to the States, model qualification programs in the areas of furnace retrofit measures and wind energy devices.

During the comment period on the March 19, 1979, proposed rule, DOE received comments requesting qualification criteria for installers and inspectors of solar systems.

It was noted that many of the past problems of consumer inconvenience concerning solar systems have stemmed from inadequate installation.

DOE acknowledges that a number of poor or improper installations of active solar systems have occurred over the past several years. The quality of installations has been significantly improving. DOE is confident that specific vocational training for solar installers currently available through several avenues could support even further improvements in installation quality. Also, a number of publications are now available incorporating the experience gained during the Federal (i.e., DOE, HUD, NSF) demonstrations. DOE is aware that States employ a variety of approaches (including different institutional mechanisms) to ensure quality of other types of residential active solar system installations. However, DOE is proposing to require the States to provide training or testing of trained installers and inspectors in order to ensure that those installers and inspectors who participate in the RCS program take advantage of these new programs and information channels. See § 456.314(d).

III. Proposed Standards

A. Background

NECPA requires the Secretary to develop material and installation standards necessary to ensure the safety and effectiveness of the installed material. DOE proposes to include in the Renewable Resource Installation and Materials Standards, standards for thermosiphon hot water heaters, swimming pool heaters, and wind systems. DOE also proposes to include in the Energy Conservation Material Standards a standard for urea-formaldehyde (U-F) foam insulation, additional requirements for vent dampers and IIP's and a requirement for pipe insulation, and in the Energy Conservation Installation Standards, loading requirements for loose fill thermal insulation, and installation practices for U-F foam, caulks and sealants, vent dampers for gas-fired systems, and IIP's.

B. Thermosiphon Hot Water Heaters

At the time of publication of the March 19, 1979, Proposed Rule, DOE had not yet completed its determination of the need for standards to assure the

safety and effectiveness of thermosiphon hot water heaters. DOE now concurs with the opinion of several commenters, including the National Bureau of Standards, that the provisions of the *HUD Intermediate Minimum Property Standards* should be adopted for thermosiphon systems installed within the RCS program. Several sections of the HUD standards are appropriate only to active solar systems, however, and are therefore excluded from thermosiphon systems standards.

C. Replacement Swimming Pool Heaters

In the March 19, 1979 Proposed Rule, DOE had reserved the section on standards for replacement solar swimming pool heaters, pending further research, and solicited comments to assist in this research.

Information provided to DOE during the public comment period shows that solar swimming pool heaters vary widely in their physical properties. Many installed systems are of simple, low technology construction and typically can be installed by the consumer. Neither information provided by the commenters, nor DOE's ongoing assessment of these low technology heaters, has demonstrated a need for standards to protect consumer health or safety or to assure general effectiveness of these pool heaters. Thus, no standards are proposed for this class of solar swimming pool heaters.

However, there is evidence that solar pool heaters employing flat plate collectors and utilizing a non-potable working fluid are high technology systems requiring some standard to insure safe and effective installation. Therefore, DOE now proposes that these systems be installed in conformance with the applicable provision of the *HUD Intermediate Minimum Property Standards*. It should be noted that DOE believes that these types of units represent a small portion of the current sales of solar pool heating systems. Also, these types of systems employ components very similar (often ordered from the same suppliers) to the components utilized in solar water heating units and active space heating systems (hydronic).

Therefore, DOE believes that the proposed standard would not impose an undue burden on a developing industry while ensuring safe and effective installations of solar swimming pool heaters.

D. Wind Systems

Small wind energy conversion systems (SWECS) can be cost-effective measures and therefore are appropriate for inclusion in the RCS Program.

DOE has determined that certain standards are required to ensure safe and effective operation of residential SWECS. However, due to the relatively limited experience of the SWECS industry, DOE must exercise caution and not at this time impose restrictive or costly standards which could significantly disrupt industry growth and competition. Therefore, the proposed rule includes general performance and safety standards and, where experience to date has indicated a need, sets out prescriptive standards.

DOE's approach is necessary because of a number of considerations. First, due to the scarcity of engineering data regarding failure of these devices (or their subsystems), DOE cannot state with confidence which portions of SWECS design require standards to ensure safe and effective system operation. Also, due to lack of experience in field operation of residential SWECS, siting requirements need to be established to minimize personal or property injury should a SWECS tower, mechanical component (such as rotor connections), or electrical component (such as controls or interface equipment) fail to meet design specifications.

To DOE's knowledge, consensus standards and model code proceedings have not been initiated for matters specifically related to these devices. DOE will rely upon adequate voluntary consensus standards where they exist. DOE intends to review appropriate consensus standards as they become available for incorporation into this Rule.

DOE presented preliminary standards concerning wind system location and design in the March 19, 1979 RCS Proposed Rule. (44 FR 16546) These preliminary standards were the subject of several comments which questioned such provisions as siting wind systems at least 1½ tower lengths from any property line or occupied structure, and the rated survival wind speed being greater than the highest wind recorded during the last three years at the nearest official weather station having such records. The commenters' opinions varied on the preliminary standards; some felt the provisions were too restrictive, while others felt the provisions to be insufficient to provide assurances of safety and effectiveness.

Partly as a result of comments and partly as a result of its own concern, DOE has prepared and is proposing for comment substantially revised material and installation standards for SWECS. In preparing this proposed standard, DOE has attempted to incorporate a prudent estimate of provisions which

might be required for safe and effective operation of these devices. Due to the lack of consensus standards in this area, this proposed standard relies mainly on manufacturer testing and self-certification and requires the installer to follow instructions that are required to be supplied by the manufacturer and the utility company.

DOE encourages utilities, manufacturers, affected States, professional societies, test laboratories, and other interested parties to provide DOE with their recommendations as to how to improve the proposed standards published today. Issues pertaining to inclusion of SWECS in the RCS Program as Program measures in a specific locality have already been resolved in the adoption of the RCS Final Rule.

Although DOE actively solicits comments on any portion of the proposed SWECS standard, DOE specifically solicits comments in response to the following questions:

- What facilities and instrumentation are required to perform a meaningful performance test?

- What levels and source of instrument calibration (and traceability) should be specified for the performance testing?

- Are reasonable alternatives to permitting manufacturer certification available? In other areas of standards development, DOE has made known its preference for third party (free from conflict of interest) certification known.

- What is the best means to ensure compliance with the provisions of the proposed standard? DOE is searching for a reasonable enforcement method without imposing undue burdens upon utilities, States, or manufacturers.

- Are additional standards required to ensure safe and efficient operation of these devices? The standard proposed by DOE primarily relates to performance, safety and installation siting DOE is not yet certain that standards relating to operating mechanical portions of a SWECS are required. Constructive criticism with respect to the need for this potential requirement is specifically requested.

In making recommendations, commenters are requested to advise DOE as to the basis for their recommendation. The following questions may prove helpful in formulating recommendations:

- What is the basis for the requirement? For instance, is documentable evidence available as to the need for the proposed requirement? Is this requirement commonly applied to similar products or components? What evidence is available that, without the requirement, a safety hazard would

exist that a failure would occur or that SWECS effectiveness would substantially decline?

- How will the requirement effect competition? For instance, are estimates of effects of the requirement upon product cost available? Are laboratory facilities available to perform any required testing? If so, what similar products or similar tests are performed? At what cost?

In the event that substantial modifications are required as a result of public comment, DOE intends to permit further review of such revision. On the other hand, DOE will consider an absence of meaningful constructive recommendations to mean an acceptance of the standards as proposed. In the unlikely event that DOE is unable to finalize adequate SWECS standards prior to submission of State Plans, DOE will remove SWECS from the list of Program measures.

E. Material Standard for Urea-Formaldehyde Foam Insulation

DOE determined that a material standard is necessary to ensure the general safety and effectiveness of urea-formaldehyde foamed-in-place (U-F foam) insulation in the RCS program. This determination is based upon complaints received by the U.S. Consumer Product Safety Commission (CPSC) and various State agencies involving the release of formaldehyde gas into homes that had been insulated with U-F foam. By October 1979, for instance, the CPSC had received documented health complaints from 485 homeowners. These included reports of eye irritation, respiratory problems, nausea, vomiting, allergic reactions and other symptoms. These symptoms were reported at various times after the foam had been installed.

The product correctly manufactured and installed can be an effective insulating material. However, inconsistencies in the manufacturing process can result in: excessive shrinkage, deterioration of the foamed-in-place materials and off-gassing of urea-formaldehyde vapors. These inconsistencies included:

- Excess formaldehyde content in resin and fresh foam, and
- Excessive catalyst in the foaming agent.

The overall effectiveness and acceptability of U-F foam are difficult to evaluate since the insulation per se does not exist as a shelf item. In contrast with other insulation products, this product is created by the installer at the job site by mixing appropriate amounts of urea-formaldehyde resin, detergent, and catalyst along with various hardeners

and conditioners. At the present time, it is not possible to assure that this standard will provide an optimum insulation material. It will, however, in conjunction with the Installation Standard for U-F foam, ensure a greater level of safety and effectiveness than would be possible without the standards or with other existing standards.

The chemistry of U-F foam is complex, and present knowledge of the origin, mechanism and release of formaldehyde from foamed-in-place insulation is meager. Current research indicates that free and hydrolyzable formaldehyde emissions from foam insulation are dependent, in part, upon temperature and humidity. Formaldehyde emissions are identifiable from three sources: free formaldehyde present in the reaction mixture, para-formaldehyde and hydrolyzable formaldehyde. Research shows that increased temperature and humidity accelerate the rate of hydrolysis of U-F foam, resulting in deterioration of the product. High temperature and high humidity not only affect the rate of formaldehyde emission but also adversely affect the physical characteristics of the foam structure. At present there are no reliable predictors as to whether or not formaldehyde off-gassing problems will arise at a given installation. Effective ways of curbing hydrolysis of the foam product are merely speculative at the present time.

The standard proposed in § 456.810 is based upon the Canadian Standard 51-6P-24M. However, significant deviations were made from the Canadian standard in the areas of free formaldehyde content, equipment and installer certification.

DOE recognizes the dispute regarding the extent of the loss in insulating efficiency caused by foam shrinkage. Actual heat loss measurements and laboratory tests performed by both NBS and the Canadian government have shown reductions in thermal resistance of 40 and 50% after shrinkage of U-F foam insulation in wall cavities. In addition, DOE has recently opened 43 wall cavities of homes in Portland, Oregon which had been reinsulated with U-F foam. Results showed that the mean shrinkage was 10.5% from 32 homes while the mean width shrinkage from 41 homes was 8.1%. Experimental investigations conducted by Dynatech R/D Company show there is a "direct relationship between effective thermal performance and size of air gap of the order of 5% loss for each 1% of shrinkage. . . . The results confirm the validity of the NBS Derating Analysis for deriving effective resistance of

materials which shrink within a cavity." (See "The Effective Thermal Performance of an Insulated Standard Stud Wall Containing Air Gaps" by R. P. Tye, A. O. Desjarlais, J. G. Bourne, and S. C. Spinney.) This means that a reduction in the thermal performance of the insulated walls in the Portland Study may have ranged from approximately 40 to 50%. Based on these considerations, The DOE proposed material standard therefore requires a 40% derating of U-F foam effective R-value. DOE did consider, however, tempering this requirement somewhat.

DOE considered permitting a manufacturer who could satisfactorily demonstrate that the shrinkage of a particular product is significantly less than 7 to 10%, to compute the present reduction of the thermal resistivity as 5 times the average expected shrinkage. DOE does not want to unjustly penalize manufacturers who have been successful in reducing shrinkage. However, DOE's information shows that actual shrinkage is often considerably more than manufacturers claim. DOE therefore solicits comments on how workable this approach would be and specifically what might constitute a "satisfactory demonstration" of shrinkage.

DOE proposes a significant change from the Canadian Standard which will require a reduction of the free formaldehyde content in the resin from 1% to 0.5% and a limitation of free formaldehyde in the fresh foam to 0.3%. DOE anticipates that these new requirements will help to reduce the off-gassing effect of free formaldehyde. DOE solicits comments on this position.

Established criteria and test procedures are included for dry density (ASTM D-1622), and flammability (ASTM E-84). Other test requirements for wet density, free formaldehyde content, water absorption, thermal resistivity, setting time, corrosiveness, volume resistivity, water drainage, and shrinkage were taken from the Canadian Standard. Other characteristics of U-F foam which impact the safety and effectiveness of the installed material include: freeze/thaw resistance, friability, temperature and humidity resistance, cell consistency, cell size, decomposition temperature, and inhalation toxicity. Neither the test procedures nor the criteria, however, have yet been established for these characteristics. Unlike the Canadian Standard, DOE did not include a provision for fungi resistance because recent findings in Canada have indicated that the test method for determining the fungi resistance is

unreliable. However, a new test procedure needs to be developed. Laboratory tests have indicated that when U-F foams are maintained under moist or humid conditions for extended periods of time, there is a possibility that fungal growth may occur on the cavity wood frame and on the foam itself. Buildings that are to be insulated with U-F foam should therefore be constructed in a manner that will permit the foam to dry in as short a time as possible. This is addressed in the Installation Standard.

Unfortunately the product created at the job site is not the material that is used to satisfy the proposed material standards. This, coupled with the observation that the majority of the tests and suggested values have not yet been established, means that DOE will continue to examine material properties, test procedures and the impact of the proposed standard. If and when additional test procedures are developed which DOE determines will ensure a greater level of safety and effectiveness, DOE will propose them for comment.

In addition to the requirements described above, DOE has also required U-F component manufacturers to recommend equipment and equipment maintenance to their contractors which meet the minimum criteria described in both the material standard in § 456.810 and the installation standard in § 456.909. DOE seeks comment on this additional requirement. DOE has included these minimum equipment requirements to prevent the following problems:

- (1) Fluctuating flow ratios of resin and foaming agent solutions resulting in variable density, resin-rich foam or resin-deficient foam.

- (2) Blockages of foam dispensation through the exit hose resulting in inconsistent quality foam.

- (3) Clogging of supply tubes resulting in resin-rich or resin-deficient foams and variable density.

- (4) Suction air leakages that result in resin-deficient or resin-rich foams and variable density foam.

- (5) Inadequate air supply resulting in variable density foam.

- (6) Use of holding tanks and equipment parts that are acid corrosive resulting in underacidified foam producing foams of heavy density and inconsistent quality.

- (7) Lack of thermometers to monitor solution temperatures in hot and cold weather that could result in improperly formulated foam.

- (8) Oil contamination that results in foam collapse.

- (9) Improper equipment modification resulting in out-of-specification solution temperatures during installation in hot and cold weather.

In addition, DOE has required U-F foam component manufacturers to train and certify installers of their material. An installation instruction manual must be provided to all installers in the training program.

As part of the Technical Assistance package to the States, DOE is considering the development of a model Quality Verification Program which States may want to include in their programs. Although the verification program is not included in the Proposed Rule, it could be an effective complement to the material and installation standards. Comment is requested on the advantages of such a program and suggestions are requested for developing a workable approach.

Numerous comments were received on the proposed material standard for U-F foam published in the March 19, 1979 RCS proposed rule. Several commenters expressed concern that the standard be stringent enough to ensure safety and effectiveness. DOE has tried to do this by placing greater limitations on the free formaldehyde content in resin and fresh foam, by including equipment criteria, and by including a requirement for a manufacturer-sponsored training program.

Several commenters objected to the procedure contained in § 456.810(c)(1) for devaluation of the thermal resistivity of installed U-F foam. Some commenters objected to any attempt at devaluation and others suggested that the more lenient criteria contained in HUD Bulletin No. 74 be used.

Experience with U-F foam in Portland (as discussed above) as well as experimental testing on the reduction of thermal performance conducted by Dynatech, and heat loss measurements and laboratory tests conducted at NBS, have convinced DOE that devaluation of installed U-F foam is necessary. These experiences also indicate that reduction in thermal performance is closer to the 40% devaluation contained in the Canadian Standard than the 28% contained in HUD Bulletin No. 74. DOE has therefore decided to retain the Canadian procedure for thermal resistivity and devaluation.

One commenter suggested that the flame spread of U-F foam tested in accordance with ASTM E-84 should be 75, the same as with all foam plastic insulation. DOE agrees that the requirements should be the same and has included a provision requiring a flame spread of 75 in the Proposed Rule.

One commenter expressed concern that any warning statement on U-F foam material containers would not be seen by the homeowner. DOE has therefore required that a cautionary statement be placed on material containers and presented separately to homeowners prior to installation of U-F foam insulation. The statement reads:

CAUTION: Under some conditions urea-formaldehyde insulation may cause the release of formaldehyde gas into living areas, and the development of adverse health effects. Continued exposure to formaldehyde can cause nausea and vomiting, respiratory difficulties, headaches, eye irritation, and allergic reactions. Such symptoms may develop anywhere from a few days to more than six months after the gas is released.

One commenter suggested the use of the test procedure for corrosion contained in the proposed ASTM standard rather than the procedure contained in the Canadian Standard. DOE did not agree with this suggestion since there is not enough data on the proposed test procedure. DOE is continuing, however, to evaluate the two test methods.

One commenter expressed concern over the allowable percentage of free formaldehyde content in the resin. DOE's research conducted at the University of Iowa suggests that the higher the free formaldehyde content in the foam components, the more likely off-gassing problems are after installation. Although the Canadian standard limits free formaldehyde in the resin to 1%, several major manufacturers claim that 0.3% is obtainable. DOE's studies indicate that reducing the free formaldehyde content to 0.5% will reduce the likelihood of off-gassing problems while still providing manufacturers a reasonable opportunity to meet the requirement. Therefore, the Proposed Standard limits free formaldehyde in the resin to 0.5%. In addition, the proposed standard limits the formaldehyde content of fresh foam to 0.3% to further ensure safety since the bulk content must be less than the resin alone.

Several commenters suggested that manufacturers be required to conduct all tests at the same time on the same batch of material. DOE agrees that this suggestion is necessary to ensure accurate, meaningful test results and has included it in the Proposed Rule.

The National Association of Urea Foam Insulation Manufacturers (NAUFIM) submitted detailed comments on equipment criteria, installer certification, and installation procedures. Based on recommendations by NAUFIM, DOE included in the material standard specific requirements

for equipment and installer certification which should contribute significantly to ensuring a safe and effective installation.

One commenter suggested that all test requirements be verified by an independent laboratory. DOE gave considerable attention to this suggestion and determined not to require independent testing unless need for such a quality control procedure becomes apparent.

DOE readily acknowledges that there are still many unanswered questions relating to the causes of off-gassing, deterioration of installed U-F foam, and shrinkage. Information is solicited on the following questions:

(a) What is the incidence of odor complaints and/or health-related problems compared to total U-F foam installations?

(b) Has an attempt been made to diagnose the cause of the complaints? Do the standards proposed here address those causes?

(c) To what extent does the formaldehyde content in U-F foam components influence the potential for off-gassing?

In addition, serious questions have been raised by the CPSC and others concerning safety problems associated with the off-gassing of formaldehyde from U-F foam insulation. Consequently, in assessing the record of the rulemaking and considering whether to issue a final standard for U-F foam, DOE will focus on the following questions:

(a) Whether the standards will adequately address the problems associated with the off-gassing of formaldehyde from U-F foam insulation;

(b) Whether the standards will be effective in confining the off-gassing of formaldehyde to a tolerable level, if such a level exists, and

(c) Whether the standards are practical, are capable of being followed, and are likely to be followed by installers in practice.

The answers to these questions will largely determine whether DOE will issue final standards for U-F foam insulation or will exclude U-F foam from the RCS program. Unless DOE can conclude that, based upon all available data, the proposed standard or some slight modification to it will assure general safety and effectiveness, DOE will exclude U-F foam from the RCS Program.

F. Material Standards for Pipe Insulation

DOE determined in the final rule that standards were necessary for all other insulation materials. Because the

potential for insulation-related problems exists for pipe insulation as well as other insulating materials, DOE is proposing a material standard for pipe insulation. A flame spread rating on the exterior surface of 25 is proposed to ensure consistency with NFPA 90. DOE solicits comments on whether a material standard for pipe insulation is necessary to ensure the safety and effectiveness of materials installed under the RCS program.

G. Additional Requirements for Vent Dampers and IID's

Not all vent dampers and IID's can be safely installed on all existing heating systems. Considerable differences exist in appliance controls and control equipment, such as 2, 3, or 4 wire thermostats, circulators, zone controls, tankless coils, boilers with relays, etc. found on units in the field. DOE has determined that installers need some guidance in determining which vent damper and IID's are compatible with which appliances. DOE has therefore required vent damper and IID manufacturers to provide to their installers wiring schematics of those furnace controls panels with which their unit is compatible. We estimate that approximately five wiring schematics would cover 80 to 90% of the furnace controls found in the field today. DOE is aware of the concern expressed by manufacturers over this requirement and solicits comments.

H. Loading Requirements for Installation of Loose Fill Thermal Insulation

Maximum allowable loads are now being proposed for all types of loose fill insulation when installed on attic floors. The proposed rule for the RCS program issued March 19, 1979 included a maximum loading chart only for the installation of vermiculite and perlite insulation on attic floors. In the RCS Final Rule, issued November 7, 1979, the installation standards for all types of loose fill insulation were combined, and a provision for loading was reserved. Loading requirements are proposed here in order to provide an opportunity for comment. The maximum suggested loads are the same as those originally proposed except that they apply to all types of loose fill insulation. They are recommended by various gypsum board manufacturers and the U.S. Gypsum Association. Comments on the March 19 Proposed Rule stated that these values were far too conservative. DOE, however, has no source of information other than gypsum board manufacturers from which to obtain load recommendations, and DOE therefore

solicits comments and test data which would support or contradict the recommendations.

I. Installation Standards for Urea-Formaldehyde Foam Insulation

The Department of Energy has investigated urea-formaldehyde (U-F) foamed-in-place insulation and has identified a substantial number of incidents involving the release of formaldehyde gas into homes that had been insulated with U-F foam. The complaints accompanying these incidents included reports of eye irritation, respiratory problems, nausea, vomiting, allergic reaction, and other symptoms. The Department of Energy has therefore concluded that an installation standard for this material is essential to ensure its safe and effective installation. The proposed standard contained herein initiates this effort by DOE. Interested persons are invited to comment on this standard during the comment period.

DOE recognizes that the promulgation of an installation standard alone cannot ensure compliance and thus a safe and effective installation. Reliance on the quality of U-F foam is highly dependent upon manufacturing process control, qualification of the equipment used, and qualification of the personnel controlling the process. Because U-F foam is manufactured on-site rather than in the factory, DOE has redefined the manufacturer and installer for this section. The "component-material supplier" is the supplier of the resin, foaming agent, and other ingredients to the foam insulation manufacturer. The component-material supplier is responsible for these component materials in all operations up to and including delivery to the insulation manufacturer. The "insulation manufacturer" means the installer who combines these component materials and foams the insulation in place. At a minimum, the insulation manufacturer must pay strict attention to the following to assure adequate quality of the installed product:

- The use of properly aged resin.
- The use of compatible components and proper ratios of each.
- Verification that the temperature of ingredients, mixtures and equipment is under control at all times.
- Assurance that the hose lines are transporting the material as intended.
- Assurance that gun apertures and/or mixing chambers are not faulty or dirty when used.
- Assurance that the premises to be insulated have been properly inspected.

• Assurance that the construction of a particular wall cavity will allow the proper curing of U-F foam.

The standard is not intended to detail specific installation techniques or procedures, but to set forth minimum criteria for a safe and effective application. For instance, although interior fire protective coverings and vapor barriers may be required, details relating to the installation are not included.

DOE does not permit the application of U-F foam in ceilings in the RCS Program. This determination is based on three characteristics of the material:

First, U-F foam has been shown to deteriorate under high temperatures and humidity, conditions frequently found in attics. Secondly, formaldehyde gas is denser than air and any gas liberated by the foam may invade the living space below and pose a health hazard to the occupants. Third, when applied, the product contains much moisture which also increases its weight considerably. This combination of moisture and weight on the ceiling surface may result in damage to the ceiling.

DOE requires on all installations in Zone 1 of Figure 1 in § 456.905 that a proper barrier be provided on the interior surface of all walls being insulated in bathrooms and unvented kitchen and laundry areas and that all major cracks on the interior walls be caulked or sealed. The standard also requires the installer to determine if an impermeable vapor barrier exists on the outside of the wall and, if so, to eliminate the barrier. These requirements are included to ensure that the wall permits the venting of formaldehyde vapors to the outside during the curing process.

Even though U-F foam installation standards have not been proposed heretofore, the following comments were received: One commenter recommended including shredded, cured U-F foam as a type of attic insulation. The commenter claimed the product could be pneumatically blown like other loose fill materials. DOE rejected the suggestion since the concept is relatively new and DOE has not had the opportunity to properly evaluate it and observe its characteristics in field installations. DOE may consider this application at a later time.

Several commenters objected to provisions in other installation standards prohibiting additional wall insulation, claiming that the addition of U-F foam in an insulated wall cavity could result in additional energy savings. DOE still maintains that, given today's fuel costs, a homeowner is unlikely to recover the cost of adding U-

F foam to an already-insulated cavity except in the coldest regions of the country—and only then if minimal insulation is present and if the cost per square foot of material installed is relatively inexpensive. In addition, depending upon the kind of existing insulation and the wall construction, moisture-related complications might occur when liquid components of U-F foam insulation are added. However, DOE has determined that since the issue is largely an economical one, it should be handled through the audit procedure. (See § 456.307 of the Final Rule (44 FR 64668).) No reference is therefore made in the Installation Standard to installing additional wall insulation.

J. Installation Standards For Vent Dampers on Gas-Fired Systems

Automatic vent dampers can be potentially dangerous if they are not installed properly. Vent dampers are intended to shut off the air flow up the vent during periods when the burner is not firing, thereby saving the loss of conditioned air. However, during periods when the burner is firing, the damper must be open to allow hazardous combustion products to be vented outside of the residence. If improperly installed, the vent damper could shut off the vent during burner firing, and cause hazardous combustion products to be vented into the residence with possible fatal results.

Some vent dampers are designed to be retrofitted to some existing heating appliances. These heating appliances may include a large number of models which may be installed differently in each residence. The vent system, combustion air supply, and heated air system may also vary. The capability and experience of the installers may vary.

Recently, the American National Standards Institute promulgated material standards ANSI Z21.66-1977, ANSI Z21.67-1978 and ANSI Z21.68-1978 for vent dampers for use with gas-fired appliances with accompanying installation guidelines. Because of variances in field conditions, DOE was concerned that these installation guidelines did not adequately ensure a safe and effective installation. DOE was concerned that these guidelines did not sufficiently address the intended use of these devices and their compatibility with other systems.

In drafting the Installation Practices for vent dampers, DOE has required practices that go beyond those stated in the ANSI guidelines. Although the Installation Practices may impose additional burdens on installers, they were included to ensure the general

safety and effectiveness of vent damper installations. DOE solicits comments to further improve the workability and safety and effectiveness of the proposed Installation Practices.

The Installation Practices for vent dampers are confined to field installations on forced-air and gravity gas furnaces and low-pressure hot water gas boilers. DOE has excluded the installation of vent dampers on oil-fired furnaces temporarily from the RCS Program until studies presently underway are complete. Brookhaven National Laboratory has conducted tests which question the effectiveness of such installations on oil-fired units equipped with high efficiency burners. DOE will further investigate this type of installation. DOE in the meantime is soliciting comments on this matter. Vent damper installations on water heaters are excluded because they are beyond the scope of the program. Furthermore, such installations often do not prove cost-effective. Installations on steam boilers were not included because of the relatively minor residential market they encompass. Liquid petroleum gas (LPG) systems were excluded because of the additional safety problems associated with such systems. LPG is heavier than air, and thus there exists the possibility of gases collecting around furnaces and creating a hazardous condition. DOE will look further into installation for other types of systems.

Because vent capacities are reduced when the difference between indoor and outdoor temperatures is the least and generally when wind velocities are low, DOE has required that all checks of venting capacity or draft hood spillage be conducted when the outside temperature is above 65° F and the wind velocity is less than 10 MPH. DOE has concluded that checks at any less severe conditions may not indicate the possibility of spillage of hazardous exhaust products. No other satisfactory, proven, technique is known for conducting draft checks. DOE solicits comments on how more flexibility may be added to this procedure. DOE will take the results of research in this matter into account in the Final Rule.

The Installation Practices limit the use of vent dampers to heating systems in heated spaces.

Vent dampers save energy by reducing heated air flow up the vent during periods when the main burner of the heating appliance is off. Most of the heated air is retained in the area adjacent to the heating appliance. If that area is not serviced by the heating system, the vent damper will result in minimal savings and is unlikely to be cost-effective.

The proposed installation standards permit only those installations where the wiring diagrams supplied by the vent damper manufacturer show the vent damper to be compatible with the existing heating system. DOE wants to insure that the maximum possible safety is achieved in every vent damper installation. Because of differences in appliance controls and control equipment, such as 2, 3, or 4 wire thermostats, circulators, zone controls, tankless coils, boilers with relays, etc. found on units in the field, DOE feels this is an important provision. DOE is aware of the concern over this requirement and solicits comments.

Vent dampers are currently being installed with a redundant gas valve or damper-closing temperature control. Dampers with closing temperature controls in lieu of two gas valves are required by ANSI to have at least a 10 percent open area in the nominally closed position. The damper-closing temperature control is designed to allow the vent damper to remain open when the vent gas temperature is above 225°F when tested under specified conditions. This is to keep the damper open if there is a malfunction of the automatic gas valve such that gas flows without a call for heat. A malfunction of the automatic gas valve can allow a flow of gas between zero and full flow. Although the ANSI installation guidelines do not provide for a test of the damper-closing temperature control, this proposed standard does. It has been determined by DOE that a vent gas temperature of 375°F measured at full gas flow will provide a vent gas temperature of at least 225°F for the majority of hazardous leaking valve conditions. If this temperature at full gas flow is not above 375°F, DOE has required that a vent damper not be installed with a damper-closing temperature control.

DOE has required the addition of a second automatic gas valve on all Thermally-Actuated Vent Dampers. The vent damper material standards require that thermally-actuated vent dampers pass a flow restriction test only at a vent gas temperature of 370°F. Even though the vent gas temperature at full gas flow may be above 370°F, the vent gas temperature at partial gas flow through a malfunctioning gas valve may be less than 370°F. On units currently being manufactured, the amount of opening may not be proportional (i.e., nonlinear) to the vent gas temperature. It is conceivable that a unit could be manufactured which would snap open at a vent gas temperature of only slightly less than 370°F. A reduced gas input could result in vent gas temperatures

that were insufficient to properly open the vent damper. The consequences of such a failure would be hazardous and perhaps fatal. Therefore, DOE has required a redundant gas valve on all thermally-actuated vent damper installations.

Although DOE anticipates some controversy over these requirements, there is a definite need to insure that the maximum safety and effectiveness of vent damper installations are maintained. DOE solicits comments on how flexibility may be built into these provisions, yet still assure the same measure of safety.

The installation standards require an installer to shut off the gas to the appliance prior to installation. DOE considered incorporating a similar requirement to shut off electrical power. This was not included since the installer may be checking for voltage. DOE is concerned, however, that when the installer is checking for loose electrical connections, worn electrical insulation, etc., that a hazardous situation may result. Comments are requested on the importance of turning off electrical power prior to the installation.

DOE is concerned about the safety and effectiveness of vent dampers on water heater/furnace installations using the same vent and combustion air. The American Gas Association's 1977-1978 report on the Space Heating System Efficiency Improvement Program (SHEIP) questions the effectiveness of vent dampers in this situation. DOE would like further comments on this matter.

In addition to comments requested above, DOE would also like to receive comments concerning the following:

- Should vent dampers be allowed when installed in unheated areas if combustion air is taken from a heated space?
- Should the vent damper standards require stricter control on vent damper closing times?
- Since vents tend to settle after numerous off-on cycles, should there be a requirement that the vent damper be inspected during the heating season? Should there be additional inspections after the initial post-installation inspection?

Unless DOE can conclude that, based on upon all available data, the proposed standard or some modification to it will assure general safety and effectiveness, DOE will exclude vent dampers from the RCS program.

K. Installation Standard For Automatic Intermittent Pilot Ignition Devices (IID's)

As part of these proposed rules, DOE is publishing Installation Practices for IID's. DOE is proposing the proposed draft ANSI installation standard. The standard is entitled "Proposed American National Standard for Automatic Intermittent Pilot Ignition Systems for Field Installation." A copy may be obtained by contacting:

Mr. F. G. Hammaker, Administrative Secretary, 221 American Materials Standards Committee, 8501 E. Pleasant Valley Road, Cleveland, Ohio 44131, (216) 524-4990.

The standard is designed to adapt automatic intermittent ignition systems to existing pilot burners on listed forced air heating appliances and boilers equipped with atmospheric burners. DOE has some concern with the use of the proposed ANSI standard for this proposed regulation. There is no limitation on the voltage or current between the electrodes in the ANSI hardware standard Z21.20-1979 which could result in a startle shock or a lethal hazard. DOE would like to receive further comment on this item. The proposed standard also limits the IID only to ignition systems with recycling pilots. DOE also solicits comments on this constraint.

Unless DOE can conclude that, based upon all available data, the proposed standard or some modification to it will assure general safety and effectiveness, DOE will exclude IID's from the RCS Program.

L. Installation Standards For Caulks And Sealants

DOE is proposing an Installation Standard for caulks and sealants to ensure the effectiveness of the installed material. Comments are solicited on the advantages and disadvantages of including an installation standard for caulks and sealants in the RCS program.

Improper installation of caulks and sealants can contribute to moisture condensation and accumulation of moisture within building elements which can lead to various forms of deterioration such as fungus growth in wood structures, and corrosion of metal fasteners, pipes, and electrical service components. Moisture can also reduce the effectiveness of insulation and with some insulation materials can also cause the leaching of fire retardants and thus contribute to increased fire hazards. In addition, if specific caulks and sealants are used in an application which is not suitable for the material or with existing building materials which

are not greatly reduced. Reduced effectiveness will also occur if the area of application is not properly prepared. These areas are addressed in the proposed Installation Standard for Caulks and Sealants.

There is little information available on the quality of contractor-installed caulking. The Tennessee Valley Authority, however, included caulking and weatherstripping in its home weatherization program in November 1978. Since that time they have recalled contractors about 35 percent of the time to correct poor workmanship on caulking and weatherstripping installations.

M. Vent Dampers on Oil-Fired Systems

DOE considered inclusion of UL 17 "Standard for Vent or Chimney Connector Dampers for Oil-Fired Appliances" but determined that the standard was not complete enough to ensure a safe and effective installation. UL 17 is used to check instructions for installation rather than to actually install a vent damper. DOE maintains that the hazards associated with improper installations are sufficient to warrant specific installation criteria. Because they do not now exist, vent dampers for oil-fired furnaces are not currently included in the RCS program. DOE will continue to work on the development of an installation standard for vent dampers on oil-fired systems and will propose it for comment at a later date.

IV. Regulatory Analysis and Urban Impact Assessment

The President, by Executive Order 12044, has directed agencies of the Executive Branch to conduct a Regulatory Analysis of regulations which they prepare that are likely to have a major economic impact. In accordance with OMB Circular A-116, an Urban and Community Impact Assessment should be prepared when the proposed rule is a major policy and program initiative. This assessment should be incorporated into the Regulatory Analysis.

DOE determined that the Residential Conservation Service Program, authorized under Title II, Part 1 of the National Energy Conservation Policy Act, was a major action and required preparation of a Regulatory Analysis and an Urban and Community Impact Assessment. Consequently, the Department prepared the two analyses in draft in conjunction with the publication of the Proposed Rule for the RCS Program on March 19, 1979 (44 FR 16546). These analyses were finalized for publication in conjunction with the

Final Rule which was published November 7, 1979 (44 FR 64602). The final Regulatory Analysis, which incorporates the final Urban and Community Impact Assessment, includes analysis of this proposed rule. Although this proposed rule does not in itself constitute a major action, DOE believes that an analysis of its impacts should be incorporated into the Final Regulatory Analysis so that that document reflects the entire impact of the RCS Program.

A single copy of the Final Regulatory Analysis may be obtained by writing:

Mr. James R. Tanck, Director, Residential Conservation Service Program, Office of Assistant Secretary for Conservation and Solar Energy, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

V. Environmental Impact Statement

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE prepared an Environmental Impact Statement for the entire Residential Conservation Service Program. The subject matter of this rulemaking was evaluated in the programmatic Environmental Impact Statement. A notice of availability of the Final Environmental Impact Statement was published in the Federal Register on November 7, 1979 (44 FR 64602). A copy of the final Environmental Impact Statement may be obtained by writing:

Mr. James R. Tanck, Director, Residential Conservation Service Program Office of Assistant Secretary for Conservation and Solar Energy, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

VI. Consultation With Other Federal Agencies

In preparing this Proposed Rule, issues and options were reviewed by representatives of the National Bureau of Standards and the Consumer Product Safety Commission.

VII. Contractor Contributions To The Rulemaking

The following entities have made contributions to this proposed rulemaking:

1. The National Bureau of Standards assisted in the development of the proposed material and installation standards for conservation measures.
2. The Solar Energy Research Institute (SERI); Rocky Flats Plant of North American Rockwell; and Science Applications, Inc. (SAI) assisted in the development of the proposed standard for wind energy systems. SERI and SAI also assisted in the development of the

thermosiphon hot water heaters and solar swimming pool heaters proposed standards.

3. Calspan, Inc., and Hittman Associates, Inc., assisted in the development of the proposed installation standards for vent dampers and automatic ignition systems and the proposed modification to the material standards for vent dampers.

VIII. Comment And Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed procedures, requirements, and criteria. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the envelope and on the documents submitted to DOE with the designation "Residential Conservation Service Program, (Docket No. CAS-RM-79-101)." Fifteen copies should be submitted. All written comments must be received by February 19, 1980, 4:30 p.m., e.s.t., to ensure consideration.

All written comments received on the Proposed Rule will be available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Any information of data considered by the person furnishing it to be confidential must be so identified and one copy submitted in writing. DOE reserves the right to determine the confidential status of the information of data and treat it according to its determination.

B. Hearing Procedures

The time and place of the public hearing is indicated in the hearing section of this preamble. DOE invites any person who has an interest in the proposed rulemaking or who is a representative of a group or class of persons that has an interest in the proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble and must be received before 4:30 p.m. on January 7, 1980.

Such a request may be hand delivered to Room 2221C, 20 Massachusetts Avenue, N.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Residential Conservation Service Program."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has an interest; give a concise summary of the proposed oral presentation; and provide a telephone number where he or she may be contacted through the day of the hearing.

Each person who, in DOE's judgement, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of his or her participation before 4:30 p.m. on January 14, 1980.

Persons selected to appear at the hearing should submit 15 copies of his or her statement by 4:30 p.m. on January 17, 1980 to:

Joanne Bakos, Office of Conservation and Solar Energy, Department of Energy, Mail Stop 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

The hearing will begin at 9:00 a.m., e.s.t. on January 21, 1980, at Room 3000A, 12th and Pennsylvania Avenues, N.W., Washington, D.C.

C. Conduct of Hearing

DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Any person

may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, the Department of Energy proposes to amend Chapter II, Title 10 of Part 456 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., on December 13, 1979.

Maxine Savitz,
Acting Assistant Secretary, Conservation and Solar Energy.

1. 10 CFR Part 456 is amended by revising § 456.814(f) and adding §§ 456.314(b), (c) and (d); 456.703; 456.704; 456.705; 456.810; 456.812(e); 456.814(g)(3); 456.905(d)(1)(ii); 456.909; 456.914; 456.915; and 456.916.

2. The table of content is amended by adding the following entries.

Sec.	
456.703	Thermosiphon hot water heaters.
456.704	Swimming pool heaters.
456.705	Wind energy devices.
456.810	Standard for urea-formaldehyde foamed-in-place insulation.
456.812	Standards for caulks and sealants, water heater insulation, heating/air conditioning duct insulation and pipe insulation.
456.909	Standard practice for the installation of urea-formaldehyde foamed-in-place insulation.
456.914	Standard practice for the installation of electrically-operated, mechanically-actuated, and thermally-actuated automatic vent dampers for use with gas-fired central furnaces and low-pressure hot-water boilers.
456.915	Standard practices for the installation of automatic intermittent pilot ignition devices (IID's).
456.916	Standard practices for the installation of caulks and sealants.
Authority: Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. No. 95-619, 92 Stat. 3206, et seq.; Department of Energy Organization Act, Pub. L. No. 95-91, 91 Stat. 563, et seq., 42 U.S.C. 7101, et seq.	

§ 456.314 Qualification procedures for auditors, installers, and inspectors.

(b) *Installers and inspectors of automatic vent dampers and automatic intermittent pilot ignition devices (IID's) for gas-fired central furnaces and low-pressure hot water boilers.* The State Plan shall contain procedures to assure that any person or persons installing automatic vent dampers or automatic intermittent pilot ignition devices (IID's) for gas-fired central furnaces and low-pressure hot water boilers under the

circumstances described in the State Plan pursuant to § 456.305 and any person or persons conducting a post installation inspection of an automatic vent damper or IID pursuant to § 456.313(a) shall have the following qualifications:

(1) Installers' inspectors shall demonstrate an understanding of applicable codes and regulations.

(2) Installers and inspectors shall demonstrate an understanding of gas appliances used in residential buildings, including basic system requirements, components and operation, and shall demonstrate an understanding of general schematics and potential malfunctions of gas appliances.

(3) Installers and inspectors shall demonstrate an understanding of gas appliance controls and safety controls, including automatic gas valves, limit switches, and thermostats. Installers and inspectors shall also demonstrate an understanding of basic furnace and boiler circuitry, including electrical components, and the use of appropriate meters for testing gas appliance circuitry. They shall also demonstrate an understanding of proper component sequencing and be qualified to determine the compatibility of vent dampers and appliances.

(4) Installers and inspectors shall demonstrate an understanding of the purpose, general structure, and operational systems of vent dampers. They shall also demonstrate an ability to service and install electrical, mechanical, and thermal vent dampers and shall be familiar with the advantages and disadvantages of each type. *Exception.* Installers and inspectors of only IID's need not comply with this paragraph.

(5) Installers and inspectors shall demonstrate an understanding of the purpose, basic system requirements and components, and operation of IID's. In addition, they shall demonstrate practical application in servicing and installing IID's, and understanding of general schematics and potential malfunctions of IID's. *Exception.* Installers and inspectors of only vent dampers need not comply with this section.

(6) Installers and inspectors shall demonstrate: (i) an understanding of types of vents, draft diverters, and heat transfer components; (ii) an understanding of venting theory including ventilation air, dilution air, and vent sizing; (iii) an understanding of venting installation procedures; (iv) knowledge of which installations are prohibited; (v) that they are qualified to perform leak and spillage checks; and (vi) that they are qualified to use

instrumentation to measure carbon monoxide and carbon dioxide emissions from gas appliances.

(7) Installers and inspectors shall demonstrate an understanding of proper combustion and proper flame characteristics and shall be familiar with gas piping procedures.

(8) Installers and inspectors of vent dampers shall demonstrate an understanding of the installation standards in § 456.914.

(9) Installers and inspectors of IID's shall demonstrate an understanding of the installation standards in § 456.915.

(c) *Installers and inspectors of wind energy devices.* (1) The State Plan shall contain procedures to assure that any person or persons installing a wind energy device under the circumstances described in the State Plan pursuant to § 456.305 and any person or persons conducting a post-installation inspection of a wind energy device pursuant to § 456.313(a) shall have the following qualifications:

(i) Familiarity with the installation standards for wind energy devices in Subpart G;

(ii) Familiarity with the structural characteristics of wind energy devices;

(iii) Familiarity with national and local codes governing the electrical interface between the wind energy device and the utility power supply for the residence; and

(iv) A general knowledge of the test procedures described in § 456.705.

(2) The State Plan shall contain procedures to assure that any person or persons installing a wind energy device under the circumstances described in the State Plan pursuant to § 456.305 shall demonstrate proficiency in the installation of wind energy devices, and familiarity with the testing of wind energy devices in accordance with the procedures described in § 456.705.

(d) *Installers and inspectors of solar domestic hot water systems, active solar space heating systems, and combined active solar space heating and solar domestic hot water systems.*

(1) The State Plan shall contain procedures to assure that any person or persons installing a solar domestic hot water system, an active solar space heating system, or a combination thereof, under the circumstances described in the State Plan pursuant to § 456.305, and any person inspecting such systems pursuant to § 456.313(a), shall individually or collectively be knowledgeable about:

(i) The residential construction methods employed in the region and the characteristics of structures that would preclude a safe and enduring solar installation;

(ii) The applicable provisions of the *HUD Intermediate Minimum Property Standards Supplement*, as required in Subpart G;

(iii) The design, operation, installation and degradation of residential hot water and heating systems with which the solar devices will interface; and

(iv) The connection of the solar devices into the existing residential systems, including testing for satisfactory performance of the solar devices and the modified system, according to the requirements of the *HUD Intermediate Minimum Property Standards Supplement*, as required for the program in Subpart G.

(2) The State Plan shall contain procedures to assure that any person or persons installing a solar domestic hot water system, an active solar space heating system, or a combination thereof under the circumstances described in the State Plan pursuant to § 456.305 shall demonstrate proficiency in the connection of the solar devices into existing residential systems, in conformance with the applicable provisions of the *HUD Intermediate Minimum Property Standards Supplement*, as required for the program in Subpart G.

§ 456.703 Thermosiphon hot water heaters.

Thermosiphon Hot Water Heaters shall be constructed and installed in compliance with the applicable provisions of the *HUD Intermediate Minimum Property Standards Supplement*, Solar Heating and Domestic Hot Water Systems, 4930.2, 1977 Edition, with the exception of several specific provisions that are inappropriate to this technology. The excluded sections are 5-615-1.4.2. and Appendix A, which present procedures for calculating active solar domestic hot water system performance.

§ 456.704 Swimming pool heaters.

Solar swimming pool heaters employing glazed flat plate collectors or a non-potable heat transfer fluid to capture and transfer solar energy to the pool water, shall be constructed and installed in compliance with the applicable provision of the *HUD Intermediate Minimum Property Standards Supplement*, Solar Heating and Domestic Hot Water Systems, 4930.2, 1977 Edition. Solar swimming pool heater systems employing non-glazed collectors and the direct heating of recirculated pool water are exempt from these standards.

§ 456.705 Wind energy devices.

(a) *Scope.* This standard established the requirement for wind energy devices installed or supplied under the RCS program. Only electrical wind energy devices that are interconnected to a utility company's electrical system, known as Small Wind Energy Conversion System (SWECS), that meet the standards of this section may be installed or supplied under the RCS program.

(b) *Definitions.* For purposes of this Subpart:

(1) The term "anemometer" means a device to measure wind speed.

(2) The term "anemometer distance constant" means a measure of the frequency response characteristics of an anemometer; the length of wind run that must pass an anemometer before it indicates 63 percent of the actual amplitude of a step-change gust.

(3) The term "atmospheric test" means the conduct of SWECS testing under natural wind conditions.

(4) The term "bin width" means the size of the wind speed interval (meters per second) used in the method-of-bins.

(5) The term "cylinder of projection of SWECS rotor" means the cylinder whose axis is aligned with the wind direction and passes through the center of the rotor, whose cross-section extends 3 rotor diameters upwind of the rotor and 6 rotor diameters downwind of the rotor.

(6) The term "disconnect" means a device or group of devices or other means by which the conductors of an electrical circuit can be disconnected from their source of supply.

(7) The term "electrical ground" means a conducting connection between an electrical circuit and/or equipment and the earth, or to some conducting body that serves in place of the earth.

(8) The term "electrical load" means an electrical device which utilizes electrical energy.

(9) The term "electrical utility/user interconnection" means physical connection of the electrical hardware of the SWECS to the electrical system of both the utility and the user.

(10) The term "free stream area" means that area in a wind tunnel test section in which the wind speed in the absence of an obstruction, is uniform within ± 5 percent.

(11) The term "horizontal axis wind turbine" means a SWECS that has an axis of rotation of the rotor parallel to the plane of the ground.

(12) The term "interconnected SWECS" means a SWECS which is electrically connected to fuel power with the utility grid.

(13) The term "method-of-bins" means a computer data analysis technique as detailed by Akins in reference 1. The method consists of partitioning the wind speeds observed into a number of equally spaced intervals or bins. The average of all power values observed simultaneously with a wind in a given bin is the power associated with the wind speed at the center of the bin.

(14) The term "obstruction frontal area" means the projected area of an obstruction of the ambient wind.

(15) The term "power output curve" means a graphical plot of SWECS power output versus wind speed.

(16) The term "projected frontal area" means the profile area of an object as seen from the direction of the wind velocity.

(17) The term "Rayleigh distribution" means a wind speed distribution function represented by the following probability density equation

$$\text{Hours } (>V) = 8760 \exp. \left[-\frac{\pi(V^2)}{4(\bar{V}^2)} \right]$$

Where hours:

($>V$) = number of hours per year the wind speed exceeds a given wind speed V (meters per second)

V = wind speed (meters per second)

$\bar{V}$ = annual gauge wind speed (meters per second)

(18) The term "rated power" means the power output obtained from a SWECS generating at its rated wind speed.

(19) The term "rated wind speed" means the wind speed at which the rated power is specified.

(20) The term "rotor" means a system of rotating elements that convert the energy in the wind into mechanical shaft power.

(21) The term "rotor-swept area" means the area as seen from the direction of the wind that a rotor would pass over during one revolution.

(22) The term "Small Wind Energy Conversion System (SWECS)" means an electrical wind energy device having a rated output of less than 100 kilowatts that is interconnected to a utility company's electrical system.

(23) The term "SWECS Model" means a specific hardware configuration established by the manufacturer for fabrication and sale to the general public.

(24) The term "thrust" means the force exerted by the wind on the SWECS rotor in the direction of the ambient wind.

(25) The term "tower" means a subsystem of a SWECS that holds the

rotor or other collection device above the ground.

(26) The term "towing test" means the conduct of SWECS testing where the SWECS is mounted on a vehicle (such as a truck or train flat car) and the SWECS is moved through still ambient air.

(27) The term "turbulence" means rapid fluctuations in the speed and direction of the wind.

(28) The term "vertical axis" means a line of reference perpendicular to the plane of the ground.

(29) The term "vertical axis wind turbine" means a SWECS that has an axis of rotation of its rotor perpendicular to the plane of the ground.

(30) The term "wind tunnel test" means the conduct of a SWECS test in artificial wind when the SWECS is mounted in a structure designed to control the wind characteristics during the conduct of the test.

(31) The term "yaw" means the rotation of a horizontal axis wind turbine about its yaw axis.

(32) The term "yaw axis" is the vertical axis about which the directional orientation of a horizontal axis wind turbine is changed.

(c) *Incorporation by reference.* The following documents are incorporated as a part of this standard by reference:

(1) National Electrical Code, 1978 edition, by the National Fire Protection Association

Articles

- 230 (Services)
- 250 (Grounding)
- 280 (Lightning Arresters)
- 300 (Wiring Methods)
- 310 (Conductors for General Wiring)
- 445 (Generators)

(2) Sandia Laboratories Report SAND 77-1375, "Performance Evaluation of Wind Energy Conversion Systems Using the Method of Bins," by Akins, R. E.

(d) *Conflicts of Laws.* Local statutes, regulations, and ordinances that conflict with the requirements of this standard shall take precedence over the requirements of this standard.

(e) *Performance.* The following SWECS performance characteristics shall be determined through testing by the manufacturer or a separate testing organization designated by the SWECS manufacturer. If the manufacturer modifies the SWECS model design which impacts on performance or safety, the new model shall be retested appropriately.

(1) *Net power output.* The SWECS net power output shall be defined as a function of wind speed at the center of the SWECS rotor for wind speeds between 4 and 12 meters per second.

The SWECS net power output curve shall be derived from discrete wind speed and simultaneous power output data using the method of bins. A bin width not greater than 1 meter per second shall be used.

(2) *Annual energy production.* Using the SWECS net power curve for paragraph (e)(1) above, the SWECS annual energy production in kilowatt-hours per year shall be computed for annual average wind speeds of 4.5, 5.4, 6.3, 7.1, and 8.0 meters per second (10, 12, 14, 16, and 18 miles per hour).

Calculations shall be made using the following requirements:

(i) The Rayleigh distribution shall describe the wind speed duration curve.

(ii) All reported test data involving power output shall be corrected to a standard air density of 1.2 kilograms per cubic meter, using the following equation:

$$P_s = \frac{P_m}{1.2} \times \rho_m$$

Where:

P_s = power output (kilowatts) corrected to a standard air density of 1.2 kilograms per cubic meter

P_m = measured power output (kilowatts)

D_m = measured air density (kilograms per cubic meter)

(iii) Reference wind data shall be corrected to the center of the SWECS rotor height using the following equation:

$$V_h = V_m \left(\frac{z_h}{z_m} \right)^{1/7}$$

Where:

V_h = corrected wind speed (meters per second) at the center of the SWECS rotor

V_m = measured wind speed (meters per second) at a reference height

Z_m = (meters).

Z_h = height (meters) above ground level to the center of the SWECS rotor.

Z_m = Height (meters) above ground level where the reference wind speed V_m (meters per second) was measured.

(f) *Safety.* The following SWECS safety characteristics shall be determined through testing by the SWECS manufacturer or a separate testing organization designated by the SWECS manufacturer. The SWECS shall be demonstrated to operate safely, without loss of structural integrity under the following conditions:

(1) *Loss of electrical load.* Loss of user electrical load and/or utility electrical system when the SWECS is producing at least 50 percent of rated power.

(2) *Blade imbalance.* Blade imbalance equivalent to an added weight equal to

10 percent of the blade weight, either placed at the center of gravity of the blades or uniformly distributed along the blade. The SWECS shall be capable of safe operation in winds between 4 and 12 meters per second for at least five minutes or until automatic controls stop the machine.

(3) *SWECS de-energization.* It shall be demonstrated that the SWECS connected to a utility electrical system will safely de-energize when the utility electrical circuit to the SWECS is de-energized.

(4) *Manual shutdown.* Safe operation of the manual shutdown subsystem shall be demonstrated if such a subsystem is incorporated in the SWECS.

(5) *Survival wind speed.* The maximum wind speed (meters per second) the SWECS has survived without loss of structural integrity under controlled test conditions shall be provided by the SWECS manufacturer. This data shall be corrected to standard air conditions in accordance with the following equation:

$$V_s = \left(\frac{D_m}{1.2} \right)^{1/2} V_m$$

Where V_s = wind speed (meters per second) corrected to a standard air density of 1.2 kilograms per cubic meter

V_m = measured wind speed (meters per second)

D_m = measured air density (kilograms per cubic meter).

(g) *Installation.* (1) *Manufacturer's instructions.* The manufacturer shall provide detailed installation instruction to the installer of the SWECS which shall meet the following requirements.

(i) The site area and setback limitation shall be the length of one tower height plus one rotor radii from a property line or a right-of-way for electrical transmission or distribution lines.

(ii) As a minimum, the SWECS manufacturer shall provide to the SWECS installer a standard foundation and anchor design (or specification); a detailed parts list; and clearly written detailed instructions for the assembly, installation, and checkout of the SWECS at a typical site.

(iii) As a minimum, the SWECS manufacturer shall provide the installer with the following information and instructions for interconnecting a SWECS to a utility company's electrical system:

(A) The installer or his designated representative shall provide information to the local interconnected utility identifying the performance and safety characteristics of the SWECS to be

installed, for purposes of evaluating any necessary modification of the local utility's system protection required by the presence of the SWECS in the local utility electrical system.

(B) The local utility shall be responsible for determining that existing as well as new utility-owned protection devices will ensure safe utility operation with the additional generating capability created by the SWECS.

(C) The SWECS to utility electrical interconnection circuit shall incorporate a means to automatically and manually disconnect the SWECS electrically from the utility electrical system in the event of a utility loss of power, an emergency, or servicing of the utility distribution system. The disconnects shall not interfere with reliability of service and the normal operation of circuit breakers, fuses, and other protective devices. The disconnect shall be lockable in the open-circuit position and access to the disconnect shall be available to the utility company at all times.

(D) The SWECS electrical equipment and the method of interconnecting the SWECS to the local utility electrical system and the user electrical load shall conform to the following articles of the National Electric Code (NEC):

NEC Article and Title

- 230, Services.
- 300, Wiring Methods.
- 310, Conductors for General Wiring.
- 445, Generators.

The local utility company's specification shall apply where the above NEC articles are determined by the local utility to be inadequate or do not address specific hardware and/or power conditioning criteria required by the local utility for interconnecting the SWECS to its electrical system.

(E) The electrical interconnection to the utility electrical/user load shall be electrically located on the user's side of the utility revenue meter and the main distribution panel.

(F) The electrical interconnection shall be made in such a manner as to protect personnel from electrical contact with energized equipment.

(G) Should the local utility require specific interconnect electrical tests to be conducted on the SWECS prior to approval of the interconnection, the test requirements, test methods, instrumentation and calibration requirements, data reduction, data analysis, and reporting shall be specified by the utility and all special tests shall be conducted at a reasonable expense.

(2) *SWECS installation.* The SWECS shall be installed in accordance with the instructions provided by the

manufacturer except that the onsite installation or components used may deviate from the manufacturer's written instructions or the manufacturer's approved components list, if the installer obtains written approval from the manufacturer. In addition, the following requirements shall be met:

(i) Where tower foundation and anchors require modification from the standard design (or specification) provided by the SWECS manufacturer because actual soil condition is not considered normal soil, the installer shall obtain from the SWECS manufacturer, his designated representative, or a registered professional engineer, a foundation/anchor design (or specification) suitable for the characteristics at the site.

(ii) The SWECS shall be grounded and protected against lightning and line transients in accordance with the National Electrical Code Articles 250 (Grounding) and 280 (Lightning Arresters).

(iii) Unauthorized access to the SWECS tower shall be controlled through local ordinances related to attractive nuisance.

(iv) A SWECS shall not be installed in any location where the expected 20-year maximum wind at the proposed site exceeds the design survival wind speed of the SWECS being considered for installation.

(v) Local noise ordinances shall apply, as appropriate, to noise emanating from an installed SWECS.

(vi) Local electromagnetic interferences ordinances shall apply, as appropriate, to any electromagnetic interference resulting from an installed SWECS.

(vii) The installer shall provide the State designated inspection authority (see § 456.313) with a copy of the manufacturer's instructions and a copy of any written approval of deviation from those instructions within 5 days of completing installation.

(h) *Manufacturer reporting requirements—Final test report.* As a minimum, the SWECS manufacturer or his designated testing organization shall document the results of the tests specified in this section in a final test report which meets the following requirements:

(1) *Final test report location.* A copy of the final test report shall be kept on file with the SWECS manufacturer and, if appropriate, his designated testing organization, for a period of 10 years and shall be available for public inspection.

(2) *Type of load.* The type of load (utility grid, battery charging, constant resistance, etc.) size of load (if

applicable) and method of load control (if applicable) used in testing shall be stated on the power/wind speed data sheets which shall be documented in the test report.

(3) *Type and location of instrumentation.* The type and location of the instrumentation used for testing shall be specified in the report.

(4) *Calibration of instrumentation.* The method of calibration used, the calibration time interval, and the traceability of the calibration references to the National Bureau of Standards shall be documented.

(5) *State for towing and wind tunnel tests.* Documents showing test data and/or results developed from towing or wind tunnel tests shall include the following statement:

The (data) (results) presented were derived from (Towing) (Wind Tunnel) tests and may reflect (higher) (lower) (performance) (safety) information than similar data derived from atmospheric tests due to the absence of significant wind turbulence, gusts, and direction changes.

The inappropriate words provided in the above statement shall be deleted before affixing the above statement to the appropriate document.

(6) *Statement for yaw motion restriction.* In documents showing test data and/or results which were derived from tests where the physical limitation of the towing vehicle made conformance to the SWECS yaw motion test requirement of this section impossible or unsafe, the following statement shall be included:

The (data) (results) were derived from tests where the yaw motion of the SWECS was restricted to ± (To be specified) degrees, and may reflect (higher) (lower) (performance) (safety) information than similar data derived from tests where full yaw motion was allowed.

The inappropriate words provided in the above statement shall be deleted and the number of degrees of yaw restriction shall be added before affixing the above statement to the appropriate document.

(7) *Net power output and annual energy production results.* Tabulated results of the SWECS net power output and the SWECS annual energy production shall be available to the public from the SWECS manufacturers.

(i) *Utility reporting requirements—Final test report.* (A) As a minimum, the local utility shall document any special interconnection tests it required prior to approving the SWECS interconnection in a final test report.

(B) A copy of the final test report shall be kept on file with the local utility for a period of two years and must be available for public inspection.

(C) The final test report shall include but not be limited to the following:

- (1) Test requirements;
- (2) Test methods used;
- (3) Instrumentation used;
- (4) Calibration requirements;
- (5) Data reduction methods used;
- (6) Data analysis and results; and
- (7) Recommendations and actions required.

(i) *Labeling requirements.* (1) As a minimum, the following information shall be provided in a label attached to the generator housing or similar accessible location:

(i) System net rated power output (kilowatts), the rated wind speed (meters per second and miles per hour) corrected for standard air density and rotor height;

(ii) Maximum current (amperes), load (ohms), load type (resistive, battery charge, etc.);

(iii) Rotor speed at rated power (revolutions per minute);

(iv) Maximum designed rotor speed (revolutions per minute);

(v) Maximum rotor thrust (newtons and pounds force) (not including wind drag on the tower); and

(vi) System weight (kilograms and pounds) on top of tower.

(2) The following information shall be provided on a label or labels easily read from ground level or located at the SWECS control panel:

(i) Maximum survival wind speed (meters per second and miles per hour) and method of determination (test or analysis); and

(ii) Emergency and manual shutdown procedures if applicable.

(k) *Test Methods.* Allowable test methods for the purpose of obtaining the required information on SWECS performance and safety characteristics are atmospheric, towing, or wind tunnel tests. These test methods shall be subject to the following requirements:

(1) *Atmospheric test.* If an atmospheric test is used, the following requirements shall apply:

(i) For a horizontal axis wind turbine, the SWECS rotor shall be located on a tower or support such that the minimum blade clearance above ground level is 2.5 meters.

(ii) Any obstructions to the flow of air into or from the SWECS rotor which are not an integral part of the SWECS and have a total projected frontal area exceeding 25 percent of the rotor-swept area shall not be permitted within a distance of 5 rotor diameters (of the SWECS being tested) in any direction of the SWECS rotor.

(2) *Towing tests.* If a towing test is used, the following requirement shall apply:

(i) The anemometer location shall be such that the wind speed at the anemometer shall be within ±1 meter per second of the wind speed at the location where the center of the SWECS rotor would be if the SWECS was mounted on the towing vehicle when conducting tests to verify compliance with this requirement.

(ii) Any obstructions to the flow of air into or from the SWECS rotor which are not an integral part of the SWECS and have a total projected frontal area exceeding 25 percent of the rotor-swept area shall not be permitted within the cylinder of projection of the SWECS rotor.

(3) *Wind tunnel tests.* If a wind tunnel test is used, the following requirements shall apply:

(i) The SWECS rotor shall be located at the center of the cross-section area of the wind tunnel test section; and

(ii) The SWECS rotor-swept area shall not exceed 10 percent of the free stream cross-section area of the wind tunnel's test section.

(4) *Yaw motion requirement.* During the conduct of the tests, described in paragraphs (k) (1) through (3) of this section, the SWECS shall be free to operate in its normal configuration in yaw for all yaw motions ±90 degrees from the nominal average wind direction wherever possible. If physical limitations of a towing vehicle make this impossible or unsafe, a physical limitation on the amount of yaw motion is permitted. A disclosure shall be provided with the test results specifying the amount of yaw motion allowed during the test and its effect on the data and results obtained. This requirement does not apply to a vertical axis SWECS.

(5) *Data analysis requirement.* Performance testing shall be conducted over a range of wind speeds including, but not limited to, the interval between 4 meters per second and 12 meters per second. The wind duration at each bin in the interval must satisfy at least one of the following conditions:

(i) The wind speed must be recorded in the given bin for a duration not less than 5 percent of the total test duration;

(ii) The wind speed must be observed in the given bin for at least one minute; or

(iii) The wind speed in the given bin must have been recorded for at least 100 independent observations.

The bin width shall not be greater than 1 meter per second.

(6) *Instrumentation.* The instrumentation used to conduct the tests specified in this section shall meet the following requirements:

(i) The anemometer system used to measure wind speed shall have an accuracy equal to or greater than ±10 percent of reading over the range 4 to 12 meters per second and an anemometer distance constant equal to or less than 10 meters.

(ii) Electrical power output of the system shall be measured or calculated from measured values with an accuracy of ±1 percent of reading.

(iii) All readout or recording devices shall have an accuracy of ±5 percent of reading, a frequency response of at least 0.1 Hertz, and shall be capable of recording or displaying simultaneous wind speed and power output data.

(iv) The anemometer shall be located not less than 1 SWECS rotor diameter and not more than 10 rotor diameters from the center of the SWECS rotor, except that if the anemometer is downwind of the rotor and at a height at or near that of the center of SWECS rotor (±1.5 rotor radii), it shall be not less than 5 rotor diameters nor more than 10 rotor diameters from the location of the SWECS rotor. All wind speed values must be corrected to the height at the center of the SWECS rotor using the locally measured wind shear profile or, if wind shear measurements are not available, the data shall be corrected using the following equation:

$$v_h = v_m \left(\frac{z_h}{z_m} \right)^{1/7}$$

Where

v_h = Corrected wind speed (meters per second) at the center of the SWECS rotor z_h (meters).

v_m = Measured wind speed (meters per second) at a reference height z_m (meters).

z_h = Height (meters) above ground level to the center of the SWECS rotor.

z_m = Height (meters) above ground level where the reference wind speed v_m (meters per second) was measured.

(v) The electrical power instrumentation shall measure the power delivered from the SWECS generator, minus any power used to control the SWECS.

(vi) The calibration of the instrumentation used in the tests specified in this standard shall be traceable to the National Bureau of Standards. The calibration shall be current within the time interval specified by the testing organization.

(7) *Testing organization certification.* The organization conducting any test outlined in this standard shall self-certify that it has met all the testing requirements stated in this standard. A signed statement of compliance with

this standard shall be kept on file with the SWECS manufacturer and the organization that conducted the test for a period of 10 years.

§ 456.810 Standard for urea-formaldehyde foamed-in-place insulation.

(a) *Scope.* This section applies to urea-formaldehyde foamed-in-place insulation of existing residential buildings. This material is approved for exterior sidewall application only, and is not approved for use in attics, above ceilings, or under floors.

(b) *Definitions.* (1) "Urea-formaldehyde foam, insulation" (U-F foam) is a cellular plastic material generated in a continuous stream by mixing the components which are an urea-formaldehyde resin, air, and a foaming agent.

(2) "Foamed-in-place" means sprayed or pumped in place to form rigid or semi-rigid insulation in its permanent location.

(3) "Insulation manufacturer" (manufacturer) means the installer who combines these component materials and foams the insulation in place.

(4) "Component-material supplier" (supplier) means the supplier of the resin, foaming agent, and other ingredients to the foam insulation manufacturer.

(5) "ANSI/ASTM B 152-79" means ANSI/ASTM Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar.

(6) "ANSI/ASTM B 446-75" means ANSI/ASTM Standard Specification for Nickel-Chromium-Molybdenum-Columbium Alloy Rod and Bar.

(7) "ASTM C 177" means ASTM Standard Test Method for Steady State Thermal Transmission Properties by Means of the Guarded Hot Plate.

(8) "ASTM C 236-66" means ASTM Standard Test Method for Thermal Conductance and Transmittance of Built-Up Sections by Means of the Guarded Hot Box.

(9) "ASTM C 518-76" means ASTM Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Heat Flow Meter.

(10) "ASTM D 257" means ASTM Standard Test for D-C Resistance or Conductance of Insulating Materials.

(11) "ASTM D 1622" means ASTM Standard Method of Test for Apparent Density of Rigid Cellular Plastics.

(12) "ASTM E 84" means ASTM Standard Test Method for Surface Burning Characteristics of Building Materials.

(c) *Coverage.* The component material supplier is responsible for ensuring that the requirements contained in this section have been met in all operations

through and including time of delivery to the insulation manufacturer.

(d) **Material requirements.** (1) **Thermal resistivity.** Thermal resistivity shall be tested in accordance with the test method described in paragraph (e)(2) of this section. Thermal resistivity for any given specimen of U-F foam insulation shall not be more than 5 percent below the arithmetic average of the resistivities of the foam specimens tested. Effective thermal resistivity of U-F foam shall be computed as 60 percent of the laboratory thermal resistivity value.

(2) **Fire safety.** The flame spread classification of U-F foam insulation shall not exceed 75, when tested in accordance with ASTM E 84.

(3) **Corrosiveness.** When tested as specified in paragraph (e)(3), the corrosion rates shall not exceed the values specified in Table XIII below.

Table XIII

Metal	Corrosion rate
Carbon Steel	0.15 mm/yr (0.006 in./yr)
Copper	0.025 mm/yr (0.001 in./yr)
Galvanized Steel	0.09 mm/yr (0.0035 in./yr)
Aluminum	0.025 mm/yr (0.001 in./yr)

(4) **Density.** (i) The dry density of U-F foam insulation shall be no less than 10.4 kg/m³ (0.65 lb/ft³) when tested in accordance with ASTM D 1622.

(ii) The wet density of U-F foam insulation five minutes after foaming shall be between 40 kg/m³ and 88 kg/m³ (2.5 lb/ft³ and 5.5 lb/ft³) when tested as specified in paragraph (e)(4).

(3) **Water absorption.** Under conditions specified in paragraph (e)(5)(i) of this section, the water absorption of U-F foam insulation shall not exceed 15 percent by volume. When tested in accordance with paragraph (e)(5)(ii) of this section, U-F foam shall not absorb the droplets of methyl violet solution in less than one hour.

(6) **Free formaldehyde content.** (i) The free formaldehyde content of the resin used in U-F foam insulation shall not exceed 0.5 percent by weight when tested as specified in paragraph (e)(6).

(ii) The free formaldehyde content of fresh U-F foam shall not exceed 0.3 percent by weight when tested as specified in paragraph (e)(7).

(7) **Setting time.** U-F foam insulation shall set in not less than 20 seconds and not more than 60 seconds when tested in accordance with paragraph (e)(8).

(8) **Volume resistivity.** The volume resistivity of fresh U-F foam shall be not less than 5 k Ω-cm when tested as specified in paragraph (e)(9).

(9) **Water drainage.** U-F foam insulation shall manifest no water leakage from a plywood cavity when

tested in accordance with paragraph (e)(10) of this section.

(10) **Shrinkage.** U-F foam insulation shall not shrink more than 4.0 percent in any direction when subjected to the conditions specified in paragraph (e)(11) of this section.

(11) **Labeling.** (i) Containers of urea-formaldehyde resin and foaming agents shall have labels showing storage temperatures and dates (shelf-life) after which resin and foaming agent are not usable.

(ii) The following warning shall be printed on U-F resin containers and shall be printed for manufacturers to present to residents prior to the installation of U-F foam insulation:

Caution: Under some conditions Urea Formaldehyde insulation may cause the release of formaldehyde gas into living areas, and the development of adverse health effects. Continued exposure to formaldehyde can cause nausea and vomiting, respiratory difficulties, headaches, eye irritation, and allergic reactions. Such symptoms may develop anywhere from a few days to more than six months after the gas is released.

(12) **Additional requirements.** (i) The supplier of the U-F foam components shall train and certify the manufacturers of U-F foamed-in-place thermal insulation. An approved training course and certification requirement shall require proficiency in the following:

(A) Principles of heat transfer and thermal insulations

(1) Condensation control/vapor barriers

(2) Effects of moisture on thermal insulations

(3) Air infiltration

(B) Overview of U-F foam insulation

(1) Physical properties

(2) Mechanical properties

(3) Thermal properties

(4) Chemical properties

(C) U-F Foam technology

(1) Manufacture and composition of U-F foam components, i.e., resin and catalyst solutions

(2) Chemical reactions during production of U-F Foam and of final foamed product

(3) Field manufacture of U-F foam *in situ*

(D) Post-installation curing of U-F foam

(1) Shrinkage

(i) Normal

(ii) Excessive

(2) Formaldehyde release

(i) Inherent post-installation release

(ii) Solids content of components and foam

(iii) Factors affecting rate of drying

(E) Installation procedures

(1) General guidelines

(i) Vapor barriers

(ii) Wall venting

(iii) Drilling and plugging

requirements

(iv) Problem installations

(2) Specific guidelines (covers opening and closing techniques and equipment and tools to use)

(i) Brick-on-brick

(ii) Concrete block

(iii) Brick veneer

(iv) Drill and plug

(v) Wood shingle and wood shake

siding

(vi) Slate shingles

(vii) Aluminum, vinyl, and steel siding

(viii) Clapboard wood siding

(ix) Stucco and pebbledash

(x) Imitation brick asphalt roll or sheet

(xi) Balloon construction

(xii) Mobile homes

(xiii) Pipe chases

(xiv) Knee wall areas

(xv) Windows and door frames

(xvi) Below grade

(xvii) Other applications

(xviii) Restricted applications

(F) Proper cavity fill techniques

(1) Stud cavity

(x) Check for obstructions

(ii) How to determine number of holes

per cavity necessary for complete fill

(iii) Methods of preventing

overpressurized or ruptured walls

(iv) Demonstration of proper fill

technique

(2) Continuous cavity, i.e., brick-on-

brick

(i) Methods of preventing

overpressurized or ruptured walls

(ii) Demonstration of proper fill

technique

(3) Other cavities

(i) Methods of preventing

overpressurized or ruptured walls

(ii) Demonstration of proper fill

technique

(C) Resin and foaming agent/catalyst

handling

(1) Storage conditions

(2) Solution temperatures during

application

(3) Shelf life

(4) Safety precautions

(5) Shipping requirements

(H) Practical demonstration

(1) Proper foaming technique

(i) Pre-foaming quality control checks

(ii) Pre-installation quality control

checks

(iii) Quality control checks during

installation

(2) Trouble shooting off-specification

foam

(i) Off-ratio foam

(ii) Incorrect density foam

(iii) Over aged resin

(iv) Incorrect solution temperatures

(v) Faulty, malfunctioning or

inadequate equipment

(vi) Overacidified or underacidified foaming agent

(vii) Effects of using equipment not properly maintained

(1) Equipment

(2) Supplier's recommended

equipment

(2) Proper care and maintenance

(3) Troubleshooting

(f) Recordkeeping

(7) Required disclosures to consumer

(2) Manufacturer's required

recordkeeping

(ii) Following the supplier's training programs, and successful completion of a comprehensive examination, manufacturers will then be certified to apply U-F foam insulation.

(A) The supplier shall issue application licenses to the certified dealers and maintain a current roster of its licensed manufacturers.

(B) Annual or semi-annual refresher courses and recertification examination shall be required for each manufacturer to maintain his certification.

(C) Manufacturers trained by a supplier other than their current supplier must use equipment that complies with the current supplier's specifications and must successfully complete that supplier's certification requirements. Complete re-training is not necessary but is at the current supplier's discretion.

(D) On-site spot checks of installations shall be conducted by the supplier.

(iii) The supplier of the U-F foam components shall provide materials control and installation instructions.

(iv) The supplier of the U-F foam components shall recommend the equipment to be used to manufacture the U-F foamed-in-place thermal insulation. The equipment shall at a minimum meet the following criteria:

(A) The pumping-delivery equipment shall deliver air, dilute resin and dilute foaming agent to the mixing device in the proper flow and volume ratio prescribed by the manufacturer of the materials.

(B) A device shall be included to alert the operator or automatically shut down the system should performance specifications go out of tolerance. Wet density shall be manually adjusted and will not be subject to the alarm or shutdown requirements.

(C) The system shall have provisions to prevent or control oil contamination and/or water condensation in the air supply.

(e) **Test methods.** (1) **Preparation of specimens.** Neither the specimen composition nor foaming conditions shall be altered to produce qualifying samples for the tests required in this

section. All tests described in this section shall be conducted on the same batch of U-F foam insulation (made from the same resin, foaming agent, and additives) and under the same conditions. Unless otherwise specified in the following test procedures, the foam shall be prepared and applied in accordance with the supplier's instructions and specified equipment. The temperature of the unreacted materials prior to foaming shall be between 15° and 32° C (59° and 90° F). Unless otherwise specified, specimens shall be foamed at ambient conditions of 23±2° C (73±4° F) and 50±5 percent relative humidity into closed cavities constructed of (nominal) 2 x 4 inch studs (51 x 102 mm) and ½ inch (13 mm) thick exterior grade plywood. Maintain test specimens in the closed cavities in vertical positions at 23±2° C and 50±5 percent relative humidity for 28 days prior to testing. Then remove specimens from cavities and condition at 23±2° C (73±4° F) and 50±5 percent relative humidity until a constant weight (±1.0 percent) is maintained over a three day period.

(2) **Test method for thermal resistivity.** (i) The laboratory value of thermal resistance shall be determined as specified in ASTM C 177, ASTM C 518-76 or ASTM C 236-66, using specimens 75±0, -1 mm (3 in., +0, -.04 in.) thick, a mean temperature of 24° C (75° F) and a mean temperature differential across the specimen of 22±3° C (72±5° F). In cases of a question, ASTM C 177 shall be used. Specimen surfaces shall be either those obtained during foaming or those obtained by slicing the material to remove not more than 5 mm from each side.

(ii) The effective thermal resistance shall be computed as 60 percent of the laboratory thermal resistance value determined by the preceding paragraph.

(3) **Test method for corrosiveness.** (i) The following apparatus and materials shall be used to test for corrosiveness:

(A) Oven capable of maintaining 40±2° C (104±4° F).

(B) Small container, approximately 90 x 50 mm (3.6 x 2 in.) made of inert material such as polypropylene and equipped with a lid so designed that water condensing on it will not drip but will run to the walls of the container. The container shall be designed such that it is not potentially hazardous after it has been sealed at room temperature and heated to 40° C (104° F).

(C) Large container, capable of housing the small container, but which will fit inside the oven.

(D) Test coupons, approximately 50 x 50 mm x 0.0762 mm (2 x 2 x .003 in) thick

metal, free of tears, punctures or crimps as follows: 3003 Bare Aluminum, soft temper; ANSI/ASTM B 152-79 type ETP, Cabra No. 110, soft copper; and low carbon, commercial quality, cold rolled shim steel.

(E) Test coupons, approximately 50 x 50 x 1.0 mm (2 x 2 x .004 in) made from hot dipped galvanized sheet steel conforming to Grade A or B, ANSI/ASTM B 446-75 with a total zinc coating of 275-0, +31 g/m². At least 40 percent of the zinc shall be on any one side of the test coupons. (Metal of this quality is used in the manufacturer of truss plates).

(F) 1,1,1-trichloroethane analytical reagent grade. (It has been established that exposure to trichloroethane may present a health hazard and precautions should be taken.)

(G) Balance, capable of determining the mass of the galvanized specimen to an accuracy of 1 mg.

(H) 40 Watt appliance light bulb.

(I) Distilled water, nitric acid 1.002 kg/L, ammonium hydroxide (relative density 0.90), chromium trioxide, silver nitrate, hydriodic acid, reagent grade chemicals.

(J) Several noncorrosive plastic supports and a 150 g mass.

(ii) Prepare foam specimens from blocks. Cut a specimen 60 x 60 mm (2.4 x 2.4 in) square and 15 mm (0.6 in) thick from blocks such that the 60 x 60 mm (2.4 x 2.4 in) surface is that obtained from foaming and not slicing the foam. All other surfaces of the specimen shall be obtained by slicing the foam. Surfaces obtained from foaming shall be placed adjacent to the metal specimens in the test.

(iii) Make duplicate tests for each determination. Wash the metal coupons with 1, 1, 1-trichloroethane to remove any oil or grease. Wash the cleaned specimens under water and ensure they are completely wetted by the water and contain a water-streak free surface. At no time shall the metal coupons be touched with ungloved hands. Handle the cleaned metal specimens with clean forceps. Dry the metal coupons at room temperature. Weigh the coupons and record their masses. Place a noncorrosive plastic screen support in the small container and add 20 mL (deionized) water. Place a foam block on the support at least 5 mm (0.2 in) above the surface of the water. Place the metal coupon on the foam block, put another foam block on the metal coupon and then place on top of the sandwich a non-corrosive plastic screen and a 150 g mass which shall not block air flow to the top foam block. Seal the small container with a lid. Place the small container in the large container, add

sufficient distilled water to the large container and seal it. Place the assembly in an oven at $40 \pm 2^\circ\text{C}$ ($104 \pm 4^\circ\text{F}$) for 28 days. Upon completion of the test remove the assembly from the oven and dismantle. The large container should still have some water in it. If there is no water present at the end of the test, then results for those materials passing the test are suspect and the test should be repeated. Remove the corrosion products from the metal coupons by the procedures recommended in ASTM G1. Rinse all metal coupons in distilled water and dry. Examine the specimen and control coupons. The controls shall be metal coupons not exposed in the oven but which are cleaned identically to the specimens. Subtract the loss in mass of the controls from the loss in mass of the specimen coupons. For each set of duplicate specimens to meet the requirements of paragraph (d)(3), the spread between results shall not exceed an absolute value equal to 15 percent of the maximum permissible corrosion rate specified for that material and the average of both results shall be below that maximum limit set for that material.

(iv) Calculations. Corrosion rates shall be calculated by the following equation:

$$\text{Corrosion Rate} = \frac{87.6 \times W}{A \times T \times D}$$

(mm/yr)

Where:

W = weight loss in mg to the nearest 0.2 mg

A = total surface area in cm^2 to the nearest 0.01 cm^2

T = time of exposure in hours to the nearest 0.01 hr

D = density in g/cm^3

(4) Test method for wet density.

Weigh to the nearest gram a measured quantity of freshly foamed material in a tared container within five minutes after formation. Calculate wet density using the formula:

$$\text{Density} = 1,000 \times \frac{\text{Weight of Container} - \text{Weight of Sample}}{\text{Volume (cm}^3\text{)}}$$

(kg/m^3)

(5) Test methods for water absorption.

(i) Floating test. Cut three cubes, each $180 \times 180 \times 90$ mm ($7.1 \times 7.1 \times 3.5$ in) from a block of foam. Accurately weigh each cube and place them singly on a distilled water surface. The surface in contact with the water shall be that obtained from foaming. After seven days at $23 \pm 2^\circ\text{C}$ ($73 \pm 4^\circ\text{F}$) and 50 ± 5 percent R.H., remove the cubes and accurately weigh them. Calculate the percentage of water absorption on a volume basis.

(ii) Droplet test. Prepare a 0.3 percent solution of methyl violet in distilled water. Apply five drops each 0.03 mL, of the solution by means of a syringe to a freshly cut horizontal surface of the foam and to a surface obtained from foaming. Measure the time required by the drops to be completely absorbed through the surface of the foam. This point in time shall be ascertained under direct lighting at the moment when the area to which the drop has been applied become dull. Perform the test at $23 \pm 2^\circ\text{C}$ ($73 \pm 4^\circ\text{F}$) and 50 percent R.H.

(6) Test method for free formaldehyde content of resin. Prepare a standard sulfite solution as follows: Dissolve, without heating, approximately 250 g $\text{Na}_2\text{SO}_3 \cdot 7\text{H}_2\text{O}$ in about 200 mL distilled water. Dilute to one litre. Adjust the pH of the sulfite solution to 8.9 with H_2SO_4 , and NaOH solutions. The solution is stable only for a short period of time and it must be used immediately after adjustment of the pH. Place 20 mL distilled water in an Erlenmeyer flask. Accurately weigh approximately 2 g resin solution (ready for foaming) and add it to the flask. Stir the mixture well, add approximately 10 g crushed ice and mix thoroughly. Add 50.0 mL of the standard sulfite solution and titrate immediately with 0.49 g/L H_2SO_4 to pH 8.9. Perform the procedure in duplicate and run a blank. Calculate the percentage formaldehyde content of the resin as follows:

Percent formaldehyde = $3(A-B)/D/C$

Where:

A = mL of 0.49 g/L H_2SO_4 for the specimen

B = mL of 0.49 g/L H_2SO_4 for the blank

C = mass of resin solution, g

D = normality of the H_2SO_4 solution.

(7) Test method for free formaldehyde content of fresh U-F foam. This test shall be conducted on three foam specimens taken from the same slab of foam and one blank. These specimens shall be taken 60 minutes after foaming.

(i) The following apparatus is required:

(A) Four 1000 mL breakers

(B) Mechanical stirrer

(C) 50 mL graduate cylinder

(D) One 100 mL graduate cylinder

(E) Top-loading automatic balance,

sensitivity 0.01 g

(F) Two titration burettes, 50 mL capacity,

(ii) Prepare a sulphite solution (1 molar) by dissolving, without heating 252 g $\text{Na}_2\text{SO}_3 \cdot 7\text{H}_2\text{O}$, or 126 g of Na_2SO_3 , in about 400 mL of formaldehyde-free distilled water. Dilute to 1000 mL in a volumetric flask. Adjust the pH of the sulphite solution to 8.9 with 0.1 N H_2SO_4 , or 0.1 N NaOH solution. The solution is stable only for a short period of time

and must be used immediately after adjustment of the pH. To increase its stability, store in a dark cool place.

(iii) Weigh the 1000 mL breakers.

(iv) Cut three foam samples, approximately $50 \times 50 \times 75$ mm ($2 \times 2 \times 3$ in) each, and place each in a separate 1000 mL beaker. Re-weigh the breakers and determine the weights of the foam samples.

(v) Compress foam sample to the bottom of the beaker and add 400 mL of a water/methanol mixture (50/50 by volume), previously cooled to 0°C . Mix well, adjust to pH 8.9 with 0.1 N NaOH, and allow to stand for two (2) hours in an ice bath maintaining 0°C .

(vi) For blank, add 200 mL of formaldehyde-free distilled water and 200 mL methanol to 1000 mL beaker and cool at 0°C .

(vii) Add 0.1 N sodium hydroxide (NaOH) solution, dropwise, to pH 9.0 or back titrate with 0.1 N sulphuric acid (H_2SO_4) to a pH of 9.0.

(viii) Quickly add 10 g of cracked ice (2 tablespoons) to one of the breakers only and stir or mix thoroughly. To this beaker, immediately add 50 mL of standard 1 molar sodium sulphite solution from a graduate cylinder and titrate at once with 0.1 N sulphuric acid to a pH of 9.0. Record the number of mL of 0.1 N sulphuric acid in this titration.

(ix) Repeat procedure in Step 6 for the second and third foam sample breakers. (x) Run the blank by adding 10 g (2 tablespoons) of cracked ice and then quickly adding 50 mL of standard 1 molar sodium sulphite solution from a graduated cylinder, and titrate again with 0.1 N sulphuric acid to a colorless end-point (pH 9.0). Record the number of mL of 0.1 N sulphuric acid added to the blank solution.

(xi) The percentage of free formaldehyde contained in the foam shall be determined by the following equation

$$\text{Percentage Formaldehyde} = \frac{3.003(A-B)D}{C}$$

A = mL of 0.1 N H_2SO_4 titrant added to the blank sample

B = mL of 0.1 N H_2SO_4 added to the sample

C = weight of foam in g

D = normality of the H_2SO_4 solution

(8) Test method for setting time. A conical specimen with a bottom diameter of approximately 30 cm (12 in) and a height of approximately 30 cm (12 in) shall be made by foaming from a hose. Start a stopwatch immediately after the cone has been formed and immediately commence slicing the cone with a spatula. Record the time when

the foam no longer slices as if it were whipped cream but shears off leaving a smooth surface. This time is the setting time.

(9) Test Method for Volume

Resistivity of Fresh Foam. Foam the specimen in a plastic box which is made of non-conductive plastic and so designed that it may be opened for easy cleaning. Provide slits in the box to accommodate the brass electrodes forming a 90 mm (3.5 in) cube of foam when they are inserted into the box. The box shall be equipped with grooves, about 2 mm (0.08 in) in depth on the interior between the slits, to act as guides for the electrodes. Insert the electrodes into the slits, through the foam and through the other slits. The bevelled edge of the electrodes shall face outwards during insertion so that the foam specimen is not compressed. Then determine the volume resistivity of the foam in accordance with ASTM D 257 using a potential difference of 110V, the time between foaming the specimen and taking the instrument reading shall not exceed 30 seconds.

(10) Test method for water drainage.

Prepare a cavity approximately 2440 mm high, 400 mm wide and 90 mm deep ($97.6 \times 16 \times 3.5$ in) from wood studs and plywood. Fill the cavity by foaming in place or trowelling. Leave the cavity in a vertical position for 24 hours, during which time the bottom and underside of the structure shall be examined for water. The cavity shall be built so that any free water from the foam can run out easily at the bottom. Caulks, sealants, and adhesives are not to be used in the construction of the cavity.

(11) Test method for shrinkage.

Construct three boxes, approximately $480 \times 480 \times 90$ mm ($19 \times 19 \times 3.5$ in) from nominal 2×4 in wood studs and exterior grade plywood. Fill these three boxes with U-F foam, cover them, and maintain for 28 days at $23 \pm 2^\circ\text{C}$ ($73 \pm 4^\circ\text{F}$) and 50 ± 5 percent R.H. Then open the boxes and measure the linear shrinkage of the U-F foam in the two principal directions. Report the average of all six determinations as linear shrinkage. If fractures in the specimens occur, the data shall be discounted, and the test repeated.

§ 456.812 Standards for caulks and sealants, water heater insulation, heating/air conditioning duct insulation and pipe insulation.

(e) Material standard for pipe

insulation. Pipe insulation shall conform to:

(1) Federal Specification HH-I-558B, Federal Specification for Mineral Fiber Batts and Blankets—Industrial Type, or

(2) Federal Specification HH-I-573B, Organic Cellular Flexible Unicellular pipe covering.

In addition, the exterior facing shall have a flame spread, when tested in accordance with ASTM E-84, of no more than 25.

456.814 Standards for furnace efficiency modifications.

(f) Material standard for automatic intermittent pilot ignition systems (IID's) for gas-fired heating systems. (1) All IID's shall conform to ANSI Z21.20-1975, entitled "American National Standard for Automatic Gas Ignition Systems and Components."

(2) All IID's shall contain a label stating: "This device should be installed only by approved contractor."

(3) Manufacturers of IID's shall provide to all persons approved for installing the device specific wiring diagrams for all situations in which the IID may be installed.

(g) Material standard for vent dampers for gas-fired systems.

(3) Wiring diagrams and instructions.

In addition to meeting the above requirements, manufacturers shall provide all persons approved for installing the device with:

(i) Specific wiring diagrams, which show how to connect electrical vent dampers and thermal vent dampers with electrical connections to those appliances with which the vent damper is compatible.

(ii) Specific interconnection diagrams between the motive force and control circuits of those appliances with which a mechanical vent damper is compatible.

(iii) Instructions for installing an additional automatic gas valve when installing thermal vent dampers.

(iv) A verification-of-installation card to be returned to the manufacturer by the installer. The following information shall be requested on the card:

(A) Name of Installer.

(B) Name of Installer's Company.

(C) Name and Address of Purchaser.

(D) Model and Type of Device

Installed.

(E) Date of Installation.

§ 456.905 Standard practice for the installation of loose-fill thermal insulation.

(d) Installation Procedures. (1)

General

(ii) Structural damage can be caused by excessive pressures during the installation or can result from installing insulation in constructions too weak to support the imposed load. Install

insulation only so as not to cause any of the following conditions:

(A) Separation of finish materials from joists or studs.

(B) Cracking of materials or opening of joints between boards.

(C) Deflection of more than 1/200 of the joist or stud spacing.

Note 5.—The following table, which is based on tests and other data submitted by gypsum board manufacturers, may be used to determine whether a gypsum board surface is likely to exceed the maximum allowable deflection specified above. Actual deflection or other failure in service depends on various factors such as:

- Whether the gypsum board is installed with its long side parallel or at right angles to the joists.
- Relative humidity.
- Temperature conditions.

Table 1.—Maximum Suggested Loads

(1) Gypsum board ceiling thickness	(2) Frame spacing	(3) Suggested load ¹
1/2 in.	24 in. o.c.	1.3 psf.
5/8 in.	16 in. o.c.	2.2 psf.
3/4 in.	24 in. o.c.	2.2 psf.

¹ Includes the weight of both the new and any existing insulation.

§ 456.909 Standard practice for the installation of urea-formaldehyde foamed-in-place insulation.

(a) Scope. (1) This practice covers the installation of Urea Formaldehyde foam insulation (U-F foam) in exterior wall cavities of existing residential buildings.

(2) This practice covers the installation process from pre-installation procedures through post-installation procedures. It does not cover the manufacturing of the material components, but it does cover the process of combining components to form foam and it also covers field quality control checks.

(3) This practice provides minimum requirements that will help to insure the installation of insulation in a safe and effective manner. It must be noted that actual conditions in existing buildings vary greatly and in some cases substantial additional care and precaution may have to be taken to assure effective and safe installation.

(4) This practice covers aspects of installation relating to the safety of persons and property, effectiveness, and durability of insulation in service, and prevention of related structural damage to the residence.

(b) Definitions. The definitions in § 456.810(b) apply to this section.

(c) Significance. (1) This practice recognizes that effectiveness, durability,

prevention of related structural damage, and safety of insulation depends not only on the quality of the insulation materials, but also on their proper and workmanlike installation.

(2) Improper installation of U-F foam may reduce its thermal effectiveness, cause damage to the structure, and cause unsafe conditions.

Note.—Specific hazards that can result from improper installation include:

a. Deterioration or failure of electrical wiring components and heat buildup caused by overfused electrical circuits or by exposed metal wire conductors, when wiring is encapsulated in thermal insulation;

b. U-F foam insulation may release formaldehyde vapor. This occurrence may present a health hazard to the building's occupants.

c. Deterioration of wood structures, paint failures, and corrosion of metal fasteners and electrical components caused by prolonged moisture accumulation within building components.

d. Foam penetration into electric services, cracks, gaps (moldings), heating ducts and passages, interior partition walls and floors not meant to be insulated, recessed electrical or storage components, etc.

e. Buckling, breaking, and cracking of interior or exterior surfaces due to over pressurization or defective construction workmanship or materials, sometimes not related to the insulation.

f. Rendering window mechanisms inoperative or partially operative (blockage of weights by foam, etc.)

(d) *Safety Precautions.* (1) Wear safety equipment to protect hands and eyes against acid contained in the chemicals.

(2) Avoid contact between the uncombined chemical components of U-F foam and building materials to prevent staining or corrosion.

(3) Follow label instructions regarding hazards related to the materials.

(4) Observe all safety rules provided by the installation equipment manufacturer. Properly set relief valves on pressurized liquid and air vessels and exercise proper use of electrical power tools.

(5) Keep all persons not involved in the installation a safe distance from work areas and installation equipment.

(6) Maintain proper ventilation on the job to prevent excessive exposure to formaldehyde gas.

(7) Follow the supplier's instructions for storage of U-F foam components and follow proper methods of disposal of old or unusable resin and foaming agent solutions.

(8) Turn off all power to circuits located within the wall cavities being insulated.

(e) *Installer requirements.* (1) The installation of U-F foam may only be performed by insulation manufacturers

trained and certified by the material components supplier.

(2) Persons installing U-F foam must have a working knowledge of the applicable codes and regulations, tools, equipment, and methods necessary for the installation of thermal insulation materials. These persons are also required to have an understanding of the fundamentals of residential construction that affect the installation of insulation.

(f) *Equipment.* (1) Use only equipment which has been recommended by the supplier for use with the supplier's product and has within a period of less than six (6) months prior to the current installation successfully passed the testing requirements of paragraph (f)(4) of this section using the procedures described in paragraph (f)(5).

(2) Ensure that hose lengths conform to the insulation supplier's requirements.

(3) Check the equipment for proper functioning and cleanliness before starting a job. Clean and maintain the equipment according to the equipment manufacturer's instructions but at a minimum, at the following intervals:

(i) Before installing each new batch of U-F foam.

(ii) After every down time of at least 15 minutes.

(iii) At the conclusion of the installation process.

(4) *Equipment testing requirements.* (i) The volume flows shall be consistent from the beginning to the end of continuous foaming operations of a quantity of 20 ± 5 gallons of both resin and foaming agent to within a tolerance of ± 5 percent of the standard set out in paragraph (f)(5)(i) of this section.

(ii) The ratio of flow between the liquid ingredients shall be consistent from beginning to end of continuous foaming of a quantity of 20 ± 5 gallons of both liquid ingredients to within a tolerance of ± 5 percent from manufacturer's prescribed ratio between the liquids when tested in accordance with the test method specified in paragraph (f)(5)(i).

Example. Assuming 20 gallons of foaming agent used and 20.5 gallons of dilute resin, the ratios would be 1 to 1.025 foaming agent to dilute resin, which is an acceptable ratio for a product required to maintain a 1 to 1 ratio.

(iii) The wet density of the U-F foam shall be consistent from beginning to end of continuous foaming of a quantity of 20 ± 5 gallons of both liquid ingredients to within a tolerance of ± 5 percent of the supplier's test procedure. A minimum of three density tests must be taken over the 20 ± 5 gallons pumped of both liquids (shortly after start, middle, and just before the end).

(iv) Alarm shut-down mechanisms shall be tested per paragraph (f)(5)(iii). Equipment that fails the flow ratio per paragraph (f)(5)(i) but does not activate the alarm or shutdown mechanism, constitutes noncompliance to this standard. For each test per paragraph (f)(5)(i) that fails, an additional, successful test must be run. A test failure is one that was interrupted because of alarm or shut-down mechanism being activated. Special provision is given for ultra-sensitive equipment per paragraph (f)(5)(iii).

(v) The equipment shall be subject to a cyclic performance test to simulate typical wall filling conditions. Ten on-off cycles (30 ± 5 seconds on and 15 ± 5 seconds off) shall be run without causing out-of-tolerance flow ratios. The wet density of foam on the first cycle shall be within the supplier's specification and when compared with a wet density test after the last cycle, shall be within ± 5 percent of that from cycle one. Cleaning of the exit hose or other components in contact with mixed ingredients is allowed prior to final wet density test. The ratio of flow between the liquid ingredients shall be within a tolerance of ± 5 percent from the supplier's prescribed ratio between liquid when tested in accordance with the paragraph (f)(5)(iii) test method. The provisions of paragraph (f)(4)(iv) shall apply to this cyclic performance.

(5) *Equipment testing procedures.* (i) Measure the volumes of ingredients consumed while making U-F foam to an accuracy of ± 2.0 percent of full scale. A plastic pipe with a sight glass connected in a vertical position can be calibrated to serve as a graduated column. Set up and prime the liquid systems after connecting the graduated column. Make trial U-F foam to achieve the supplier's proper specification. Note the level of both liquid ingredients in the graduated columns prior to measurement during timed trials. On continuous pumping trials, a minimum of four sets of readings must be taken and spaced uniformly over the pumping period. The elapsed time between each reading must be determined to ± 2.0 percent. If the prescribed amounts of liquid are made into U-F foam and no automatic alarm or shut down has occurred, collect the data as described below:

(A) For each time interval, determine the volume pumped and the time; calculate the ratio of foaming agent to resin of each time interval.

(B) Calculate the overall ratio for the total test period.

(C) Calculate the gallons per minute flow rate for each time interval.

(D) Calculate the total volume pumped for foaming agent and resin at the completion of the test. The foam density at the completion of the test shall be determined per the supplier's prescribed method to specification.

(E) Verify that alarm or shut down devices are working properly per paragraph (f)(5)(iii) since they were not activated during the test.

(ii) The cyclic testing shall measure the volumes of ingredients consumed while making U-F foam to an accuracy of ± 2.0 percent of full scale using graduated columns as described in paragraph (f)(5)(i) of this section. Perform the prescribed checks and note the liquid levels. Perform the prescribed cycle of operations per paragraph (f)(4)(v). Measure the total volume of ingredients used and determine the overall ratio.

(iii) Testing of the alarm or shut down device shall be carried out by another trial per paragraph (i) above, but a progressive restriction of flow of one ingredient shall be induced on the system. This can be done on many systems by crimping a supply hose leading to the mixing device to diminish flow. If the alarm or shut down device fails to activate within five (5) minutes, the system does not comply to this standard. If the system has both alarm and shut down capabilities, the activation of either shall be sufficient for the system to meet this standard. Systems which maintain ratio but give false alarms shall not be rejected, but they will be so classified.

(g) *Foam Generation and Field Quality Control Checks.* (1) Follow the supplier's instructions for generating the foam.

(2) Do not use containers of resin or foaming agent after the dates specified on the container labels by the supplier.

(3) Use only materials supplied by the same insulation supplier and, where that supplier supplies more than one product, ensure that the individual components to be combined are compatible.

(4) Handle all insulation materials in accordance with the supplier's instructions. Keep powdered products dry and free of extraneous materials.

(5) Perform all field quality control checks prescribed by the supplier. At a minimum, perform the following checks at the specified frequencies:

(i) *Setting time (gel time).* Test per Standard for Urea-Formaldehyde Foamed-in-Place Insulation [see § 456.810(8)(e)]. Test before installation each day on each job for each material batch. Check after any change in chemical concentration. Setting time must conform with the supplier's recommendations for the type of

structure and procedure being used but shall not exceed 60 seconds nor be less than 20 seconds.

(ii) *Wet density.* Test per Standard for Urea-Formaldehyde Foamed-in-Place Insulation [see § 456.810(e)(4)]. Check the wet density on each new batch of materials, on each new job, and after each down time of at least 45 minutes. Whenever changing from an empty to full container, the density must be retested. The density must also be repetitively tested throughout the foam-making period at a frequency depending on the setting time: for a set time of 20 seconds, check the density at intervals of no more than twenty (20) minutes; for a 60 second set time, check the density at intervals of no more than sixty (60) minutes.

(iii) *Ratio of resin to foaming agent.* Determine the ratio of resin to foaming agent for each batch of materials on each day on each job by measuring the number of gallons of each liquid used.

(iv) *Temperature of liquids.* The temperature of the liquids shall be within the acceptable range specified by the supplier.

(v) *Specific gravity of dilute resin.* Check the specific gravity of each batch of dilute resin with a hydrometer. The tolerance of ± 5.0 percent variance from the supplier's mean value for the supplier specified temperature range shall be acceptable. Do not use materials whose specific gravity is out of range.

(vi) *Water temperature and hardness.* When reconstituting powdered U-F foam components ensure that the water temperature and hardness are within the acceptable ranges specified by the supplier. Maintain a reconstitution record for each batch of material prepared.

(vii) *Uniform cell distribution.* Ensure that the foam is characterized by uniform cell distribution with a cell size not to exceed 1 mm in diameter.

(6) Maintain a record of the results of all field quality control checks and of other pertinent information required by the supplier, including, but not limited to:

(i) Date of application
(ii) Outdoor ambient air temperature
(iii) Material lot number(s)
(iv) Expiration date(s)
(v) Equipment identification number.
(h) *Pre-Installation procedures.* (1)

Inspect and identify areas where previous moisture problem has caused paint peeling, warpage, stain, visible fungus growth, rotting, or other structural damage. Do not install insulation in such areas until the resident has been notified and these conditions have been corrected and

their sources(s) eliminated. If the resident, after being informed of the moisture condition and the effects of installing insulation in such areas, elects to proceed with the installation, the resident must so state in writing on the contract.

(2) Block all openings in sidewalls through which the insulation material may escape. Seal all wall cavities which open into an attic, basement, or crawl space prior to installing insulation.

(3) For buildings located in Zone I of Figure 1, provide a vapor barrier on the interior surface of all walls to be insulated in bathrooms, and unvented kitchens and laundry areas. Caulk or seal all major cracks on the interior face of exterior walls of these rooms including joints between the floor and wall (except where impractical because of carpeting), between wall and ceiling, at joints around window frames, and around wall penetrations for electrical services (outlets and switches), plumbing stacks, and heating and air-conditioning ducts.

BILLING CODE 6450-01-M

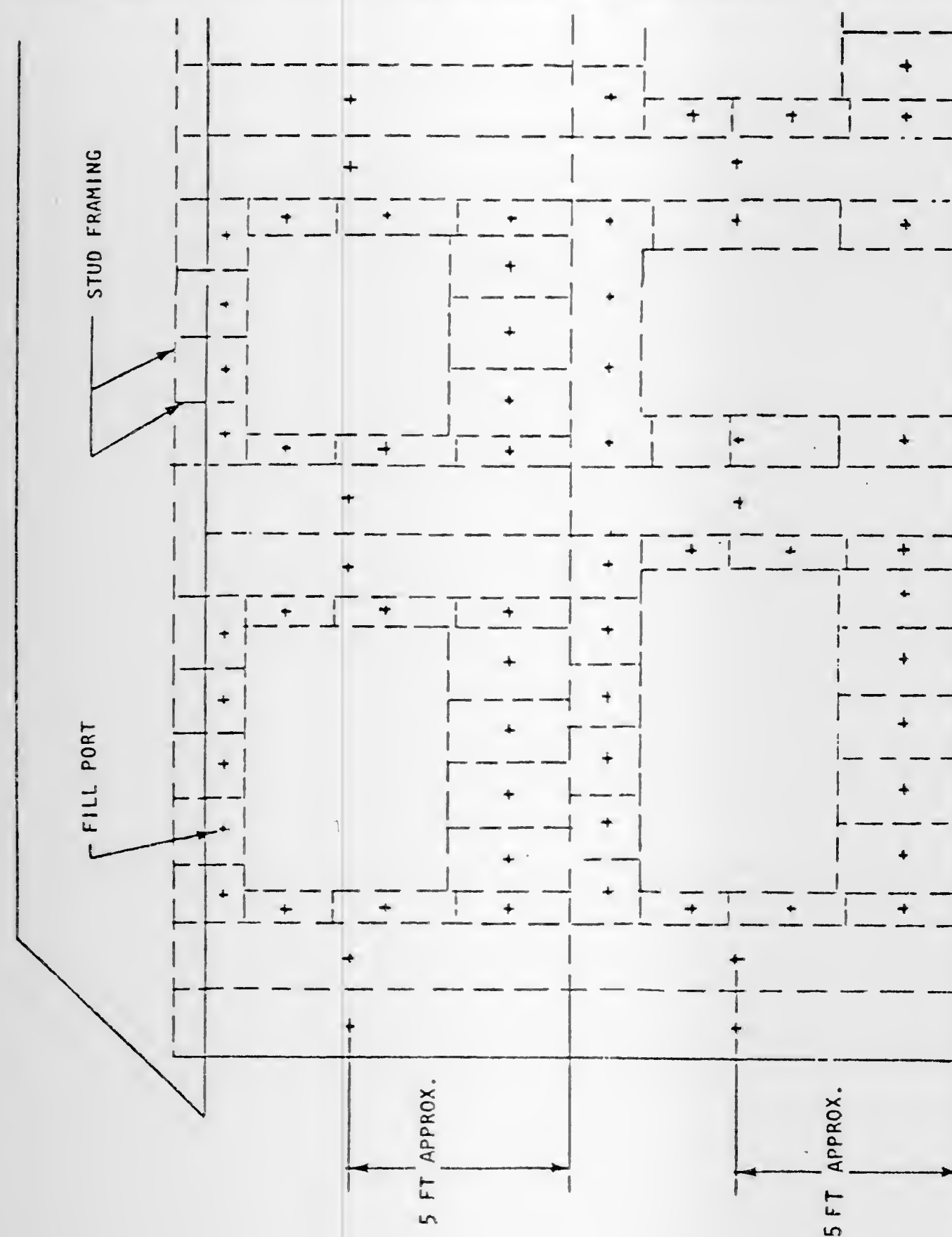
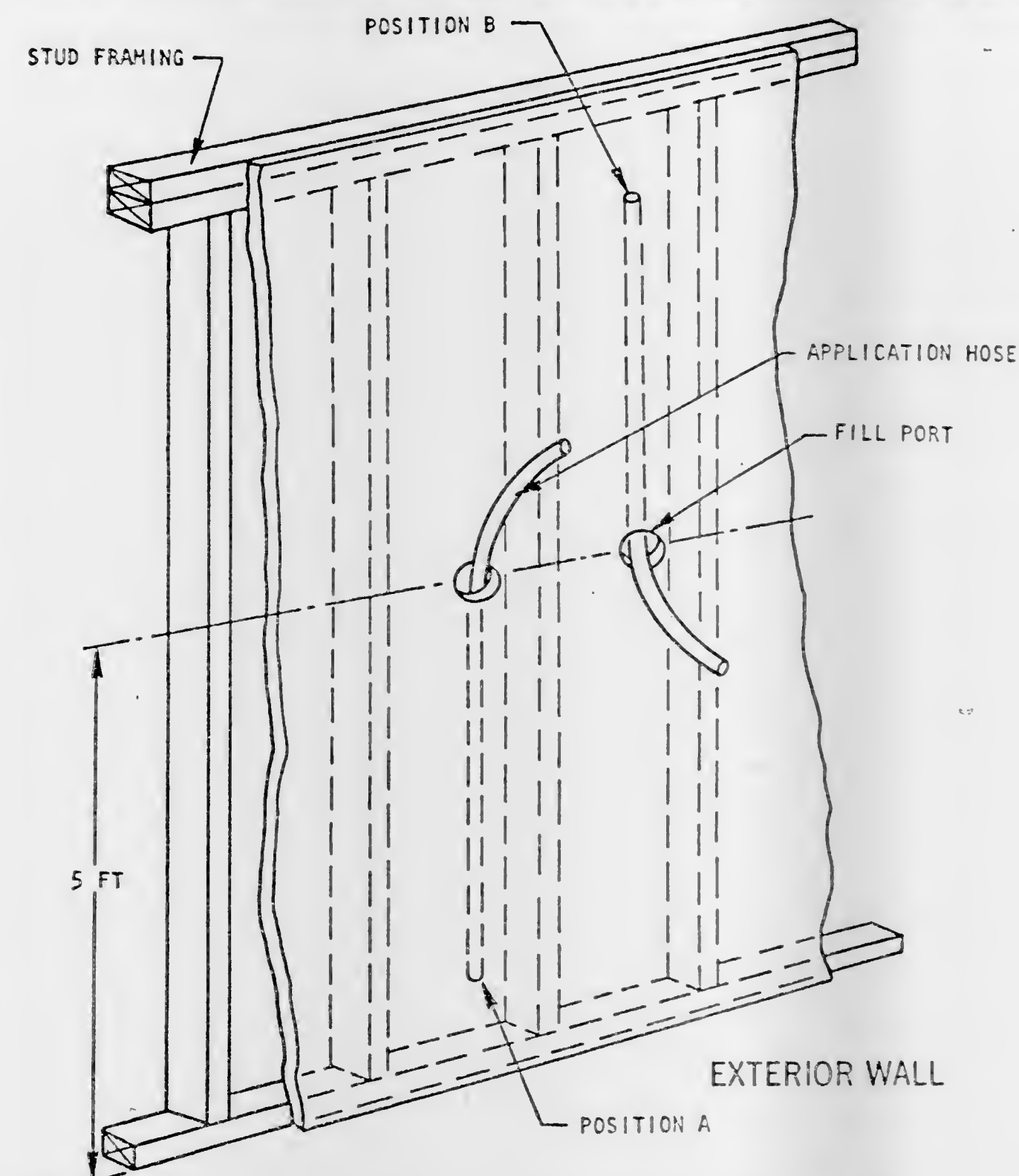


Figure 2. Typical Layout of Fill Ports
BILLING CODE 6450-01-C



START FOAMING AT BOTTOM OF CAVITY (AS SHOWN IN POSITION A) AND KEEP WITHDRAWING HOSE SLOWLY AS CAVITY FILLS UP. WHEN FOAM STARTS FLOWING OUT OF THE FILL PORT, REVERSE THE HOSE AS SHOWN IN POSITION B AND PROCEED AS BEFORE. CHECK CAVITIES FOR OBSTRUCTIONS (I.E., FIRE STOPS, BLOCKAGES, ETC.) AND DRILL ADDITIONAL FILL PORTS IF NECESSARY.

Figure 3. Insulating Closed Cavities
Method A

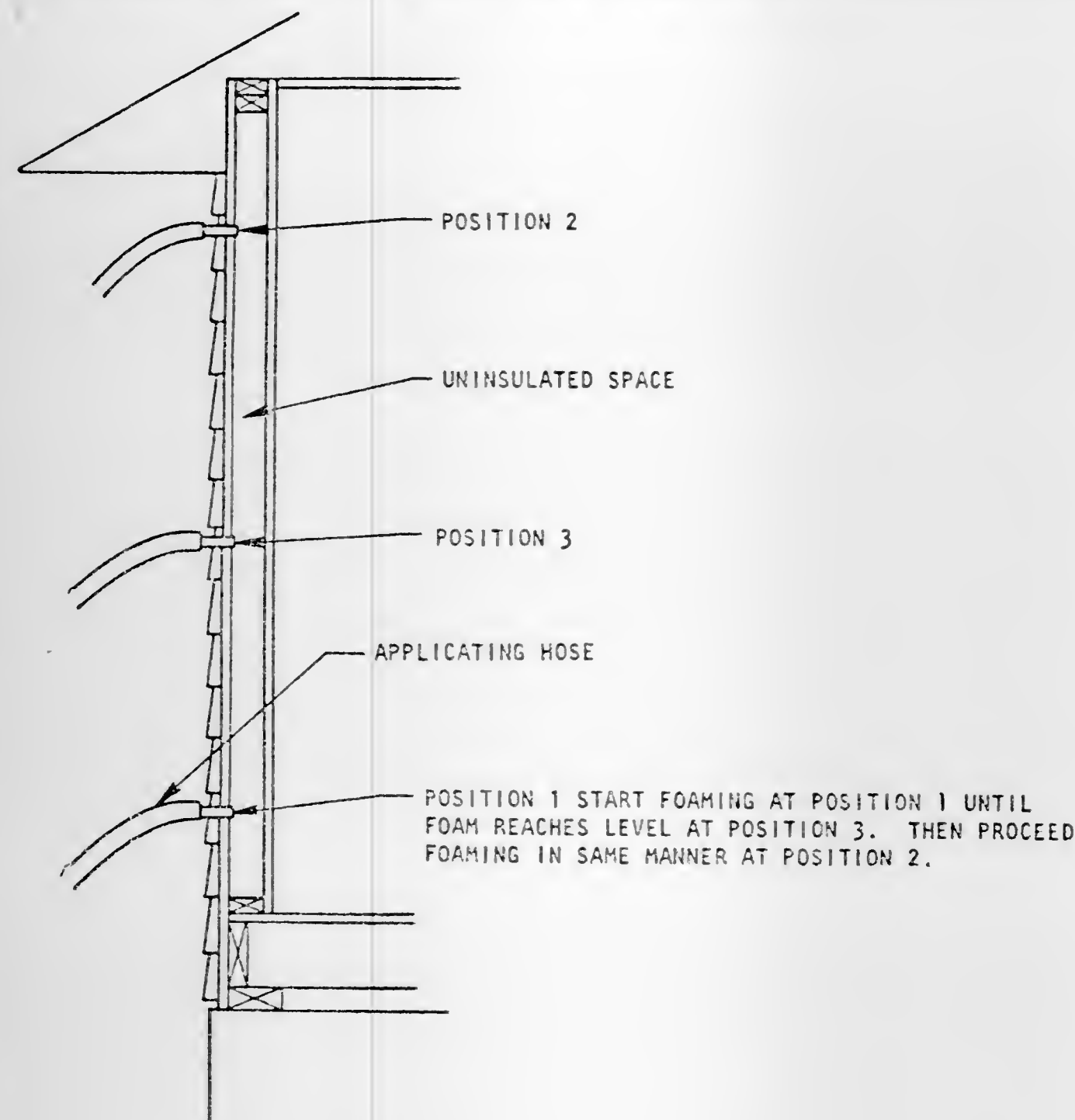


Figure 4. Insulating Closed Cavities Method B

(B) Place the applying hose up to or just inside the bottom fill port and dispense the foam until the next fill port level is reached.

(C) Repeat this procedure by foaming through the top level fill port until foam reaches the center fill port.

(3) Masonry cavity construction (concrete block, brick on brick, brick on block). (i) Do not use this method to foam brick veneer construction.

Attempts to fill brick veneer construction by this method may cause buckling, breaking, or other damage to the walls. Brick veneer construction should be foamed in accordance with the instructions for frame construction.

(ii) The internal void area (cavity) in masonry wall constructions usually runs the entire distance of the wall. Provide holes at three foot intervals along the horizontal distance of the wall and two foot intervals along the vertical distance of the wall. Begin the bottom-most row of holes at a distance of between one to two feet from the bottom of the wall cavity.

(iii) Begin foaming at one of the bottom corners of the wall and continue foaming until foam is detected at the horizontally adjacent hole.

(iv) Ensure that the setting time is longer than the time it took the foam to travel between the horizontal holes.

(v) Move to the adjacent horizontal hole and repeat the procedure specified above.

(vi) After the bottom row has been foamed, proceed to the next row and repeat the procedure until the entire wall has been filled.

(4) *Buildings with metal exterior surfaces.* Buildings with a metal exterior surface require special installation techniques. U-F foam should not be installed in these buildings unless adequate means are provided to allow for moisture and other vapor to escape to the outside. Follow the supplier's instructions for application to these types of structures.

(5) *Window-Door Frames.* (i) Do not apply U-F foam to the frames until after the walls have been insulated.

(ii) Drill entry holes which correspond to the size of the applying hose (or adapter, if used) into the void areas around the frames. Drill holes into the face of the frame wherever possible.

(iii) Foam each entry hole until foam appears at the adjacent hole or until foam emerges from cracks in and around the moldings.

(iv) If the window has any moving parts within the space to be insulated, work the mechanism of the closure. For a fast setting time (20 seconds) work the mechanism within 15 minutes of filling. For a slow setting time (90 seconds)

work the mechanism within 30 minutes of filling. This procedure will ensure that the interior mechanisms of the unit remain operative.

(j) *Post-installation procedures.* (1) Seal all entry holes on the exterior of the wall system in a manner compatible with the original materials and appearance but only after a minimum of 72 hours following the completion of foaming to allow for the egress of gases and moisture. Seal all entry holes on the interior of the wall system immediately following the completion of foaming.

(2) Determine if many coats of paint or caulking have created an impermeable vapor barrier. Take corrective measures, such as loosening up the siding, removing caulking between wood laps, or installing vents/diffusers, to eliminate the vapor barrier and allow curing to take place. Ensure that the venting provided does not result in rain water leakage into the wall system.

(3) Inspect the interior of electrical wall outlet boxes and other electrical devices and, where necessary, remove any insulation which entered during the foaming process. Ensure that electrical power has been turned off prior to conducting this procedure.

(4) Ensure that windows and doors operate properly.

(5) Ensure that any insulation which has come in contact with glass, aluminum, or vinyl building components or has otherwise permeated the interior of the residence has been cleaned off.

(6) Offer the customer a sample of the foam installed at the customer's premise, at no cost to the customer, which is approximately the size required for the dry density test, packaged in a manner to prevent deterioration for at least three years.

§ 456.914 Standard practice for the installation of electrically operated, mechanically actuated and thermally actuated automatic vent dampers for use with gas-fired central furnaces and low-pressure hot-water boilers.

(a) *Scope.* (1) This practice is intended as an aid to safely installing electronically-operated, mechanically-actuated and thermally-actuated, automatic vent dampers on existing appliances. A safe installation requires knowledge and equipment that may be possessed only by qualified installers. (A qualified installer is a person who has specialized training and a working knowledge of the applicable codes and regulations, tools, equipment, and methods necessary for the safe installation of automatic vent dampers for gas-fired appliances and the necessary understanding of the fundamentals of gas-fired heating

systems (see § 456.314)). An improper installation could result in injury or death during installation or at a later date from such hazardous conditions as electrical shock or the venting of exhaust gases, including carbon monoxide, into the residence. This practice outlines general procedures to be followed, but leaves the detailed step-by-step procedure to the qualified installer. Generalized procedures cannot anticipate all situations. Accordingly, in some cases, deviation from this procedure may be necessary for a safe installation. For this reason, only qualified installers should perform the installation.

(2) A safe installation requires that safe vent damper and heating appliance designs be used. Therefore, the vent damper and heating appliance designs must, as a minimum, meet the appropriate nationally recognized standard requirements. These are ANSI Z21.66-77, American National Standard for Electrically-Operated Automatic Vent Dampers Devices for Use with Gas-fired Appliances; ANSI Z21.67-1978, American National Standard for Mechanically-Actuated Automatic Vent Damper Devices for Use with Gas-Fired Appliances; ANSI Z21.68-1978, American National Standard for Thermally-Actuated Automatic Vent Damper Devices for Use with Gas-Fired Appliances; ANSI Z21.13, American National Standard for Gas-Fired Low Pressure Steam and Hot Water Boilers; ANSI Z21.47, American National Standard for Gas-Fired Gravity and Forced Air Central Furnaces.

Note 1.—Often the authority having jurisdiction over the installation of gas equipment in a locality will have requirements that must be met before equipment is considered safe and is approved for use in that locality. Often equipment must be listed before it is approved. Listed equipment is that included in a list published by a nationally recognized testing laboratory that maintains periodic inspection of the production of equipment that it lists. Each listing states the equipment either meets nationally recognized standards or has been tested and found suitable for use in a specified manner. Listed vent dampers and heating appliances are intended to include only safe designs. Using a listed vent damper on a listed heating appliance does not necessarily imply a safe retrofitted system, however. Not all listed vent dampers are compatible with all listed heating appliances. In addition, the safety of a retrofitted system depends not only on the safe designs of the existing heating appliance and vent damper but also on the manner in which the vent damper is installed.

(3) The installer shall ensure that mechanically-actuated vent dampers are only installed on appliances where the specific interconnection diagrams

between the motive force and control circuits and the heating appliance supplied by the vent damper manufacturer show the device to be compatible with the appliance. Electrically-operated vent dampers and thermal vent dampers with electrical connections shall only be installed on appliances where the specific wiring diagrams supplied by the vent damper manufacturer show the device to be compatible with the appliance. If a wiring or interconnection diagram is not supplied by the vent damper manufacturer which duplicates the heating system on which the installation is desired, the installation must not be attempted.

(4) This practice is intended only for use with individual, automatically operated, gas-fired, hot-air (forced or gravity) furnaces and low-pressure, hot water boilers equipped with draft hoods.

(5) Because vent dampers save energy by reducing heated air flow up the vent during periods when the main burner of the heating appliance is off, do not install vent dampers in areas that are essentially at outdoor temperatures, such as unheated basements, attics, or crawl spaces.

(6) Because vent capacities are reduced when the difference between indoor and outdoor temperatures are the least, and, generally, when wind velocities are low, all checks of venting capacity or draft hood spillage must be conducted when the outside temperature is above 65°F and the wind velocity is less than 10 MPH. Venting may be particularly dependent on wind conditions in certain special situations. Extra caution must be exercised in these special situations that include exposed locations in high wind areas; locations in very hilly terrain; difficult constructional features for venting purposes, such as high pitched roofs; and neighborhoods with sharply varying building heights. In these situations, wind currents directed at the top of the chimney may cause downdrafts at times. If any of these situations are suspected of causing draft problems, it will be necessary to conduct the vent capacity or draft-hood spillage checks on several days under various conditions.

(7) At any point, if it is determined that there is a condition that could result in unsafe operation of the heating system, the appliance must be shut off, the owner informed of the required repairs, and the repairs made before continuing with the installation.

(8) This practice requires the following items be followed in order:

(i) Pre-Installation Procedure in paragraph (b)

(ii) General Installation Procedure in paragraph (c)
(iii) Post-Installation Procedure in paragraph (d)

(b) *Pre-installation procedure.* (1) This pre-installation procedure is to determine whether a gas heating appliance is properly installed and is in a safe condition for continuing use. Perform this procedure before making any attempt to install a vent damper, and do not install a vent damper on an appliance if the determinations required below cannot be made.

(2) Determine with suitable instruments, in the vicinity of the heating appliance, that the concentration of combustible gas is less than 20 percent of the lower explosive limit and that carbon monoxide is less than 50 ppm.

(3) Determine that the heating system meets the requirements of all applicable codes and regulations. The heating system should at least meet the requirements of the American National Standard Fuel Gas Code, ANSI Z223.1-1974 (NFPA No. 54-1974) Part 1, Installation of Gas Piping and Gas Equipment on Nonindustrial Premises.

(4) Conduct a gas leakage test of the appliance piping and control system downstream of the shutoff valve in the supply line to the appliance. Do not use a flame or other source of ignition to check for gas leaks.

(5) Inspect the venting system to determine that the cross-sectional area of the vent connector is not less than the area of the draft-hood outlet (the chimney side of the draft-hood) and that the area of the vent is not less than the area of the largest, connected, draft-hood outlet plus 50 percent of the areas of additional connected, draft-hood outlets. If these criteria are not met, the vent system must be in accordance with the National Fuel Gas Code (ANSI Z223.1-1974) paragraphs 1.5.5.3 and 1.5.8.3. Determine that there are no manually adjustable dampers in the vent system. Also visually inspect for positive horizontal pitch (not less than 1/4 inch/foot) and determine that there is no blockage, restriction, leakage, corrosion, etc., which could cause an unsafe condition.

(6) Determine that the outside termination of the vent is satisfactory (See National Fuel Gas Code, ANSI Z223.1-1974, 1.5.5.2 and 1.5.6.3). Determine that the chimney is unobstructed, does not have excessive soot buildup, is in good condition, and is either a lined masonry chimney or an approved Type B or Type L vent. Do not install a vent damper in a heating system using any other chimney type, including unlined masonry chimneys

and uninsulated, single-wall metal pipes. Determine that the vent connector does not project into the chimney.

(7) Determine that the comfort thermostat(s) is in satisfactory operating condition. Check for excessive dust, corrosion, pitted contacts, and cracked or broken base or housing. Note the comfort thermostat setting so it can be reset after the installation is completed. Then adjust the thermostat for continuous operation. Determine that the burner input is in accordance with the heating appliance manufacturer's instructions.

(8) Visually determine that the main burner gas is burning properly and that there is no floating, lifting, or flashback. Adjust the primary air shutter(s) as required. If the appliance is equipped with flame modulation, check for proper main burner operation at low and high flame. Observe burning for evidence of plugged burners, improper flame alignment, combustion product leakage, and improperly adjusted pilot lights.

(9) Shut off all gas to the appliance using the shutoff valve in the supply line to the appliance. Shut off the main burners of all other appliances located within the same room or connected to the same vent. Note the settings of any thermostats that are to be changed so they can be reset after the installation is completed.

(10) Determine that there is sufficient combustion air. In unconfined spaces in buildings of conventional frame or masonry construction, infiltration normally is adequate to provide air for combustion, ventilation, and dilution of flue gases. If the unconfined space is within a building of unusually tight construction, air must be obtained from outdoors or from spaces freely connected with outdoors. Permanent openings having a total free area of not less than one square inch per 5,000 Btu/hr of total input rating of all appliances must be provided. For appliances located within confined areas, follow the recommendations of the National Fuel Gas Code (ANSI Z223.1-1974) paragraphs 1.3.4.3 through 1.3.4.6. Check any ducts for obstructions and other unsafe conditions.

(11) Determine that all electrical wiring at the appliance has no loose connections, charred insulation, cracked or worn insulation, and potential shorting to ground. Determine that fuses and circuit breakers are of correct size and that wires are of correct size for the appliance.

(12) Determine that appliance burners and gas manifolds are not blocked or corroded. Determine that burner alignment will not cause hot spots on the heat exchanger.

(13) *Applicable only to furnaces:* Determine that the heat exchanger has no cracks, openings, leakage deposits, excessive corrosion, and evidence of excessively hot spots. Determine that the recirculating air section of the appliance has no flammable materials or materials that could emit toxic fumes on being heated.

(14) *Applicable only to boilers:* Determine that there is no evidence of water or combustion product leaks.

(15) Insofar as is practical, close all building outside doors and windows. Turn on all exhaust fans (range hood, bathroom exhausts, etc.) so they will operate at maximum speed. Turn on any clothes dryers vented to the outside. Do not operate summer exhaust fans. Make certain that any fireplace(s) is not operating. Close fireplace dampers.

(16) For the following vent system checks, the worst venting conditions that may reasonably exist should be duplicated. The worst venting conditions exist when the space occupied by the heating appliance is at the lowest pressure. If there are exhaust fans in the same room as the heating appliance or if there are no exhaust fans in the residence, the lowest pressure will probably occur when the doors to other spaces of the building are closed. If there are exhaust fans in other rooms, the pressure will probably be lowest when doors connecting these rooms with the heating appliance space are open. Based on these considerations, open or close doors to other spaces of the building as required to produce the lowest pressure in the space occupied by the heating appliance. If it is not known which condition results in the lowest pressure, perform paragraphs 16 through 20 twice—once with doors to other spaces of the building open and once with the doors closed. After the appliances have been off for at least 30 minutes, turn on the gas to the appliance being inspected and place it in operation. Follow the manufacturer's lighting instructions. Adjust the comfort thermostat for continuous, full-burner appliance operation.

(17) Test for spillage at the draft hood relief opening at 2 minutes of main burner operation. This short time is necessary to simulate a reasonably severe test. Use a device that will produce unpressurized flame or smoke, such as a match flame or cigarette smoke. Considerable care must be used to determine if flow is in or out of the draft-hood. Adequate lighting must be provided for observation and the flow around the whole opening must be carefully observed. After testing for spillage at the heating appliance draft-hood, also

test for spillage at other draft-hoods connected to the same vent.

(18) Shut off the main burner and let the appliance cool for at least 15 minutes.

(19) Turn on all other fuel-burning appliances that are within the same room or that are connected to the same vent so they will operate at their full inputs. Turn on the appliance being inspected so that it will operate at its full rated input.

(20) Repeat paragraph (17).

(21) At 5 minutes of main burner operation, measure the flue gas temperature and carbon monoxide (CO) concentration at a point one inch before the inlet to the draft-hood at the center of the flue passage(s). This temperature should be at least 200°F. This temperature is necessary to limit condensation within the vent. This temperature should also be less than 550°F, the vent damper maximum design temperature. The maximum carbon monoxide concentration should be 0.04 percent (400 ppm), as permitted for new heating appliances.

(i) *For thermally-actuated vent dampers only:* Measure the temperature at the center of the vent connector six inches after the outlet of the draft hood. The vent gas temperature must be at least 370°F but less than 550°F. This is the temperature at which the damper design has been tested for flow restriction. If the appliance is equipped with flame modulation, rerun the minimum (200°F) flue gas temperature test, the 370°F vent gas temperature test, and the CO test at the lowest flame conditions.

(ii) *For electrically-operated and mechanically-actuated vent damper only:* If the vent damper is not installed with a redundant gas valve, it must be installed with a damper-closing temperature control, and the temperature at the center of the vent connector six inches after the outlet of draft-hood must be measured. This damper-closing temperature control is intended to keep the damper open if the main burner is operating. The vent gas temperature must be more than 375°F to properly actuate the damper-closing temperature control. If this temperature is not above 375°F, do not install a vent damper with a damper-closing temperature control. If the appliance is equipped with flame modulation, rerun the minimum (200°F) flue gas temperature test and the CO test at the lowest flame conditions.

(22) Return doors, windows, exhaust fans, fireplace dampers, and other appliances to their previous conditions of use.

(23) Determine that the pilot(s) is burning properly and that main burner ignition is satisfactory by turning the main power supply switch for the heating appliance off and on. Test the pilot safety device to determine if it is operating properly by extinguishing the pilot burner(s) when the main burner is off and determine that the main gas valve does not open upon a call for heat beyond the safety shut-off time specified by the automatic gas ignition device manufacturer. If this time is not known, a safety shut-off time of one minute must be met. Relight the pilot(s) after this time check.

(24) *Applicable only to furnaces:* Check both the limit control and the fan control to determine that they operate within the heating appliance manufacturer's specifications.

(25) *Applicable only to boilers:* Test low-water cutoffs, automatic-feed controls, high-pressure limit controls, high-temperature-limit controls, relief valves, water pumps, and the circulating system to determine that they are operating within the manufacturer's specifications.

(c) *General installation procedure.* (1) This general installation procedure is to be used in conjunction with installation instructions supplied by the automatic vent damper manufacturer to aid in safely installing a vent damper on an existing appliance. At any point, if it is determined that there is a condition that could result in unsafe operation of the heating system, the appliance must be shut off, the owner informed of the necessary repairs, and the repairs made before continuing with the installation.

(2) Ensure that the manufacturer has supplied specific interconnection or wiring diagrams for the appliance on which the damper is to be installed. Determine that the heating system and vent damper are approved models. Ensure lack of damage in shipping or other obvious damage and ensure that all parts are included. Determine if the vent damper includes a damper-closing temperature control. If the vent damper has a damper-closing temperature control, ensure that the heating appliance control circuit is of sufficient voltage. *For Mechanically-Actuated Vent Dampers Only:* Determine that the range of available motive force (gas pressure, water pressure, etc.) is within the vent damper manufacturer's specified operating range. Determine that the heating appliance automatic gas valve does not have a manual override feature that would permit manual operation of the heating appliance while the damper remains closed.

(3) Shut off all gas and electricity to the heating appliance. To shut off the

gas, use the shut-off valve in the supply line to the appliance. To shut-off the electricity, use the main power switch for the heating appliance.

(4) Install the automatic vent damper in strict accordance with the manufacturer's installation instructions. Make certain that the damper is located in that portion of the venting system that serves only the appliance on which the damper is being installed and that it is between the appliance and the first branch (if any) in the vent system. The vent damper must be installed *after* the draft hood, that is, between the draft hood and the chimney. If the damper is equipped with a damper-closing temperature control, the damper must be located within three diameters of the draft hood. The inlet size of the vent damper must not be less than the outlet size of the draft hood. *Do not add any components (such as relays) not specified by the manufacturer.*

(5) Determine that the vent system is adequately supported to hold the additional weight of the vent damper without sagging. This may require band iron straps attached overhead and/or self-tapping screws at each joint. Visually inspect the modified venting system for proper horizontal pitch (not less than 1/4 inch/foot).

(6)(i) *For installation of thermally-actuated vent dampers only:* An additional approved automatic gas valve must be installed in accordance with the vent damper manufacturer's installation instructions. This gas valve is intended to shut off gas flow if the other gas valve should stick open, particularly partially open. At reduced gas flow resulting from a partially open gas valve, the vent gas temperature would be reduced and the damper may not open sufficiently to prevent spillage. The additional gas valve may be either an additional valve (without pilot features) located in the gas line between the existing valve and the main burner or a replacement valve that includes two main gas valves within a single unit. Follow the vent damper manufacturer's instructions for installation. After installing a new gas valve, purge air from the effected gas lines and conduct a gas leakage test of the appliance piping and control system downstream of the shut-off valve in the supply line to the appliance.

(ii) *For installation of electrically-operated or mechanically-actuated vent dampers only:* If the vent damper is not equipped with a damper closing temperature control, an additional approved automatic gas valve must be installed in accordance with vent damper manufacturer's installation instructions. This gas valve is intended

to shut off gas flow if the other gas valve should stick open. It may be either an additional valve (without pilot features) located in the gas line between the existing valve and the main burner or a replacement valve that includes two main gas valves within a single unit. Follow vent damper manufacturer's instruction. After installing a new gas valve, purge air from the effected gas lines and conduct a gas leakage test of the appliance piping and control system downstream of the shut-off valve in the supply line to the appliance.

(7) Make sure electrical connections are tight and wires are clear of high-temperature locations and properly supported. Route wires to minimize the possibility of their being damaged. All wiring must meet the requirements of all applicable codes and regulations. As a minimum, wiring must meet the requirements of the National Electrical Code, NFPA 70-1975.

(d) *Post-installation Procedure.* (1) This post-installation procedure is to determine that an automatic vent damper is properly installed and that the retrofitted system is in a safe condition for use. At any point, if it is determined that there is a condition that could result in unsafe operation of the heating system, the appliance must be shut off, the owner informed of the necessary repairs, and the repairs made before continuing.

(2) Turn on electrical power to the heating appliance.

(3) *For the installation of electrically-operated and mechanically-actuated vent dampers only:* By operating the furnace burner through the control circuit, determine that the damper operates properly and is correctly sequenced with the heating appliance's operating controls. The damper should be nearly open *before* the gas valve(s) opens and it should remain open when there is a call for main burner operation. The gas valve(s) should close when the damper *begins* to close and should remain closed when there is no call for heat. The damper must open and close freely without evidence of interference or binding. Also determine that the damper closes fully.

Note.—If a boiler gas valve(s) is sequenced by an aquastat, determine that the damper is nearly open prior to the opening of gas valve(s).

(4) If the damper has electrical current requirements, determine the amperage draw of the gas control circuit (including such items as thermostats, humidifiers, controls for electronic filters, etc.) and the vent damper. Check the appliance transformer for adequate capacity. If the

transformer does not have adequate capacity, it must be replaced.

(5) Check the setting of any heat anticipator in the comfort thermostat and readjust as necessary.

(6) Insofar as is practical, close all building outside doors and windows. Turn on any exhaust fans (range hood, bathroom exhausts, etc.) so they will operate at maximum speed. Turn on any clothes dryers vented to the outside. Do not operate summer exhaust fans. Make certain that any fireplace(s) is not operating. Close fireplace dampers.

(7) (i) *For Installation of thermally actuated vent dampers only:* For the following vent system checks, the worst venting conditions that may reasonably exist should be duplicated. The worst venting conditions exist when the space occupied by the heating appliance is at the lowest pressure. If there are exhaust fans in the same room as the heating appliance or if there are no exhaust fans in the residence, the lowest pressure will probably occur when the doors to other spaces of the building are closed. If there are exhaust fans in other rooms, the pressure will probably be lowest when doors connecting these rooms with the heating appliance space are open. Based on these considerations, open or close doors to other spaces of the building as required to produce the lowest pressure in the space occupied by the heating appliance. If it is not known which condition results in the lowest pressure, perform paragraphs 6 through 8 twice—once with doors to other spaces of the building open and once with doors closed.

After the appliances have been off for at least 30 minutes, turn on the gas to the appliance on which the damper has been installed and place the appliance in operation. Follow the *manufacturer's lighting instructions*. Adjust the comfort thermostat for continuous full burner appliance operation.

(ii) *For installation of electrically-operated and mechanically-actuated vent dampers only:* Turn on the gas to the heating appliance and place it in operation. Follow the *manufacturer's lighting instructions*. Adjust the comfort thermostat for continuous, full-burner operation.

(8) Test for spillage at the draft hood relief opening at 2 minutes of main burner operation. This short time is necessary to simulate a reasonable severe test. Use a device that will produce unpressurized flame or smoke, such as a match flame or cigarette smoke. Considerable care must be used to determine if flow is in or out of the draft hood. Adequate lighting must be provided for observation and the flow

around the whole opening must be carefully observed.

(9) *For thermally-actuated vent dampers only:* If the appliance is equipped with flame modulation, repeat paragraphs 6 and 7 at the lowest flame conditions.

(10) Visually determine that main burner gas is burning properly and that there is no floating, lifting, or flashback. If the appliance is equipped with flame modulation, determine that proper main burner operation at low and high flame is maintained.

(11) Determine that the pilot(s) is burning properly and that main burner ignition is satisfactory by turning the main power supply switch for the heating appliance off and on. Test the pilot safety device to determine that it is operating properly by extinguishing the pilot burner(s) when the main burner is off and determining that the main gas valve does not open upon a call for heat beyond the safety shut-off time specified by the automatic gas ignition device manufacturer. If this time is not known, safety shut-off time of one minute must be met. Relight the pilot(s) after this check.

(12) (i) *For thermally-actuated vent dampers only:* Cycle the heating appliance through at least three normal operating cycles. The damper must open and close properly without evidence of interference or binding. Determine that the damper closes fully. The damper may not close immediately with the thermostat but after a period of time, it should close.

(ii) *For electrically operated and mechanically-actuated vent dampers only:* Cycle the heating appliance through at least three normal operating cycles. Determine that the damper is nearly fully open *before* the main burner gas flow begins and that the main burner gas flow stops as the damper *begins* to close. Damper must open and close freely without evidence of interference or binding. The damper must close fully. If the vent damper includes a damper-closing temperature control, the damper may not close immediately with the thermostat. Test this by operating the heating appliance for 10 minutes. Then reduce the comfort thermostat to shut off the main burner gas flow. The damper should remain open for a period of time and then close.

If the heating appliance is equipped with flame modulation and the vent damper includes a damper-closing temperature control, operate the heating appliance for 10 minutes at the lowest flame conditions. Then reduce the comfort thermostat to shut off the main burner

gas flow. The damper should remain open for a period of time and then close.

(13) *Applicable only to furnaces:* If the furnace electrical circuit has been modified during vent damper installation, check both the limit control and the fan control to determine that they operate within the heating appliance manufacturer's specifications.

(14) *Applicable only to boilers:* If the boiler electrical circuit has been modified during vent damper installation, test low-water cutoffs, automatic-feed controls, high-temperature-limit controls, water pumps, and the circulating system to determine that they are operating within manufacturer's specifications.

(15) *For thermally-actuated vent dampers only:* Return doors, windows, exhaust fans, fireplace dampers, other appliances, and comfort thermostat(s) to their previous conditions of use.

(16) Fill in a label with the installer's name and address and the date of the installation, and apply to the vent damper.

(17) Complete the verification-of-installation card supplied by the vent damper manufacturer pursuant to § 456.814 and return this to the manufacturer.

(18) Leave the vent damper manufacturer's instructions in a conspicuous location near the heating appliance and advise the resident to read these instructions, especially for observations to be performed by the resident.

(19) As required by codes and regulations, notify the appropriate authority that the installation has been completed and turn off the heating appliance until any required inspection is completed.

§ 456.915. Standard practice for the installation of automatic intermittent pilot ignition devices (IIDs).

(a) *Scope.* This practice provides minimum requirements for the installation of IIDs for gas-fired furnaces.

(b) *Requirements.* Installations shall meet the requirements of Proposed American National Standard for Automatic Intermittent Pilot Ignition Systems for Field Installation, September 11, 1979.

§ 456.916. Standard practices for the installation of caulks and sealants.

(a) *Scope.* (1) These practices apply to the on-site installation of caulks and sealants used to control rain water leakage and major air infiltration through building walls.

(2) These practices do not apply to the sealing of minor cracks at the building's exterior.

(b) *Material selection, joint preparation, and installation procedures.* (1) the type of caulk or sealant chosen for a given application depends on the composition of the adjacent materials, temperature fluctuation, exposure to direct sunlight, width and depth of the crack or joint to be sealed and movement in the joint. Select caulks and sealants, prepare the joint and substrate, and install the material in conformance with the following standards and provisions:

(i) Putty and Oil and Resin Base Types: ASTM C-797-75, Standard Recommended Practices and Terminology for Use of Oil- and Resin-Based Putty and Glazing Compounds.

(ii) Acrylic (Solvent Type) and Butyl Rubber: ASTM C-804-75, Standard Recommended Practices for Use of Solvent-Release Type Sealants.

(iii) Latex Sealing Compounds: ASTM C-790-74, Standard Recommended Practices for Use of Latex Sealing Compounds.

(iv) Chlorosulphonated Polyethylene, Polysulfide-Single Component, Polysulfide-Multicomponent, Polyurethane-Single Component, Polyurethane-Single Component, Polyurethane-Multi-Component and Silicone: Follow the provisions relating to application and use included in the applicable Federal Specifications (see Table 3, § 456.812).

3. It is proposed to amend paragraph (d) in Appendix II to Part 456 by adding additional standards to those approved on November 1, 1979 and which are shown in the table below preceded by an asterisk.

Appendix II to Part 456—Standard Incorporated by Reference

(a) Incorporation by reference of material and installation standards. The material and installation standards identified herein are hereby incorporated by reference into this Part as though set forth in full herein, pursuant to 5 U.S.C. § 552(a).

Incorporation by reference of material and installation standards in 10 CFR Part 456 was approved by the Director of the Federal Register, November 1, 1979 and _____.

(b) Statement of availability.

(1) Copies of the following standards may be obtained at the following addresses:

• American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018; except that the "Proposed American National Standard for Automatic Intermittent Pilot Ignition

Systems for Field Installations" may be obtained from Mr. F. G. Hammaker, Administrative Secretary, 721 American Materials Standard Committee, 8501 E. Pleasant Valley Road, Cleveland, Ohio 44131; (216) 524-4990.

• American Society of Testing and Materials (ASTM), 1910 Race Street, Philadelphia, PA 19103.

• National Fire Prevention Administration (NFPA), 470 Atlantic Avenue, Boston, MA 02210

• Environmental Protection Agency (EPA), Washington, DC

• U.S. Department of Commerce, National Bureau of Standards (NBS), Washington, DC 20234.

• Building Officials and Code Administrators (BOCA), International, Inc., 17926 S. Halsted St., Chicago, IL 60630.

• Underwriters Laboratory (UL), 208 E. Ohio Street, Chicago, IL 60611.

• Fir and Hemlock Door Association (FHDA), Yeon Building, Portland, OR 97204.

• Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

• Department of Housing and Urban Development (HUD), Office of Technical and Credit Standards, Room 6156, 451 Seventh Street, SW, Washington, DC 20410

• Sandia Laboratory, Environmental Research Division—5333, Albuquerque, NM 87185.

• Consumer Product Safety Commission (CPSC), 1750 K Street NW, Washington, DC

(2) Copies of all standards incorporated by references are available

for inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

(c) Changes in material and installation standards. Any change to any material or installation standard will be made in accordance with statutory requirements for notice and public comment and with DOE policy for the adoption of rules. Notice of any proposed change will be published in the Federal Register and reflected as an amendment to the table in paragraph (d).

(d) Table of Standards incorporated by reference.

Table of Standards

Number	Title	Date approved	Section reference
ANSI			
ANSI/AAMA 1002.9-1977	"Voluntary Specification for Aluminum Combination Storm Windows for External Applications"	Nov. 1, 1979	§ 456.813.
ANSI/AAMA 1102.7-1977	"Voluntary Specifications for Aluminum Storm Doors"		§ 456.813.
ANSI/ASTM B 152-79	"Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar"	Nov. 1, 1979	§ 456.810.
ANSI/ASTM B 446-75	"Standard Specification for Nickel Chromium-Molybdenum-Columbium Alloy (UNSC625) Rod and Bar"		§ 456.810.
ANSI/ASTM D 2156-65 (1975)	"ANSI Standard Method of Tests for Smoke Density in the Flue Gases from Distillate Fuels"	Nov. 1, 1979	§ 456.913.
ANSI Z21.13-1977	"Gas-fired Low Pressure Steam and Hot Water Heating Boilers"	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.20-1975	"ANSI Standard for Automatic Gas Ignition Systems and Components"	Nov. 1, 1979	§ 456.814.
ANSI Z21.47-1978	"ANSI Standard for Gas-fired Central Furnaces"	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.59-1974	"Gas-fired High Pressure Steam and Hot Water Heating Boilers"	Nov. 1, 1979	§ 456.814.
ANSI Z21.66-1977	"ANSI Standard for Electrically-Operated Automatic Vent Damper Devices for Use with Gas-fired Appliances"	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.87-1978	"ANSI Standards for Mechanically-Actuated Automatic Vent Damper Devices for Use with Gas-fired Appliances"	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.66-1978	"ANSI Standard for Thermally-Actuated Automatic Vent Damper Devices for Use with Gas-fired Appliances"	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z91.2-1976	"Performance Requirements for Automatic Pressure Oil Burners of the Mechanical Draft Type"	Nov. 1, 1979	§ 456.814 and § 456.913.
ANSI Z96.1-1976/UL 727	"Oil-fired Central Furnaces"	Nov. 1, 1979	§ 456.814.
ANSI Z96.2-1974/UL 296	"Oil Burners"	Nov. 1, 1979	§ 456.814.
ANSI Z96.3-1975/UL 726	"Oil-fired Boiler Assemblies"	Nov. 1, 1979	§ 456.814.
ANSI Z223.1-1974	"Installation of Gas Piping and Gas Equipment on Non-industrial Premises"		§ 456.812 and § 456.914.
ANSI/NWMA I.S. 2-73	"Industry Standard for Wood Windows"	Nov. 1, 1979	§ 456.813.
ANSI/NWMA I.S. 5-73	"Ponderosa Pine Doors"	Nov. 1, 1979	§ 456.813.
ASTM			
ASTM C-177-76	"Standard Test Method for Steady State Thermal Transmission Properties by Means of the Guarded Hot Plate"		§ 456.810.
ASTM C-206-66 (Reapproved 1971)	"Standard Test Method for Thermal Conductance and Transmittance of Built-up Sections by Means of the Guarded Hot Box"		§ 456.810.
ASTM C-516	"Standard Specification for Vermiculite Loose Fill"	Nov. 1, 1979	§ 456.806.
ASTM C-518-76	"Standard Test Method for Steady State Thermal Transmission Properties by the Means of Heat Flow Meter"		§ 456.810.
ASTM C-520	"Standard Method for Density of Granular Loose-fill Insulation"	Nov. 1, 1979	§ 456.806 and § 456.807.
ASTM C-570-72	"Specification for Oil and Resin Based Caulking Compound for Building Construction"	Nov. 1, 1979	§ 456.812.
ASTM C-578	"Standard Specification for Preformed, Block-Type Cellular Polystyrene Thermal Insulation"	Nov. 1, 1979	§ 456.808.
ASTM C-755-73	"Standard Recommended Practice for Selection for Vapor Barriers for Thermal Insulation"	Nov. 1, 1979	§ 456.903.
ASTM C-799-74	"Standard Recommended Practices for Use of Latex Sealing Compounds"		§ 456.916.
ASTM C-792-75	"Standard Test Method for Effects of Heat Aging on Weight Loss, Cracking, and Chalking of Elastomeric Sealants"		
ASTM C-797-75	"Standard Recommended Practices and Terminology for Use of Oil-and Resin-Based Putty and Glazing Compounds"		§ 456.916.
ASTM C-804-75	"Standard Recommended Practices for Use of Solvent Release Type Sealants"		§ 456.916.
ASTM C-854-76	"Specification for Latex Sealing Compounds"	Nov. 1, 1979	§ 456.812.
ASTM D-257-76	"Test for DC Resistance or Conductance of Insulating Materials"		§ 456.910.
ASTM D-1622-69 (Reapproved 1975)	"Standard Method of Test for Apparent Density of Rigid Cellular Plastics"		§ 456.610.
ASTM E-84	"Standard Test Method for Surface Burning Characteristics of Building Materials"	Nov. 1, 1979	§ 456.608, § 456.609, § 456.610 and § 456.812.
ASTM E-96	"Standard Test Method for Water Vapor Transmission of Materials in Sheet Form"	Nov. 1, 1979	§ 456.805.
ASTM E-119-76	"Standard Methods of Fire Tests of Building Construction and Materials"	Nov. 1, 1979	§ 456.906 and § 456.907.
ASTM E-126-79	"Test for Non-Combustibility of Elementary Materials"	Nov. 1, 1979	§ 456.905 and § 456.906.
ASTM E-293-73	"Standard Test Method for Rate of Air Leakage Through Exterior Windows, Curtain Walls and Doors"	Nov. 1, 1979	§ 456.813.
ASTM E-576-76	"Standard Test Method for Dew/Frost Point of Sealed Insulating Glass Units in Vertical Position"	Nov. 1, 1979	§ 456.813.

Table of Standards—Continued

Number	Title	Date approved	Section reference
*ASTM G 1-72	"Standard Recommended Practice for Preparing, Cleaning, and Evaluating Corrosion Test Specimens"		§ 456.810.
BPCA: BOCA Research Report No. 72-23			
EPA: EPA Report No. 600/2-75-069a	"Guidelines for Residential Oil Burner Adjustments"	Nov. 1, 1979	§ 456.813
Federal Specifications:			
HH-I-515 D	"Insulation, Thermal (loose-fill for Pneumatic or Poured Application): Cellulosic or Wood Fiber"	Nov. 1, 1979	§ 456.803, § 456.804 and § 456.805.
HH-I-524 B	"Insulation Board, Thermal (Polystyrene)"	Nov. 1, 1979	§ 456.808.
HH-I-530 A	"Insulation Board, Thermal (Polyurethane and Polyisocyanurate)"	Nov. 1, 1979	§ 456.809.
HH-I-558 B	"Insulation Blocks, Boards, Blankets, Felts, Sieving, and Pipe Fitting Coverings"	Nov. 1, 1979	§ 456.812.
*HH-I-573 B	"Organic Cellular Flexible Unicellular Pipe Covering"		§ 456.812.
HH-I-574 B	"Insulation, Thermal (Perlite)"	Nov. 1, 1979	§ 456.807.
HH-I-585 C	"Insulation, Thermal (Vermiculite)"	Nov. 1, 1979	§ 456.806.
HH-I-1030 A	"Insulation, Thermal (Mineral Fiber for Pneumatic or Poured Application)"	Nov. 1, 1979	§ 456.804 and § 456.805.
HH-I-1252 B	"Insulation, Thermal Reflective (Aluminum Foil)"	Nov. 1, 1979	§ 456.810.
TT-S-001543 A	"Sealing Compound, Silicone Rubber Base, (for Caulking, Sealing, and Glazing in Buildings and Other Structures)"	Nov. 1, 1979	§ 456.812.
TT-S-00227 E	"Sealing Compound, Elastomeric Type, Multi-Component (for Caulking, Sealing, and Glazing in Buildings and Other Structures)"	Nov. 1, 1979	§ 456.812.
TT-S-001657	"Sealing Compound, Single Component Butyl Rubber Base, Solvent Release Type (for Buildings and Other Types of Construction)"	Nov. 1, 1979	§ 456.812.
TT-S-00230 C	"Sealing Compound, Elastomeric Type, Single-Component, (for Caulking, Sealing and Glazing in Buildings, and other Structures)"	Nov. 1, 1979	§ 456.812.
TT-C-00598 C	"Caulking Compound, Oil and Resin Type (for Building Construction)"	Nov. 1, 1979	§ 456.812.
TT-P-00791 B	"Putty Linseed-oil Type, (for Wood-Sash-Glazing)"	Nov. 1, 1979	§ 456.812.
FHDA: FHDA 6-77	"Industry Standard for Douglas Fir, Western hemlock, and Sitka Spruce Doors and Blinds"	Nov. 1, 1979	§ 456.813.
HUD: HUD Intermediate MPS Supplement 4930.2	"Solar Heating and Domestic Hot Water Systems"	Nov. 1, 1979	§ 456.702, § 456.703 and § 456.704.
NBS: NBS/IPS 26-70	"Rigid Polyvinyl-chloride Profile Extrusions"	Nov. 1, 1979	§ 456.813.
NFPA: NFPA-31	"Standard for the Installation of Oil Burning Equipment"	Nov. 1, 1979	§ 456.905, § 456.906, § 456.907, § 456.909 and § 456.913.
NFPA-54	"National Fuel Gas Code"	Nov. 1, 1979	§ 456.905, § 456.906, § 456.907, § 456.909 and § 456.914.
*NFPA-70-1978	"National Electric Code"		§ 456.905 and § 456.914.
NFPA-211	"Standard for Chimneys, Fireplaces, and Vents"	Nov. 1, 1979	§ 456.905, § 456.906, § 456.907, § 456.909 and § 456.912.
*Sandia Laboratories Report SAND 77-1375	"Performance Evaluation of Wind Energy Conversion Systems Using the Method of Bins"		§ 456.705.
UL: UL 599	"Standard for Heat Pumps"	Nov. 1, 1979	§ 456.814

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Great Report Federal

Friday
December 21, 1979

Part VII

Department of Health, Education, and Welfare

Food and Drug Administration

Department of Agriculture

Food Safety and Quality Service

Federal Trade Commission

Bureau of Consumer Protection

Food Labeling; Tentative Positions of
Agencies

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Ch. I

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Ch. XXVIII; 9 CFR Ch. III

FEDERAL TRADE COMMISSION

Bureau of Consumer Protection

16 CFR CH. I

[Docket No. 78N-0153]

Food Labeling: Tentative Positions of
Agencies

AGENCY: Food and Drug Administration, Food Safety and Quality Service, and FTC's Bureau of Consumer Protection.

ACTION: Advanced Notice of Proposed Rulemaking.

SUMMARY: The food and Drug Administration (FDA), the United States Department of Agriculture (USDA), and the staff of the Federal Trade Commission's Bureau of Consumer Protection (FTC) announce their tentative positions on a variety of food labeling issues. The positions are the result of the agencies' analysis and evaluation of written and oral comments received in response to a notice published in the *Federal Register* on June 9, 1978 (43 FR 25296), requesting the public's views on several food labeling issues. The FDA, USDA, and FTC held public hearings across the nation between August and October 1978 to elicit public comments on improving food labeling, and they accepted written submissions until November 10, 1978. These positions also grow out of (1) FDA's Consumer Food Labeling Survey, conducted in autumn 1978 to gather consumers' views on food labeling and (2) the agencies' consideration of these food labeling issues. This notice is intended to prompt further comment from the public about the agencies' tentative positions and other food labeling issues on which the agencies have not yet reached tentative positions. It serves further to announce a public hearing (to be conducted by representatives of FDA, USDA, and FTC) to hear oral testimony on these positions and issues. The hearing will be conducted in accordance with Title 21 of

the Code of Federal Regulations, Part 15—Public Hearing Before the Commissioner.

DATES: Public hearing on March 4 and 5, 1980, beginning both days at 9:30 a.m. requests to appear at public hearing by February 22, 1980. Written comments by March 20, 1980.

ADDRESSES: The hearing will be held at the main auditorium of the Department of Commerce, Fourteenth Street and Constitution Avenue NW., Washington, DC.

Written comments to the hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: For Information Concerning the Public Hearing and Scheduling of Presentations: Gary Dykstra, Regulatory Operations Staff (HFC-22), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

For Information on the Technical Aspects of this Notice, :

Taylor Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20240, 202-245-1057 or

Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Rm. 202, 300 12th St. SW., Washington, D.C. 20250, 202-447-6042.

For Copies of the Documents Described Below and Referred to in this Notice, :

Curtis Noah, Consumer Communications Management Staff (HF-10), Office of Policy Coordination, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3170 or

Annie Johnson, Executive Secretariat, Food Safety and Quality Service, U.S. Department of Agriculture, Rm. 3807, South Agriculture Building, Washington, D.C. 20250, 202-447-6735.

SUPPLEMENTARY INFORMATION: This document reports on the comprehensive review, a cooperative venture of the FDA, USDA, and the FTC's Bureau of Consumer Protection, of current food labeling laws and regulations. The proposals it contains result directly from the agencies' commitment to full public participation in the consideration and development of new or revised food labeling laws and regulations; they also result from the first joint effort of the three agencies with responsibility for food labeling and advertising to review the entirety of the food labeling laws and regulations. (Previous efforts, usually initiated by an agency on its own, have been largely ad hoc.)

This document states the agencies' tentative positions on a variety of food labeling issues. In the interest of full public participation, the agencies have decided not to make the positions final until there has been an additional opportunity for public comment. At the same time, however, the agencies will continue to consider (and in some cases to prepare) proposed changes in their food labeling regulations. Thus, the development of regulations to implement many of the tentative positions described here complements the comprehensive review of food labeling laws and regulations.

Unless public comment on this notice presents compelling arguments or substantial new evidence against these tentative proposals, USDA and FDA intend to begin the process of implementing certain of them as soon as possible after the close of the comment period on this notice. After 1½ years of study we find the issues break down into three categories. (Detailed information on the issues is given in the sections titled "Tentative Positions" and "Digest" that appear later in this notice.) The first category is where the issues seem clear, the agencies have authority to act, and there appears to be major need for action. Therefore, it is the intention of USDA and FDA to propose changes in a number of the food labeling regulations, including the following, according to the approximate schedule given below:

Regulation To Be proposed, Expected Publication After Close of Comment Period
USDA

1. To require mandatory percentage labeling for significant ingredients—60 days.
2. To require a statement that ingredients are listed in descending order of predominance—60 days.
3. To require that foods containing 10 percent or more total fat on a dry weight basis declare the specific source of the fat or oil—120 days.
4. To require nutrition labeling—including information on calories, fat, carbohydrate, protein, cholesterol, sugars, sodium and other nutrients of public health concern—on foods about which nutrition claims are made or to which nutrients are added—150 days.
5. To propose serving sizes for various foods—150 days.
6. To require open dating on perishable and semiperishable foods—60 days.

FDA

1. To amend the remaining standards of identity to require declaration of all optional ingredients—60 days.
2. To require a statement that ingredients are listed in descending order of predominance—60 days.
3. To require that foods containing 10 percent or more total fat on a dry weight basis

declare the specific source of the fat or oil—120 days.

4. To require quantitative declaration of total sugars as part of nutrition labeling when the food contains them above a specific level—150 days.
5. To require quantitative declaration of sodium and potassium as part of nutrition labeling—150 days.
6. To define the terms "low cholesterol," "reduced cholesterol," and "cholesterol free"—90 days.

The second category of changes in food labeling regulations that FDA and USDA favor will require changes in legislation. The agencies will propose, therefore, to seek additional legal authority:

1. To require the declaration of mandatory ingredients in standardized foods.
2. To require the declaration of specific spices and colors in all foods.
3. To provide explicit discretionary authority to require the declaration of the specific flavoring used in a product when this declaration is considered necessary for providing important health information (as in the case of a potential allergen).

4. To provide explicit discretionary authority to require quantitative ingredient labeling as part of the ingredient statement.

5. To require nutrition labeling on more foods.

6. To provide explicit discretionary authority to require open date labeling.

7. To provide explicit discretionary authority to control fortification of foods when this control is of public health significance. (FDA is issuing guidelines for fortification entitled "General Principles for the Addition of Nutrients to Foods.")

Finally, there is a category of issues upon which, even after a long period of study and discussion, the agencies have not yet reached tentative positions. In these cases, they are either asking for additional comments or they will act to ensure the adoption of reasonable and sensible positions. These issues include:

1. The labeling of imitation and substitute foods. Here, in the absence of a tentative position, the agencies want comments on a number of options.
2. The format for nutritional labeling. This document outlines the agencies' plan for resolving remaining issues.
3. The information to be required on a nutrition label. Should the present mandatory list of nutrients be retained, expanded, or made more flexible?

The "Food Labeling Tentative Positions" and "Digest" sections more fully discuss these and other food labeling issues.

The following documents, upon which this notice is based, are available upon

request and are also on file with the FDA Hearing Clerk and the USDA Docket Room, Food Safety and Quality Service, U.S. Department of Agriculture, Rm. 3805, South Agriculture Building, Washington, DC 20250:

1. Food Labeling: Report on the Analysis of Comments. (The following subordinate material is on file with the FDA Hearing Clerk and the USDA Docket Room:

a. The June 9, 1978 Federal Register notice announcing the public hearing and requesting comments on various food labeling issues.

b. The coding booklet describing the categories used in the coding process.

c. The coding sheet.

d. A computer printout of total coded data.)

2. Report of the FDA 1978 Consumer Food Labeling Survey.

3. Food Labeling Background Papers.

4. A Review of Adverse Reactions from and Hypersensitivity to Peanut and Tree Nuts (prepared for FDA by the Life Sciences Research Office, Federation of American Societies for Experimental Biology).

Background

In early 1978, FDA, USDA, and FTC¹ agreed that it was time to consider whether the existing food labeling laws and implementing regulations needed to be updated. The Federal laws governing the labeling of food are enforced by the USDA (for meat, poultry, and egg products) and FDA (for all other foods). FTC's interest in food labeling rests upon its responsibility for regulating food advertising.

Congress enacted the Federal food laws in 1906, and although it has revised them occasionally since then, the basic concepts of food labeling have remained unchanged for many years. The last major revision of the food labeling provisions of the Federal Food, Drug, and Cosmetic Act, for example, occurred in 1938. FDA administers this act (hereafter called the FD&C Act) and USDA administers the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act (hereafter called the FMI Act, PPI Act, and EPI Act, respectively).

Since these food laws were enacted, significant changes have occurred in the food industry, in Americans' attitudes

¹ All the references to the FTC in this notice refer to the Commission's Bureau of Consumer Protection, whose staff members participated in the public hearings, in the analysis of public comments, and in the preparation of this notice. Although the Commission itself supports this effort, it has not taken a position on the various issues involved, and the views expressed in this document do not necessarily represent the views of the Commission or any individual Commissioner.

toward the food supply, and in their dietary habits. Widespread and rapid advances in food processing and distribution have made a greater variety of foods available to more people. This new technology has so increased the number of processed foods on the market that such products now account for more than half of the American diet; at the same time, a far greater number of Americans eat a substantial number of their meals in restaurants.

The Federal agencies have attempted to anticipate and respond to industry's technological advances and to consumers' demand for increased information about food products through amendments to their labeling regulations. This approach has produced a complex set of food labeling rules that, because of the different statutes FDA and USDA enforce and their different regulatory responsibilities, have sometimes been duplicative or inconsistent. FDA, USDA, and FTC realized the need to pause and assess existing food labeling laws and policies before implementing further regulatory changes. Therefore, the agencies set out to develop an overall labeling strategy that will provide consumers with the information they want and need about today's foods.

To achieve this goal, the agencies reviewed current regulations and solicited the views of the public on various food labeling issues by holding a series of public hearings and by asking for written comments. To supplement this information, FDA sponsored a survey of food shoppers to find out their views on certain aspects of food labeling. In this comprehensive review, the agencies have also attempted to determine how adequately existing food labeling laws and policies meet the needs of today's consumers and they have attempted to eliminate inconsistencies between FDA's and USDA's approaches.

On the basis of the information obtained and their review of current regulatory laws and policies, the agencies have developed tentative positions on various food labeling issues. These positions include proposals for legislation, new and revised regulations, and further research. This document also describes the agencies' food labeling rationale, summarizes the public comments and the results of the food labeling survey, and explains how the agencies reached their tentative conclusions.

Food Labeling Rationale

The purpose of food labeling is to enable consumers to select and use products that meet their individual

needs and preferences. To achieve this purpose, labeling must provide sufficient information to enable the public to identify foods and their characteristics, including their ingredients and nutritional value. Effective labeling, moreover, must also present this information so that consumers can understand and use it in deciding what foods to buy. In their deliberations about recommending specific changes in food labeling requirements to make labels more informative and more easily understood, the agencies have followed the following principles:

1. *Public Health Importance*—Human health depends on good eating habits; effective food labeling can contribute to the nation's health by helping consumers choose foods with the appropriate caloric and nutrient values. Because advances in technology have created more processed and fabricated foods, and because the relationship of nutrition to certain diseases is becoming better understood, accurate and informative labeling about a product's nutrient content and its other characteristics has even greater public health significance now than in the past. Furthermore, disease or other abnormal physiological conditions such as allergies compel many Americans to follow special diets. These people especially need informative food labeling so they can make informed food choices.

In considering each proposal for changing the way foods are labeled, the agencies considered very seriously its public health implications. They are convinced that in those instances when food labeling is the most effective method for providing health protection (the labeling of a food's sodium content, for example) society will find the additional cost acceptable.

2. *The Consumer's Right-to-Know*—Innovations in food processing and packaging have made it increasingly difficult for consumers to judge a product's actual contents from its appearance, even for traditional foods. The agencies have therefore concluded that law or regulation must strengthen those policies that guard consumers' right-to-know about the foods they eat. Acknowledging that food labels play a crucial role in providing the information consumers need to make intelligent choices about foods, and that labels provide a significant educational tool, however, does not mean that food labeling should be either the sole vehicle for educating the public about basic nutrition or the government's only tool for influencing the eating habits of Americans. In short, labeling is only a

part of the system that delivers information about food and educates the public about how to choose foods wisely. Responsibility for providing this kind of information and education does not rest with regulatory agencies alone, for many institutions—both public and private—must cooperate to provide the basis for informed choices about food.

3. *Economic protection*—The potential overall economic impact of any proposals to amend Federal food labeling requirements demands careful analysis. Any requirement intended to prevent economic deception or designed to offer savings to consumers, for example, would be counterproductive if the added labeling cost exceeded the projected savings. Determining exactly the relative costs and benefits of specific labeling provisions, however, is difficult—particularly on a national scale. The agencies have concluded, for example, that providing consumers with much of the information—such as declaration of ingredients, identity of the product, and the name of the manufacturer or distributor—essential to saving money on food has relatively little impact on the cost of the packaged product. Percentage ingredient labeling and nutrition labeling, however, may be difficult. Only quantitative labeling can provide the kind of information consumers need to get the most for their money when direct examination does not reveal the food's quality or content, but furnishing a large amount of such labeling information may be costly.

Even where requiring labeling information may, on balance, save consumers money, the requirement may encourage monopolistic practices or make it harder for small businesses to compete. (Requiring certain labeling information that only well-equipped laboratories of large firms could develop, for example, might adversely affect smaller companies.) Although the agencies will attempt to avoid such problems, as a general rule they are convinced that labeling requirements should not change with the size of the manufacturer: if labeling information is necessary for informed decisions about food, it should be provided regardless of the manufacturer's size. Moreover, enforcing a regulation based on the size of the regulated firm would be expensive for USDA and FDA.

The Public Hearings

In the Federal Register of June 9, 1978 (43 FR 25296), FDA, USDA, and FTC announced joint hearings and requested written comments by November 10, 1978, on a series of food labeling topics. The public hearings were held in Wichita, Kansas (August 22-23, 1978);

Little Rock, Arkansas (September 18-19, 1978); Washington, D.C. (September 27-29, 1978); San Francisco, California (October 12-14, 1978); and Boston, Massachusetts (October 25-28, 1978). The hearings and the request for written comments were intended to elicit the views of individual consumers about what information they wanted or needed on food labels, and what additional costs, if any, they would be willing to pay for this information.

The agencies sought the public's views on the following topics:

1. Ingredient labeling.
2. Nutrition labeling and other dietary information.
3. Open date labeling.
4. Food fortification.
5. Imitation and other substitute foods.
6. Safe and suitable ingredients.
7. The total food label (as a communication device).

The three agencies made a substantial effort to encourage individual consumers to participate in the hearings or to submit written statements expressing their opinions on improving food labels. More than 2,800 people attended the hearings, and 452 individuals and group representatives testified. The agencies received more than 9,000 written comments.

A team of representatives from FDA, USDA, and FTC reviewed and analyzed the public comments. This group also developed a computerized system for analyzing the public's written comments and oral testimony. The following section summarizes that analysis; more information on the comments on particular issues appears below in the appropriate sections of the "Tentative Positions of Food Labeling." For a detailed analysis and tabulation of the comments, you may consult the final report, "Food Labeling: Report on the Analysis of Comments," on file with the FDA Hearing Clerk and the USDA (FSQS) Docket Room, and available from the FDA Consumer Communications Management Staff and the USDA (FSQS) Executive Secretariat at the addresses given above.

Summary of the Analysis of Oral and Written Comments

The agencies recognize that the testimony received at the hearings and the written comments do not represent a random sample of the American public's views. The testimony and comments came from those who knew of the government's request for consumers' opinions and who were able and motivated to testify or write either for a particular reason or set of reasons (a food-related medical problem, for example) or for an interest in

changing—or perhaps maintaining—existing food labeling policies. Moreover, these views were comparable to the results of FDA's 1978 Consumer Food Labeling Survey, a random survey of American food shoppers.

Nonetheless, the public hearings provided FDA, USDA, and FTC with the opportunity to reach consumers at the "grassroots" level and to hear their opinions on food labeling. It was one of the few times that the three regulatory agencies responsible for food labeling have cooperated to solicit the views of the public in the policy-making process. This process complemented other information-gathering methods such as studies and surveys that are useful in developing public policy.

Few commenters addressed all of the food labeling issues. Most discussed those topics of particular concern to them personally or to the groups they represented, or they addressed specific issues spelled out in the various media releases about the hearings. This, while each of the following summary statements represents the opinion of at least a plurality of those commenters who discussed a certain issue or question, that group is only a smaller percentage of the total number of commenters.

A. Ingredient Labeling

Eighty-five percent of all commenters discussed ingredient labeling, making it the most frequently mentioned labeling issue. Most of those who commented on which foods should bear ingredient labeling said that all foods should carry this labeling, the majority further urged that ingredient labeling be precise and easily understood by the average consumer. Nearly half of those who commented on ingredient labeling mentioned quantitative declaration of ingredients, with most favoring percentage listing.

Commenters also asked for more specific labeling information on sugars, salt, fats and oils, spices, and artificial colors and flavors. Those who wanted more ingredient information on food labels often cited a specific health problem as the basis for their request.

B. Nutrition Labeling

Of the 52 percent of all commenters who discussed nutrition information issues, the majority wanted food labels to include nutrition information, and they asked most often for a food's caloric content. Although only a few people commented on whether nutrition labeling should be mandatory as opposed to voluntary, the overwhelming majority of this group wanted a mandatory system. Here, too,

commenters said that nutrition labels—and the terms they employ—should be understandable.

C. Open Date Labeling

The majority of the 45 percent of commenters who discussed it favored using an open dating system to some extent; most of those who addressed whether open date labeling should be voluntary or mandatory favored a mandatory system. Commenters emphasized the need to make open date labeling more effective, including an explanation of the date used, storage and handling instructions, and use of an alpha-numeric code (e.g., "Do not use after December 25, 1979").

D. Imitation/Substitute Foods

Almost 19 percent of all commenters expressed concern about imitation and other substitute foods. The majority of those who discussed this issue made general statements about naming or identifying imitation and substitute food products. Some commenters made specific suggestions on how to label substitute foods that are not nutritionally inferior to their traditional counterparts, and some offered their recommendations for labeling substitute foods that are nutritionally inferior to the traditional products they are designed to replace.

Of those commenters who specified what to call a substitute product resembling and intended to substitute for a traditional or standardized food, 75 percent said that such a food should be labeled "imitation." Definitions of the term "imitation" varied: Some thought the word meant nutritionally inferior, and some thought it indicated the food was inferior in some other way. Others said that "imitation" signifies that a substitute food differs in some way from its traditional counterpart or that it does not conform to a standard of identity.

E. Food Fortification

Approximately one commenter in six discussed issues related to food fortification, with most of them giving at least conditional support for the practice. Those who had some reservations about fortification often specified which foods should or should not be candidates for fortification. Other commenters cautioned against over-fortifying foods; some added that only appropriate foods should be fortified, and then only for valid reasons.

F. Quantity of Contents

Approximately 12 percent of the commenters discussed the quantitative declaration of a product's contents; almost all supported some form of

weight declaration, and many were concerned about possible deception resulting from the several current quantitative content formats. Of those who supported some form of weight declaration, most expressly requested that labels provide a product's drained weight, particularly for canned fruits and vegetables. Other suggestions included declaring net weight, liquid weight, or fill weight.

G. Costs

Although the majority of commenters asked for additional or improved food labeling information, relatively few (14 percent) considered the economic impact of such changes on food prices. Of those commenters who acknowledged the potential for increased costs, 46 percent said they were willing to pay more, but 31 percent said they were not.

H. Food Standards and Safe and Suitable Ingredients

Food standards and safe and suitable ingredients together attracted remarks from 4 percent of commenters. Of those discussing food standards, 41 percent wanted them eliminated; 28 percent favored continuing the current policy; 23 percent wanted standards applied to more foods; and 9 percent wanted standards applied to fewer foods.

Many of those who opposed the use of standards said they objected to manufacturers not being required to identify all ingredients used in standardized products. Some commenters who favored retaining food standards also said that a standardized product's label should provide more information. Several people specifically mentioned retaining standards for staple foods and developing stricter standards for some foods, such as ice cream.

The majority of commenters who expressed their views on the use of safe and suitable ingredients in standardized foods said FDA's existing safe and suitable policy should be less flexible. Some advocated stricter control over the use of certain ingredients—such as artificial flavors, colors, sweeteners, preservatives, flavor enhancers, and sodium compounds—in standardized foods.

1978 Consumer Food Labeling Survey

To supplement the joint public hearings, FDA sponsored a Consumer Food Labeling Survey, conducted in October and November 1978 by the Response Analysis Corporation, Princeton, New Jersey. The FDA's Bureau of Foods, Division of Consumer Services, later analyzed the responses. The survey included 1,374 personal

interviews with "primary food shoppers," the persons who do most of the food purchasing for a particular household.

To the extent possible, the survey avoided direct questions, such as, "Would you like X information?" because direct questions can lead to results that overestimate the extent of concern. Instead, nearly all survey questions were open ended, allowing consumers to provide their own answers rather than requiring them to select among predetermined alternatives. This type of questioning usually leads to minimum estimates, and in some cases to underestimates, since some individuals may not know about a given type of information or may not think of particular information at the moment of questioning.

A summary of the survey results is presented below. These results can be projected to the national population at an accuracy of plus or minus 3 percent (with a confidence level of 95 percent). The results are divided into four areas: scope of consumer concern with food and food labeling; usage of currently available information; sources of confusion and difficulties with food labels; and consumer desires for food label revision.

Scope of Consumer Concern With Food and Food Labeling

The first question in the survey asked, "Aside from prices, please tell me about any particular problems, difficulties, or concerns which you have with food these days." Forty-nine percent reported no problems other than price. Forty-seven percent, however, mentioned one or more specific problems.

Most of these consumers mentioned problems involving the food itself: 14 percent expressed general concerns about product quality (e.g., food is simply not as "good" as it could be); another 14 percent were concerned about possible adverse health consequences of some food ingredients, and 8 percent said that the food they purchase is not as fresh as it should be.

In addition to concerns about food itself, 8 percent of respondents mentioned specific food labeling problems, and 9 percent mentioned damaged containers, insufficient stock in the store, and similar concerns.

Of the 14 percent of respondents who expressed concern about the health consequences of food ingredients, 35 percent are worried about preservatives, 29 percent are concerned about "additives" or "chemicals" in general, 20 percent are apprehensive about the sugar content of their food, 8 percent expressed concern about artificial

colors, 7 percent about salt content, and 4 percent about use of artificial flavors. Only 8 percent of those mentioning the health implications mentioned any problem with the nutritional value of their food.

The survey findings suggest that many American consumers have some degree of apprehension about the safety of their food supply. While relatively few people (about 1 percent of the total surveyed) appear concerned about the nutritional value of food, a large number are concerned about the apparent proliferation of substances that may pose a health risk.

Of the 8 percent who expressed concern about food labeling, 32 percent mentioned the ingredient list, 25 percent mentioned freshness information, 20 percent expressed concern about deceptive or inaccurate labeling, and 19 percent had some concern with the information on the nutrition label (most of these mentioned calorie information).

The second question in the survey was, "Are you satisfied with the kind or amount of information available on food packages and cans?" Consumers who gave negative answers were then asked to state why they were not satisfied.

Fifty-nine percent said they were completely satisfied. Thirty-three percent, however, saw a need for at least some improvement in food labeling.

Twenty percent of those surveyed said the ingredient list could be improved. They most frequently requested the following improvements: listing all ingredients; simplifying the language; providing ingredient information on all products; making the list more legible (e.g., larger print), and listing ingredients by percentages.

Eight percent said nutrition labeling should be improved, and 3 percent wanted open date labeling extended to more products. About 2 percent mentioned a need for drained or fill weight labeling on canned goods. Fewer than 1 percent expressed a desire for information about the specific sources of fats and oils.

Use of Currently Available Information

Consumers were asked what information they looked for on food packages other than product name, brand name, and price. Forty-one percent mentioned the ingredient list. Nutritional information was mentioned by 22 percent, size or quantity information by 18 percent, and open dates by 11 percent. Eleven percent reported not using any label information at all.

When asked directly whether they pay attention to the ingredient

information, 77 percent of the consumers surveyed said that they do. This group was then asked whether they use this information to avoid certain ingredients. Seventy-one percent of them, or 54 percent of all those surveyed, responded affirmatively. The ingredients most frequently mentioned were sugars (mentioned most often), salt, fats and oils, and preservatives. Other substances often named were artificial colors, artificial flavors, artificial sweeteners, starches, seasonings, cholesterol, and monosodium glutamate.

When consumers were asked why they avoid these substances, twenty-nine percent of all consumers (53 percent of those who do avoid certain substances) cited a belief that the substances might be harmful or hazardous. Many consumers also mentioned dietary reasons (most often weight control) and personal preferences (tastes and religious reasons). A few people mentioned diabetes, the effects on child health and behavior, or allergy problems as reasons for avoiding the substances.

With regard to the nutrition labeling, 64 percent responded "Yes" to the question "Do you pay attention to the nutrition information?" Most of those who use the nutrition label said they use only part of it; only 6 percent claimed to use the entire nutrition label. According to the survey, consumers look most often for information on calories, followed by information on vitamins, protein, fats, carbohydrates, and minerals, in that order.

Those who reported using nutrition information were asked the direct question, "Assuming that there may not be enough room for all different kinds of nutrition information, would you rather have information about things that people often get too much of (like calories, cholesterol, fat) or things people often get too little of (like protein, vitamins, and minerals)?" By a two-to-one margin (68 percent versus 32 percent) respondents selected information about substances that people often get in excess. (This correlates with survey results showing consumer concerns about possible negative health effects of food.)

On the question of open date labeling, 74 percent reported using dates, when available, to help decide which specific food items to buy. The preferred type of dating (at least for perishable and semipreservable products) appears to be an expiration or "use by" date, which was selected by 40 percent of the respondents. The quality assurance date and the pull or sell-by date were each selected by under 25 percent of the

respondents, and only 15 percent chose pack date.

Sources of Confusion or Difficulty With Food Labels

Consumers were asked, "Do you find any of the information on food packages and cans confusing or difficult to understand?" Twenty-seven percent said they found one or more sources of confusion on labels. (Due to the tendency of survey respondents to be unwilling to admit they are unable to understand something, this response probably underestimates actual problems with current food labeling.)

The most frequently cited problem was the use of technical and chemical names in the ingredient list, noted by a third of those expressing problems with labels. Other sources of confusion were the lack of quantitative information in the ingredient list, the metric system, U.S. RDA's, percentages, other nutrition information, date codes, and the use of small print.

It is also worth noting that at least 23 percent of consumers reported they pay no attention to the list of ingredients, and at least 36 percent reported they do not use the information on the nutrition label. (These respondents were not asked why they do not use this information.)

Consumer Desires for Food Label Revision

Consumers were asked directly whether they would like to have more information, less information, or the same amount now available on food labels. Twenty-five percent said they wanted more information, and only 2 percent said labels already have too much information.

Respondents most often wanted quantified ingredient information. This was followed by requests for simplified ingredient statements and calorie information on all products. There was also interest in greater use of specific ingredient names as opposed to general terms such as "spices." Finally, consumers expressed interest in declarations of sugar content, more open date labeling, declarations of salt content, listing of all preservatives, extending vitamin/mineral information to all products, and listing the ingredients in all products. Interest in declarations of drained or fill weight was relatively low.

In summary, about 10 percent of those surveyed were seriously critical of the current food label and saw a need for significant changes. An additional 15 percent expressed a desire for some changes, but appear less concerned. The remaining 75 percent are divided among

those who appear to be satisfied with the food label as it is, are not concerned, or simply find the food label to be confusing for one reason or another.

Based on the information obtained from the survey, the following food label revisions have the highest priority among food shoppers.

Calorie information on all products. Simplified ingredient names. Quantitative ingredient listing (preferably in percentages). Complete listing of all ingredients. More extensive open date labeling. Quantitative declarations of sugar content. Full ingredient labeling for all products. A simplified nutrition labeling format. Expiration-type open date labeling for perishables.

The full report of this survey is on file with the FDA Hearing Clerk and the USDA (FSQS) Docket Room. Copies can be obtained from the FDA Consumer Communications Management Staff or the USDA (FSQS) Executive Secretariat. The addresses of these units are provided at the beginning of this document.

Comparison of Public Hearing Comments With Data From the 1978 Consumer Food Labeling Survey

The tables that follow compare the consumer views from the public hearings and the written comments with the responses obtained in the Consumer Food Labeling Survey. The comparison reveals that the concerns expressed by the two groups were often similar. For example, Table A shows that both groups care more about ingredient labeling than any other general area, and that nutrition labeling is the area of second greatest concern. The main difference between the two groups lies in the level of concern. Even though ingredient labeling is the top concern of both groups, it was mentioned in 85 percent of the hearing comments and in only 20 percent of the survey responses. This pattern is much the same for each table.

The following conclusion can be drawn from the comparison: although the hearing commenters and those who submitted written comments are not statistically representative of the general public, they do reflect the shopping public's concerns about the food label. The higher level of concern exhibited in the hearing and written comments may be due primarily to the fact that these commenters represent a self-selected group with sufficient interest in labeling to submit their views. In contrast, the Food Labeling Survey includes many consumers who do not appear to be concerned about food labeling.

Table A.—Major Areas of Concern With Food Labels¹

	Hearings and comments (percent)	Food labeling survey (percent)	
		Open question ²	Semidirect question ³
Ingredient list.....	85	3	20
Nutrition label.....	52	2	8
Open dating.....	45	2	3
Quantity of contents information.....	12	1	3

¹Percentages are based on all respondents in the survey and the commenters in the hearings and written views.
²The question titled "open" asked respondents what problems, difficulties, or concerns they have with foods.
³The question titled "semi-direct" asked respondents what information on the food label needed improvement.

Table B.—Label Changes Most Desired¹

	Hearings and comments (percent)	Food labeling survey (percent)	
		Open question ²	Semidirect question ³
Quantify the ingredient list.....	35	1	4
Give ingredients of all products.....	35	1	3
List all ingredients.....	32	1	5
Give amount of sugar.....	27	1	2
Give amount of salt.....	25	1	1
Give nutrition information on all products.....	10	1	1
Give source of fats and oils.....	9	1	1
Give drained or fill weights on cans.....	8	1	2
Use larger print on labels.....	6	1	2
Simplify the ingredient list.....	1	1	4

¹Percentages based on all respondents in the survey and the commenters in the hearings and written views.
²The question titled "open" asked respondents what problems, difficulties, or concerns they have with foods.
³The question titled "semi-direct" asked respondents what changes or additions they would like on food labels.

Table C.—Nutrition Information Mentioned as Important¹

	In percentage	
	Hearings and comments	Food labeling survey
Calories.....	62	55
Vitamins, minerals.....	39	48
Fats.....	28	32
Cholesterol.....	24	11
Carbohydrates.....	22	22
"All nutrition information".....	21	9
Protein.....	20	36
Serving size.....	10	3
Number of servings.....	6	1

¹Percentages are of those who named the types of nutrition information they consider important or valuable.

Table D.—Substances That Respondents or Commenters Report Avoiding¹

	In percentage	
	Hearings and comments	Food labeling survey
Sugar.....	47	50
Salt.....	43	26
Artificial colors.....	33	10
Fats and oils.....	23	20
Artificial flavors.....	23	6
"Chemicals".....	19	8
Preservatives.....	17	21
Seasonings.....	13	5
"Artificial things".....	6	18
Starch.....	2	9
MSG.....	2	3
Artificial sweeteners.....	1	6

¹Percentages are of those individuals who reported avoiding one or more substances.

Table E.—Preferred Method of Quantifying the Ingredient List¹

	In percentage	
	Hearings and comments	Food labeling survey
By percent.....	85	78
By weight.....	15	22
Total.....	100	100

¹Percentages are of those who specified a preference for percentage versus weight listing.

Table F.—Preferred System of Open Dating¹

	In percentage	
	Hearings and comments	Food labeling survey
Pack date.....	25	15
Use-by date.....	23	23
Quality assurance (best-if-used-by) date.....	14	22
Expiration (use-by) date.....	38	40
Total.....	100	100

¹Percentages are of those who specified a preferred dating system. Food Labeling Survey respondents were discussing perishables and semiperishables.

Background Papers

Following the hearings and survey, the agencies developed background papers on each of the key food labeling issues. These papers describe in some detail the questions involved and the options considered by the agencies in arriving at the tentative positions discussed in this notice. While not intended to be an exhaustive review of the subject, the background papers do provide a general overview of the major considerations involved in each food labeling issue. They cover the following areas:

1. Mandatory Ingredients in Standardized Foods and Spices, Flavorings, and Colors.

2. Ingredient Labeling of Restaurant Foods.

3. Ingredient Labeling of Fresh Fruits and Vegetables.

4. Quantitative Ingredient Labeling.

5. Grouping Ingredients by Function and "and/or" Labeling.

6. Mandatory Information in Nutrition Labeling.

7. Nutrition Labeling Format.

8. Sodium and Potassium Labeling.

9. Sugars Labeling.

10. Fiber Labeling.

11. Cholesterol and Fatty Acid Labeling.

12. Composite Data Bases.

13. Serving Sizes.

14. Food Standards—Safe and Suitable.

15. Imitation and Substitute Food Labeling.

16. Open Date Labeling.

17. Country of Origin Labeling.

18. Name and Address of the Manufacturer, Packer, or Distributor Labeling.

19. Natural and Organic Labeling Claims.

These papers are on file with the FDA Hearing Clerk and the FSQS (USDA) Docket Room, and can be obtained from the FDA Consumer Communications Management Staff or the FSQS Executive Secretariat. Addresses are provided at the beginning of this document.

Criteria for Analysis

The agencies used the following criteria in developing the background papers and their tentative conclusions²:

1. Health Implications:

- What are the risks—allergies, diabetes, high blood pressure, hyperkinesis, heart/circulatory, etc.?
- What is the severity of the risk (high, medium, low); what is the size of the affected population?

- Will improved food labeling assist consumers in eliminating or reducing any known or potential health-related problems associated with foods and food ingredients?

2. Consumer Acceptability:

- What is the public attitude towards the various aspects of the improved food labeling?
- Does it meet the consumer's right-to-know?
- Are consumers capable of using the information?
- Will consumers use the information?

3. Industry Acceptability:

²These criteria are general in nature and the discussion in the background papers does not necessarily completely correlate to every one of the criteria.

- Will industry accept or oppose the change?

- For what reasons?

- Will the change to require disclosure of it violate "trade secrets"?
- Will the proposed action be feasible to implement?

4. Legal Aspects:

- Does it require a change in the law?
- Does it require a change in existing regulations or a new regulation?

- How does it correspond with our sister agencies? Are there jurisdictional problems? Differences?

5. Political Aspects:

- What will be the reaction from Congress?
- If legislation is required, is Congress in favor and willing to act? Now? In the future?

- How does any proposed action correlate with the Administration's initiative to reduce or eliminate any unnecessary regulations?

- What will be the reaction from the States?

6. Economic Implications:

- Will the information help to prevent economic deception?

- What are the costs to the government to develop, implement, and enforce?

- Will the information help to maximize consumer purchasing power?
- What are the costs to industry to implement? How much?

- Will the label modification cause increased costs to consumers? How much?

7. Efficacy:

- Will the labeling modification actually solve the specific problem it is introduced to address?

- What other methods can be used to meet the same wants or needs (e.g., more consumer education, food formulary, etc.), perhaps at less cost to all segments of society?

8. Timing:

- Is it something that can and should be done now? In the future?

- Is it something that will require a change in law, and thus need to be delayed pending passage of legislation?

- Is it something that can be done now (by regulation) but should be delayed pending further study?

- Is it something for which more specific legislative authority is needed although certain aspects can be implemented by regulations, guidelines, or policy statements?

- Does it meet the consumer's right-to-know?
- Are consumers capable of using the information?
- Will consumers use the information?

Tentative Positions

As a result of the information gained from FDA's Consumer Food Labeling Survey, the oral and written comments, and the agencies' review of the issues, the agencies have reached tentative

positions on a number of food labeling issues. In their deliberations, the agencies considered the views of the public; the feasibility and costs to consumers, government, and industry; and the potential public benefits. These tentative positions are presented in the sections that follow.

Many of the proposed changes will require future regulatory or legislative actions, which are also discussed below. Before any final regulatory actions are taken, the agencies will carefully consider the comments on this document, and each agency will proceed in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.) and other legal requirements.

Ingredient Labeling

Ingredient labeling was the issue discussed most frequently by the public at the hearings, in written statements, and in response to FDA's Food Labeling Survey. For example, 85 percent of the commenters in the hearings and their written submissions addressed the topic of ingredient labeling. This is a large issue, with a number of different facets, each of which will be discussed in turn.

Labeling of Mandatory Ingredients in Standardized Foods

In their oral and written statements, the public made it clear they want to know what ingredients are used in foods. Most commenters stated that at least some standardized foods need full ingredient labeling. Many of them simply asked for "full ingredient" labeling on foods.

Several reasons were given for wanting to know all of the ingredients in foods. Some wanted to avoid certain ingredients. Others wanted to be able to identify the presence of specific ingredients for health or medical reasons. Still others said they have the right to know the ingredients in a food. The respondents to the Food Labeling Survey also indicated considerable desire to have ingredients listed for all foods.

Certain Federal regulations called standards of identity, which are established by FDA, define the composition of many foods. The standards identify the mandatory ingredients (which must be used) and the optional ingredients (which may be used). Under the FD&C Act, only optional ingredients in such foods can be required to be declared on the label. If an ingredient is mandatory (e.g., peanuts in peanut butter), it does not have to be listed on the label. FDA has issued about 275 standards of identity. They include standards for canned fruits and vegetables, milk, cheeses, ice

cream, breads, and margarine. Standardized foods make up 45 percent of the wholesale value of food shipments regulated by FDA (excluding fresh fruits and vegetables). For a number of years FDA has sought authority to require label declaration of mandatory ingredients in standardized foods but no legislation has passed. (There are two bills now before Congress that would provide this authority: S. 1651 or the "Department of Agriculture Nutrition Labeling and Information Act of 1979" and S. 1652 or the "Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act".)

Foods for which FDA has issued no standard of identity, such as cookies, cakes, and pizza, must have ingredient statements on the label. All ingredients in nonstandardized foods, except for colors, spices, and flavors, must be listed specifically by name in the order of predominance.

Under USDA regulations, the ingredients in meat, poultry, and egg products must be listed on the label in order of predominance. Colors, spices, and flavors may be generally identified, but all other ingredients must be specifically identified. This is true even if the food is subject to a USDA food standard.

In the absence of authority to require the listing of mandatory ingredients, FDA has been expanding the use of its authority with respect to optional ingredients. Most standards have been revised, or are presently being revised, to require declaration of all optional ingredients. Moreover, if two or more forms of a mandatory ingredient may be used, then the form is deemed to be optional and the ingredient must be declared on the label. For example, the flour that goes into bread may be enriched flour, bromated flour, phosphated flour, or a combination of these. Whatever form is used must be declared on the label. FDA has also encouraged industry to list mandatory ingredients voluntarily (21 CFR 101.6), and many manufacturers have complied.

Proposed Actions: FDA will seek or support legislation to amend the FD&C Act to require that mandatory ingredients in standardized foods be declared on product labels. (USDA regulations already require such declarations.)

Pending any such legislative change, FDA will expedite its revision of the remaining standards of identity to require declaration of all optional ingredients including the form of the mandatory ingredients where more than one form is available for use. FDA plans to publish a document within the next

year which, when completed, would require declaration of approximately 97 to 98 percent of ingredients used in standardized foods.

Colors, Spices, and Flavors

According to the hearing record and written comments, many people would like to see colors, flavors, and spices listed on labels by their specific names (e.g., "FD&C Yellow No. 5" as opposed to "artificial color"). The desire for specific label information on artificial colors was mentioned most frequently (1,868 commenters), followed by flavors (1,315 commenters), and spices (654 commenters). In addition, 587 commenters discussed the provision in the law which exempts butter, cheese, and ice cream labels from declaring the presence of artificial colors; 91 percent of these commenters wanted this exemption eliminated. The respondents to the Food Labeling Survey also expressed an interest in color, flavor, and spice labeling.

The FD&C Act requires the presence of colors, flavors, and spices to be declared on the label. However, they may be listed simply by their general names ("colors," "spices," or "flavors"). In other words, FDA cannot require specific identification of such ingredients. In the case of cheese, butter, and ice cream, FDA cannot require declaration of even the presence of an artificial color.

USDA has much wider authority in this area. Under current statutes, the Secretary of Agriculture may require that colors, spices, and flavors be identified by their specific names (21 U.S.C. 453(h)(9) and (12); 21 U.S.C. 601(n)(9) and (12) and 21 U.S.C. 1036(a)).

The general position of the agencies is that most ingredients should be declared by specific names on food labels. This position appears to present no significant problems with respect to spices and colors. Most products that include spices contain no more than four or five. (Some meat and poultry products contain a greater number.) The same is true of colors: only a few are used in any one food, and listing them should present no practical problem. Under the provisions of the Fair Packaging and Labeling Act (administered by FDA), cosmetics are now required to list specific colors on their labels, and no serious practical problems have been encountered.

Label declaration of flavors does present a problem, however. There are about 1,700 flavors, and as many as 125 flavors can be used in a single processed food. The average number of flavors used in a processed food (excluding meat, poultry, and egg

products) is about 40. Not only are there numerous flavors, but there are also an overwhelming number of substances that can be combined to form a single flavor ingredient. Since one food may contain many flavors, it would be impractical to identify them fully on the label, and it would be difficult for the government to establish an all-inclusive labeling policy for these ingredients.

Nevertheless, the agencies support label declaration of those flavors that are known to cause health problems, such as allergic reactions in particular segments of the population. This principle was followed in FDA's action to require foods to declare the presence of FD&C Yellow No. 5, a known sensitizer. (See the Federal Register of June 26, 1979 (44 FR 37212).) Of course, a flavor (or spice or color) that is unsafe for the general population would be banned from the food supply under current law.

Industry has argued that mandatory disclosure of all colors, flavors, and spices would be an onerous burden because it would overload labels, making them incomprehensible to consumers. Manufacturers also have contended that label declaration of the specific colors, flavors, and spices used in a food will divulge trade secrets.

In the case of colors and spices, the agencies have concluded that labeling specific ingredients would not reveal trade secrets and that the benefits to consumers of knowing the identity of these ingredients would be substantial. Nevertheless, the agencies welcome further comments.

Proposed Actions: (1) Colors and spices. FDA will seek or support legislation to require that all colors and spices be declared on food labels by their specific names. USDA believes it has such authority, but will support legislation to provide more explicit authority for both agencies.

The agencies invite comments from the public on the feasibility of their proposal, particularly for labeling of spices.

FDA will seek or support legislation to eliminate the exemption under which the labels of butter, cheese, and ice cream are not required to declare the presence of an artificial color.

(2) Flavors. FDA will seek or support legislation to provide it with the discretionary authority to require label declaration of a flavor when such declaration is considered necessary to provide important health information, e.g., when a flavor ingredient may cause an allergic reaction. USDA believes it has such authority but will support legislation to provide more explicit authority for both agencies.

Quantitative Ingredient Labeling

The vast majority of the hearing and written comments mentioned ingredient labeling, and nearly half of these had suggestions on how to specify the quantities of ingredients. Of those with suggestions, over 75 percent favored percentage ingredient labeling, 19 percent favored listing ingredients in descending order of predominance, and 6 percent wanted to know percentages of characterizing ingredients (e.g., the shrimp in a shrimp cocktail). The Food Labeling Survey results were similar to the hearing and written comments, thus confirming the strong consumer interest in quantitative ingredient labeling and the preference for percentage labeling.

At present, FDA generally does not require quantitative labeling, except for certain valuable and characterizing ingredients that are part of a product's name (e.g., shrimp in shrimp cocktail or orange juice in orange juice beverages). It has been argued that FDA may have across-the-board authority to require quantitative ingredient labeling. But if such authority exists, it is not explicitly stated in the present law.

A more serious limitation may be FDA's inability to monitor quantitative labeling under the present law. FDA could use two approaches to verify quantitative ingredient labeling. The first is by factory inspection. This approach is of limited value at present because manufacturers are not required by law to show FDA their records on what actually goes into a product. The second approach is laboratory analysis. FDA can determine some ingredients by analysis, such as shrimp in shrimp cocktail, but it cannot readily determine others, such as ingredients that may dissolve in a soup. Moreover, analysis can be expensive. Because factory inspection represents the more practical approach to monitoring, FDA in the past has supported legislation to provide authority to review company records related to production.

Under its statutes, USDA already has some authority to require quantitative ingredient labeling in meat, poultry, and egg products. Moreover, USDA can review product formulas and related information through its mandatory label review and inspection programs. The meat, poultry, and egg product statutes require recordkeeping by processors, and provide access to records and inventory. These provisions make it easier to enforce quantitative ingredient labeling rules. USDA also has issued voluntary guidelines for quantitative ingredient labeling and requires percentage labeling of some products

purchased for domestic food assistance programs (e.g., cooked turkey rolls and dried egg mix).

Proposed Actions: FDA and USDA will continue their efforts to encourage or require the use of quantitative ingredient labeling on more foods.

FDA will take the following specific actions:

Expand the use of percentage labeling for valuable and characterizing ingredients as part of the names for standardized foods and nonstandardized foods;

Publish guidelines for voluntary quantitative ingredient labeling as part of the ingredient statement;

Seek or support legislation explicitly giving FDA authority to require quantitative ingredient labeling as part of the ingredient statement;

Seek or support legislation giving FDA records and reports authority: access to a company's product formulas, quality control records, and related records in order to ensure that such expanded quantitative ingredient labeling is truthful and accurate.

While USDA already has limited authority to require quantitative ingredient labeling, it shares FDA's belief that legislation establishing the general authority of the two agencies to require such labeling is desirable. USDA will also propose regulations to provide for more quantitative ingredient labeling. The regulations will propose mandatory percentage labeling of certain important ingredients in meat, poultry, and egg products.

Listing Ingredients by Order of Predominance

The results of the Food Labeling Survey and the hearing and written comments suggest that many consumers may not be aware that ingredients must be listed on food labels in descending order of predominance. Although some labels carry an explanatory message stating that ingredients are listed in order of predominance, there is no requirement that they bear such a message. The agencies believe that an explanatory statement of this type would be helpful to consumers, and would neither prove costly to manufacturers nor overload labels.

Proposed action: FDA and USDA will amend their current regulations to require that food labels bear a statement to the effect that ingredients are listed in descending order of predominance.

Use of "And/Or" Labeling To Declare the Source of Fats and Oils

"And/or" labeling is designed to provide manufacturers with flexibility to modify food ingredients without revising

their labels. Under current regulations, this type of labeling is permitted for fats and oils when they are not the

predominant ingredient. A label might bear the statement, "vegetable oil (may contain cottonseed oil, soybean oil and/or palm oil)." The manufacturer would then be free to use any one of the three specific oils, or a combination of them, without changing the labels. The choice would likely depend on availability and price.

The hearing and written comments on ingredient labeling flexibility focused mainly on the declaration of fats and oils. Of the 1,060 commenters who discussed flexible labeling of fats and oils, 86 percent said that the "and/or" type of labeling should not be permitted. Most people opposed this concept due to special diets, allergies, or for religious reasons. Some commenters also expressed dissatisfaction with general source designations such as "animal fat" or "vegetable oil."

About 14 percent of the commenters supported labeling flexibility for fats and oils. Some of these commenters qualified their approval by stating that only those fats with the same saturation should be allowed to be interchanged. Other commenters noted the cost savings to consumers that may result from current rules permitting flexibility.

Respondents in the Food Labeling Survey, on the other hand, showed relatively little concern with this issue; only a very few mentioned labeling flexibility.

FDA's present regulations were published in 1976. Previously, FDA permitted fat and oil ingredients to be declared in the ingredient list by the generic terms "vegetable oil," "animal fat," and "marine oil," or as "shortening," without naming the specific fat, oil, or type of shortening. In 1971 FDA proposed requiring the declaration of fat and/or oil ingredients by specific common or usual names instead of generic names (e.g., "coconut oil" instead of "vegetable oil" or "shortening"). This proposal was made in response to repeated requests from consumers and consumer organizations, as well as from health professionals.

The 1971 proposal, as well as a revised proposal published in 1974, was opposed by a number of industry members. Opposition was based mainly on two contentions: (1) manufacturing techniques alter fats and oils so that the ingredients in finished form do not differ greatly regardless of source; and (2) requiring more specific ingredient listings would increase food costs because manufacturers would have to reprint labels whenever fat and oil

ingredients were changed due to fluctuations in price or supply.

After considering the comments, FDA, in 1976, issued the regulations that are currently in effect (21 CFR 101.4(b)(14)). Under these rules, some flexibility in declaring fats and oils is permitted when these ingredients are not predominant, i.e., when they do not constitute the largest proportion by weight of any ingredient in a food. A manufacturer may declare the blend of fats and oils on the list of ingredients by use of a generic term, followed by a parenthetical listing of the common or usual name of each fat and oil ingredient that might be used in the blend. Therefore, any fat or oil that may be present in the product is specifically identified. Where fats or oils are the predominant ingredient, specific declaration of any fat or oil actually present is required.

USDA currently allows the use of general terms such as "animal fat" or "vegetable oil" on meat and poultry product labels without reference to the specific source of the fat or oil (e.g., cottonseed oil). The egg product regulations contain no specific references to how fats and oils should be identified, but require that all ingredients be listed if two or more are used (7 CFR 2859.411(c)(1)). However, USDA's policy for egg products labeling allows the labeling of fats and oils on an "and/or" basis consistent with FDA's current requirements.

There appears to be at least one problem with the present system for declaring fats and oils: it may result in the listing of ingredients that are not actually present. As a result, it may narrow the choice of products available to people who wish to avoid certain substances. Thus, although "and/or" labeling does not cause health problems, it does not allow those people suffering from allergies or other medical conditions to deal most effectively with their problems.

The agencies recognize and sympathize with those individuals who may be allergic to the protein fractions in some fats and oils. Although the agencies know this medical problem occurs, they do not know the extent of the problem. The agencies also are aware of religious concerns and personal preferences centering on the use of certain fats and oils. However, even if the use of "and/or" labeling were eliminated, there still would be no guarantee that foods containing more desirable fats and oils would be available. Moreover, the requirement for more specific labeling could impose higher costs on all consumers by restricting manufacturers' ability to respond to marketplace factors

(availability and price) without having to change their foods' labels. Finally, if there is a significant need for products containing only a specific fat or oil, the competitive marketplace is likely to make them available (usually at a premium price).

Recognizing public concerns and these economic factors, the agencies have weighed the potential benefits of requiring more specific labeling of fats and oils against the adverse impact such a change could have on industry and consumers.

Proposed Action: FDA and USDA will amend current regulations to require that foods containing 10 percent or more total fat on a dry weight basis declare on their labels the specific source of the fat or oil, e.g., "corn oil" or "palm oil." Foods containing less than 10 percent fat on a dry weight basis may use the "and/or" approach, e.g., "vegetable oil (may contain cottonseed oil, soybean oil and/or palm oil)."

The position adopted by the agencies is based in part on the current FDA regulation covering fatty acid and cholesterol labeling (21 CFR 101.25). This regulation provides that a food containing 10 percent or more fat on a dry weight basis and at least 2 grams of fat in an average serving may bear labeling declaring the quantity of fatty acids. A food containing less than this level of fat is not considered to be important in regulating the intake of fatty acids because it is not a significant source of dietary fat.

Use of a 10 percent total fat cutoff level would result in the listing of specific fats and oils on the labels of a substantial number of foods that now bear "and/or" labeling. For example, most crackers, cookies, imitation meats and cheeses would no longer be able to use "and/or" labeling.

The agencies are not aware of any data suggesting that the demarcation line should be higher than 10 percent total fat on a dry weight basis. In fact, it is possible that a lower level (e.g., 2 percent or 5 percent) may be more appropriate. The agencies welcome comments on alternative percentage cutoff levels. Economic data on the effects of various levels on the marketplace will be particularly helpful. Comments are also invited on the question of whether "not less than 2 grams of fat in an average serving," the second part of the present standard for the fatty acid declaration, should be used in conjunction with the 10 percent level as the cutoff for listing fats and oils specifically, or whether some other serving quantity and percentage cutoff should be used.

Functions and Names of Ingredients

The hearing record and written comments suggest that many people find many ingredient names confusing and meaningless. Comments differed, however, on the type of labeling terminology considered most useful. Of the more than 1,000 commenters specifying the terminology that should be used, over half the suggestions favored individual, familiar names, while a third of them favored designation by function, e.g., emulsifier, preservative. Twenty-seven percent supported the use of an ingredient's chemical name on the label. The central point that emerges from the comments is this: as the number of processed foods and the number of unfamiliar ingredients in these foods has grown, the task of interpreting names of ingredients and their functions has become extremely difficult for many consumers.

The FD&C Act requires that optional ingredients in standardized foods, and all ingredients in nonstandardized foods, be declared on the label by their common or usual names ("nonfat dry milk," "celery," "enriched flour"). The exceptions are spices, flavors, and colors, which may be listed on labels by their general names (e.g., "spices"). A limited number of dairy, egg, and oil ingredients are exempt from the specific name requirement and may be designated collectively on labels (e.g., "whey" can be listed when it is reconstituted whey).

Much of the present confusion over ingredient listing may stem from lack of knowledge among consumers of the purposes served by many ingredients. The agencies have received suggestions that the government publish a list of all food ingredients and their functions. This publication might be made available to consumers through outlets such as supermarkets, libraries, etc. Consumers with questions about ingredients would be able to consult this "ingredient dictionary."

Proposed Action: The agencies will explore the feasibility of an "ingredient dictionary." They will determine how it should be compiled and distributed, and what it will cost.

An ingredient dictionary would satisfy the needs of consumers who want to know more about the function of different ingredients, and would not increase manufacturers' labeling costs or overload product labels with complex terminology and explanations.

Labeling of Fresh Fruits and Vegetables

Less than 2 percent of the hearing and written comments requested information

on the growing, processing, and handling of fresh fruits and vegetables. Most of these comments concerned the use of fertilizers, pesticides, and other chemicals during growth, and the use of waxes, colors, and gasses.

Under the FD&C Act and FDA regulations, all ingredients added to raw agricultural products, except pesticides, must be declared in labeling (21 U.S.C. 343). If these commodities are shipped in a bulk container and the product is sold at retail from that container, the declaration must be visible to the purchaser. If the raw commodities are sold from a container other than the shipping box, then placards or signs must be used to convey information on colors, preservatives, and waxes (21 CFR 101.22(e) and (f)).

Although the Federal law requires labeling declarations at the retail level of substances added to fresh fruits and vegetables, as a practical matter FDA does not have the resources to enforce this requirement. The agency focuses its compliance attention on manufacturers, processors, and distributors. Retailers, nevertheless, have a responsibility to comply with the law.

If current law or regulations were amended to require the labeling of fertilizers and pesticides used on fresh produce, FDA's lack of compliance resources would prevent the agency from enforcing such requirements. Even with adequate resources, enforcement would be difficult. For example, pesticides may be present in such small amounts that they cannot be readily detected. In fact, pesticide may be applied to a commodity and not be present at all when the product is marketed. Finally, the fact that fresh produce sold at retail usually consists of mixed lots makes accurate pesticide labeling virtually impossible.

Proposed Action: FDA will continue to encourage compliance with the requirements of Federal law that the presence of colors, preservatives, and waxes be declared on placards and leaflets at the point of sale of fresh fruits and vegetables, however, FDA will not seek the statutory authority to impose similar requirements for pesticides and fertilizers. The policy with regard to pesticides and fertilizers will be reexamined in the future as necessary.

Ingredient Labeling for Restaurant-Served Foods

Very few commenters (76) discussed the issue of ingredient labeling for restaurant foods. All but one of these commenters said that restaurants should provide ingredient information on their foods.

Although the agencies can understand why some consumers want ingredient information about restaurant-served foods, enforcing such a requirement in the more than 350,000 restaurants in the United States would not be feasible. Not only is there a multitude of ingredients in each food on a menu, but many restaurants also vary menus frequently or change recipes according to the availability of raw commodities. Ingredient labeling would increase cost for restaurateurs, and be a particularly burdensome requirement for small restaurant operators. These costs ultimately would be passed on the restaurant customers.

State and local governments have primary authority over eating establishments. The Federal agencies considered preparing a model code for restaurant ingredient labeling, similar to the Food Service Model Code, for States to adopt. The agencies have concluded, however, that the costs involved in developing such a code outweigh the potential benefits to consumers.

The agencies, of course, support the efforts of many State and local authorities to provide accurate descriptions of restaurant-served foods.

Proposed Action: The agencies will not at this time initiate any action to require that ingredients in restaurant-served foods be declared. This policy will be reexamined in the future as necessary.

Incidental/Secondary Ingredients

A few (118) commenters said they wanted information on ingredients, such as adhesives, that may migrate from packaging materials (incidental or indirect additives) and ingredients, such as calcium silicate in salt used in making bread, that may be components of ingredients used in manufacturing a finished food (secondary ingredients).

Under the FD&C Act, FDA requires that optional ingredients in standardized foods and, with few exceptions, all ingredients in nonstandardized foods be declared on labels. Current FDA regulations (21 CFR 101.100(a)(3)), however, exempt incidental food additives from the statutory labeling requirements. "Incidental additives" are defined by this FDA rule as those substances that are present in a food at insignificant levels and that do not have any technical or functional effect in that food. USDA follows the same general policy.

FDA, USDA, and FTC have considered requiring that such potential additives be declared on food labels. However, the possible presence of incidental additives is not believed to be of any public health significance. Their

presence in food is not always predictable, and even so, their safety is fully assessed. The agencies have concluded, therefore, that such a requirement would not be necessary, and may not be practical or worthwhile. It would require analysis of food lots for potential incidental additives between harvest or manufacture and consumption. Conducting screening analyses for possible additives would be extremely difficult and costly for both government and industry, and the costs ultimately would be passed on to consumers, with little or no benefit obtained.

Proposed Action: The current policy of not requiring the declaration of incidental/secondary ingredients will be continued. This policy will be reexamined in the future as found necessary.

Nutrition Labeling

Nutrition labeling figured prominently in the White House Conference on Food, Nutrition, and Health held in late 1969; nutritionally labeled foods began appearing in grocery stores 4 years later, and they are now quite common.

Even though nutrition labeling is relatively new, the public response it generated was second only to that of ingredient labeling: 52 percent of the commenters discussed some aspect of nutrition labeling, and 3,288 commenters said they want nutrition information on food labels. Those favoring nutrition labeling said they wanted "all" nutrition information to appear on labels, and the rest discussed specific features of nutrition labeling that particularly concerned them. They most frequently mentioned processed or packaged foods as specific food category needing this labeling.

Three main questions characterize this issue: (1) Should nutrition labeling be required on foods? (2) If so, what information should it furnish? (3) Finally, what form should that information take?

Mandatory, Discretionary or Voluntary Nutrition Labeling

This issue concerns whether the government's current, primarily voluntary nutrition labeling policy should be changed either to make nutrition labeling mandatory or to provide FDA and USDA with the authority to require nutrition labeling at their discretion. Much food, of course, already carries nutrition labeling. An FDA survey based on 1976 sales showed that, on a dollar basis, approximately 40 percent of all packaged processed foods and 24 percent of all foods in supermarkets carried nutrition labeling, and that 60 percent of foods with

nutrition declarations were labeled voluntarily.

Under FDA regulations (21 CFR 101.9), a food label is not required to bear nutrition information unless (1) a manufacturer makes a nutrition claim about that product on its label or in its advertising or (2) a producer adds nutrients to the food. These FDA regulations define how nutrient content must be disclosed when nutrition labeling is used on a food. USDA does not have nutrition labeling regulations for meat and poultry products, but it accepts and uses FDA's approach on a voluntary basis, and also allows the use of an abbreviated format. Egg product regulations, however, do require nutrition labeling when nutrients have been added to the product or when a nutritional claim is presented on the label, unless the product is specifically exempted. Otherwise, nutrition labeling for egg products is also voluntary (7 CFR 2859.411(e)).

Of the 855 comments on this issue, 88 percent favored a mandatory system. A few commenters suggested that mandatory nutrition labeling should apply only to specific products such as (1) foods that are fortified or for which nutrition claims are made, (2) processed foods, and (3) foods produced by companies with a business volume of more than \$500,000 annually per product, but the public preference for mandatory nutrition labeling is clear.

It is less clear whether FDA and USDA have authority to go further to require nutrition labeling on all food products.

Proposed Actions: FDA and USDA will seek or support legislation to clarify their authority to require nutrition labeling on all foods.

USDA will propose regulations that would require nutrition labeling where nutrition claims are made for a product or where certain nutrients have been added to the product.

The three agencies also are forming a task group to develop criteria for determining which additional foods should bear nutrition labeling. The criteria will primarily reflect (a) the significance of the food in the diet; (b) the potential for misleading the public when a food does not have nutrition labeling; and (c) other matters of public health significance.

The agencies invite public comment on these criteria, or others, and their task group will consider these comments in developing the criteria—a task they expect will take 4 months from the close of the comment period.

Nutrition Labeling Format

FDA's regulations on nutrition information (21 CFR 101.9), in effect for over 5 years, provide that if a food's label bears nutrition information, then the data must be accurate and must follow FDA's prescribed format. However, the public has long been interested in improving the format for presenting nutrition information, and industry has considered experimenting with alternative formats.

The 416 commenters on this issue were divided on the type of nutrition label format that would be the most useful. The most popular format was some form of a pictorial/graphic system. Other suggestions included the present FDA system, a rating system, nutrition scores, nutrient density, and food group systems. One hundred seventy of the 195 commenters who expressed their views on the comprehensibility of current nutrition labeling said that some aspect of this labeling puzzles them, and they identified the U.S. Recommended Daily Allowances (U.S. RDA) most often as the primary source of confusion.

Similar points were made in FDA's Consumer Food Labeling Survey. Twenty-three percent of those surveyed who use nutrition labeling information said they find some aspects of the label confusing, and they identified the confusing elements as terminology (79 percent), use of the metric system (27 percent), use of "big words" (16 percent), use of U.S. RDA's and percentages (15 percent), and not knowing how to use this information (8 percent).

The agencies have concluded that the current nutrition labeling system, a good first step, needs revising to make it more useful to consumers. However, there is a lack of consensus and research on what types of changes should be made.

Proposed Actions: The agencies, therefore, propose to retain the present nutrition labeling system pending the outcome of research to determine which format consumers find most useful and convenient and what changes, if any, are appropriate. The agencies will encourage and facilitate voluntary experimentation, by industry, with graphic and other formats that are consistent with the principles of the current quantitative system, or with new concepts that this research produces. Such studies are to be carried out under carefully controlled conditions and in collaboration with FDA and USDA. The agencies will establish an interagency task group to work with industry and consumers to develop proper experimental designs and the

appropriate criteria for evaluating these experiments.

FDA will participate in the research and experiments by studying various labeling formats, including those formats suggested during the hearings and in the written submissions, to determine which ones best convey nutrition information to consumers. USDA will cooperate fully in and, if necessary, supplement this research, which the agencies expect to continue for 2 years. (The "Total Food Label" section below provides more information on this research program.)

The interagency task group will complement this research program. It will ensure close collaboration among the agencies, it will hold open meetings frequently, and it will invite full participation by both industry and consumers. The agencies hope that, as a result of the task group's efforts, industry will voluntarily undertake some pilot programs to test—under real market conditions—the proposed new label formats. The agencies will collect data from these pilot programs; the task group which will start working immediately after the next public hearings, will analyze and evaluate this research, and will invite comments and participation during this process before selecting no more than two or three alternative label formats for nationwide use. It will select label formats upon which some pilot programs could be based by November 1980 and will begin evaluating these pilot programs a year later. The agencies welcome comment on the role and functions of the task group.

Mandatory Information for Nutrition Labeling

This issue involves two questions: Should the government change the list of nutrients that must be declared on nutrition labels? Should nutrients present only in small quantities be declared on food labels?

Current rules require nutrition labeling of FDA-regulated products only when nutrients are added to a food or when nutrition claims are made in its labeling or advertising. 21 CFR 101.9, however, requires any FDA-regulated product that bears nutrition labeling to declare the serving size, number of servings in the container, and number of calories in a serving; the quantity of the macronutrients (protein, carbohydrates, and fat) expressed in grams in a serving; and eight nutrients (protein, vitamin A, vitamin C, thiamine, riboflavin, niacin, calcium, and iron) expressed as percentages of the U.S. RDA. Declaring quantities of any or all of 12 additional vitamins and minerals (vitamin D, vitamin E, vitamin B₆, vitamin B₁₂, folic

acid, phosphorus, iodine, magnesium, zinc, copper, biotin, and pantothenic acid) and mentioning other nutritional characteristics are voluntary.

The only specific USDA regulations requiring nutrition labeling apply to certain egg products, but producers of meat, poultry, and egg products may voluntarily provide nutrition labeling. In the absence of regulations, USDA uses the same nutrition labeling format as FDA, and it further accepts, in the case of meat and poultry products, an abbreviated format consisting of the macronutrients (protein, fat, and carbohydrates) and calories. (Approximately 75 companies now use nutrition labeling for about 275 different meat and poultry products USDA regulates; luncheon meats, pizza, and canned foods most frequently bear this labeling.)

Evidence from the hearings, the written comments, and FDA's Food Labeling Survey suggests that the public is most interested in the information that appears at the top of nutrition labels: calories, fat, carbohydrates, and protein. The 3,450 commenters who specified what nutrition information they consider important identified calorie content most often, but they also said that cholesterol content, carbohydrate content, protein content, and vitamin/mineral content were important. Only 6 percent of those polled in the FDA Food Labeling Survey claimed using the entire nutrition label. These comments show that some consumers do not use much of the nutrition information currently available, and, when they do, generally find only one or two facts useful. These results suggest at least two possibilities: labels currently contain too much information, or consumers do not know how to use what is there. Accepting the second possibility would further suggest the need for providing more information about nutrition labeling and education on how to use it.

The response also raises a number of very important basic issues involving mandatory nutrition labeling. The public's extensive interest in caloric content undoubtedly reflects the weight consciousness of the American people. Accordingly, the agencies considered allowing a calorie declaration in the absence of full nutrition labeling. They concluded, however, that because it would fail to provide a balanced presentation of foods' nutrition characteristics, this would be inappropriate as a general rule. Industry is producing—and people are eating—more low-calorie foods, but this trend does not diminish the body's need for an adequate supply of vitamins, minerals,

and other nutrients. Calorie information by itself generally does not provide adequate information for making sound dietary decisions: The agencies agree that nutrition labeling should usually provide a general nutrient profile of the food.

The views expressed on mandatory information also raise interesting questions about how much flexibility the government's policy should allow. Some have argued that declaring vitamin and mineral content on all nutrition labels is unnecessary because consumers use this information less often and consider it less important. Some said that because most nutrition labeling is voluntary, a requirement for an extensive list of food components on labels could actually discourage use of nutrition labeling. Others, however, emphasized the importance of a more complete nutrient profile to inform consumers of food characteristics having possible public health significance.

Part of this question involves the declaration of mandatory nutrients available in small quantities (less than 2 percent of the U.S. RDA per serving). Currently, nutrients present in such small amounts must be listed as providing "zero" percent of the U.S. RDA or identified by a statement that the product contains less than 2 percent of the U.S. RDA of the nutrient—a policy that reflects the principle that declaring what is not in the food can sometimes be as important as declaring what is in it. Moreover, increasing concern about the adequacy of the amounts of certain micronutrients such as zinc, folic acid, and copper in many diets gives greater urgency to the question of mandatory or voluntary declaration of these nutrients.

Proposed Actions: FDA will continue its current policies for declaring mandatory nutrients (protein, carbohydrates, fat, and certain vitamins, and minerals), calories, and other information pertaining to serving size and servings per container.

USDA will continue to permit use of both the format similar to FDA's and the abbreviated format consisting of macronutrients, calories, and other information deemed useful to consumers. USDA will also propose nutrition labeling regulations to provide information on calories, carbohydrates, protein, fat, sugars, cholesterol, sodium, and other nutrients of public health concern.

The data from the FDA survey, hearings, and written comments—as well as those from other sources—suggest that a review of the information in current nutrition labeling is appropriate. Accordingly, the agencies

invite aspecific comments from the public on the following questions:

(1) Should they retain the present mandatory listing, or should they expand it to include certain other micronutrients such as folic acid, copper, and zinc?

(2) Should they make it more flexible to allow for declaration of certain nutrients on an optional basis? (For example: Should they require only that a nutrition label list serving size, servings-per-container, calories, protein, fat, and carbohydrates? Should a listing of a food's vitamin/mineral content be optional when no nutrition claims are made and no vitamins or minerals are added?)

(3) Should nutrition labeling mention a nutrient when one serving of the food provides less than 2 percent of a U.S. RDA?

Composite Data Base for Use in Nutrition Labeling

The issue here is whether FDA and USDA should continue to require food manufacturers and producers to insure that their food labels accurately reflect the nutrient composition of their products, principally by analyzing individual lots of products, or whether they should allow manufacturers and producers to shift to the composite data base concept for deriving appropriate nutrient values for labeling.

Although FDA's Consumer Food Labeling Survey and the hearings and written comments showed that consumers want nutrition labeling on more foods, only 53 commenters discussed what degree of accuracy should be required in nutrition labeling. Most of those said they preferred the statement of nutrient content by an "exact value"; others said that "representative values" or a "range of values" would be acceptable degrees of accuracy.

The current policy of FDA and USDA assigns each manufacturer the responsibility for assuring the validity of a product's stated nutrient values. A number of firms have complained that the required nutrient analyses are expensive, and they argued for a data base to help them determine the nutrition values to be declared on their products' labels. Such a data base would be compiled for common use by food processors who would then not have to carry out nutrient analyses on their products as often as they now do. The net result of such an approach, the argument runs, would be an increase in the number of foods bearing nutrition labeling. The agencies agree that nutrition labeling on more foods is the goal, but they also agree that having

more information is scarcely helpful if that information is inaccurate.

Much attention has focused on the National Nutrient Data Bank maintained by USDA and on USDA Handbook 8, used for deriving appropriate nutrient values for nutrition labeling. Smaller segments of the food industry, producers of fresh or minimally processed foods, and (to a lesser extent) all food processors would presumably benefit from a change in current policy. Although the agencies agree that a current valid composite data base would be acceptable, the data available for some foods are inadequate for nutrition labeling.

Proposed Actions: FDA and USDA will maintain for now the current policy that products be labeled according to composition, and that the manufacturer is responsible for insuring the validity of nutrient content expressed on the food label.

FDA and USDA agree, however, that as reliable data bases are developed, they will be suitable for helping determine the values to be declared on many foods. The agencies strongly support the development and use of modern data bases for nutrition labeling, and their inclusion in the National Nutrient Data Bank. USDA and industry are working to improve these data bases and to bring them up to date; FDA has also been assisting in the developing of data bases for nutrition labeling. This work is progressing: the dairy orange juice, fresh potato, and potato chip/snack food industries, to name a few, have already developed useful data bases.

To clarify their position and to encourage further work, USDA and FDA have prepared the following statement setting forth their policies on nutrient data bases:

Statement of Policy Concerning the Use of Nutrient Data Bases

FDA and USDA encourage industry to develop and maintain meaningful data bases that may be useful guides for determining the nutrient values of indigenous nutrients.

FDA and USDA likewise encourage industry to submit such data bases to them so that they may judge their applicability for use in nutrition labeling. The sampling plans and statistical factors to be used in developing the accuracy of the nutrient profile appearing on the label will be determined, according to the food and the nutrient, for each data base. This evaluation will not constitute approval, but it will assist industry in developing and interpreting a data base for nutrition labeling.

FDA and USDA encourage the use of properly evaluated data bases for all appropriate segments of industry.

The use of a suitable nutrient data base does not exempt a manufacturer from assuring that a product meets its labeled nutrient content within established limits. The agencies consider this provision necessary to ensure proper handling of foods and their proper processing to prevent gross nutrient loss (loss of unstable nutrients, for example). The establishment of reasonable ranges of nutrients to accommodate natural variation is under consideration.

If products bearing nutrition labeling in accordance with properly evaluated nutrient data bases and manufactured in accordance with good manufacturing practices are found not to be in compliance with applicable nutrition labeling regulations, the agencies will work with the firms responsible for the product in question and with the appropriate authorities who are maintaining the applicable nutrient data base to correct the problem before initiating compliance provisions actions. The agencies will continue to reexamine compliance of the nutrition labeling regulations and will consider appropriate revisions as new knowledge, data, and methodology become available.

Industry should submit the data base information it develops to the National Nutrient Data Bank.

Serving Sizes

FDA regulations (21 CFR 101.9(b)(1)) define "serving size" as "that reasonable quantity of food suited for or practicable of consumption a part of a meal by an adult male engaged in light physical activity, or by an infant or child under 4 years of age when the article purports or is represented to be for consumption by an infant or child under 4 years of age." Serving size plays a crucial role in nutrition labeling, because the nutrient information is declared in relation to the average or usual serving or portion consumed. The question here is whether the agencies should standardize serving sizes.

In 1974, FDA proposed setting reasonable and uniform serving sizes for certain products, including fluid milk beverages, noncarbonated breakfast beverages, hot and ready-to-eat cereals, and formulated meal replacements. FDA also asked for information in order to set appropriate serving sizes for canned tuna and canned and frozen fruits and vegetables. FDA announced its intention to establish reasonable serving sizes for other foods if industry failed to petition to establish them. Since then, FDA has

proposed serving sizes for soft drinks, and some industry groups have submitted petitions to set serving sizes or portions for other foods. FDA has taken no final action on any of these petitions, and USDA has not yet established a serving size regulation.

FDA and USDA believe that some serving sizes currently used on labels are not reasonable or uniform within a product class, and consumers have expressed similar views. For example, some manufacturers use overly large serving sizes to inflate the nutritional value of their products; others keep serving sizes rather small, to avoid giving the appearance that the foods contain large quantities of undesirable components. Different serving sizes within a product class, moreover, make product comparisons difficult.

Although serving size was not a major issue among the many discussed at the FDA/USDA/FTC food labeling hearings or in the written comments, those comments that did address this issue implied that the public would welcome standardization of serving sizes. Three hundred ninety-one commenters said that serving size is an important element of nutrition labeling, and some people noted that the current serving sizes on nutrition labels are misleading.

Because serving size information is important in meaningful nutrition labeling, because of their commitment to make uniform serving sizes for some foods, and because industry has failed to set useful serving sizes in many cases, the agencies have concluded that they should establish serving sizes for foods needing them.

Proposed Actions: FDA will publish final serving size regulations for some beverage products, cereal, and meal replacements. FDA and USDA will propose regulations to establish serving sizes for additional product classes and/or types of foods.

Labeling of Sugars

This issue concerns whether to increase information food labels give about sugars and how to express this information.

No Federal regulations specifically govern the quantitative labeling of a food's content of sugars. Segments of the food industry, notably the cereal industry, voluntarily include a breakdown of carbohydrates in their foods into complex carbohydrates and simple carbohydrates (sugars). They add this information to these foods' nutrition labeling.

Over the past few years, consumers have become increasingly concerned about the quantity of sugars they are consuming. This concern results from a

desire to reduce caloric intake, from the acknowledged relationship of sugars to dental caries, and from the possible association of consumption of sugars with other diseases. Some also believe that consumption of sugars is responsible for deteriorating eating habits and a perceived decline in the health of Americans. The only demonstrated hazard that sugars pose to the public health, however, remains their contribution to dental decay.

The results of the food labeling initiative absolutely confirm this increased public interest. (The following discussion groups together all comments on sugars labeling, whether they were made in the context of ingredient labeling or nutrition labeling.) Of all those who commented orally and in writing in response to the agencies' request for comments on food labeling, 27 percent asked for information about sugars—making sugars the food component that generated the most public concern. Eighty-two percent of the 892 people specifying which foods should bear sugar labeling wanted this information on "all" foods. Nine hundred eleven commenters specifically requested that the content of total sugars (61 percent) or added sugars (23 percent) be declared on product labels. More than half of the 1,135 commenters who discussed how to declare the amount of sugars in a food wanted to know the percentage of sugars; 8 percent wanted the amount by weight; 3 percent wanted the amount for both percentage and weight. Approximately 34 percent of the commenters on this question asked generally for the "amount" of sugars in a food without specifying a method for listing. Relatively few commenters (44) expressed a preference for the location of this information about sugars on labels. Over 65 percent of those said they wanted this information on a product's ingredient label, while 28 percent wanted it on the nutrition label.

In the Food Labeling Survey, sugar was the food component of most concern to consumers. It was the most frequently avoided substance (by a reported 24 percent of all consumers), it was the ingredient whose presence in the ingredients list was noticed most often, and it was the substance about which the consumers most frequently wanted information.

Proposed Actions: FDA will propose to amend the nutrition labeling regulations (21 CFR 101.9) to require quantitative declaration of total sugars as part of nutrition labeling. USDA will propose regulations to require, as part of nutrition labeling, quantitative

declaration of the total sugars a food contains.

Recognizing that some foods provide insignificant quantities of sugars, the agencies are seeking information on the amount of sugars (grams per serving or percentage by weight) that should trigger the label declaration. FDA, USDA, and FTC have established a task group to develop criteria for determining such a level of sugars. In developing its proposal on this issue, the task group will consider comments it receives in response to this request. The agencies estimate that this assignment will be completed in 4 months after the close of the comment period.

USDA and FDA will seek or support legislation to provide them with explicit discretionary authority to require quantitative labeling of sugars on the basis of public health significance.

To complement their actions on labeling of sugars, the agencies will conduct an educational program to increase consumers' understanding of how sugars are declared on food labels.

This rather involved issue deserves further explanation. FDA has jurisdiction over most sugar-sweetened products, but it does not have explicit authority to require across-the-board quantitative labeling of sugars on all foods. The current authority, among other things, does allow FDA to amend the nutrition labeling regulations to include quantitative declaration of sugars—and the first part of the agencies' proposal shows FDA intends to do so. Public preference on this issue is so clear, however, that a full response to it requires FDA and USDA to seek or to support legislation for discretionary authority to require quantitative labeling of sugars on the basis of public health significance—a second action they propose to take. The agencies have concluded that the declaration of sugars (triggered by a level to be specified) should be based on the total amount rather than the amount of added sugars because (1) a declaration on the basis of added sugars would not provide the complete picture of the total content of sugars in a product, (2) the body cannot differentiate between sugar molecules, whether they are added or not, and (3) analysis to distinguish added from total sugars is difficult, if not impossible, in most instances.

The agencies have further concluded that labeling information on the content of sugars belongs more properly with nutrition labeling because the total sugar content of the product is of foremost importance to the consumer. If the labeling of sugars appeared in the ingredient statement, only added sugars would be declared, even though

indigenous sugars contained in the other ingredients could constitute the bulk of sugars in the product. The agencies have not ruled out the possibility of requiring those foods containing a large amount of sugars to declare this information in the product name, e.g., "Cereal X, contains — percent sugars."

The form of quantitative declaration (percentage by weight, grams per serving or other units) remains at issue because percentage labeling alone is potentially misleading. A food declaring a higher percentage of sugars than another may in fact provide a lesser amount of sugars per serving than a product with a lower percentage by weight of sugars. Researchers at FDA are now working on this problem.

Sodium and Potassium Labeling

Current FDA (21 CFR 105.69) and USDA (9 CFR 317.2(j)(2) and 381.124, and 7 CFR 2859.411(e)) regulations make the declaration of a food's sodium content voluntary, in the absence of a claim about the sodium content of a food. When a product does bear sodium labeling, its label must list the number of milligrams of sodium per 100 grams and per serving. The regulations do not require sodium declaration as a part of nutrition labeling, and under the present rules, labeling of sodium content does not make full nutrition labeling mandatory.

The sodium content of foods provoked a significant public response. This discussion groups together all of the comments on sodium and potassium labeling whether they were made in the context of ingredient or nutrition labeling. Nearly 25 percent of all commenters discussed this issue in their oral and written statements, making it second only to sugars as the food component whose label declaration most concerned the public.

Public concern about the levels of sodium in the American diet has increased in recent years. This interest arose after several reports concluded that current intake levels exceed physiological needs. The basic question involves the relationship of sodium, derived from salt or other sodium-containing compounds, to hypertension and other physiological disorders. Clinical conditions such as renal disease, requiring control of sodium intake, frequently require the simultaneous control of potassium, and control of potassium often requires sodium control as well. An estimated 20 to 30 million Americans have diseases or disorders for which controlling sodium intake, potassium intake, or both, is important. As a result, many consumers believe that product labels

need to display more information about the sodium and potassium content of foods.

Six hundred thirteen commenters specifically addressed whether total or added sodium content should be declared on product labels; 60 percent wanted content declared for total sodium, 23 percent favored listing only added sodium, and 17 percent advocated the declaration of both.

Although 1,063 commenters discussed how to declare the amount of sodium in foods, their suggestions were divided. Forty-nine percent wanted to know the amount of sodium in a product but did not specify what form this information should take. Of those commenters expressing a preference, 24 percent wanted it listed as a percentage and 25 percent wanted it listed by weight. (A few wanted both.)

Finally, as with sugars, not many commenters offered opinions on the placement of quantitative sodium labeling on food labels. Four hundred fifty commenters discussed this question; 60 percent preferred that sodium content appear in the ingredient statement, nearly 35 percent wanted it on the nutrition label, and 5 percent wanted it as a distinct designation on the principal display panel.

The views expressed in FDA's Food Labeling Survey parallel the hearing and written comments. Sodium was second only to sugars as the food component of concern: 13 percent of the respondents reported attempting to avoid consuming sodium whenever possible.

Proposed Actions: FDA will propose to amend its nutrition labeling regulations to require the declaration of sodium and potassium content as part of nutrition labeling.

USDA intends to propose regulations that would require sodium labeling as a part of nutrition labeling, and it will consider including potassium labeling in this proposal.

FDA and USDA will propose regulations to define "low sodium." They will also consider defining "reduced sodium" foods and standardizing the claims appropriate for foods containing no added sodium.

FDA will seek or support legislation to provide it with explicit discretionary authority to require quantitative labeling of sodium and potassium on the basis of public health significance. USDA believes it has such authority but will support legislation to provide more explicit authority for both agencies.

In their deliberations, the agencies considered various options for increasing labeling information on sodium and potassium content. They have concluded that information on

sodium and potassium would be better addressed as a part of nutrition labeling because knowing the total sodium and potassium content of the product is most important to consumers. Placement of the sodium and potassium content labeling in the ingredient statement, for example, would require only added sodium and potassium to appear, even if the indigenous sodium and potassium contained in the other ingredients represented the bulk of these elements in the product. In addition, issuing regulations defining "low sodium" and "reduced sodium" foods and standardizing the claims appropriate for foods containing no added sodium should also help consumers monitor their intake of sodium and encourage manufacturers to formulate foods with lower sodium content.

Fatty Acid and Cholesterol Labeling

Fatty acids are present in all fats, and their composition determines whether a fat is "saturated" or "unsaturated." Cholesterol is a fatty substance called a steroid. Consumers are interested in both because of the possible association between their consumption and coronary heart disease. At issue here is (1) whether food labels should present more information about fatty acid and cholesterol content and (2) if so, what such information should include.

FDA regulations (21 CFR 101.25) permit the voluntary inclusion of fatty acid and cholesterol content as part of nutrition information. They allow a food's label to include information on fatty acid content provided the food contains 10 percent or more fat on a dry weight basis and not less than 2 grams of fat in an average serving. If a food product makes any claims about fatty acids and/or cholesterol, the information required by this regulation then becomes mandatory. The label of a food bearing this information must also state the following: "Information on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their dietary intake of fat (and/or cholesterol, where appropriate)." It is now obvious, however, that many people want to modify their consumption of fat and cholesterol—and are doing so—without specific medical supervision. Such instructions may not, therefore, always be necessary. No specific USDA regulations cover fatty acid or cholesterol labeling, but the labeling of meat, poultry, and egg products follows FDA's guidelines. FTC's Division of Food and Drug Advertising has recommended that the Commission require certain fatty acid and cholesterol

information in advertising making claims in this area.

The public's concern about coronary heart disease, and the belief that this disease may be related to dietary factors—including the consumption of fatty acids and cholesterol—has aroused interest in the amount and kind of fat and cholesterol contained in foods.

Nearly 14 percent (1,346) of all commenters mentioned the labeling of fats and oils in foods. (As in the discussions of sugars and sodium, the comments on fatty acids and cholesterol—whether they were made in the context of ingredient or nutrition labeling—have been combined.) One thousand one hundred and forty-six wanted to know the quantity of fats and oils in food; 1,302 wanted to know the source; and 458 wanted to know the amounts of unsaturated and saturated fats in foods. Relatively few specified where this information should appear on the food label; of those 321 commenters who specified location, 69 percent wanted this information in the ingredient statement, 28 percent favored locating it on the nutrition label, and 3 percent preferred the principal display panel.

The results of FDA's Consumer Food Labeling Survey confirm this public concern about cholesterol and fat content. Twelve percent of the respondents who claimed they read nutrition labels said that cholesterol is an important item. Given a list of 38 nutrients, 65 percent of the respondents listed cholesterol information as "very important," while 52 percent listed polyunsaturated fats as "very important" and 50 percent said the same for saturated fats. The mandate of consumers is clear, and the agencies agree that increased food labeling information about fatty acids and cholesterol is in order.

Proposed Actions: FDA will continue to require that the cholesterol or fatty acid content of a food be included on nutrition labeling when claims about these substances are made.

FDA will propose to amend the fatty acid/cholesterol regulation to require fatty acid labeling whenever cholesterol is declared and cholesterol labeling whenever fatty acids are declared.

FDA will propose to amend the present fatty acid/cholesterol regulation to eliminate the requirement for the statement "Information on fat (and/or cholesterol as appropriate) content is provided for individuals who, on the advice of a physician, are modifying their dietary intake of fat (and/or cholesterol as appropriate)."

FDA will propose a regulation to define the terms "low cholesterol,"

"reduced cholesterol," and "cholesterol free." FDA will also consider proposing regulations to govern claims about fatty acid content.

FDA will seek or support legislation to provide it with explicit discretionary authority to require cholesterol/fatty acid content labeling on the basis of significance to public health. USDA believes it has such authority but will support legislation to provide more explicit authority for both agencies.

USDA will propose regulations to require cholesterol labeling as part of nutrition labeling.

Fiber Labeling

Fiber is an essential dietary component for normal bowel function. Some advocates of high fiber diets have theorized that the incidence of bowel cancer and other intestinal diseases may be related to the decreased amount of fiber in Western diets, and these theories have gained a measure of public currency. Some segments of the food industry, especially cereal manufacturers, have increased the use of fiber declaration on product labels in response to the increased public interest. The question here is whether to increase information food labels provide about fiber content.

Until recently, scientists and consumers had only a limited interest in the fiber content of foods. The biomedical aspects of fiber in its various forms are unsettled and the subject still generates considerable controversy. There is no scientific consensus on a definition of "fiber". Both the government and industry are still conducting research to solve the methodological problems related to the several types of dietary fiber. The only official method of analysis currently available is for "crude fiber," which is just a fraction of total dietary fiber. Finally, the relationship of dietary fiber to health remains controversial. FDA regulations (21 CFR 105.3(d)) now require that any disclosure of fiber content must be expressed as "crude fiber" and declared as a percent by weight.

Two hundred seventy-eight commenters (or 8 percent of those commenters specifying what kinds of nutrition information is most important) thought that knowing a food's fiber content is important. Although some consumers have said they want food labels to provide more information about the fiber, many appear to have limited knowledge about fiber content of foods and scant understanding of the differences between crude and dietary fiber. As a result, many may be unable

to evaluate information on fiber adequately.

This state of affairs is not surprising, given the scientific uncertainty and controversy involving various aspects of fiber. FDA, USDA, and others currently are conducting research on methodologies for measuring fiber and on the relationship of dietary fiber constituents to health.

Proposed Action: FDA and USDA will not require dietary fiber labeling as part of nutrition labeling until there is a clearer consensus on a definition of dietary fiber, until methods of analysis are developed, and until its significance in the diet is better understood.

Disease-Related Claims on Food Labels

Should FDA and USDA alter their general policy of not allowing medical claims on food labels? FDA regulations (21 CFR 101.9(i)(1)) specifically prohibit claims in labeling that a food is adequate or effective in the prevention, cure, mitigation, or treatment of a disease or a symptom. Similarly, the FTC has challenged such claims in food advertising, and the FTC staff has proposed that the Commission prohibit the use—in advertising—of claims that violate this FDA regulation.

Only 42 commenters expressed views on allowing food labeling or food advertising to make medical claims, and the majority opposed permitting claims such as "this low cholesterol food is beneficial in preventing heart disease" or "this low calorie food will help you lose weight."

Interest in specialized food products available for medical conditions, however, continues to increase. FDA is developing a proposal concerning the labeling of these specialized foods, sometimes called "medical foods." This proposal will cover special foods specifically marketed for use under medical supervision; it will permit those foods—such as products used to treat phenylketonuria—to bear therapeutic labeling.

Some consumers have also shown interest in dietary regimens and special food products for use in preventing colds, causing weight loss, and the like. The current state-of-the-art in nutrition and disease treatment remains insufficiently developed to allow manufacturers of less specialized dietary preparations or conventional foods to make medical claims without being misleading to the consumer. Furthermore, it is the total diet, not an individual food item, that establishes the role of nutrition in determining health and reduces the risk of diet-related diseases.

Proposed Actions: FDA and USDA therefore intend to maintain the present policy of not allowing disease-related claims to appear on the labeling of conventional food products, but they will reexamine this policy if the need arises.

FDA will proceed to develop proposed regulations covering "medical foods" (foods for use under medical supervision), permitting the use of appropriate therapeutic claims about such foods.

Open Date Labeling

The term "open date labeling" refers to readable, understandable dates on food packages that can be used by consumers to tell when a product's quality will change. Traditionally, most dates on food packages have been "closed," which means they are written in code and intended only for the use of manufacturers, distributors, or retailers.

There is widespread consumer interest in open date labeling. Approximately 45 percent of all commenters discussed the issue, putting it third in the hierarchy of public concern, behind ingredient and nutrition labeling. Almost all those who commented on open date labeling favored it for at least some foods. Forty-three percent of those in favor said that all foods should bear open date labels; about 12 percent, however, said that open date labeling should apply only to perishable foods.

In the food labeling notice, the public was also asked what form this date should take. Of the 3,352 commenters addressing this question, some of whom gave multiple answers, 49 percent of the commenters favored expiration dates; 33 percent preferred knowing the date the food was packed; 28 percent supported "pull" dates (the date a product should be removed from the shelf); 16 percent supported freshness/quality assurance dates; and 4 percent recommended that different dates be used for different foods. Of the relatively few (672) commenters who discussed whether open date labeling should be mandatory or voluntary, 94 percent wanted mandatory rules.

Respondents in FDA's Food Labeling Survey also reported widespread interest in open date labeling and a desire to see more foods labeled with such dates. Their responses also paralleled the hearing and written comments by expressing a strong preference for an expiration date rather than a pack date or a quality assurance date.

Open date labeling is voluntary under present Federal law. The FD&C Act does not contain any specific provision that requires open date labeling, and FDA

currently has no open date labeling regulations. Under the adulteration and misbranding provisions of the act, FDA may require an expiration date when a product would violate the act if it were not sold by a certain date and there is a substantial possibility the violation would occur before sale. This concern is particularly applicable to deterioration that would cause a food to become a health hazard. FDA believes that explicit authority is desirable before it establishes any general requirements in this area.

USDA regulations provide for voluntary open date labeling on meat and poultry products. When an open date is used, USDA requires that it be accompanied by the explanatory phrase, "packed on," "sell by," or "use before" (9 CFR 317.8(b)(32) and 381.129(c)). USDA allows processors to label meat and poultry products with additional statements such as "full freshness 10 days beyond date shown when stored at 40° F or below." USDA egg products regulations require only that the label be marked with the production code or lot number from which the pack date can be determined (7 CFR 2859.411(c)(3)).

Many State and local jurisdictions have taken the lead in requiring open date labeling on certain foods. These requirements, however, often differ from jurisdiction to jurisdiction, and the variation is costly for manufacturers and confusing for consumers. It should be pointed out that the meat, poultry products and egg products inspection acts specifically prohibit State and local governments from imposing labeling requirements on federally inspected products that are in addition to or different from those imposed on federally inspected establishments or plants that operate under the acts. Nevertheless, the agencies recognize the important role that the States and localities have played in requiring open date labeling.

The agencies have agreed that open date labeling is a sound idea, and that the Federal government should act to extend open date labeling to more foods. Further study and discussion is needed to determine which foods should have open date labels and what kinds of open dating ("packed on," "sell by," etc.) should be used. In addition, uniformity in approach is essential. The Federal agencies will work closely with State and local governments to develop a consistent approach that will minimize manufacturers' costs and eliminate consumer confusion.

Proposed Action: FDA will seek or support legislation to provide it with explicit discretionary authority to require open dating on classes of foods

as is found necessary. USDA believes it now has such authority but will support legislation to provide more explicit authority for both agencies.

USDA will propose regulations to require open dating on perishable and semiperishable foods to the extent that authority under current law permits.

Imitation/Substitute Foods

This issue concerns the proper labeling of those foods that resemble and are intended to substitute for traditional or standardized products, but do not contain the same ingredients or the same proportion of ingredients. For example, "imitation mayonnaise," resembles the traditional food known simply as "mayonnaise," but the imitation product usually does not contain the same amount of fat, may omit eggs or other ingredients, and may contain ingredients not present in the standardized "mayonnaise."

Under the FD&C Act, an imitation food is considered misbranded if it does not bear the work "imitation" followed by the name of the food it copies. This provision is intended to prevent consumers from being misled into thinking that imitation foods are the same as traditional or standardized products.

Judging from the hearing and written comments, there is considerable public interest in the issue of imitation and substitute foods. Nearly one-fifth of all commenters discussed some aspect of imitation and substitute foods. Of the 1,350 commenters who addressed the issue of naming imitation and substitute foods, the overwhelming majority (75 percent) said that they should be labeled "imitation." Less than one-fifth of the commenters said that such products should be given a new, descriptive name. A few said either approach would be acceptable or that such foods should be given a new name plus the "imitation" label.

Although the comments clearly demonstrate the importance of imitation labeling to the public, they were too general to provide a definitive guide for policy. Imitation labeling is a rather complex issue, and some facets of the issue are very controversial.

Therefore, the agencies are taking no position on the issue at this time, but instead are presenting five possible options to stimulate further public comment. As background to the discussion of these options, both a summary of the main elements of controversy and a description of how the present Federal policy has evolved are in order.

The first element of this problem concerns the meaning of the word

"imitation." Because label space is limited, a single word such as "imitation" is valuable if it can be used in place of several descriptive words. The word "imitation," however, may not mean as much to consumers as its adherents believe, and may even be misleading. The Final Report of the 1969 White House Conference on Food, Nutrition and Health said that the "imitation" label was potentially misleading to consumers; the report noted that this term failed to inform the public about the actual characteristics and properties of a new food, and in some instances unfairly implied inferiority.

Another aspect of the problem concerns innovation. There is nothing in the FD&C Act, the FMI Act, or the PPI Act that explicitly mentions the government's proper role in food innovation. However, the mere presence of governmental regulation, and hence involvement in industry processes, makes the effect on innovation an important issue. Various groups in industry as well as consumers stand to gain or lose depending on governmental policies affecting food innovation. The producers of new and modified products obviously have an interest in governmental policies that make the introduction and marketing of these products as easy as possible, while producers of traditional foods may have their markets reduced by these kinds of policies. Some new and modified foods may have a significant health or price advantage over currently available products, while others may have health and cost disadvantages. Since consumers may stand to gain from one type of new food and lose from another, it is important that they have a basis for perceiving the difference.

A third point concerns the fairness of allowing new products to "co-opt" the names of traditional products. One side argues that new products should be required to establish a market based on their own qualities and intrinsic ability to attract customers, rather than by relying on the goodwill associated with the names of other products whose manufacturer may have spent years developing a market. The other side contends that the consumer is better served by facilitating comparisons among products that are similar and letting the marketplace decide whether the traditional products should have an advantage. Because there are strong arguments on both sides, it is difficult to decide the best government policy. Unfortunately, neutrality is impossible; even a decision to do nothing would be

a policy decision that would have consequences in the marketplace.

The Federal policy on substitute foods has evolved over a number of years. As new food products developed, the agencies concluded that some new products were used for the same purposes as traditional foods, but were sufficiently different from their traditional counterparts to make the "imitation" label inappropriate. They also realized that the term "imitation" often connoted inferiority, and that consequently the imposition of "imitation" labeling was probably inhibiting new product development.

A 1973 FDA regulation (21 CFR 101.3) narrowed the use of the term "imitation." Before 1973, "imitation" had to appear on the label of all substitute foods except for a few that went through the process of obtaining a new standard of identity or common or usual name. This policy did not directly take into account nutrient content. Under the 1973 regulation, which is in effect today, however, only nutritionally inferior substitute foods have to be labeled "imitation." Nutritional inferiority is determined by protein content and the content of those 19 vitamins and minerals for which U.S. RDA's have been established. If a substitute food has essentially the same amounts of these nutrients as the traditional food, then it can be labeled with an accurate common or usual name (but still not the traditional name), instead of "imitation." This interpretation of section 403(c) of the FD&C Act has been upheld on judicial review.

It should be noted that the determination of nutritional inferiority under the 1973 regulation does not take into account such factors as carbohydrate, fatty acid, sodium, cholesterol, fiber, and trace element content.

Present Federal policy is based primarily on the 1973 regulation. FDA and USDA make decisions on names for substitute foods that have essentially the same amount of U.S. RDA nutrients on a case-by-case basis. These decisions are usually made in response to a petition for a standard of identity or a common or usual name, or after a manufacturer has gone ahead and given a name to a new food and there is no regulation prescribing a specific name. The FD&C Act does not provide for, and FDA does not require, preclearance of names. USDA, through its prior approval system for labels, does require preclearance. Under certain circumstances, the common or usual name for a substitute food can include the name of a traditional food and, in some

cases, must include the percentage of the characterizing ingredient.

The Federal policy on imitation labeling has attracted considerable interest as the public has become more concerned about the nutritional quality of substitute foods. Of particular interest is the standard for determining nutritional inferiority. Some are concerned that the standard does not take into account the quantities of fiber, all trace minerals, or other micronutrients that may be available in the traditional food. They contend that a person on a diet of substitute foods might develop dietary deficiencies due to the absence or insufficiency of these nutrients. They therefore would prefer use of the "imitation" designation on all substitute foods. In response to these concerns, it should be noted that although these deficiencies are theoretically possible, the data now available do not indicate there currently is a problem.

Some members of the public have also expressed the view that the term "imitation" should be applied to substitute foods that offer no perceived health advantages, but not to foods that do offer such an advantage, e.g., a substitute food containing less fat, sugar, salt, or cholesterol. Still others believe that any change in the proportions of the characterizing or valuable ingredients in a traditional food should render a food an imitation, regardless of its nutrient content. Finally, some people object to including the name of a traditional food as part of the identification of a substitute food, even if preceded by "imitation". They prefer using new names for all new and modified foods.

Just as there are differing views among consumers, industry members also disagree on the issue of substitute foods. Producers of traditional foods naturally tend to believe that totally new names should be used for nontraditional foods. On the other hand, producers of new substitute foods often would prefer to tie their product names as closely as possible to those of traditional foods.

The existing policy does permit manufacturers some flexibility in development and marketing new foods. If the new food meets certain nutritional standards, then it may use a name that affirmatively describes the product. The agencies believe the current policy represents one practical solution to a complex and a controversial issue. They recognize, however, that it has limitations and is not the only possible solution. After reviewing the recent public comments, the agencies also believe that the government has not

adequately explained the policy in the past. Therefore, the agencies want to obtain more comments from the public. They are soliciting comments on the following five options and welcome other suggestions as well:

1. *Maintain the existing policy.* Foods that are not nutritionally inferior to foods for which they substitute do not have to be labeled as imitations but can be given new names that are not misleading. ("Not nutritionally inferior" is defined to mean providing essentially the same amounts of protein and 19 vitamins and minerals for which U.S. RDA's have been established as the foods for which they substitute. It does not include constituents such as fats, fiber, sugars, etc.)

Under this definition, foods that are nutritionally inferior to the foods for which they substitute must be labeled as imitations.

Pro: Manufacturers are encouraged to maintain nutritional quality while affirmatively labeling the product; innovation in food technology is encouraged.

This policy has been upheld by the courts, thus ensuring stability and conserving resources that might have to be devoted to legal challenges if the policy were changed.

It would be the least expensive option because it is already in place.

Con: This policy does not necessarily provide as much information about the substitute food as some consumers may want; it may confuse consumers as to how the substitute food differs from the traditional or standardized food and therefore makes it difficult to shop. It also may be misleading about nutritional value.

It does not differentiate substitute foods that may offer a health advantage from other substitute foods.

It may result in the use of a traditional food's name as part of the common or usual name of the substitute food and, therefore, does not satisfy those who object to use of the name of the traditional food as part of the name of the substitute food.

2. *Expand use of imitation labeling.* (Pre-1973 policy.) Any food that resembles and is intended to replace a traditional or standardized food, regardless of its nutrient content or other characteristics, would be called "imitation" or alternatively, there must be established for this food a common or usual name or a standard of identity. This was the policy before the 1973 regulation.

Pro: It would alert consumers that such foods are not the "real thing" and are intended to replace traditional or standardized foods.

It would avoid the difficult task of determining the adequacy of the criteria used to judge nutritional inferiority.

Con: It would not satisfy those who do not want any use of the traditional name.

The term "imitation" does not tell consumers much about a food because its focus is on what the food is not rather than on what it is. Therefore, consumers will not be adequately informed as to the identity or intended use of the substitute food. It does not differentiate between substitute foods that have a lower nutrient content than the foods they are intended to replace and other substitute foods or between those that may offer a health advantage (e.g., foods that contain less fat or sugar) and those that do not.

The use of the term "imitation", because of its negative connotation, discourages new food innovation and removes the incentive to maintain U.S. RDA nutrient content.

If a common or usual name or standard of identity is sought for such a product, the laborious and expensive administrative process inherent in both approaches could also discourage new food innovation. (Both methods involve notice and comment rulemaking, and the standard of identity approach additionally allows an opportunity for a public hearing.)

3. *Expand use of imitation labeling as described in option 2 but add to the "imitation" designation a common or usual name that explains what the product is.*

Pro: It better informs the consumer about what the product is or is not.

Con: It would not satisfy those who do not want any use of the traditional name (which might be part of the common or usual name.)

It does not differentiate between substitute foods that have a lower nutrient content than the foods they are intended to replace and other substitute foods.

It would call for long labeling (e.g., "imitation cheese and sausage pizza made from 30 percent vegetable oil and soy flour and sausage-flavored isolated protein") that could cause space problems and make labeling less understandable.

4. *Expand use of imitation labeling as described in option 2 but add to the "imitation" designation an explanation (not necessarily as part of the product's name) of how the substitute product differs from the traditional food.*

Pro: It better informs the consumer about what the product is or is not.

Con: It would not satisfy those who do not want any use of the traditional name.

It does not differentiate between substitute foods that have a lower nutrient content than the foods they are intended to replace and other substitute foods.

It could call for even longer labeling than option 3. For example, the name of the product mentioned in option 3 could be "imitation cheese and sausage pizza—this product contains vegetable fat and soy flour instead of milk fat and milk protein normally found in cheese and contains isolated protein rather than sausage." This approach also could label space problems and make labeling less understandable.

5. *Establish a policy based on the proportion and type of characterizing or valuable ingredients.* This option has two components. First, if the proportion of characterizing or valuable ingredients in the food has been changed from that in the traditional or standardized food, the name of the product must consist of the word "imitation" followed by the name of the food copied. For example, a substitute for strawberry jam in which the percentage of strawberries has been decreased would be labeled "imitation strawberry jam."

Second, if characterizing or valuable ingredients are replaced, then an accurate common or usual name must be used. This name could include the traditional name only if it described how the substitute food differed from the traditional food. For example, a breakfast meat substitute might be labeled "bacon-flavored soy protein breakfast strips."

In both cases, fanciful names would also be permitted. For example, the label of the soy protein breakfast product referred to in the preceding paragraph might also include the fanciful name, "Morning Openers." In neither case could the fanciful name include the name of the traditional product, e.g., "strawberry jam" or "bacon."

Pro: Substitute foods would be distinguished from traditional and standardized foods. Substitute foods with different characterizing ingredients would be distinguished from foods with reduced characterizing ingredients. Consumers would receive more information than they now do about substitute foods with different characterizing ingredients.

The policy would partially satisfy those who object to the use of traditional names as part of the name of a substitute food.

It would avoid the difficult task of determining the adequacy of criteria used to judge nutritional inferiority. Criteria based on valuable or characterizing ingredients might be

simpler to administer and communicate to consumers.

Con: Use of the term "imitation" would be retained for some substitute foods. The term "imitation" does not tell consumers much about a food because its focus is on what the food is not rather than what it is.

It would not differentiate between substitute foods on the basis of nutrient content. This would reduce the present incentive to maintain the U.S. RDA nutrient content of substitute foods.

It might not differentiate between those that may offer a health advantage and other substitute foods.

There might be disagreements as to which ingredients in a traditional or standardized food are characterizing or valuable.

It might require a legislative change in the current statute.

Food Fortification

Food fortification involves the enrichment of foods, the restoration of nutrients, and any other addition of essential nutrients to foods; the agencies sought the public's views on whether to increase labeling and quantitative control of fortification.

FDA and USDA currently have limited control over food fortification, directly through food standards and special dietary food regulations, and indirectly through regulation of imitation and substitute foods and through exercising their authority to prevent misleading labeling. FDA lacks, however, express general authority to control the fortification of foods. USDA under current policy prohibits the addition of vitamins and minerals to meat and poultry products, unless specific regulation permits their addition (as in the case of adding vitamin A to margarine) because no need to fortify these products has been demonstrated. USDA's egg product regulations do allow the addition of vitamins and minerals to products in the way FDA's standards and regulations would allow—unless the purpose of this addition is to make the egg products appear to be better or of greater value than they are (21 U.S.C. 1033(a)(6), 7 CFR Part 2859). Industry has generally added nutrients to foods in a rational way, except in a limited number of special instances involving such products as certain beverages, snack foods, and certain cereals.

Approximately 15 percent of all commenters discussed some aspect of food fortification; 84 percent of the 1,103 commenters who discussed the advisability of fortifying foods gave their unqualified or conditional approval to permitting food fortification.

Of the 340 commenters who gave reasons for fortifying foods, 72 percent favored it to replace nutrients lost in processing, 30 percent to protect the public health, and 14 percent to enhance general nutritional value of the food. (Commenters could list more than one reason.) The most frequent argument against fortifying foods was overfortification, which could cause an imbalance of nutrients in the diet or their excessive intake. Commenters also registered fears that people would replace naturally nutritious foods with fortified foods, that fortification could lessen manufacturers' concern for nutrient retention, or that it could lead to overpromotion of a product. Ninety-four percent of the 401 people who discussed government regulation of fortification supported it.

Public reservations thus stem largely from concern about overfortification and the potential for inappropriate fortification; some experts regard deficiency diseases as a concern of the past, and argue that nutrient excesses pose a more substantial problem. Analysis of American dietary practices suggests that this view has some validity, but the subject is complex. Some individuals doubtless consume excessive amounts of some nutrients, such as sodium and phosphorus; but many of these excesses involve personal eating habits and not fortification. And yet a change in the food industry's current restraint toward fortification would be a cause for serious concern, as would an increase in consumption of dietary supplements.

The consumption of fabricated foods intended to substitute for traditional foods does seem likely to increase, and with it the need to ensure that these substitute foods are properly fortified. Furthermore, as Americans reduce their caloric intake, assuring that their diet provides adequate nutrients becomes increasingly important.

Proposed Actions: FDA and USDA will therefore seek or support legislation giving them explicit discretionary authority to control the fortification of food when exercising this control is deemed of public health significance. In the interim, FDA will publish guidelines on food fortification and encourage manufacturers to adhere to them.

The agencies agree that any useful food fortification policy must address a number of needs:

1. The need to add nutrients to staple foods to correct deficiencies in a clearly-defined population.
2. The need to avoid adding certain nutrients to foods that are not appropriate vehicles for added nutrients.

3. The need to maintain the total original nutrient profile of foods by restoring nutrients lost in processing.

4. The need to assure that substitute foods are not nutritionally inferior to the foods they replace.

5. The need to require that fabricated foods replacing large portions of the diet or the entire diet have a complete balance of nutrients relative to their caloric content.

6. The need to prevent misleading promotions of fortified foods that present no advantages over other foods.

FDA, USDA, and FTC agree that future food fortification requires appropriate guidance, and they are convinced that such guidance should derive from the legislative authority to control, when public health significance requires it, fortification of foods. The agencies intend to seek this authority, but in the meantime FDA will soon issue a separate Federal Register notice entitled "General Principles for the Addition of Nutrients to Foods." Besides providing general guidance on fortifying foods, this notice also explains which foods, such as meat and poultry products and snack foods (carbonated beverages, candies, etc.), FDA considers to be inappropriate for fortification.

Safe and Suitable Ingredients and Food Standards

Understanding this issue requires briefly sketching the history of food standards. Since the early 1940's, FDA has issued regulations called standards of identity which describe what ingredients may or must be used in making many traditional foods. These standards initially were almost strict recipes, although they allowed some minimal flexibility for the use of certain optional ingredients such as colors, flavors, and spices. In other words, they listed the specific mandatory and optional ingredients that the food could contain. These early standards, some of which covered breads, canned fruits, and vegetables, were designed to guarantee the uniform quality and composition of traditional foods familiar to the American household, to control the use of food and color additives, and to control the basic nutritional quality of standardized foods.

This policy changed significantly in 1961, when FDA issued the breaded shrimp standard (21 CFR 161.175). This standard shifted regulatory focus from all ingredients to the characterizing (mandatory) ingredient(s), which in this case involved the amount and nature of the shrimp. Thus, while this standard specified that such a product must contain 50 percent shrimp, it permitted the use of any "safe and suitable" batter

ingredients. This move toward safe and suitable optional ingredients initiated a period of greater flexibility in FDA's food standards. Standards of identity now allow manufacturers to use any safe and suitable ingredient that performs the function specified in the standard. For example, instead of specifying a preservative by name (calcium propionate, sodium benzoate, etc.), a standard allows any safe and suitable preservative. (Of course a standardized food's label must declare the particular preservative used.) The shift in policy was made possible by enactment of the Food Additives Amendment of 1958 and the Color Additive amendments of 1960 to the FD&C Act, amendments requiring that FDA approve the safety of food and color additives before they could appear in foods. Therefore, FDA no longer had to rely on food standards for premarketing review of the safety of substances added to food. (Before these amendments, only ingredients in standardized foods were subject to premarket approval.)

The phrase "safe and suitable," as defined by regulation (21 CFR 130.3(d)), means that the ingredient it describes:

1. Performs an appropriate function in the food in which it is used;
2. Is used at a level no higher than necessary to achieve its intended purpose in that food; [and]
3. Is either (a) not a "food additive" or "color additive" as defined in section 201(s) or (t) of the FD&C Act as used in that food, or (b) if it is a food additive or a color additive as so defined in those sections, its use conforms with regulations established in accordance with section 409 or 706 of the act.

Thus, the "safe and suitable" policy is applicable only to optional, functional ingredients in standardized foods that are (1) approved food or color additives, or (2) prior sanctioned, or (3) generally recognized as safe—a category known by the acronym "GRAS." These ingredients are generally, but not always, used in small quantities. At the heart of this FDA policy is the principle that manufacturer choice among safe and suitable ingredients in a food with a standard of identity is not appropriate if the use of the safe and suitable ingredients alters the basic characteristics of the food, whether by degrading its taste, smell, appearance, or nutritional characteristics. The food's label, further, must specifically identify any "safe and suitable" ingredient it contains—except for colors, spices, and flavors, which may be declared generally.

In marked contrast to other food labeling issues, food standards and the

related matter of "safe and suitable" ingredients generated a response from only 4 percent of all commenters. They generally sought more information on the ingredients involved. Of 217 comments on the issue of food standards, 41 percent wanted standards eliminated, 23 percent wanted standards applied to more foods, and 9 percent wanted food standards applied to fewer foods. Only 213 comments focused on the flexible uses of safe and suitable ingredients in standardized foods: 62 percent favored making the present "safe and suitable" policy less flexible, 10 percent wanted it more flexible, and 29 percent thought it sufficiently flexible.

The limited amount of public reaction on this issue suggests either that the "safe and suitable" policy concerns consumers relatively little or that their understanding of it is insufficient to permit meaningful comment. Such confusion as exists, the agencies believe, may well be partly due to their failure to explain the concept adequately. They therefore believe it is necessary (1) to explain the policy more accurately and (2) to propose certain modifications to clarify it and to ensure it is applied where appropriate.

Essentially, a standard of identity, according to FDA's current "safe and suitable" policy, only generally identifies certain categories of functional ingredients a food may contain, and it leaves the selection of the specific functional ingredients to the manufacturer. The types of food ingredients in this category would be optional in a standardized food and serve only a functional purpose; the particular functional safe and suitable ingredient a manufacturer chooses must be specifically identified on the food's label (unless, once again, it is a color, spice, or flavor).

One of the major effects of FDA's "safe and suitable" policy, some have alleged, is to shift the burden for establishing the safety of an ingredient from the manufacturer to FDA. Some confusion may result from the name itself, for "safe and suitable" may suggest to some people that FDA exercises only limited control over ingredients in a standardized food. In reality such ingredients generally have undergone the same form of approval, before they reach the market, as ingredients used in nonstandardized foods—prior approval, GRAS, or food and color additive review. The name "safe and suitable" may also imply that FDA's review of a food standard includes an explicit safety review of each ingredient, when in fact questions

of ingredients safety are resolved in accordance with other sections of the FD&C Act for ingredients in both standardized and nonstandardized foods. The food and color additive regulations, for example, specify the functions for which these substances may be used and limit the amounts that can be used. Because of the misunderstanding surrounding the name "safe and suitable" the agencies are considering alternative terminology, such as "permitted functional ingredient," which would more accurately describe the policy.

USDA regulations and standards identify acceptable food additives somewhat differently, according to (1) class of substance, (2) specific substance, (3) purpose, (4) product for intended use, and (5) quantity of use. USDA enforces a number of standards of identity or composition and through its label approval system requires minimum amounts of major ingredients in meat and poultry products. For egg products, USDA relies on the standards FDA regulations have established. USDA has, in addition, the authority to preclear labels for meat, poultry, and egg products and to review formulations to determine how food ingredients are used (21 U.S.C. 607, 21 U.S.C. 457, and 21 U.S.C. 1036). FDA does not have authority to preclear food labels (an authority some feel it should have), but assures the safety of food ingredients under other sections of the FD&C Act. Moreover, because FDA is responsible for more foods than USDA, and because of the large number of foods involved, FDA would have insufficient resources to review food labels before a food is marketed, even if it had this authority.

This approach to the approval of "safe and suitable" ingredients saves money—for FDA, for industry, and ultimately for the consumer—without any loss in the integrity of a food. It eliminates the need for lengthy and expensive administrative proceedings to amend a food standard each time a manufacturer wants to use a new or different ingredient in a standardized food. Amending a standard, for example, under the normal administrative procedures of the FD&C Act takes at least a year (and costs a minimum of \$40,000); a more complex amendment may take 6 or 7 years. FDA completes the processing of about seven amendments annually. The costs to industry for petitioning to change a single standard also are high. The true cost of the amendment process becomes evident when one recognizes that FDA has issued about 275 standards of

identity, each encompassing at least one food.

Allowing the use of optional functional ingredients permits a manufacturer of food processor to use different ingredients in response to seasonal changes, economic conditions, or the availability of a new ingredient. The manufacturer must, of course, change the ingredient statement on the food label accordingly. The important point to remember is that this flexibility can translate into savings for consumers without reducing the quality of a food; furthermore, this policy is fairer because it allows the same flexibility for certain functional ingredients in standardized foods that the FD&C Act permits for all ingredients in nonstandardized foods.

The agencies will propose the following modifications in the current policy, but before doing so, they would like to have the public's comments on the revised policy. The new policy would:

(1) Apply only to optional, functional ingredients used in quantities of less than 5 percent. For the purpose of this policy, the term "functional ingredients" would be defined as ingredients that do not alter the basic characteristics of the food.

(2) Require the declaration, on the product's label, of any ingredient that product contains (as now required for nonstandardized foods regulated by FDA and all USDA regulated foods except for colors, flavors, and spices.)

(3) Change the descriptive phrase "safe and suitable" to one, such as "permitted functional ingredient," that is less confusing and that more accurately describes this concept.

Miscellaneous Food Labeling Issues

Label Declaration of Country of Origin for Imported Foods

A small number of commenters (117) discussed whether the country of origin should be declared in the labels of imported foods. Most of them were concerned that the label on meat products does not have to list the country of origin if this product was made from imported meat combined with domestic meat, e.g., Argentine beef combined with American beef in ground beef.

Under the Tariff Act, administered by the U.S. Bureau of Customs, Department of the Treasury, an imported product entering the United States must bear the English name of the country of origin to inform the "ultimate purchasers" where the product was made. Generally, "ultimate purchaser" is defined as the last person in the country who will receive an article in the form in which it

was imported. If the product is repackaged or processed further in the United States, the repackager or processor becomes the "ultimate purchaser," and the repackaged or converted product need not declare the country of origin. However, if the food is sold at retail in its imported form, then the product must bear the name of its country of origin.

The laws administered by USDA and FDA require that imported products meet the same standards as American-made products. FDA laws do not contain any provisions pertinent to country of origin labeling. USDA laws and regulations are consistent with the Tariff Act provision on country of origin labeling.

Problem would arise if the country of origin labeling requirement were extended to imported foods that are repackaged or further processed in the United States. Food producers generally purchase ingredients from several foreign sources and use them in a variety of products. For example, cacao beans are purchased from several countries in South America and Africa and are used in making cocoa and chocolate, which are in turn used in making a multitude of products. A country of origin requirement in such cases could be expensive, both in terms of industry's ability to comply and the agencies' ability to monitor. Furthermore, it could cause label space problems. The agencies do not believe that the costs to industry, which ultimately would be passed along to consumers, as well as the enforcement costs for the Federal government would result in any substantial consumer benefits.

Proposed Action: USDA and FDA will continue the present policy requiring that the country of origin be declared on the label for foods imported in packages and sold in such packages at retail. The policy will be reexamined in the future if necessary.

Label Declaration of Name and Address of Manufacturer, Packer, or Distributor

The current laws administered by FDA and USDA require that food labels bear the name of the manufacturer, packer, or distributor. In addition, USDA requires meat, poultry, and egg products to bear an inspection legend and a number identifying the establishment or plant that prepared the product. A few commenters (40) said they wanted labels to list the food's manufacturer or packer in those cases where the label bears only the distributor's name. Their reason for wanting this information was based primarily on their right to know, although a few wanted it so they could

write directly to a manufacturer for further information.

The required listing of manufacturer or packer would have a major impact on firms such as chain supermarkets that buy a product from a manufacturer and then sell it under their own label. Many of these stores purchase from different sources at different times depending upon competitive bids. They would incur the additional costs of maintaining a large label stock, revising labels, and segregating products during labeling. The agencies have concluded that the potential costs of such a requirement to food labelers would outweigh the projected benefits to consumers.

Proposed Action: USDA and FDA will continue the present policy of requiring declaration of the name and address of the manufacturer, packer, or distributor. The policy will be reexamined in the future as found necessary.

Natural and Organic Labeling Claims

At the present time, FDA and USDA take differing approaches to the use of "natural" and "organic" claims on food labels. FDA does not attempt to restrict such claims because it believes that the development and enforcement of standards in this area would be difficult and might unjustifiably imply to consumers that food labeled "organic" or "natural" are inherently superior to other foods in nutrient content and safety. USDA, on the other hand, does attempt to control the use of "natural" and "organic" claims on meat, poultry and egg products because it believes such claims are generally misleading. USDA enforces this approach through its prior label review program.

In late 1974, FTC proposed a trade regulation rule to eliminate the possibly unfair and deceptive use of a number of different types of claims in food advertising, including claims that foods are "natural" or "organic." In proposing this rule, the Commission stated its concern about the ability of consumers to understand natural and organic claims which are used in a wide variety of confusing and conflicting contexts. The Commission called for public comment on ways to improve this situation, including comment of a staff proposal to prohibit the use of the terms "natural" and "organic" and on the possibility of setting standards to prevent the unfair and deceptive use of natural and organic advertising claims.

In late 1978, after extensive written comments and testimony by scientists, consumer and industry representatives, and others, the staff of the Division of Food and Drug Advertising recommended that the Commission promulgate a final rule. This rule would,

among other things, establish standards to prevent the unfair or deceptive use of natural and organic food claims (i.e., foods not meeting these standards could not be advertised as natural or organic) and prohibit claims that foods advertised as "natural" or "organic" are inherently superior to other foods in their nutrient content or safety.

The recommendations of the Division of Food and Drug Advertising are based on evidence that current uses of "natural" and "organic" claims are confusing and misleading to consumers and frequently violate the public's legitimate expectations about their meanings. The staff also concluded that these claims could provide useful information if unsupportable superiority claims were prohibited and if the claims met standards embodying the major elements of each concept. The basic elements in these standards are as follows:

A food may not be represented as natural or a natural food if (a) it has undergone more than minimal processing or (b) it contains any artificial or synthetic ingredient.

A food may not be represented as organic, an organic food, or as having been organically grown if (a) the soil in which it was grown was subjected to fertilizers other than organic materials or certain minerals or (b) any artificial or synthetic chemical (e.g., a pesticide or herbicide) has been directly applied in its production.

The Director of Bureau of Consumer Protection and the Commissioners have not yet decided whether or not to accept these recommendations. Final Commission deliberations are expected to take place in the near future.

Proposed action: USDA and FDA will continue their current policies for regulating "natural" and "organic" claims pending their evaluation of FTC's rulemaking efforts. They will then determine whether additional action on such labeling claims is necessary.

USDA and FDA agree with the FTC staff that because it is false and misleading to claim that foods described as natural or organic are inherently superior in nutrient content or safety, such claims should be prohibited.

Quantity of Contents Declaration

Approximately 12 percent of all the commenters addressed issues related to the declaration of quantity of contents on food labels. At least 71 percent of those focusing on how this declaration should be made favored some form of solid or liquid weight labeling. About half expressly requested the use of drained or solid weight content, particularly for canned fruits and

vegetables. Almost 27 percent of the commenters wanted a product's net weight to appear on the label, either alone or in conjunction with the package's drained or fill weight. Approximately 11 percent wanted to know the amount of liquid in a product, while 6 percent wanted a product's fill weight declared on the label.

In FDA's Food Labeling Survey, 60 percent of the users of canned food products did indicate a desire for drained or fill weight labeling when asked directly if they would like to have this information. Only 3 percent mentioned wanting this information when asked what additional information they would like to have on canned food labels.

On November 7, 1975 (40 FR 52172), in response to a petition from Consumers Union, FDA published a proposal to require label declaration of the drained weight of canned fruit and vegetables. (Drained weight is the weight of the food in a can after thermal processing and does not include the weight of the packing medium.) FDA received more than 6,000 comments on this proposal, mostly from consumers who favored drained weight label declaration.

The National Food Processors Association later petitioned for an alternative to drained weight: declaration of fill weight. (Fill weight is the weight of the food in a can, exclusive of the packing medium, when placed in the can.) A study by one industry organization and a similar study conducted under contract for FDA showed that drained weight labeling would cost about 10 times more than fill weight labeling. The cost difference between drained weight and fill weight labeling is approximately \$100 million versus \$10 million.

On December 9, 1977 (42 FR 62282), FDA proposed that manufacturers be allowed to use fill weight or drained weight labeling under certain prescribed conditions. The comment period on FDA's proposal ended July 1, 1979. This lengthy comment period gave the canning industry two packing seasons to test its ability to comply with the proposed requirements, and gave consumers an opportunity to become familiar with the type of labeling proposed and to comment on its usefulness. FDA is now evaluating the comments, and will publish a final regulation shortly.

The USDA follows a policy that requires the net weight of canned products to reflect the solid weight only, unless the packing medium has nutritive value.

The Total Food Label

Labels have a limited amount of space on which to put a large quantity of information. Some of this information is required by law: common or usual name of the food; name and address of packer, manufacturer, or distributor; listing of ingredients for most foods; presence of artificial flavoring, coloring, or chemical preservative; and the amount of food contained in the package. Nutrition labeling is required by regulation if vitamins, minerals, or protein are added to the food or if nutrition claims are made. The nutrition label may contain up to 28 pieces of information, including the amount of vitamins, minerals, calories, protein, carbohydrate, and fat present in the food. In addition, the label may contain other information that the manufacturer wishes to put on it, such as a brand name, the price, vignettes or product photographs, serving directions, recipe suggestions, offers to send information, premium offers, product guarantees, product coupons, advertising/benefit claims, ethnic symbols, the universal product code, dating, patent numbers, and/or storage directions.

Comments

Although there were not a large number of comments on the total food label, the agencies have drawn some general impressions from the public's responses. Commenters emphasized the need to make food labels more intelligible to the average consumer. They generally recommended that labels be written clearly and concisely and that they use simplified, standardized, nontechnical language.

A number of commenters offered suggestions for improving the format of food labels: 352 commenters specifically stated that the type size on labels should be increased. In support of this request, commenters pointed out that much of the small print on labels is illegible, so individuals with sight problems, particularly the elderly, cannot read it. Commenters also said that better contrasting colors should be used to make information more readily distinguishable, that information should be placed in a uniform location on all labels, and that overcrowding or cluttering information should be eliminated. Some suggested that some information now appearing on labels could be eliminated to make room for more necessary information and to prevent "information overload" on food labels. They suggested that special recipes, cooking instructions, advertising or promotional information, special gift or coupon offers, and fanciful labeling in

general be eliminated. In fact, several commenters specifically expressed their support for the "no frills" labels or the "plain package" product, as long as the quality of the product remained unchanged.

In contrast, other commenters remarked that they would like to have much of the descriptive information remain on or be added to food labels. The items requested were product identification, cooking instructions, unit price, recipes, pictures, and religious identification.

A number of consumers also said they wanted symbols to indicate the presence of certain ingredients, e.g., foods high in sugar, foods high in salt/sodium, or foods containing artificial colors or flavors. The agencies will explore further the practicality and desirability of using symbols for various purposes.

Some commenters advised the agencies to proceed cautiously before substantively overhauling existing regulations. They pointed out that the food label could not reasonably be expected to provide all the information requested by consumers and that any changes should be implemented only after the agencies have carefully evaluated the potential benefits relative to possibly increased costs. Some stressed the need for stability in food labeling, emphasizing that consumers would learn to utilize the information only if there are relatively few changes so they can become familiar with them. Moreover, some commenters emphasized that label changes should fulfill clearly defined objectives and

supported development of a total food labeling strategy rather than implementing a piecemeal series of changes.

Label Format Research

The public hearings, written comments, and consumer research have focused on "what" information should be communicated to consumers. The next question is "how" to communicate this information. To answer that question, FDA will conduct a research program, supported by USDA, to help decide what labeling format is the most comprehensible to consumers. This program will employ professional communications experts in the private sector to design alternative labeling formats that will be subjected to consumer testing. Designing alternative labeling formats has begun, and the actual consumer testing will begin this fall and extend into 1980. Nutrition labeling and ingredient labeling will be the primary focal point for this research.

Nutrition labeling research will center on developing a number of graphic or pictorial formats, including bar charts, pie charts, etc., that can be compared with the current systems. Ingredient labeling research will include the design and testing of formats for declaring ingredients by percentage and weight, as well as various organizational schemes aimed at communicating more intelligibly what the food ingredients are, e.g., listing names of the characterizing ingredients.

After the formats for the nutrition and ingredient labels are designed,

alternative formats for the total food label will be designed. These will include all the information required by law, plus that information that currently is discretionary (e.g., vignettes, cooking directions, premium offers, etc.) in an effort to determine the best overall format.

Other areas of food labeling research probably will include possibilities for "flagging" ingredient changes on food labels and the use of symbols and summary statements to assist in identifying foods containing high or low quantities of sugars, sodium, cholesterol, or calories.

The various formats described above will be tested on different types of consumers, including those with limited education, the elderly, and the poor. This is an opportunity for industry to demonstrate its cooperation in improving food labels. The agencies invite industry to participate in the development of an improved nutrition labeling format. They also encourage and will consider their well-conceived studies by industry on other parts of the food label, such as quantitative ingredient labeling, type size, better contrasting colors, and labels that are simpler and easier to read. Like the agencies' suggestion for nutrition labeling format, a joint cooperative study program would be most effective and efficient and in the consumer's best interest.

Digest

Below are tables that summarize how the agencies propose to proceed in addressing the food labeling issues.

Issue	Legislation	New or revised regulations	Consumer education/ industry guidance	Action deferred pending research, study or future reexamination
I. Ingredient Labeling				
A. Labeling of Mandatory Ingredients in Standardized Foods.	FDA proposes to seek or support legislation to amend the FD&C Act to require declaration of mandatory ingredients in standardized foods. (The regulations issued under statutes administered by USDA already so provide).	FDA intends to expedite amendment of the remaining food standards of identity to require declaration of all optional ingredients including the form of the mandatory ingredients where more than one form is available for use.		
B. Label Declaration of Colors, Spices, and Flavors.	FDA proposes to seek or support legislation to require that all colors and spices be declared on food labels by their specific name. USDA believes it has authority to require the declaration of spices and colors by their specific name but will support legislation to provide more explicit authority for both agencies. FDA proposes to seek or support legislation to eliminate the exemption under which the labels of butter, cheese, and ice cream are not required to declare the presence of an artificial color. FDA proposes to seek or support legislation to provide it with discretionary authority to require label declaration of a flavor when it is considered necessary for providing important health information, e.g., it has a potential for causing an allergic reaction.			

Issue	Legislation	New or revised regulations	Consumer education/ industry guidance	Action deferred pending research, study or future reexamination
C. Quantitative Ingredient Labeling.	USDA believes it has authority to require declaration of flavors, but will support legislation to provide more explicit authority for both agencies. FDA proposes to seek or support legislation explicitly giving it authority to require quantitative ingredient labeling as part of the ingredient statement and to seek or support legislation giving FDA records and reports authority—access to a company's formulae, quality control records and related records in order to ensure that such expanded quantitative ingredient labeling is truthful and accurate. USDA currently has limited authority to require quantitative ingredient labeling in some cases, and it shares FDA's belief that legislation establishing the authority of the two agencies generally to require such labeling is desirable.	FDA intends to expand the use of percentage of valuable and characterizing ingredients according to its regulations on common or usual names for nonstandardized foods. USDA intends to issue regulations that would provide for more quantitative ingredient labeling.	FDA intends to publish guidelines for voluntary quantitative ingredient labeling as part of the ingredient statement.	
D. Ingredient Order of Pre-dominance Statement.		FDA and USDA intend to amend the regulations to require that food labels bear a statement to the effect that the ingredients are listed in descending order of predominance.		
E. Use of "and/or" Labeling to Declare the Source of Fats and Oils.		FDA and USDA intend to amend the regulations to require that food containing 10 percent or more total fat on a dry weight basis declare the specific source of the fat or oil. Food containing less than 10 percent fat on a dry weight basis may use the "and/or" approach, e.g., vegetable oil (may contain cottonseed oil, soybean oil, and/or palm oil).		
F. Functionality and Names of Ingredients.				The agencies intend to explore the concept of an "ingredient dictionary," a reference volume that would describe ingredient functions, and how such a publication should be compiled, distributed and funded.
G. Labeling of Fresh Fruits and Vegetables.			FDA will continue to encourage compliance with the Federal law which requires that the presence of colors, preservatives, and waxing be declared in labeling (e.g., placards and leaflets) at the point of sale of fresh fruits and vegetables.	The labeling of fresh fruits and vegetables as to pesticides and fertilizers will be reexamined in the future as necessary.
H. Ingredient Labeling for Restaurant-Served Foods.				The agencies will not initiate any action at this time to require that ingredients in restaurant-served foods be declared. This issue will be reexamined in the future as necessary.
I. Incidental/Secondary Ingredients.				The current policy of not requiring the declaration of incidental/secondary ingredients will be continued. This issue will be reexamined in the future as necessary.
II. Nutrition Labeling				
A. Mandatory, Discretionary, or Voluntary Nutrition Labeling.	FDA and USDA propose to seek or support legislation to clarify their authority to require nutrition labeling on all foods. (The agencies are establishing a task group to develop criteria for determining which foods should bear nutrition labeling).	USDA intends to propose regulations that would require nutrition labeling where claims are made for a product or where certain nutrients have been added to the product.		
B. Nutrition Labeling Format.			The agencies encourage industry to experiment voluntarily, under controlled conditions and in collaboration with FDA and USDA, with graphics and other formats that are consistent with the current quantitative system.	FDA will conduct research, with support from USDA, to determine which format is most useful and convenient for consumers; the present nutrition labeling system will be retained pending research results and conclusions about what (if any) changes in labeling format are appropriate. (An inter-agency task group will be established to coordinate the research efforts with industry experimentation.)
C. Mandatory Information for Nutrition Labeling.		USDA intends to propose regulations that would require nutrition labeling providing information on calories, protein, carbohydrates, fat, sugars, cholesterol, sodium, and other nutrients of public health concern insofar as permitted by current authority.		FDA and USDA will maintain their current policies on declaring nutrients. Comments are requested on aspects of the present policies.

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Issue	Legislation	New or revised regulations	Consumer education/ Industry guidance	Action deferred pending research, study or future reexamination
D. Composite Data Base for Use in Nutrition Labeling.			FDA and USDA are issuing a statement of current policy concerning use of suitable nutrient data bases in nutrition labeling.	The agencies propose to maintain the current policy that products be labeled according to composition and that it is the manufacturer's responsibility to assure the validity of nutrient content expressed on food labels. The agencies encourage industry to develop suitable data bases for use in nutrition labeling.
E. Serving Sizes		FDA intends to publish final regulations for some beverage products, cereals, and meal replacements. FDA and USDA intend to propose regulations to establish serving sizes for additional product classes and/or types of foods.		
F. Sugars Labeling	FDA and USDA propose to seek or support legislation to provide them with explicit, discretionary authority to require quantitative labeling of sugars on the basis of public health significance.	FDA intends to amend the nutrition labeling regulations to require quantitative declaration of total sugars as part of nutrition labeling when contained above a specified level. USDA intends to propose regulations to require the declaration of sugars content as part of nutrition labeling. (The agencies have established a task group to develop criteria for determining the threshold level for this declaration).	The agencies propose conducting an educational program to promote better understanding of declaration of sugars.	
G. Sodium and Potassium Labeling.	FDA proposes to seek or support legislation to provide it with explicit discretionary authority to require quantitative labeling of sodium and potassium on the basis of public health significance. USDA believes it has such authority, but will support legislation to provide more explicit authority for both agencies.	FDA intends to amend the nutrition labeling regulations to require sodium and potassium labeling. USDA intends to propose regulations to require sodium labeling as part of nutrition labeling. USDA will consider the inclusion of potassium labeling. FDA and USDA intend to propose regulations to define "low sodium." Consideration will be given to defining "reduced sodium" foods and standardizing the claims appropriate for food containing no added sodium.		
H. Fatty Acid and Cholesterol Labeling.	FDA proposes to seek or support legislation to provide it with explicit discretionary authority to require cholesterol and fatty acid labeling on the basis of significance to public health. USDA believes it has such authority but will support legislation to provide more explicit authority for both agencies.	FDA will continue to require cholesterol or fatty acid content to be included on nutrition labeling when cholesterol or fatty acid claims are made. FDA intends to amend the fatty acid/cholesterol regulation to require fatty acid labeling whenever cholesterol is declared and vice versa. FDA intends to amend the fatty acid/cholesterol regulation to eliminate the physician advice statement. FDA intends to propose regulations to define the terms "low cholesterol," "reduced cholesterol," and "cholesterol free." FDA will consider proposing regulations to govern claims about fatty acid content. USDA intends to propose regulations to require cholesterol labeling as part of nutrition labeling.		
I. Fiber Labeling				FDA and USDA will not require dietary fiber labeling as part of nutrition labeling until dietary fiber can be better defined, methods of analyses can be developed, and its significance in the diet determined.
J. Disease-Related Claims on Food Labels.		FDA intends to propose regulations covering "medical foods," that is, foods which are intended for use under medical supervision; the regulations will permit the use of appropriate medical claims about such foods.		FDA and USDA will maintain the present policy of not allowing disease-related claims to appear on the labeling of conventional food products. This policy will be reexamined in the future if found necessary.

Issue	Legislation	New or revised regulations	Consumer education/ Industry guidance	Action deferred pending research, study or future reexamination
III. Open Date Labeling	FDA proposes to seek or support legislation to provide it with explicit discretionary authority to require open dating on classes of foods as is found necessary. USDA believes it now has such authority, but will support legislation to provide more explicit authority for both agencies.	USDA intends to propose regulations that would require open dating on perishable and semi-perishable foods to the extent that authority permits.		
IV. Imitation/Substitute Food Labeling.				The agencies have not taken a tentative position pending consideration of further comments on the policy direction they should follow.
V. Food Fortification	FDA and USDA propose to seek or support legislation aimed at providing explicit discretionary authority to control fortification of food when deemed of public health significance.		FDA will publish "General Principles for the Addition of Nutrients to Foods," and encourage manufacturers to adhere to these guidelines.	
VI. Safe and Suitable Ingredients and Food Standards.		FDA intends to revise its "safe and suitable" ingredients policy as follows in order to clarify the policy and ensure that it is only applied where appropriate: this policy is applicable only to optional, functional ingredients used in quantities of less than 5 percent; the descriptive phrase "safe and suitable" will be changed to one that is less confusing and more accurately describes the concept, e.g., "permitted functional ingredient".		
VII. Miscellaneous				
A. Label Declaration of Country of Origin for Imported Foods.				USDA and FDA propose to continue the present policy that the country of origin be declared on the label only for those foods imported and sold in consumer packages as such. This policy will be reexamined in the future as necessary.
B. Label Declaration of Name and Address of Manufacturer, Packer, and/or Distributor.				USDA and FDA propose to continue the present policy of requiring the declaration of the name and address of the manufacturer, packer, or distributor. This policy will be reexamined in the future as found necessary.
C. Natural and Organic Labeling Claims.				USDA and FDA propose to continue their respective policies for regulating "natural" and "organic," claims pending their evaluation of FTC's rulemaking efforts on advertising making such claims.
D. Quantity of Contents Declaration.		FDA will publish a final regulation.		

Request for Economic Information

Before taking specific action to change the current legal requirements for food labeling, the agencies want to allow further public comment on these tentative proposals. Although in some instances making these changes may require additional explicit legislation, FDA and USDA will act promptly, after fully reviewing the comments, to do what they can under their current legal authority and mandate to implement their proposals.

Detailed analysis of the economic impact of these initiatives is warranted before the agencies select specific proposals and courses of action. The agencies are therefore asking the public for information, data, or analyses to help

them predict and quantify the economic impact of their proposals on industry and consumers. This information may relate to product categories, package types, characteristics of firms or establishments, manufacturing and distribution practices, etc. The agencies are particularly interested in the cost implications of the following initiatives:

Ingredient Labeling

1. Expanded label identification of ingredients in standardized foods.
2. Expanded quantitative label identification of valuable and characterizing ingredients of foods.
3. Restricted use of "and/or" labeling for fats and oils.
4. Compilation and distribution of a standard ingredient handbook or

dictionary explaining the functions of ingredients used in food products.

Nutrition Labeling

1. Mandatory inclusion of sodium and potassium content as part of nutrition labeling.
2. Mandatory inclusion of sugars content as part of nutrition labeling.
3. Mandatory fatty acid labeling when cholesterol content is declared, and mandatory cholesterol declaration when fatty acid content is declared.
4. Other revisions in the mandatory list of nutrients.
5. Mandatory nutrition labeling, regardless of a food's specific content.
6. Optional use of composite data bases for nutrition labeling.

A number of the preceding initiatives may have common economic impacts. But some are alternative impacts, and in those cases the agencies will be interested in trade-off analyses. Specifically, they would like to know whether various actions might lead to:

- a. More frequent label changes (possibly requiring multiple label inventories and switching, one-time or continuing cost increments for printing plates, or other costly responses);
- b. Reduced flexibility in selection or substitution of ingredients;
- c. Increased control of ingredient quantity and/or quality;
- d. Increased control of nutrient quantity or stability; or
- e. Increased testing for nutrient content.

Data on these (and any other) cost impacts will be most meaningful if they assess individual initiatives. In at least two areas, however, more general data will be useful if they are reliable and detailed:

1. Direct costs of a label change and how these may vary with type of packaging, extent of redesign, number of different sizes or types of package per product, in-house versus outside labeling, lead time available, and so on. Information on this point should specify the steps entailed in changing the label, and the cost of each.
2. Costs of testing for nutrient content and how these may vary with the number and identity of the nutrients to be tested, sample size and number of samples, nature of the product, frequency or regularity of testing, degree of precision or reliability required, and the like.

To aid the presentation of information and data about, an analyses of, each initiative's economic impact, the agencies have outlined their preliminary views on potential issues and questions of cost impact—and the public is invited to comment on these views as well:

1. *Identification of mandatory ingredients in standardized foods*—This initiative requires legislation to amend the FD&C Act to require that mandatory ingredients in standardized foods be declared on product labels. It also simply affirms FDA's intention to complete the continuing effort to amend food standards to require the identification of as many ingredients as possible (1) by making specific forms and varieties of mandatory ingredients "optional" (only "optional" ingredients in standardized foods must be declared) and (2) by requiring that all optional ingredients be declared. This effort will make certain standardized foods conform with the great majority of foods, whose labels already identify all

ingredients. This initiative affects a limited number of products because it involves only standardized foods, because some standards have already been amended, and because some manufacturers now voluntarily declare mandatory ingredients. Moreover, because manufacturers already have the requisite information from their own recipes, the cost impact appears to be limited to a one-time label change.

2. *Quantitative ingredient labeling*—Expanded quantitative listing of valuable and characterizing ingredients would require food labels to declare percentage amounts of ingredients that have a material bearing on consumers' acceptance of the product or on its price. Actual quantities may exceed declared values. Although the direct cost will be that of a label change based on the recipe, other costs may be incurred, such as those involving (1) stricter adherence to good manufacturing practices (to maintain a product's uniformity) and (2) keeping the proportions of ingredients more constant.

3. *Restricted use of "and/or" labeling for fats and oils*—Limitation of "and/or" labeling to products in which fats constitute less than 10 percent of the dry weight appears to affect relatively few product categories in the jurisdiction of FDA and USDA; the most obvious are cookies and crackers, blended flour preparations such as cake mixes, canned seafoods, and soups. The agencies are seeking information that will identify the full range of products affected by a 10 percent cutoff level, a 5 percent level, and a 2 percent level—along with the nature of any cost impacts these levels produce. The agencies also are asking for any cost impact information on the effect of combining a labeling requirement for foods with 2 grams of fat per serving with any of these percentage cutoff levels. FDA and USDA will consider these economic data in conjunction with comments received on the nutritional and health considerations as they evaluate the possibility of setting an appropriate cutoff level.

The agencies are assuming that the economic advantage of "and/or" labeling is that it enables firms to switch fats and oils, or their proportions in the product, in response to their price or availability, without necessitating label changes. It would be instructive to have information on how frequently food producers actually make such substitutions and how frequently label changes would be required in the absence of the "and/or" option.

The agencies also need evidence about the kind and degree of cost impact

that could result from industry's response to eliminating the "and/or" option. More frequent label changes and the maintenance of multiple label inventories would represent an incremental cost; reduce flexibility of substitution among fats and oils, possibly expressed in higher average costs, more variable and unpredictable costs for total fats and oils used; increased lot purchase sizes and storage costs; or in a combination of these.

4. *Functionality of ingredients*—An ingredient "dictionary" appears to be an efficient means of explaining to interested consumers the function of ingredients used in food products. This could be a voluntary enterprise of the food industry or a project of the government, using—as necessary—data supplied by industry. The resulting publication could be widely distributed (available at no or little cost at most food stores, for example) or somewhat less readily available by offering it for sale, or even free, as a government or private document. (Free distribution to all public libraries is also an option here.) The feasibility of such a project would seem to depend on industry's willingness to cooperate, the number of substances requiring coverage, the frequency of revision and updating, and the expense. The expense would in turn depend on the costs of compiling the data, printing the dictionary, and distributing it—and they would vary with the size of the publication and the scale of its distribution. Because compiling an ingredient dictionary provides an alternative to listing on food labels the functions of ingredients, appraisal of the comparative merits and costs of the two approaches particularly interests the agencies.

5. *Increasing information on sodium, potassium, sugars, fatty acids, and cholesterol content*—The agencies are proposing to require mandatory declaration of sodium and potassium content, and the amount of sugars a food contains, as part of nutrition labeling. In addition, FDA will amend its regulations to require fatty acid labeling whenever cholesterol is declared, and to require labeling of cholesterol content when the food label declares fatty acids. USDA intends to propose nutrition labeling that would include information on the sodium, sugars, and cholesterol foods contain. Because this labeling will require declaring the total content of these substances, the initial establishment of reliable values would probably entail incremental costs. In products to which the manufacturer adds all or most of the substances directly, such testing costs might be nil

or virtually so. In products with food ingredients containing significant and variable amounts of these substances, more frequent testing could be necessary to obtain accurate information. The agencies therefore request evidence on the identities of food products that will require frequent testing; they are particularly interested in products that are believed to present unusual testing requirements because of wide natural variation in the substances these foods contain.

The agencies are seeking comments on the allowable range of variation in a food label's declaration of these substances. Selecting a reasonable tolerance level can reduce costs of testing to ensure compliance; frequency of reformulation could also affect cost, because it might require multiple testing and different labels. Therefore, manufacturers could be faced with a trade-off between the cost of reformulating foods (and keeping multiple label inventories) and the cost of reduced flexibility in altering ingredients that change the nutrient composition of the food.

The agencies also need (a) data on the incremental unit costs of preparing and testing samples for each of these additional substances, both individually and as part of a comprehensive nutrient assay, and (b) estimates of absolute and percentage increases in total testing expenses, for various products, that might be generated by adding these substances to the list of nutrients. They welcome information about any related costs, such as increased requirements for quality control or stabilization of content.

6. *Other revisions in mandatory list of nutrients*—As they assess possibilities for a specific proposal to revise the mandatory list of nutrients, the agencies wish to consider cost implications, as well as the utility to consumers, of alternative requirements. They request three kinds of cost data. First, assuming that any additions to the list would most likely be certain micronutrients such as folic acid, copper, and zinc, evidence is needed on the extent of additional testing that might be required in various products or product groups, the incremental costs of such testing, or any unusual problems that might arise. A second possibility is reducing the mandatory list to serving size, servings per container, calories, protein, fat, carbohydrates, sugars, sodium, potassium and cholesterol/fatty acids. Added vitamins or minerals, or those about which claims are made, would also require a statement of content, but declaring all others would be optional.

The agencies seek comments and estimates on how, and to what extent, such a change might reduce costs and on any problems that might arise from reducing the uniformity of information. A third possibility might exempt mandatory nutrients present at less than 2 percent of the U.S. RDA per serving from disclosure on the label. The agencies also want information on the nature and size of any cost savings this exemption offers.

7. *Composite data bases*—Giving formal recognition to adequately supported data bases providing the nutrient content of various foods may reduce the cost, and thereby increase the attractiveness, of nutrition labeling for firms that do not now consider it economically feasible. Ample reasons suggest why a manufacturer using such data bases to support label statements could not be relieved of any further responsibility for the reliability of those statements; they include greater than expected degradation of labile nutrients due to inadequate attention to good handling, storage, and manufacturing practices. Nevertheless, for many foods a well-researched data base could be used with high reliability in conjunction with good manufacturing practices. FDA and USDA would like to encourage the development and use of such data bases where they offer significant cost savings. They are therefore seeking evidence and estimates on the costs of developing scientifically and statistically sound data bases, the identity of the foods and food products that lend themselves to this approach, and the economic advantages such data bases might (or might not) offer over existing approaches to the statement of nutrient content—preferably using specific product examples. The degree of interest food companies, trade associations, and other industry organizations express in such opportunities is, of course, highly relevant to the ultimate decision about their use.

Costs of establishing data bases depend on the amount and reliability of available information, the variability of nutrients naturally occurring in agricultural produce, and the stability of nutrients during processing and storage. The cost of developing data bases could be reduced, for example, by pooling resources within a segment of the food industry to centralize the research and data collection. The sizes of firms and the resources they have will also affect the development of data bases. The agencies are therefore asking that comments address the costs and

feasibility of developing industry data bases.

Request for Comments/Notice of Public Hearing

The agencies are providing a 90-day comment period and will hold a public hearing to gather views on their tentative positions and the issues discussed here. Last year's five public hearings and written submissions produce information on what the public wants in the way of improved food labeling; the additional opportunity for comment will give the public a chance to provide views on how the agencies should proceed on the basis of this information. Additional information submitted at this stage is very important, because the decisions it will help shape will establish food labeling policy for the foreseeable future. The agencies therefore welcome comments on their tentative proposals to revise food labels, including their feasibility, their cost and their necessity.

The 1978 food labeling hearings were designed primarily to gather the views of unassociated individuals. At that time, the agencies encouraged others to submit their comments in writing. Having had the opportunity to review and analyze the information thus gathered, the agencies have agreed that an additional public hearing will provide organized consumer groups, state associations, industry, and trade associations—as well as individuals—with an opportunity to testify.

The public hearing will be held before representatives of FDA, USDA, and FTC on March 4 and 5, 1980, beginning both days at 9:30 a.m., in the main auditorium, Department of Commerce, Fourteenth St. and Constitution Ave. NW., Washington, D.C. It will be conducted in accordance with Title 21 of the Code of Federal Regulations, Part 15—Public Hearings Before the Commissioner. For scheduling purposes, we ask those who want to give a presentation to let us know, no later than February 22, 1980, by writing to:

Mr. Gary Dykstra, Regulatory Operations Staff (HFC-22), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

Written comments should be submitted to the Hearing Clerk, Food and Drug Administration (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857 by March 20, 1980.

Written submissions will also be accepted at the hearing from participants who want additional information included in the record. The submissions should be identified with

the docket number found in the brackets in the heading of this document. These submissions may be seen in the office of the Hearing Clerk, Food and Drug Administration, from 9 a.m. to 4 p.m., Monday through Friday.

Following evaluation of these comments, FDA and USDA will begin to implement food labeling revisions in accordance with their respective authorities and procedures. Those issues that can be resolved through new or revised regulations will be handled by the notice and comment rulemaking process: publication in the Federal Register of a proposal for comment, review of comments, and issuance of a final regulation. Any requests for legislation will be handled through each agency's normal channels; the agencies will coordinate all actions to ensure consistency.

Dated: December 8, 1979.
Jere E. Geyan,
Commissioner of Food and Drugs.

Dated: December 10, 1979.
Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Service, USDA.

Dated: December 17, 1979.
Albert H. Kramer,
Director, Bureau of Consumer Protection, FTC.

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	510.....70795	1033.....69302, 70475-70477, 70733, 71828-71830, 72159, 72597, 72598, 75164, 75165	652.....70503
	47 CFR		657.....75684
	0.....70471		

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- ENERGY DEPARTMENT
Conservation and Solar Energy Office—
66780 11-21-79 / First annual State applications for financial assistance; change in submission date
- INTERIOR DEPARTMENT
Surface Mining and Reclamation Enforcement Office—
67057 11-21-79 / Abandoned mine reclamation funds; amendment to regulations
- INTERSTATE COMMERCE COMMISSION
66831 11-21-79 / Procedures governing processing, investigation and disposition of overcharge, duplicate payment, or overcollection claims
- SECURITIES AND EXCHANGE COMMISSION
67107 12-12-79 / Filing of information required in solicitation of proxies other than by issuer
[Corrected at 44 FR 71821, 12-12-79]

Rules Going Into Effect Monday, December 24, 1979

- AGRICULTURE DEPARTMENT
Food Safety and Quality Service—
67087 11-23-79 / Marking of meat food products with official inspection legend and ingredient statement

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

- Food and Drug Administration—
36378 6-22-79 / Drugs for human use; over-the-counter (OTC) daytime sedatives

LABOR DEPARTMENT

- Occupation Safety and Health Administration—
60980 10-23-79 / Appendices to Standards on occupational exposure to lead

TRANSPORTATION DEPARTMENT

- Federal Aviation Administration—
61323 10-25-79 / Updating of certain airworthiness, equipment and operations provisions

Rules Going Into Effect Tuesday, December 25, 1979

- SECURITIES AND EXCHANGE COMMISSION
57037 10-3-79 / Oil and gas producers; postponement of audit requirement for reserve information
57030 10-3-79 / Oil and gas producers; supplemental disclosures on the basis of reserve recognition accounting
40688 9-12-78 / Oil and gas producing activities; financial accounting and reporting practices

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing December 20, 1979

12-21-79
Vol. 44—No. 247
BOOK 2:
PAGES
76021-76262

Book 2 of 2 Books
Friday, December 21, 1979

- 76024 Part VIII—HUD/FHC:
Fair Market Rents for Existing Housing
- 76176 Part IX—HUD/NVACP:
Mobile Home Procedural and Enforcement
Regulations; Formal Investigations and
Adjudicative Hearings
- 76192 Part X—DOE/ERA:
Gas and Electric Utilities Covered in 1980
by PURPA and NECPA
- 76202 Part XI—USDA/ASCS:
1980 Rural Clean Water Program
- 76212 Part XII—Interior/GS:
Revised OCS Orders Governing Oil and Gas
Lease Operations

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Friday
December 21, 1979

Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary—
Federal Housing Commissioner

Section 8 and Section 23 Housing
Assistance Payments Program—Fair
Market Rents for Existing Housing

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

Office of the Assistant Secretary for
Housing—Federal Housing
Commissioner

24 CFR Parts 803 and 888

[Docket No. R-79-749]

Fair Market Rents for Existing
Housing; All Market Areas Sections 8
and 23 Existing Housing Assistance
Payments Programs

AGENCY: Office of Assistant Secretary
for Housing-FHA Commissioner,
Department of Housing and Urban
Development (HUD).

ACTION: Proposed Rule.

SUMMARY: This Proposed Rule would
amend the Fair Market Rents for all
market areas under the Section 8 and
Section 23 Housing Assistance
Payments Programs for Existing Housing
and for Mobile Home Spaces.

COMMENT DUE: January 21, 1980.

ADDRESSES: All comments from
interested persons should be sent to the
Rules Docket Clerk, Office of the
General Counsel, Room 5218,
Department of Housing and Urban
Development, 451 7th Street, S.W.,
Washington, D.C. 20410. A copy of each
comment will be available for public
inspection at this address during regular
business hours. Copies of comments by
Public Housing Agencies (PHAs) should
be concurrently submitted to the
Economic and Market Analysis Division
in the appropriate HUD Field Office.

FOR FURTHER INFORMATION CONTACT:
Nancy S. Chisholm, Director, Economic
and Market Analysis Division, PD&R,
HUD, Washington, D.C. 20410, 202-755-
4977. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

1. Fair Market Rents for Sections 8 and
23 Existing Housing (Schedule B)

A. *Background.* The last nationwide
revision of Fair Market Rents (FMRs) for
the Section 23 and Section 8 Existing
Housing programs, required at least
annually by law, was published in the
Federal Register (44 FR 43902) on July
26, 1979, effective October 1, 1979,
retroactive to March 29, 1979 (the
anniversary date for publication of
Existing Housing Fair Market Rents) for
the calculation of annual rent
adjustments and Public Housing Agency
(PHA) administrative fees. That revision
was based on the use of a new
methodology utilizing the median rents
derived from the most recent Annual

Housing Survey (AHS) data of units
meeting Section 8 program standards
and rented by recent movers. The new
methodology for determining those Fair
Market Rents was explained in detail in
the Federal Register publication of June
22, 1979, which set forth proposed rent
schedules and suggested guidelines for
public comments. Based on the
Department's evaluation of public
comments and Departmental field office
recommendations, the Fair Market Rent
schedules published on July 26 were
modified for a total of 575 Market Areas,
including 87 Standard Metropolitan
Statistical Areas (SMSAs) and 488
nonmetropolitan counties. These
revisions were published in the Federal
Register (44 FR 59112) on October 12,
1979, and were made effective
November 1, 1979, retroactive to March
29, 1979.

In evaluating public comments and
establishing final Fair Market Rent
revisions based on the new
methodology, the Department was
especially responsive to comments and
information which demonstrated that (1)
the new methodology for calculating
Fair Market Rents, which incorporates
the use of Annual Housing Survey
(AHS) data, did not totally reflect
current housing conditions in certain
areas because of significant changes in
local market conditions since the date of
the last AHS, (2) Fair Market Rents in
some areas, particularly smaller
localities, needed modification because
their rents differed from the AHS-based
Census Region median, and (3) the rent
inflation factor derived from Consumer
Price Index data, which was only
available for 4 Census Regions and 24
metropolitan areas, did not fully account
for specific local increases in rents,
taxes, and utility costs.

B. *Procedures for Calculating Revised
Rent Schedules.* At this time, the
Department is proposing to amend the
schedules that set forth the Fair Market
Rents for the Section 8 and Section 23
Existing Housing Program to reflect
changes in median rent levels for an
additional period of one year projected
forward to October 1, 1980. Our goal
is to make the revised rents become
effective on March 29, 1980. The
procedure for calculating the revised
Fair Market Rents is based on the use of
two separate inflation factors, one for
shelter rent and one for fuel and utilities,
which are developed from the Consumer
Price Index (CPI). Factors now have
been developed for 34 SMSAs and for
the four Census regions, the only areas
for which CPI data is available. In
addition to anticipating the changes in
rents and utilities for the year ending

October 1, 1980, in all areas of the
country, based on review of CPI data,
the FMRs for some areas in the
Northeast Census Region have been
adjusted upward in amounts ranging up
to \$8.00 for four-bedroom units. These
adjustments were made to compensate
for increases in utilities in the year
ending October 1, 1979, which were
underestimated for the FMRs in the July
26, 1979 Federal Register publication
and not covered in the October 12, 1979
publication.

C. *FMR Hold Harmless.* There are
approximately 100 areas where
previously approved FMRs are equal to
or higher than the AHS-based rents,
updated to October 1, 1980. The
previously approved FMRs will be
retained at their existing levels until the
calculation of updated AHS-based rents
results in rent determinations which are
higher than the previously established
rents, or until higher rent levels are
warranted based on the receipt of
appropriate local market data. These
hold "harmless areas" are identified in
the proposed rent schedules by the
inclusion of the dollar difference
between the proposed FMR and the
updated AHS-based rent which is
printed on the line immediately under
the proposed rent where applicable.

D. *Submission of Comments in Regard
to Amendment of Schedule B.* Since
there was extensive consideration of
local comments during the 1979 rent
publication process and appropriate rent
modifications were made, new
information submitted in comments
should take into consideration the
procedures by which the AHS-based
median rents were derived, and the date
and nature of any revisions previously
approved based on local housing market
data. Comments which document the
types and degree of changes which have
occurred in the rental market, citing
surveys, studies or other data which
show what the current median rent for
standard quality units is in the area or
the rate of change in the rents during the
period in question, will be particularly
helpful. Data reflecting on rental market
conditions and inflation trends during
the past year will be especially useful
for evaluation of the proposed FMRs.
Comments proposing additional
revisions in the FMR schedules should
include specific recommendations in
regard to the appropriate dollar amounts
by unit size as documented by the rental
market surveys, studies or other data
submitted.

2. Fair Market Rents for Mobile Home
Spaces (Schedule D)

A. *Background.* An initial Schedule of
Fair Market Rents for Mobile Home

Spaces was published for comment in
the Federal Register (44 FR 62200) on
October 29, 1979, to become effective
December 4, 1979, subject to
consideration of comments and possible
deferral of the effective date if
warranted by the nature and volume of
comments received. This initial FMR
Schedule was developed on median site
rents for Mobile Homes in each
Standard Metropolitan Statistical Area
(SMSA) and in the nonmetropolitan
portions of each state. These median
site costs were derived from market
surveys conducted by the Economic and
Market Analysis Division in each HUD
Field Office. The published FMRs
reflected the average rents currently
being charged for single-wide and
double-wide Mobile Home Spaces,
excluding utilities.

Based on the Department's evaluation
of public comments, it was determined
that deferral of the effective date of the
initial Schedule of FMRs for Mobile
Home Spaces was not necessary.
Comments pertaining to a number of
FMR areas did indicate that some
revisions in the initially published FMR
schedule were warranted. It is the
Department's intent to publish these
revisions for effect as soon as possible.

B. *Procedures for Calculating Revised
Fair Market Rents for Mobile Home
Spaces.* The Department is proposing to
amend the schedule that sets forth the
FMRs for Mobile Home Spaces to reflect
changes in the average rents for an
additional period of approximately one
year projected forward to October 1,
1980. Our goal is to make the revised
rents effective on March 29, 1980. The
procedure for calculating the revised
FMRs is based on the use of an inflation
factor developed from the Consumer
Price Index (CPI). Factors have been
developed for 34 SMSAs and for the 4
Census Regions, for which CPI data
currently is available. Because of time
constraints, the attached schedule does
not include modifications responding to
comments received as a result of the
October 29, 1979, Federal Register
publication. Any necessary revisions
will be updated through October 1, 1980,
and incorporated in the final publication
of these Fair Market Rents for effect as
of March 29, 1980.

C. *Submission of Comments in Regard
to Amendment of Schedule D, Fair
Market Rents for Mobile Home Space.*
Proposals for revision of Schedule D
should be specific as to geographic area
(county or SMSA) and dollar amounts,
and should be supported by appropriate
cost data.

3. NEPA

The Department has determined that
these regulations do not constitute a
major Federal Action significantly
affecting the quality of the human
environment. Accordingly, a Finding of
Inapplicability as to Environmental
Impact has been prepared and is
available for public inspection during
regular business hours at the Office of
the Rules Docket Clerk, at the addressed
specified above.

It is therefore proposed that Title 24,
Part 803, Schedule B, and Part 888,
Schedule B and Schedule D, be revised
as set forth below.

This notice of proposed rulemaking is
issued under the authority of (Section
7(d), Department of HUD Act, 42 U.S.C.
3535(d)).

Issued at Washington, D.C., December 17,
1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal
Housing Commissioner.

BILLING CODE 4210-01-M

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: LEWISTON-AUBURN, ME					
SMSA PART: ANDROSCOGGIN STATE: ME	181	205	244	280	310
SMSA: PORTLAND, ME					
SMSA PART: CUMBERLAND STATE: ME	199	239	283	332	391
SMSA PART: YORK STATE: ME	196	239	283	332	391
NON SMSA					
NON SMSA PART: ANDROSCOGGIN STATE: ME	181	205	244	280	310
COUNTY: AROOSTOOK STATE: ME	180	214	253	280	308
NON SMSA PART: CUMBERLAND STATE: ME	181	205	244	290	310
COUNTY: FRANKLIN STATE: ME	172	195	231	257	281
COUNTY: HANCOCK STATE: ME	172	195	231	257	281
COUNTY: KENNEBEC STATE: ME	181	205	244	280	310
COUNTY: KNOX STATE: ME	187	213	252	280	307
COUNTY: LINCOLN STATE: ME	187	213	252	280	307
COUNTY: OXFORD STATE: ME	172	195	231	257	281
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY: PENOBSCOT STATE: ME	181	205	244	280	310
COUNTY: PISCATAQUIS STATE: ME	172	195	231	257	281
COUNTY: SAGadahoc STATE: ME	181	205	244	280	310
COUNTY: SOMERSET STATE: ME	187	213	252	280	307
COUNTY: WALDO STATE: ME	172	195	231	257	281
COUNTY: WASHINGTON STATE: ME	172	195	231	257	281
NON SMSA PART: YORK STATE: ME	181	205	244	280	310
SMSA: BOSTON, MA					
SMSA PART: ESSEX STATE: MA	235 17	267	317	368	418
SMSA PART: MIDDLESEX STATE: MA	235 17	267	317	368	418
SMSA PART: NORFOLK STATE: MA	205 17	287	317	368	418
SMSA PART: PLYMOUTH STATE: MA	235 17	267	317	368	418
COUNTY: SUFFOLK STATE: MA	235 17	267	317	368	418

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: BROCKTON, MA					
SMSA PART: BRISTOL STATE: MA	197	241	285	331	374
SMSA PART: NORFOLK STATE: MA	197	241	285	331	374
SMSA PART: PLYMOUTH STATE: MA	187	241	285	331	374
SMSA: FALL RIVER, MA-RI					
SMSA PART: BRISTOL STATE: MA	203	234	277	321	352
SMSA: FITCHBURG-LEOMINSTER, MA					
SMSA PART: MIDDLESEX STATE: MA	174	213	252	293	332
SMSA PART: WORCESTER STATE: MA	174	213	252	293	332
SMSA: LAWRENCE-HAVERHILL, MA-NH					
SMSA PART: ESSEX STATE: MA	226	262	307	373	421
SMSA: LOWELL, MA-NH					
SMSA PART: MIDDLESEX STATE: MA	216 42	246 33	289 37	334 41	365 33
SMSA: NEW BEDFORD, MA					
SMSA PART: BRISTOL STATE: MA	174	213	252	293	332
SMSA PART: PLYMOUTH STATE: MA	174	213	252	293	332
SMSA: PITTSFIELD, MA					
SMSA PART: BERKSHIRE STATE: MA	164 30	188 23	221 26	255 27	278 19
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART: BRISTOL STATE: MA	203	234	277	321	352
SMSA PART: NORFOLK STATE: MA	203	234	277	321	352
SMSA PART: WORCESTER STATE: MA	203	234	277	321	352
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT					
SMSA PART: HAMPDEN STATE: MA	194	237	282	327	370
SMSA PART: HAMPSHIRE STATE: MA	194	237	282	327	370
SMSA PART: WORCESTER STATE: MA	194	237	282	327	370
SMSA: WORCESTER, MA					
SMSA PART: WORCESTER STATE: MA	228	262	307	355	390
NON SMSA					
COUNTY: BARNSTABLE STATE: MA	247	281	335	391	436
NON SMSA PART: BERKSHIRE STATE: MA	174	213	252	293	332
NON SMSA PART: BRISTOL STATE: MA	200	230	271	314	343
COUNTY: DUKES STATE: MA	247	281	335	391	436

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART: ESSEX STATE: MA	217	252	306	354	410
COUNTY: FRANKLIN STATE: MA	212	250	295	329	362
NONSMSA PART: HAMPSHIRE STATE: MA	196	226	268	310	340
NONSMSA PART: HAMPSHIRE STATE: MA	196	226	268	310	340
NONSMSA PART: MIDDLESEX STATE: MA	174	213	252	293	332
COUNTY: NANTUCKET STATE: MA	232	260	314	344	395
NONSMSA PART: NORFOLK STATE: MA	174	213	252	293	332
NONSMSA PART: PLYMOUTH STATE: MA	206	238	285	333	379
NONSMSA PART: WORCESTER STATE: MA	174	213	252	293	332
COUNTY: ADDISON STATE: VT	195	223	267	322	351
COUNTY: BENNINGTON STATE: VT	195	223	267	323	351
COUNTY: CALEDONIA STATE: VT	179	213	253	305	336
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY: CHITTENDEN STATE: VT	195	223	267	323	351
COUNTY: ESSEX STATE: VT	174	199	235	261	288
COUNTY: FRANKLIN STATE: VT	179	213	253	305	336
COUNTY: GRAND ISLE STATE: VT	179	213	253	305	336
COUNTY: LAMOILLE STATE: VT	174	199	235	261	288
COUNTY: ORANGE STATE: VT	179	213	253	305	336
COUNTY: ORLEANS STATE: VT	179	213	253	305	336
COUNTY: RUTLAND STATE: VT	195	223	267	323	351
COUNTY: WASHINGTON STATE: VT	179	213	253	305	336
COUNTY: WINDHAM STATE: VT	195	223	267	323	351
COUNTY: WINDSOR STATE: VT	195	223	267	323	351
SMSA: LAWRENCE-HAVERHILL, MA-NH SMSA PART: ROCKINGHAM STATE: NH	226	262	307	373	421

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: LOWELL, MA NH					
SMSA PART: HILLSBOROUGH STATE: NH	216 42	246 33	289 37	334 41	365 33
SMSA: MANCHESTER, NH					
SMSA PART: HILLSBOROUGH STATE: NH	217	262	313	361	409
SMSA PART: MERRIMACK STATE: NH	217	262	313	361	409
SMSA PART: ROCKINGHAM STATE: NH	217	262	313	361	409
SMSA: NASHUA, NH					
SMSA PART: HILLSBOROUGH STATE: NH	217	262	313	361	409
NON SMSA					
COUNTY: BELKNAP STATE: NH	194	223	266	297	326
COUNTY: CARROLL STATE: NH	180	208	246	275	303
COUNTY: CHESHIRE STATE: NH	202	234	278	313	346
COUNTY: COOS STATE: NH	180	208	246	275	303
COUNTY: GRAFTON STATE: NH	183	216	254	289	322
NONSMSA PART: HILLSBOROUGH STATE: NH	194	222	266	307	338
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART: MERRIMACK STATE: NH	194	222	266	307	338
NONSMSA PART: ROCKINGHAM STATE: NH	201	231	275	318	349
COUNTY: STRAFFORD STATE: NH	194	223	266	297	326
COUNTY: SULLIVAN STATE: NH	194	223	266	297	326
SMSA: FALL RIVER, MA-RI					
SMSA PART: NEWPORT STATE: RI	203	234	277	321	352
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART: WASHINGTON STATE: RI	189	230	271	313	354
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI MA					
SMSA PART: BRISTOL STATE: RI	203	234	277	321	352
SMSA PART: KENT STATE: RI	203	234	277	321	352
SMSA PART: NEWPORT STATE: RI	203	234	277	321	352
SMSA PART: PROVIDENCE STATE: RI	203	234	277	321	352
SMSA PART: WASHINGTON STATE: RI	203	234	277	321	352

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART: KENT STATE: RI	199	230	272	316	346
NONSMSA PART: NEWPORT STATE: RI	215	242	290	321	356
NONSMSA PART: PROVIDENCE STATE: RI	199	230	272	316	346
NONSMSA PART: WASHINGTON STATE: RI	199	230	272	316	346
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: BRIDGEPORT, CT					
SMSA PART: FAIRFIELD STATE: CT	197	242	287	332	376
SMSA PART: NEW HAVEN STATE: CT	197	242	287	332	376
SMSA: BRISTOL, CT					
SMSA PART: HARTFORD STATE: CT	188	230	273	317	359
SMSA PART: LITCHFIELD STATE: CT	188	230	273	317	359
SMSA: DANBURY, CT					
SMSA PART: FAIRFIELD STATE: CT	199	242	286	330	373
SMSA PART: LITCHFIELD STATE: CT	199	242	286	330	373
SMSA: HARTFORD, CT					
SMSA PART: HARTFORD STATE: CT	221	270	319	370	419
SMSA PART: LITCHFIELD STATE: CT	221	270	319	370	419
SMSA PART: MIDDLESEX STATE: CT	221	270	319	370	419
SMSA PART: NEW LONDON STATE: CT	221	270	319	370	419
SMSA PART: TOLLAND STATE: CT	221	270	319	370	419

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: MERIDEN, CT					
SMSA PART: NEW HAVEN STATE: CT	178	218	260	302	341
SMSA: NEW BRITAIN, CT					
SMSA PART: HARTFORD STATE: CT	188	230	273	319	359
SMSA: NEW HAVEN-WEST HAVEN, CT					
SMSA PART: MIDDLESEX STATE: CT	219	265	314	362	410
SMSA PART: NEW HAVEN STATE: CT	219	265	314	362	410
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART: MIDDLESEX STATE: CT	189	230	271	313	354
SMSA PART: NEW LONDON STATE: CT	189	230	271	313	354
SMSA: NORWALK, CT					
SMSA PART: FAIRFIELD STATE: CT	246	300	354	408	462
SMSA: SPRINGFIELD-CHICOPPEE-HOLYOKE, MA-CT					
SMSA PART: TOLLAND STATE: CT	194	237	282	327	370
SMSA: STAMFORD, CT					
SMSA PART: FAIRFIELD STATE: CT	260	316	373	430	486
SMSA: WATERBURY, CT					
SMSA PART: LITCHFIELD STATE: CT	178	218	260	302	341
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: WATERBURY, CT					
SMSA PART: NEW HAVEN STATE: CT	178	218	260	302	341
NON SMSA					
NONSMSA PART: FAIRFIELD STATE: CT	179	218	260	302	341
NONSMSA PART: HARTFORD STATE: CT	188	230	273	319	359
NONSMSA PART: LITCHFIELD STATE: CT	168	205	243	283	320
NONSMSA PART: MIDDLESEX STATE: CT	189	230	271	313	354
NONSMSA PART: NEW HAVEN STATE: CT	178	218	260	302	341
NONSMSA PART: NEW LONDON STATE: CT	172	211	250	290	329
NONSMSA PART: TOLLAND STATE: CT	219	266	314	362	410
COUNTY: WINDHAM STATE: CT	172	211	250	290	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
SMSA: ALBANY-SCHENECTADY-TROY, NY					
COUNTY: ALBANY STATE: NY	183	223	264	304	344
COUNTY: MONTGOMERY STATE: NY	183	223	264	304	344
COUNTY: RENSSELAER STATE: NY	183	223	264	304	344
COUNTY: SARATOGA STATE: NY	183	223	264	304	344
COUNTY: SCHENECTADY STATE: NY	181	223	264	304	344
SMSA: BINGHAMTON, NY-PA					
COUNTY: BROOME STATE: NY	150 12	173 4	205 5	247 16	285 24
COUNTY: TIoga STATE: NY	150 12	173 4	205 5	247 16	285 24
SMSA: SYRACUSE, NY					
COUNTY: MADISON STATE: NY	166	203	241	278	315
COUNTY: ONONDAGA STATE: NY	166	203	241	278	315
COUNTY: OSWEGO STATE: NY	166	203	241	278	315
SMSA: UTICA-ROME, NY					
COUNTY: HERKIMER STATE: NY	151 18	172 10	204 12	243 21	280 29
BUFFALO, NEW YORK AREA OFFICE					
SMSA: UTICA-ROME, NY					
COUNTY: ONEIDA STATE: NY	151 18	172 10	204 12	243 21	280 29
NON SMSA					
COUNTY: CAYUGA STATE: NY	161	197	232	269	305
COUNTY: CHENANGO STATE: NY	174	192	239	268	296
COUNTY: CLINTON STATE: NY	164	190	225	251	277
COUNTY: COLUMBIA STATE: NY	132	161	190	220	250
COUNTY: CORTLAND STATE: NY	161	197	232	269	305
COUNTY: DELAWARE STATE: NY	137	165	197	228	258
COUNTY: ESSEX STATE: NY	162	187	217	250	276
COUNTY: FRANKLIN STATE: NY	143	170	195	218	240
COUNTY: FULTON STATE: NY	129	157	185	215	245
COUNTY: GREENE STATE: NY	147 15	168 7	200 10	222 2	250
COUNTY: HAMILTON STATE: NY	129	157	185	216	245

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY: JEFFERSON STATE: NY	151	175	209	228	252
COUNTY: LEWIS STATE: NY	143	170	195	218	240
COUNTY: OTSEGO STATE: NY	137	166	197	228	258
COUNTY: ST LAWRENCE STATE: NY	153	179	214	239	266
COUNTY: SCHOGHARIE STATE: NY	161	185	222	248	273
COUNTY: TOMPKINS STATE: NY	161	197	232	269	305
COUNTY: WARREN STATE: NY	129	162 5	189 3	216	245
COUNTY: WASHINGTON STATE: NY	132 3	157	186	216	245
SMSA: BUFFALO, NY					
COUNTY: ERIE STATE: NY	166	223	248	269	318
COUNTY: NIAGARA STATE: NY	166	223	248	269	318
SMSA: ELMIRA, NY					
COUNTY: CHEMUNG STATE: NY	171	197	246	283	320
SMSA: ROCHESTER, NY					
COUNTY: LIVINGSTON STATE: NY	210	256	303	348	395
BUFFALO, NEW YORK AREA OFFICE					
SMSA: ROCHESTER, NY					
COUNTY: MONROE STATE: NY	210	256	303	348	395
COUNTY: ONTARIO STATE: NY	210	256	303	348	395
COUNTY: ORLEANS STATE: NY	210	256	303	348	395
COUNTY: WAYNE STATE: NY	210	256	303	348	395
NON SMSA					
COUNTY: ALLEGANY STATE: NY	120	148	174	201	229
COUNTY: CATTARAUGUS STATE: NY	120	148	174	201	229
COUNTY: CHAUTAUGUA STATE: NY	139 19	174 26	206 32	233 32	258 29
COUNTY: GENESEE STATE: NY	143 29	171 23	204 30	226 25	250 21
COUNTY: SCHUYLER STATE: NY	158	189	228	242	287
COUNTY: SENECA STATE: NY	190	221	260	291	322
COUNTY: STEUBEN STATE: NY	158	182	219	253	286
COUNTY: WYOMING STATE: NY	120	148	174	201	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE NON SMSA COUNTY: YATES STATE: NY	161	197	232	269	305
NEW YORK, NEW YORK AREA OFFICE SMSA: NASSAU-SUFFOLK, NY COUNTY: NASSAU STATE: NY	282	348	406	467	530
COUNTY: SUFFOLK STATE: NY	282	348	406	467	530
SMSA: NEW YORK CITY, NY-NJ COUNTY: BRONX STATE: NY	255	309	365	422	478
COUNTY: KINGS STATE: NY	255	309	368	422	478
COUNTY: NEW YORK STATE: NY	255	309	366	422	478
COUNTY: PUTNAM STATE: NY	255	309	366	422	478
COUNTY: QUEENS STATE: NY	255	309	366	422	478
COUNTY: RICHMOND STATE: NY	255	309	366	422	478
COUNTY: ROCKLAND STATE: NY	255	309	366	422	478
COUNTY: WESTCHESTER STATE: NY	255	309	366	422	478
SMSA: Poughkeepsie, NY COUNTY: DUTCHESS STATE: NY	202	233	265	306	347
NON SMSA COUNTY: ORANGE STATE: NY	193	233	277	309	340
NEW YORK, NEW YORK AREA OFFICE NON SMSA COUNTY: SULLIVAN STATE: NY	170	214	253	292	331
COUNTY: ULSTER STATE: NY	176	214	253	292	331

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEWARK, NEW JERSEY AREA OFFICE SMSA: ATLANTIC CITY, NJ COUNTY: ATLANTIC STATE: NJ	170	206	244	281	318
SMSA: PHILADELPHIA, PA-NJ COUNTY: BURLINGTON STATE: NJ	219	266	314	363	410
COUNTY: CAMDEN STATE: NJ	219	266	314	363	410
COUNTY: GLOUCESTER STATE: NJ	219	266	314	363	410
SMSA: TRENTON, NJ COUNTY: MERCER STATE: NJ	190	231	272	314	356
SMSA: VINELAND-MILLVILLE-BRIDGETON, NJ COUNTY: CUMBERLAND STATE: NJ	190	232	273	315	357
SMSA: WILMINGTON, DE-NJ-MD COUNTY: SALEM STATE: NJ	221	268	315	363	410
NON SMSA COUNTY: CAPE MAY STATE: NJ	184 13	210 2	250 4	284	321
COUNTY: OCEAN STATE: NJ	234	284	335	388	438
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ COUNTY: WARREN STATE: NJ	207	246	286	320	363
NEWARK, NEW JERSEY AREA OFFICE SMSA: JERSEY CITY, NJ COUNTY: HUDSON STATE: NJ	186	227	269	311	352
SMSA: LONG BRANCH-ASBURY PARK, NJ COUNTY: MONMOUTH STATE: NJ	223	273	321	371	420
SMSA: NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ COUNTY: MIDDLESEX STATE: NJ	228	277	328	377	428
SMSA: NEW YORK CITY, NY-NJ COUNTY: BERGEN STATE: NJ	255	309	366	422	478
SMSA: NEWARK, NJ COUNTY: ESSEX STATE: NJ	246	276	329	364	401
COUNTY: MORRIS STATE: NJ	246	276	329	364	401
COUNTY: SOMERSET STATE: NJ	246	276	329	364	401
COUNTY: UNION STATE: NJ	246	276	329	364	401
SMSA: PATERSON-CLIFTON-PASSAIC, NJ COUNTY: PASSAIC STATE: NJ	239	291	344	397	449
NON SMSA COUNTY: HUNTERDON STATE: NJ	234	284	335	386	438

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEWARK, NEW JERSEY AREA OFFICE NON SMSA COUNTY: SUSSEX STATE: NJ	241	293	346	399	452
CARIBBEAN AREA OFFICE SMSA: CAGUAS MUNICIPIO: ALL STATE: PR	157	190	224	257	290
SMSA: MAYAGUEZ MUNICIPIO: ALL STATE: PR	194	236	277	319	360
SMSA: PONCE MUNICIPIO: ALL STATE: PR	239	290	342	393	443
SMSA: SAN JUAN MUNICIPIO: ALL STATE: PR	236	287	338	389	440
NON SMSA MUNICIPIO: ALL OTHER STATE: PR	149	181	213	245	277
CHAR, AMALIE STATE: VI	265	321	379	436	492
ST. CROIX STATE: VI	216	262	309	356	402
ST. THOMAS STATE: VI	246	299	352	405	457
REGION 3					
BALTIMORE, MARYLAND AREA OFFICE SMSA: BALTIMORE, MD COUNTY: ANNE ARUNDEL STATE: MD	212	263	302	377	416
COUNTY: BALTIMORE STATE: MD	212	263	302	377	416
COUNTY: CARROLL STATE: MD	212	263	302	377	416
COUNTY: HARFORD STATE: MD	212	263	302	377	416
COUNTY: HOWARD STATE: MD	212	263	302	377	416
COLUMBIA(U) STATE: MD	252	314	359	430	466
INDEP. CITY BALTIMORE STATE: MD	212	263	302	377	416
SMSA: WASHINGTON, DC-MD-VA COUNTY: CHARLES STATE: MD	228	276	325	374	422
SMSA: WILMINGTON, DE-NJ-MD COUNTY: CECIL STATE: MD	221	268	315	363	410
NON SMSA COUNTY: ALLEGANY STATE: MD	140	169	199	229	259
COUNTY: CALVERT STATE: MD	211	257	302	348	393

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE, MARYLAND AREA OFFICE NON SMSA COUNTY: CAROLINE STATE: MD	189	229	270	311	351
COUNTY: DORCHESTER STATE: MD	169	229	270	311	351
COUNTY: FREDERICK STATE: MD	196	239	281	322	365
COUNTY: GARRETT STATE: MD	140	169	199	229	259
COUNTY: KENT STATE: MD	189	229	270	311	351
COUNTY: QUEEN ANNES STATE: MD	189	229	270	311	351
COUNTY: ST. MARYS STATE: MD	183	223	262	302	342
COUNTY: SOMERSET STATE: MD	189	229	270	311	351
COUNTY: TALBOT STATE: MD	189	229	270	311	351
COUNTY: WASHINGTON STATE: MD	183	223	262	302	342
COUNTY: WICOMICO STATE: MD	189	229	270	311	351
COUNTY: WORCESTER STATE: MD	189	229	270	311	351
PHILADELPHIA, PENNSYLVANIA AREA OFFICE SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ COUNTY: CARBON STATE: PA	207	246	286	320	353
COUNTY: LEHIGH STATE: PA	207	246	286	320	353
COUNTY: NORTHAMPTON STATE: PA	207	246	286	320	353
SMSA: BINGHAMTON, NY-PA COUNTY: SUSQUEHANNA STATE: PA	150 12	173 4	205 5	247 16	285 24
SMSA: HARRISBURG, PA COUNTY: CUMBERLAND STATE: PA	205	237	284	330	362
COUNTY: DAUPHIN STATE: PA	205	237	284	330	362
COUNTY: PERRY STATE: PA	205	237	284	330	362
SMSA: LANCASTER, PA COUNTY: LANCASTER STATE: PA	170	207	254	304	332
SMSA: NORTHEAST, PA COUNTY: LACKAWANNA STATE: PA	139 19	161 13	192 18	214 13	234 5
COUNTY: LUZERNE STATE: PA	139 19	161 13	192 18	214 13	234 5
COUNTY: MONROE STATE: PA	139 19	161 13	192 18	214 13	234 5

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
SMSA: PHILADELPHIA, PA-NJ COUNTY:BUCKS STATE:PA	219	266	314	363	410
COUNTY:CHESTER STATE:PA	219	266	314	363	410
COUNTY:DELAWARE STATE:PA	219	266	314	363	410
COUNTY:MONTGOMERY STATE:PA	219	266	314	363	410
COUNTY:PHILADELPHIA STATE:PA	219	266	314	363	410
SMSA: READING, PA COUNTY:BERKS STATE:PA	151 10	173	205 1	239 3	267
SMSA: WILLIAMSPORT, PA COUNTY:LYCOMING STATE:PA	128	156	185	214	242
SMSA: YORK, PA COUNTY:ADAMS STATE:PA	176	213	252	315	357
COUNTY:YORK STATE:PA	176	213	252	315	357
NON SMSA COUNTY:BRADFORD STATE:PA	165	193	224	269	299
COUNTY:CENTRE STATE:PA	154	185	221	247	275
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
NON SMSA COUNTY:CLINTON STATE:PA	154	185	221	247	275
COUNTY:COLUMBIA STATE:PA	171	199	238	264	295
COUNTY:FRANKLIN STATE:PA	154	185	221	247	275
COUNTY:JUNIATA STATE:PA	134	170	202	225	253
COUNTY:LEBANON STATE:PA	157	181	215	251	278
COUNTY:MIFFLIN STATE:PA	134	170	202	225	253
COUNTY:MONTOUR STATE:PA	103	126	150	174	196
COUNTY:NORTHUMBRLND STATE:PA	154	179	213	238	266
COUNTY:PIKE STATE:PA	178	206	248	274	306
COUNTY:SCHUYLKILL STATE:PA	172	202	246	274	305
COUNTY:SNYDER STATE:PA	134	170	202	225	253
COUNTY:SULLIVAN STATE:PA	137	170	212	239	258

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
NON SMSA COUNTY:TIOGA STATE:PA	165	193	224	269	299
COUNTY:UNION STATE:PA	134	170	202	225	253
COUNTY:WAYNE STATE:PA	168 48	194 46	232 58	255 54	284 55
COUNTY:WYOMING STATE:PA	150	175	209	270	299
SMSA: WILMINGTON, DE-NJ-MD COUNTY:NEW CASTLE STATE:DE	221	268	315	363	410
NON SMSA COUNTY:KENT STATE:DE	189	229	270	311	351
COUNTY:SUSSEX STATE:DE	189	229	270	311	351
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
SMSA: CHARLESTON, WV COUNTY:KANAWHA STATE:WV	166	203	239	274	311
COUNTY:PUTNAM STATE:WV	166	203	239	274	311
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH COUNTY:CABELL STATE:WV	156	190	223	256	290
COUNTY:WAYNE STATE:WV	156	190	223	256	290
SMSA: PARKERSBURG-MARIETTA, WV-OH COUNTY:WIRT STATE:WV	171	208	244	282	318
COUNTY:WOOD STATE:WV	171	208	244	282	318
SMSA: STEUBENVILLE-WEIRTON, OH-WV COUNTY:BROOKE STATE:WV	151	183	217	250	282
COUNTY:HANCOCK STATE:WV	151	183	217	250	282
SMSA: WHEELING, WV-OH COUNTY:MARSHALL STATE:WV	161	184	224	264	289
COUNTY:OHIO STATE:WV	161	184	224	264	289
NON SMSA COUNTY:BARBOUR STATE:WV	160	194	228	264	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: BERKELEY STATE: WV	160	194	228	264	298
COUNTY: BOONE STATE: WV	127	155	181	209	237
COUNTY: BRAXTON STATE: WV	127	155	181	209	237
COUNTY: CALHOUN STATE: WV	127	155	181	209	237
COUNTY: CLAY STATE: WV	127	155	181	209	237
COUNTY: DOORIDGE STATE: WV	160	194	228	264	298
COUNTY: FAYETTE STATE: WV	127	155	181	209	237
COUNTY: GILMER STATE: WV	127	155	181	209	237
COUNTY: GRANT STATE: WV	160	194	228	264	298
COUNTY: GREENBRIER STATE: WV	127	155	181	209	237
COUNTY: HAMPSHIRE STATE: WV	160	194	228	264	298
COUNTY: HARDY STATE: WV	160	194	228	264	298
COUNTY: HARRISON STATE: WV	160	194	228	264	298
COUNTY: JACKSON STATE: WV	127	155	181	209	237
COUNTY: JEFFERSON STATE: WV	160	194	228	264	298
COUNTY: LEWIS STATE: WV	160	194	228	264	298
COUNTY: LINCOLN STATE: WV	127	155	181	209	237
COUNTY: LOGAN STATE: WV	127	155	181	209	237
COUNTY: MCDOWELL STATE: WV	132	161	190	218	247
COUNTY: MARION STATE: WV	160	194	228	264	298
COUNTY: MASON STATE: WV	127	155	181	209	237
COUNTY: MERCER STATE: WV	132	161	190	218	247
COUNTY: MINERAL STATE: WV	140	169	199	229	259
COUNTY: MINGO STATE: WV	127	155	181	209	237

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: MONONGALIA STATE: WV	160	194	228	264	298
COUNTY: MONROE STATE: WV	127	155	181	209	237
COUNTY: MORGAN STATE: WV	160	194	228	264	298
COUNTY: NICHOLAS STATE: WV	127	155	181	209	237
COUNTY: PENDELTON STATE: WV	160	194	228	264	298
COUNTY: PLEASANTS STATE: WV	171	208	244	282	318
COUNTY: POCAHONTAS STATE: WV	127	155	181	209	237
COUNTY: PRESTON STATE: WV	160	194	228	264	298
COUNTY: RALEIGH STATE: WV	127	155	181	209	237
COUNTY: RANDOLPH STATE: WV	160	194	228	264	298
COUNTY: RITCHIE STATE: WV	171	208	244	282	318
COUNTY: ROANE STATE: WV	127	155	181	209	237
COUNTY: SUMMERS STATE: WV	127	155	181	209	237
COUNTY: TAYLOR STATE: WV	160	194	228	264	298
COUNTY: TUCKER STATE: WV	160	194	228	264	298
COUNTY: TYLER STATE: WV	140	169	199	229	259
COUNTY: UPSHUR STATE: WV	160	194	228	264	298
COUNTY: WEBSTER STATE: WV	127	155	181	209	237
COUNTY: WETZEL STATE: WV	140	169	199	229	259
COUNTY: WYOMING STATE: WV	127	155	181	209	237
SMSA: ALTOONA, PA COUNTY: BLAIR STATE: PA	134 20	151 12	193 28	221 30	245 29
SMSA: ERIE, PA COUNTY: ERIE STATE: PA	130 3	155	184	213	240
SMSA: JOHNSTOWN, PA COUNTY: CAMBRIA STATE: PA	140 37	165 39	200 50	225 51	250 54

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1980

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
SMSA: JOHNSTOWN, PA					
COUNTY: SOMERSET STATE: PA	140 37	165 39	200 50	225 51	250 54
SMSA: PITTSBURGH, PA					
COUNTY: ALLEGHANY STATE: PA	198	241	283	325	367
COUNTY: BEAVER STATE: PA	198	241	283	325	367
COUNTY: WASHINGTON STATE: PA	198	241	283	325	367
COUNTY: WESTMORELAND STATE: PA	198	241	283	325	367
NON SMSA					
COUNTY: ARMSTRONG STATE: PA	117	143	170	197	224
COUNTY: BEDFORD STATE: PA	114	139	165	191	216
COUNTY: BUTLER STATE: PA	132 15	154 11	182 12	203 6	224
COUNTY: CAMERON STATE: PA	128	156	185	214	242
COUNTY: CLARION STATE: PA	117	143	170	197	224
COUNTY: CLEARFIELD STATE: PA	128	156	185	214	242
COUNTY: CRAWFORD STATE: PA	122	150	176	204	232
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: ELK STATE: PA	128	156	185	214	242
COUNTY: FAYETTE STATE: PA	149	176	214	242	270
COUNTY: FOREST STATE: PA	122	150	176	204	232
COUNTY: FULTON STATE: PA	114	139	165	191	216
COUNTY: GREENE STATE: PA	104	128	151	175	198
COUNTY: HUNTINGDON STATE: PA	114	139	165	191	216
COUNTY: INDIANA STATE: PA	117	143	170	197	224
COUNTY: JEFFERSON STATE: PA	128	156	185	214	242
COUNTY: LAWRENCE STATE: PA	122	150	176	204	232
COUNTY: MCKEAN STATE: PA	120	148	174	201	229
COUNTY: MERCER STATE: PA	122	150	176	204	232
COUNTY: POTTER STATE: PA	120	148	174	201	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: VENANGO STATE: PA	122	150	176	204	232
COUNTY: WARREN STATE: PA	122	150	176	204	232
RICHMOND, VIRGINIA AREA OFFICE					
SMSA: JOHNSON CITY-KINGSPOUR-BRISTOL, TN VA					
COUNTY: SCOTT STATE: VA	164	199	235	270	305
COUNTY: WASHINGTON STATE: VA	164	199	235	270	305
INDEP. CITY: BRISTOL STATE: VA	164	199	235	270	305
SMSA: LYNCHBURG, VA					
COUNTY: AMHERST STATE: VA	201	244	289	331	375
COUNTY: APPOMATTOX STATE: VA	201	244	289	331	375
COUNTY: CAMPBELL STATE: VA	201	244	289	331	375
INDEP. CITY: LYNCHBURG STATE: VA	201	244	289	331	375
SMSA: NEWPORT NEWS-HAMPTON, VA					
COUNTY: GLOUCESTER STATE: VA	194	236	277	319	361
COUNTY: JAMES CITY STATE: VA	194	236	277	319	361
COUNTY: YORK STATE: VA	194	236	277	319	361
INDEP. CITY: HAMPTON STATE: VA	194	236	277	319	361
INDEP. CITY: NEWPORT NEWS STATE: VA	194	236	277	319	361
SMSA: NEWPORT NEWS-HAMPTON, VA					
INDEP. CITY: POQUOSON STATE: VA	194	236	277	319	361
INDEP. CITY: WILLIAMSBURG STATE: VA	194	236	277	319	361
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC					
INDEP. CITY: CHESAPEAKE STATE: VA	204	247	291	335	379
INDEP. CITY: NORFOLK STATE: VA	204	247	291	335	379
INDEP. CITY: PORTSMOUTH STATE: VA	204	247	291	335	379
INDEP. CITY: SUFFOLK STATE: VA	204	247	291	335	379
INDEP. CITY: VIRGINIA BEA STATE: VA	204	247	291	335	379
SMSA: PETERSBURG-COLONIAL HEIGHTS HOPEWELL, VA					
COUNTY: DINWIDDIE STATE: VA	214	261	307	353	400
COUNTY: PRINCEGEORGE STATE: VA	214	261	307	353	400
INDEP. CITY: COLONIAL HEI STATE: VA	214	261	307	353	400

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
INDEP. CITY:HOPEWELL STATE:VA	214	261	307	353	400
INDEP. CITY:PETERSBURG STATE:VA	214	261	307	353	400
SMSA: RICHMOND, VA COUNTY:CHARLES CITY STATE:VA	207	251	296	341	384
COUNTY:CHESTERFIELD STATE:VA	207	251	296	341	384
COUNTY:GOOCHLAND STATE:VA	207	251	296	341	384
COUNTY:HANDOVER STATE:VA	207	251	296	341	384
COUNTY:HENRICO STATE:VA	207	251	296	341	384
COUNTY:NEW KENT STATE:VA	207	251	296	341	384
COUNTY:POWHATAN STATE:VA	207	251	296	341	384
INDEP. CITY:RICHMOND STATE:VA	207	251	296	341	384
SMSA: ROANOKE, VA COUNTY:BOTETOURT STATE:VA	183	223	262	302	342
COUNTY:CRAIG STATE:VA	183	223	262	302	342
COUNTY:ROANOKE STATE:VA	183	223	262	302	342
INDEP. CITY:ROANOKE STATE:VA	183	223	262	302	342
SMSA: ROANOKE, VA INDEP. CITY:SALEM STATE:VA	183	223	262	302	342
NON SMSA					
COUNTY:ACCOMACK STATE:VA	189	229	270	311	351
COUNTY:ALBEMARLE STATE:VA	214	261	307	353	400
COUNTY:ALLEGHANY STATE:VA	183	223	262	302	342
COUNTY:AMELIA STATE:VA	214	261	307	353	400
COUNTY:AUGUSTA STATE:VA	160	194	228	264	298
COUNTY:BATH STATE:VA	160	194	228	264	298
COUNTY:BEDFORD STATE:VA	201	244	288	331	375
COUNTY:BLAND STATE:VA	132	161	190	218	247
COUNTY:BRUNSWICK STATE:VA	214	261	307	353	400
COUNTY:BUCHANAN STATE:VA	132	161	190	218	247
COUNTY:BUCKINGHAM STATE:VA	214	261	307	353	400

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY:CAROLINE STATE:VA	214	261	307	353	400
COUNTY:CARROLL STATE:VA	147	179	211	243	274
COUNTY:CHARLOTTE STATE:VA	201	244	289	331	375
COUNTY:CLARKE STATE:VA	160	194	228	264	298
COUNTY:CULPEPER STATE:VA	183	225	272	306	343
COUNTY:CUMBERLAND STATE:VA	214	261	307	353	400
COUNTY:DICKENSON STATE:VA	162	176	210	233	294
COUNTY:ESSEX STATE:VA	214	261	307	353	400
COUNTY:FAUQUIER STATE:VA	183	223	267	315	368
COUNTY:FLOYD STATE:VA	183	223	262	302	342
COUNTY:FLUVANNA STATE:VA	214	261	307	353	400
COUNTY:FRANKLIN STATE:VA	145	176	207	239	270
COUNTY:FREDERICK STATE:VA	160	194	228	264	298
COUNTY:GILES STATE:VA	183	223	262	302	342
COUNTY:GRAYSON STATE:VA	147	179	211	243	274
COUNTY:GREENE STATE:VA	214	261	307	353	400
COUNTY:GREENSVILLE STATE:VA	214	261	307	353	400
COUNTY:HALIFAX STATE:VA	201	244	288	331	375
COUNTY:HENRY STATE:VA	183	223	262	302	342
COUNTY:HIGHLAND STATE:VA	160	194	228	264	298
COUNTY:ISLE OFWIGHT STATE:VA	145	176	207	239	270
COUNTY:KING + QUEEN STATE:VA	214	261	307	353	400
COUNTY:KING GEORGE STATE:VA	183	223	262	302	342
COUNTY:KING WILLIAM STATE:VA	214	261	307	353	400

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION - 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE NON SMSA					
COUNTY LANCASTER STATE VA	214	261	307	353	400
COUNTY LEE STATE VA	149 17	166 5	210 20	228 10	271 24
COUNTY LOUISA STATE VA	214	261	307	353	400
COUNTY LUNENBURG STATE VA	214	261	307	353	400
COUNTY MADISON STATE VA	214	261	307	353	400
COUNTY MATHEWS STATE VA	145	176	207	239	270
COUNTY MECKLENBURG STATE VA	214	261	307	353	400
COUNTY MIDDLESEX STATE VA	145	176	207	239	270
COUNTY MONTGOMERY STATE VA	183	223	262	302	342
COUNTY NELSON STATE VA	201	244	288	331	375
COUNTY NORTHAMPTON STATE VA	189	229	270	311	351
COUNTY NORTHUMBERLD STATE VA	214	261	307	353	400
COUNTY NOTTOWAY STATE VA	214	261	307	353	400
COUNTY ORANGE STATE VA	214	261	307	353	400
COUNTY PAGE STATE VA	160	194	228	264	298
COUNTY PATRICK STATE VA	183	223	262	302	342
COUNTY PITTSYLVANIA STATE VA	201	244	288	331	375
COUNTY PRINCEEDWARD STATE VA	214	261	307	353	400
COUNTY PULASKI STATE VA	183	223	262	302	342
COUNTY RAPPAHANNOCK STATE VA	183	223	262	302	342
COUNTY RICHMOND STATE VA	207	251	296	341	384
COUNTY ROCKBRIDGE STATE VA	160	194	228	264	298
COUNTY ROCKINGHAM STATE VA	160	194	228	264	298
COUNTY RUSSELL STATE VA	175	195	246	268	318

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION - 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE NON SMSA					
COUNTY SHENANDOAH STATE VA	160	194	228	264	298
COUNTY SMYTH STATE VA	149 17	166 5	210 20	228 10	271 24
COUNTY SOUTHAMPTON STATE VA	145	176	207	239	270
COUNTY SPOTSYLVANIA STATE VA	183	223	262	302	342
COUNTY STAFFORD STATE VA	183	223	262	302	342
COUNTY SURRY STATE VA	145	176	207	239	270
COUNTY SUSSEX STATE VA	214	261	307	353	400
COUNTY TAZEWELL STATE VA	175	195	246	268	318
COUNTY WARREN STATE VA	160	194	228	264	298
COUNTY WESTMORELAND STATE VA	214	261	307	353	400
COUNTY WISE STATE VA	175	195	246	268	318
COUNTY WYTHE STATE VA	183	223	262	302	342
INDEP. CITY BEDFORD STATE VA	201	244	288	331	375
INDEP. CITY BUENA VISTA STATE VA	160	194	228	264	298
INDEP. CITY CHARLOTTESVI STATE VA	214	261	307	353	400
INDEP. CITY CLIFTON FORG STATE VA	183	223	262	302	342
INDEP. CITY COVINGTON STATE VA	183	223	262	302	342
INDEP. CITY DANVILLE STATE VA	201	244	288	331	375
INDEP. CITY EMPORIA STATE VA	214	261	307	353	400
INDEP. CITY FRANKLIN STATE VA	183	223	262	302	342
INDEP. CITY FREDERICKBUR STATE VA	183	223	262	302	342
INDEP. CITY GALAX STATE VA	147	179	211	243	274
INDEP. CITY HARRISONBURG STATE VA	160	194	228	264	298
INDEP. CITY LEXINGTON STATE VA	160	194	228	264	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE NON SMSA					
INDEP. CITY MARTINSVILLE STATE VA	183	223	262	302	342
INDEP. CITY NORTON STATE VA	149 17	166 5	210 20	228 10	271 24
INDEP. CITY RADFORD STATE VA	183	223	262	302	342
INDEP. CITY SOUTH BOSTON STATE VA	201	244	288	331	375
INDEP. CITY STAUNTON STATE VA	160	194	228	264	298
INDEP. CITY WAYNESBORO STATE VA	160	194	228	264	298
INDEP. CITY WINCHESTER STATE VA	160	194	228	264	298
WASHINGTON, D.C. AREA OFFICE SMSA WASHINGTON, DC-MD-VA					
COUNTY MONTGOMERY STATE MD	228	276	325	374	422
COUNTY PRINCE GEORG STATE MD	228	276	325	374	422
COUNTY WASHINGTON STATE DC	228	276	325	374	422
COUNTY ARLINGTON STATE VA	228	276	325	374	422
COUNTY FAIRFAX STATE VA	228	276	325	374	422
COUNTY LOUDOUN STATE VA	228	276	325	374	422
COUNTY PRINCEWILLIA STATE VA	228	276	325	374	422
INDEP. CITY ALEXANDRIA STATE VA	228	276	325	374	422
INDEP. CITY FAIRFAX STATE VA	228	276	325	374	422
INDEP. CITY FALLS CHURCH STATE VA	228	276	325	374	422
INDEP. CITY MANASSAS STATE VA	228	276	325	374	422
INDEP. CITY MANASSAS PRK STATE VA	228	276	325	374	422

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE SMSA: ALBANY, GA					
COUNTY DOUGHERTY STATE GA	145	176	207	239	270
COUNTY LEE STATE GA	145	176	207	239	270
SMSA: ATLANTA, GA					
COUNTY BUTTS STATE GA	206	252	295	339	384
COUNTY CHEROKEE STATE GA	206	252	295	339	384
COUNTY CLAYTON STATE GA	206	252	295	339	384
COUNTY COBB STATE GA	206	252	295	339	384
COUNTY DE KALB STATE GA	206	252	295	339	384
COUNTY DOUGLAS STATE GA	206	252	295	339	384
COUNTY FAYETTE STATE GA	206	252	295	339	384
COUNTY FORSYTH STATE GA	206	252	295	339	384
COUNTY FULTON STATE GA	206	252	295	339	384
COUNTY GWINNETT STATE GA	206	252	295	339	384
SMSA: ATLANTA, GA					
COUNTY HENRY STATE GA	206	252	295	339	384
COUNTY NEWTON STATE GA	206	252	295	339	384
COUNTY PAULDING STATE GA	206	252	295	339	384
COUNTY ROCKDALE STATE GA	206	252	295	339	384
COUNTY WALTON STATE GA	206	252	295	339	384
SMSA: AUGUSTA, GA-SC					
COUNTY COLUMBIA STATE GA	189	229	270	311	351
COUNTY RICHMOND STATE GA	189	229	270	311	351
SMSA: CHATTANOOGA, TN-GA					
COUNTY CATOOSA STATE GA	166	203	239	274	311
COUNTY DADE STATE GA	166	203	239	274	311
COUNTY WALKER STATE GA	166	203	239	274	311
SMSA: COLUMBUS, GA-AL					
COUNTY CHATTAHOOCHE STATE GA	161	196	230	266	300

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
SMSA: COLUMBUS, GA-AL					
COUNTY: COLUMBUS	161	196	230	266	300
STATE: GA					
SMSA: MACON, GA					
COUNTY: BIBB	145	176	207	239	270
STATE: GA					
COUNTY: HOUSTON	145	176	207	239	270
STATE: GA					
COUNTY: JONES	145	176	207	239	270
STATE: GA					
COUNTY: TWIGGS	145	176	207	239	270
STATE: GA					
SMSA: SAVANNAH, GA					
COUNTY: BRYAN	209	223	254	292	329
STATE: GA					
COUNTY: CHATHAM	209	223	254	292	329
STATE: GA					
COUNTY: EFFINGHAM	209	223	254	292	329
STATE: GA					
NON SMSA					
COUNTY: APPLING	147	179	211	243	274
STATE: GA					
COUNTY: ATKINSON	147	179	211	243	274
STATE: GA					
COUNTY: BACON	147	179	211	243	274
STATE: GA					
NON SMSA					
COUNTY: BAKER	145	176	207	239	270
STATE: GA					
COUNTY: BALDWIN	145	176	207	239	270
STATE: GA					
COUNTY: BANKS	165	200	237	272	309
STATE: GA					
COUNTY: BARROW	165	200	237	272	309
STATE: GA					
COUNTY: BARTON	136	166	195	225	254
STATE: GA					
COUNTY: BEN HILL	145	176	207	239	270
STATE: GA					
COUNTY: BERRIEN	145	176	207	239	270
STATE: GA					
COUNTY: BLECKLEY	145	176	207	239	270
STATE: GA					
COUNTY: BRANTLEY	159	193	227	262	296
STATE: GA					
COUNTY: BROOKS	145	176	207	239	270
STATE: GA					
COUNTY: BULLOCH	147	179	211	243	274
STATE: GA					
COUNTY: BURKE	166	203	239	274	311
STATE: GA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5 BR = 115 PERCENT OF 4 BR FMR; 6 BR = 130 PERCENT OF 4 BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY: CALHOUN	145	176	207	239	270
STATE: GA					
COUNTY: CAMDEN	159	193	227	262	296
STATE: GA					
COUNTY: CANALER	147	179	211	243	274
STATE: GA					
COUNTY: CARROLL	156	190	223	258	290
STATE: GA					
COUNTY: CHARLTON	159	193	227	262	296
STATE: GA					
COUNTY: CHATTOOGA	142	173	204	234	265
STATE: GA					
COUNTY: CLARKE	165	200	237	272	309
STATE: GA					
COUNTY: CLAY	145	176	207	239	270
STATE: GA					
COUNTY: CLINCH	145	176	207	239	270
STATE: GA					
COUNTY: COFFEE	147	179	211	243	274
STATE: GA					
COUNTY: COLOUITT	145	176	207	239	270
STATE: GA					
COUNTY: CODK	145	176	207	239	270
STATE: GA					
COUNTY: COWETA	156	190	223	258	290
STATE: GA					
COUNTY: CRAWFORD	145	176	207	239	278
STATE: GA					6
COUNTY: CRISP	145	176	207	239	270
STATE: GA					
COUNTY: DAWSON	138	166	195	225	254
STATE: GA					
COUNTY: DECATUR	145	176	207	239	270
STATE: GA					
COUNTY: DODGE	145	176	207	239	270
STATE: GA					
COUNTY: DOOLY	145	176	207	239	270
STATE: GA					
COUNTY: EARLY	145	176	207	239	270
STATE: GA					
COUNTY: ECHOLS	145	176	207	239	270
STATE: GA					
COUNTY: ELBERT	165	200	237	272	309
STATE: GA					
COUNTY: EMANUEL	166	203	239	274	311
STATE: GA					
COUNTY: EVANS	147	179	211	243	274
STATE: GA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS					
SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: FANNIN STATE: GA	136	166	195	225	254
COUNTY: FLOYD STATE: GA	136	166	195	225	254
COUNTY: FRANKLIN STATE: GA	165	200	237	272	309
COUNTY: GILMER STATE: GA	136	166	195	225	254
COUNTY: GLASCOCK STATE: GA	166	203	239	274	311
COUNTY: GLYNN STATE: GA	175	212	250	288	326
COUNTY: GORDON STATE: GA	142	173	204	234	265
COUNTY: GRADY STATE: GA	145	176	207	239	270
COUNTY: GREENE STATE: GA	165	200	237	272	309
COUNTY: HABERSHAM STATE: GA	136	166	195	225	254
COUNTY: HALL STATE: GA	165	200	237	272	309
COUNTY: HANCOCK STATE: GA	145	176	207	239	270
COUNTY: HARALSON STATE: GA	136	166	195	225	254
COUNTY: HARRIS STATE: GA	161	196	230	266	300
COUNTY: HART STATE: GA	165	200	237	272	309
COUNTY: HEARD STATE: GA	161	196	230	266	300
COUNTY: IRWIN STATE: GA	145	176	207	239	270
COUNTY: JACKSON STATE: GA	165	200	237	272	309
COUNTY: JASPER STATE: GA	145	176	207	239	270
COUNTY: JEFF DAVIS STATE: GA	147	179	211	243	274
COUNTY: JEFFERSON STATE: GA	166	203	239	274	311
COUNTY: JENKINS STATE: GA	166	203	239	274	311
COUNTY: JOHNSON STATE: GA	145	176	207	239	270
COUNTY: LAMAR STATE: GA	155	190	223	256	290

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS					
SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: LANIER STATE: GA	145	176	207	239	270
COUNTY: LAURENS STATE: GA	145	176	207	239	270
COUNTY: LIBERTY STATE: GA	160 13	189 10	225 14	259 16	298 24
COUNTY: LINCOLN STATE: GA	166	203	239	274	311
COUNTY: LONG STATE: GA	147	179	211	243	274
COUNTY: LOWNDES STATE: GA	145	176	207	239	270
COUNTY: LUMPKIN STATE: GA	136	166	195	225	254
COUNTY: MCDUFFIE STATE: GA	166	203	239	274	311
COUNTY: MCINTOSH STATE: GA	159	193	227	262	296
COUNTY: MACON STATE: GA	145	176	207	239	270
COUNTY: MADISON STATE: GA	165	200	237	272	309
COUNTY: MARION STATE: GA	161	196	230	266	300
COUNTY: MERIWETHER STATE: GA	161	196	230	266	300
COUNTY: MILLER STATE: GA	145	176	207	239	270
COUNTY: MITCHELL STATE: GA	145	176	207	239	270
COUNTY: MONROE STATE: GA	145	176	207	239	270
COUNTY: MONTGOMERY STATE: GA	147	179	211	243	274
COUNTY: MORGAN STATE: GA	165	200	237	272	309
COUNTY: MURRAY STATE: GA	142	173	204	234	265
COUNTY: OCONEE STATE: GA	165	200	237	272	309
COUNTY: OGLETHORPE STATE: GA	165	200	237	272	309
COUNTY: PEACH STATE: GA	145	176	207	239	270
COUNTY: PICKENS STATE: GA	136	166	195	225	254
COUNTY: PIERCE STATE: GA	159	193	227	262	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY PIKE STATE:GA	156	190	223	256	290
COUNTY POLK STATE:GA	136	166	195	225	254
COUNTY PULASKI STATE:GA	145	176	207	239	270
COUNTY PUTNAM STATE:GA	145	176	207	239	270
COUNTY QUITMAN STATE:GA	161	196	230	266	300
COUNTY RABUN STATE:GA	136	166	195	225	254
COUNTY RANDOLPH STATE:GA	145	176	207	239	270
COUNTY SCHLEY STATE:GA	161	196	230	266	300
COUNTY SCREVEN STATE:GA	147	179	211	243	274
COUNTY SEMINOLE STATE:GA	145	176	207	239	270
COUNTY SPALDING STATE:GA	156	190	223	256	290
COUNTY STEPHENS STATE:GA	165	200	237	272	309
COUNTY STEWART STATE:GA	161	196	230	266	300
COUNTY SUMTER STATE:GA	177	215	254	292	330
COUNTY TALBOT STATE:GA	161	196	230	266	300
COUNTY TALIAFERRO STATE:GA	166	203	239	274	311
COUNTY TATTNALL STATE:GA	147	179	211	243	274
COUNTY TAYLOR STATE:GA	145	176	207	239	270
COUNTY TELFAIR STATE:GA	145	176	207	239	270
COUNTY TERRELL STATE:GA	145	176	207	239	270
COUNTY THOMAS STATE:GA	145	176	207	239	270
COUNTY TIFT STATE:GA	145	176	207	239	270
COUNTY TOOMBS STATE:GA	147	179	211	243	274
COUNTY TOWNS STATE:GA	136	166	195	225	254

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY TREUTLEN STATE:GA	145	176	207	239	270
COUNTY TROUP STATE:GA	161	196	230	266	300
COUNTY TURNER STATE:GA	145	176	207	239	270
COUNTY UNION STATE:GA	136	166	195	225	254
COUNTY UPSON STATE:GA	156	190	223	256	290
COUNTY WARE STATE:GA	159	193	227	262	296
COUNTY WARREN STATE:GA	166	203	239	274	311
COUNTY WASHINGTON STATE:GA	145	176	207	239	270
COUNTY WAYNE STATE:GA	147	179	211	243	274
COUNTY WEBSTER STATE:GA	161	196	230	266	300
COUNTY WHEELER STATE:GA	145	176	207	239	270
COUNTY WHITE STATE:GA	136	166	195	225	254
COUNTY WHITFIELD STATE:GA	142	173	204	234	265
COUNTY WILCOX STATE:GA	145	176	207	239	270
COUNTY WILKES STATE:GA	166	203	239	274	311
COUNTY WILKINSON STATE:GA	145	176	207	239	270
COUNTY WORTH STATE:GA	145	176	207	239	270

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 4 0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

BIRMINGHAM, ALABAMA AREA OFFICE

SMSA: ANNISTON, AL
COUNTY: CALHOUN
STATE: AL

127 155 181 209 237

SMSA: BIRMINGHAM, AL
COUNTY: JEFFERSON
STATE: AL

176 214 252 289 328

COUNTY: ST. CLAIR
STATE: AL

176 214 252 289 328

COUNTY: SHELBY
STATE: AL

176 214 252 289 328

COUNTY: WALKER
STATE: AL

176 214 252 289 328

SMSA: COLUMBUS, GA-AL
COUNTY: RUSSELL
STATE: AL

161 196 230 266 300

SMSA: FLORENCE, AL
COUNTY: COLBERT
STATE: AL

167 205 243 278 314

COUNTY: LAUDERDALE
STATE: AL

167 205 243 278 314

SMSA: GADSDEN, AL
COUNTY: ETOWAH
STATE: AL

127 155 181 209 237

SMSA: HUNTSVILLE, AL
COUNTY: LIMESTONE
STATE: AL

175 212 251 288 326

COUNTY: MADISON
STATE: AL

175 212 251 288 326

COUNTY: MARSHALL
STATE: AL

175 212 251 288 326

SMSA: MOBILE, AL
COUNTY: BALDWIN
STATE: AL

141 171 202 232 263

COUNTY: MOBILE
STATE: AL

141 171 202 232 263

SMSA: MONTGOMERY, AL
COUNTY: AUTAUGA
STATE: AL

140 169 199 229 259

COUNTY: ELMORE
STATE: AL

140 169 199 229 259

COUNTY: MONTGOMERY
STATE: AL

140 169 199 229 259

SMSA: TUSCALOOSA, AL
COUNTY: TUSCALOOSA
STATE: AL

165 200 237 272 309

NON SMSA
COUNTY: BARBOUR
STATE: AL

159 193 227 262 296

COUNTY: BIBB
STATE: AL

165 200 237 272 309

COUNTY: BLOUNT
STATE: AL

127 155 181 209 237

COUNTY: BULLOCK
STATE: AL

140 169 199 229 259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 4 0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

BIRMINGHAM, ALABAMA AREA OFFICE

NON SMSA

COUNTY: BUTLER
STATE: AL

159 193 227 262 296

COUNTY: CHAMBERS
STATE: AL

161 196 230 266 300

COUNTY: CHEROKEE
STATE: AL

127 155 181 209 237

COUNTY: CHILTON
STATE: AL

165 200 237 272 309

COUNTY: CHOCTAW
STATE: AL

161 196 230 266 300

COUNTY: CLARKE
STATE: AL

151 184 217 250 283

COUNTY: CLAY
STATE: AL

127 155 181 209 237

COUNTY: CLEBURNE
STATE: AL

136 166 195 225 254

COUNTY: COFFEE
STATE: AL

159 193 227 262 296

COUNTY: CONECUH
STATE: AL

151 184 217 250 283

COUNTY: COOSA
STATE: AL

140 169 199 229 259

COUNTY: COUINGTON
STATE: AL

159 193 227 262 296

COUNTY: CRENSHAW
STATE: AL

159 193 227 262 296

COUNTY: CULLMAN
STATE: AL

127 155 181 209 237

COUNTY: DALE
STATE: AL

159 193 227 262 296

COUNTY: DALLAS
STATE: AL

140 169 199 229 259

COUNTY: DE KALB
STATE: AL

142 173 204 234 265

COUNTY: ESCAMBIA
STATE: AL

184 224 265 304 344

COUNTY: FAYETTE
STATE: AL

165 200 237 272 309

COUNTY: FRANKLIN
STATE: AL

137 167 197 227 257

COUNTY: GENEVA
STATE: AL

159 193 227 262 296

COUNTY: GREENE
STATE: AL

165 200 237 272 309

COUNTY: HALE
STATE: AL

165 200 237 272 309

COUNTY: HENRY
STATE: AL

159 193 227 262 296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
NON SMSA					
COUNTY: HOUSTON STATE: AL	159	193	227	262	296
COUNTY: JACKSON STATE: AL	142	173	204	234	265
COUNTY: LAMAR STATE: AL	165	200	237	272	309
COUNTY: LAWRENCE STATE: AL	137	167	197	227	257
COUNTY: LEE STATE: AL	161	196	230	266	300
COUNTY: LOWNDES STATE: AL	140	169	199	229	259
COUNTY: MACON STATE: AL	140	169	199	229	259
COUNTY: MARENGO STATE: AL	161	196	230	266	300
COUNTY: MARION STATE: AL	165	200	237	272	309
COUNTY: MONROE STATE: AL	151	184	217	250	283
COUNTY: MORGAN STATE: AL	175	212	251	288	326
COUNTY: PERRY STATE: AL	140	169	199	229	259
COUNTY: PICKENS STATE: AL	165	200	237	272	309
COUNTY: PIKE STATE: AL	159	193	227	262	296
COUNTY: RANDOLPH STATE: AL	161	196	230	266	300
COUNTY: SUMTER STATE: AL	161	196	230	266	300
COUNTY: TALLADEGA STATE: AL	147	179	210	242	275
COUNTY: TALLAPOOSA STATE: AL	140	169	199	229	259
COUNTY: WASHINGTON STATE: AL	151	184	217	250	283
COUNTY: WILCOX STATE: AL	151	184	217	250	283
COUNTY: WINSTON STATE: AL	165	200	237	272	309

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, SOUTH CAROLINA AREA OFFICE					
SMSA: AUGUSTA, GA-SC					
COUNTY: AIKEN STATE: SC	189	229	270	311	351
SMSA: CHARLESTON, SC					
COUNTY: BERKELEY STATE: SC	195	238	280	322	364
COUNTY: CHARLESTON STATE: SC	195	238	280	322	364
COUNTY: DORCHESTER STATE: SC	195	238	280	322	364
SMSA: COLUMBIA, SC					
COUNTY: LEXINGTON STATE: SC	189	229	270	311	351
COUNTY: RICHLAND STATE: SC	189	229	270	311	351
SMSA: GREENVILLE-SPARTANBURG, SC					
COUNTY: GREENVILLE STATE: SC	160	194	228	264	298
COUNTY: PICKENS STATE: SC	160	194	228	264	298
COUNTY: SPARTANBURG STATE: SC	160	194	228	264	298
NON SMSA					
COUNTY: ABBEVILLE STATE: SC	140	169	199	229	259
COUNTY: ALLENDALE STATE: SC	166	203	239	274	311
COUNTY: ANDERSON STATE: SC	140	169	199	229	259
COUNTY: BAMBERG STATE: SC	166	203	239	274	311
COUNTY: BARNWELL STATE: SC	166	203	239	274	311
COUNTY: BEAUFORT STATE: SC	166	203	239	274	311
COUNTY: CALHOUN STATE: SC	150	182	215	248	280
COUNTY: CHEROKEE STATE: SC	140	169	199	229	259
COUNTY: CHESTER STATE: SC	151	184	217	250	283
COUNTY: CHESTERFIELD STATE: SC	149	181	213	245	278
COUNTY: CLARENDON STATE: SC	150	182	215	248	280
COUNTY: COLLETON STATE: SC	166	203	239	274	311
COUNTY: DARLINGTON STATE: SC	149	181	213	245	278
COUNTY: DILLON STATE: SC	149	181	213	245	278

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, SOUTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY:EDGEFIELD STATE:SC	166	203	239	274	311
COUNTY:FAIRFIELD STATE:SC	150	182	215	248	280
COUNTY:FLORENCE STATE:SC	149	181	213	245	290 12
COUNTY:GEORGETOWN STATE:SC	149	181	213	245	278
COUNTY:GREENWOOD STATE:SC	140	169	199	229	259
COUNTY:HAMPTON STATE:SC	166	203	239	274	311
COUNTY:HORRY STATE:SC	149	181	213	245	278
COUNTY:JASPER STATE:SC	147	179	211	243	274
COUNTY:KERSHAW STATE:SC	150	182	215	248	280
COUNTY:LANCASTER STATE:SC	151	184	217	250	283
COUNTY:LAURENS STATE:SC	140	169	199	229	259
COUNTY:LEE STATE:SC	150	182	215	248	280
COUNTY:MCCORMICK STATE:SC	166	203	239	274	311
COUNTY:MARION STATE:SC	149	181	213	245	278
COUNTY:MARBORO STATE:SC	149	181	213	245	278
COUNTY:NEWBERRY STATE:SC	150	182	215	248	280
COUNTY:OCONEE STATE:SC	140	169	199	229	259
COUNTY:GRANDEBURG STATE:SC	150	182	215	248	280
COUNTY:SALUDA STATE:SC	166	203	239	274	311
COUNTY:SUMTER STATE:SC	150	182	215	248	280
COUNTY:UNION STATE:SC	140	169	199	229	259
COUNTY:WILLIAMSBURG STATE:SC	149	181	213	245	278
COUNTY:YORK STATE:SC	151	184	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
SMSA: ASHEVILLE, NC					
COUNTY:BUNCOMBE STATE:NC	150	182	215	248	280
COUNTY:MADISON STATE:NC	150	182	215	248	280
SMSA: BURLINGTON, NC					
COUNTY:ALAMANCE STATE:NC	174	211	249	286	324
SMSA: CHARLOTTE-GASTONIA, NC					
COUNTY:GASTON STATE:NC	211	256	301	347	392
COUNTY:MECKLENBURG STATE:NC	211	256	301	347	392
COUNTY:UNION STATE:NC	211	256	301	347	392
SMSA: FAYETTEVILLE, NC					
COUNTY:CUMBERLAND STATE:NC	193	235	276	317	359
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC					
COUNTY:DAVIDSON STATE:NC	174	211	249	286	324
COUNTY:FORSYTH STATE:NC	174	211	249	286	324
COUNTY:GUILFORD STATE:NC	174	211	249	286	324
COUNTY:RANDOLPH STATE:NC	174	211	249	286	324
COUNTY:STOKES STATE:NC	174	211	249	286	324
COUNTY:YADKIN STATE:NC	174	211	249	286	324
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA NC					
COUNTY:CURRITUCK STATE:NC	204	247	291	335	379
SMSA: RALEIGH-DURHAM, NC					
COUNTY:DURHAM STATE:NC	185	226	266	305	346
COUNTY:ORANGE STATE:NC	185	226	266	305	346
COUNTY:WAKE STATE:NC	185	226	266	305	346
SMSA: WILMINGTON, NC					
COUNTY:BRUNSWICK STATE:NC	161	196	230	266	300
COUNTY:NEW HANOVER STATE:NC	161	196	230	266	300
NON SMSA					
COUNTY:ALEXANDER STATE:NC	157	191	225	259	293
COUNTY:ALLEGHANY STATE:NC	157	191	225	259	293
COUNTY:ANSON STATE:NC	174	211	249	286	324

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY: ASHE STATE: NC	157	191	225	259	293
COUNTY: AVERY STATE: NC	157	191	225	259	293
COUNTY: BEAUFORT STATE: NC	185	226	266	306	346
COUNTY: BERTIE STATE: NC	145	176	207	239	270
COUNTY: BLADEN STATE: NC	193	235	276	317	359
COUNTY: BURKE STATE: NC	157	191	225	259	293
COUNTY: CABARRUS STATE: NC	141	171	202	232	263
COUNTY: CALDWELL STATE: NC	157	191	225	259	293
COUNTY: CAMDEN STATE: NC	185	226	266	306	346
COUNTY: CARTERET STATE: NC	161	196	230	266	300
COUNTY: CASWELL STATE: NC	201	244	288	331	375
COUNTY: CATAWBA STATE: NC	157	191	225	259	293
COUNTY: CHATHAM STATE: NC	193	235	276	317	359
COUNTY: CHEROKEE STATE: NC	150	182	215	248	280
COUNTY: CHOWAN STATE: NC	185	226	266	306	346
COUNTY: CLAY STATE: NC	150	182	215	248	280
COUNTY: CLEVELAND STATE: NC	157	191	225	259	293
COUNTY: COLUMBUS STATE: NC	161	196	230	266	300
COUNTY: CRAVEN STATE: NC	161	196	230	266	300
COUNTY: DARE STATE: NC	185	226	266	306	346
COUNTY: DAVIE STATE: NC	174	211	249	286	324
COUNTY: DUPLIN STATE: NC	161	196	230	266	300
COUNTY: EDGEcombe STATE: NC	145	176	207	239	270
COUNTY: FRANKLIN STATE: NC	145	176	207	239	270

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY: GATES STATE: NC	185	226	266	306	346
COUNTY: GRAHAM STATE: NC	150	182	215	248	280
COUNTY: GRANVILLE STATE: NC	145	176	207	239	270
COUNTY: GREENE STATE: NC	185	226	266	306	346
COUNTY: HALIFAX STATE: NC	145	176	207	239	270
COUNTY: HARNETT STATE: NC	193	235	276	317	359
COUNTY: HAYWOOD STATE: NC	150	182	215	248	280
COUNTY: HENDERSON STATE: NC	150	182	215	248	280
COUNTY: HERTFORD STATE: NC	145	176	207	239	270
COUNTY: HOKE STATE: NC	193	235	276	317	359
COUNTY: HYDE STATE: NC	185	226	266	306	346
COUNTY: IREDELL STATE: NC	141	171	202	232	263
COUNTY: JACKSON STATE: NC	150	182	215	248	280
COUNTY: JOHNSTON STATE: NC	185	226	266	306	346
COUNTY: JONES STATE: NC	161	196	230	266	300
COUNTY: LEE STATE: NC	193	235	276	317	359
COUNTY: LENOIR STATE: NC	161	196	230	266	300
COUNTY: LINCOLN STATE: NC	151	184	217	250	283
COUNTY: MCDOWELL STATE: NC	150	182	215	248	280
COUNTY: MAGON STATE: NC	150	182	215	248	280
COUNTY: MARTIN STATE: NC	185	226	266	306	346
COUNTY: MITCHELL STATE: NC	157	191	225	259	293
COUNTY: MONTGOMERY STATE: NC	174	211	249	286	324
COUNTY: MOORE STATE: NC	174	211	249	286	324

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS					
SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY: NASH STATE: NC	145	176	207	239	270
COUNTY: NORTHAMPTON STATE: NC	145	176	207	239	270
COUNTY: ONSLOW STATE: NC	161	196	230	266	300
COUNTY: PAMLICO STATE: NC	161	196	230	266	300
COUNTY: PASQUOTANK STATE: NC	185	226	266	306	346
COUNTY: PENDER STATE: NC	161	196	230	266	300
COUNTY: PERQUIMANS STATE: NC	185	226	266	306	346
COUNTY: PERSON STATE: NC	193	235	276	317	359
COUNTY: PITT STATE: NC	185	226	266	306	346
COUNTY: POLK STATE: NC	157	191	225	259	293
COUNTY: RICHMOND STATE: NC	174	211	249	286	324
COUNTY: ROBESON STATE: NC	193	235	276	317	359
COUNTY: ROCKINGHAM STATE: NC	147	179	211	243	274
COUNTY: ROWAN STATE: NC	141	171	202	232	263
COUNTY: RUTHERFORD STATE: NC	157	191	225	259	293
COUNTY: SAMPSON STATE: NC	193	235	276	317	359
COUNTY: SCOTLAND STATE: NC	141	171	202	232	263
COUNTY: STANLY STATE: NC	141	171	202	232	263
COUNTY: SURRY STATE: NC	174	211	249	286	324
COUNTY: SWAIN STATE: NC	150	182	215	248	280
COUNTY: TRANSYLVANIA STATE: NC	150	182	215	248	280
COUNTY: TYRRELL STATE: NC	185	226	266	306	346
COUNTY: VANCE STATE: NC	145	176	207	239	270
COUNTY: WARREN STATE: NC	193	235	276	317	359

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS					
SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY: WASHINGTON STATE: NC	185	226	266	306	346
COUNTY: WATAUGA STATE: NC	157	191	225	259	293
COUNTY: WAYNE STATE: NC	185	226	266	306	346
COUNTY: WILKES STATE: NC	157	191	225	259	293
COUNTY: WILSON STATE: NC	145	176	207	239	270
COUNTY: YANCEY STATE: NC	157	191	225	259	293
JACKSON, MISSISSIPPI AREA OFFICE					
SMSA: BILOXI-GULFPORT, MS					
COUNTY: HANCOCK STATE: MS	165	202	237	288	338
COUNTY: HARRISON STATE: MS	165	202	237	288	338
COUNTY: STONE STATE: MS	165	202	237	288	338
SMSA: JACKSON, MS					
COUNTY: HINDS STATE: MS	184	224	264	303	343
COUNTY: RANKIN STATE: MS	184	224	264	303	343
SMSA: MEMPHIS, TN-AR-MS					
COUNTY: DE SOTO STATE: MS	171	208	244	281	318
SMSA: PASCAGOULA-MOSS POINT, MS					
COUNTY: JACKSON STATE: MS	165	202	237	288	338
NON SMSA					
COUNTY: ADAMS STATE: MS	147	172	202	250	275
COUNTY: ALCORN STATE: MS	159	181	214	247	279
COUNTY: AMITE STATE: MS	147	172	202	250	275
COUNTY: ATTALA STATE: MS	160	177	211	256	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE NON SMSA					
COUNTY: BENTON STATE: MS	160	192	224	256	290
COUNTY: BOLIVAR STATE: MS	161	174	212	251	278
COUNTY: CALHOUN STATE: MS	161	196	229	264	318
COUNTY: CARROLL STATE: MS	160	177	211	256	281
COUNTY: CHICKASAW STATE: MS	159	181	214	247	279
COUNTY: CHOCTAW STATE: MS	140	169	199	229	259
COUNTY: CLAIBORNE STATE: MS	160	177	211	256	281
COUNTY: CLARKE STATE: MS	161	196	230	266	300
COUNTY: CLAY STATE: MS	151	184	217	249	282
COUNTY: COAHOMA STATE: MS	163	198	234	269	303
COUNTY: COPIAH STATE: MS	160	177	211	256	281
COUNTY: COVINGTON STATE: MS	161	196	230	266	300
COUNTY: FORREST STATE: MS	161	196	230	266	300
COUNTY: FRANKLIN STATE: MS	147	172	202	250	275
COUNTY: GEORGE STATE: MS	158	192	224	258	295
COUNTY: GREENE STATE: MS	158	192	224	259	295
COUNTY: GRENADA STATE: MS	160	177	211	256	281
COUNTY: HOLMES STATE: MS	160	177	211	256	281
COUNTY: HUMPHREYS STATE: MS	161	174	212	251	278
COUNTY: ISSAQUENA STATE: MS	161	174	212	251	278
COUNTY: ITAWAMBA STATE: MS	159	181	214	247	279
COUNTY: JASPER STATE: MS	161	196	230	266	300
COUNTY: JEFFERSON STATE: MS	147	172	202	250	275
COUNTY: JEFFERSON DA STATE: MS	147	172	202	250	275

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE NON SMSA					
COUNTY: JONES STATE: MS	161	196	230	266	300
COUNTY: KEMPER STATE: MS	161	196	230	266	300
COUNTY: LAFAYETTE STATE: MS	160	192	224	256	290
COUNTY: LAMAR STATE: MS	161	196	230	266	300
COUNTY: LAUDERDALE STATE: MS	161	196	230	266	300
COUNTY: LAWRENCE STATE: MS	147	172	202	250	275
COUNTY: LEAKE STATE: MS	138	168	199	229	259
COUNTY: LEE STATE: MS	151	184	217	249	282
COUNTY: LEFLORE STATE: MS	160	177	211	256	281
COUNTY: LINCOLN STATE: MS	147	172	202	250	275
COUNTY: LOWNDES STATE: MS	160	183	218	249	282
COUNTY: MADISON STATE: MS	160	177	211	256	281
COUNTY: MARION STATE: MS	138	167	197	227	258
COUNTY: MARSHALL STATE: MS	160	192	224	256	290
COUNTY: MONROE STATE: MS	161	196	229	264	318
COUNTY: MONTGOMERY STATE: MS	138	168	199	229	259
COUNTY: NESHOBIA STATE: MS	161	196	230	266	300
COUNTY: NEWTON STATE: MS	161	196	230	266	300
COUNTY: NOXUBEE STATE: MS	151	184	217	249	282
COUNTY: OKTIBBEHA STATE: MS	174	212	250	287	325
COUNTY: PANOLA STATE: MS	160	192	224	256	290
COUNTY: PEARL RIVER STATE: MS	142	171	206	264	311
COUNTY: PERRY STATE: MS	161	196	230	266	300
COUNTY: PIKE STATE: MS	147	172	202	250	275

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE NON SMSA					
COUNTY: PONTOTOC STATE: MS	159	181	214	247	279
COUNTY: PRENTISS STATE: MS	159	181	214	247	279
COUNTY: QUITMAN STATE: MS	160	192	224	256	290
COUNTY: SCOTT STATE: MS	138	168	199	229	259
COUNTY: SHARKEY STATE: MS	161	174	212	251	278
COUNTY: SIMPSON STATE: MS	160	177	211	256	281
COUNTY: SMITH STATE: MS	138	168	199	229	259
COUNTY: SUNFLOWER STATE: MS	161	174	212	251	278
COUNTY: TALLAHATCHIE STATE: MS	138	168	199	229	259
COUNTY: TATE STATE: MS	160	192	224	256	290
COUNTY: TIPPAAH STATE: MS	163	198	234	269	303
COUNTY: TISHOMINGO STATE: MS	159	181	214	247	279
COUNTY: TUNICA STATE: MS	160	192	224	256	290
COUNTY: UNION STATE: MS	161	196	229	264	318
COUNTY: WALTHALL STATE: MS	147	172	202	250	275
COUNTY: WARREN STATE: MS	160	177	211	256	281
COUNTY: WASHINGTON STATE: MS	161	174	212	251	278
COUNTY: WAYNE STATE: MS	161	196	230	266	300
COUNTY: WEBSTER STATE: MS	151	184	217	249	282
COUNTY: WILKINSON STATE: MS	141	172	202	232	262
COUNTY: WINSTON STATE: MS	161	196	230	266	300
COUNTY: YALOBUSHA STATE: MS	138	168	199	229	259
COUNTY: YAZOO STATE: MS	160	177	211	256	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE SMSA: FORT LAUDERDALE-HOLLYWOOD, FL COUNTY: BROWARD STATE: FL	298	361	425	489	553
SMSA: FORT MYERS-CAPE CORAL, FL COUNTY: LEE STATE: FL	223	271	319	367	415
SMSA: MIAMI, FL COUNTY: DADE STATE: FL	271	328	387	445	503
SMSA: WEST PALM BEACH-BOCA RATON, FL COUNTY: PALM BEACH STATE: FL	250	303	356	410	463
NON SMSA COUNTY: CHARLOTTE STATE: FL	223	271	319	367	415
COUNTY: COLLIER STATE: FL	210	256	301	346	392
COUNTY: GLADES STATE: FL	176	214	253	290	329
COUNTY: HENDRY STATE: FL	176	214	253	290	329
COUNTY: MARTIN STATE: FL	176	214	253	290	329
COUNTY: MCALPINE STATE: FL	176	214	253	290	329
SMSA: GAINESVILLE, FL COUNTY: ALACHUA STATE: FL	176	214	253	290	329
SMSA: JACKSONVILLE, FL COUNTY: BAKER STATE: FL	185	226	266	306	346
COUNTY: CLAY STATE: FL	185	226	266	306	346
COUNTY: DUVAL STATE: FL	185	226	266	306	346
COUNTY: NASSAU STATE: FL	185	226	266	306	346
COUNTY: ST. JOHNS STATE: FL	185	226	266	306	346
SMSA: PANAMA CITY, FL COUNTY: BAY STATE: FL	176	214	253	290	329
SMSA: PENSACOLA, FL COUNTY: ESCAMBIA STATE: FL	181	224	265	304	344
COUNTY: SANTA ROSA STATE: FL	184	224	265	304	344
SMSA: TALLAHASSEE, FL COUNTY: LEON STATE: FL	176	214	253	290	329
COUNTY: WAKULLA STATE: FL	176	214	253	290	329
NON SMSA COUNTY: BRADFORD STATE: FL	159	193	227	262	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
NON SMSA					
COUNTY CALHOUN STATE: FL	176	214	253	290	329
COUNTY COLUMBIA STATE: FL	159	193	227	262	296
COUNTY DIXIE STATE: FL	176	214	253	290	329
COUNTY FLAGLER STATE: FL	168	205	241	276	313
COUNTY FRANKLIN STATE: FL	176	214	253	290	329
COUNTY GADSDEN STATE: FL	176	214	253	290	329
COUNTY GILCHRIST STATE: FL	176	214	253	290	329
COUNTY GULF STATE: FL	176	214	253	290	329
COUNTY HAMILTON STATE: FL	159	193	227	262	296
COUNTY HOLMES STATE: FL	176	214	253	290	329
COUNTY JACKSON STATE: FL	176	214	253	290	329
COUNTY JEFFERSON STATE: FL	176	214	253	290	329
COUNTY LAFAYETTE STATE: FL	159	193	227	262	296
COUNTY LEVY STATE: FL	176	214	253	290	329
COUNTY LIBERTY STATE: FL	176	214	253	290	329
COUNTY MADISON STATE: FL	176	214	253	290	329
COUNTY MARION STATE: FL	176	214	253	290	329
COUNTY OKALOOSA STATE: FL	184	224	265	304	344
COUNTY PUTNAM STATE: FL	176	214	253	290	329
COUNTY SUWANNEE STATE: FL	159	193	227	262	296
COUNTY TAYLOR STATE: FL	176	214	253	290	329
COUNTY UNION STATE: FL	159	193	227	262	296
COUNTY WALTON STATE: FL	184	224	265	304	344
COUNTY WASHINGTON STATE: FL	176	214	253	290	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
SMSA: DAYTONA BEACH, FL	168	205	241	276	313
COUNTY VOLUSIA STATE: FL					
SMSA: MELBOURN-TITUSVILLE-COCOA, FL	221	268	315	363	410
COUNTY BREVARD STATE: FL					
SMSA: ORLANDO, FL	215	261	307	353	399
COUNTY ORANGE STATE: FL					
COUNTY OSCEOLA STATE: FL	215	261	307	353	399
COUNTY SEMINOLE STATE: FL	215	261	307	353	399
NON SMSA					
COUNTY INDIAN RIVER STATE: FL	176	214	253	290	329
COUNTY LAKE STATE: FL	168	205	241	276	313
COUNTY OKEECHOBEE STATE: FL	176	214	253	290	329
COUNTY ST. LUCIE STATE: FL	176	214	253	290	329
SMSA: BRADENTON, FL	223	271	319	367	415
COUNTY MANATEE STATE: FL					
SMSA: LAKELAND-WINTER HAVEN, FL	183	223	262	302	342
COUNTY POLK STATE: FL					
SMSA: SARASOTA, FL	223	271	319	367	415
COUNTY SARASOTA STATE: FL					
SMSA: TAMPA-ST. PETERSBURG, FL	183	224	279	348	388
COUNTY HILLSBOROUGH STATE: FL					
COUNTY PASCO STATE: FL	183	224	279	348	388
COUNTY PINELLAS STATE: FL	183	224	279	348	388
NON SMSA					
COUNTY CITRUS STATE: FL	183	223	262	302	342
COUNTY DE SOTO STATE: FL	223	271	319	367	415
COUNTY HARDEE STATE: FL	223	271	319	367	415
COUNTY HERNANDO STATE: FL	183	223	262	302	342
COUNTY HIGHLANDS STATE: FL	176	214	253	290	329
COUNTY SUMTER STATE: FL	168	205	241	276	313

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
SMSA CINCINNATI, OH-KY-IN					
COUNTY BOONE STATE KY	185	224	262	301	340
COUNTY CAMPBELL STATE KY	185	224	262	301	340
COUNTY KENTON STATE KY	185	224	262	301	340
SMSA CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY CHRISTIAN STATE KY	166	203	239	274	311
SMSA EVANSVILLE, IN-KY					
COUNTY HENDERSON STATE KY	193	215	258	285	317
SMSA HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY BOYO STATE KY	156	190	223	256	290
COUNTY GREENUP STATE KY	156	190	223	256	290
SMSA LEXINGTON-FAYETTE, KY					
COUNTY BOURBON STATE KY	178	216	266	314	364
COUNTY CLARK STATE KY	178	216	266	314	364
COUNTY FAYETTE STATE KY	178	216	266	314	364
COUNTY JESSAMINE STATE KY	178	216	266	314	364
COUNTY SCOTT STATE KY	178	216	266	314	364
COUNTY WOODFORD STATE KY	178	216	266	314	364
SMSA LOUISVILLE, KY-IN					
COUNTY BULLITT STATE KY	166 1	200	236	271	306
COUNTY JEFFERSON STATE KY	166 1	200	236	271	306
COUNTY OLDHAM STATE KY	166 1	200	236	271	306
SMSA OWENSBORO, KY					
COUNTY DAVIESS STATE KY	188	227	268	309	349
NON SMSA					
COUNTY ADAIR STATE KY	149	181	210	239	265
COUNTY ALLEN STATE KY	149	181	210	239	265
COUNTY ANDERSON STATE KY	178	216	254	292	331
COUNTY BALLARD STATE KY	141	171	202	232	263
COUNTY BARREN STATE KY	149	181	210	239	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY BATH STATE KY	178	216	254	292	331
COUNTY BELL STATE KY	149	181	210	239	265
COUNTY BOYLE STATE KY	171	192	233	278	285
COUNTY BRACKEN STATE KY	188	227	268	309	349
COUNTY BREATHITT STATE KY	149	181	210	239	265
COUNTY BRECKINRIDGE STATE KY	182	221	260	300	338
COUNTY BUTLER STATE KY	149	181	210	239	265
COUNTY CALDWELL STATE KY	153	187	220	253	286
COUNTY CALLOWAY STATE KY	141	171	202	232	263
COUNTY CARLISLE STATE KY	141	171	202	232	263
COUNTY CARROLL STATE KY	188	227	268	309	349
COUNTY CARTER STATE KY	171	192	233	278	285
COUNTY CASEY STATE KY	133 20	160 23	187 25	217 30	238 27
COUNTY CLAY STATE KY	149	181	210	239	265
COUNTY CLINTON STATE KY	149	181	210	239	265
COUNTY CRITTENDON STATE KY	153	187	220	253	286
COUNTY CUMBERLAND STATE KY	149	181	210	239	265
COUNTY EDMONSON STATE KY	149	181	210	239	265
COUNTY ELLIOTT STATE KY	142	171	205	278	299
COUNTY ESTILL STATE KY	178	216	254	292	331
COUNTY FLEMING STATE KY	188	227	268	309	349
COUNTY FLOYD STATE KY	133 6	160 5	187 6	217 8	238 1
COUNTY FRANKLIN STATE KY	178	216	254	292	331
COUNTY FULTON STATE KY	141	171	202	232	263

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY: GALLATIN STATE: KY	188	227	268	309	349
COUNTY: GARRARD STATE: KY	133 20	160 23	187 25	217 30	238 27
COUNTY: GRANT STATE: KY	188	227	268	309	349
COUNTY: GRAVES STATE: KY	141	171	202	232	263
COUNTY: GRAYSON STATE: KY	182	221	260	300	338
COUNTY: GREEN STATE: KY	149	181	210	239	265
COUNTY: HANCOCK STATE: KY	146	178	220	253	286
COUNTY: HARDIN STATE: KY	182	221	260	300	338
COUNTY: HARLAN STATE: KY	149	181	210	239	265
COUNTY: HARRISON STATE: KY	178	216	267	307	347
COUNTY: HART STATE: KY	182	221	260	300	338
COUNTY: HENRY STATE: KY	182	221	260	300	338
COUNTY: HICKMAN STATE: KY	141	171	202	232	263
COUNTY: HOPKINS STATE: KY	146	178	220	253	286
COUNTY: JACKSON STATE: KY	149	181	210	239	265
COUNTY: JOHNSON STATE: KY	133 6	160 5	187 6	217 8	238 1
COUNTY: KNOTT STATE: KY	149	181	210	239	265
COUNTY: KNOX STATE: KY	149	181	210	239	265
COUNTY: LARUE STATE: KY	182	221	260	300	338
COUNTY: LAUREL STATE: KY	149	181	210	239	265
COUNTY: LAWRENCE STATE: KY	142	171	205	278	299
COUNTY: LEE STATE: KY	149	181	210	239	265
COUNTY: LESLIE STATE: KY	149	181	210	239	265
COUNTY: LETCHER STATE: KY	149	181	210	239	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY: LEWIS STATE: KY	188	227	268	309	349
COUNTY: LINCOLN STATE: KY	133 20	160 23	187 25	217 30	238 27
COUNTY: LIVINGSTON STATE: KY	141	171	202	232	263
COUNTY: LOGAN STATE: KY	153	187	220	253	286
COUNTY: LYON STATE: KY	153	187	220	253	286
COUNTY: MCCracken STATE: KY	159	188	221	254	288
COUNTY: MCCREARY STATE: KY	149	181	210	239	265
COUNTY: MCLEAN STATE: KY	146	178	220	253	286
COUNTY: MADISON STATE: KY	178	216	267	307	347
COUNTY: MAGOFFIN STATE: KY	149	181	210	239	265
COUNTY: MARION STATE: KY	182	221	260	300	338
COUNTY: MARSHALL STATE: KY	159	188	221	254	288
COUNTY: MARTIN STATE: KY	133 6	160 5	187 6	217 8	238 1
COUNTY: MASON STATE: KY	188	227	268	309	349
COUNTY: MEADE STATE: KY	182	221	260	300	338
COUNTY: MENIFEE STATE: KY	149	181	210	239	265
COUNTY: MERCER STATE: KY	178	216	254	292	331
COUNTY: METCALFE STATE: KY	149	181	210	239	265
COUNTY: MONROE STATE: KY	149	181	210	239	265
COUNTY: MONTGOMERY STATE: KY	178	216	267	307	347
COUNTY: MORGAN STATE: KY	149	181	210	239	265
COUNTY: MUHLENBERG STATE: KY	146	178	220	253	286
COUNTY: NELSON STATE: KY	182	221	260	300	338
COUNTY: NICHOLAS STATE: KY	178	216	254	292	331

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY:OHIO STATE:KY	146	178	209	241	272
COUNTY:OWEN STATE:KY	188	227	268	309	349
COUNTY:OWSLEY STATE:KY	149	181	210	239	265
COUNTY:PENDLETON STATE:KY	188	227	268	309	349
COUNTY:PERRY STATE:KY	149	181	210	239	265
COUNTY:PIKE STATE:KY	149	181	210	239	265
COUNTY:POWELL STATE:KY	149	181	210	250	265
COUNTY:PULASKI STATE:KY	149	181	210	239	265
COUNTY:ROBERTSON STATE:KY	188	227	268	309	349
COUNTY:ROCKCASTLE STATE:KY	149	181	210	239	265
COUNTY:ROWAN STATE:KY	133 6	160 5	187 6	217 8	238 1
COUNTY:RUSSELL STATE:KY	133 20	160 23	187 25	217 30	238 27
COUNTY:SHELBY STATE:KY	182	221	260	300	338
COUNTY:SIMPSON STATE:KY	149	181	210	239	265
COUNTY:SPENCER STATE:KY	182	221	260	300	338
COUNTY:TAYLOR STATE:KY	149	181	210	239	265
COUNTY:TODD STATE:KY	166	203	239	274	311
COUNTY:TRIGG STATE:KY	166	203	239	274	311
COUNTY:TRIMBLE STATE:KY	182	221	260	300	338
COUNTY:UNION STATE:KY	146	178	220	253	286
COUNTY:WARREN STATE:KY	149	181	210	239	265
COUNTY:WASHINGTON STATE:KY	182	221	260	300	338
COUNTY:WAYNE STATE:KY	149	181	210	239	265
COUNTY:WEBSTER STATE:KY	146	178	220	253	286

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY:WHITLEY STATE:KY	149	181	210	250	265
COUNTY:WOLFE STATE:KY	133 20	160 23	187 25	217 30	238 27
KNOXVILLE, TENNESSEE AREA OFFICE					
SMSA: CHATTANOOGA, TN-GA					
COUNTY:HAMILTON STATE:TN	166	203	239	274	311
COUNTY:MARION STATE:TN	166	203	239	274	311
COUNTY:SEOUATCHIE STATE:TN	166	203	239	274	311
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA					
COUNTY:CARTER STATE:TN	164	199	235	270	305
COUNTY:HAWKINS STATE:TN	164	199	235	270	305
COUNTY:SULLIVAN STATE:TN	164	199	235	270	305
COUNTY:UNICOI STATE:TN	164	199	235	270	305
COUNTY:WASHINGTON STATE:TN	164	199	235	270	305
SMSA: KNOXVILLE, TN					
COUNTY:ANDERSON STATE:TN	166	203	239	313	342
COUNTY:BLOUNT STATE:TN	166	203	239	313	342
COUNTY:KNOX STATE:TN	166	203	239	313	342
COUNTY:UNION STATE:TN	166	203	239	313	342

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY BLEDSOE STATE:TN	142	173	204	234	265
COUNTY BRADLEY STATE:TN	142	173	204	234	265
COUNTY CAMPBELL STATE:TN	132	161	190	218	247
COUNTY CLAIRBORNE STATE:TN	132	161	190	218	247
COUNTY COCKE STATE:TN	132	161	190	218	247
COUNTY CUMBERLAND STATE:TN	132	161	190	218	247
COUNTY FENTRESS STATE:TN	132	161	190	218	247
COUNTY GRAINGER STATE:TN	132	161	190	218	247
COUNTY GREENE STATE:TN	164	199	235	270	305
COUNTY GRUNDY STATE:TN	142	173	204	234	265
COUNTY HAMBLEN STATE:TN	132	161	190	218	247
COUNTY HANCOCK STATE:TN	164	199	235	270	305
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY JEFFERSON STATE:TN	132	161	190	218	247
COUNTY JOHNSON STATE:TN	164	199	235	270	305
COUNTY LOUDON STATE:TN	132	161	190	218	247
COUNTY MCMINN STATE:TN	142	173	204	234	265
COUNTY MEIOS STATE:TN	142	173	204	234	265
COUNTY MONROE STATE:TN	132	161	190	218	247
COUNTY MORGAN STATE:TN	132	161	190	218	247
COUNTY PICKETT STATE:TN	126	152	180	207	234
COUNTY POLK STATE:TN	142	173	204	234	265
COUNTY RHEA STATE:TN	142	173	204	234	265
COUNTY ROANE STATE:TN	132	161	190	218	247
COUNTY SCOTT STATE:TN	132	161	190	218	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY SEVIER STATE:TN	132	161	190	218	247
SMSA MEMPHIS, TN-AR-MS					
COUNTY SHELBY STATE:TN	171	208	244	281	318
COUNTY TIPTON STATE:TN	171	208	244	281	318
NON SMSA					
COUNTY BENTON STATE:TN	166	203	239	274	311
COUNTY CARROLL STATE:TN	136	166	195	225	254
COUNTY CHESTER STATE:TN	136	166	195	225	254
COUNTY CROCKETT STATE:TN	136	166	195	225	254
COUNTY DECATUR STATE:TN	136	166	195	225	254
COUNTY DYER STATE:TN	136	166	195	225	254
COUNTY FAYETTE STATE:TN	150	182	215	248	280
COUNTY GIBSON STATE:TN	136	166	195	225	254
COUNTY HARDEMAN STATE:TN	150	182	215	248	280
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY HARDIN STATE:TN	137	167	197	227	257
COUNTY HAYWOOD STATE:TN	136	166	195	225	254
COUNTY HENDERSON STATE:TN	136	166	195	225	254
COUNTY HENRY STATE:TN	136	166	195	225	254
COUNTY LAKE STATE:TN	141	171	202	232	263
COUNTY LAUDERDALE STATE:TN	136	166	195	225	254
COUNTY MCNAIRY STATE:TN	138	167	197	227	257
COUNTY MADISON STATE:TN	149	182	214	248	279
COUNTY OBION STATE:TN	141	171	202	232	263
COUNTY WEAKLEY STATE:TN	136	166	195	225	254
SMSA CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY MONTGOMERY STATE:TN	166	203	239	274	311
SMSA NASHVILLE-DAVIDSON, TN					
COUNTY CHEATHAM STATE:TN	201	244	286	331	375

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
SMSA: NASHVILLE-DAVIDSON, TN					
COUNTY: DAVIDSON STATE: TN	201	244	289	331	375
COUNTY: DICKSON STATE: TN	201	244	288	331	375
COUNTY: ROBERTSON STATE: TN	201	244	288	331	375
COUNTY: RUTHERFORD STATE: TN	201	244	288	331	375
COUNTY: SUMNER STATE: TN	201	244	288	331	375
COUNTY: WILLIAMSON STATE: TN	201	244	288	331	375
COUNTY: WILSON STATE: TN	201	244	288	331	375
NON SMSA					
COUNTY: BEDFORD STATE: TN	142	173	204	234	265
COUNTY: CANNON STATE: TN	126	152	180	207	234
COUNTY: CLAY STATE: TN	126	152	180	207	234
COUNTY: COFFEE STATE: TN	142	173	204	234	265
COUNTY: DE KALB STATE: TN	126	152	180	207	234
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY: FRANKLIN STATE: TN	175	212	251	288	326
COUNTY: GILES STATE: TN	142	173	204	234	265
COUNTY: HICKMAN STATE: TN	142	173	204	234	265
COUNTY: HOUSTON STATE: TN	166	203	239	274	311
COUNTY: HUMPHREYS STATE: TN	166	203	239	274	311
COUNTY: JACKSON STATE: TN	126	152	180	207	234
COUNTY: LAWRENCE STATE: TN	142	173	204	234	265
COUNTY: LEWIS STATE: TN	142	173	204	234	265
COUNTY: LINCOLN STATE: TN	175	212	251	288	326
COUNTY: MADON STATE: TN	126	152	180	207	234
COUNTY: MARSHALL STATE: TN	142	173	204	234	265
COUNTY: MAURY STATE: TN	142	173	204	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY: MOORE STATE: TN	142	173	204	234	265
COUNTY: OVERTON STATE: TN	126	152	180	207	234
COUNTY: PERRY STATE: TN	126	152	180	207	234
COUNTY: PUTNAM STATE: TN	126	152	180	207	234
COUNTY: SMITH STATE: TN	126	152	180	207	234
COUNTY: STEWART STATE: TN	166	203	239	274	311
COUNTY: TROUSDALE STATE: TN	126	152	180	207	234
COUNTY: VAN BUREN STATE: TN	126	152	180	207	234
COUNTY: WARREN STATE: TN	126	152	180	207	234
COUNTY: WAYNE STATE: TN	137	167	197	227	257
COUNTY: WHITE STATE: TN	126	152	180	207	234
REGION 5					
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: CHICAGO, IL					
COUNTY: COOK STATE: IL	256	291	344	400	451
COUNTY: DU PAGE STATE: IL	256	291	344	400	451
COUNTY: KANE STATE: IL	256	291	344	400	451
COUNTY: LAKE STATE: IL	256	291	344	400	451
COUNTY: MCHENRY STATE: IL	256	291	344	400	451
COUNTY: WILL STATE: IL	256	291	344	400	451
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: ROCK ISLAND STATE: IL	196	239	281	325	367
SMSA: KANKAKEE, ILLINOIS					
COUNTY: KANKAKEE STATE: IL	167 2	201	237	273	309
SMSA: ROCKFORD, IL					
COUNTY: BOONE STATE: IL	188	236	288	322	374
COUNTY: WINNEBAGO STATE: IL	188	236	288	322	374
NON SMSA					
COUNTY: CARROLL STATE: IL	165	201	237	273	309

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS 4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:DE KALB	STATE:IL	188	227	268	310 349
COUNTY:GRUNDY	STATE:IL	188	227	268	310 349
COUNTY:JD DAVIESS	STATE:IL	149	181	214	246 279
COUNTY:KENDALL	STATE:IL	188	227	268	310 349
COUNTY:LEE	STATE:IL	171	208	245	283 319
COUNTY:OGLE	STATE:IL	171	208	245	283 319
COUNTY:STEPHENSON	STATE:IL	171	208	245	283 319
COUNTY:WHITESIDE	STATE:IL	165	201	237	273 309
SMSA: BLOOMINGTON-NORMAL, IL					
COUNTY:MCLEAN	STATE:IL	171	208	245	283 319
SMSA: CHAMPAIGN-URBANA-RANTOUL, IL					
COUNTY:CHAMPAIGN	STATE:IL	190	231	272	313 354
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY:HENRY	STATE:IL	196	239	281	325 367
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: DECATUR, IL					
COUNTY:MACON	STATE:IL	179	218	257	296 334
SMSA: PEORIA, IL					
COUNTY:PEORIA	STATE:IL	196	239	281	325 367
COUNTY:TAZEWELL	STATE:IL	196	239	281	325 367
COUNTY:WOODFORD	STATE:IL	196	239	281	325 367
SMSA: ST LOUIS, MO-IL					
COUNTY:CLINTON	STATE:IL	187	227	266	306 345
COUNTY:MADISON	STATE:IL	187	227	266	306 345
COUNTY:MONROE	STATE:IL	187	227	266	306 345
COUNTY:ST CLAIR	STATE:IL	187	227	266	306 345
SMSA: SPRINGFIELD, IL					
COUNTY:MENARD	STATE:IL	179	218	257	296 334
COUNTY:SANGAMON	STATE:IL	179	218	257	296 334
NON SMSA					
COUNTY:ADAMS	STATE:IL	150	182	215	248 281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS 4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:ALEXANDER	STATE:IL	122	149	175	202 229
COUNTY:BOND	STATE:IL	136	166	196	225 255
COUNTY:BROWN	STATE:IL	150	182	215	248 281
COUNTY:BUREAU	STATE:IL	165	201	237	273 309
COUNTY:CALHOUN	STATE:IL	136	166	196	225 255
COUNTY:CASS	STATE:IL	179	218	257	296 334
COUNTY:CHRISTIAN	STATE:IL	179	218	257	296 334
COUNTY:CLARK	STATE:IL	171	208	245	283 319
COUNTY:CLAY	STATE:IL	136	166	196	225 255
COUNTY:COLES	STATE:IL	190	231	272	313 354
COUNTY:CRANFORD	STATE:IL	171	208	245	283 319
COUNTY:CUMBERLAND	STATE:IL	190	231	272	313 354
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:DE WITT	STATE:IL	179	218	257	296 334
COUNTY:DOUGLAS	STATE:IL	190	231	272	313 354
COUNTY:EDGAR	STATE:IL	190	231	272	313 354
COUNTY:EDWARDS	STATE:IL	125	153	181	208 236
COUNTY:EFFINGHAM	STATE:IL	136	166	196	225 255
COUNTY:FAYETTE	STATE:IL	136	166	196	225 255
COUNTY:FORD	STATE:IL	190	231	272	313 354
COUNTY:FRANKLIN	STATE:IL	143	173	204	234 266
COUNTY:FULTON	STATE:IL	171	208	245	283 319
COUNTY:GALLATIN	STATE:IL	125	153	181	208 236
COUNTY:GREENE	STATE:IL	136	166	196	225 255
COUNTY:HAMILTON	STATE:IL	125	153	181	208 236

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)						
REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE						
NON SMSA						
COUNTY:HANCOCK	STATE:IL	150	182	215	248	281
COUNTY:HARDIN	STATE:IL	122	149	175	202	229
COUNTY:HENDERSON	STATE:IL	150	182	215	248	281
COUNTY:IROQUOIS	STATE:IL	165	201	237	273	309
COUNTY:JACKSON	STATE:IL	166	215	273	312	376
COUNTY:JASPER	STATE:IL	136	166	196	225	255
COUNTY:JEFFERSON	STATE:IL	143	173	204	234	266
COUNTY:JERSEY	STATE:IL	136	166	196	225	255
COUNTY:JOHNSON	STATE:IL	122	149	175	202	229
COUNTY:KNOX	STATE:IL	171	208	245	283	319
COUNTY:LA SALLE	STATE:IL	188	227	268	310	349
COUNTY:LAWRENCE	STATE:IL	125	153	181	208	236
CHICAGO, ILLINOIS AREA OFFICE						
NON SMSA						
COUNTY:LIVINGSTON	STATE:IL	188	227	268	310	349
COUNTY:LOGAN	STATE:IL	179	218	257	296	334
COUNTY:MCDONOUGH	STATE:IL	171	208	245	283	319
COUNTY:MACOUPIN	STATE:IL	136	166	196	225	255
COUNTY:MARION	STATE:IL	136	166	196	225	255
COUNTY:MARSHALL	STATE:IL	171	208	245	283	319
COUNTY:MASON	STATE:IL	179	218	257	296	334
COUNTY:MASSAC	STATE:IL	122	149	175	202	229
COUNTY:MERCER	STATE:IL	165	201	237	273	309
COUNTY:MONTGOMERY	STATE:IL	136	166	196	225	255
COUNTY:MORGAN	STATE:IL	179	218	257	296	334
COUNTY:MOULTRIE	STATE:IL	179	218	257	296	334

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)						
REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE						
NON SMSA						
COUNTY:PERRY	STATE:IL	143	173	204	234	266
COUNTY:PIATT	STATE:IL	190	231	272	313	354
COUNTY:PIKE	STATE:IL	150	182	215	248	281
COUNTY:POPE	STATE:IL	122	149	175	202	229
COUNTY:PULASKI	STATE:IL	122	149	175	202	229
COUNTY:PUTNAM	STATE:IL	188	227	268	310	349
COUNTY:RANDOLPH	STATE:IL	143	173	204	234	266
COUNTY:RICHLAND	STATE:IL	136	166	196	225	255
COUNTY:SALINE	STATE:IL	125	153	181	208	236
COUNTY:SCHUYLER	STATE:IL	150	182	215	248	281
COUNTY:SCOTT	STATE:IL	179	218	257	296	334
COUNTY:SHELBY	STATE:IL	179	218	257	296	334
CHICAGO, ILLINOIS AREA OFFICE						
NON SMSA						
COUNTY:STARK	STATE:IL	171	208	245	283	319
COUNTY:UNION	STATE:IL	122	149	175	202	229
COUNTY:VERMILION	STATE:IL	190	231	272	313	354
COUNTY:WABASH	STATE:IL	125	153	181	208	236
COUNTY:WARREN	STATE:IL	171	208	245	283	319
COUNTY:WASHINGTON	STATE:IL	143	173	204	234	266
COUNTY:WAYNE	STATE:IL	136	166	196	225	255
COUNTY:WHITE	STATE:IL	125	153	181	208	236
COUNTY:WILLIAMSON	STATE:IL	143	173	204	234	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE SMSA: CINCINNATI, OH-KY-IN COUNTY: CLERMONT STATE: OH	185	224	262	301	340
COUNTY: HAMILTON STATE: OH	185	224	262	301	340
COUNTY: WARREN STATE: OH	185	224	262	301	340
SMSA: DAYTON, OH COUNTY: GREENE STATE: OH	188	227	268	310	349
COUNTY: MONTGOMERY STATE: OH	188	227	268	310	349
COUNTY: PREBLE STATE: OH	188	227	268	310	349
SMSA: HAMILTON-MIDDLETOWN, OH COUNTY: BUTLER STATE: OH	163	198	233	269	304
NON SMSA COUNTY: ADAMS STATE: OH	163	198	233	269	304
COUNTY: BROWN STATE: OH	163	198	233	269	304
COUNTY: CLINTON STATE: OH	163	198	233	269	304
COUNTY: HIGHLAND STATE: OH	163	198	233	269	304
COLUMBUS, OHIO AREA OFFICE SMSA: AKRON, OH COUNTY: PORTAGE STATE: OH	194	236	278	320	362
COUNTY: SUMMIT STATE: OH	194	236	278	320	362
SMSA: CANTON, OH COUNTY: CARROLL STATE: OH	154 3	185	217	250	283
COUNTY: STARK STATE: OH	154 3	185	217	250	283
SMSA: CLEVELAND, OH COUNTY: CUYAHOGA STATE: OH	183	222	262	302	341
COUNTY: GEauga STATE: OH	183	222	262	302	341
COUNTY: LAKE STATE: OH	183	222	262	302	341
COUNTY: MEDINA STATE: OH	183	222	262	302	341
SMSA: LIMA, OH COUNTY: PUTNAM STATE: OH	179	207	249	287	317
SMSA: LORAIN-ELYRIA, OH COUNTY: LORAIN STATE: OH	189	230	271	311	352
SMSA: MANSFIELD, OH COUNTY: RICHLAND STATE: OH	159	193	227	261	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE SMSA: STEUBENVILLE-WEIRTON, OH-WV COUNTY: JEFFERSON STATE: OH	151	183	217	250	282
SMSA: TOLEDO, OH-MI COUNTY: FULTON STATE: OH	173	209	247	284	322
COUNTY: LUCAS STATE: OH	173	209	247	284	322
COUNTY: OTTAWA STATE: OH	173	209	247	284	322
COUNTY: WOOD STATE: OH	173	209	247	284	322
SMSA: YOUNGSTOWN-WARREN, OH COUNTY: MAHONING STATE: OH	165	201	237	273	309
COUNTY: TRUMBULL STATE: OH	165	201	237	273	309
NON SMSA COUNTY: ASHLAND STATE: OH	156	190	223	258	292
COUNTY: ASHTABULA STATE: OH	156	190	223	258	292
COUNTY: COLUMBIANA STATE: OH	137	167	197	227	257
COUNTY: CRAWFORD STATE: OH	159	193	227	261	296
COLUMBUS, OHIO AREA OFFICE NON SMSA COUNTY: DEFIANCE STATE: OH	149	181	214	246	279
COUNTY: ERIE STATE: OH	156	190	223	258	292
COUNTY: HANCOCK STATE: OH	156	190	223	258	292
COUNTY: HARRISON STATE: OH	121	147	174	200	227
COUNTY: HENRY STATE: OH	156	190	223	258	292
COUNTY: HOLMES STATE: OH	137	167	197	227	257
COUNTY: HURON STATE: OH	156	190	223	258	292
COUNTY: PAULDING STATE: OH	149	181	214	246	279
COUNTY: SANDUSKY STATE: OH	156	190	223	258	292
COUNTY: SENECA STATE: OH	156	190	223	258	292
COUNTY: TUSCARAWAS STATE: OH	137	167	197	227	257
COUNTY: WAYNE STATE: OH	156	190	223	258	292

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE NON SMSA					
COUNTY WILLIAMS STATE OH	149	181	214	246	279
COUNTY WYANDOT STATE OH	159	193	227	261	296
SMSA: COLUMBUS, OH COUNTY DELAWARE STATE OH	184	223	263	303	342
COUNTY FAIRFIELD STATE OH	184	223	263	303	342
COUNTY FRANKLIN STATE OH	184	223	263	303	342
COUNTY MADISON STATE OH	184	223	263	303	342
COUNTY PICKAWAY STATE OH	184	223	263	303	342
SMSA: DAYTON, OH COUNTY MIAMI STATE OH	188	227	268	310	349
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH COUNTY LAWRENCE STATE OH	156	190	223	256	290
SMSA: LIMA, OH COUNTY ALLEN STATE OH	179	207	249	287	317
COUNTY AUGLAIZE STATE OH	179	207	249	287	317
COLUMBUS, OHIO AREA OFFICE SMSA: LIMA, OH COUNTY VAN WERT STATE OH	179	207	249	287	317
SMSA PARKERSBURG-MARIETTA, WV-OH COUNTY WASHINGTON STATE OH	171	208	244	282	318
SMSA SPRINGFIELD, OH COUNTY CHAMPAIGN STATE OH	146	177	208	241	272
COUNTY CLARK STATE OH	146	177	208	241	272
SMSA: WHEELING, WV-OH COUNTY BELMONT STATE OH	161	184	224	261	289
NON SMSA COUNTY ATHENS STATE OH	158	204	258	290	328
COUNTY COSHOCTON STATE OH	137	167	197	227	257
COUNTY DARKE STATE OH	146	177	208	241	272
COUNTY FAYETTE STATE OH	132	160	189	217	247
COUNTY GALLIA STATE OH	117 8	135 2	166 9	184 3	205
COUNTY GUENSEY STATE OH	145	176	207	239	270

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE NON SMSA					
COUNTY HARDIN STATE OH	149	181	214	246	279
COUNTY HOCKING STATE OH	149	181	214	246	279
COUNTY JACKSON STATE OH	132	160	189	217	247
COUNTY KNOX STATE OH	159	193	227	261	296
COUNTY LICKING STATE OH	156	190	223	258	292
COUNTY LOGAN STATE OH	146	177	208	241	272
COUNTY MARION STATE OH	132	160	189	217	247
COUNTY MEIGS STATE OH	109	133	157	181	205
COUNTY MERCER STATE OH	149	181	214	246	279
COUNTY MONROE STATE OH	121	147	174	200	227
COUNTY MORGAN STATE OH	149	181	214	246	279
COUNTY MORRISON STATE OH	159	193	227	261	296
COLUMBUS, OHIO AREA OFFICE NON SMSA					
COUNTY MUSKINGUM STATE OH	145	176	207	239	270
COUNTY NOBLE STATE OH	149	181	214	246	279
COUNTY PERRY STATE OH	145	176	207	239	270
COUNTY PIKE STATE OH	152	177	215	239	265
COUNTY ROSS STATE OH	132	160	189	217	247
COUNTY SCIOTO STATE OH	127 18	145 12	174 17	194 13	212 7
COUNTY SHELBY STATE OH	156	182	220	258	282
COUNTY UNION STATE OH	132	160	189	217	247
COUNTY VINTON STATE OH	132	160	189	217	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
SMSA: ANN ARBOR, MI	242	294	347	399	451
COUNTY: WASHTENAW					
STATE: MI					
SMSA: DETROIT, MI	222	270	317	364	411
COUNTY: LIVINGSTON					
STATE: MI					
COUNTY: MACOMB	222	270	317	364	411
STATE: MI					
COUNTY: OAKLAND	222	270	317	364	411
STATE: MI					
COUNTY: ST. CLAIR	222	270	317	364	411
STATE: MI					
COUNTY: WAYNE	222	270	317	364	411
STATE: MI					
SMSA: TOLEDO, OH-MI	173	209	247	284	322
COUNTY: MONROE					
STATE: MI					
NON SMSA	173	209	247	284	322
COUNTY: LENAWEE					
STATE: MI					
SMSA: BAY CITY, MI	190	231	272	313	354
COUNTY: BAY					
STATE: MI					
SMSA: DETROIT, MI	222	270	317	364	411
COUNTY: LAPEER					
STATE: MI					
SMSA: FLINT, MI	199	242	285	328	371
COUNTY: GENESEE					
STATE: MI					
DETROIT, MICHIGAN AREA OFFICE					
SMSA: FLINT, MI	199	242	285	328	371
COUNTY: SHIAWASSEE					
STATE: MI					
SMSA: SAGINAW, MI	190	231	272	313	354
COUNTY: SAGINAW					
STATE: MI					
NON SMSA	171	208	245	283	319
COUNTY: ALCONA					
STATE: MI					
COUNTY: ALPENA	171	208	245	283	319
STATE: MI					
COUNTY: ARENAC	171	208	245	283	319
STATE: MI					
COUNTY: GLADWIN	171	208	245	283	319
STATE: MI					
COUNTY: HURON	171	208	245	283	319
STATE: MI					
COUNTY: IOSCO	171	208	245	283	319
STATE: MI					
COUNTY: MIDLAND	190	231	272	313	354
STATE: MI					
COUNTY: MONTMORENCY	171	208	245	283	319
STATE: MI					
COUNTY: OGEMAW	171	208	261	283	319
STATE: MI					
COUNTY: OSCODA	171	208	245	283	319
STATE: MI					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA	171	208	245	283	319
COUNTY: PRESQUE ISLE					
STATE: MI					
COUNTY: SANILAC	171	208	245	283	319
STATE: MI					
COUNTY: TUSCOLA	171	208	245	283	319
STATE: MI					
SMSA: BATTLE CREEK, MI	170	207	244	281	317
COUNTY: BARRY					
STATE: MI					
COUNTY: CALHOUN	170	207	244	281	317
STATE: MI					
SMSA: GRAND RAPIDS, MI	167	204	240	275	312
COUNTY: KENT					
STATE: MI					
COUNTY: OTTAWA	167	204	240	275	312
STATE: MI					
SMSA: JACKSON, MI	170	207	244	281	317
COUNTY: JACKSON					
STATE: MI					
SMSA: KALAMAZOO-PORTAGE, MI	204	248	292	335	380
COUNTY: KALAMAZOO					
STATE: MI					
COUNTY: VAN BUREN	204	248	292	335	380
STATE: MI					
SMSA: LANSING-EAST LANSING, MI	217	263	310	357	403
COUNTY: CLINTON					
STATE: MI					
DETROIT, MICHIGAN AREA OFFICE					
SMSA: LANSING-EAST LANSING, MI	217	263	310	357	403
COUNTY: EATON					
STATE: MI					
COUNTY: INGHAM	217	263	310	357	403
STATE: MI					
COUNTY: IONIA	217	263	310	357	403
STATE: MI					
SMSA: MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI	151	185	217	250	283
COUNTY: MUSKEGON					
STATE: MI					
COUNTY: OCEANA	151	185	217	250	283
STATE: MI					
NON SMSA	151	185	217	250	283
COUNTY: ALGER					
STATE: MI					
COUNTY: ALLEGAN	151	185	217	250	283
STATE: MI					
COUNTY: ANTRIM	151	185	217	250	283
STATE: MI					
COUNTY: BARAGA	151	185	217	250	283
STATE: MI					
COUNTY: BENZIE	151	185	217	250	283
STATE: MI					
COUNTY: BERRIEN	174	211	248	286	324
STATE: MI					
COUNTY: BRANCH	170	207	244	281	317
STATE: MI					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE NON SMSA					
COUNTY: CASS STATE: MI	174	211	248	286	324
COUNTY: CHARLEVOIX STATE: MI	151	185	217	250	283
COUNTY: CHEBOYGAN STATE: MI	171	208	245	283	319
COUNTY: CHIPPEWA STATE: MI	171	208	261	283	319
COUNTY: CLARE STATE: MI	171	208	261	283	319
COUNTY: CRAWFORD STATE: MI	171	208	261	283	319
COUNTY: DELTA STATE: MI	166	195	251	275	311
COUNTY: DICKINSON STATE: MI	166	195	251	275	311
COUNTY: EMMET STATE: MI	151	185	217	250	283
COUNTY: GOGEBIC STATE: MI	171	210	233	261	295
COUNTY: GRD TRAVERSE STATE: MI	208	239	271	314	368
COUNTY: GRATIOT STATE: MI	171	208	245	283	319
DETROIT, MICHIGAN AREA OFFICE NON SMSA					
COUNTY: HILLSDALE STATE: MI	170	207	244	281	317
COUNTY: HOUGHTON STATE: MI	166	195	251	275	311
COUNTY: IRON STATE: MI	166	195	251	275	311
COUNTY: ISABELLA STATE: MI	171	208	245	283	319
COUNTY: KALKASKA STATE: MI	151	185	217	250	283
COUNTY: KEWEENAW STATE: MI	151	185	217	250	283
COUNTY: LAKE STATE: MI	166	195	251	275	311
COUNTY: LEELANAU STATE: MI	151	185	217	250	283
COUNTY: LUCE STATE: MI	171	208	245	283	319
COUNTY: MACKINAC STATE: MI	171	208	261	283	319
COUNTY: MANISTEE STATE: MI	166	195	251	275	311
COUNTY: MARQUETTE STATE: MI	166	195	251	275	311

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE NON SMSA					
COUNTY: MASON STATE: MI	166	195	251	275	311
COUNTY: MECOSTA STATE: MI	151	185	217	250	283
COUNTY: MENOMINEE STATE: MI	151	185	217	250	283
COUNTY: MISSAUKEE STATE: MI	166	195	251	275	311
COUNTY: MONICALM STATE: MI	151	185	217	250	283
COUNTY: NEWAYGO STATE: MI	151	185	217	250	283
COUNTY: ONTONAGON STATE: MI	171	210	233	261	295
COUNTY: OSCODA STATE: MI	166	195	251	275	311
COUNTY: OTSEWO STATE: MI	171	208	261	283	319
COUNTY: ROSCOMMON STATE: MI	171	208	261	283	319
COUNTY: ST JOSEPH STATE: MI	174	211	248	286	324
COUNTY: SCHOOLCRAFT STATE: MI	151	185	217	250	283
DETROIT, MICHIGAN AREA OFFICE NON SMSA					
COUNTY: WEXFORD STATE: MI	166	195	251	275	311
INDIANAPOLIS, INDIANA AREA OFFICE SMSA: ANDERSON, IN COUNTY: MADISON STATE: IN	164	200	235	271	307
SMSA: BLOOMINGTON, IN COUNTY: MONROE STATE: IN	178	217	256	293	332
SMSA: CINCINNATI, OH KY-IN COUNTY: DEARBORN STATE: IN	185	224	262	301	340
SMSA: EVANSVILLE, IN KY COUNTY: GIBSON STATE: IN	193	215	258	285	317
COUNTY: POSEY STATE: IN	193	215	258	285	317
COUNTY: VANDERBURGH STATE: IN	193	215	258	285	317
COUNTY: WARRICK STATE: IN	193	215	258	285	317
SMSA: FORT WAYNE, IN COUNTY: ADAMS STATE: IN	192	234	275	317	358
COUNTY: ALLEN STATE: IN	192	234	275	317	358
COUNTY: DE KALB STATE: IN	192	234	275	317	358
COUNTY: WELLS STATE: IN	192	234	275	317	358

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: GARY-HAMMOND-EAST CHICAGO, IN					
COUNTY: LAKE STATE: IN	178	217	256	296	335
COUNTY: PORTER STATE: IN	178	217	256	296	335
SMSA: INDIANAPOLIS, IN					
COUNTY: BOONE STATE: IN	183	222	262	302	341
COUNTY: HAMILTON STATE: IN	183	222	262	302	341
COUNTY: HANCOCK STATE: IN	183	222	262	302	341
COUNTY: HENDRICKS STATE: IN	183	222	262	302	341
COUNTY: JOHNSON STATE: IN	183	222	262	302	341
COUNTY: MARION STATE: IN	183	222	262	302	341
COUNTY: MORGAN STATE: IN	183	222	262	302	341
COUNTY: SHELBY STATE: IN	183	222	262	302	341
SMSA: KOKOMO, IN					
COUNTY: HOWARD STATE: IN	178	217	256	293	332
COUNTY: TIPTON STATE: IN	178	217	256	293	332
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: LAFAYETTE-WEST LAFAYETTE, IN					
COUNTY: TIPPECANOE STATE: IN	188	227	268	310	349
SMSA: LOUISVILLE, KY-IN					
COUNTY: CLARK STATE: IN	166	200	236	271	306
COUNTY: FLOYD STATE: IN	166	200	236	271	306
SMSA: MUNCIE, IN					
COUNTY: DELAWARE STATE: IN	164	200	235	271	307
SMSA: SOUTH BEND, IN					
COUNTY: MARSHALL STATE: IN	188	227	268	310	349
COUNTY: ST JOSEPH STATE: IN	188	227	268	310	349
SMSA: TERRE HAUTE, IN					
COUNTY: CLAY STATE: IN	171	208	245	283	319
COUNTY: SULLIVAN STATE: IN	171	208	245	283	319
COUNTY: VERMILION STATE: IN	171	208	245	283	319
COUNTY: VIGO STATE: IN	171	208	245	283	319
NON SMSA					
COUNTY: BARTHOLOMEW STATE: IN	178	217	256	293	332

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY: BENTON STATE: IN	188	227	268	310	349
COUNTY: BLACKFORD STATE: IN	164	200	235	271	307
COUNTY: BROWN STATE: IN	178	217	256	293	332
COUNTY: CARROLL STATE: IN	188	227	268	310	349
COUNTY: CASS STATE: IN	178	217	256	293	332
COUNTY: CLINTON STATE: IN	188	227	268	310	349
COUNTY: CRAWFORD STATE: IN	158	191	226	259	294
COUNTY: DAVIESS STATE: IN	193	215	258	285	317
COUNTY: DECATUR STATE: IN	178	217	256	293	332
COUNTY: DUBOIS STATE: IN	193	215	258	285	317
COUNTY: ELKHART STATE: IN	174	211	248	286	324
COUNTY: FAYETTE STATE: IN	163	198	233	269	304
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY: FOUNTAIN STATE: IN	188	227	268	310	349
COUNTY: FRANKLIN STATE: IN	163	198	233	269	304
COUNTY: FULTON STATE: IN	174	211	248	286	324
COUNTY: GRANT STATE: IN	164	200	235	271	307
COUNTY: GREENE STATE: IN	171	208	245	283	319
COUNTY: HARRISON STATE: IN	158	191	226	259	294
COUNTY: HENRY STATE: IN	164	200	235	271	307
COUNTY: HUNTINGTON STATE: IN	149	181	214	246	279
COUNTY: JACKSON STATE: IN	178	217	256	293	332
COUNTY: JASPER STATE: IN	165	201	237	273	309
COUNTY: JAY STATE: IN	164	200	235	271	307
COUNTY: JEFFERSON STATE: IN	158	191	226	259	294

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE						
NON SMSA						
COUNTY:JENNINGS		178	217	256	293	332
STATE:IN						
COUNTY:KNOX		143	160	192	208	236
STATE:IN		18	7	11		
COUNTY:KOSCIUSKO		174	211	248	286	324
STATE:IN						
COUNTY:LAGRANGE		174	211	248	286	324
STATE:IN						
COUNTY:LA PORTE		165	201	237	273	309
STATE:IN						
COUNTY:LAWRENCE		178	217	256	293	332
STATE:IN						
COUNTY:MARTIN		193	215	258	285	317
STATE:IN						
COUNTY:MIAMI		178	217	256	293	332
STATE:IN						
COUNTY:MONTGOMERY		188	227	268	310	349
STATE:IN						
COUNTY:NEWTON		165	201	237	273	309
STATE:IN						
COUNTY:NOBLE		149	181	214	246	279
STATE:IN						
COUNTY:OHIO		163	198	233	269	304
STATE:IN						
INDIANAPOLIS, INDIANA AREA OFFICE						
NON SMSA						
COUNTY:ORANGE		158	191	226	259	294
STATE:IN						
COUNTY:OWEN		178	217	256	293	332
STATE:IN						
COUNTY:PARKE		171	208	245	283	319
STATE:IN						
COUNTY:PERRY		193	215	258	285	317
STATE:IN						
COUNTY:PIKE		193	215	258	285	317
STATE:IN						
COUNTY:PULASKI		165	201	237	273	309
STATE:IN						
COUNTY:PUTNAM		178	217	256	293	332
STATE:IN						
COUNTY:RANDOLPH		164	200	235	271	307
STATE:IN						
COUNTY:RIPLEY		163	198	233	269	304
STATE:IN						
COUNTY:RUSH		178	217	256	293	332
STATE:IN						
COUNTY:SCOTT		158	191	226	259	294
STATE:IN						
COUNTY:SPENCER		193	215	258	285	317
STATE:IN						

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE						
NON SMSA						
COUNTY:STARKE		165	201	237	273	309
STATE:IN						
COUNTY:STEBEN		149	181	214	246	279
STATE:IN						
COUNTY:SWITZERLAND		163	198	233	269	304
STATE:IN						
COUNTY:UNION		163	198	233	269	304
STATE:IN						
COUNTY:WABASH		149	181	214	246	279
STATE:IN						
COUNTY:WARREN		188	227	268	310	349
STATE:IN						
COUNTY:WASHINGTON		158	191	226	259	294
STATE:IN						
COUNTY:WAYNE		164	200	235	271	307
STATE:IN						
COUNTY:WHITE		188	227	268	310	349
STATE:IN						
COUNTY:WHITLEY		149	181	214	246	279
STATE:IN						
MILWAUKEE, WISCONSIN AREA OFFICE						
SMSA: APPLETON-OSHKOSH, WI						
COUNTY:CALUMET		180	220	259	298	337
STATE:WI						
COUNTY:OUTAGAMIE		180	220	259	298	337
STATE:WI						
COUNTY:WINNEBAGO		180	220	259	298	337
STATE:WI						
SMSA: DULUTH-SUPERIOR, MN-WI						
COUNTY:DOUGLAS		199	228	277	306	339
STATE:WI						
SMSA: EAU CLAIRE, WI						
COUNTY:CHIPPewa		137	167	197	227	257
STATE:WI						
COUNTY:EAU CLAIRE		137	167	197	227	257
STATE:WI						
SMSA: GREEN BAY, WI						
COUNTY:BROWN		164	200	235	271	307
STATE:WI						
SMSA: JANESVILLE-BELOIT, WI						
COUNTY:ROCK		171	208	245	283	319
STATE:WI						
SMSA: KENOSHA, WI						
COUNTY:KENOSHA		189	230	271	311	352
STATE:WI						
SMSA: LA CROSSE, WI						
COUNTY:LA CROSSE		150	182	215	248	281
STATE:WI						

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
SMSA: MADISON, WI	196	238	280	322	364
COUNTY DANE STATE WI					
SMSA: MILWAUKEE, WI	204	246	291	337	382
COUNTY MILWAUKEE STATE WI					
COUNTY OZAUKEE STATE WI	204	246	291	337	382
COUNTY WASHINGTON STATE WI	204	246	291	337	382
COUNTY WAUKESHA STATE WI	204	246	291	337	382
SMSA: MINNEAPOLIS-ST. PAUL, MN-WI	232	280	329	378	426
COUNTY ST. CROIX STATE WI					
SMSA: RACINE, WI	189	230	271	311	352
COUNTY RACINE STATE WI					
NON SMSA					
COUNTY ADAMS STATE WI	159	193	227	261	296
COUNTY ASHLAND STATE WI	137	167	197	227	257
COUNTY BARRON STATE WI	137	167	197	227	257
COUNTY BAYFIELD STATE WI	137	167	197	227	257
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY BUFFALO STATE WI	150	182	215	248	281
COUNTY BURNETT STATE WI	160	194	229	263	298
COUNTY CLARK STATE WI	167	204	241	276	313
COUNTY COLUMBIA STATE WI	159	193	227	261	296
COUNTY CRAWFORD STATE WI	149	181	214	246	279
COUNTY DODGE STATE WI	159	193	227	261	296
COUNTY DOOR STATE WI	164	200	235	271	307
COUNTY DUNN STATE WI	137	167	197	227	257
COUNTY FLORENCE STATE WI	151	185	217	250	283
COUNTY FOND DU LAC STATE WI	159	193	227	261	296
COUNTY FOREST STATE WI	151	185	217	250	283
COUNTY GRANT STATE WI	149	181	214	246	279

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY GREEN STATE WI	171	208	245	283	319
COUNTY GREEN LAKE STATE WI	159	193	227	261	296
COUNTY IOWA STATE WI	159	193	227	261	296
COUNTY IRON STATE WI	137	167	197	227	257
COUNTY JACKSON STATE WI	150	182	215	248	281
COUNTY JEFFERSON STATE WI	159	193	227	261	296
COUNTY JUNEAU STATE WI	150	182	215	248	281
COUNTY KEWAUNEE STATE WI	164	200	235	271	307
COUNTY LAFAYETTE STATE WI	149	181	214	246	279
COUNTY LANGLADE STATE WI	167	204	241	276	313
COUNTY LINCOLN STATE WI	167	204	241	276	313
COUNTY MANITOWOC STATE WI	164	200	235	271	307
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY MARATHON STATE WI	167	204	241	276	313
COUNTY MARINETTE STATE WI	151	185	217	250	283
COUNTY MARQUETTE STATE WI	159	193	227	261	296
COUNTY MENOMINIE STATE WI	151	185	217	250	283
COUNTY MONROE STATE WI	150	182	215	248	281
COUNTY OCONTO STATE WI	151	185	217	250	283
COUNTY ONEIDA STATE WI	167	204	241	276	313
COUNTY PEPIN STATE WI	137	167	197	227	257
COUNTY PIERCE STATE WI	160	194	229	263	298
COUNTY POLK STATE WI	160	194	229	263	298
COUNTY PORTAGE STATE WI	167	204	241	276	313
COUNTY PRICE STATE WI	167	204	241	276	313

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE NON SMSA					
COUNTY:RICHLAND STATE:WI	159	193	227	261	296
COUNTY:RUSK STATE:WI	137	167	197	227	257
COUNTY:SAUK STATE:WI	159	193	227	261	296
COUNTY:SAWYER STATE:WI	137	167	197	227	257
COUNTY:SHAWANO STATE:WI	151	185	217	250	283
COUNTY:SHEBOYGAN STATE:WI	159	193	227	261	296
COUNTY:TAYLOR STATE:WI	167	204	241	276	313
COUNTY:TREMPEALEAU STATE:WI	150	182	215	248	281
COUNTY:VERNON STATE:WI	150	182	215	248	281
COUNTY:VILAS STATE:WI	167	204	241	276	313
COUNTY:WALWORTH STATE:WI	159	193	227	261	296
COUNTY:WASHBURN STATE:WI	137	167	197	227	257
MILWAUKEE, WISCONSIN AREA OFFICE NON SMSA					
COUNTY:WAUPACA STATE:WI	151	185	217	250	283
COUNTY:WAUSHARA STATE:WI	159	193	227	261	296
COUNTY:WOOD STATE:WI	167	204	241	276	313

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE SMSA					
COUNTY:DULUTH-SUPERIOR, MN-WI COUNTY:ST LOUIS STATE:MN	199	228	277	306	339
SMSA: FARGO-MOORHEAD, ND-MN COUNTY:CLAY STATE:MN	188	215	279	322	344
SMSA: GRAND FORKS, N.D. MN COUNTY:POLK STATE:MN	188	225	268	312	339
SMSA: MINNEAPOLIS ST PAUL, MN-WI COUNTY:ANOKA STATE:MN	232	280	329	378	426
COUNTY:CARVER STATE:MN	232	280	329	378	426
COUNTY:CHISAGO STATE:MN	232	280	329	378	426
COUNTY:DAKOTA STATE:MN	232	280	329	378	426
COUNTY:HENNEPIN STATE:MN	232	280	329	378	426
COUNTY:RAMSEY STATE:MN	232	280	329	378	426
COUNTY:SCOTT STATE:MN	232	280	329	378	426
COUNTY:WASHINGTON STATE:MN	232	280	329	378	426
COUNTY:WRIGHT STATE:MN	232	280	329	378	426
SMSA: ROCHESTER, MN COUNTY:OLMSTED STATE:MN	200	244	287	330	373
SMSA: ST. CLOUD, MN COUNTY:BENTON STATE:MN	200	244	287	330	373
COUNTY:SHERBURNE STATE:MN	200	244	287	330	373
COUNTY:STEARNS STATE:MN	200	244	287	330	373
NON SMSA					
COUNTY:AITKIN STATE:MN	141	171	202	232	264
COUNTY:BECKER STATE:MN	160	194	229	263	298
COUNTY:BELTRAMI STATE:MN	141	171	202	232	264
COUNTY:BIG STONE STATE:MN	141	171	202	232	264
COUNTY:BLUE EARTH STATE:MN	200	244	287	330	373
COUNTY:BROWN STATE:MN	181	221	260	299	339

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY CARLTON STATE MN		181	221	260	299	339
COUNTY CASS STATE MN		141	171	202	232	264
COUNTY CHIPPEWA STATE MN		141	171	202	232	264
COUNTY CLEARWATER STATE MN		160	194	229	263	298
COUNTY COOK STATE MN		137	167	197	227	257
COUNTY COTTONWOOD STATE MN		141	171	202	232	264
COUNTY CROW WING STATE MN		181	221	260	299	339
COUNTY DODGE STATE MN		181	221	260	299	339
COUNTY DOUGLAS STATE MN		141	171	202	232	264
COUNTY FARIBAULT STATE MN		181	221	260	299	339
COUNTY FILLMORE STATE MN		181	221	260	299	339
COUNTY FREEBORN STATE MN		181	221	260	299	339
COUNTY GOODHUE STATE MN		160	194	229	263	298
COUNTY GRANT STATE MN		141	171	202	232	264
COUNTY HOUSTON STATE MN		150	182	215	248	281
COUNTY HUBBARD STATE MN		141	171	202	232	264
COUNTY ISANTI STATE MN		160	194	229	263	298
COUNTY ITASCA STATE MN		181	221	260	299	339
COUNTY JACKSON STATE MN		163	198	233	269	304
COUNTY KANABEC STATE MN		160	194	229	263	298
COUNTY KANDIYOHI STATE MN		181	221	260	299	339
COUNTY KITTSON STATE MN		160	194	229	263	298
COUNTY KOCHICHING STATE MN		137	167	197	227	257
COUNTY LAC QUI PARL STATE MN		141	171	202	232	264

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION	5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY LAKE STATE MN		137	167	197	227	257
COUNTY LAKE OF WOOD STATE MN		141	171	202	232	264
COUNTY LE SUEUR STATE MN		181	221	260	299	339
COUNTY LINCOLN STATE MN		163	198	233	269	304
COUNTY LYON STATE MN		163	198	233	269	304
COUNTY MCLEOD STATE MN		181	221	260	299	339
COUNTY MAHNOHEN STATE MN		160	194	229	263	298
COUNTY MARSHALL STATE MN		160	194	229	263	298
COUNTY MARTIN STATE MN		181	221	260	299	339
COUNTY MEEKER STATE MN		181	221	260	299	339
COUNTY MILLE LACS STATE MN		160	194	229	263	298
COUNTY MORRISON STATE MN		181	221	260	299	339
COUNTY MOWER STATE MN		181	221	260	299	339
COUNTY MURRAY STATE MN		163	198	233	269	304
COUNTY NICOLLET STATE MN		181	221	260	299	339
COUNTY NOBLES STATE MN		163	198	233	269	304
COUNTY NORMAN STATE MN		160	194	229	263	298
COUNTY OTTER TAIL STATE MN		160	194	229	263	298
COUNTY PENNINGTON STATE MN		160	194	229	263	298
COUNTY PINE STATE MN		160	194	229	263	298
COUNTY PIPESTONE STATE MN		163	198	233	269	304
COUNTY POPE STATE MN		141	171	202	232	264
COUNTY RED LAKE STATE MN		160	194	229	263	298
COUNTY REDWOOD STATE MN		141	171	202	232	264

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY RENVILLE STATE MN	141	171	202	232	264
COUNTY RICE STATE MN	160	194	229	263	298
COUNTY ROCK STATE MN	163	198	233	269	304
COUNTY ROSEAU STATE MN	160	194	229	263	298
COUNTY SIRLEY STATE MN	181	221	260	299	339
COUNTY STEELE STATE MN	181	221	260	299	339
COUNTY STEVENS STATE MN	141	171	202	232	264
COUNTY SWIFT STATE MN	141	171	202	232	264
COUNTY TODD STATE MN	141	171	202	232	264
COUNTY TRAVERSE STATE MN	141	171	202	232	264
COUNTY WABASHA STATE MN	181	221	260	299	339
COUNTY WADENA STATE MN	141	171	202	232	264
COUNTY WASECA STATE MN	181	221	260	299	339
COUNTY WATONWAN STATE MN	181	221	260	299	339
COUNTY WILKIN STATE MN	160	194	229	263	298
COUNTY WINONA STATE MN	165	201	236	273	309
COUNTY YELLOW MEDIC STATE MN	141	171	202	232	264

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
SMSA ALBUQUERQUE, NM					
COUNTY BERNALILLO STATE NM	163	199	234	269	304
COUNTY SANDOVAL STATE NM	163	199	234	269	304
SMSA LAS CRUCES, NM					
COUNTY DONA ANA STATE NM	137	166	196	225	255
NON SMSA					
COUNTY CATRON STATE NM	137	166	196	225	255
COUNTY CHAVES STATE NM	137	166	196	225	255
COUNTY COLFAX STATE NM	163	199	234	269	304
COUNTY CURRY STATE NM	131	159	187	215	243
COUNTY DE BACA STATE NM	131	159	187	215	243
COUNTY EDDY STATE NM	137	166	196	225	255
COUNTY GRANT STATE NM	137	166	196	225	255
COUNTY GUADALUPE STATE NM	131	159	187	215	243
COUNTY HARDING STATE NM	131	159	187	215	243
COUNTY HIDALGO STATE NM	137	166	196	225	255
COUNTY LEA STATE NM	137	166	196	225	255
COUNTY LINCOLN STATE NM	137	166	196	225	255
COUNTY LOS ALAMOS STATE NM	163	199	234	269	304
COUNTY LUNA STATE NM	163	199	234	269	304
COUNTY MCKINLEY STATE NM	163	199	234	269	304
COUNTY MORA STATE NM	163	199	234	269	304
COUNTY OTERO STATE NM	137	166	196	225	255
COUNTY QUAY STATE NM	131	159	187	215	243
COUNTY RIO ARriba STATE NM	163	199	234	269	304
COUNTY ROOSEVELT STATE NM	131	159	187	215	243
COUNTY SAN JUAN STATE NM	163	199	234	269	304

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE NON SMSA					
COUNTY SAN MIGUEL STATE NM	163	199	234	269	304
COUNTY SANTA FE STATE NM	163	199	234	269	304
COUNTY SIERRA STATE NM	137	166	196	225	255
COUNTY SOCORRO STATE NM	137	166	196	225	255
COUNTY TAOS STATE NM	163	199	234	269	304
COUNTY TORRANCE STATE NM	163	199	234	269	304
COUNTY UNION STATE NM	131	159	187	215	243
COUNTY VALENCIA STATE NM	163	199	234	269	304
SMSA DALLAS-FORT WORTH, TX					
COUNTY COLLIN STATE TX	206	248	292	336	378
COUNTY DALLAS STATE TX	206	248	292	336	378
COUNTY DENTON STATE TX	206	248	292	336	378
COUNTY ELLIS STATE TX	206	248	292	336	378
SMSA DALLAS-FORT WORTH, TX					
COUNTY KAUFMAN STATE TX	206	248	292	336	378
COUNTY ROCKWALL STATE TX	206	248	292	336	378
SMSA KILLEEN-TEMPLE, TX					
COUNTY BELL STATE TX	169	206	242	280	316
COUNTY CORNELL STATE TX	169	206	242	280	316
SMSA LONGVIEW-MARSHALL, TX					
COUNTY GREGG STATE TX	137	167	197	227	257
SMSA SHERMAN-DENISON, TX					
COUNTY GRAYSON STATE TX	146	178	209	241	272
SMSA TEXARKANA, TX-AR					
COUNTY BOWIE STATE TX	137	167	197	227	257
SMSA TYLER, TX					
COUNTY SMITH STATE TX	137	167	197	227	257
SMSA WACO, TX					
COUNTY MCLENNAN STATE TX	169	206	242	280	316
NON SMSA					
COUNTY ANDERSON STATE TX	137	167	197	227	257

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE NON SMSA					
COUNTY CAMP STATE TX	120	146	172	197	224
COUNTY CHEROKEE STATE TX	137	167	197	227	257
COUNTY COOKE STATE TX	146	178	209	241	272
COUNTY DELTA STATE TX	120	146	172	197	224
COUNTY FALLS STATE TX	169	206	242	280	316
COUNTY FANNIN STATE TX	146	178	209	241	272
COUNTY FRANKLIN STATE TX	120	146	172	197	224
COUNTY FREESTONE STATE TX	169	206	242	280	316
COUNTY HENDERSON STATE TX	137	167	197	227	257
COUNTY HILL STATE TX	169	206	242	280	316
COUNTY HOPKINS STATE TX	146	178	209	241	272
COUNTY HUNT STATE TX	146	178	209	241	272
COUNTY LAMAR STATE TX	137	167	197	227	257
COUNTY LIMESTONE STATE TX	169	206	242	280	316
COUNTY MILAM STATE TX	157	191	225	259	293
COUNTY NAVARRO STATE TX	146	178	209	241	272
COUNTY RAINS STATE TX	146	178	209	241	272
COUNTY RED RIVER STATE TX	120	146	172	197	224
COUNTY RUSK STATE TX	137	167	197	227	257
COUNTY TITUS STATE TX	127	155	181	209	236
COUNTY UPSHUR STATE TX	137	167	197	227	257
COUNTY VAN ZANDT STATE TX	146	178	209	241	272
COUNTY WOOD STATE TX	137	167	197	227	257
SMSA ABILENE, TX					
COUNTY CALLAHAN STATE TX	151	184	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR, 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 6

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
SMSA ABILENE, TX					
COUNTY JONES	151	184	217	250	283
STATE TX					
COUNTY TAYLOR					
STATE TX	151	184	217	250	283
SMSA DALLAS-FORT WORTH, TX					
COUNTY HOOB	206	248	292	336	378
STATE TX					
COUNTY JOHNSON	206	248	292	336	378
STATE TX					
COUNTY PARKER	206	248	292	336	378
STATE TX					
COUNTY TARRANT	206	248	292	336	378
STATE TX					
COUNTY WISE	206	248	292	336	378
STATE TX					
SMSA SAN ANGELO, TX					
COUNTY TOM GREEN	151	184	217	250	283
STATE TX					
SMSA WICHITA FALLS, TX					
COUNTY CLAY	166	203	239	274	311
STATE TX					
COUNTY WICHITA	166	203	239	274	311
STATE TX					
NON SMSA					
COUNTY ARCHER	166	203	239	274	311
STATE TX					
NON SMSA					
COUNTY BAYLOR	166	203	239	274	311
STATE TX					
COUNTY BOSQUE	169	206	242	280	316
STATE TX					
COUNTY BROWN	151	184	217	250	283
STATE TX					
COUNTY COKE	151	184	217	250	283
STATE TX					
COUNTY COLEMAN	151	184	217	250	283
STATE TX					
COUNTY COMANCHE	151	184	217	250	283
STATE TX					
COUNTY CONCHO	151	184	217	250	283
STATE TX					
COUNTY CROCKETT	160	194	228	264	298
STATE TX					
COUNTY EASTLAND	151	184	217	250	283
STATE TX					
COUNTY ERATH	146	178	209	241	272
STATE TX					
COUNTY FOARD	166	203	239	274	311
STATE TX					
COUNTY HAMILTON	169	206	242	280	316
STATE TX					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 6

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY HARDEMAN	166	203	239	274	311
STATE TX					
COUNTY HASKELL	151	184	217	250	283
STATE TX					
COUNTY IRION	151	184	217	250	283
STATE TX					
COUNTY JACK	166	203	239	274	311
STATE TX					
COUNTY KIMBLE	151	184	217	250	283
STATE TX					
COUNTY KNOX	151	184	217	250	283
STATE TX					
COUNTY LAMPASAS	169	206	242	280	316
STATE TX					
COUNTY MCCULLOCH	151	184	217	250	283
STATE TX					
COUNTY MASON	151	184	217	250	283
STATE TX					
COUNTY MENARD	151	184	217	250	283
STATE TX					
COUNTY MILLS	151	184	217	250	283
STATE TX					
COUNTY MONTAGUE	146	178	209	241	272
STATE TX					
COUNTY PALO PINTO	146	178	209	241	272
STATE TX					
COUNTY REAGAN	160	194	228	264	298
STATE TX					
COUNTY RUNNELS	151	184	217	250	283
STATE TX					
COUNTY SAN SABA	151	184	217	250	283
STATE TX					
COUNTY SCHLEICHER	151	184	217	250	283
STATE TX					
COUNTY SHACKLEFORD	151	184	217	250	283
STATE TX					
COUNTY SOMERVELL	146	178	209	241	272
STATE TX					
COUNTY STEPHENS	151	184	217	250	283
STATE TX					
COUNTY STERLING	151	184	217	250	283
STATE TX					
COUNTY SUTTON	151	184	217	250	283
STATE TX					
COUNTY THROCKMORTON	166	203	239	274	311
STATE TX					
COUNTY WILBARGER	166	203	239	274	311
STATE TX					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: YOUNG STATE: TX	166	203	239	274	311
SMSA: BEAUMONT-PORT ARTHUR-ORANGE, TX					
COUNTY: HARDIN STATE: TX	169 10	193	227	262	296
COUNTY: JEFFERSON STATE: TX	169 10	193	227	262	296
COUNTY: ORANGE STATE: TX	169 10	193	227	262	296
SMSA: BRYAN-COLLEGE STATION, TX					
COUNTY: BRAZOS STATE: TX	169 12	191	225	259	293
SMSA: GALVESTON-TEXAS CITY, TX					
COUNTY: GALVESTON STATE: TX	187	226	267	307	347
SMSA: HOUSTON, TX					
COUNTY: BRAZORIA STATE: TX	201	245	290	335	380
COUNTY: FORT BEND STATE: TX	201	245	290	335	380
COUNTY: HARRIS STATE: TX	201	245	290	335	380
COUNTY: LIBERTY STATE: TX	201	245	290	335	380
COUNTY: MONTGOMERY STATE: TX	201	245	290	335	380
SMSA: HOUSTON, TX					
COUNTY: WALLER STATE: TX	201	245	290	335	380
NON SMSA					
COUNTY: ANGELINA STATE: TX	144 7	167	197	227	257
COUNTY: AUSTIN STATE: TX	156	190	223	256	290
COUNTY: BURLESON STATE: TX	157	191	225	259	293
COUNTY: CHAMBERS STATE: TX	156	190	223	256	290
COUNTY: COLORADO STATE: TX	156	190	223	256	290
COUNTY: GRIMES STATE: TX	157	191	225	259	293
COUNTY: HOUSTON STATE: TX	144 7	167	197	227	257
COUNTY: JASPER STATE: TX	156	190	223	256	290
COUNTY: LEON STATE: TX	157	191	225	259	293
COUNTY: MADISON STATE: TX	157	191	225	259	293
COUNTY: MATAGORDA STATE: TX	156	190	223	256	290

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: NACOGDOCHES STATE: TX	144 7	167	197	227	257
COUNTY: NEWTON STATE: TX	156	190	223	256	290
COUNTY: POLK STATE: TX	156	190	223	256	290
COUNTY: ROBERTSON STATE: TX	157	191	225	259	293
COUNTY: SABINE STATE: TX	144 16	156	183	211	239
COUNTY: SAN AUGUSTIN STATE: TX	144 16	156	183	211	239
COUNTY: SAN JACINTO STATE: TX	156	190	223	256	290
COUNTY: SHELBY STATE: TX	144 16	156	183	211	239
COUNTY: TRINITY STATE: TX	144 7	167	197	227	257
COUNTY: TYLER STATE: TX	156	190	223	256	290
COUNTY: WALKER STATE: TX	156	190	223	256	290
COUNTY: WASHINGTON STATE: TX	156	190	223	256	290
COUNTY: WHARTON STATE: TX	156	190	223	256	290
SMSA: AMARILLO, TX					
COUNTY: POTTER STATE: TX	145	176	207	239	270
COUNTY: RANDALL STATE: TX	145	176	207	239	270
SMSA: EL PASO, TX					
COUNTY: EL PASO STATE: TX	195	238	280	322	364
SMSA: LUBBOCK, TX					
COUNTY: LUBBOCK STATE: TX	151	184	217	250	283
SMSA: MIDLAND, TX					
COUNTY: MIDLAND STATE: TX	160	194	228	264	298
SMSA: ODESSA, TX					
COUNTY: ECTOR STATE: TX	160	194	228	264	298
NON SMSA					
COUNTY: ANDREWS STATE: TX	160	194	228	264	298
COUNTY: ARMSTRONG STATE: TX	145	176	207	239	270
COUNTY: BAILEY STATE: TX	151	184	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE NON SMSA					
COUNTY: BORDEN STATE: TX	160	194	228	264	298
COUNTY: BREWSTER STATE: TX	160	194	228	264	298
COUNTY: BRISCOE STATE: TX	145	176	207	239	270
COUNTY: CARSON STATE: TX	145	176	207	239	270
COUNTY: CASTRO STATE: TX	145	176	207	239	270
COUNTY: CHILDRESS STATE: TX	166	203	239	274	311
COUNTY: COCHRAN STATE: TX	151	184	217	250	283
COUNTY: COLLINGSWORTH STATE: TX	145	176	207	239	270
COUNTY: COTTLE STATE: TX	166	203	239	274	311
COUNTY: CRANE STATE: TX	160	194	228	264	298
COUNTY: CROSBY STATE: TX	151	184	217	250	283
COUNTY: CULBERSON STATE: TX	150	182	215	248	280
COUNTY: DALLAM STATE: TX	145	176	207	239	270
COUNTY: DAWSON STATE: TX	160	194	228	264	298
COUNTY: DEAF SMITH STATE: TX	145	176	207	239	270
COUNTY: DICKENS STATE: TX	151	184	217	250	283
COUNTY: DOWNEY STATE: TX	145	176	207	239	270
COUNTY: FISHER STATE: TX	151	184	217	250	283
COUNTY: FLOYD STATE: TX	151	184	217	250	283
COUNTY: GAINES STATE: TX	160	194	228	264	298
COUNTY: GARZA STATE: TX	151	184	217	250	283
COUNTY: GLASSCOCK STATE: TX	160	194	228	264	298
COUNTY: GRAY STATE: TX	145	176	207	239	270
COUNTY: HALE STATE: TX	151	184	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE NON SMSA					
COUNTY: HALL STATE: TX	145	176	207	239	270
COUNTY: HANSFORD STATE: TX	145	176	207	239	270
COUNTY: HARTLEY STATE: TX	145	176	207	239	270
COUNTY: HEMPHILL STATE: TX	145	176	207	239	270
COUNTY: HOCKLEY STATE: TX	137	167	197	227	257
COUNTY: HOWARD STATE: TX	160	194	228	264	298
COUNTY: HUDSPETH STATE: TX	150	182	215	248	280
COUNTY: HUTCHINSON STATE: TX	145	176	207	239	270
COUNTY: JEFF DAVIS STATE: TX	150	182	215	248	280
COUNTY: KENT STATE: TX	151	184	217	250	283
COUNTY: KING STATE: TX	151	184	217	250	283
COUNTY: LAMB STATE: TX	151	184	217	250	283
COUNTY: LIPSCOMB STATE: TX	145	176	207	239	270
COUNTY: LOVING STATE: TX	160	194	228	264	298
COUNTY: LYNN STATE: TX	151	184	217	250	283
COUNTY: MARTIN STATE: TX	160	194	228	264	298
COUNTY: MITCHELL STATE: TX	141	171	202	232	263
COUNTY: MOORE STATE: TX	145	176	207	239	270
COUNTY: MOTLEY STATE: TX	151	184	217	250	283
COUNTY: NOLAN STATE: TX	151	184	217	250	283
COUNTY: OCHILTREE STATE: TX	145	176	207	239	270
COUNTY: OLOHAM STATE: TX	145	176	207	239	270
COUNTY: PARKER STATE: TX	145	176	207	239	270
COUNTY: PECOS STATE: TX	160	194	228	264	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: PRESIDIO STATE: TX	150	162	215	248	260
COUNTY: REEVES STATE: TX	160	194	228	264	298
COUNTY: ROBERTS STATE: TX	145	176	207	239	270
COUNTY: SCURRY STATE: TX	151	184	217	250	283
COUNTY: SHERMAN STATE: TX	145	176	207	239	270
COUNTY: STONEWALL STATE: TX	151	184	217	250	283
COUNTY: SWISHER STATE: TX	145	176	207	239	270
COUNTY: TERRELL STATE: TX	160	194	228	264	298
COUNTY: TERRY STATE: TX	151	184	217	250	283
COUNTY: UPTON STATE: TX	160	194	228	264	298
COUNTY: WARD STATE: TX	160	194	228	264	298
COUNTY: WHEELER STATE: TX	145	176	207	239	270
COUNTY: WINKLER STATE: TX	160	194	228	264	298
COUNTY: YDOKUM STATE: TX	151	184	217	250	283
SMSA: LONGVIEW-MARSHALL, TX COUNTY: HARRISON STATE: TX	137	167	197	227	257
NON SMSA					
COUNTY: CASS STATE: TX	120	146	172	197	224
COUNTY: MARION STATE: TX	128	156	183	211	239
COUNTY: MORRIS STATE: TX	120	146	172	197	224
COUNTY: PANOLA STATE: TX	128	156	183	211	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
SMSA: FAYETTEVILLE-SPRINGDALE, AR COUNTY: BENTON STATE: AR	146	178	209	241	272
COUNTY: WASHINGTON STATE: AR	146	178	209	241	272
SMSA: FORT SMITH, AR-OK COUNTY: CRAWFORD STATE: AR	140	169	199	229	259
COUNTY: SEBASTIAN STATE: AR	140	169	199	229	259
SMSA: LITTLE ROCK-NORTH LITTLE ROCK, AR COUNTY: PULASKI STATE: AR	175	212	251	288	326
COUNTY: SALINE STATE: AR	175	212	251	288	326
SMSA: MEMPHIS, TN-AR-MS COUNTY: CRITTENDEN STATE: AR	171	208	244	281	318
SMSA: PINE BLUFF, AR COUNTY: JEFFERSON STATE: AR	142	173	204	234	265
SMSA: TEXARKANA, TX-AR COUNTY: LITTLE RIVER STATE: AR	137	167	197	227	257
COUNTY: MILLER STATE: AR	137	167	197	227	257
NON SMSA					
COUNTY: ARKANSAS STATE: AR	142	173	204	234	265
COUNTY: ASHLEY STATE: AR	128	156	183	211	239
COUNTY: BAXTER STATE: AR	150	182	215	248	280
COUNTY: BOONE STATE: AR	150	182	215	248	280
COUNTY: BRADLEY STATE: AR	128	156	183	211	239
COUNTY: CALHOUN STATE: AR	128	156	183	211	239
COUNTY: CARROLL STATE: AR	150	182	215	248	280
COUNTY: CHICOT STATE: AR	128	156	183	211	239
COUNTY: CLARK STATE: AR	126	152	180	207	234
COUNTY: CLAY STATE: AR	141	171	202	232	263
COUNTY: CLEBURNE STATE: AR	126	152	180	207	234
COUNTY: CLEVELAND STATE: AR	142	173	204	234	265
COUNTY: COLUMBIA STATE: AR	128	156	183	211	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY: CONWAY STATE: AR	126	152	180	207	234
COUNTY: CRAIGHEAD STATE: AR	141	171	202	232	263
COUNTY: CROSS STATE: AR	141	171	202	232	263
COUNTY: DALLAS STATE: AR	128	156	183	211	239
COUNTY: DESHA STATE: AR	128	156	183	211	239
COUNTY: DREW STATE: AR	128	156	183	211	239
COUNTY: FAULKNER STATE: AR	126	152	180	207	234
COUNTY: FRANKLIN STATE: AR	127	155	181	209	237
COUNTY: FULTON STATE: AR	126	152	180	207	234
COUNTY: GARLAND STATE: AR	126	152	180	207	234
COUNTY: GRANT STATE: AR	142	173	204	234	265
COUNTY: GREENE STATE: AR	141	171	202	232	263
COUNTY: HEMPSTEAD STATE: AR	120	146	172	197	224
COUNTY: HOTSPRING STATE: AR	126	152	180	207	234
COUNTY: HOWARD STATE: AR	120	146	172	197	224
COUNTY: INDEPENDENCE STATE: AR	126	152	180	207	234
COUNTY: IZARD STATE: AR	126	152	180	207	234
COUNTY: JACKSON STATE: AR	142	173	204	234	265
COUNTY: JOHNSON STATE: AR	126	152	180	207	234
COUNTY: LAFAYETTE STATE: AR	120	146	172	197	224
COUNTY: LAWRENCE STATE: AR	141	171	202	232	263
COUNTY: LEE STATE: AR	141	171	202	232	263
COUNTY: LINCOLN STATE: AR	142	173	204	234	265
COUNTY: LOGAN STATE: AR	127	155	181	209	237

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY: LONGKE STATE: AR	142	173	204	234	265
COUNTY: MADISON STATE: AR	146	178	209	241	272
COUNTY: MARION STATE: AR	150	182	215	248	280
COUNTY: MISSISSIPPI STATE: AR	141	171	202	232	263
COUNTY: MONROE STATE: AR	142	173	204	234	265
COUNTY: MONTGOMERY STATE: AR	126	152	180	207	234
COUNTY: NEVADA STATE: AR	120	146	172	197	224
COUNTY: NEWTON STATE: AR	150	182	215	248	280
COUNTY: OUACHITA STATE: AR	128	156	183	211	239
COUNTY: PERRY STATE: AR	126	152	180	207	234
COUNTY: PHILLIPS STATE: AR	141	171	202	232	263
COUNTY: PIKE STATE: AR	126	152	180	207	234
COUNTY: POINSETT STATE: AR	141	171	202	232	263
COUNTY: POLK STATE: AR	127	155	181	209	237
COUNTY: POPE STATE: AR	126	152	180	207	234
COUNTY: PRAIRIE STATE: AR	142	173	204	234	265
COUNTY: RANDOLPH STATE: AR	141	171	202	232	263
COUNTY: ST FRANCIS STATE: AR	141	171	202	232	263
COUNTY: SCOTT STATE: AR	127	155	181	209	237
COUNTY: SEARCY STATE: AR	150	182	215	248	280
COUNTY: SEVIER STATE: AR	120	146	172	197	224
COUNTY: SHARP STATE: AR	126	152	180	207	234
COUNTY: STONE STATE: AR	126	152	180	207	234
COUNTY: UNION STATE: AR	128	156	183	211	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1980

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY VAN BUREN STATE AR	126	152	180	207	234
COUNTY WHITE STATE AR	142	173	204	234	265
COUNTY WOODRUFF STATE AR	142	173	204	234	265
COUNTY YELL STATE AR	127	155	181	209	237
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA BATON ROUGE, LA					
PARISH ASCENSION STATE LA	216	262	309	356	403
PARISH E BATON ROUG STATE LA	216	262	309	356	403
PARISH LIVINGSTON STATE LA	216	262	309	356	403
PARISH W BATON ROUG STATE LA	216	262	309	356	403
SMSA LAFAYETTE, LA					
PARISH LAFAYETTE STATE LA	164	199	235	270	305
SMSA LAKE CHARLES, LA					
PARISH CALCASIEU STATE LA	164	199	235	270	305
SMSA NEW ORLEANS, LA					
PARISH JEFFERSON STATE LA	184	224	264	303	343
PARISH ORLEANS STATE LA	184	224	264	303	343
PARISH ST BERNARD STATE LA	184	224	264	303	343
PARISH ST TAMMANY STATE LA	184	224	264	303	343
NON SMSA					
PARISH ACADIA STATE LA	130	158	186	213	241

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
NON SMSA					
PARISH ALLEN STATE LA	164	199	235	270	305
PARISH ASSUMPTION STATE LA	145	176	207	239	270
PARISH BEAUREGARD STATE LA	164	199	235	270	305
PARISH CAMERON STATE LA	164	199	235	270	305
PARISH E FELICIANA STATE LA	130	158	186	213	241
PARISH EVANGELINE STATE LA	130	158	186	213	241
PARISH IBERIA STATE LA	130	158	186	213	241
PARISH IBERVILLE STATE LA	130	158	186	213	241
PARISH JEFFERSON DA STATE LA	164	199	235	270	305
PARISH LAFOURCHE STATE LA	145	176	207	239	270
PARISH PLAQUEMINES STATE LA	145	176	207	239	270
PARISH POINTE COUPE STATE LA	130	158	186	213	241
PARISH ST CHARLES STATE LA	145	176	207	239	270
PARISH ST HELENA STATE LA	130	158	186	213	241
PARISH ST JAMES STATE LA	145	176	207	239	270
PARISH ST JOHN THE STATE LA	145	176	207	239	270
PARISH ST LANDRY STATE LA	130	158	186	213	241
PARISH ST MARTIN STATE LA	130	158	186	213	241
PARISH ST MARY STATE LA	130	158	186	213	241
PARISH TANGIPAHODA STATE LA	145	176	207	239	270
PARISH TERREBONNE STATE LA	145	176	207	239	270
PARISH VERMILION STATE LA	130	158	186	213	241
PARISH WASHINGTON STATE LA	145	176	207	239	270
PARISH W FELICIANA STATE LA	130	158	186	213	241

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA: ALEXANDRIA, LA					
PARISH: GRANT	137	167	197	227	257
STATE: LA					
PARISH: RAPIDES	137	167	197	227	257
STATE: LA					
SMSA: MONROE, LA					
PARISH: OUACHITA	137	167	197	227	257
STATE: LA					
SMSA: SHREVEPORT, LA					
PARISH: BOSSIER	169	206	242	280	316
STATE: LA					
PARISH: CADD0	169	206	242	280	316
STATE: LA					
PARISH: WEBSTER	169	206	242	280	316
STATE: LA					
NON SMSA					
PARISH: AVOUELLES	137	167	197	227	257
STATE: LA					
PARISH: BIENVILLE	128	156	183	211	239
STATE: LA					
PARISH: CALDWELL	137	167	197	227	257
STATE: LA					
PARISH: CATAHOULA	137	167	197	227	257
STATE: LA					
PARISH: CLAIBORNE	128	156	183	211	239
STATE: LA					
PARISH: CONCORDIA	130	158	186	213	241
STATE: LA					
PARISH: DE SOTO	128	156	183	211	239
STATE: LA					
PARISH: EAST CARROLL	137	167	197	227	257
STATE: LA					
PARISH: FRANKLIN	137	167	197	227	257
STATE: LA					
PARISH: JACKSON	137	167	197	227	257
STATE: LA					
PARISH: LA SALLE	137	167	197	227	257
STATE: LA					
PARISH: LINCOLN	137	167	197	227	257
STATE: LA					
PARISH: MADISON	137	167	197	227	257
STATE: LA					
PARISH: MOREHOUSE	137	167	197	227	257
STATE: LA					
PARISH: NATCHITOCHES	137	167	197	227	257
STATE: LA					
PARISH: RED RIVER	128	156	183	211	239
STATE: LA					
PARISH: RICHLAND	137	167	197	227	257
STATE: LA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
NON SMSA					
PARISH: SABINE	128	156	183	211	239
STATE: LA					
PARISH: TENSAS	137	167	197	227	257
STATE: LA					
PARISH: UNION	137	167	197	227	257
STATE: LA					
PARISH: VERNON	164	199	235	270	305
STATE: LA					
PARISH: WEST CARROLL	137	167	197	227	257
STATE: LA					
PARISH: WINN	137	167	197	227	257
STATE: LA					
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
SMSA: ENID, OK					
COUNTY: GARFIELD	146	178	209	241	272
STATE: OK					
SMSA: LAWTON, OK					
COUNTY: COMANCHE	166	203	239	274	311
STATE: OK					
SMSA: OKLAHOMA CITY, OK					
COUNTY: CANADIAN	171	207	243	280	316
STATE: OK					
COUNTY: CLEVELAND	171	207	243	280	316
STATE: OK					
COUNTY: MCCLAIN	171	207	243	280	316
STATE: OK					
COUNTY: OKLAHOMA	171	207	243	280	316
STATE: OK					
COUNTY: POTTAWATOMIE	171	207	243	280	316
STATE: OK					
NON SMSA					
COUNTY: ALFALFA	140	169	199	229	259
STATE: OK					
COUNTY: BEAVER	146	178	209	241	272
STATE: OK					
COUNTY: BECKHAM	146	178	209	241	272
STATE: OK					
COUNTY: BLAINE	140	169	199	229	259
STATE: OK					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY: CADDIS	166	203	239	274	311
STATE: OK					
COUNTY: CARTER	131	159	188	216	244
STATE: OK					
COUNTY: CIMARRON	146	178	209	241	272
STATE: OK					
COUNTY: COTTON	166	203	239	274	311
STATE: OK					
COUNTY: CUSTER	146	178	209	241	272
STATE: OK					
COUNTY: DEWEY	140	169	199	229	259
STATE: OK					
COUNTY: ELLIS	140	169	199	229	259
STATE: OK					
COUNTY: GARVIN	131	159	188	216	244
STATE: OK					
COUNTY: GRADY	131	159	188	216	244
STATE: OK					
COUNTY: GRANT	140	169	199	229	259
STATE: OK					
COUNTY: GREER	166	203	239	274	311
STATE: OK					
COUNTY: HARMON	166	203	239	274	311
STATE: OK					
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY: HARPER	140	169	199	229	259
STATE: OK					
COUNTY: JACKSON	166	203	239	274	311
STATE: OK					
COUNTY: JEFFERSON	166	203	239	274	311
STATE: OK					
COUNTY: JOHNSTON	120	146	172	197	224
STATE: OK					
COUNTY: KAY	140	169	199	229	259
STATE: OK					
COUNTY: KINGFISHER	140	169	199	229	259
STATE: OK					
COUNTY: KIOWA	166	203	239	274	311
STATE: OK					
COUNTY: LINCOLN	140	169	199	229	259
STATE: OK					
COUNTY: LOGAN	140	169	199	229	259
STATE: OK					
COUNTY: LOVE	120	146	172	197	224
STATE: OK					
COUNTY: MAJOR	140	169	199	229	259
STATE: OK					
COUNTY: MARSHALL	146	178	209	241	272
STATE: OK					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY: MURRAY	120	146	172	197	224
STATE: OK					
COUNTY: NOBLE	140	169	199	229	259
STATE: OK					
COUNTY: PAYNE	166	203	239	274	311
STATE: OK					
COUNTY: PONTOTOC	131	159	188	216	244
STATE: OK					
COUNTY: ROGER MILLS	140	169	199	229	259
STATE: OK					
COUNTY: SEMINOLE	131	159	188	216	244
STATE: OK					
COUNTY: STEPHENS	166	203	239	274	311
STATE: OK					
COUNTY: TEXAS	146	178	209	241	272
STATE: OK					
COUNTY: TILLMAN	166	203	239	274	311
STATE: OK					
COUNTY: WASHITA	140	169	199	229	259
STATE: OK					
COUNTY: WOODS	140	169	199	229	259
STATE: OK					
COUNTY: WOODWARD	146	178	209	241	272
STATE: OK					
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
SMSA: FORT SMITH, AR-OK					
COUNTY: LE FLORE	140	169	199	229	259
STATE: OK					
COUNTY: SEQUOYAH	140	169	199	229	259
STATE: OK					
SMSA: TULSA, OK					
COUNTY: CREEK	179	218	256	295	333
STATE: OK					
COUNTY: MAYES	179	218	256	295	333
STATE: OK					
COUNTY: OSAGE	179	218	256	295	333
STATE: OK					
COUNTY: ROGERS	179	218	256	295	333
STATE: OK					
COUNTY: TULSA	179	218	256	295	333
STATE: OK					
COUNTY: WAGONER	179	218	256	295	333
STATE: OK					
NON SMSA					
COUNTY: ADAIR	146	178	209	241	272
STATE: OK					
COUNTY: ATCKA	120	146	172	197	224
STATE: OK					
COUNTY: BRYAN	146	178	209	241	272
STATE: OK					
COUNTY: CHEROKEE	146	178	209	241	272
STATE: OK					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 6OKLAHOMA CITY, OKLAHOMA AREA OFFICE
NON SMSA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COUNTY: CHOCTAW STATE: OK	120	146	172	197	224
COUNTY: COAL STATE: OK	120	146	172	197	224
COUNTY: CRAIG STATE: OK	131	159	188	216	244
COUNTY: DELAWARE STATE: OK	146	178	209	241	272
COUNTY: HASKELL STATE: OK	131	159	188	216	244
COUNTY: HUGHES STATE: OK	120	146	172	197	224
COUNTY: LATIMER STATE: OK	131	159	188	216	244
COUNTY: MCCURTAIN STATE: OK	131	159	188	216	244
COUNTY: MCINTOSH STATE: OK	140	169	199	229	259
COUNTY: MUSKOGEE STATE: OK	146	178	209	241	272
COUNTY: NOWATA STATE: OK	140	169	199	229	259
COUNTY: OKFUSKEE STATE: OK	140	169	199	229	259
OKLAHOMA CITY, OKLAHOMA AREA OFFICE NON SMSA					
COUNTY: OKMULGEE STATE: OK	140	169	199	229	259
COUNTY: OTTAWA STATE: OK	131	159	188	216	244
COUNTY: PAWNEE STATE: OK	140	169	199	229	259
COUNTY: PITTSBURG STATE: OK	131	159	188	216	244
COUNTY: PUSHMATAHA STATE: OK	131	159	188	216	244
COUNTY: WASHINGTON STATE: OK	146	178	209	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 6SAN ANTONIO, TEXAS AREA OFFICE
SMSA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AUSTIN, TX COUNTY: HAYS STATE: TX	240	291	343	394	446
COUNTY: TRAVIS STATE: TX	240	291	343	394	446
COUNTY: WILLIAMSON STATE: TX	240	291	343	394	446
BROWNSVILLE-HARLINGEN-SAN BENITO, TX COUNTY: CAMERON STATE: TX	179	218	256	295	333
CORPUS CHRISTI, TX COUNTY: NUECES STATE: TX	175	212	251	288	326
COUNTY: SAN PATRICIO STATE: TX	175	212	251	288	326
LAREDO, TX COUNTY: WEBB STATE: TX	184	224	265	304	344
MC ALLEN-PHARR-EDINBURG, TX COUNTY: HIDALGO STATE: TX	179	218	256	295	333
SAN ANTONIO, TX COUNTY: BEXAR STATE: TX	198	241	284	327	369
COUNTY: COMAL STATE: TX	198	241	284	327	369
COUNTY: GUADALUPE STATE: TX	198	241	284	327	369
SAN ANTONIO, TEXAS AREA OFFICE NON SMSA					
COUNTY: ARANSAS STATE: TX	184	224	265	304	344
COUNTY: ATASCOSA STATE: TX	147	179	211	243	274
COUNTY: BANDERA STATE: TX	168	205	241	276	313
COUNTY: BASTROP STATE: TX	157	191	225	259	293
COUNTY: BFE STATE: TX	184	224	265	304	344
COUNTY: BLANCO STATE: TX	157	191	225	259	293
COUNTY: BROOKS STATE: TX	184	224	265	304	344
COUNTY: BURNET STATE: TX	157	191	225	259	293
COUNTY: CALDWELL STATE: TX	157	191	225	259	293
COUNTY: CALHOUN STATE: TX	147	179	211	243	274
COUNTY: DE WITT STATE: TX	147	179	211	243	274
COUNTY: DIMMIT STATE: TX	184	224	265	304	344

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: DUVAL STATE: TX	184	224	265	304	344
COUNTY: EDWARDS STATE: TX	147	179	211	243	274
COUNTY: FAYETTE STATE: TX	156	190	223	256	290
COUNTY: FRIO STATE: TX	147	179	211	243	274
COUNTY: GILLESPIE STATE: TX	147	179	211	243	274
COUNTY: GOLIAO STATE: TX	147	179	211	243	274
COUNTY: GONZALES STATE: TX	147	179	211	243	274
COUNTY: JACKSON STATE: TX	147	179	211	243	274
COUNTY: JIM HOGG STATE: TX	184	224	265	304	344
COUNTY: JIM WELLS STATE: TX	184	224	265	304	344
COUNTY: KARNES STATE: TX	147	179	211	243	274
COUNTY: KENDALL STATE: TX	147	179	211	243	274
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: KENEDY STATE: TX	184	224	265	304	344
COUNTY: KERR STATE: TX	147	179	211	243	274
COUNTY: KIMNEY STATE: TX	147	179	211	243	274
COUNTY: KLEBERG STATE: TX	184	224	265	304	344
COUNTY: LA SALLE STATE: TX	184	224	265	304	344
COUNTY: LAUACA STATE: TX	147	179	211	243	274
COUNTY: LEE STATE: TX	157	191	225	259	293
COUNTY: LIVE OAK STATE: TX	184	224	265	304	344
COUNTY: LLANO STATE: TX	157	191	225	259	293
COUNTY: MCMULLEN STATE: TX	184	224	265	304	344
COUNTY: MAVERICK STATE: TX	147	179	211	243	274
COUNTY: MEDINA STATE: TX	147	179	211	243	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: REAL STATE: TX	147	179	211	243	274
COUNTY: REFUGIO STATE: TX	184	224	265	304	344
COUNTY: STARR STATE: TX	184	224	265	304	344
COUNTY: UVALDE STATE: TX	147	179	211	243	274
COUNTY: VAL VERDE STATE: TX	147	179	211	243	274
COUNTY: VICTORIA STATE: TX	187	226	267	306	347
COUNTY: WILLACY STATE: TX	184	224	265	304	344
COUNTY: WILSON STATE: TX	147	179	211	243	274
COUNTY: ZAPATA STATE: TX	184	224	265	304	344
COUNTY: ZAVALA STATE: TX	147	179	211	243	274
REGION 7					
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: KANSAS CITY, MO-KS					
COUNTY: CASS STATE: MO	185	225	266	307	347
COUNTY: CLAY STATE: MO	185	225	266	307	347
COUNTY: JACKSON STATE: MO	185	225	266	307	347
COUNTY: PLATTE STATE: MO	185	225	266	307	347
COUNTY: RAY STATE: MO	185	225	266	307	347
COUNTY: JOHNSON STATE: KS	185	225	266	307	347
COUNTY: WYANDOTTE STATE: KS	185	225	266	307	347
SMSA: ST. JOSEPH, MO					
COUNTY: ANDREW STATE: MO	133	162	190	219	249
COUNTY: BUCHANAN STATE: MO	133	162	190	219	249
SMSA: SPRINGFIELD, MO					
COUNTY: CHRISTIAN STATE: MO	145	172	204	237	269
COUNTY: GREENE STATE: MO	145	172	204	237	269
NON SMSA					
COUNTY: ATCHISON STATE: MO	133	162	190	219	249

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: BARRY STATE: MO	131	159	187	215	244
COUNTY: BARTON STATE: MO	115	139	164	189	213
COUNTY: BATES STATE: MO	133	162	190	219	249
COUNTY: BENTON STATE: MO	133	162	190	219	249
COUNTY: CALDWELL STATE: MO	143	174	204	236	268
COUNTY: CAMDEN STATE: MO	161	195	230	266	300
COUNTY: CARROLL STATE: MO	133	162	190	219	249
COUNTY: CEDAR STATE: MO	115	139	164	189	213
COUNTY: CHARITON STATE: MO	161	195	230	266	300
COUNTY: CLINTON STATE: MO	133	162	190	219	249
COUNTY: DADE STATE: MO	131	159	187	215	244
COUNTY: DALLAS STATE: MO	131	159	187	215	244
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: DAVIESS STATE: MO	143	174	204	236	268
COUNTY: DE KALB STATE: MO	133	162	190	219	249
COUNTY: GENTRY STATE: MO	133	162	190	219	249
COUNTY: GRUNDY STATE: MO	143	174	204	236	268
COUNTY: HARRISON STATE: MO	143	174	204	236	268
COUNTY: HENRY STATE: MO	133	162	190	219	249
COUNTY: HICKORY STATE: MO	131	159	187	215	244
COUNTY: HOLT STATE: MO	133	162	190	219	249
COUNTY: JASPER STATE: MO	129	147	177	199	221
COUNTY: JOHNSON STATE: MO	149	173	213	232	258
COUNTY: LALEDE STATE: MO	143	173	204	234	266
COUNTY: LAFAYETTE STATE: MO	133	162	190	219	249

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: LAWRENCE STATE: MO	131	159	187	215	244
COUNTY: LINN STATE: MO	143	174	204	236	268
COUNTY: LIVINGSTON STATE: MO	143	174	204	236	268
COUNTY: McDONALD STATE: MO	115	139	164	189	213
COUNTY: MERCER STATE: MO	143	174	204	236	268
COUNTY: MILLER STATE: MO	161	195	230	266	300
COUNTY: MORGAN STATE: MO	161	195	230	266	300
COUNTY: NEWTON STATE: MO	129	147	177	199	221
COUNTY: NODAWAY STATE: MO	149	173	213	232	258
COUNTY: PETTIS STATE: MO	133	162	190	219	249
COUNTY: POLK STATE: MO	131	159	187	215	244
COUNTY: PULASKI STATE: MO	143	173	204	234	266
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: PUTNAM STATE: MO	143	174	204	236	268
COUNTY: ST. CLAIR STATE: MO	115	139	164	189	213
COUNTY: SALINE STATE: MO	133	162	190	219	249
COUNTY: STONE STATE: MO	131	159	187	215	244
COUNTY: SULLIVAN STATE: MO	143	174	204	236	268
COUNTY: TANEY STATE: MO	131	159	187	215	244
COUNTY: VERNON STATE: MO	115	139	164	189	213
COUNTY: WEBSTER STATE: MO	131	159	187	215	244
COUNTY: WORTH STATE: MO	133	162	190	219	249
SMSA: LAWRENCE, KS					
COUNTY: DOUGLAS STATE: KS	196	230	275	320	348
SMSA: TOPEKA, KS					
COUNTY: JEFFERSON STATE: KS	173	209	247	284	322
COUNTY: OSAGE STATE: KS	173	209	247	284	322

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION B & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: TOPEKA, KS					
COUNTY: SHAWNEE STATE:KS	173	209	247	284	322
SMSA: WICHITA, KS					
COUNTY: BUTLER STATE:KS	182	213	248	292	323
COUNTY: SEDGWICK STATE:KS	182	213	248	292	323
NON SMSA					
COUNTY: ALLEN STATE:KS	115	139	164	189	213
COUNTY: ANDERSON STATE:KS	138	168	199	229	259
COUNTY: ATCHISON STATE:KS	138	168	199	229	259
COUNTY: BARBER STATE:KS	122	149	175	202	229
COUNTY: BARTON STATE:KS	132	160	189	217	247
COUNTY: BOURBON STATE:KS	115	139	164	189	213
COUNTY: BROWN STATE:KS	138	168	199	229	259
COUNTY: CHASE STATE:KS	122	149	175	202	229
COUNTY: CHAUTAUQUA STATE:KS	122	149	175	202	229
NON SMSA					
COUNTY: CHEROKEE STATE:KS	115	139	164	189	213
COUNTY: CHEYENNE STATE:KS	132	160	189	217	247
COUNTY: CLARK STATE:KS	122	149	175	202	229
COUNTY: CLAY STATE:KS	132	160	189	217	247
COUNTY: CLOUD STATE:KS	132	160	189	217	247
COUNTY: COFFEY STATE:KS	138	168	199	229	259
COUNTY: COMANCHE STATE:KS	122	149	175	202	229
COUNTY: COWLEY STATE:KS	122	149	175	202	229
COUNTY: CRAWFORD STATE:KS	115	139	164	189	213
COUNTY: DECATUR STATE:KS	132	160	189	217	247
COUNTY: DICKINSON STATE:KS	132	160	189	217	247
COUNTY: DONIPHAN STATE:KS	138	168	199	229	259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION B & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: EDWARDS STATE:KS	122	149	175	202	229
COUNTY: ELK STATE:KS	122	149	175	202	229
COUNTY: ELLIS STATE:KS	132	160	189	217	247
COUNTY: ELLSWORTH STATE:KS	132	160	189	217	247
COUNTY: FINNEY STATE:KS	122	149	175	202	229
COUNTY: FORD STATE:KS	122	149	175	202	229
COUNTY: FRANKLIN STATE:KS	138	168	199	229	259
COUNTY: GEARY STATE:KS	138	168	199	229	259
COUNTY: GOVE STATE:KS	132	160	189	217	247
COUNTY: GRAHAM STATE:KS	132	160	189	217	247
COUNTY: GRANT STATE:KS	122	149	175	202	229
COUNTY: GRAY STATE:KS	122	149	175	202	229
COUNTY: GREELEY STATE:KS	132	160	189	217	247
COUNTY: GREENWOOD STATE:KS	122	149	175	202	229
COUNTY: HAMILTON STATE:KS	122	149	175	202	229
COUNTY: HARPER STATE:KS	122	149	175	202	229
COUNTY: HARVEY STATE:KS	134	161	188	226	237
COUNTY: HASKELL STATE:KS	122	149	175	202	229
COUNTY: HODGEMAN STATE:KS	122	149	175	202	229
COUNTY: JACKSON STATE:KS	138	168	199	229	259
COUNTY: JEWELL STATE:KS	132	160	189	217	247
COUNTY: KEARNY STATE:KS	122	149	175	202	229
COUNTY: KINGMAN STATE:KS	122	149	175	202	229
COUNTY: KIDWA STATE:KS	122	149	175	202	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE NON SMSA					
COUNTY: LABETTE STATE: KS	115	139	164	189	213
COUNTY: LANE STATE: KS	132	160	189	217	247
COUNTY: LEAVENWORTH STATE: KS	173	209	247	284	322
COUNTY: LINCOLN STATE: KS	132	160	189	217	247
COUNTY: LINN STATE: KS	138	168	199	229	259
COUNTY: LOGAN STATE: KS	132	160	189	217	247
COUNTY: LYON STATE: KS	138	168	199	229	259
COUNTY: MCPHERSON STATE: KS	132	160	189	217	247
COUNTY: MARION STATE: KS	122	149	175	202	229
COUNTY: MARSHALL STATE: KS	138	168	199	229	259
COUNTY: MEADE STATE: KS	122	149	175	202	229
COUNTY: MIAMI STATE: KS	138	168	199	229	259
COUNTY: MITCHELL STATE: KS	132	160	189	217	247
COUNTY: MONTGOMERY STATE: KS	115	139	164	189	213
COUNTY: MORRIS STATE: KS	132	160	189	217	247
COUNTY: MORTON STATE: KS	122	149	175	202	229
COUNTY: NEMAHIA STATE: KS	138	168	199	229	259
COUNTY: NEOSHO STATE: KS	115	139	164	189	213
COUNTY: NESS STATE: KS	132	160	189	217	247
COUNTY: NORTON STATE: KS	132	160	189	217	247
COUNTY: OSBORNE STATE: KS	132	160	189	217	247
COUNTY: OTTAWA STATE: KS	132	160	189	217	247
COUNTY: PAWNEE STATE: KS	122	149	175	202	229
COUNTY: PHILLIPS STATE: KS	132	160	189	217	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE NON SMSA					
COUNTY: POTTAWATOMIE STATE: KS	138	168	199	229	259
COUNTY: PRATT STATE: KS	122	149	175	202	229
COUNTY: RAWLINS STATE: KS	132	160	189	217	247
COUNTY: RENO STATE: KS	122	149	175	202	229
COUNTY: REPUBLIC STATE: KS	132	160	189	217	247
COUNTY: RICE STATE: KS	132	160	189	217	247
COUNTY: RILEY STATE: KS	161	198	231	269	301
COUNTY: ROOKS STATE: KS	132	160	189	217	247
COUNTY: RUSH STATE: KS	132	160	189	217	247
COUNTY: RUSSELL STATE: KS	132	160	189	217	247
COUNTY: SALINE STATE: KS	132	160	189	217	247
COUNTY: SCOTT STATE: KS	132	160	189	217	247
COUNTY: SEWARD STATE: KS	122	149	175	202	229
COUNTY: SHERIDAN STATE: KS	132	160	189	217	247
COUNTY: SHERMAN STATE: KS	132	160	189	217	247
COUNTY: SMITH STATE: KS	132	160	189	217	247
COUNTY: STAFFORD STATE: KS	122	149	175	202	229
COUNTY: STANTON STATE: KS	122	149	175	202	229
COUNTY: STEVENS STATE: KS	122	149	175	202	229
COUNTY: SUMNER STATE: KS	122	149	175	202	229
COUNTY: THOMAS STATE: KS	132	160	189	217	247
COUNTY: TREGO STATE: KS	132	160	189	217	247
COUNTY: WABAUNSEE STATE: KS	138	168	199	229	259
COUNTY: WALLACE STATE: KS	132	160	189	217	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: WASHINGTON STATE: KS	138	168	199	229	259
COUNTY: WICHITA STATE: KS	132	160	189	217	247
COUNTY: WILSON STATE: KS	115	139	164	189	213
COUNTY: WOODSON STATE: KS	115	139	164	189	213
OMAHA, NEBRASKA AREA OFFICE					
SMSA: CEDAR RAPIDS, IA					
COUNTY: LINN STATE: IA	195	238	280	322	364
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: SCOTT STATE: IA	196	239	281	325	367
SMSA: DES MOINES, IA					
COUNTY: POLK STATE: IA	207	252	296	342	386
COUNTY: WARREN STATE: IA	207	252	296	342	386
SMSA: DUBUQUE, IA					
COUNTY: DUBUQUE STATE: IA	164	215	280	334	366
SMSA: IOWA CITY, IA					
COUNTY: JOHNSON STATE: IA	195	238	280	322	364
SMSA: OMAHA, NE-IA					
COUNTY: POTTAWATTAMI STATE: IA	189	228	270	311	351
SMSA: SIOUX CITY, IA-NE					
COUNTY: WOODBURY STATE: IA	171	221	274	318	353
SMSA: WATERLOO-CEDAR FALLS, IA					
COUNTY: BLACK HAWK STATE: IA	163	198	233	272 3	328 24
NON SMSA					
COUNTY: ADAIR STATE: IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EM40 (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: ADAMS STATE: IA	152	186	219	252	285
COUNTY: ALLAMAKEE STATE: IA	149	181	214	246	279
COUNTY: APPANOOSE STATE: IA	152	186	219	252	285
COUNTY: AUDUBON STATE: IA	147	178	211	242	274
COUNTY: BENTON STATE: IA	195	238	280	322	364
COUNTY: BOONE STATE: IA	152	186	219	252	285
COUNTY: BREMER STATE: IA	163	198	233	269	304
COUNTY: BUCHANAN STATE: IA	163	198	233	269	304
COUNTY: BUENA VISTA STATE: IA	145	177	208	241	272
COUNTY: BUTLER STATE: IA	163	198	233	269	304
COUNTY: CALHOUN STATE: IA	146	177	208	241	272
COUNTY: CARROLL STATE: IA	147	178	211	242	274
COUNTY: CASS STATE: IA	146	177	208	241	272
COUNTY: CEDAR STATE: IA	195	238	280	322	364
COUNTY: CERRO GOROO STATE: IA	163	198	233	269	304
COUNTY: CHEROKEE STATE: IA	147	178	211	242	274
COUNTY: CHICKASAW STATE: IA	163	198	233	269	304
COUNTY: CLARKE STATE: IA	152	186	219	252	285
COUNTY: CLAY STATE: IA	146	177	208	241	272
COUNTY: CLAYTON STATE: IA	149	181	214	246	279
COUNTY: CLINTON STATE: IA	165	201	237	273	309
COUNTY: CRAWFORD STATE: IA	147	178	211	242	274
COUNTY: DALLAS STATE: IA	152	186	219	252	285
COUNTY: DAVIS STATE: IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: DECATUR STATE: IA	152	186	219	252	285
COUNTY: DELAWARE STATE: IA	149	181	214	246	279
COUNTY: DES MOINES STATE: IA	150	182	215	248	281
COUNTY: DICKINSON STATE: IA	149 3	177	208	241	272
COUNTY: EMMET STATE: IA	146	177	208	241	272
COUNTY: FAYETTE STATE: IA	163	198	233	269	304
COUNTY: FLOYD STATE: IA	163	198	233	269	304
COUNTY: FRANKLIN STATE: IA	163	198	233	269	304
COUNTY: FREMONT STATE: IA	146	177	208	241	272
COUNTY: GREENE STATE: IA	147	178	211	242	274
COUNTY: GRUNDY STATE: IA	163	198	233	269	304
COUNTY: GUTHRIE STATE: IA	147	178	211	242	274
COUNTY: HAMILTON STATE: IA	146	177	208	241	272
COUNTY: HANCOCK STATE: IA	163	198	233	269	304
COUNTY: HAROLD STATE: IA	163	198	233	269	304
COUNTY: HARRISON STATE: IA	146	177	208	241	272
COUNTY: HENRY STATE: IA	150	182	215	248	281
COUNTY: HOWARD STATE: IA	149	181	214	246	279
COUNTY: HUMBOLDT STATE: IA	146	177	208	241	272
COUNTY: IOWA STATE: IA	147	178	211	242	274
COUNTY: IOWA STATE: IA	195	238	280	322	364
COUNTY: JACKSON STATE: IA	149	181	214	246	279
COUNTY: JASPER STATE: IA	152	186	219	252	285
COUNTY: JEFFERSON STATE: IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: JONES STATE: IA	195	238	280	322	364
COUNTY: KEOKUK STATE: IA	152	186	219	252	285
COUNTY: KOSSUTH STATE: IA	163	198	233	269	304
COUNTY: LEE STATE: IA	150	182	215	248	281
COUNTY: LOUISA STATE: IA	165	201	237	273	309
COUNTY: LUCAS STATE: IA	152	186	219	252	285
COUNTY: LYON STATE: IA	163	198	233	269	304
COUNTY: MADISON STATE: IA	152	186	219	252	285
COUNTY: MAHASKA STATE: IA	152	186	219	252	285
COUNTY: MARION STATE: IA	152	186	219	252	285
COUNTY: MARSHALL STATE: IA	152	186	219	252	285
COUNTY: MILLS STATE: IA	146	177	208	241	272
COUNTY: MITCHELL STATE: IA	163	198	233	269	304
COUNTY: MONONA STATE: IA	147	178	211	242	274
COUNTY: MONROE STATE: IA	152	186	219	252	285
COUNTY: MONTGOMERY STATE: IA	146	177	208	241	272
COUNTY: MUSCATINE STATE: IA	165	201	237	273	309
COUNTY: O'BRIEN STATE: IA	147	178	211	242	274
COUNTY: OSCEOLA STATE: IA	163	198	233	269	304
COUNTY: PAGE STATE: IA	146	177	208	241	272
COUNTY: PALO ALTO STATE: IA	146	177	208	241	272
COUNTY: PLYMOUTH STATE: IA	147	178	211	242	274
COUNTY: POCAHONTAS STATE: IA	146	177	208	241	272
COUNTY: POWESHIEK STATE: IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY:RINGGOLD STATE:IA	152	186	219	252	285
COUNTY:SAC STATE:IA	147	178	211	242	274
COUNTY:SHELBY STATE:IA	146	177	208	241	272
COUNTY:SIoux STATE:IA	147	178	211	242	274
COUNTY:STORY STATE:IA	166	192	232	260	285
COUNTY:TAMA STATE:IA	152	186	219	252	285
COUNTY:TAYLOR STATE:IA	152	186	219	252	285
COUNTY:UNION STATE:IA	152	186	219	252	285
COUNTY:VAN BUREN STATE:IA	152	186	219	252	285
COUNTY:WAPELLO STATE:IA	152	186	219	252	285
COUNTY:WASHINGTON STATE:IA	165	201	237	273	309
COUNTY:WAYNE STATE:IA	152	186	219	252	285
COUNTY:WEBSTER STATE:IA	150 4	177	223 15	241	272
COUNTY:WINNEBAGO STATE:IA	163	198	233	269	304
COUNTY:WINNESHIEK STATE:IA	149	181	214	246	279
COUNTY:WORTH STATE:IA	163	198	233	269	304
COUNTY:WRIGHT STATE:IA	146	177	208	241	272
SMSA LINCOLN, NE					
COUNTY:LANCASTER STATE:NE	195	237	279	321	363
SMSA: OMAHA, NE-IA					
COUNTY:DOUGLAS STATE:NE	189	228	270	311	351
COUNTY:SARPY STATE:NE	189	228	270	311	351
SMSA: SIOUX CITY, IA-NE					
COUNTY:DAKOTA STATE:NE	171	221	274	318	353
NON SMSA					
COUNTY:ADAMS STATE:NE	139	188	244	307	339
COUNTY:ANTELOPE STATE:NE	139	171	201	231	262

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY:ARTHUR STATE:NE	139	171	201	231	262
COUNTY:BANNER STATE:NE	137	167	197	227	257
COUNTY:BLAINE STATE:NE	139	171	201	231	262
COUNTY:BOONE STATE:NE	139	171	201	231	262
COUNTY:BOX BUTTE STATE:NE	167	203	238	275	311
COUNTY:BOYD STATE:NE	139	171	201	231	262
COUNTY:BROWN STATE:NE	139	171	201	231	262
COUNTY:BUFFALO STATE:NE	139	171	201	234 3	262
COUNTY:BURT STATE:NE	146	177	208	241	272
COUNTY:BUTLER STATE:NE	146	177	208	241	272
COUNTY:CASS STATE:NE	146	177	208	241	272
COUNTY:CEDAR STATE:NE	147	178	211	242	274
COUNTY:CHASE STATE:NE	160	194	229	263	298
COUNTY:CHERRY STATE:NE	139	171	201	231	262
COUNTY:CHEYENNE STATE:NE	137	167	197	227	257
COUNTY:CLAY STATE:NE	139	171	201	231	262
COUNTY:COLFAX STATE:NE	146	177	208	241	272
COUNTY:CUMING STATE:NE	147	178	211	242	274
COUNTY:CUSTER STATE:NE	139	171	201	231	262
COUNTY:DAWES STATE:NE	137	167	197	227	257
COUNTY:DAWSON STATE:NE	139	171	201	231	262
COUNTY:DEUEL STATE:NE	137	167	197	227	257
COUNTY:DIXON STATE:NE	147	178	211	242	274
COUNTY:DODGE STATE:NE	146	177	208	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: DUNDY STATE: NE	160	194	229	263	298
COUNTY: FILLMORE STATE: NE	146	177	208	241	272
COUNTY: FRANKLIN STATE: NE	139	171	201	231	262
COUNTY: FRONTIER STATE: NE	139	171	201	231	262
COUNTY: FURNAS STATE: NE	139	171	201	231	262
COUNTY: GAGE STATE: NE	171	208	245	282	318
COUNTY: GARDEN STATE: NE	137	167	197	227	257
COUNTY: GARFIELD STATE: NE	139	171	201	231	262
COUNTY: GOSPER STATE: NE	139	171	201	231	262
COUNTY: GRANT STATE: NE	139	171	201	231	262
COUNTY: GREELEY STATE: NE	139	171	201	231	262
COUNTY: HALL STATE: NE	139	171	201	269 38	297 35
COUNTY: HAMILTON STATE: NE	139	171	201	231	262
COUNTY: HARLAN STATE: NE	139	171	201	231	262
COUNTY: HAYES STATE: NE	139	171	201	231	262
COUNTY: HITCHCOCK STATE: NE	139	171	201	231	262
COUNTY: HOLT STATE: NE	147	178	211	242	274
COUNTY: HODGKIN STATE: NE	139	171	201	231	262
COUNTY: HOWARD STATE: NE	139	171	201	231	262
COUNTY: JEFFERSON STATE: NE	146	177	208	241	272
COUNTY: JOHNSON STATE: NE	146	177	208	241	272
COUNTY: KEARNEY STATE: NE	139	171	201	231	262
COUNTY: KEITH STATE: NE	139	171	201	231	262
COUNTY: KEYA PAHA STATE: NE	147	178	211	242	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: KIMBALL STATE: NE	137	167	197	227	257
COUNTY: KNOX STATE: NE	147	178	211	242	274
COUNTY: LINCOLN STATE: NE	139	171	201	231	262
COUNTY: LOGAN STATE: NE	139	171	201	231	262
COUNTY: LOUP STATE: NE	139	171	201	231	262
COUNTY: MCPHERSON STATE: NE	139	171	201	231	262
COUNTY: MADISON STATE: NE	147	178	211	242	274
COUNTY: MERRICK STATE: NE	139	171	201	231	262
COUNTY: MORRILL STATE: NE	137	167	197	227	257
COUNTY: NANCE STATE: NE	139	171	201	231	262
COUNTY: NEMAH STATE: NE	146	177	208	241	272
COUNTY: NUCKOLLS STATE: NE	139	171	201	231	262
COUNTY: OTDE STATE: NE	146	177	208	241	272
COUNTY: PAWNEE STATE: NE	146	177	208	241	272
COUNTY: PERKINS STATE: NE	160	194	229	263	298
COUNTY: PHELPS STATE: NE	139	171	201	231	262
COUNTY: PIERCE STATE: NE	147	178	211	242	274
COUNTY: PLATTE STATE: NE	146	177	208	241	272
COUNTY: POLK STATE: NE	146	177	208	241	272
COUNTY: RED WILLOW STATE: NE	139	171	201	231	262
COUNTY: RICHARDSON STATE: NE	146	177	208	241	272
COUNTY: ROCK STATE: NE	147	178	211	242	274
COUNTY: SALINE STATE: NE	146	177	208	241	272
COUNTY: SAUNDERS STATE: NE	146	177	208	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: SCOTTS BLUFF STATE: NE	137	167	197	227	257
COUNTY: SEWARD STATE: NE	146	177	208	241	272
COUNTY: SHERIDAN STATE: NE	137	167	197	227	257
COUNTY: SHERMAN STATE: NE	139	171	201	231	262
COUNTY: SIOUX STATE: NE	137	167	197	227	257
COUNTY: STANTON STATE: NE	147	178	211	242	274
COUNTY: THAYER STATE: NE	146	177	208	241	272
COUNTY: THOMAS STATE: NE	139	171	201	231	262
COUNTY: THURSTON STATE: NE	147	178	211	242	274
COUNTY: VALLEY STATE: NE	139	171	201	231	262
COUNTY: WASHINGTON STATE: NE	146	177	208	241	272
COUNTY: WAYNE STATE: NE	147	178	211	242	274
COUNTY: WEBSTER STATE: NE	139	171	201	231	262
COUNTY: WHEELER STATE: NE	139	171	201	231	262
COUNTY: YORK STATE: NE	146	177	208	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE					
SMSA: COLUMBIA, MO					
COUNTY: BOONE STATE: MO	171	208	245	282	318
SMSA: ST. LOUIS, MO-IL					
COUNTY: FRANKLIN STATE: MO	187	227	266	306	345
COUNTY: JEFFERSON STATE: MO	187	227	266	306	345
COUNTY: ST. CHARLES STATE: MO	187	227	266	306	345
COUNTY: ST. LOUIS STATE: MO	187	227	266	306	345
INDEP. CITY: ST. LOUIS STATE: MO	187	227	266	306	345
NON SMSA					
COUNTY: ADAIR STATE: MO	161	195	230	266	300
COUNTY: AUDRAIN STATE: MO	161	195	230	266	300
COUNTY: BOLLINGER STATE: MO	125	153	181	208	236
COUNTY: BUTLER STATE: MO	125	153	181	208	236
COUNTY: CALLAWAY STATE: MO	161	195	230	266	300
COUNTY: CAPE GIRARDE STATE: MO	150	182	215	247	280
COUNTY: CARTER STATE: MO	125	153	181	208	236
COUNTY: CLARK STATE: MO	150	182	215	248	281
COUNTY: COLE STATE: MO	161	195	230	266	300
COUNTY: COOPER STATE: MO	161	195	230	266	300
COUNTY: CRAWFORD STATE: MO	143	173	204	234	266
COUNTY: DENT STATE: MO	143	173	204	234	266
COUNTY: DOUGLAS STATE: MO	131	159	187	215	244
COUNTY: DUNKLIN STATE: MO	125	153	181	208	236
COUNTY: GASCONADE STATE: MO	143	173	204	234	266
COUNTY: HOWARD STATE: MO	161	195	230	266	300
COUNTY: HOWELL STATE: MO	131	159	187	215	244
COUNTY: IRON STATE: MO	143	173	204	234	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE NON SMSA					
COUNTY: KNOX STATE: MO	161	195	230	266	300
COUNTY: LEWIS STATE: MO	150	182	215	248	281
COUNTY: LINCOLN STATE: MO	143	173	204	234	266
COUNTY: MACON STATE: MO	161	195	230	266	300
COUNTY: MADISON STATE: MO	143	173	204	234	266
COUNTY: MARIES STATE: MO	143	173	204	234	266
COUNTY: MARION STATE: MO	150	182	215	248	281
COUNTY: MISSISSIPPI STATE: MO	125	153	181	208	236
COUNTY: MONITEAU STATE: MO	161	195	230	266	300
COUNTY: MONROE STATE: MO	161	195	230	266	300
COUNTY: MONTGOMERY STATE: MO	143	173	204	234	266
COUNTY: NEW MAURIO STATE: MO	125	153	181	208	236
COUNTY: OREGON STATE: MO	131	159	187	215	244
COUNTY: OSAGE STATE: MO	161	195	230	266	300
COUNTY: OZARK STATE: MO	131	159	187	215	244
COUNTY: PEMISCOT STATE: MO	125	153	181	208	236
COUNTY: PERRY STATE: MO	143	173	204	234	266
COUNTY: PHELPS STATE: MO	143	173	204	234	266
COUNTY: PIKE STATE: MO	143	173	204	234	266
COUNTY: RALLS STATE: MO	150	182	215	248	281
COUNTY: RANDOLPH STATE: MO	161	195	230	266	300
COUNTY: REYNOLDS STATE: MO	143	173	204	234	266
COUNTY: RIPLEY STATE: MO	125	153	181	208	236
COUNTY: ST. FRANCOIS STATE: MO	143	173	204	234	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE NON SMSA					
COUNTY: STE. GENEVIEV STATE: MO	143	173	204	234	266
COUNTY: SCHUYLER STATE: MO	161	195	230	266	300
COUNTY: SCOTLAND STATE: MO	161	195	230	266	300
COUNTY: SCOTT STATE: MO	150	182	215	247	280
COUNTY: SHANNON STATE: MO	131	159	187	215	244
COUNTY: SHELBY STATE: MO	151	195	230	266	300
COUNTY: STODDARD STATE: MO	125	153	181	208	236
COUNTY: TEXAS STATE: MO	143	173	204	234	266
COUNTY: WARREN STATE: MO	143	173	204	234	266
COUNTY: WASHINGTON STATE: MO	143	173	204	234	266
COUNTY: WAYNE STATE: MO	125	153	181	208	236
COUNTY: WRIGHT STATE: MO	131	159	187	215	244
COUNTY: ALBANY STATE: WY	144	175	206	237	268
COUNTY: BIG HORN STATE: WY	150	183	215	247	279
COUNTY: CAMPBELL STATE: WY	144	175	206	237	268
COUNTY: CARBON STATE: WY	144	175	206	237	268
COUNTY: CONVERSE STATE: WY	144	175	206	237	268
COUNTY: CROOK STATE: WY	150	183	215	247	279
COUNTY: FREMONT STATE: WY	144	175	206	237	268
COUNTY: GOSHEN STATE: WY	144	175	206	237	268
COUNTY: HOT SPRINGS STATE: WY	150	183	215	247	279
COUNTY: JOHNSON STATE: WY	144	175	206	237	268
COUNTY: LARAMIE STATE: WY	200	236	277	318	360
COUNTY: LINCOLN STATE: WY	144	175	206	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: NATRONA STATE: WY	211	255	301	346	391
COUNTY: NIOBRARA STATE: WY	144	175	206	237	268
COUNTY: PARK STATE: WY	150	183	215	247	279
COUNTY: PLAITE STATE: WY	144	175	206	237	268
COUNTY: SHERIDAN STATE: WY	144	175	206	237	268
COUNTY: SUBLETTE STATE: WY	144	175	206	237	268
COUNTY: SWEETWATER STATE: WY	144	175	206	237	263
COUNTY: TETON STATE: WY	197	239	281	323	366
COUNTY: UINTE STATE: WY	144	175	206	237	268
COUNTY: WASHAKIE STATE: WY	150	183	215	247	279
COUNTY: WESTON STATE: WY	150	183	215	247	279
SMSA: COLORADO SPRINGS, CO					
COUNTY: EL PASO STATE: CO	172	209	245	282	319
COUNTY: TELLER STATE: CO	172	209	245	282	319
SMSA: DENVER-BOULDER, CO					
COUNTY: ADAMS STATE: CO	230	278	328	378	427
COUNTY: ARAPAHOE STATE: CO	230	278	328	378	427
COUNTY: BOULDER STATE: CO	230	278	328	378	427
COUNTY: DENVER STATE: CO	230	278	328	378	427
COUNTY: DOUGLAS STATE: CO	230	278	328	378	427
COUNTY: GILPIN STATE: CO	230	278	328	378	427
COUNTY: JEFFERSON STATE: CO	230	278	328	378	427
SMSA: FORT COLLINS, CO					
COUNTY: LARIMER STATE: CO	182	221	260	299	337
SMSA: GREELEY, CO					
COUNTY: WELD STATE: CO	169	204	241	277	314
SMSA: PUEBLO, CO					
COUNTY: PUEBLO STATE: CO	177	215	253	291	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: ALAMOSA STATE: CO	177	215	253	291	329
COUNTY: ARCHULETA STATE: CO	144	175	206	237	268
COUNTY: BACA STATE: CO	177	215	253	291	329
COUNTY: BENT STATE: CO	177	215	253	291	329
COUNTY: CHAFFEE STATE: CO	177	215	253	291	329
COUNTY: CHEYENNE STATE: CO	169	204	241	277	314
COUNTY: CLEAR CREEK STATE: CO	169	204	241	277	314
COUNTY: CONEJOS STATE: CO	177	215	253	291	329
COUNTY: COSTILLA STATE: CO	177	215	253	291	329
COUNTY: CROWLEY STATE: CO	177	215	253	291	329
COUNTY: CUSTER STATE: CO	177	215	253	291	329
COUNTY: DELTA STATE: CO	144	175	206	237	268
COUNTY: DELROS STATE: CO	144	175	206	237	268
COUNTY: EAGLE STATE: CO	144	175	206	237	268
COUNTY: ELBERT STATE: CO	169	204	241	277	314
COUNTY: FREMONT STATE: CO	177	215	253	291	329
COUNTY: GARFIELD STATE: CO	144	175	206	237	268
COUNTY: GRAND STATE: CO	169	204	241	277	314
COUNTY: GUNNISON STATE: CO	144	175	206	237	268
COUNTY: HINSDALE STATE: CO	144	175	206	237	268
COUNTY: HUERFANO STATE: CO	177	215	253	291	329
COUNTY: JACKSON STATE: CO	144	175	206	237	268
COUNTY: KIOWA STATE: CO	177	215	253	291	329
COUNTY: KIT CARSON STATE: CO	169	204	241	277	314

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY LAKE STATE CO	169	204	241	277	314
COUNTY LA PLATA STATE CO	144	175	206	237	268
COUNTY LAS ANIMAS STATE CO	177	215	253	291	329
COUNTY LINCOLN STATE CO	177	215	253	291	329
COUNTY LOGAN STATE CO	169	204	241	277	314
COUNTY MESA STATE CO	213	260	305	351	397
SMSA BISMARCK, N.D.					
COUNTY BURLEIGH STATE ND	193	225	268	312	339
COUNTY MORTON STATE ND	193	225	268	312	339
NON SMSA					
COUNTY MINERAL STATE CO	177	215	253	291	329
COUNTY MOFFAT STATE CO	144	175	206	237	268
COUNTY MONTEZUMA STATE CO	144	175	206	237	268
COUNTY MONTROSE STATE CO	144	175	206	237	268
COUNTY MORGAN STATE CO	169	204	241	277	314
COUNTY OTERO STATE CO	177	215	253	291	329
COUNTY OURAY STATE CO	144	175	206	237	268
COUNTY PARK STATE CO	169	204	241	277	314
COUNTY PHILLIPS STATE CO	169	204	241	277	314
COUNTY PITKIN STATE CO	144	175	206	237	268
COUNTY PROWERS STATE CO	177	215	253	291	329
COUNTY RIO BLANCO STATE CO	144	175	206	237	268
COUNTY RIO GRANDE STATE CO	177	215	253	291	329
COUNTY ROUTT STATE CO	144	175	206	237	268
COUNTY SAGUACHE STATE CO	177	215	253	291	329
COUNTY SAN JUAN STATE CO	144	175	206	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY SAN MIGUEL STATE CO	144	175	206	237	268
COUNTY SEDGWICK STATE CO	169	204	241	277	314
COUNTY SUMMIT STATE CO	169	204	241	277	314
COUNTY WASHINGTON STATE CO	169	204	241	277	314
COUNTY YUMA STATE CO	169	204	241	277	314
SMSA FARGO-MOORHEAD, ND-MN					
COUNTY CASS STATE ND	198	215	279	322	344
SMSA GRAND FORKS, N.D.-MN					
COUNTY GRAND FORKS STATE ND	188	225	268	312	339
NON SMSA					
COUNTY ADAMS STATE ND	150	177	226	253	274
COUNTY BARNES STATE ND	150	177	226	253	274
COUNTY BENSON STATE ND	150	177	226	253	274
COUNTY BILLINGS STATE ND	150	177	226	253	274
COUNTY BOTTINEAU STATE ND	150	177	226	253	274
COUNTY BOWMAN STATE ND	150	177	226	253	274
COUNTY BURKE STATE ND	150	177	226	253	274
COUNTY CAVALIER STATE ND	150	177	226	253	274
COUNTY DICKEY STATE ND	150	177	226	253	274
COUNTY DIVIDE STATE ND	150	177	226	253	274
COUNTY DUNN STATE ND	150	177	226	253	274
COUNTY EDDY STATE ND	150	177	226	253	274
COUNTY ENMONS STATE ND	150	177	226	253	274
COUNTY FOSTER STATE ND	150	177	226	253	274
COUNTY GOLDEN VALLY STATE ND	150	177	226	250	274
COUNTY GRANT STATE ND	150	177	226	253	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION	8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE						
NON SMSA						
COUNTY GRIGGS	STATE:ND	150	177	226	253	274
COUNTY HETTINGER	STATE:ND	150	177	226	253	274
COUNTY KIDDER	STATE:ND	150	177	226	253	274
COUNTY LA MOORE	STATE:ND	150	177	226	253	274
COUNTY LOGAN	STATE:ND	150	177	226	253	274
COUNTY MCHENRY	STATE:ND	150	177	226	253	274
COUNTY MCINTOSH	STATE:ND	150	177	226	253	274
COUNTY MCKENZIE	STATE:ND	150	177	226	253	274
COUNTY MCLEAN	STATE:ND	166	188	242	263	290
COUNTY MERCER	STATE:ND	166	188	242	263	290
COUNTY MOUNTRAIL	STATE:ND	150	177	226	253	274
COUNTY NELSON	STATE:ND	150	177	226	253	274
COUNTY OLIVER	STATE:ND	166	188	242	263	290
COUNTY PEMBINA	STATE:ND	150	177	226	253	274
COUNTY PIERCE	STATE:ND	150	177	226	253	274
COUNTY RAMSEY	STATE:ND	150	177	226	253	274
COUNTY RANSOM	STATE:ND	150	177	226	253	274
COUNTY RENVILLE	STATE:ND	150	177	226	253	274
COUNTY RICHLAND	STATE:ND	150	177	226	253	274
COUNTY ROLETTE	STATE:ND	150	177	226	253	274
COUNTY SARGENT	STATE:ND	150	177	226	253	274
COUNTY SHERIDAN	STATE:ND	150	177	226	253	274
COUNTY SIOUX	STATE:ND	150	177	226	253	274
COUNTY SLOPE	STATE:ND	150	177	226	253	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION	8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE						
NON SMSA						
COUNTY STARK	STATE:NO	166	188	242	263	290
COUNTY STEELE	STATE:NO	150	177	226	253	274
COUNTY STUTSMAN	STATE:NO	150	177	226	253	274
COUNTY TOWNER	STATE:NO	150	177	226	253	274
COUNTY TRAILL	STATE:NO	150	177	226	253	274
COUNTY WALSH	STATE:NO	150	177	226	253	274
COUNTY WARD	STATE:NO	161	188	242	306	339
COUNTY WELLS	STATE:NO	150	177	226	253	274
COUNTY WILLIAMS	STATE:NO	150	177	226	253	274
SMSA BILLINGS, MT	COUNTY:YELLOWSTONE STATE:MT	203	248	291	334	379
SMSA GREAT FALLS, MT	COUNTY:CASCADE STATE:MT	199	242	285	340	370
NON SMSA						
COUNTY BEAVERHEAD	STATE:MT	159	192	227	262	295
COUNTY BIG HORN	STATE:MT	150	183	215	247	279
COUNTY BLAINE	STATE:MT	150	183	215	247	279
COUNTY BROADWATER	STATE:MT	150	183	215	247	279
COUNTY CARBON	STATE:MT	150	183	215	247	279
COUNTY CARTER	STATE:MT	150	183	215	247	279
COUNTY CHOUTEAU	STATE:MT	150	183	215	247	279
COUNTY CUSTER	STATE:MT	150	183	215	247	279
COUNTY DANIELS	STATE:MT	160	195	229	263	297
COUNTY DAWSON	STATE:MT	150	183	215	247	279
COUNTY DEER LODGE	STATE:MT	159	192	227	262	295
COUNTY FALLON	STATE:MT	150	183	215	247	279
COUNTY FERGUS	STATE:MT	150	183	215	247	279

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE NON SMSA					
COUNTY: FLATHEAD STATE: MT	175	212	250	288	324
COUNTY: GALLATIN STATE: MT	207	251	295	340	384
COUNTY: GARFIELD STATE: MT	150	183	215	247	279
COUNTY: GLACIER STATE: MT	150	183	215	247	279
COUNTY: GOLDEN VALLE STATE: MT	150	183	215	247	279
COUNTY: GRANITE STATE: MT	159	192	227	262	295
COUNTY: HILL STATE: MT	150	183	215	247	279
COUNTY: JEFFERSON STATE: MT	150	183	215	247	279
COUNTY: JUDITH BASIN STATE: MT	150	183	215	247	279
COUNTY: LAKE STATE: MT	159	192	227	262	295
COUNTY: LEWIS+ CLARK STATE: MT	225	273	321	370	418
COUNTY: LIBERTY STATE: MT	150	183	215	247	279
COUNTY: LINCOLN STATE: MT	159	192	227	262	295
COUNTY: MCDONE STATE: MT	150	183	215	247	279
COUNTY: MADISON STATE: MT	159	192	227	262	295
COUNTY: MEAGHER STATE: MT	150	183	215	247	279
COUNTY: MINERAL STATE: MT	159	192	227	262	295
COUNTY: MISSOULA STATE: MT	184	224	263	302	342
COUNTY: MUSSELSHELL STATE: MT	150	183	215	247	279
COUNTY: PARK STATE: MT	199	242	285	327	370
COUNTY: PETROLEUM STATE: MT	150	183	215	247	279
COUNTY: PHILLIPS STATE: MT	150	183	215	247	279
COUNTY: PONDERA STATE: MT	150	183	215	247	279
COUNTY: POWDER RIVER STATE: MT	150	183	215	247	279

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE NON SMSA					
COUNTY: POWELL STATE: MT	159	192	227	262	295
COUNTY: PRAIRIE STATE: MT	150	183	215	247	279
COUNTY: RAVALLI STATE: MT	159	192	227	262	295
COUNTY: RICHLAND STATE: MT	178	216	255	293	331
COUNTY: ROOSEVELT STATE: MT	160	195	229	263	297
COUNTY: ROSEBUD STATE: MT	150	183	215	247	279
COUNTY: SANDERS STATE: MT	159	192	227	262	295
COUNTY: SHERIDAN STATE: MT	160	195	229	263	297
COUNTY: SILVER BOW STATE: MT	159	192	227	262	295
COUNTY: STILLWATER STATE: MT	150	183	215	247	279
COUNTY: SWEET GRASS STATE: MT	150	183	215	247	279
COUNTY: TETON STATE: MT	150	183	215	247	279
COUNTY: TOOLE STATE: MT	150	183	215	247	279
COUNTY: TREASURE STATE: MT	150	183	215	247	279
COUNTY: VALLEY STATE: MT	150	183	215	247	279
COUNTY: WHEATLAND STATE: MT	150	183	215	247	279
COUNTY: WYLAUX STATE: MT	160	195	229	263	297
COUNTY: YL-ST-NY-PK STATE: MT	150	183	215	247	279
SMSA: PROVO-OREM, UT COUNTY: UTAH STATE: UT	169	204	241	277	314
SMSA: SALT LAKE CITY-OGDEN, UT COUNTY: DAVIS STATE: UT	182	221	260	299	337
COUNTY: SALT LAKE STATE: UT	182	221	260	299	337
COUNTY: TOOELE STATE: UT	182	221	260	299	337
COUNTY: WEBER STATE: UT	182	221	260	299	337
NON SMSA COUNTY: BEAVER STATE: UT	226	275	323	371	420

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY BOX ELDER STATE:UT	144	175	206	237	268
COUNTY CACHE STATE:UT	144	175	206	237	268
COUNTY CARBON STATE:UT	197	239	281	323	366
COUNTY DAGGETT STATE:UT	144	175	206	237	268
COUNTY DUCHESNE STATE:UT	144	175	206	237	268
COUNTY EMERY STATE:UT	182	221	260	299	337
COUNTY GARFIELD STATE:UT	226	275	323	371	420
COUNTY GRAND STATE:UT	144	175	206	237	268
COUNTY IRON STATE:UT	226	275	323	371	420
COUNTY JUAB STATE:UT	144	175	206	237	268
COUNTY KANE STATE:UT	226	275	323	371	420
COUNTY MILLARD STATE:UT	144	175	206	237	268
COUNTY MORGAN STATE:UT	144	175	206	237	268
COUNTY PIUTE STATE:UT	144	175	206	237	268
COUNTY RICH STATE:UT	144	175	206	237	268
COUNTY SAN JUAN STATE:UT	144	175	206	237	268
COUNTY SANPETE STATE:UT	144	175	206	237	268
COUNTY SEVIER STATE:UT	144	175	206	237	268
COUNTY SUMMIT STATE:UT	144	175	206	237	268
COUNTY UTAH STATE:UT	144	175	206	237	268
COUNTY WASATCH STATE:UT	144	175	206	237	268
COUNTY WASHINGTON STATE:UT	226	275	323	371	420
COUNTY WAYNE STATE:UT	144	175	206	237	268
SMSA: RAPID CITY, S.D. COUNTY WEADE STATE:SD	182	222	261	300	340

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
SMSA: RAPID CITY, S.D. COUNTY PENNINGTON STATE:SD	182	222	261	300	340
SMSA: SIOUX FALLS, SD COUNTY MINNEHAHA STATE:SD	192	233	275	316	357
NON SMSA					
COUNTY AURORA STATE:SD	163	198	233	269	304
COUNTY BEADLE STATE:SD	163	198	233	269	304
COUNTY BENNETT STATE:SD	144	174	205	237	268
COUNTY BON HOMME STATE:SD	147	178	211	242	274
COUNTY BROOKINGS STATE:SD	163	198	233	269	304
COUNTY BROWN STATE:SD	164	200	235	271	307
COUNTY BRULE STATE:SD	144	174	205	237	268
COUNTY BUFFALO STATE:SD	144	174	205	237	268
COUNTY BUTTE STATE:SD	162	197	232	267	302
COUNTY CAMPBELL STATE:SD	144	174	205	237	268
COUNTY CHARLES MIX STATE:SD	147	178	211	242	274
COUNTY CLARK STATE:SD	144	174	205	237	268
COUNTY CLAY STATE:SD	171	208	245	282	319
COUNTY CODINGTON STATE:SD	144	174	205	237	268
COUNTY CORSON STATE:SD	144	174	205	237	268
COUNTY CUSTER STATE:SD	174	210	248	286	323
COUNTY DAVISON STATE:SD	163	198	233	269	304
COUNTY DAY STATE:SD	144	174	205	237	268
COUNTY DEUEL STATE:SD	144	174	205	237	268
COUNTY DEWEY STATE:SD	144	174	205	237	268
COUNTY DOUGLAS STATE:SD	147	178	211	242	274
COUNTY EDMUNDS STATE:SD	144	174	205	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY FALL RIVER STATE: SD	174	210	248	286	323
COUNTY FAULK STATE: SD	144	174	205	237	268
COUNTY GRANT STATE: SD	170	208	245	282	318
COUNTY GREGORY STATE: SD	144	174	205	237	268
COUNTY HAAKON STATE: SD	144	174	205	237	268
COUNTY HAMLIN STATE: SD	144	174	205	237	268
COUNTY HAND STATE: SD	163	198	233	269	304
COUNTY HANSON STATE: SD	163	198	233	269	304
COUNTY HARDING STATE: SD	144	174	205	237	268
COUNTY HUGHES STATE: SD	194	236	278	320	362
COUNTY HUTCHINSON STATE: SD	147	178	211	242	274
COUNTY HYDE STATE: SD	144	174	205	237	268
COUNTY JACKSON STATE: SD	144	174	205	237	268
COUNTY JERARD STATE: SD	163	198	233	269	304
COUNTY JONES STATE: SD	144	174	205	237	268
COUNTY KINGSBURY STATE: SD	163	198	233	269	304
COUNTY LAKE STATE: SD	163	198	233	269	304
COUNTY LAWRENCE STATE: SD	150	182	215	247	280
COUNTY LINCOLN STATE: SD	163	198	233	269	304
COUNTY LYMAN STATE: SD	144	174	205	237	268
COUNTY MCCOOK STATE: SD	163	198	233	269	304
COUNTY MCPHERSON STATE: SD	144	174	205	237	268
COUNTY MARSHALL STATE: SD	144	174	205	237	268
COUNTY MEADE STATE: SD	182	222	261	300	340

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY MELLETT STATE: SD	144	174	205	237	268
COUNTY MINER STATE: SD	163	198	233	269	304
COUNTY MOODY STATE: SD	163	198	233	269	304
COUNTY PENNINGTON STATE: SD	182	222	261	300	340
COUNTY PERKINS STATE: SD	144	174	205	237	268
COUNTY POTTER STATE: SD	144	174	205	237	268
COUNTY ROBERTS STATE: SD	144	174	205	237	268
COUNTY SANBORN STATE: SD	163	198	233	269	304
COUNTY SHANNON STATE: SD	144	174	205	237	268
COUNTY SPINK STATE: SD	144	174	205	237	268
COUNTY STANLEY STATE: SD	194	236	278	320	362
COUNTY SULLY STATE: SD	144	174	205	237	268
COUNTY TODD STATE: SD	144	174	205	237	268
COUNTY TRIPP STATE: SD	144	174	205	237	268
COUNTY TURNER STATE: SD	163	198	233	269	304
COUNTY UNION STATE: SD	147	178	211	242	274
COUNTY WALWORTH STATE: SD	159	192	227	261	295
COUNTY WASHAUGH STATE: SD	144	174	205	237	268
COUNTY YANKTON STATE: SD	147	178	211	242	274
COUNTY ZIEBACH STATE: SD	144	174	205	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HONOLULU, HAWAII AREA OFFICE					
SMSA: HONOLULU, HI COUNTY HONOLULU STATE HI	290	349	416	489	545
NON SMSA					
COUNTY HAWAII STATE HI	325	394	464	534	603
COUNTY KAUAI STATE HI	325	394	464	534	603
COUNTY MAUI STATE HI	325	394	464	534	603
COUNTY GUAM STATE HI	285	346	406	467	529
LOS ANGELES, CALIFORNIA AREA OFFICE					
SMSA: BAKERSFIELD, CA COUNTY KERN STATE CA	190	238	268	357	417
SMSA: LOS ANGELES-LONG BEACH, CA COUNTY LOS ANGELES STATE CA	235	285	335	417	497
SMSA: OXNARD-SIMI VALLEY-VENTURA, CA COUNTY VENTURA STATE CA	212	258	304	350	395
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA COUNTY SANTA BARBARA STATE CA	229	279	361	416	469
NON SMSA COUNTY SAN LUIS OBI STATE CA	214	259	326	372	421
SMSA: PHOENIX, AZ COUNTY MARICOPA STATE AZ	215	261	307	354	399
NON SMSA					
COUNTY APACHE STATE AZ	158	191	225	259	293
COUNTY COCONINO STATE AZ	158	191	225	259	293
COUNTY GILA STATE AZ	158	191	225	259	293
COUNTY MOHAVE STATE AZ	158	191	225	259	293

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOS ANGELES, CALIFORNIA AREA OFFICE					
NON SMSA					
COUNTY NAUUAJO STATE AZ	158	191	225	259	293
COUNTY PINAL STATE AZ	158	191	225	259	293
COUNTY YAVAPAI STATE AZ	158	191	225	259	293
COUNTY YUMA STATE AZ	158	191	225	259	293
SMSA: TUCSON, AZ COUNTY PIMA STATE AZ	198	240	282	326	368
NON SMSA					
COUNTY COCHISE STATE AZ	158	191	225	259	293
COUNTY GRAHAM STATE AZ	158	191	225	259	293
COUNTY GREENLEE STATE AZ	158	191	225	259	293
COUNTY SANTA CRUZ STATE AZ	158	191	225	259	293
SMSA: SAN DIEGO, CA COUNTY SAN DIEGO STATE CA	237	287	337	387	437
NON SMSA COUNTY IMPERIAL STATE CA	203	247	320	368	397
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA COUNTY ORANGE STATE CA	252	300	353	482	548
SMSA: RIVERSIDE-SAN BERNARDINO-ONTARIO, CA COUNTY RIVERSIDE STATE CA	223	264	310	395	461
COUNTY SAN BERNARDINO STATE CA	223	264	310	395	461
NON SMSA COUNTY INYO STATE CA	163	199	234	269	304
COUNTY MONO STATE CA	163	199	234	269	304

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: FRESNO, CA COUNTY: FRESNO STATE: CA	184	224	264	346	379
SMSA: MODOESTO, CA COUNTY: STANISLAUS STATE: CA	200	222	270	368	400
NON SMSA COUNTY: KINGS STATE: CA	163	199	234	271 2	316 12
COUNTY: MADERA STATE: CA	163	199	234	271 2	316 12
COUNTY: MARIPOSA STATE: CA	172	209	247	283	320
COUNTY: MERCED STATE: CA	175	196	274	352	410
COUNTY: TULARE STATE: CA	193	219	281	370	410
SMSA: RENO, NV COUNTY: WASHOE STATE: NV	271	325	395	477	514
NON SMSA COUNTY: CHURCHILL STATE: NV	226	275	323	371	420
COUNTY: DOUGLAS STATE: NV	226	275	323	371	420
COUNTY: ELKO STATE: NV	226	275	323	371	420
NON SMSA COUNTY: ESMEERALOA STATE: NV	206	249	303	357	395
COUNTY: EUREKA STATE: NV	206	249	303	357	395
COUNTY: HUMBOLDT STATE: NV	226	275	323	371	420
COUNTY: LANDER STATE: NV	226	275	323	371	420
COUNTY: LYON STATE: NV	226	275	323	371	420
COUNTY: MINERAL STATE: NV	226	275	323	371	420
COUNTY: NYE STATE: NV	206	249	303	357	395
COUNTY: ORMSLEY STATE: NV	226	275	323	371	420
COUNTY: PERSHING STATE: NV	226	275	323	371	420
COUNTY: STOREY STATE: NV	226	275	323	371	420
COUNTY: WHITE PINE STATE: NV	206	249	303	357	395
INDEP. CITY: CARSON CITY STATE: NV	226	275	323	371	420

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: SACRAMENTO, CA COUNTY: PLACER STATE: CA	193	234	275	316	357
COUNTY: SACRAMENTO STATE: CA	193	234	275	316	357
COUNTY: YOLO STATE: CA	193	234	275	316	357
SMSA: STOCKTON, CA COUNTY: SAN JOAQUIN STATE: CA	186	225	265	335	373
NON SMSA COUNTY: ALPINE STATE: CA	172	209	247	288 5	320
COUNTY: AMADOR STATE: CA	172	209	247	288 5	320
COUNTY: BUTTE STATE: CA	182	221	260	300	339
COUNTY: CALAVERAS STATE: CA	172	209	247	288 5	320
COUNTY: COLUSA STATE: CA	182	221	260	300	339
COUNTY: EL DORADO STATE: CA	182	221	260	300	339
COUNTY: GLENN STATE: CA	182	221	260	300	339
COUNTY: LASSEN STATE: CA	164 4	195	229	271 8	298 1
COUNTY: MODOC STATE: CA	164 4	195	229	271 8	298 1
COUNTY: NEVADA STATE: CA	182	221	260	300	339
COUNTY: PLUMAS STATE: CA	195	227	281	346	428
COUNTY: SHASTA STATE: CA	195	222	270	335	406
COUNTY: SIERRA STATE: CA	164 4	195	229	271 8	298 1
COUNTY: SISKIYOU STATE: CA	164 4	195	229	271 8	298 1
COUNTY: SUTTER STATE: CA	182	221	260	335	406
COUNTY: TEHAMA STATE: CA	164 4	195	229	271 8	298 1
COUNTY: TRINITY STATE: CA	164 4	195	229	271 8	298 1
COUNTY: TUOLUMNE STATE: CA	172	209	247	288 5	320
COUNTY: YUBA STATE: CA	182	221	260	300	339
SMSA: SALINAS-SEASIDE MONTEREY, CA COUNTY: MONTEREY STATE: CA	215	260	305	433	471

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: SAN FRANCISCO-OAKLAND, CA					
COUNTY:ALAMEDA	223	272	319	443	484
STATE:CA					
COUNTY:CONTRA COSTA	223	272	319	443	484
STATE:CA					
COUNTY:MARIN	223	272	319	443	484
STATE:CA					
COUNTY:SAN FRANCISCO	223	272	319	443	484
STATE:CA					
COUNTY:SAN MATEO	223	272	319	443	484
STATE:CA					
SMSA: SAN JOSE, CA					
COUNTY:SANTA CLARA	258	313	368	466	509
STATE:CA					
SMSA: SANTA CRUZ, CA					
COUNTY:SANTA CRUZ	198	238	303	423	487
STATE:CA					
SMSA: SANTA ROSA, CA					
COUNTY:SONOMA	206	238	318	411	466
STATE:CA					
SMSA: VALLEJO-FAIRFIELD-NAPA, CA					
COUNTY:NAPA	203	248	291	411	455
STATE:CA					
COUNTY:SOLANO	203	248	291	411	455
STATE:CA					
NON SMSA					
COUNTY:DEL NORTE	160	195	229	271	298
STATE:CA				8	1
COUNTY:HUMBOLDT	200	238	291	368	406
STATE:CA					
COUNTY:LAKE	203	248	291	335	379
STATE:CA					
COUNTY:MENDOCINO	195	249	308	390	433
STATE:CA					
COUNTY:SAN BENITO	187	227	267	307	347
STATE:CA					
SMSA: LAS VEGAS, NV					
COUNTY:CLARK	232	280	330	380	429
STATE:NV					
NON SMSA					
COUNTY:LINCOLN	206	249	303	357	395
STATE:NV					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, ALASKA AREA OFFICE					
SMSA: ANCHORAGE, AK					
DISTRICT:ANCHORAGE	337	410	483	555	629
STATE:AK					
NON SMSA					
DISTRICT:ALEUTIAN I.	360	438	515	592	670
STATE:AK					
DISTRICT:ANGCON	360	438	515	592	670
STATE:AK					
DISTRICT:BARROW	557	614	696	776	847
STATE:AK	197	176	181	184	177
DISTRICT:BETHEL	360	438	515	592	670
STATE:AK					
DISTRICT:BRISTOL B.B.	360	438	515	592	670
STATE:AK					
DISTRICT:BRISTOL BAY	360	438	515	592	670
STATE:AK					
DISTRICT:CORDOVA-MCCA	360	438	515	592	670
STATE:AK					
DISTRICT:FAIRBANKS	360	438	515	592	670
STATE:AK					
DISTRICT:HAINEES	360	438	515	592	670
STATE:AK					
DISTRICT:JUNEAU	360	438	515	592	670
STATE:AK					
DISTRICT:KENAI-COOK	360	438	515	592	670
STATE:AK					
DISTRICT:KETCHIKAN	360	438	515	592	670
STATE:AK					
DISTRICT:KOBUK	360	438	515	592	670
STATE:AK					
DISTRICT:KODIAK	360	438	515	592	670
STATE:AK					
DISTRICT:KUSKOKWIM	360	438	515	592	670
STATE:AK					
DISTRICT:MATANUSKA-SU	260	438	515	592	670
STATE:AK					
DISTRICT:NOME	360	438	515	592	670
STATE:AK					
DISTRICT:OUTER KETCHIK	360	438	515	592	670
STATE:AK					
DISTRICT:PR. OF WALES	360	438	515	592	670
STATE:AK					
DISTRICT:SEWARD	360	438	515	592	670
STATE:AK					
DISTRICT:SITKA	360	438	515	592	670
STATE:AK					
DISTRICT:SKGWI-YKTT	360	438	515	592	670
STATE:AK					
DISTRICT:SE FAIRBANKS	360	438	515	592	670
STATE:AK					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)					
REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, ALASKA AREA OFFICE					
NON SMSA					
DISTRICT:UPPER YUKON STATE:AK	360	438	515	592	670
DISTRICT:VLOZ-CHTN-WH STATE:AK	360	438	515	592	670
DISTRICT:WADE HAMPTON STATE:AK	360	438	515	592	670
DISTRICT:WRNGLL-PTBRR STATE:AK	360	438	515	592	670
DISTRICT:YKN-KOYKK STATE:AK	360	438	515	592	670
PORTLAND, OREGON AREA OFFICE					
SMSA: BOISE CITY, ID					
COUNTY:ADA STATE:ID	196	222	278	305	335
NON SMSA					
COUNTY:ADAMS STATE:ID	177	215	253	291	329
COUNTY:BANNOCK STATE:ID	197	239	281	323	366
COUNTY:BEAR LAKE STATE:ID	144	175	205	237	268
COUNTY:BENEFWAH STATE:ID	175	212	250	288	324
COUNTY:BINGHAM STATE:ID	197	239	281	323	366
COUNTY:BLAINE STATE:ID	197	239	281	323	366
COUNTY:BOISE STATE:ID	177	215	253	291	329
COUNTY:BONNER STATE:ID	175	212	250	288	324
COUNTY:BONNEVILLE STATE:ID	197	239	281	323	366
COUNTY:BOUNDARY STATE:ID	175	212	250	288	324
COUNTY:BUTTE STATE:ID	197	239	281	323	366

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:CAMAS STATE:ID	197	239	281	323	366
COUNTY:CANYON STATE:ID	177	215	253	291	329
COUNTY:CARIBOU STATE:ID	197	239	281	323	366
COUNTY:CASSIA STATE:ID	197	239	281	323	366
COUNTY:CLARK STATE:ID	197	239	281	323	366
COUNTY:CLERK STATE:ID	175	212	250	288	324
COUNTY:CUSTER STATE:ID	197	239	281	323	366
COUNTY:ELMORE STATE:ID	177	215	253	291	329
COUNTY:FRANKLIN STATE:ID	144	175	206	237	268
COUNTY:FREMONT STATE:ID	197	239	281	323	366
COUNTY:GEM STATE:ID	177	215	253	291	329
COUNTY:GODDING STATE:ID	197	239	281	323	366
COUNTY:IDAHO STATE:ID	175	212	250	288	324
COUNTY:JEFFERSON STATE:ID	197	239	281	323	366
COUNTY:JEROME STATE:ID	197	239	281	323	366
COUNTY:KOOTENAI STATE:ID	175	212	250	288	324
COUNTY:LATAH STATE:ID	185	212	251	282	295
COUNTY:LEWIS STATE:ID	197	239	281	323	366
COUNTY:LEWIS STATE:ID	175	212	250	288	324
COUNTY:LINCOLN STATE:ID	197	239	281	323	366
COUNTY:MADISON STATE:ID	197	239	281	323	366
COUNTY:MINIDOKA STATE:ID	197	239	281	323	366
COUNTY:NEZ PERCE STATE:ID	185	212	251	282	295
COUNTY:ONEIDA STATE:ID	144	175	206	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE NON SMSA					
COUNTY: OXYWHEE STATE: ID	177	215	253	291	329
COUNTY: PAYETTE STATE: ID	177	215	253	291	329
COUNTY: POWER STATE: ID	197	239	281	323	366
COUNTY: SHOSHONE STATE: ID	175	212	250	288	324
COUNTY: TETON STATE: ID	197	239	281	323	366
COUNTY: TWIN FALLS STATE: ID	197	239	281	323	366
COUNTY: VALLEY STATE: ID	177	215	253	291	329
COUNTY: WASHINGTON STATE: ID	177	215	253	291	329
SMSA: EUGENE-SPRINGFIELD, OR COUNTY: LAKE STATE: OR	188	213	255	325	385
SMSA: PORTLAND, OR-WA COUNTY: CLARK STATE: WA	191	230	271	356	387
COUNTY: CLACKAMAS STATE: OR	191	230	271	356	387
COUNTY: MULTNOMAH STATE: OR	191	230	271	356	387
SMSA: PORTLAND, OR-WA COUNTY: WASHINGTON STATE: OR	191	230	271	356	387
SMSA: SALEM, OR COUNTY: MARION STATE: OR	206	249	293	338	381
COUNTY: POLK STATE: OR	206	249	293	338	381
NON SMSA					
COUNTY: KICKITAT STATE: WA	160	195	229	263	297
COUNTY: SKAMANIA STATE: WA	160	195	229	263	297
COUNTY: BAKER STATE: OR	149	181	213	245	277
COUNTY: BENTON STATE: OR	206	249	293	338	381
COUNTY: CLATSOP STATE: OR	186	214	252	289	328
COUNTY: COLUMBIA STATE: OR	186	214	252	289	328
COUNTY: COOS STATE: OR	172	222	283	318	345
COUNTY: CROCK STATE: OR	176	214	252	289	328
COUNTY: CURRY STATE: OR	188	226	262	350	390

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE NON SMSA					
COUNTY: DESCHUTES STATE: OR	176	214	252	289	328
COUNTY: DOUGLAS STATE: OR	169	204	241	277	314
COUNTY: GILLIAM STATE: OR	149	181	213	245	277
COUNTY: GRANT STATE: OR	149	181	213	245	277
COUNTY: HARNEY STATE: OR	177	215	253	291	329
COUNTY: HODD RIVER STATE: OR	160	195	229	263	297
COUNTY: JACKSON STATE: OR	169	204	241	277	314
COUNTY: JEFFERSON STATE: OR	176	214	252	289	328
COUNTY: JOSEPHINE STATE: OR	186	211	251	285	324
COUNTY: KLAMATH STATE: OR	169	204	241	277	314
COUNTY: LAKE STATE: OR	169	204	241	277	314
COUNTY: LINCOLN STATE: OR	206	249	293	338	381
COUNTY: LINN STATE: OR	206	249	293	338	381
COUNTY: MALHEUR STATE: OR	177	215	253	291	329
COUNTY: MORROW STATE: OR	149	181	213	245	277
COUNTY: SHERMAN STATE: OR	160	195	229	263	297
COUNTY: TILLAMOOK STATE: OR	186	214	252	289	328
COUNTY: UMATILLA STATE: OR	149	181	213	245	277
COUNTY: UNION STATE: OR	149	181	213	245	277
COUNTY: WALLOWA STATE: OR	149	181	213	245	277
COUNTY: WASCO STATE: OR	160	195	229	263	297
COUNTY: WHEELER STATE: OR	149	181	213	245	277
COUNTY: YAMHILL STATE: OR	173	216	270	327	397

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE, WASHINGTON AREA OFFICE					
SMSA: SEATTLE-EVERETT, WA					
COUNTY: KING	223	271	318	397	432
STATE: WA					
COUNTY: SNOHOMISH	223	271	318	397	432
STATE: WA					
SMSA: TACOMA, WA					
COUNTY: PIERCE	138	219	270	350	383
STATE: WA					
SMSA: YAKIMA, WA					
COUNTY: YAKIMA	149	181	213	245	277
STATE: WA					
NOJ SMSA					
COUNTY: CHELAN	178	235	297	377	426
STATE: WA					
COUNTY: CLALLAM	182	221	260	300	339
STATE: WA					
COUNTY: COWLITZ	182	240	270	371	400
STATE: WA					
COUNTY: DOUGLAS	178	235	297	377	426
STATE: WA					
COUNTY: GRAYS HARBOR	182	221	260	300	339
STATE: WA					
COUNTY: ISLAND	182	221	260	300	339
STATE: WA					
COUNTY: JEFFERSON	152	221	260	300	339
STATE: WA					
COUNTY: KITSAP	200	238	297	402	476
STATE: WA					
COUNTY: KITTITAS	149	181	213	245	277
STATE: WA					
COUNTY: LEWIS	182	221	260	300	339
STATE: WA					
COUNTY: MASON	182	221	260	300	339
STATE: WA					
COUNTY: OKANOGAN	159	192	227	262	295
STATE: WA					
COUNTY: PACIFIC	182	221	260	300	339
STATE: WA					
COUNTY: SAN JUAN	182	221	260	300	339
STATE: WA					
COUNTY: SHAGIT	182	221	260	300	339
STATE: WA					
COUNTY: THURSTON	182	221	260	300	339
STATE: WA					
COUNTY: WANKIAKUM	160	195	229	263	297
STATE: WA					
COUNTY: WHATCOM	189	215	260	373	418
STATE: WA					
SMSA: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY: BENTON	196	239	291	373	421
STATE: WA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE, WASHINGTON AREA OFFICE					
SMSA: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY: FRANKLIN	196	239	291	373	421
STATE: WA					
SMSA: SPOKANE, WA					
COUNTY: SPOKANE	198	228	283	346	400
STATE: WA					
NON SMSA					
COUNTY: ADAMS	159	192	227	262	295
STATE: WA					
COUNTY: ASOTIN	170	200	286	343	379
STATE: WA					
COUNTY: COLUMBIA	159	192	227	262	295
STATE: WA					
COUNTY: FERRY	137	188	231	275	317
STATE: WA					
COUNTY: GARFIELD	159	192	227	262	295
STATE: WA					
COUNTY: GRANT	159	192	227	262	295
STATE: WA					
COUNTY: LINCOLN	159	192	227	262	295
STATE: WA					
COUNTY: PEND OREILLE	137	188	231	275	317
STATE: WA					
COUNTY: STEVENS	157	216	265	314	362
STATE: WA					
COUNTY: WALLA WALLA	157	216	303	384	411
STATE: WA					
COUNTY: WHITMAN	173	216	276	401	466
STATE: WA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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FT 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE	DOUBLE WIDE
	SPACE	SPACE
ABILENE, TX	44	59
AKRON, OH	81	81
ALBANY, GA	42	44
ALBANY-SCHENECTADY-TROY, NY	95	95
ALBUQUERQUE, NM	74	85
ALEXANDRIA, LA	58	49
ALLEN-TAM-BETHLEHEM-EASTON, PA-NJ	73	73
ALTOONA, PA	66	66
AMARILLO, TX	78	83
ANCHUTIN-SANTA ANA-GARDEN GROVE, CA	131	186
ANCHORAGE, AK	159	159
ANDERSON, IN	46	46
ANN ARBOR, MI	109	117
ARLINGTON, AL	54	58
APPLETON-OSKOSH, WI	81	86
ASHEVILLE, NC	59	69
ATLANTA, GA	67	72
ATLANTIC CITY, NJ	112	112
AUGUSTA, GA-SC	62	64
AUSTIN, TX	72	85
BAKERSFIELD, CA	87	131
BALTIMORE, MD	129	129
BATON ROUGE, LA	69	88
BATTLE CREEK, MI	78	81
BAY CITY, MI	82	85
BEAUMONT-PORT ARTHUR-ORANGE, TX	74	85
BILLINGS, MT	104	115
BILLOTT-GULFPORT, MS	69	69
BINGHAMTON, NY-PA	65	65
BIRMINGHAM, AL	74	81
BISMARCK, N.D.	98	109
BLOOMINGTON, IN	43	43
BLOOMINGTON-NORMAL, IL	84	84
BOISE CITY, ID	76	86
BOSTON, MA	89	95
BRAIDENTON, FL	94	94
BRIDGEPORT, CT	116	118
BRISTOL, CT	***	***
BROOKTON, MA	89	89
BROWNSVILLE-HARLINGEN-SAN BENITO, TX	59	69
BRYAN-COLLEGE STATION, TX	72	83
BUFFALO, NY	84	84
BURLINGTON, NC	58	69
CAGUAS	***	***
CANTON, OH	59	59
CECIL RAPIDS, IA	75	86

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FT 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE	DOUBLE WIDE
	SPACE	SPACE
CHAMPAIGN-URBANA-RANTOUL, IL	69	69
CHARLESTON, SC	59	59
CHARLESTON, WV	49	69
CHARLOTTE-CASTANIA, NC	58	69
CHATTANOOGA, TN-GA	12	58
CHICAGO, IL	131	162
CINCINNATI, OH-KY-IN	61	83
CLARKSVILLE-ROCKSVILLE, TN-KY	53	64
CLEVELAND, OH	83	85
COLORADO SPRINGS, CO	87	98
COLUMBIA, MO	65	78
COLUMBIA, SC	53	53
COLUMBUS, GA-AL	68	74
COLUMBUS, OH	75	86
CORPUS CHRISTI, TX	62	88
DALLAS-FORT WORTH, TX	64	88
DANBURY, CT	84	84
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	92	97
DAYTON, OH	59	59
DAYTONA BEACH, FL	83	88
DECATUR, IL	92	92
DENVER-Boulder, CO	128	137
DES MOINES, IA	79	84
DETROIT, MI	186	114
DUBUQUE, IA	75	86
DULUTH-SUPERIOR, MN-WI	62	67
EAU CLAIRE, WI	76	82
EL PASO, TX	82	93
ELKHART, IN	68	68
ELMIRA, NY	68	68
ERIE, PA	66	66
EUGENE-SPRINGFIELD, OR	184	186
EVANSVILLE, IN-KY	53	57
FALL RIVER, MA-RI	61	61
FARROD-RODRIGUEZ, MD-MH	86	97
FAYETTEVILLE, NC	58	69
FAYETTEVILLE-SPRINGDALE, AR	49	51
FITCHBURG-LEMINSTER, MA	73	73
FLINT, MI	99	99
FLORENCE, AL	58	64
FORT COLLINS, CO	82	93
FORT LAUDERDALE-HOLLYWOOD, FL	133	133
FORT MYERS-CAPE CORAL, FL	65	65
FORT SMITH, AR-OK	78	31
FORT WAYNE, IN	49	66
FRESNO, CA	131	148

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FT 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE	DOUBLE WIDE
	SPACE	SPACE
GADSDEN, AL	54	58
GAINESVILLE, FL	64	64
GALVESTON-TEXAS CITY, TX	85	96
GARY-HAMMOND-EAST CHICAGO, IN	72	83
GRAND FORKS, N.D.-MN	75	92
GRAND RAPIDS, MI	75	88
GREAT FALLS, MT	87	93
GREELEY, CO	82	93
GREEN BAY, WI	79	84
GREENSBORO-WINSTON-SALEM-HIGH POINT, NC	53	69
GREENVILLE-SPARTANBURG, SC	53	53
HAMILTON-KIDDELTOWN, OH	65	67
HARRISBURG, PA	64	64
HARTFORD, CT	95	95
HOMOLULU, HI	***	***
HOUSTON, TX	77	87
HUNTINGTON-ASHLAND, WV-KY-OH	64	64
HUNTSVILLE, AL	74	81
INDIANAPOLIS, IN	63	73
JACKSON, MI	81	81
JACKSON, MS	74	98
JACKSONVILLE, FL	58	69
JANESVILLE-BELOIT, WI	79	84
JEPSET CITY, NJ	142	142
JOHNSON CITY-KINGSPOST-BRISTOL, TN-VA	64	64
JOHNSTOWN, PA	66	66
KILAREZOD-PORTAGE, MI	95	89
KANKAKEE, ILLINOIS	67	67
KANSAS CITY, MO-KS	71	86
KENOSHA, WI	84	89
KILLEEN-TEMPLE, TX	74	88
KNOXVILLE, TN	53	53
KOKOMO, IN	68	68
LA CROSSE, WI	72	78
LAFAYETTE, LA	64	74
LAFAYETTE-WEST LAFAYETTE, IN	55	68
LAKE CHARLES, LA	64	74
LAKELAND-WINTER HAVEN, FL	64	64
LANCASTER, PA	69	69
LANSING-EAST LANSING, MI	95	109
LAREDO, TX	53	64
LAS VEGAS, NV	137	153
LAWRENCE, KS	68	66
LAWRENCE-HAVERHILL, MA-NH	***	***
LANTON, OK	57	64
LEWISTON-AUBURN, ME	61	61

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FT 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE	DOUBLE WIDE
	SPACE	SPACE
LEXINGTON-FAYETTE, KY	78	78
LIMA, OH	75	75
LINCOLN, NE	83	84
LITTLE ROCK-NORTH LITTLE ROCK, AR	41	43
LONG BRANCH-ASBURY PARK, NJ	133	134
LONGVIEW-MARSHALL, TX	69	77
LORAIN-ELYRIA, OH	92	92
LOS ANGELES-LONG BEACH, CA	124	178
LOUISVILLE, KY-IN	69	66
LOWELL, MA NH	***	***
LUBBOCK, TX	77	88
LYNCHBURG, VA	58	58
MACON, GA	43	47
MADISON, MI	118	123
MANCHESTER, NH	78	81
MANSFIELD, OH	79	78
MATAMOREZ	***	***
MC ALLEN-PHARR-EDINBURG, TX	68	83
MELOURN-TITUSVILLE-COCOA, FL	74	74
MEPPIS, TN-AR-MS	69	69
MELEN, CT	82	82
MIAMI, FL	186	186
MIDLAND, TX	88	85
MILWAUKEE, WI	92	97
MINNEAPOLIS-ST PAUL, MN-WI	97	97
MOBILE, AL	65	65
MONROE, LA	137	148
MONROVIE, AL	58	69
MONTGOMERY, AL	45	58
MUNCIE, IN	75	76
MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI	95	95
MASHUA, NH	69	88
MASSACHUSETTS-SUFFOLK, NY	***	***
MASSACHUSETTS-SUFFOLK, NY	83	83
NEW BEDFORD, MA	95	95
NEW BRITAIN, CT	172	173
NEW BRUNSWICK-PERTH AMBOY-SATEVILLE, NJ	86	86
NEW HAVEN-WEST HAVEN, CT	82	82
NEW LONDON-NORWICH, CT-RI	72	83
NEW ORLEANS, LA	***	***
NEW YORK CITY, NY-NJ	***	***
NEWARK, NJ	77	77
NEWPORT NEWS-HARTFORD, VA	92	92
NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC	58	58
NORFOLK, VA	***	***
NORWALK, CT	***	***

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FY 88 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR GHSGS.

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
SANTA LUCIA-SANTA MARIA-LORDUC, CA	189	164
SANTA CRUZ, CA	131	164
SANTA ROSA, CA	131	159
SARASOTA, FL	83	85
SAVANNAH, GA	53	59
SEATTLE-EVERTT, WA	98	107
SHERMAN-DEMISON, TX	64	74
SHERVEPORT, LA	64	74
SIOD CITY, IA-NE	72	72
SIOUX FALLS, SD	82	93
SOUTH BEND, IN	66	74
SPOKANE, WA	82	93
SPRINGFIELD, IL	81	86
SPRINGFIELD, MO	49	53
SPRINGFIELD, OH	61	72
SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT	71	71
STAMFORD, CT	***	***
STEUBENVILLE-WEIRTON, OH-WV	55	55
STOCKTON, CA	137	148
SYRACUSE, NY	79	79
TACOMA, WA	87	104
TALLAHASSEE, FL	58	58
TAMPA-ST PETERSBURG, FL	83	85
TERRE HAUTE, IN	43	53
TEXARKANA, TX-AR	69	98
TOLEDO, OH-MI	92	124
TOPEKA, KS	59	65
TRENTON, NJ	114	114
TUCSON, AZ	68	82
TULSA, OK	64	69
TUSCALOOSA, AL	78	77
TITLER, TX	61	67
UTICA-ROSE, NY	73	73
VALLEJO-FAIRFIELD-NAPA, CA	126	142
VINELAND-MILLVILLE-BRIDGETON, NJ	189	188
WACO, TX	66	74
WASHINGTON, DC-MD-VA	117	117
WATERBURY, CT	***	***
WATERLOO-CEDAR FALLS, IA	75	86
WEST PALM BEACH-BOCA RATON, FL	145	106
WHEELING, WV-OH	58	58
WICHITA, KS	46	58
WICHITA FALLS, TX	66	71
WILLIAMSPORT, PA	48	53
WILMINGTON, DE-MD	53	53
WILMINGTON, NC	84	84
WORCESTER, MA	58	69
YAKIMA, WA	63	63
YORK, PA	82	87
YOUNGSTOWN- Warren, OH	69	69
	78	78

FY 88 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR GHSGS.

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
ODessa, TX	80	85
OKLAHOMA CITY, OK	59	66
OMAHA, NE-IA	70	81
ORLANDO, FL	74	74
OHMSBORO, WI	65	75
OZARK-SIMI VALLEY-VENTURA, CA	115	197
PANAMA CITY, FL	64	64
PARMERSBURG-MARIETTA, WV-OH	64	64
PASCO-GRAND-POINT, MS	58	69
PATERSON-CLIFTON-PASSAIC, NJ	153	154
PENSACOLA, FL	44	61
PEORIA, IL	124	135
PETERSBURG-COLONIAL HEIGHTS-ROSELLE, VA	78	78
PHILADELPHIA, PA-NJ	89	87
PHOENIX, AZ	82	98
PINE BLUFF, AR	23	25
PITTSBURGH, PA	64	64
PITTSFIELD, MA	09	09
POKEE	***	***
PORTLAND, ME	96	110
PORTLAND, OR-IA	120	133
PUGHKEEPSIE, NY	***	***
PROVIDENCE-WARWICK-PANTUCKET, RI-MA	82	82
PROVO-OREN, UT	82	93
PUEBLO, CO	82	93
RACINE, WI	85	91
RALEIGH-DURHAM, NC	58	69
RAPID CITY-S.D.	82	83
RENO, NV	89	89
RENO, NV	126	148
RICHMOND, VA	184	184
RICHMOND-KENNEWICK-PASCO, WA	87	137
RIVERSIDE-SAN BERNARDINO-ONTARIO, CA	64	64
ROANOKE, VA	83	83
ROCHESTER, MN	95	95
ROCHESTER, NY	122	138
ROCKFORD, IL	187	128
SACRAMENTO, CA	86	86
SACRAMENTO, MI	75	75
ST. CLOUD, MN	66	72
ST. JOSEPH, MO	78	81
ST. LOUIS, MO-IL	184	106
SALEM, OR	131	144
SALT LAKE CITY-MONTREY, CA	93	104
SALT LAKE CITY-CODEN, UT	49	74
SAN ANTONIO, TX	58	69
SAN DIEGO, CA	131	164
SAN FRANCISCO-ORLANDO, CA	137	197
SAN JOSE, CA	137	203
SAN JUAN	***	***

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

NOTE THE NON-METROPOLITAN PORTIONS OF COLORADO, MONTANA, UTAH, AND WYOMING ARE DELINEATED BY AREAS TO SHOW DIFFERENCES CAUSED BY ENERGY IMPACT.

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
COLORADO		
EASTERN SLOPE	71	82
INCLUDES COUNTIES OF: ALAMOSA, BACA, BENT, CHEYENNE, CONEJOS, COSTILLA, CROWLEY, ELBERT, HUERFANO, KIOWA, KIT CARSON, LAS ANIMAS, LINCOLN, LOGAN, MINERAL, MORGAN, OTERO, PHILLIPS, PROWERS, RIO GRANDE, SAQUACHE, SEDGWICK, YUMA, WASHINGTON.		
WESTERN SLOPE	82	93
INCLUDES COUNTIES OF: ARCHULETA, CHAFFEE, CLEAR CREEK, CUSTER, DELTA, DOLORES, FREMONT, GRAND GUNNISON, HINSDALE, JACKSON, LAKE, LAPLATA, MESA, MONTEZUMA, MONTROSE, OURAY, PARK, SAN JUAN, SAN MIGUEL.		
MOUNTAIN/ENERGY	132	148
INCLUDES COUNTIES OF: EAGLE, GARFIELD, MOFFAT, PIKIN, RIO BLANCO, ROUTT, SUMMIT.		
MONTANA		
MOUNTAIN/ENERGY	82	93
INCLUDES COUNTIES OF: BIG HORN, CARBON, CUSTER, DAWSON, MUSSELSHELL, POWDER RIVER, ROSEBUD, TREASURE, BEAVERHEAD, BROADWATER, DEER LODGE, FLATHEAD GALLATIN, GRANITE, JEFFERSON, LAKE, LEWIS AND CLARK, LINCOLN, MADISON, MEACHER, MINERAL, MISSOULA, PARK, POWELL, RAVALLI, SANDERS, SILVER BOW, YELLOWSTONE NATIONAL PARK.		
PLAINS	60	71
INCLUDES COUNTIES OF: BLAINE, CARTER, CHOUTEAU, DANIELS, FALLON, FERGUS, GARFIELD, GLACIER, GOLDEN VALLEY, HILL, JUDITH BASIN, LIBERTY, MCCONE, PETROLEUM, PHILLIPS, PONDERA, PRAIRIE, RICHLAND, ROOSEVELT, SHERIDAN, STILLWATER, SWEET GRASS, TETON, TOOLE, TREASURE, VALLEY, WHEATLAND, WYBAUX.		
UTAH		
ENERGY AREA	82	93
INCLUDES COUNTIES OF: CARBON, EMERY, GRAND UTAH.		
NON-METRO	60	71
INCLUDES COUNTIES OF: BEAVER, BOX ELDER, CACHE, DACCETT, DUCHESNE, GARFIELD, IRON, SUAB, KANE, MILLARD, MORGAN, PIUTE, RICH, SAN JUAN, SANPETE, SEVIER, SUMMIT, UTAH, WASHINGTON, WAYNE.		
WYOMING		
ENERGY IMPACT	137	148
INCLUDES COUNTIES OF: CAMPBELL, CARBON, CONVERSE, FREMONT, NATRONA, SHERIDAN, SWEETWATER.		
NON-METRO	82	99
INCLUDES COUNTIES OF: ALBANY, BIG HORN, CROOK, GOSHEN, HOT SPRINGS, JOHNSON, LARAMIE, LINCOLN, NIOBRARA, PARK, PLATTE, SUBLETTE, TETON, UNITA, WASHAKIE, WESTON.		

[FR Doc. 79-39141 Filed 12-20-79; 8:45 am]

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Friday
December 21, 1979

Part IX

Department of Housing and Urban Development

Office of Assistant Secretary for
Neighborhoods, Voluntary Associations
and Consumer Protection

Mobile Home Procedural and
Enforcement Regulations; Formal
Investigations and Adjudicative Hearings

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

24 CFR Part 3282

[Docket No. R-79-748]

Mobile Home Procedural and Enforcement Regulations; Formal Investigations and Adjudicative Hearings

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Mobile Home Procedural and Enforcement Regulations in order to provide a more detailed set of regulations to govern investigations and adjudicative proceedings by the Office of Mobile Home Standards. The purpose is to provide for uniform and fair proceedings with sufficient detail so that the parties involved are adequately informed of the procedures to be followed. The hearing procedures will apply uniformly to all proceedings where a party is aggrieved by a preliminary determination (including an administrative determination on the assessment of civil penalties) issued by the Office of Mobile Home Standards pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 or its regulations.

DATES: Comments must be received on or before January 21, 1980.

ADDRESSES: Comments must be sent to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Jeffrey Hammond, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-7055.

SUPPLEMENTARY INFORMATION: This proposed rule alters the present rule in that it consolidates the presentation of views procedure with the adjudicative procedure and in that it provides detailed rules governing the investigative and adjudicative procedures. With respect to formal investigations and adjudicative proceedings, the procedures retained in the proposed rules answer many questions which are left unanswered by the present regulations. As a result the procedures which are to be followed

should be clear to all interested parties and there should be much less need for judicial or administrative interpretation of the procedural rules.

The proposed rules apply to all administrative actions and to all formal investigations. An "administrative action" is the only form of adjudicatory proceeding available under the proposed rules. Administrative actions can be used to determine the existence of an imminent safety hazard, serious defect, defect or noncompliance, the propriety of rejecting a state plan for full approval as an SAA, the propriety of withdrawing full approval of a state plan as an SAA, the facts in cases where the payment of civil penalties may be appropriate and the amount, if any, of civil penalty to be assessed, the propriety of disqualification of a primary inspection agency, and the facts relating to the issuance of an injunction. Formal investigations may be conducted when the Secretary needs to obtain information in order to promulgate or enforce Federal mobile home construction and safety standards or in order to carry out his other duties under the Act.

Administrative actions under the proposed rules provide for formal hearings including procedural safeguards required by the Administrative Procedure Act 5 U.S.C. 551 *et seq.* In addition, many portions of the Federal Rules of Civil Procedure have been incorporated into the proposed rules. Included are provisions for discovery which are available as a matter of right to a limited extent in most cases. Extensive discovery is available by agreement of the parties or by order of the Judge. Expedited proceedings are also available where warranted by a particular case.

The present rules have been so completely rewritten that a section by section analysis of the changes would be difficult to make and would serve little purpose. As a result the Department will present here an analysis of the proposed rules without references to similar sections in the present rules.

Section 3282.151

This section sets forth the applicability and scope of these procedural rules. The purposes of these rules are to govern the conduct of formal investigations and to govern the conduct of administrative actions. Administrative action is defined in § 3282.152(a)(1) as an adjudicatory proceeding.

Section 3282.152

General rules which are applicable both to formal investigations and to administrative actions are contained in this section.

Section 3282.152(a) defines many of the words which are used in the rules. These definitions permit the use of shorthand references where a particular term is used frequently. For example "Judge" is defined as "an Administrative Law Judge qualified pursuant to 5 U.S.C. 3105." Also, "Judge" as used herein means an Administrative Law Judge qualified pursuant to 5 U.S.C. 3105.

Section 3282.152(b) provides for the assignment of hearing locations for administrative actions and for formal investigations.

Section 3282.152(c) requires that a party providing certain confidential information bring it to the attention of a responsible person so that its confidentiality can be protected.

Section 3282.152(d) requires that certain documents be retained as part of the Department's official record.

Section 3282.152(e) provides that service of process may be made by mail, telegram or by personal service, and that service may be made anywhere in the United States. The section also provides for proof of service in administrative actions.

Section 3282.152(f) sets forth the requirements for subpoenas in administrative actions and in formal investigations. This section provides for the issuance of the subpoena by the Judge in an administrative action and for the issuance by the Department in formal investigations. This section also contains requirements governing the form of the subpoena. These subpoenas may be used to obtain testimony or documentary evidence. In an administrative proceeding a party may move to quash the subpoena within five days after service, and in a formal investigation a subpoenaed party may file a petition for the withdrawal or modification of a subpoena.

Section 3282.152(g) requires that the Department consider any offer of settlement made by a party.

Section 3282.152(h) makes provision for an expedited proceeding in an administrative action where warranted by the circumstances of the case. In the case of an expedited proceeding the discovery which is otherwise available under the proposed rules is limited because of limited time.

Section 3282.152(i) provides that any party may be represented by an attorney in an administrative action or formal investigation. In addition an individual may appear on his own

behalf or on behalf of his or her partnership. A corporation may be represented by one of its officers.

Section 3282.153

Specific rules which govern the conduct of formal investigations are contained in this section.

Section 3282.153(a) permits the Secretary to take testimony or receive documents relating to any matter under investigation. Any such hearing would not be adjudicative. However, such hearing will be recorded and witnesses will be placed under oath.

Section 3282.153(b) sets forth the rights of witnesses in investigative hearings. Any witness would be permitted to purchase a copy of the transcript of his testimony or inspect the official transcript. A witness may be accompanied by counsel at any hearing. Objections may be stated on the record, but a witness may refuse to answer a question only if the information sought is privileged. At the conclusion of questioning, a witness may clarify his answers.

Section 3282.154

Detailed rules governing adjudicative proceedings are contained in this section.

Section 3282.154(a) sets forth the circumstances under which an adjudicative proceeding (called an "administrative action" in these proposed rules) may be used. Administrative actions can be used generally to determine a fact relating to the applicability of the Act or regulations. In particular, an administrative action would be appropriate to determine the existence of an imminent safety hazard, serious defect, defect or noncompliance, the propriety of rejecting a state plan for full approval as a state administrative agency ("SAA"), the propriety of withdrawing full approval of a state plan as an SAA, the facts in cases where the payment of civil penalties may be appropriate and the amount, if any, of civil penalty to be assessed, the propriety of disqualification of a primary inspection agency, and the facts relating to the issuance of an injunction.

Section 3282.154(b) provides that an administrative action is started when the Department issues an administrative complaint. It also provides for the assignment of cases to Judges.

Section 3282.154(c) requires that most pleadings and other papers which are part of an administrative action must be served on the opposing party. All such papers are also required to be filed with the Judge.

Section 3282.154(d) provides that there will be no pleadings other than an administrative complaint and an answer. This section also requires that all motions other than those made during a hearing be made in writing. A party opposing a motion has ten days after service within which to answer. Oral argument on a motion may be permitted. The judge is permitted to rule upon motions for extensions of time *ex parte*.

Section 3282.154(e) sets forth rules governing pleading. It sets forth the requirements both as to form and substance for administrative complaints and for answers. Parties are required to sign pleadings.

Section 3282.154(f) sets forth certain requirements with respect to the form of pleadings. It states what is required in the caption of a pleading. It also requires that all assertions of claim or defense are to be set forth in numbered paragraphs.

Section 3282.154(g) requires that a defendant serve his answer within 30 days after the service of the administrative complaint. All defenses of all types are required to be set forth in the answer. Any issue which could have been raised in the answer and which is not so raised may not be raised later. This section provides for the determination of the validity of certain defenses prior to a hearing on the merits unless the Judge otherwise orders.

Section 3282.154(h) provides for amendments to pleadings under certain circumstances. Generally an amendment would only be permitted immediately after a pleading is filed or if ordered by the Judge. However, amendments to the pleadings are permitted in order to make them conform to the evidence when issues are determined by express or implied consent of the parties. Supplemental pleadings are also permitted under certain circumstances in order to set forth the events which have occurred since the date of the original pleading.

Section 3282.154(i) permits the Judge to allow a person to intervene if that person claims an interest in the proceeding and if his interest may be adversely affected as a result of the proceeding. This section also contains the requirements which must be met by a petition to intervene and it requires that the Judge take into account certain factors when deciding whether to permit intervention.

Section 3282.154(j) contains general provisions with respect to discovery available by agreement of the parties or by order of the Judge. It requires that no motion concerning discovery may be filed unless the parties have discussed

the matter and have been unable to reach agreement. This section also sets time limits with respect to the filing of requests for discovery and all motions for orders permitting discovery. The parties may agree to permit or the Judge may order the following types of discovery: Depositions, interrogatories, or production of documents or things or permission to enter upon land or other property. If discovery is ordered by the Judge, the Judge may put reasonable limits on such discovery.

Section 3282.154(k) provides that certain discovery is available to the parties as a matter of right. In particular, the parties may discover the following things as a matter of right through the use of interrogatories: (1) The names of experts including the substance of the expert's expected testimony; (2) the identification of any reports or other documents prepared by an expert; (3) the names of all witnesses; and (4) the identity of all documents which are to be offered for evidence at a hearing. Parties are also permitted as a matter of right to request admissions from any other party. Finally, a party is permitted to request the production of all documents or things which the other party intends to offer for evidence.

Section 3282.154(l) provides detailed regulations governing the conduct of discovery. These regulations govern, so far as it is available, discovery permitted as a right. They also govern all discovery permitted by agreement of the parties or by order of the Judge.

This section contains requirements for the contents of a notice of deposition. It also provides that witnesses may be compelled by subpoena to attend depositions. Both examination and cross-examination of witnesses is permitted and the testimony is to be recorded. Objections to admissibility of evidence are generally not waived if not made during the deposition unless the basis of the objection could have been cured if it had been made at the time of the taking of the deposition. Motions to terminate or limit a deposition are permitted. After the deposition is transcribed the witness is permitted to read and sign the transcript making such changes in form and substance as are necessary. After signing, the deposition is to be filed with the Judge.

Rules relating to the use of depositions at hearings on the merits are found in this section. There are also rules governing the effect of errors or irregularities in depositions.

This section also sets forth requirements for interrogatories. It requires that interrogatories be answered separately and fully in writing and under oath and that answers or

objections, if any, must be served within 30 days after service of the interrogatories. Answers to interrogatories may be used at a hearing on the merits to the extent permitted by the Federal Rules of Evidence. Under certain circumstances a party may produce business records instead of answering interrogatories.

This section also governs a request for production of documents and things. By agreement of parties or order of the Judge a party may serve on any other party a request to produce documents or things or to permit entry upon land. The request is to specify a reasonable time and place for making the inspection. After service of the request, the party upon which it is served has 15 days to serve a written response. If the response does not say that inspection will be permitted, the reasons for any objection must be stated.

Section 3282.154(m) provides sanctions for failure to make discovery. For failure to make discovery the Judge may order that certain facts are to be taken as established. He may refuse to allow a disobedient party to support or oppose certain claims or defenses or prohibit him from introducing certain matters into evidence. The Judge may also strike out pleadings or parts of pleadings or stay the proceedings until an order is obeyed or dismiss the action or render a decision by default.

Section 3282.154(n) permits the consolidation of actions involving common questions of law or fact.

Section 3282.154(o) contains regulations concerning time. It sets forth exactly how days are counted and permits the Judge to enlarge periods of time during which an act is required or permitted to be done. This section also requires that a motion and notice of hearing be served not less than five days before the time specified for the hearing. Additional time is permitted when service is made by mail.

Section 3282.154(p) permits the Judge to schedule a conference in order to discuss and resolve such matters as may assist in the disposition of the action. The Judge is then required to issue an order which sets forth the action taken at the conference.

Section 3282.155

The rules contained in this section govern the conduct of administrative hearings.

Section 3282.155(a) sets forth the authority and responsibility of the Judge. The proposed rules give the Judge the authority and responsibility set forth in the Administrative Procedure Act. The Judge is given the power necessary to control the proceedings and decide

cases. Evidentiary questions may be decided by the Judge in accordance with the Federal Rules of Civil Procedure and Federal Rules of Evidence. Parties are prohibited from communicating ex parte with the Judge except under certain circumstances. A Judge who receives an improper ex parte communication is required to inform all interested parties of the communication.

Witnesses at hearings for the purpose of giving evidence are to testify under oath which is to be administered by the Judge. Every party is permitted to present oral and documentary evidence and to conduct cross-examination. In addition, a party is permitted to make an offer of proof or have an exhibit marked for identification and retained in the record if such exhibit is not accepted as evidence.

Section 3282.155(b) requires that hearings on the merits be scheduled so that presentation of a case by the parties will be completed not later than five months after an answer has been filed. In scheduling such a hearing, the Judge may consult with the parties.

Section 3282.155(c) provides that the Department may dismiss any administrative action without prejudice at any time prior to the commencement of the hearing on the merits.

Section 3282.155(d) requires that hearings be recorded and transcribed. The Judge may order corrections of the transcript.

Section 3282.155(e) provides that parties may file briefs within a reasonable time fixed by the Judge following the close of presentation of the evidence.

Section 3282.156

This section provides rules with respect to the assessment of civil penalties after a determination has been made that there has been a violation for which a civil penalty may be assessed pursuant to 42 U.S.C. 5410.

Section 3282.156(a) lists factors which may be considered by the Judge in deciding upon the amount of a civil penalty.

Section 3282.156(b) provides that the United States has a claim against a person when such person and the Office of Mobile Home Standards enter into an agreement establishing the amount of such penalty or when the Judge's decision establishing the amount of such penalty becomes final.

Section 3282.157

This section contains the rules governing the Judge's decision in an administrative action.

Section 3282.157(a) requires that the Judge prepare and file a written decision

setting forth his findings of facts and his conclusions of law. The Judge may also include an order as part of his decision.

Section 3282.157(b) sets time limits within which the Judge must make and file his decision. In a case which is decided as a result of a hearing on the merits the Judge must make and file his decision within 60 days following the close of the presentation of the evidence.

Section 3282.157(c) permits the Judge to amend his findings of fact and/or conclusions of law pursuant to a motion of a party made not later than ten days after the service of the decision.

Section 3282.157(d) requires that the Judge prepare and file such decision as appears appropriate for the administrative complaint where a party has failed to answer or otherwise defend. This section also provides that an answer may not be received after notice of default has been filed unless the party which filed such notice of default consents to the filing of an answer or unless the Judge orders that the notice of default be set aside.

Section 3282.157(e) permits a party to file a motion for summary decision where there is no genuine issue as to any material fact and where that party is entitled to summary decision as a matter of law. Such motions may be supported by affidavits or other verified documents. This rule permits cases to be partially adjudicated on a motion for summary decision.

Section 3282.157(f) provides that a decision of the Judge becomes final 15 days after filing unless an appeal is pursued.

Section 3282.157(g) permits relief from a decision or order under certain circumstances. Such relief is permitted where there are clerical mistakes or under certain circumstances in the event of a mistake, inadvertence, or newly discovered evidence.

Section 3282.158

This section sets forth the provisions governing the review of the Judge's decision in an administrative action.

Section 3282.158(a) requires that an appeal brief be filed with the Judge within 15 days after service of the decision appealed from if a party wants to appeal. Copies of the brief must be served on all parties.

Section 3282.158(b) provides that a party may answer an appeal brief within 20 days after service of the appeal brief upon him.

Section 3282.158(c) sets forth requirements governing briefs. Briefs may not exceed 25 pages unless permitted by the Judge.

There are also a number of requirements relating to form contained in this section.

Section 3282.158(d) provides that oral arguments shall not be permitted.

Section 3282.158(e) provides that all appeals and reviews shall be determined upon the record made before the Judge. The appeals officer may affirm, reverse, modify or set aside in whole or in part the Judge's decision.

The appeals officer may also remand the case for further proceedings. The appellate order must be served on the parties not later than 35 days after the filing of the appeal brief. The decision of the appeals officer becomes final at the time of service on the parties.

A Finding of No Significant Impact under the National Environmental Policy Act of 1969 has been made in accordance with the Procedures for Protection and Enhancement of Environmental Quality. A copy of the Finding is available for inspection and copying according to Department rules and regulations during business hours at the Office of the Rules Docket Clerk, whose address is stated above.

The period available for public comment on these regulations has been set at 30 days. The Department is soliciting and is interested in comments by the public, but the comment period is limited because the Department presently has a number of cases which need to be resolved through administrative hearings. The Department believes that it would not be in the best interest of parties interested in preliminary determinations of the Secretary or of the Department to proceed with these cases under the present regulations, those regulations have shortcomings and do not provide certain due process procedural protections which are provided in the proposed regulations. The Department is interested in getting new procedural regulations in place as quickly as possible so that it can proceed with the cases mentioned above.

This proposed rule was listed on the Department's Agenda of Significant Regulations, which was published in the Federal Register on August 1, 1979.

Accordingly it is proposed that 24 CFR Part 3282 Subpart D §§ 3282.151-158 be revised as follows:

Subpart D—Formal Investigations and Adjudicative Hearings

Sec.	
3282.151	Applicability and scope.
3282.152	General provisions.
3282.153	Formal investigations.
3282.154	Administrative actions.
3282.155	Conduct of administrative hearings.
3282.156	Assessment of civil penalties.

Sec.	
3282.157	Decision.
3282.158	Review.

Authority: Sec. 625, National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5424); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart D—Formal Investigations and Adjudicative Hearings

§ 3282.151 Applicability and scope.

This subpart sets forth general rules applicable to the conduct of formal investigations and administrative actions held pursuant to the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings mentioned herein.

§ 3282.152 General provisions.

(a) *Definitions.* As used in these rules:

(1) "Administrative action" is the only form of adjudicatory proceeding available under these regulations and it is commenced by the issuance and service of an "administrative complaint" by the U.S. Department of Housing and Urban Development, Office of Mobile Home Standards.

(2) "Administrative hearing" means a hearing held as part of an administrative action and pursuant to 5 U.S.C. 554.

(3) "Appeals Officer" means the Secretary or the Secretary's designee who shall hear, consider and determine fully and finally all appeals from decisions made as part of administrative actions.

(4) "Deputy" means the Deputy Assistant Secretary for Regulatory Functions or his or her order designee.

(5) "Formal investigation" means any investigation conducted by the Office of Mobile Home Standards.

(6) "Investigative hearing" means a hearing which is non-adjudicatory in nature and which is held in conjunction with a formal investigation.

(7) "Judge" means an administrative law Judge qualified pursuant to 5 U.S.C. 3105.

(8) "Presiding Officer" means an individual, who is not a Judge, and who is authorized by the Secretary or his designee to preside over the course of investigative hearings.

(b) *Hearing sites.* All administrative actions will be assigned a hearing site or sites by an order of the Judge, who shall give due regard to the convenience and necessity of the parties or their representatives and witnesses, the availability of suitable hearing facilities, and other relevant factors. Hearing sites for investigative hearings will be designated in the subpoena.

(c) *Protection of trade secrets and other confidential information.* Upon application by a party, in an administrative action or formal investigation where trade secrets or other matters may be divulged, the confidentiality of which may be protected by 42 U.S.C. 5413(c), the Judge, Presiding Officer or person conducting the investigation shall take such action as may be appropriate to protect the confidentiality of such matters.

(d) *Retention of documents.* All documents, pleadings, books, records, papers, things, etc., filed with the Judge as part of an administrative action will be retained as part of the official record of the proceeding. However, the withdrawal of original documents may be permitted by the Judge.

(e) *Service of process.* (1) Service of process shall be by registered, certified or express mail, return receipt requested; by telegram; or by any person of suitable age and discretion.

(2) *Proof of Service.* (i) Proof of service is not required in a formal investigation.

(ii) In an administrative action proof of service shall be by verification of the person making service or by affidavit containing the original return receipt as appropriate. Failure to make proof of service does not affect the validity of service. At any time in his discretion and upon such terms as he deems just, the Judge may allow any subpoena or proof of service to be amended, unless it clearly appears that the substantial rights of the party on whom service was made would be materially prejudiced.

(3) Service of process may be made anywhere within the United States.

(f) *Subpoenas in administrative actions and formal investigations—(1) For attendance of witnesses.* (i) Subpoenas for the attendance of witnesses in administrative actions shall be issued by the Judge, shall be captioned as required by § 3282.154(f)(1), and shall command each person to whom it is directed to attend and give testimony at a time and place specified therein. The Judge may provide blank subpoenas to the parties who shall complete them before service. The Judge may cause the subpoena to be served or he may deliver it to the party requesting it for service.

(ii) Subpoenas for the attendance of witnesses in formal investigations shall be issued by the Deputy of his designee and shall contain a caption containing: (A) "United States of America before the Department of Housing and Urban Development, (Office of Neighborhoods, Voluntary Associations and Consumer Protection—Office of Mobile Home Standards)"; (B) the name of the party or

parties being investigated; (C) the file number; and (D) a designation as appropriate, such as: "Subpoena Duces Tecum Et Subpoena Ad Testificandum." Such subpoenas shall command each person to whom it is directed to attend and give testimony at a time and place specified therein and the Office of Mobile Home Standards shall cause such subpoenas to be served.

(2) *For production of documentary evidence.* A subpoena may also command the person to whom it is directed to: (i) produce or permit access to the books, papers, documents, or tangible things designated therein; and/or (ii) answer interrogatories.

(3) Any witness subpoenaed under § 3282.152(f)(1) or (2) shall be paid by the party requesting the subpoena the same fees and mileage that are paid witnesses in the courts of the United States. When a subpoena for a witness or for production of documents is issued on behalf of any party other than the Department such person must tender with his request for a subpoena the fees for one day's attendance and the mileage allowed by law. Such tender shall be made to the Judge who shall hold such fee and deliver it to the witness after appearance.

(4) *Petition or motion to quash or limit.* (i) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance but in no event more than 5 days after the date of service of such subpoena, apply to the Judge, in the case of an administrative action, to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The Judge shall have the discretion of granting or denying said motion.

(ii) No motion to quash or limit is available in a formal investigation. However, a subpoenaed party may petition the Deputy to modify or withdraw a subpoena by filing a petition with 7 days after service of the subpoena. The petition may be in letter form but must set forth the facts and the law upon which the petition is based.

(iii) Any person who does not apply to the Judge within the time specified in paragraph (i)(4)(i) of this section or who does not petition the Deputy within the time specified in paragraph (i)(4)(ii) of this section may not later raise before the Judge or Deputy or in any further proceedings any issue which could have been so raised.

(2) *Settlement.* Parties may propose either orally or in writing at any time offers of settlement which shall be considered by the Deputy. If any offer of settlement is rejected the party making the offer shall be so notified and the

offer shall be deemed withdrawn and shall not constitute a part of the record in such proceeding. If an offer of settlement is accepted, it shall become a final order of the Secretary.

(h) *Expedited proceedings.* At any time upon or after the commencement of an administrative action the Judge may order an expedited proceeding upon the motion of a party and for good cause shown. Such motion shall be in writing and accompanied by supporting documents, if any that establish the party's claim of exigent circumstances warranting expedition. Service of such motions where possible, shall be by personal delivery to all parties; otherwise service shall be by telegraphic communication followed by registered or certified mail. All parties opposing the motion shall file a response on the date the answer is due or within 5 days from the date of receipt of the motion, whichever is later. If the motion is granted time requirements provided elsewhere in these rules may be modified by the Judge to the extent required to fulfill the overall objectives of the Act and the ends of Justice: *Provided*, A hearing on the merits of the case shall not be scheduled on less than 5 days notice to the parties unless all parties to the case consent to an earlier hearing. Notwithstanding the provisions of § 3282.15(k) or any other section discovery is not available in expedited proceedings except by agreement of the parties or by order of the Judge for good cause shown.

(i) *Qualification for appearance.* (1) Members of the bar of a Federal Court or of the highest court of any state are eligible to practice before the Secretary. No register of attorneys will be maintained.

(2) Any individual or member of a partnership involved in any administrative action or formal investigation may appear on his own behalf or on behalf of the partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(3) A person shall not be represented except as stated in paragraphs (1) and (2) of this section.

§ 3282.153 Formal investigations.

(a) Generally. (1) The Secretary is authorized by 42 U.S.C. 5413 to conduct such investigations as may be necessary to promulgate or enforce Federal mobile home construction and safety standards established under the Act or otherwise to carry out his duties under the Act.

(2) Hearings may be conducted by the Secretary in the course of any

investigation for the purpose of taking the testimony of witnesses and receiving documents and other data relating to any subject under investigation. These hearings are non-adversary in nature and will not result in a formal adjudication by the Department. The purpose of an investigation hearing is to establish the facts surrounding actual, suspected or threatened violations of the Act. These hearings shall be stenographically or electronically recorded and testimony of witnesses shall be under oath or affirmation. Unless the Deputy determines otherwise for good cause, these hearings shall be public.

(b) *Rights of witnesses in investigative hearings.* (1) Any person subpoenaed in connection with any formal investigation shall be entitled, upon payment of costs, to purchase a copy of the transcript of his testimony as reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of the testimony.

(2) Any witness compelled to appear in person in an investigative hearing may be accompanied and represented, by counsel. The witness may be advised by counsel, in confidence, and upon initiative of either counsel or the witness, with respect to any question asked.

(3) *Objections.* (i) A witness may not refuse to answer a question or produce evidence except as permitted by § 3282.153(b)(3)(ii), otherwise testimony and other evidence will be taken subject to any objection which is made. Objections interposed will be continuing objections throughout the course of the proceedings, and repetitious or cumulative statement of an objection or of the grounds therefor, in such cases, is unnecessary.

(ii) Where the testimony or other evidence sought is privileged the witness may refuse to respond. If the witness refuses to respond he or his counsel shall state briefly and precisely on the record the grounds therefor.

(4) Upon completion of the examination of a witness, the witness may clarify any answers on the record in order that specified points of ambiguity, equivocation, or incompleteness may be corrected.

(5) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to maintain order.

(6) In the case of contumacy of the witness or the witness's refusal to obey a subpoena or order of the Secretary, the United States District Court for the jurisdiction in which the inquiry is carried on may issue an order requiring

compliance therewith; and any failure to obey the court may be punished by such court as a contempt thereof.

§ 3282.154 Administrative actions.

(a) *Applicability and scope.* Sections 3282.154 through 3282.158 set out procedures applicable to adjudicative actions dealing with the following situations:

(1) The existence of imminent safety hazard, serious defect, defect, or noncompliance under 42 U.S.C. 5414(e)(g) and 24 CFR 3282.407;

(2) The rejection of a State plan for full approval as an SAA under 42 U.S.C. 5422 and 24 CFR 3282.304;

(3) The withdrawal of full approval of a State plan under 42 U.S.C. 5422(f) and 24 CFR 3282.306;

(4) The assessment of a civil penalty under 42 U.S.C. 5401(a);

(5) The disqualification of a PIA under 24 CFR 3282.356;

(6) The determination of facts relating to the issuance of an injunction pursuant to 42 U.S.C. 5410;

(7) The determination of any fact relating to the applicability or non-applicability of the Act or any regulation promulgated pursuant thereto.

To the extent that these regulations provide for hearings for parties which would otherwise qualify for hearings under 24 CFR Part 24, the procedures of 24 CFR Part 24 shall not be available and shall not apply.

(b) *Commencement of action.* (1) An administrative action is commenced by the issuance of an administrative complaint by the United States Department of Housing and Urban Development, Office of Mobile Home Standards. Such administrative complaint shall be subtitled "Notice of Preliminary Determination" and the Department shall be named as plaintiff and all other parties shall be named as defendants.

(2) Prior to issuance of an administrative complaint the Secretary or his designee shall assign the proceeding to a Judge.

(3) The Office of Mobile Home Standards shall issue the administrative complaint and cause it to be served pursuant to § 3282.154(e)

(4) Prior to the filing of an administrative complaint the Office of Mobile Home Standards may send, by certified or registered mail, to any person or entity, a letter which notifies that person or entity of a preliminary determination made by the Secretary and of any action which the Secretary has preliminarily decided to take. The letter shall set forth such preliminary determination and action. The letter

shall then contain the following paragraph:

"The Secretary of the Department of Housing and Urban Development has preliminarily made the above stated determination(s) of fact and has preliminarily decided to take the above stated action. If you would like a hearing pursuant to the procedures set forth in 24 CFR 3282.151 *et seq.* you must request such a hearing by sending a written request to (here state the name and address of the person to whom the request must be sent). Such request must be sent by registered or certified mail and must be mailed by you no later than 30 days following the receipt of this letter. If you do not so request a hearing then the Secretary's preliminary determination(s) and action shall become final determination(s) and action at midnight on the 30th day following receipt of this letter. If such determination(s) and action become final then you may not later contest either the determination(s) or the action by any administrative process or in any court."

(i) This process may be used to notify a person or entity of any action which the Secretary might take including the assessment of civil penalties.

(ii) If the person or entity to whom the letter is sent does not request a hearing within the time and by the method set forth in the letter then the preliminary factual determinations of the Secretary become final determinations and the action becomes final action of the Secretary. Such determinations and action become final at midnight of the 30th day following receipt of the letter by the person or entity.

(iii) Once the determinations and action become final the person or entity to whom the letter was addressed may not later contest such determinations or action by any administrative process, in any court or otherwise.

(iv) If a person or entity requests a hearing within the time and by the method set forth in the letter then (A) an administrative complaint shall be issued and served on the person or entity to whom the letter was addressed; or (B) the Office of Mobile Home Standards shall notify the person or entity to whom the letter was addressed that it is not going to pursue the matter at the present time. If the Office of Mobile Home Standards notifies the person or entity to whom the letter was addressed that it is not going to pursue the matter at the present time an administrative complaint may still be issued at any later time.

(c) *Service and filing of pleadings and other papers.* (1) Except as otherwise provided in these regulations, every

order required by its terms to be served, every pleading subsequent to the original administrative complaint unless the Judge otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the Judge otherwise orders, every written motion other than one which may be heard *ex parte*, and every written notice, appearance, demand, offer of settlement, proposed order, proposed findings of fact or conclusions of law, brief, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims or requesting new or additional relief against them shall be served upon them in the manner provided for service of subpoenas in § 3282.152(e). In the case of papers required to be served upon the Department two copies thereof shall be served.

(2) Whenever under these regulations service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the Judge. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the Judge. Delivery of a copy means: Handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein. Service by mail is complete upon mailing.

(3) All papers required to be served upon a party shall be filed with the Judge either before service or within a reasonable time thereafter.

(4) Every paper required to be served upon a party shall be accompanied by a signed certificate of service which shall state the person who was served, the address of service, the manner of service and the date of service.

(d) *Pleadings and motions.*—(1) *Pleadings.* There shall be an administrative complaint and an answer. No other pleading shall be allowed except as permitted by order of the Judge.

(2) *Motions and other papers.* (i) An application to the Judge for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the

grounds therefor, and shall set forth the relief or order sought.

(ii) The regulations applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these regulations.

(iii) Within 10 days after service of any written motion, an opposing party may answer in writing. The moving party shall have no right to reply except as permitted by the Judge. Oral argument on motions may be required by the Judge on his own motion or it may be permitted by the Judge upon request by one of the parties made with the motion or with the answer to the motion.

(iv) The Judge may, in his discretion, rule upon motions for extension of time ex parte. Extensions of time or continuances in any administrative action may be offered for sufficient cause in the discretion of the Judge on his own motion, or on the motion of either party.

(v)(A) When a motion is granted with the result that the proceeding before the Judge is terminated, the Judge shall file a decision in accordance with the provisions of § 3282.157. If such a motion is not granted as to all allegations and as to all parties, the Judge shall file an order with respect to that part of the motion which is granted.

(B) A motion to dismiss may be made by any party at any time.

(e) *Rules of pleading.* (1) The administrative complaint shall contain: (i) A short and plain statement of the claim showing that the Department is entitled to relief; and (ii) a demand for decision for the relief to which the Department deems itself entitled including a statement of the facts to be determined if any. Relief in the alternative or of several different types may be demanded.

(2) *Particular requirements for administrative complaint.* Following the portions of the administrative complaint which are otherwise required by these regulations there shall be a Notice to Defendant, titled as such which shall be signed by the Deputy or his designee, and which shall state:

"The procedural regulations governing this action are located at 24 CFR 3282.151 et seq. If you wish to contest this action you must appear and defend by filing an answer with (here state the name and address of the Judge) and by serving two copies on the Department's attorney whose name and address appear above. The answer must conform to the procedural regulations and it must be served within 30 days following service of the administrative complaint. If you do not appear and defend within

the time provided, decision by default will be rendered against you for the relief demanded in this administrative complaint and the facts requested herein to be determined shall be determined as true."

(3) *Defenses; form of denials.* A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the assertions upon which the Department relies, and a party shall admit or deny the truth of each fact stated by another party as one to be determined. If he is without knowledge or information sufficient to form a belief as to the truth or an assertion, or fact, he shall so state and this has the effect of a denial. Denials shall meet the substance of the assertion or facts denied. When a party intends in good faith to deny only a part or a qualification of an assertion or fact, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the party intends in good faith to controvert all the assertions or facts of the administrative complaint, he may make his denials as specific denials of designated assertions or facts or paragraphs, or he may generally deny all the assertions or facts except such designated assertions or facts or paragraphs as he expressly admits; but, when he intends to controvert all assertions and facts he may do so by general denial subject to the obligations set forth in § 3282.154(e)(8).

(4) *Affirmative defenses.* The answer shall set forth affirmatively accord and satisfaction, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, license, payment, release, res judicata, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense.

(5) *Effect of failure to deny.* Assertions in the administrative complaint, other than those as to the amount of damage, are admitted when not denied in the answer. Assertions in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(6) *Pleading to be concise and direct; consistency.* (i) Each assertion in a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required.

(ii) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of

one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency. All statements shall be made subject to the obligations set forth in § 3282.154(e)(8).

(7) *Construction of pleadings.* All pleadings shall be so construed as to do substantial justice.

(8) *Signing of pleadings.* Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address and telephone number shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

(f) *Form of pleadings.* (1) Every pleading shall contain a caption containing: (i) "United States of America before the Department of Housing and Urban Development"; (ii) the title of the action; (iii) the file number; and (iv) a designation as in § 3282.154(d)(1). In the administrative complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

(2) *Paragraphs; separate statements.* All assertions of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number thereafter. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth. In addition, each fact to be determined is to be set forth in a separate lettered or numbered paragraph.

(3) *Adoption by reference: Exhibits.* Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(g) *Defenses and objections.* (1) A defendant shall serve his answer within 30 days after the service of the administrative complaint upon him.

(2) Every defense, in law or fact, to a claim shall be asserted in the answer including the following: (i) Lack of jurisdiction over the subject matter; (ii) lack of jurisdiction over the person; (iii) insufficiency of process; (iv) insufficiency of service of process; (v) failure to state a claim upon which relief can be granted. No defense or objection is waived by being joined with one or more other defenses or objections in an answer. No counterclaim shall be permitted.

(3) The defenses specifically enumerated in paragraph (g)(2)(i) of this section and a motion for decision on the pleadings on summary decision shall be heard and determined before the hearing on the merits on application of any party unless the Judge otherwise directs.

(4) *Waiver or Preservation of Certain Defenses:* (i) A defense or lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived if omitted from the answer or an amendment thereof permitted by § 3282.154(h) to be made as a matter of course.

(ii) A defense of failure to state a claim upon which relief can be granted and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered or by motion for decision on the pleadings, or at the hearing on the merits.

(iii) Whenever it appears that the Department lacks jurisdiction of the subject matter, the Judge shall dismiss the action.

(h) *Amended and supplemental pleadings.*—(1) *Amendments.* The department may amend its administrative complaint once as a matter of course at any time before an answer is served and a party may amend his answer once as a matter of course at any time within 20 days after it is served unless the action has been scheduled for a hearing on the merits. Otherwise a party may amend his pleading only by leave of the Judge or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the Judge otherwise orders.

(2) *Amendments to conform to the evidence.* When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such

amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after decision; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues raised by the pleadings, the Judge may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The Judge may grant a continuance to enable the objecting party to meet such evidence.

(3) *Relation back of amendments.* Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him the party to be brought in by amendment (i) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (ii) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

(4) *Supplemental pleadings.* Upon motion of a party the Judge may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the Judge deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

(i) *Intervention.* (1) The Judge upon timely written application shall permit anyone to intervene when the applicant claims an interest relating to the property or transaction which is the subject of the administrative action and he is so situated that the disposition of the administrative action may as a practical matter impair or impede his ability to protect that interest, unless the

applicant's interest is adequately represented by existing parties.

(2) The petition for intervention shall contain: (i) The petitioner's relationship to, and interest in, the matters involved in the proceeding; (ii) a concise statement of the petitioner's position with respect to each specific issue upon which he proposes to intervene, and of the facts which he proposes to adduce in support of each such position; and (iii) the petitioner's assent to the exercise of jurisdiction by the Department over him.

(3) The Judge shall determine the propriety of such intervention and the extent to which such intervenor may participate, basing such determination upon the directness and substantiality of the petitioner's interest in the administrative action and the effect upon the administrative action of allowing such participation. If intervention is permitted the Judge shall name such party as a plaintiff or as a defendant.

(j) *Discovery—Generally.* (1) Except as provided for by these regulations no discovery is permitted unless agreed to by the parties or unless ordered by the Judge for good cause shown. No motion concerning any aspect of discovery may be made unless the party making such motion or his attorney: (i) Certifies that, after personal consultation with the other party or his attorney, the parties have been unable to reach agreement; and (ii) states the time and date of such consultation.

(2) Any motion for an order permitting discovery must be accompanied by copies of all discovery papers (interrogatories, notices of depositions, etc.) which the party desires to file.

(3) Except in cases where a motion for an expedited proceeding is filed pursuant to § 3282.152(h) all requests for discovery and all motions for orders permitting discovery must be filed within 30 days after the date on which the answer is filed, unless otherwise ordered by the Judge for good cause shown. In cases where a motion for an expedited proceeding has been filed pursuant to § 3282.152(h) all motions for orders permitting discovery must be filed by the date on which the response to the motion for an expedited proceeding is due. If the motion for an expedited proceeding is denied then request for discovery and additional motions for orders permitting discovery may be filed within the time otherwise prescribed by this regulation.

(4) The parties may agree to permit the following types of discovery or the Judge may order such discovery for good cause shown: Depositions upon oral examination or written questions;

written interrogatories; and production of documents or things or permission to enter upon land or other property, for inspection and other purposes.

(5) In ordering discovery the Judge may place such limits on it as are just and reasonable.

(k) *Discovery as a matter of right.* Discovery provided for in this section (§ 3282.154(k)) is available as of right and without agreement of parties and without order by the Judge. The frequency of use is not limited.

(1) *Discovery relating to experts.* (i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at any hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify along with a summary of the grounds for each opinion.

(ii) A party may also require through interrogatories that any other party identify any reports or other documents prepared by any expert in preparation for the case.

(iii) A party is under a duty to amend his answers to interrogatories relating to experts.

(iv) If a party has been asked to identify expert witnesses then that party may present expert testimony only by those individuals who have been identified unless otherwise ordered by the Judge for good cause shown.

(v) If a party has been asked to state the subject matter on which an expert is expected to testify and/or to state the substance of the facts and opinions to which the expert is expected to testify then that party may present expert testimony only with respect to the matters contained in his answers to such interrogatories unless otherwise ordered by the Judge for good cause shown.

(2) A party may through interrogatories require any other party to identify each person who is to be called as a witness by such party. The name, home and work addresses and home and work telephone numbers of a witness may be required as a matter of right.

(i) A party is under a duty to amend his answers to interrogatories relating to the names of witnesses.

(ii) If a party has been asked to identify witnesses then that party may present testimony only by those individuals who have been named unless otherwise ordered by the Judge for good cause shown.

(3) *Requests for admission.* (i) A party may serve upon any other party a

written request for the admission of the truth of any matters concerning the pending action set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

(ii) Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such other time as the Judge may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the Judge shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 30 days after service of the administrative complaint upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request. The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the Judge determines that an objection is justified, it shall order that an answer be served. If the Judge determines that an answer does not comply with the requirements of this rule, he may order either that the matter is admitted or that an amended answer be served. The Judge may, in lieu of these orders, determine that final disposition of the request be made at a pre-hearing conference or at a designated time prior to the hearing on the merits.

(c) *Effect of admission.* Any matter admitted under § 3282.154(k)(3) is conclusively established unless the Judge on motion permits withdrawal or amendment of the admission. The Judge may permit withdrawal or amendment when the presentation of the merits of the action will be served thereby and the party who obtained the admission fails to satisfy the Judge that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under § 3282.154(k)(3) is for the purpose of the pending action and for the purpose of any related action, administrative or otherwise, involving the same parties.

(4) *Documents.* (i) A party may through interrogatories require any other party to identify each document or thing which is to be offered for evidence by such party. Except as permitted here and in § 3282.154(k)(1)(ii) the identity of no other document or thing may be required as a matter of right.

(A) A party is under a duty to amend his answers to interrogatories relating to the identity of documents or things which are to be offered for evidence.

(B) If a party has been asked to identify documents or things which are to be offered for evidence then that party may offer for evidence only those documents or things which have been identified unless otherwise ordered by the Judge for good cause shown.

(ii) A party may request the production of documents or things the identity of which is asked pursuant to § 3282.154(k)(4)(i) or § 3282.154(k)(1)(ii). No other request for production is permitted as a matter of right.

(1) *Discovery—By agreement of the parties or by order of the judge.* The regulations contained herein govern discovery which may be agreed to by the parties or ordered by the Judge except that the regulations governing interrogatories also govern the limited discovery which is available as of right pursuant to § 3282.154(k)(1), (2) and (4) and except that the regulations governing requests for production also govern the limited discovery which is available as of right pursuant to § 3282.154(k)(4).

(1) *Depositions.* The attendance of witnesses may be compelled by subpoena as provided in § 3282.152(e).

(i) A notice of deposition shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena

shall be attached to or included in the notice.

(ii) The notice to a party deponent may be accompanied by a request made for the production of documents and tangible things at the taking of the deposition.

(iii) A party may in his notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This provision does not preclude taking a deposition by any other procedure authorized in these regulations.

(iv) *Examination and cross-examination; record of examination; oath; objections.* Examination and cross-examination of witnesses may proceed as permitted under the provisions of the Federal Rules of Evidence. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. If requested by one of the parties, the testimony shall be transcribed. All objections made at the time of the examination to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(v) *Motion to terminate or limit examination.* At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the Judge may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the

taking of the deposition. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the Judge. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(vi) *Submission to witness; changes; signing.* When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 10 days of its submission to him, the officer shall sign and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as though signed unless on a motion to suppress the Judge holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(vii) *Certification and filing by officer; exhibits; copies; notice of filing.* (A) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the Judge or send it by registered or certified mail to the Judge. Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may

then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the Judge, pending final disposition of the case.

(B) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

(C) The party taking the deposition shall give prompt notice of its filing to all other parties.

(2) *Use of Depositions at Hearings—* (i) *Use of Depositions.* At the hearing on the merits or upon the hearing of a motion any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(A) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(B) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

(C) The deposition of a witness whether or not a party, may be used by any party for any purpose if the Judge finds: (1) that the witness is dead; or (2) that the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (4) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (5) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(D) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

(ii) *Objections to admissibility.* Subject to the provisions of

§ 3282.154(l)(2)(iii)(C) of this rule, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(iii) Effect of errors and irregularities in depositions. (i) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(B) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(C) *As to taking of deposition.* Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time. Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonal objection thereto is made at the taking of the deposition.

(D) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

(3) *Interrogatories to parties—(i) Availability; procedures for use.* (A) Written interrogatories are to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.

(B) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person

making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories or within such other time as the judge may allow. The party submitting the interrogatories may move for an order under § 3282.154(m) with respect to any objection to or other failure to answer an interrogatory.

(ii) *Scope; use at hearing.* (A) Answers to interrogatories may be used to the extent permitted by the Federal Rules of Evidence.

(B) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law of fact, but the judge may order that such interrogatory need not be answered until discovery has been completed or until a pre-hearing conference has taken place or until some other later time.

(iii) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

(4) *Production of documents and things and entry upon land for inspection and other purposes—(i) Scope.* Any party may serve on any other party a request (A) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents

(including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which are in the possession, custody or control of the party upon whom the request is served; or (B) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the

purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon.

(ii) *Procedure.* The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The party upon whom the request is served shall serve a written response within 15 days after the service of the request, except that a defendant may serve a response within 30 days after service of the administrative complaint upon that defendant. The judge may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under § 3282.154(m) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

(m) *Sanctions for failure to make discovery.* (1) A party, upon reasonable notice to other parties and all persons affected thereby, may apply to the judge for an order compelling discovery if a deponent fails to answer a question as part of an oral or written deposition or if a corporation or other entity fails to designate a person to testify on its behalf at a deposition or if a party fails to answer an interrogatory or if a party fails, in response to a request for inspection, to permit inspection or to permit inspection as requested. When taking a deposition or oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order. For purposes of this provision an evasive or incomplete answer is to be treated as a failure to answer.

(2) If a party or an officer, director or managing agent of a party or a person designated under § 3282.154(l)(1)(iii) to testify on behalf of a party fails to obey an order to provide or permit discovery the judge may make such orders in regard to the failure as are just, and among others the following:

(i) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or

prohibiting him from introducing designated matters in evidence; and

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a decision by default against the disobedient party.

(3) If a party or an officer, director, or managing agent of a party or a person designated under § 3282.154(l)(1)(iii) to testify on behalf of a party fails (i) to appear before the officer who is to take his deposition, after being served with proper notice, or (ii) to serve answers or objections to interrogatories after proper service of the interrogatories, or (iii) to serve a written response to a request for inspection after proper service of the request, the judge on motion may make such orders in regard to the failure as are just and among others he may take any action authorized in § 3282.154(m)(2) (i), (ii), and (iii).

(n) *Consolidation.* When administrative actions involving a common question of law or fact are pending, a judge may order a joint hearing of any or all the matters in issue in the action; he may order all the actions consolidated; and he may make such orders concerning proceedings therein as may tend to avoid unnecessary cost or delay.

(o) *Time—(1) Computation.* In computing any period of time prescribed or allowed by these regulations, or by order of the judge, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this regulation, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

(2) *Enlargement.* When by these rules or by a notice given thereunder or by order of the judge an act is required or allowed to be done at or within a specified time, the judge, for cause shown, may at any time in his discretion (i) with or without motion or notice order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as

extended by a previous order, or (ii) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

(3) *For motions—affidavits.* A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these regulations or by order of the judge. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, opposing affidavits may be served not later than 1 day before the hearing, unless the judge permits them to be served at some other time.

(4) *Additional time after service by mail.* Whenever a party has the right or is required to take some action within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

(p) *Pre-hearing procedure: formulating issues.* (1) In any administrative action, the judge may in his discretion direct the attorneys for the parties to appear before him for a conference to consider:

(i) The simplification of the issues; (ii) The necessity or desirability of amendments to the pleadings; (iii) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; (iv) The limitation of the number of expert witnesses;

(v) Such other matters as may aid in the disposition of the action.

(2) The judge shall issue an order which states the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the hearing on the merits to prevent manifest injustice.

§ 3282.155 Conduct of administrative hearings.

(a) *Authority and responsibility of the judge.* (1) The judge shall conduct a fair and impartial hearing, take all necessary action to avoid delay in the disposition of the administrative action and maintain order. In addition, he shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also power including but not limited to the following:

(i) To administer oaths and affirmations;

(ii) To rule upon offers of proof and receive evidence;

(iii) To regulate the course of the hearing and the conduct of the parties and their counsel;

(iv) To hold conferences as necessary for the simplification and clarification of issues or any other purpose;

(v) To consider and rule upon, as justice may require, all procedural and other motions appropriate as part of an administrative action;

(vi) To make and file decisions; and (vii) To receive relevant and material evidence, and exclude all irrelevant, immaterial or unduly repetitious evidence.

(2) In dealing with all procedural and evidentiary issues arising within the context of an administrative action the judge may, to the extent it is not expressly provided for otherwise in these regulations, decide such questions in accordance with the Federal Rules of Civil Procedure and Federal Rules of Evidence.

(3) (i) No person shall communicate with a judge either directly or indirectly concerning any pending proceeding unless prior to or simultaneously with such communication its contents are disclosed in detail to all persons interested in the proceeding; nor shall any judge request or consider any such unauthorized ex parte communication. This prohibition shall not apply to a simple request for information respecting the status of the proceeding, nor any ex parte communication expressly authorized by these rules.

(ii) Any judge who receives an ex parte communication which he knows or has reason to believe is unauthorized, shall promptly place the communication, or its substance, in the public file and shall inform all persons interested in the proceeding of its existence and general contents. Facts or arguments so communicated shall not be taken into account in deciding any matter in issue unless such facts or arguments shall be brought properly before the judge.

(iii) An opportunity to answer allegations or contentions contained in an unauthorized ex parte communication may be afforded any interested person upon his motion for leave to do so, whenever such leave will operate to assure a fair hearing or decision.

(iv) When a motion is based on facts not appearing of record the judge may hear the matter on affidavits presented by the respective parties, but the judge may direct that the matter be heard wholly or partly on oral testimony or deposition.

(v) *Evidence.* (A) All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation which shall be administered by the Judge. Every party shall have the right to present such oral or documentary evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts. The Judge shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence.

(B) When offered evidence is excluded, the party offering shall be permitted to state on the record an offer of proof with respect thereto and rejected exhibits, adequately marked, shall on request of the party offering the same be retained in the record for purposes of review. Evidence may be received subject to deferred ruling on objections to its admissibility.

(C) Objections shall be timely made and shall specify the particular ground of objection. Formal exception to an adverse ruling is unnecessary.

(b) *Scheduling of hearing.* The Judge shall schedule an administrative hearing on the merits to take place so that the presentation of evidence in the case will be concluded by the parties not later than 5 months after the answer has been filed. In scheduling such hearing the Judge may consult with the parties. A hearing may be scheduled later only upon agreement of all parties or if ordered by the Judge upon a finding that good cause exists.

(c) *Dismissal of actions.* An action may be dismissed by the plaintiff without order of the Judge by filing a notice of dismissal at any time prior to the commencement of the hearing on the merits. Unless otherwise stated in the notice of dismissal, the dismissal is without prejudice.

(d) *Reporting and transcription.* Hearings shall be stenographically or electronically recorded. Such recording shall be transcribed. The original transcript shall be a part of the record and the sole official transcript.

(1) Corrections of the official transcript may be made pursuant to order of the Judge.

(e) *Briefs.* The Judge shall fix a reasonable time not to exceed 30 days following the close of the presentation of the evidence during which any party may file with the Judge proposed findings of fact, proposed conclusions of law, a proposed order and a brief in support thereof.

§ 3282.155 Assessment of civil penalties.

(a) *Amount of penalty.* In determining the amount of the civil penalty the Judge

may consider the following factors as well as other relevant factors:

- (1) The seriousness of the violations;
- (2) The number of violations;
- (3) Whether the defendant had knowledge of the violation;
- (4) Whether the defendant has a prior history of violations;
- (5) The size of the defendant's business;
- (6) The readiness of the defendant to comply with the Act and regulations; and
- (7) The deterrent value of the penalty as against future violations by the same manufacturer or dealer, and as against violations by other manufacturers or dealers.

(b) *Existence of a claim.* The United States has a claim against a manufacturer, dealer or other person liable for such penalty when: (1) The Office of Mobile Home Standards and such person or entity enter into an agreement establishing the amount of such penalty; or (2) when a Judge's decision establishing the amount of such penalty becomes final.

§ 3282.157 Decision.

(a) *Written decision.* The Judge shall prepare and file a written decision which shall set forth his findings of facts and which shall set forth separately his conclusions of law thereon. Findings of fact shall include specific findings as to the existence or non-existence of each fact which was presented in the pleadings as one to be determined. The Judge may also include as part of his decision an order if appropriate for the case.

(b) *Time for decision.* The Judge shall make and file his decision: (1) Within 30 days after the expiration of the time fixed pursuant to § 3282.155(E) but in any event not later than 60 days following the close of the presentation of the evidence, where the decision is made following a hearing on the merits; (2) within 15 days after a notice of default for failure to appear is filed; or (3) within 50 days after the filing of a motion if the case is fully adjudicated on such motion. The Judge shall serve the decision on the parties.

(c) *Amendment.* Upon motion of a party made not later than 10 days after the service of the decision the Judge may amend or add to his findings of fact and/or conclusions of law and may amend the order, if any.

(d) *Default.* (1) When a party against whom a decision is sought has failed to answer or otherwise defend as provided by these regulations and that fact is made to appear by a notice filed with the Judge (which notice need not be served on the defaulting party) the Judge

shall prepare and file such decision as appears from the administrative complaint to be appropriate.

(2) After a notice of default has been filed an answer may not be received except: (i) If the party which filed such notice consents in writing filed with the Judge to the setting aside of the notice; or (ii) if the Judge orders the notice set aside upon motion by the defaulting party and for good cause shown. Such motion to set aside the notice must be filed within 15 days after the filing of the notice. If a decision has been filed as a result of a default for failure to appear it may be set aside along with the notice.

(e) *Summary decision—(1) Filing.* At any time after commencement of an administrative action and before the scheduling of a hearing on the merits, a party to the action may move the Judge to render summary decision disposing of all or part of the action.

(2) *Grounds.* A motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions and affidavits, shows:

(i) That there is no genuine issue as to any material fact; and

(ii) That the moving party is entitled to summary decision as a matter of law.

(3) *Form of motion and affidavits.* The motion may be supported by affidavits or other verified documents, and shall specify the grounds showing the party's right to the relief sought. Supporting and opposing affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or be incorporated if not otherwise a matter of record. The Judge may permit affidavits to be supplemented or opposed by testimony, depositions, answers to interrogatories, admissions or further affidavits. When a motion for summary decision is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or otherwise must set forth specific facts showing that there is a genuine issue for hearing. If he does not so respond, summary decision, if appropriate, shall be entered against him.

(4) *Case not fully adjudicated on motion.* If a motion for summary decision is denied in whole or in part, and the Judge determines that an evidentiary hearing of the case is necessary, he shall, if practicable, and upon examination of all relevant documents and evidence before him,

ascertain what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, and direct such further proceedings as deemed appropriate.

(f) *Decision becomes final.* The decision of the Judge shall become final 15 days after filing unless an appeal brief is filed pursuant to § 3282.158(a).

(g) *Relief from decision or order—(1) Clerical mistakes.* Clerical mistakes in decisions, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the Judge at any time of his own initiative or on the motion of any party and after such notice, if any, as the Judge orders.

(2) *Mistakes; inadvertence; newly discovered evidence; fraud, etc.* On motion and upon such terms as are just, the Judge may relieve a party or his legal representative from a final decision, order, or proceeding for the following reasons: (i) Mistake or inadvertence; (ii) newly discovered evidence which by due diligence could not have been discovered previously; (iii) fraud, misrepresentation or other misconduct of an adverse party; or (iv) any other reason justifying relief from the operation of the decision. The motion shall be made within a reasonable time and for reasons (i), (ii), and (iii) not more than six months after the decision, order, or proceeding was entered or taken. A motion under this subdivision (II) does not affect the finality of a decision or suspend its operation.

§ 3282.158 Review.

(a) *Appeal from decision of Judge—(1) Appeal brief.* The Judge's decision may be appealed by filing a written appeal brief with the Judge within 15 days after service of the decision appealed from. Copies of the brief shall be served on all parties. The brief shall be specify, in separate numbered paragraphs each issue upon which the appeal is based.

(b) *Answering brief.* Within 20 days after service of the appeal brief upon a party, such party may file an answering brief conforming to the requirements of § 3282.158(c).

(c) *Length and form of briefs.* A brief shall not exceed 25 pages in length except by order of the Judge or the appeals officer and shall contain, in the order indicated, the following:

(1) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of the attorney in the matter on the front cover or title page.

(2) Subject index with page references.

(3) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(4) A concise statement of the facts of the case, without argument.

(5) A concise statement of the questions sought to be raised.

(6) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other material relief upon in support of statements contained in the argument.

(d) *Oral argument.* Oral argument shall not be permitted.

(e) *Decision on appeal or review.* (1) Upon appeal from or review of a Judge's decision, the appeals officer will consider such parts of the record as are cited or as may be necessary to resolve the issues. All appeals and reviews shall be determined upon the record made before the Judge.

(2) The appeals officer may affirm, reverse, modify or set aside, in whole or in part the Judge's decision or remand for further proceedings. The appellate order shall set forth the reasons upon which the decision is based. The appellate order shall be served on the parties not later than 35 days after the filing of the appeal brief.

(3) The decision of the appeals officer shall be final at the time of service upon the parties.

(4) Any issue which could have been raised before the Judge or the Appeals Officer which is not timely raised may not later be raised before the Judge, the Appeals Officer or in any further proceedings.

Issued at Washington, D.C. December 17, 1979.

Richard C. D. Fleming,
Acting Assistant Secretary for
Neighborhoods, Voluntary Associations and
Consumer Protection.

[FR Doc. 79-39136 Filed 12-20-79; 8:45 am]

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Test Report
Federal Reserve

Friday
December 21, 1979

Part X

Department of
Energy

Economic Regulatory Administration

Gas and Electric Utilities Covered in
1980 by Titles I and III of the Public
Utility Regulatory Policies Act of 1978
and Title II of the National Energy
Conservation Policy Act of 1978

DEPARTMENT OF ENERGY

Economic Regulatory Administration

(Docket No. ERA-R-79-43)

Gas and Electric Utilities Covered in 1980 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Title II of the National Energy Conservation Policy Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act of 1978 (NECPA) require the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility and electric utility to which Titles I and III of PURPA and Part 1 of Title II of NECPA apply during such calendar year. This Notice contains the list for 1980. Written comments are invited with respect to the inclusion of Citizens Utilities Company on the list.

DATE: Written comments must be received by January 21, 1980.

ADDRESSES: Written comments should be forwarded to the Department of Energy, Office of Public Hearings Management, 2000 M Street, NW. (Room 2313), Docket No. ERA-R-79-43, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Stephen S. Skjei, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW. (Room 4016), Washington, D.C. 20461, (202) 254-8209.

SUPPLEMENTARY INFORMATION:**I. Background**

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) and section 211(b) of the National Energy Conservation Policy Act of 1978 (NECPA), Pub. L. 95-619, 92 Stat. 3206 *et seq.*, the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Part 1 of Title II of NECPA apply in 1980. State regulatory authorities are required by the above cited sections of PURPA and NECPA to notify the Secretary of Energy as to their ratemaking authority over the listed utilities.

On September 24, 1979, DOE issued a notice containing a list of utilities to which PURPA and NECPA apply in 1980 and requesting each State regulatory

authority to notify DOE in writing of each utility on the list for which it has ratemaking authority (44 FR 56602, October 1, 1979). DOE also requested public comment on the accuracy of the list of gas and electric utilities.

The notice issued today reflects changes made in the list as a result of notifications by State regulatory authorities. These changes include (1) additions and deletions of utilities based upon the annual sales criteria set forth in PURPA and NECPA, and (2) additions and deletions based upon sales or acquisitions of gas and electric distribution facilities.

The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible State regulatory authority under PURPA and NECPA.

II. Discussion of Comments

DOE received two comments from utilities in response to the October 1 notice.

CP National Corporation (CP) requested deletion from the list of covered utilities because it operates geographically separate distribution systems, none of which alone exceeds the coverage thresholds for Titles I and III of PURPA and Title II of NECPA. CP cited, in support of its request, an earlier determination by DOE to delete Citizens Utilities Company (Citizens) from the 1979 list.

In response to this comment, DOE has determined, after reconsideration of its determination not to include Citizens on the list, that both CP and Citizens should be included on the 1980 list. This is because sections 102(c) and 301(d) of PURPA and section 211(b) of NECPA require the Secretary of Energy to publish a list identifying those utilities which have retail sales exceeding the PURPA and NECPA thresholds and both CP and Citizens have companywide retail sales exceeding the statutory thresholds.

Since Citizens was not included on the list published with the October 1 Notice, written comments are invited, as provided in section III, with respect to DOE's determination to include Citizens on the 1980 list.

CP also asserted that its annual gas sales are below the PURPA and NECPA thresholds. After reexamination of available sales information and verification by appropriate State regulatory authorities, DOE has determined that CP's annual retail sales of natural gas exceed the PURPA and NECPA thresholds.

A comment was submitted by Cabot Corporation asserting that its annual natural gas sales are below the PURPA

and NECPA thresholds. Due to the lateness of this comment, DOE was not able to determine the validity of Cabot's assertion prior to publication of this list. After such determination is made, DOE will notify Cabot Corporation and the appropriate State regulatory authority and, if necessary, modify the list of gas and electric utilities appropriately.

III. Comment Procedures

All interested persons are invited to comment in writing with respect to DOE's determination to include Citizens Utilities Company on the 1980 list. Five copies of such comments should be sent to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43." Written comments should include the commenter's name, address and telephone number.

Comments must be received by the data indicated in the "DATE" section of this Notice. All comments received will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

IV. List of Electric Utilities and Gas Utilities

Appendix A is the list of utilities to which Titles I and III of PURPA and Title II of NECPA apply, with exceptions noted for listed utilities not covered by NECPA. The list is arranged alphabetically, but subdivided into electric and gas utilities and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

DOE is also publishing, as Appendix B, a tabulation of utilities which separately identifies, by State, each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based solely on information provided to DOE by State regulatory authorities in response to the notice of October 1, 1979.

The utilities classified in Appendix B as not regulated by the State regulatory authority may in fact be regulated by local municipal authorities. Under "definitions" used in PURPA, these municipal authorities would be classified as a "State Agency" and thus have responsibilities under PURPA similar to those of the State regulatory authority.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*)

Issued in Washington, D.C., on December 19, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

Appendix A**Electric Utilities**

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977 or 1978. All, except those marked (*), are covered by PURPA Title I and NECPA Title II. Utilities marked (*) either do not exceed the NECPA threshold of 750 million kilowatt-hours in 1978 or do not have residential sales and, therefore, are not covered by NECPA Title II. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Power Company
Appalachian Power Company (VA)
Appalachian Power Company (WV)
Arizona Public Service Company
Arkansas-Missouri Power Company (AR)
Arkansas-Missouri Power Company (MO)
Arkansas Power & Light Company (AR)
Arkansas Power & Light Company (LA)
Arkansas Power & Light Company (TN)
Atlantic City Electric Company
Baltimore Gas & Electric Company
Bangor Hydro-Electric Company
Black Hills Power & Light Company (MT)
Black Hills Power & Light Company (SD)
Black Hills Power & Light Company (WY)
Blackstone Valley Electric Company
Boston Edison Company
Cambridge Electric Light Company
Carolina Power & Light Company (NC)
Carolina Power & Light Company (SC)
Central Hudson Gas & Electric Corporation
Central Illinois Light Company
Central Illinois Public Service Company
Central Louisiana Electric Company
Central Maine Power Company
Central Power & Light Company
Central Telephone & Utilities Corporation (CO)
Central Telephone & Utilities Corporation (KS)
Central Vermont Public Service Corporation
Cincinnati Gas & Electric Company
Citizens Utilities Company (AZ)
Citizens Utilities Company (HI)
Citizens Utilities Company (ID)
Citizens Utilities Company (VT)
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Commonwealth Edison Company
Community Public Service Company (NM)
Community Public Service Company (TX)
Connecticut Light & Power Company

Consolidated Edison Company of New York
Consumers Power Company
CP National Corporation (AZ)
CP National Corporation (CA)
CP National Corporation (NV)
CP National Corporation (OR)
CP National Corporation (UT)
Dallas Power & Light Company
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
Delmarva Power & Light Company of Maryland
Delmarva Power & Light Company of Virginia
Detroit Edison Company
Duke Power Company (NC)
Duke Power Company (SC)
Duquesne Light Company
Eastern Edison Company
El Paso Electric Company (NM)
El Paso Electric Company (TX)
Empire District Electric Company (AR)
Empire District Electric Company (KS)
Empire District Electric Company (MO)
Empire District Electric Company (OK)
Florida Power Corporation
Florida Power & Light Company
Georgia Power Company
Green Mountain Power Corporation
Gulf Power Company
Gulf States Utilities Company (LA)
Gulf States Utilities Company (TX)
Hartford Electric Light Company
Hawaiian Electric Company, Inc.
Houston Lighting & Power Company
Idaho Power Company (ID)
Idaho Power Company (NV)
Idaho Power Company (OR)
Illinois Power Company
Indiana & Michigan Electric Company (IN)
Indiana & Michigan Electric Company (MI)
Indianapolis Power & Light Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Jersey Central Power & Light Company
Kansas City Power & Light Company (KS)
Kansas City Power & Light Company (MO)
Kansas Gas & Electric Company
Kansas Power & Light Company
Kentucky Power Company
Kentucky Utilities Company (KY)
Kentucky Utilities Company (TN)
Kingsport Power Company
*Lake Superior District Power Company (MI)
*Lake Superior District Power Company (WI)
Long Island Lighting Company
Louisiana Power & Light Company
Louisville Gas & Electric Company
Madison Gas & Electric Company
Massachusetts Electric Company
Metropolitan Edison Company
*Michigan Power Company
Minnesota Power & Light Company
Mississippi Power Company
Mississippi Power & Light Company
Missouri Edison Company
Missouri Power & Light Company
Missouri Public Service Company
Missouri Utilities Company
Monongahela Power Company (OH)

Monongahela Power Company (WV)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Narragansett Electric Company
Nevada Power Company
New Bedford Gas & Edison Light Company
*New Mexico Electric Service Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Northern Indiana Public Service Company
Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (SD)
Northern States Power Company (WI)
*Northwestern Public Service Company
Ohio Edison Company
Ohio Power Company
Oklahoma Gas & Electric Company (AR)
Oklahoma Gas & Electric Company (OK)
*Old Dominion Power Company
Orange & Rockland Utilities
Otter Tail Power Company (MN)
Otter Tail Power Company (ND)
Otter Tail Power Company (SD)
Pacific Gas & Electric Company
Pacific Power & Light Company (CA)
Pacific Power & Light Company (ID)
Pacific Power & Light Company (MT)
Pacific Power & Light Company (OR)
Pacific Power & Light Company (WA)
Pacific Power & Light Company (WY)
Pennsylvania Electric Company (NY)
Pennsylvania Electric Company (PA)
Pennsylvania Power & Light Company
Pennsylvania Power Company
Philadelphia Electric Company
Portland General Electric Company
Potomac Edison Company (MD)
Potomac Edison Company (VA)
Potomac Edison Company (WV)
Potomac Electric Power Company (DC)
Potomac Electric Power Company (MD)
Potomac Electric Power Company (VA)
Public Service Company of Colorado
Public Service Company of Indiana
Public Service Company of New Hampshire (ME)
Public Service Company of New Hampshire (NH)
Public Service Company of New Hampshire (VT)
Public Service Company of New Mexico
Public Service Company of Oklahoma
Public Service Electric and Gas Company
Puget Sound Power & Light Company
Rochester Gas & Electric Corporation
Rockland Electric Company
St. Joseph Light & Power Company
San Diego Gas & Electric Company
Savannah Electric & Power Company
Sierra Pacific Power Company (CA)
Sierra Pacific Power Company (NV)
South Carolina Electric & Gas Company
Southern California Edison Company
Southern Indiana Gas & Electric Company
Southwestern Electric Power Company (AR)
Southwestern Electric Power Company (LA)
Southwestern Electric Power Company (TX)
*Southwestern Electric Service Company
Southwestern Public Service Company (KS)
Southwestern Public Service Company (NM)
Southwestern Public Service Company (OK)

Southwestern Public Service Company (TX)
Tampa Electric Company
Texas Electric Service Company
Texas Power & Light Company
Toledo Edison Company
Tucson Electric Power Company
*UGI-Luzerne Electric Division
Union Electric Company (IA)
Union Electric Company (IL)
Union Electric Company (MO)
Union Light, Heat & Power Company
United Illuminating Company
*Upper Peninsula Power Company
Utah Power & Light Company (ID)
Utah Power & Light Company (UT)
Utah Power & Light Company (WY)
Virginia Electric & Power Company (NC)
Virginia Electric & Power Company (VA)
Virginia Electric & Power Company (WV)
Washington Water Power Company (ID)
Washington Water Power Company (MT)
Washington Water Power Company (WA)
West Penn Power Company
West Texas Utilities Company
Western Massachusetts Electric Company
Wheeling Electric Company
Wisconsin Electric Power Company (MI)
Wisconsin Electric Power Company (WI)
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly Owned

*Albany Water, Gas & Light Commission (CA)
Anaheim Utilities Department (CA)
Austin Electric Department (TX)
*Bristol Tennessee Electric System (TN)
*Burbank Public Service Department (CA)
Central Lincoln People's Utility District (OR)
Chattanooga Electric Power Board (TN)
*Clarksville Department of Electricity (TN)
*Clatskanie People's Utility District (OR)
*Cleveland Division of Light & Power (OH)
*Cleveland Utilities (TN)
Colorado Springs Department of Public Utilities (CO)
Decatur Electric Department (AL)
*Dothan Electric Department (AL)
Eugene Water & Electric Board (OR)
Fayetteville Public Works Commission (NC)
Florence Electricity Department (AL)
*Gainesville-Alachua County Regional Electric, Water, and Sewer Utilities Board (FL)
*Garland Electric Department (TX)
*Glendale Public Service Department (CA)
*Greenville Light & Power System (TN)
*Greenville Utilities Commission (NC)
Huntsville Utilities (AL)
Imperial Irrigation District (CA)
*Independence Power & Light Department (MO)
Jackson Utility Division—Electric Department (TN)
Jacksonville Electric Authority (FL)
Johnson City Power Board (TN)
Kansas City Board of Public Utilities (KS)
Knoxville Utilities Board (TN)
*Lafayette Utilities System (LA)
Lakeland Department of Electricity and Water (FL)
Lansing Board of Water & Light (MI)
*Lenoir City Utilities Board (TN)
Lincoln Electric System (NE)
*Los Angeles Department of Water and Power

*Lower Colorado River Authority
*Lubbock Power & Light (TX)
Memphis Light, Gas & Water Division (TN)
*Modesto Irrigation District (CA)
*Muscatine Power & Water (IA)
Nashville Electric Service (TN)
Nebraska Public Power District (NE)
Nebraska Public Power District (SD)
Omaha Public Power District (IA)
Omaha Public Power District (NE)
Orlando Utilities Commission (FL)
Palo Alto Electric Utility (CA)
Pasadena Water & Power Department (CA)
*Power Authority of New York (NY)
*Port Angeles Light & Water Department (WA)
Public Utility District No. 1 of Benton County (WA)
Public Utility District No. 1 of Chelan County (WA)
Public Utility District No. 1 of Clark County (WA)
Public Utility District No. 1 of Cowlitz County (WA)
*Public Utility District of Franklin County (WA)
Public Utility District of Grant County (WA)
Public Utility District No. 1 of Grays Harbor County (WA)
*Public Utility District No. 1 of Lewis County (WA)
Public Utility District No. 1 of Snohomish County (WA)
Puerto Rico Water Resources Authority (PR)
*Richland Energy Services Department (WA)
*Richmond Department of Public Utilities (VA)

*Richmond Power & Light (IN)
Riverside Public Utilities (CA)
*Rocky Mount Public Utilities (NC)
Sacramento Municipal Utility District (CA)
Salt River Project Agricultural Improvement and Power District (AZ)
San Antonio Public Service Board (TX)
Santa Clara Electric Department (CA)
Seattle City Light Department (WA)
South Carolina Public Service Authority
Springfield City Utilities (MO)
*Springfield Utilities Board (OR)
Springfield Water, Light & Power Department (IL)
Tacoma Public Utilities—Light Division (WA)
Tallahassee, City of (FL)
*Turlock Irrigation District (CA)
Vernon Municipal Light Department (CA)
*Wilson Utilities Department (NC)

Rural Electric Cooperatives

*Anoka Electric Cooperative (MN)
*Appalachian Electric Cooperative (TN)
Chugach Electric Association (AK)
*Clay Electric Cooperative (FL)
Cumberland Electric Membership Corporation (TN)
*Duck River Electric Membership Corporation (TN)
*First Electric Cooperative Corporation (AR)
*Flint Electrical Membership Corporation (CA)
*4-County Electric Power Association (MS)
*Gibson County Electric Membership Corporation (TN)
Green River Electric Corporation (KY)
Henderson-Union Rural Electric Cooperative Corporation (KY)
*Jackson Electric Membership Corporation (GA)

*Lee County Electric Cooperative (FL)
*Meriwether Lewis Electric Cooperative (TN)
Middle Tennessee Electric Membership Corporation (TN)
*Moon Lake Electric Association (UT)
North Georgia Electric Membership Corporation (GA)
*Pedernales Electric Cooperative (TX)
*Pennyrite Rural Electric Cooperative Corporation (KY)
*Prince William Electric Cooperative (VA)
*Singing River Electric Power Association (MS)
*South Central Power Company (OH)
Southern Maryland Electric Cooperative, Inc. (MD)
*Southern Pine Electric Power Association (MS)
Southwest Louisiana Electric Membership Corporation (LA)
*Southwest Tennessee Electric Membership Corporation (TN)
*Tri-County Electric Membership Corporation (TN)
*Umatilla Electric Cooperative Association (OR)
*Upper Cumberland Electric Membership Corporation (TN)
Volunteer Electric Cooperative (TN)
*Warren Rural Electric Cooperative Corporation (KY)
*West Kentucky Rural Electric Cooperative Corporation (KY)
*Withlacoochee River Electric Cooperative (FL)

Federal Agencies

*Bonneville Power Administration (OR)
*Tennessee Valley Authority (TN)
*Western Area Power Administration (CO)

Gas Utilities

All utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977 or 1978 and are covered by PURPA Title III and NECPA Title II. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Gas Corporation
Alabama-Tennessee Natural Gas Company
Alaska Gas & Service Company
Anadarko Production Company
Arizona Public Service Company
Arkansas-Louisiana Gas Company (AR)
Arkansas-Louisiana Gas Company (KS)
Arkansas-Louisiana Gas Company (LA)
Arkansas-Louisiana Gas Company (OK)
Arkansas-Louisiana Gas Company (TX)
Arkansas-Oklahoma Gas Corporation (AR)
Arkansas-Oklahoma Gas Corporation (OK)
Arkansas Western Gas Company
Atlanta Gas Light Company
Baltimore Gas & Electric Company
Bay State Gas Company
Boston Gas Company
Brooklyn Union Gas Company
Cabot Corporation Utility Division
Carnegie Natural Gas Company
Carolina Pipeline Company
Cascade Natural Gas Corporation (OR)

Cascade Natural Gas Corporation (WA)
Central Illinois Light Company
Central Illinois Public Service Company
Chattanooga Gas Company (GA)
Chattanooga Gas Company (TN)
Cheyenne Light, Fuel and Power Company
Cincinnati Gas and Electric Company
Cities Service Gas Company (covered by NECPA only)
City Gas Company of Florida
Columbia Gas of Kentucky, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of Virginia, Inc.
Columbia Gas of West Virginia, Inc.
Commonwealth Gas Company
Connecticut Light & Power Company
Connecticut Natural Gas Corporation
Consolidated Edison Company of New York, Inc.
Consolidated Gas Supply Corporation
Consumers Power Company
CP National Corporation (AZ)
CP National Corporation (CA)
CP National Corporation (NV)
CP National Corporation (OR)
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
East Ohio Gas Company
East Tennessee Natural Gas Company
Elizabethtown Gas Company
Entex Inc. (LA)
Entex Inc. (MS)
Entex Inc. (WV)
Equitable Gas Company (KY)
Equitable Gas Company (PA)
Equitable Gas Company (WV)
Florida Gas Company
Gas Company of New Mexico
Gas Light Company of Columbus
Gas Service Company (KS)
Gas Service Company (MO)
Gas Service Company (NE)
Gas Service Company (OK)
Greeley Gas Company (CO)
Greeley Gas Company (KS)
Greeley Gas Company (MN)
Gulf States Utilities Company
Illinois Power Company
Indiana Gas Company
Inland Gas Company
Inter City Gas Limited
Intermountain Gas Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (CO)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (MN)
Iowa Electric Light & Power Company (NE)
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (NE)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Kansas-Nebraska Natural Gas Company (CO)
Kansas-Nebraska Natural Gas Company (KS)
Kansas-Nebraska Natural Gas Company (NE)
Kansas-Nebraska Natural Gas Company (WV)
Kansas Power & Light Company
Kokomo Gas & Fuel Company

Laclede Gas Company Consolidated
Lone Star Gas Company (OK)
Lone Star Gas Company (TX)
Long Island Lighting Company
Louisiana Gas Service Company
Louisville Gas & Electric Company
Lowell Gas Company
Madison Gas & Electric Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Minnesota Gas Company (IA)
Minnesota Gas Company (MN)
Minnesota Gas Company (NE)
Minnesota Gas Company (SD)
Mississippi Valley Gas Company
Missouri Public Service Company
Moblie Gas Service Corporation
Montana-Dakota Utilities Company (MN)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana Power Company
Mountain Fuel Supply Company (UT)
Mountain Fuel Supply Company (WY)
Nashville Gas Company
National Fuel Gas Distribution Corporation (NY)
National Fuel Gas Distribution Corporation (PA)
National Gas and Oil Company
New Bedford Gas and Edison Light Company
New Jersey Natural Gas Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
North Carolina Natural Gas Corporation
North Central Public Service Company (IA)
North Central Public Service Company (MN)
North Shore Gas Company
Northern Illinois Gas Company
Northern Indiana Public Service Company
Northern Natural Gas Company (KS)
Northern Natural Gas Company (NE)
Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (WI)
North Penn Gas Company
Northwest Natural Gas Company (OR)
Northwest Natural Gas Company (WA)
Northwestern Public Service Company (NE)
Northwestern Public Service Company (SD)
Oklahoma Natural Gas Company
Orange & Rockland Utilities
Pacific Gas & Electric Company
Panhandle Eastern Pipeline Company (IL)
Panhandle Eastern Pipeline Company (IN)
Panhandle Eastern Pipeline Company (KY)
Panhandle Eastern Pipeline Company (LA)
Panhandle Eastern Pipeline Company (MI)
Panhandle Eastern Pipeline Company (MO)
Panhandle Eastern Pipeline Company (OK)
Panhandle Eastern Pipeline Company (TN)
Pennsylvania Gas & Water Company
Peoples Gas System
Peoples Natural Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company (CO)
Peoples Natural Gas Division of Northern Natural Gas Company (IA)
Peoples Natural Gas Division of Northern Natural Gas Company (KS)
Peoples Natural Gas Division of Northern Natural Gas Company (MI)

Peoples Natural Gas Division of Northern Natural Gas Company (MN)
Peoples Natural Gas Division of Northern Natural Gas Company (MO)
Peoples Natural Gas Division of Northern Natural Gas Company (NE)
Peoples Natural Gas Division of Northern Natural Gas Company (TX)
Penn Fuel Gas, Inc.
Piedmont Natural Gas Company (NC)
Piedmont Natural Gas Company (SC)
Pioneer Natural Gas Company
Providence Gas Company
Public Service Company of Colorado
Public Service Company, Inc. of North Carolina
Public Service Electric and Gas Company
Rochester Gas & Electric Corporation
San Diego Gas & Electric Company
South Carolina Electric & Gas Company
South Jersey Gas Company
Southeastern Michigan Gas Company
Southern California Gas Company
Southern Connecticut Gas Company
Southern Indiana Gas & Electric Company
Southern Union Gas Company (AZ)
Southern Union Gas Company (OK)
Southern Union Gas Company (TX)
Southern Gas Corporation (AZ)
Southwest Gas Corporation (CA)
Southwest Gas Corporation (NV)
Terre Haute Gas Corporation
T. W. Phillips Gas and Oil Company
UGI Corporation
Union Gas System Inc. (KS)
Union Gas System Inc. (OK)
Union Light, Heat & Power Company (KY)
Union Light, Heat & Power Company (OH)
United Cities Gas Company (GA)
United Cities Gas Company (IL)
United Cities Gas Company (NC)
United Cities Gas Company (SC)
United Cities Gas Company (TN)
Virginia Electric & Power Company
Washington Gas Light Company (DC)
Washington Gas Light Company (MD)
Washington Gas Light Company (VA)
Washington Natural Gas Company
Washington Water Power Company (ID)
Washington Water Power Company (WA)
West Ohio Gas Company
Western Kentucky Gas Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)
Publicly-Owned
Citizens Gas & Coke Utility (IN)
City of Richmond, Virginia, Department of Public Utilities (VA)
City Public Service Board (San Antonio) (TX)
Colorado Springs Department of Public Utilities (CO)
Long Beach Gas Department (CA)
Memphis Light, Gas & Water Division (TN)
Metropolitan Utilities District of Omaha (NE)
Philadelphia Gas Works (PA)
Springfield City Utilities (MO)

Appendix B

State: Alabama
Regulatory authority: Alabama Public Service Commission
Gas Utilities—Investor-owned:

Alabama Gas Corporation
Mobile Gas Service Corporation
Electric Utilities—Investor-owned:
Alabama Power Company
The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commission:
Electric Utilities—Publicly-owned:
Decatur Electric Department
Dothan Electric Department
Florence Electricity Department
Huntsville Utilities
State: Alaska
Regulatory authority: Alaska Public Utilities Commission
Gas Utilities—Investor-owned: Alaska Gas and Service Company
Electric Utilities—Rural Electric Cooperatives: Chugach Electric Association
State: Arizona
Regulatory authority: Arizona Corporation Commission
Gas Utilities—Investor-owned:
Arizona Public Service Company
Southern Union Gas Company
Southwest Gas Corporation
Electric Utilities—Investor-owned:
Arizona Public Service Company
Citizens Utilities Company
CP National Corporation
Tucson Electric Power Corporation
The following covered utility within the State of Arizona is not regulated by the Arizona Corporation Commission:
Electric Utilities—Publicly-owned: Salt River Project Agricultural Improvement and Power District
State: Arkansas
Regulatory authority: Arkansas Public Service Commission
Gas Utilities—Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Arkansas Western Gas Company
Electric Utilities—Investor-Owned:
Arkansas-Missouri Power Company
Arkansas Power and Light Company
Empire District Electric Company
Oklahoma Gas and Electric Company
Southwestern Electric Power Company
Rural Electric Cooperatives: *First Electric Cooperative Corporation
State: California
Regulatory Authority: California Public Utilities Commission
Gas Utilities—Investor-Owned:
CP National Corporation
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Gas Company
Southwest Gas Corporation
Electric Utilities—Investor-Owned:
CP National Corporation
Pacific Gas and Electric Company
Pacific Power and Light Company
San Diego Gas and Electric Company
Sierra Pacific Power Company
Southern California Edison Company
The following covered utilities within the State of California are not regulated by the California Public Utilities Commission:
Electric Utilities—Publicly-Owned:
Anaheim Utilities Department
*Burbank Public Service Department
*Glendale Public Service Department
Imperial Irrigation District

Los Angeles Department of Water and Power
Modesto Irrigation District
Palo Alto Electric Utility
Pasadena Water and Power Department
Riverside Public Utilities
Sacramento Municipal Utility District
Santa Clara Electric Department
*Turlock Irrigation District
Vernon Municipal Light Department
Gas Utilities—Publicly-Owned: Long Beach Gas Department
State: Colorado
Regulatory authority: Colorado Public Utilities Commission
Gas Utilities—Investor-Owned:
Greeley Gas Company
Iowa Electric Light and Power Company
Kansas-Nebraska Natural Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Public Service Company of Colorado
Publicly-Owned: Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)
Electric Utilities—Investor-Owned:
Central Telephone and Utilities Corporation
Public Service Company of Colorado
Publicly-Owned: Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)
The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:
Gas Utilities—Publicly-Owned: Colorado Springs Department of Public Utilities (within city limits)
Electric Utilities—Publicly-Owned:
Colorado Springs Department of Public Utilities (within city limits)
State: Connecticut
Regulatory authority: Connecticut Public Utilities Control Authority
Gas Utilities—Investor-Owned:
Connecticut Light and Power Company
Connecticut Natural Gas Corporation
Southern Connecticut Gas Company
Electric Utilities—Investor-Owned:
Connecticut Light and Power Company
Hartford Electric Light Company
United Illuminating Company
State: Delaware
Regulatory authority: Delaware Public Service Commission
Gas Utilities—Investor-Owned: Delmarva Power and Light Company
Electric Utilities—Investor-Owned:
Delmarva Power and Light Company
State: District of Columbia
Regulatory authority: Public Service Commission of the District of Columbia
Gas Utilities—Investor-Owned:
Washington Gas Light Company
Electric Utilities—Investor-Owned:
Potomac Electric Power Company
State: Florida
Regulatory authority: Florida Public Service Commission
Gas Utilities—Investor-Owned:
City Gas Company of Florida
Florida Gas Company
Peoples Gas System
Electric Utilities—Investor-Owned:
Florida Power Corporation
Florida Power and Light Company
Gulf Power Company
Tampa Electric Company

Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
*Gainesville-Alachua County Regional Electric, Water and Sewer Utilities Board
Jacksonville Electric Authority
Lakeland Department of Electricity and Water
Orlando Utilities Commission
Tallahassee, City of
Rural Electric Cooperatives: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
*Clay Electric Cooperative
*Lee County Electric Cooperative
*Withlacoochee River Electric Cooperative
State: Georgia
Regulatory authority: Georgia Public Service Commission
Gas Utilities—Investor-Owned:
Atlanta Gas Light Company
Chattanooga Gas Company
Gas Light Company of Columbus
United Cities Gas Company
Electric Utilities—Investor-Owned:
Georgia Power Company
Savannah Electric and Power Company
The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission:
Electric Utilities—Publicly-Owned:
*Albany Water, Gas & Light Commission
Rural Electric Cooperatives:
*Flint Electrical Membership Corporation
*Jackson Electric Membership Corporation
North Georgia Electric Membership Corporation
State: Hawaii
Regulatory authority: Hawaii Public Utilities Commission
Gas Utilities—None
Electric Utilities—Investor-Owned:
Citizens Utilities Company
Hawaiian Electric Company, Inc.
State: Idaho
Regulatory authority: Idaho Public Utilities Commission
Gas Utilities—Investor-Owned:
Intermountain Gas Company
Washington Water Power Company
Electric Utilities—Investor-Owned:
Citizens Utilities Company
Idaho Power Company
Pacific Power and Light Company
Utah Power and Light Company
Washington Water Power Company
State: Illinois
Regulatory authority: Illinois Commerce Commission
Gas Utilities—Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
North Shore Gas Company
Northern Illinois Gas Company
Panhandle Eastern Pipeline Company
Peoples Gas, Light and Coke Company
United Cities Gas Company
Electric Utilities—Investor-Owned:
Central Telephone and Utilities Corporation
Central Illinois Public Service Company
Commonwealth Edison Company
Illinois Power Company
Interstate Power Company

Iowa-Illinois Gas and Electric Company
Union Electric Company
The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:
Electric Utilities—Publicly-Owned:
Springfield Water, Light and Power Department
State: Indiana
Regulatory authority: Indiana Public Service Commission
Gas Utilities—Investor-owned:
Indiana Gas Company
Kokomo Gas and Fuel Company
Northern Indiana Public Service Company
Panhandle Eastern Pipeline Company
Southern Indiana Gas and Electric Company
Terre Haute Gas Corporation
Publicly-Owned: Citizens Gas and Coke Utility
Electric Utilities—Investor-Owned:
Indiana and Michigan Electric Company
Indianapolis Power and Light Company
Northern Indiana Public Service Company
Public Service Company of Indiana
Southern Indiana Gas and Electric Company
Publicly-Owned: *Richmond Power and Light
State: Iowa
Regulatory authority: Iowa Commerce Commission
Gas Utilities—Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Minnesota Gas Company
North Central Public Service Company
Peoples Natural Gas Division of Northern Natural Gas Company
Electric Utilities—Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Union Electric Company
Publicly-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—
*Muscatine Power and Light
Omaha Public Power District
State: Kansas
Regulatory authority: Kansas State Corporation Commission
Gas Utilities—Investor-Owned:
Anadarko Production Company
Arkansas-Louisiana Gas Company
Gas Service Company
Greeley Gas Company
Kansas-Nebraska Natural Gas Company
Kansas Power and Light Company
Northern Natural Gas Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Division of Northern Natural Gas Company
Union Gas System Inc.
Electric Utilities—Investor-Owned:
Central Telephone and Utilities Corporation
Empire District Electric Company
Kansas City Power and Light Company
Kansas Gas and Electric Company
Kansas Power and Light Company

Southwestern Public Service Company
The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:
Electric Utilities—Publicly-Owned: Kansas City Board of Public Utilities
State: Kentucky
Regulatory Authority: Kentucky Energy Regulatory Commission
Gas Utilities—Investor-Owned:
Columbia Gas of Kentucky, Inc.
Equitable Gas Company
Inland Gas Company
Louisville Gas and Electric Company
Panhandle Eastern Pipeline Company
Union, Light, Heat and Power Company
Western Kentucky Gas Company
Electric Utilities—Investor-Owned:
Kentucky Power Company
Kentucky Utilities Company
Louisville Gas and Electric Company
Union, Light, Heat and Power Company
Rural Electric Cooperatives:
Green River Electric Corporation
Henderson-Union Rural Electric Cooperative Corporation
State: Louisiana
Regulatory authority: Louisiana Public Service Commission
Gas Utilities—Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Louisiana Gas Service Company
Panhandle Eastern Pipeline Company
Electric Utilities—Investor-Owned:
Arkansas Power and Light
Central Louisiana Electric Company
Gulf States Utilities Company
Louisiana Power and Light Company (jurisdiction only outside of the Parish of Orleans)
Southwestern Electric Power Company
The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:
Gas Utilities—Investor-Owned:
Gulf States Utilities Company
New Orleans Public Service, Inc.
Electric Utilities—Investor-Owned:
New Orleans Public Service, Inc.
Louisiana Power and Light Company (within the Parish of Orleans)
Publicly-Owned: *Lafayette Utilities System
Rural Electric Cooperatives: Southwest Louisiana Electric Membership Corporation
State: Maine
Regulatory authority: Maine Public Utilities Commission
Gas Utilities—None
Electric Utilities—Investor-Owned:
Bangor Hydro-Electric Company
Central Maine Power Company
Public Service Company of New Hampshire
State: Maryland
Regulatory authority: Maryland Public Service Commission
Gas Utilities—Investor-Owned:
Baltimore Gas and Electric Company
Washington Gas Light Company
Electric Utilities—Investor-Owned:
Baltimore Gas and Electric Company
Delmarva Power and Light Company of Maryland
Potomac Edison Company
Potomac Electric Power Company

Rural Electric Cooperatives: Southern Maryland Electric Cooperative, Inc.
State: Massachusetts
Regulatory authority: Massachusetts Department of Public Utilities
Gas Utilities—Investor-Owned:
Bay State Gas Company
Boston Gas Company
Commonwealth Gas Company
Lowell Gas Company
New Bedford Gas and Edison Light Company
Electric Utilities—Investor-Owned:
Boston Edison Company
Cambridge Electric Light Company
Eastern Edison Company
Massachusetts Electric Company
New Bedford Gas and Edison Light Company
Western Massachusetts Electric Company
State: Michigan
Regulatory authority: Michigan Public Service Commission
Gas Utilities—Investor-Owned:
Consumers Power Company
Michigan Consolidated Gas Company
Michigan Power Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Division of Northern Natural Gas Company
Southeastern Michigan Gas Company
Wisconsin Public Service Corporation
Electric Utilities—Investor-Owned:
Consumers Power Company
Detroit Edison Company
Indiana and Michigan Electric Company
*Lake Superior District Power Company
*Michigan Power Company
*Upper Peninsula Power Company
Wisconsin Electric Power Company
Wisconsin Public Service Corporation
The following covered utilities within the State of Michigan are not regulated by the Michigan Public Service Commission:
Electric Utilities—Publicly-Owned:
Lansing Board of Water and Light
State: Minnesota
Regulatory authority: Minnesota Public Service Commission
Gas Utilities—Investor-owned:
Greeley Gas Company
Inter City Gas Limited
Interstate Power Company
Iowa Electric Light and Power Company
Minnesota Gas Company
Montana-Dakota Utilities Company
North Central Public Service Company
Northern States Power Company
Peoples Natural Gas Division of Northern Natural Gas Company
Electric Utilities—Investor-owned:
Interstate Power Company
Minnesota Power and Light Company
Northern States Power Company
Otter Tail Power Company
The following covered utility within the State of Minnesota is not regulated by the Minnesota Public Service Commission:
Electric Utilities—Rural Electric Cooperatives: *Anoka Electric Cooperative
State: Mississippi
Regulatory authority: Mississippi Public Service Commission
Gas Utilities—Investor-owned:
Entex, Incorporated
Mississippi Valley Gas Company
Electric Utilities—Investor-owned:
Mississippi Power and Light Company

Mississippi Power Company

The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission:

Electric Utilities—Rural Electric

Cooperatives:

- *4-County Electric Power Association
- *Singing River Electric Power Association
- *Southern Pine Electric Power Association

State: Missouri

Regulatory Authority: Missouri Public Service Commission

Gas Utilities—Investor-Owned:

- Gas Service Company
- Laclede Gas Company Consolidated
- Missouri Public Service Company
- Panhandle Eastern Pipeline Company
- Peoples Natural Gas Division of Northern Natural Gas Company

Electric Utilities—Investor-Owned:

- Arkansas-Missouri Power Company
- Empire District Electric Company
- Kansas City Power and Light Company
- Missouri Edison Company
- Missouri Power and Light Company
- Missouri Public Service Company
- Missouri Utilities Company
- St. Joseph Light and Power Company
- Union Electric Company

The following covered utilities within the State of Missouri are not regulated by the Missouri Public Service Commission:

Gas Utilities—Investor-Owned: Cities

- Service Gas Company
- Publicly-Owned: Springfield City Utilities
- Electric Utilities*—Publicly-Owned:
- *Independence Power and Light Department
- Springfield City Utilities

State: Montana

Regulatory authority: Montana Public Service Commission

Gas Utilities—Investor-Owned:

- Montana-Dakota Utilities Company
- Montana Power Company

Electric Utilities—Investor-Owned:

- Black Hills Power and Light Company
- Montana-Dakota Utilities Company
- Montana Power Company
- Pacific Power and Light Company
- Washington Water Power Company

State: Nebraska

Regulatory authority: Nebraska Public Service Commission

The Commission does not regulate the rates and services of the gas and electric utilities of the State of Nebraska.

The following covered utilities within the State of Nebraska are not regulated by the Nebraska Public Service Commission:

Electric Utilities—Publicly-Owned:

- Lincoln Electric System
- Nebraska Public Power District
- Omaha Public Power District

Gas Utilities—Investor-Owned:

- Gas Service Company
- Iowa Electric Light and Power Company
- Iowa Public Service Company
- Kansas-Nebraska Natural Gas Company
- Minnesota Gas Company
- Northern Natural Gas Company
- Northwestern Public Service Company
- Peoples Natural Gas Division of Northern Natural Gas Company

Publicly-Owned: Metropolitan Utilities District of Omaha

State: Nevada

Regulatory authority: Nevada Public Service Commission

Gas Utilities—Investor-Owned:

- CP National Corporation
- Southwest Gas Corporation

Electric Utilities—Investor-Owned:

- CP National Corporation
- Idaho Power Company
- Nevada Power Company
- Sierra Pacific Power Company
- State: New Hampshire

Regulatory authority: New Hampshire

Public Utilities Commission

Gas Utilities—None*Electric Utilities*—Investor-Owned: Public

- Service Company of New Hampshire
- State: New Jersey
- Regulatory authority: New Jersey
- Department of Energy, Board of Public Utilities

Gas Utilities—Investor-Owned:

- Elizabethtown Gas Company
- New Jersey Natural Gas Company
- Public Service Electric and Gas Company
- South Jersey Gas Company

Electric Utilities—Investor-Owned:

- Atlantic City Electric Company
- Jersey Central Power and Light Company
- Public Service Electric and Gas Company
- Rockland Electric Company

State: New Mexico

Regulatory authority: New Mexico Public

Service Company

Gas Utilities—Gas Company of New

Mexico

Electric Utilities—Investor-Owned:

- Community Public Service Company
- El Paso Electric Company

Gas Utilities—Investor-Owned:

- *New Mexico Electric Service Company
- Monongahela Power Company
- Southwestern Public Service Company

State: New York

Regulatory authority: New York Public

Service Commission

Gas Utilities—Investor-Owned:

- Brooklyn Union Gas Company
- Columbia Gas of New York, Inc.
- Consolidated Edison Company of New York, Inc.

Long Island Lighting Company

National Fuel Gas Distribution Corporation

New York State Electric and Gas Corporation

Niagara Mohawk Power Corporation

Orange and Rockland Utilities

Rochester Gas and Electric Corporation

Electric Utilities—Investor-Owned:

- Central Hudson Gas and Electric Corporation
- Consolidated Edison Company of New York
- Long Island Lighting Company

New York State Electric and Gas Corporation

Niagara Mohawk Power Corporation

Orange and Rockland Utilities

Rochester Gas and Electric Corporation

The following covered utilities within the

State of New York are not regulated by the

New York Public Service Commission:

Electric Utilities—Publicly-Owned: *Power

Authority of New York

State: North Carolina

Regulatory authority: North Carolina

Utilities Commission

Gas Utilities—Investor-Owned:

- North Carolina Natural Gas Corporation
- Piedmont Natural Gas Company
- Public Service Company, Inc. of North Carolina

United Cities Gas Company

Electric Utilities—Investor-Owned:

- Carolina Power and Light Company

Duke Power Company

Virginia Electric and Power Company

The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utilities Commission:

Electric Utilities—Publicly-Owned:

- Fayetteville Public Works Commission
- *Greenville Utilities Commission
- *Rocky Mount Public Utilities
- *Wilson Utilities Department
- State: North Dakota
- Regulatory authority: North Dakota Public
- Service Commission

Gas Utilities—Investor-Owned:

- Montana-Dakota Utilities Company
- Northern States Power Company

Electric Utilities—Investor-Owned:

- Montana-Dakota Utilities Company
- Northern States Power Company

Otter Tail Power Company

State: Ohio

Regulatory authority: Ohio Public Utilities

Commission

Gas Utilities—Investor-Owned:

- Cincinnati Gas and Electric Company
- Columbia Gas of Ohio, Inc.
- Dayton Power and Light Company
- East Ohio Gas Company
- National Gas and Oil Company
- West Ohio Gas Company

Electric Utilities—Investor-Owned:

- Cincinnati Gas and Electric Company
- Cleveland Electric Illuminating Company
- Columbus and Southern Ohio Electric Company

Dayton Power and Light Company

Monongahela Power Company

Ohio Edison Company

Ohio Power Company

Toledo Edison Company

The following covered utilities within the

State of Ohio are not regulated by the Ohio

Public Utilities Commission:

Electric Utilities—Publicly-Owned:

- *Cleveland Division of Light and Power
- Rural Electric Cooperatives: *South Central
- Power Company
- State: Oklahoma

Regulatory authority: Oklahoma

Corporation Commission

Gas Utilities—Investor-Owned:

- Arkansas-Louisiana Gas Company
- Arkansas-Oklahoma Gas Corporation
- Gas Service Company
- Lone Star Gas Company

Oklahoma Natural Gas Company

Panhandle Eastern Pipeline Company

Southern Union Gas Company

Union Gas System Inc.

Electric Utilities—Investor-Owned:

- Empire District Electric Company
- Oklahoma Gas and Electric Company
- Public Service Company of Oklahoma
- Southwestern Public Service Company

The following covered utility within the

State of Oklahoma is not regulated by the

Oklahoma Corporation Commission:

Gas Utilities—Investor-Owned: Cities

Service Gas Company

State: Oregon

Regulatory authority: Published Utility

Commissioner of Oregon

Gas Utilities—Investor-Owned:

CP National Corporation

Cascade Natural Gas Corporation

Northwest Natural Gas Company

Electric Utilities—Investor-Owned:

- CP National Corporation
- Idaho Power Company
- Pacific Power and Light Company
- Portland General Electric Company

The following covered utilities within the State of Oregon are not regulated by the

Public Utility Commissioner of Oregon:

Electric Utilities—Publicly-Owned:

- Central Lincoln People's Utility District
- *Clatskanie People's Utility District
- Eugene Water and Electric Board
- *Springfield Utilities Board
- Rural Electric Cooperative: *Umatilla
- Electric Cooperative Association
- State: Pennsylvania

Regulatory authority: Pennsylvania Public

Utility Commission

Gas Utilities—Investor-Owned:

- Carnegie Natural Gas Company
- Columbia Gas of Pennsylvania, Inc.
- Equitable Gas Company
- National Fuel Gas Distribution Corporation
- North Penn Gas Company

Penn Fuel Gas, Inc.

Pennsylvania Gas and Water Company

Peoples Natural Gas Company

Philadelphia Electric Company

T. W. Phillips Gas and Oil Company

UGI Corporation

Electric Utilities—Investor-Owned:

- Duquesne Light Company
- Metropolitan Edison Company
- Pennsylvania Electric Company
- Pennsylvania Power Company
- Philadelphia Electric Company
- *UGI—Luzerne Electric Division

West Penn Power Company

The following covered utility within the

State of Pennsylvania is not regulated by the

Pennsylvania Public Utility Commission:

Gas Utilities—Publicly-Owned:

- Philadelphia Gas Works
- State: Puerto Rico
- Regulatory authority: Puerto Rico Public
- Service Commission

Gas Utilities—None*Electric Utilities*—None

The following covered utility within Puerto

Rico is not regulated by the Puerto Rico

Public Service Commission:

Electric Utilities—Publicly-Owned: Puerto

- Rico Water Resources Authority
- State: Rhode Island
- Regulatory authority: Rhode Island Public
- Utilities Commission

Gas Utilities—Investor-Owned: Providence

Gas Company

Electric Utilities—Investor-Owned:

- Blackstone Valley Electric Company
- Narragansett Electric Company
- State: South Carolina

Regulatory Authority: South Carolina

Public Service Commission

Gas Utilities—Investor-Owned:

- Carolina Pipeline Company
- Piedmont Natural Gas Company
- South Carolina Electric and Gas Company
- United Cities Gas Co.

Electric Utilities—Investor-Owned:

- Carolina Power and Light Company
- Duke Power Company

South Carolina Electric and Gas Company

The following covered utility within the State of South Carolina is not regulated by the South Carolina Public Service Commission:

Electric Utilities—Publicly-Owned: South

- Carolina Public Service Authority
- State: South Dakota

Regulatory authority: South Dakota Public

Utilities Commission

Gas Utilities—Investor-Owned:

- Iowa Public Service Company
- Minnesota Gas Company
- Montana-Dakota Utilities Company
- Northwestern Public Service Company

Electric Utilities—Investor-Owned:

- Black Hills Power and Light Company
- Iowa Public Service Company
- Montana-Dakota Utilities Company
- Northern States Power Company

*Northwestern Public Service Company

Otter Tail Power Company

The following covered utility within the

State of South Dakota is not regulated by the

South Dakota Public Service Commission:

Electric Utilities—Publicly-Owned:

- Nebraska Public Power District
- State: Tennessee
- Regulatory authority: Tennessee Public
- Service Commission

Gas Utilities—Investor-Owned:

- Alabama-Tennessee Natural Gas Company
- Chattanooga Gas Company
- East Tennessee Natural Gas Company
- Nashville Gas Company
- Panhandle Eastern Pipeline Company
- United Cities Gas Company

Electric Utilities—Investor-Owned:

- Arkansas Power and Light Company
- Kentucky Utilities Company
- Kingsport Power Company

The following covered utilities within the

State of Tennessee are not regulated by the

Tennessee Public Service Commission:

Electric Utilities—Publicly-Owned:

- *Bristol Tennessee Electric System
- Chattanooga Electric Power Board
- *Clarksville Department of Electricity
- *Cleveland Utilities

*Greenville Light and Power System

*Jackson Utility Division—Electric

Department

Johnson City Power Board

Knoxville Utilities Board

*Lenoir City Utilities Board

Memphis Light, Gas and Water Division

Nashville Electric Service

Rural Electric Cooperatives:

Cumberland Electric Membership

Corporation

*Duck River Electric Membership

Corporation

*Gibson County Electric Membership

Corporation

*Meriwether Lewis Electric Cooperative

Middle Tennessee Electric Membership

Corporation

*Southwest Tennessee Electric Membership

Corporation

*Tri-County Electric Membership

Corporation

*Upper Cumberland Electric Membership

Corporation

Volunteer Electric Cooperative

Gas Utilities—Publicly-Owned: Memphis

Light, Gas and Water Division

State: Tennessee

Regulatory authority: Tennessee Valley

Authority

Gas Utilities—None*Electric Utilities*—Publicly-Owned:

- *Bristol Tennessee Electric System
- Chattanooga Electric Power Board
- *Clarksville Department of Electricity
- *Cleveland Utilities
- Decatur Electric Department
- Florence Electricity Department
- *Greenville Light and Power System
- Huntsville Utilities
- Jackson Utility Division—Electric Department
- Johnson City Power Board
- Knoxville Utilities Board
- *Lenoir City Utilities Board
- Memphis, Light, Gas and Water Division
- Nashville Electric Service

Rural Electric Cooperatives:

*Appalachian Electric Cooperative

Cumberland Electric Membership

Cooperative

*Duck River Electric Membership

Cooperative

*4-County Electric Power Association

*Gibson County Electric Membership

Corporation

*Meriwether Lewis Electric Cooperative

Middle Tennessee Electric Membership

Corporation

El Paso Electric Company
Gulf States Utilities Company
Houston Lighting and Power Company
Southwestern Electric Power Company
*Southwestern Electric Service Company
Southwestern Public Service Company
Texas Electric Service Company
Texas Power and Light Company
West Texas Utilities Company

Publicly-Owned: *Lower Colorado River Authority

Rural Electric Cooperatives: *Pedernales Electric Cooperative

The Texas Public Utility Commission has special appellate jurisdiction over ratemaking decisions of the governing body of any municipality which affect the rates of a municipally-owned electric utility as provided by State statute. The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over electric utility rates, operation, and services provided by an electric utility within its city or town limits.

The following municipally-owned electric utilities are *not* under the Commission's original ratemaking jurisdiction. The Commission's jurisdiction over these utilities is limited to appeal de novo.

Electric Utilities—Publicly-Owned:

Austin Electric Department

Garland Electric Department

*Lubbock Power and Light

San Antonio Public Service Board

State: Utah

Regulatory authority: Utah Public Service Commission

Gas Utilities—Investor-Owned: Mountain

Fuel Supply Company

Electric Utilities—Investor-Owned:

CP National Corporation

Utah Power and Light Company

Rural Electric Cooperatives: *Moon Lake

Electric Association

State: Vermont

Regulatory authority: Vermont Public Service Board

Gas Utilities—None

Electric Utilities—Investor-Owned:

Central Vermont Public Service Corporation

Citizens Utilities Company

Green Mountain Power Corporation

Public Service Company of New Hampshire

State: Virginia

Regulatory authority: Virginia State

Corporation Commission

Gas Utilities—Investor-Owned:

Columbia Gas of Virginia, Inc.

Virginia Electric and Power Company

Washington Gas Light Company

Electric Utilities—Investor-Owned:

Appalachian Power Company

Delmarva Power and Light Company of Virginia

*Old Dominion Power Company

Potomac Edison Company

Potomac Electric Power Company

Virginia Electric and Power Company

Rural Electric Cooperatives: *Prince

William Electric Cooperative

The following covered utility within the

State of Virginia is not regulated by the

Virginia State Corporation Commission:

Electric Utilities—Publicly-Owned:

Richmond Department of Public Utilities

State: Washington

Regulatory authority: Washington Utilities and Transportation Corporation

Gas Utilities—Investor-Owned:

Cascade Natural Gas Corporation

Northwest Natural Gas Company

Washington Natural Gas Company

Washington Water Power Company

Electric Utilities—Investor-Owned:

Pacific Power and Light Company

Puget Sound Power and Light Company

Washington Water Power Company

The following covered utilities within the

State of Washington are not regulated by the

Washington Utilities and Transportation

Corporation:

Electric Utilities—Publicly-Owned:

*Port Angeles Light and Water Department

Public Utility District No. 1 of Benton County

Public Utility District No. 1 of Chelan County

Public Utility District No. 1 of Clark County

Public Utility District No. 1 of Cowlitz County

Public Utility District No. 1 of Franklin

County

Public Utility District No. 1 of Grant County

Public Utility District No. 1 of Grays Harbor

County

*Public Utility District No. 1 of Lewis County

Public Utility District No. 1 of Snohomish

County

*Richland Energy Services Department

Seattle City Light Department

Tacoma Public Utilities—Light Division

State: West Virginia

Regulatory authority: West Virginia Public

Service Commission

Gas Utilities—Investor-Owned:

Cabot Corporation Utility Division

Columbia Gas of West Virginia, Inc.

Consolidated Gas Supply Corporation

Equitable Gas Company

Electric Utilities—Investor-Owned:

Appalachian Power Company

Monongahela Power Company

Potomac Edison Company

Virginia Electric and Power Company

Wheeling Electric Company

State: Wisconsin

Regulatory authority: Wisconsin Public

Service Commission

Gas Utilities—Investor-Owned:

Madison Gas and Electric Company Northern

States Power Company

Wisconsin Fuel and Light Company

Wisconsin Gas Company

Wisconsin Natural Gas Company

Wisconsin Power and Light Company

Wisconsin Public Service Corporation

Electric Utilities—Investor-Owned:

*Lake Superior District Power Company

Madison Gas and Electric Company

Northern States Power Company

Wisconsin Electric Power Company

Wisconsin Power and Light Company

Wisconsin Public Service Corporation

State: Wyoming

Regulatory authority: Wyoming Public

Service Commission

Gas Utilities—Investor-Owned:

Cheyenne Light, Fuel and Power Company

Kansas-Nebraska Natural Gas Company

Montana-Dakota Utilities Company

Mountain Fuel Supply Company

Electric Utilities—Investor-Owned:

Black Hills Power and Light Company

Montana-Dakota Utilities Company

Pacific Power and Light Company

Utah Power and Light Company

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Friday
December 21, 1979

Part XI

Department of Agriculture

Agriculture Stabilization and Conservation
Service

1980 Rural Clean Water Program

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federal register

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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 700

1980 Rural Clean Water Program

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA).

ACTION: Proposed Rules.

SUMMARY: ASCS is publishing regulations to carry out the experimental Rural Clean Water Program (RCWP) as authorized in the Agriculture, Rural Development, and Related Agencies Appropriations Act, fiscal year 1980, Public Law 96-108. The program provides long-term financial and technical assistance to owners and operators having control of agricultural land. The purpose of this assistance is to install and maintain best management practices to control agricultural nonpoint source pollution for improved water quality.

DATES: Comments are due on or before January 21, 1980 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Durick, Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20013. Telephone: 202-447-6221 (8:30 a.m.-4:30 p.m.).

COMMENTS: Are to be sent to Alan Durick at the above address.

SUPPLEMENTARY INFORMATION: These regulations implement the experimental Rural Clean Water Program authorized in the Agriculture, Rural Development, and Related Agencies Appropriations Act, fiscal year 1980, PL 96-108, 93 Stat. 821, 835, approved November 9, 1979. The objective of the RCWP is to assist in improving water quality in rural areas, to be achieved in the most cost-effective manner possible, in keeping with the provision of adequate supplies of food and fiber and a quality environment.

The appropriation act provides as follows:

For necessary expenses for carrying out an experimental Rural Clean Water Program, \$50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: Provided, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the

Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: Provided further, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: Provided further, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance.

In addition, the Conference Report to the appropriation act for fiscal year 1980 provides, in part, as follows:

The conferees will also expect that the approved funds will be used only for highest priority projects in geographical areas to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Administrator of the Environmental Protection Agency. In addition, where practical, the Agricultural Stabilization and Conservation Service and its State and local committees shall seek the advice and assistance of conservation districts, State soil and water conservation agencies or State water quality agencies. (See H.R. 96-553, dated October 24, 1979, p. 25.)

The conferees also expected that the funding of approved projects under the 1980 RCWP will be primarily from those project applications previously submitted to the Secretary based on the regulations issued under Part 634 on November 1, 1978.

The experimental RCWP is only applicable to privately owned agricultural land. Any owner or operator whose land is in an approved project area and contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan may enter into a contract. The RCWP contract will include Best Management Practices (BNPs) to control agricultural nonpoint source pollution for improved water quality. The basis for the RCWP contracts is a land owner or operator water-quality plan prepared with technical assistance from SCS or its designee and approved by a soil conservation district. Land owner or operator participation in RCWP is on a voluntary basis. The criteria for establishing priorities among individual land owners and operators will be developed by the Local Coordinating Committee (LCC) in consultation with the State Coordinating Committee (SCC) for use by the County ASC Committee and the Soil Conservation District in setting priorities to assure that the most critical water quality problems are addressed.

Included in these rules and regulations are: (1) the responsibilities of USDA agencies, State and local agencies, land owners or operators, and EPA, (2) criteria for selecting, approving, and carrying out projects, (3) requirements for individual land owners or

operators to enter into and carry out long-term RCWP contracts with financial and technical assistance, (4) provisions for project funding and termination, (5) requirements for making cost-share payments to participants, and (6) plans for program and project monitoring and evaluation.

Proposed Rule

Accordingly, it is proposed that 7 CFR Part 700 reads as follows:

PART 700—1980 RURAL CLEAN WATER PROGRAM

Subpart A—General

- Sec.
- 700.1 Purpose and scope.
- 700.2 Objective.
- 700.3 Administration.
- 700.4 Definitions.
- 700.5 Responsibilities.
- 700.6 Officials not precluded from exercising authority.

Subpart B—Project Authorization and Funding

- 700.10 Applicability.
- 700.11 Availability of funds.
- 700.12 Eligible project areas.
- 700.13 Project applications.
- 700.14 Review and approval of project applications.
- 700.15 Project and technical assistance funding.
- 700.16 Termination of project funding.

Subpart C—Participant's RCWP Contracts

- 700.20 Eligible land.
- 700.21 Eligible person.
- 700.22 Application for assistance.
- 700.23 Water quality plan.
- 700.24 Cost sharing.
- 700.25 RCWP contract.
- 700.26 Contract modifications.
- 700.27 Cost-share payment.
- 700.28 Appeals.
- 700.29 Contract violations.
- 700.30 [Reserved].

Subpart D—Monitoring and Evaluation

- 700.40 General program monitoring and evaluation.
- 700.41 Comprehensive USDA/EPA joint project waterquality monitoring, evaluation and analysis.
- 700.42 Program evaluation.

Authority: PL 96-108, 93 Stat. 821, 835.

Subpart A—General

§ 700.1 Purpose and scope.

(a) The purpose of this Part is for the U.S. Department of Agriculture (USDA), with certain concurrences by the U.S. Environmental Protection Agency (EPA), to set forth regulations to carry out an experimental Rural Clean Water Program (RCWP) as authorized by the Agriculture, Rural Development and Related Agencies Appropriations Act, fiscal year 1980, PL 96-108 (hereinafter referred to as the "1980 appropriations act").

(b) The RCWP will provide financial and technical assistance to private land owners and operators (participants) having control of agricultural land. The assistance is provided through long-term contracts of 3 to 10 years to install best management practices (BMPs) in approved project areas which have critical water quality problems resulting from agricultural activities. The project area should reflect the water quality priority concerns developed through the water quality management program process. Participation in RCWP is voluntary.

(c) This is a new USDA program using the experiences under various on-going USDA programs and existing water quality management programs of EPA.

§ 700.2 Objective.

The objectives of the RCWP are to: (a) Achieve improved water quality in the approved project area in the most cost-effective manner possible in keeping with the provision of adequate supplies of food, fiber, and a quality environment.

(b) Assist agricultural land owners and operators to reduce agricultural nonpoint source water pollutants and to improve water quality in rural areas to meet water quality standards or water quality goals.

(c) Develop and test programs, policies and procedures for the control of agricultural non-point source pollution.

§ 700.3 Administration.

At the national level, the Secretary of Agriculture will administer the RCWP in consultation with the Administrator, EPA, including EPA's concurrence in the selection of the BMPs, as provided in the 1980 Appropriations Act. Authority to approve projects is reserved to the Secretary. The Secretary of Agriculture hereby delegates responsibility for administration of the program to the Administrator, Agricultural Stabilization and Conservation Service (ASCS) and the coordination of technical assistance to the Administrator, Soil Conservation Service (SCS). ASCS will be assisted by other USDA agencies in accordance with existing authorities.

(a) National Rural Clean Water Coordinating Committee (NCC), chaired by the Administrator, ASCS, will assist in carrying out the RCWP.

(b) A State Rural Clean Water Coordinating Committee (SCC) will assist the State ASC Committee in administering the program. The State ASC Committee Chairperson will chair the SCC. Where two or more States are involved in a project area the Deputy Administrator, State and County

Operations (DASCO), ASCS, shall develop a coordinating process.

(c) A Local Rural Clean Water Coordinating Committee (LCC) will be established to assure coordination at the project level. The LCC Committee will be chaired by the County ASC Committee Chairperson and will assist the County ASC Committee as provided in these regulations and as otherwise developed by the SCC and the LCC. Where two or more counties are involved in a project area, the SCC shall develop a coordination process.

§ 700.4 Definitions.

(a) Adequate level of participation. An adequate level of participation is reached when participants having control of 75 percent (unless a different level is approved by the Administrator, ASCS, with the concurrence of the NCC), of the identified critical area(s) or source(s) of the agricultural nonpoint source pollution problem in the project area, are under contract.

(b) Administrative services. The administration of the RCWP except for the technical phases as assigned in § 700.5 of these regulations.

(c) *Agricultural land.* That portion(s) of a farm or ranch used to produce commercially: Grains, row crops, seed crops, vegetables, hay, pasture, orchards, vineyards, trees, field grown ornamentals, livestock or other agricultural commodities.

(d) *Agricultural nonpoint source pollution.* Pollution originating from diffused sources, including, but not limited to, land areas and return flows from agricultural lands such as:

- (1) Animal waste areas and land used for livestock and/or crop production, or
- (2) Silviculturally related pollution.

(e) *Applicant.* A person in an approved project area who applies for RCWP.

(f) *Average cost.* The calculated cost, determined by recent actual local costs and current cost estimates, considered necessary for carrying out BMPs or an identifiable unit thereof.

(g) *Best management practice (BMP).* A single practice or a system of practices to improve water quality included in the approved RCWP application that reduces or prevents agricultural nonpoint source pollution.

(h) *BMP cost.* The amount of money actually paid or obligated to be paid by the participant for equipment use, materials, and services for carrying out BMPs or an identifiable unit of a BMP. If the participant uses their own resources, the cost includes the computed value of their own labor, equipment use, and materials.

(i) *BMP life span.* Each BMP shall have a life span of not less than 5 years unless otherwise approved by the Administrator, ASCS.

(j) *Conservation district (CD).* A subdivision of a State or territory organized pursuant to the State Soil Conservation District Law, as amended. In some States these are called soil conservation districts, soil and water conservation districts, resource conservation districts, or natural resource districts.

(k) *Contract.* The document that includes the water-quality plan and is executed by the participant and approved by the County ASC Committee. Such document evidences the agreement between parties for carrying out BMPs on the participant's land.

(l) *Contract period.* That period of time, 3 to 10 years, established as necessary to implement the BMPs needed to solve the water quality problems in the contract.

(m) *Cost-share level.* That percentage of the total cost of installing a BMP which is to be borne by the government under the RCWP.

(n) *Cost share rate.* The amount of money per unit (cubic yard, acre, etc.) to be paid for carrying out BMPs under the RCWP.

(o) *County ASC Committee.* The County ASC Committee elected by the farmers/ranchers in the county as provided for under Section 8(b) of the Soil Conservation and Domestic Allotment Act 16 (16 USC 590 h (b)).

(p) *Critical areas or sources.* Those designated areas or sources of agricultural nonpoint source pollutants identified in the project area as having the most significant impact on the quality of the receiving waters.

(q) *Direct costs.* The costs that can be specifically identified with the program.

(r) *Eligible participant.* An individual, partnership, corporation or other entity except Federal, State, or local government, or subdivisions thereof in an approved project area.

(s) *Farmer/rancher.* An owner and/or operator who has a vested interest in the operation of the farm or ranch.

(t) *Federal funds authorized.* The total amount of funds authorized to approved projects.

(u) *Fiscal year.* The fiscal year beginning October 1 and ending September 30.

(v) *Identifiable unit.* A part of a BMP that can be clearly identified as a separate component in carrying out BMPs in the water quality plan.

(w) *Implementation.* The act of carrying out or executing a water quality

plan, including both installation and maintenance of BMPs.

(x) *Maximum payment limitation.* The total amount of RCWP payments which a participant may receive for the full contract period. The total amount of such payments shall not exceed \$50,000.

(y) *Offsite benefits.* Favorable effects of BMPs that occur away from the land of the participant receiving RCWP assistance and which accrue to the public.

(z) *Participant.* A land owner and/or operator who is an agricultural producer and applies for and receives assistance under RCWP.

(aa) *Participant's water quality plan.* The plan that identifies critical agricultural nonpoint sources of pollution, identifies water quality problems and schedules the application of BMPs which contribute to meeting the water quality objectives of the project.

(bb) *Plan of work.* A written strategy for implementing the approved project, outlining the actions needed and to be taken by various USDA, State and local agencies and interested groups.

(cc) *Pooling agreement.* An agreement between two or more farmers or ranchers to pool their resources to treat a common water quality problem.

(dd) *Privately-owned rural land.* Lands not owned by Federal, State, or local governments that include cropland, pastureland, forest land, rangeland, and other associated lands.

(ee) *Project area.* The geographic determination included in the project application as agreed upon by the SCC and LCC, and approved by the Secretary, utilizing the water quality planning process which identifies agricultural nonpoint source water quality problems.

(ff) *Project life span.* The maximum total life span of a project shall be fifteen (15) years or less from the date RCWP funds are first made available for the project.

(gg) *RCWP project.* The total system of BMPs, administrative support, institutional arrangements, cost-sharing, technical and community support that are authorized in a RCWP project application.

(hh) *Secretary.* The Secretary of the U.S. Department of Agriculture.

(ii) *Silvicultural.* The science and art of cultivating (growing and tending) forest crops based on the knowledge of forestry. Silviculture-related pollution is included as agriculture nonpoint source pollution in the RCWP.

(jj) *Standards and Specifications.* Requirements that establish the minimum acceptable quality level for planning, designing, installing, and maintaining BMPs.

(kk) *Technical assistance.* The preparation of the participant's water quality plan, the design, layout and implementation of BMPs to accomplish the purposes of the water quality plan, and water quality monitoring and evaluation.

(ll) *Water quality management program.* A Federal-state-local program for addressing and solving point and non-point source pollution problems consistent with national clean water goals. The authority for this program is in Sec. 208 of the Federal Water Pollution Control Act, as amended, Pub. L. 92-500.

§ 700.5 Responsibilities.

(a) *The United States Department of Agriculture (USDA) will:*

(1) Administer the RCWP by entering into contracts with land owners and operators to install and maintain BMPs to control agriculture nonpoint source pollution for improved water quality and:

(i) Consult with EPA in the selection of projects;

(ii) Obtain concurrence from EPA in approval of BMPs; and

(iii) Conduct joint USDA/EPA monitoring and evaluation studies on selected projects.

(2) Provide technical assistance and share the cost of carrying out BMPs as specified in the contracts.

(3) Evaluate the overall effectiveness of the program in improving water quality.

(b) *The Environmental Protection Agency (EPA) will:*

(1) Participate in the NCC, SCC and LCC.

(2) Furnish information from the water quality management planning process which can assist in identifying areas with the most critical water quality problems for project applications.

(3) Participate in the approval of project applications for funding.

(4) Concur with the Secretary on BMPs recommended by the County and State ASC Committees and approved by the Secretary for funding, or recommended by the Secretary, with concurrence of the Administrator, EPA, and approved by the State and County ASC Committees.

(5) Assist USDA in evaluating the effectiveness of the program in improving water quality, including concurrence on projects selected for comprehensive monitoring and evaluation and development of the criteria for the comprehensive, joint USDA-EPA water quality monitoring, evaluation, and analysis program.

(c) *The Agricultural Stabilization and Conservation Service will:*

(1) Serve as chairperson of the NCC, SCC and LCC and be responsible for developing and administering the RCWP.

(2) Provide to the Secretary those project applications recommended for approval, including the recommendations of the NCC.

(3) Through County ASCS Offices, provide the administrative support in all approved RCWP projects, such as accepting applications, preparing and approving contracts, carrying out funds control, issuing cost-share payments, otherwise administering contracts and payments, provide compliance oversight, maintain records and develop reports.

(4) Enter into agreements with Federal, State and local agencies and others as needed for support to be provided in an approved RCWP project.

(5) Through County and Community ASC Committees work with landowners and operators in the project area to encourage participation.

(6) Develop cost-share rates for installing needed BMPs.

(7) Assure that RCWP is coordinated with other farm programs.

(8) Provide guidance to State and County ASC Committees and coordinate the Agricultural Conservation Program (ACP), the Forestry Incentives Program (FIP), and related conservation programs, with RCWP.

(9) Allocate project funds to County ASC Committees in the approved project areas.

(10) Where a project area involves a part(s) of two or more States, DASCO, ASCS, will designate the State ASC Chairperson to chair the SCC for that project.

(d) *The Soil Conservation Service (SCS) will:*

(1) Participate on the NCC, SCC and LCC.

(2) Coordinate technical responsibility and recommend appropriate agency or group to provide technical assistance on a project by project basis.

(3) Provide technical assistance for the appropriate BMPs.

(4) Assist the LCC in developing criteria for use by the County ASC Committees and the conservation district in determining priorities of assistance among individual applicants for developing the water quality plan.

(e) *The Forest Service (FS) will:*

(1) Participate on the NCC and as appropriate, SCC and LCC.

(2) Provide technical assistance for forestry type BMPs, by providing technical assistance through the State Forestry Agency (State Forester as appropriate) for planning, applying, and maintaining forestry BMPs.

(3) As appropriate, assist in developing the water quality plan to assure that the most critical water quality problems are addressed.

(f) *The Science and Education Administration (SEA) will:*

(1) Participate on the NCC, SCC and LCC.

(2) Develop, implement, and coordinate informational and educational programs for agricultural nonpoint source water pollution control. Provide technical assistance for management type BMPs.

(g) *The Economics, Statistics and Cooperatives Service (ESCS) will:*

(1) Participate on the NCC and, as appropriate, the SCC and LCC.

(2) Assist in the economic evaluation of RCWP projects and BMPs.

(3) Make data available from existing and planned ESCS surveys relating to water quality and related matters.

(4) Conduct socioeconomic research, within ESCS authorities and funds, on relevant policy and program issues pertinent to RCWP.

(5) Assist in the annual program evaluation.

(h) *The Farmers Home Administration (FmHA) will:*

(1) Participate on the NCC, SCC and LCC.

(2) Provide assistance and coordinate their farm loan and grant programs with RCWP.

(i) *The National Rural Clean Water Coordinating Committee (NCC).* The NCC is chaired by the Administrator, ASCS. Other members of the National Committee are the Administrators of SCS, FmHA, and ESCS; the Chief of FS; the Director of SEA; and the Assistant Administrator for Water and Waste Management, EPA. Nonfederal agencies such as conservation districts, State soil and water conservation agencies, State water quality management agencies, and other organizations may attend as observers. The duties of the NCC are to:

(1) Assist the Administrator, ASCS, in developing the program regulations and procedures.

(2) Recommend to the Administrator, ASCS, the project applications to be approved.

(3) Advise the Secretary on the maximum Federal contribution to the total cost of the project and the maximum cost-share levels of BMPs.

(4) Assist in coordinating individual agency programs with the RCWP.

(5) Make recommendations as appropriate on the technical aspects of the program.

(6) Recommend project areas and criteria for comprehensive joint USDA/EPA water quality monitoring, evaluation, and analysis.

(7) Annually review the Plan of Work and approve recommended changes in the project.

(8) Annually review the progress in each project. Periodically advise the Secretary, the Under Secretary for International Affairs and Commodity Programs, and Assistant Secretary for Natural Resources and the Environment on program and policy issues.

(j) *The State Rural Clean Water Coordinating Committee (SCC).*

Members include a representative of the agency members on the NCC or their designee. Other members are the State water quality agency having responsibility for water quality planning, and the State soil and water conservation agency and others, including those recommended by the Governor, and approved by the Chairperson of SCC. Other State and local agencies, and organizations, or individuals may attend as observers. The duties of the committee are to:

(1) Submit its recommendations for approval of project application(s) to the State ASC Committee for forwarding to the NCC, through the Administrator, ASCS.

(2) Assure coordination of activities at the project level by assisting in determining the composition and responsibilities of the LCC.

(3) Assure adequate public participation, including public meeting(s), and appropriate environmental evaluation in the preparation of RCWP applications.

(4) Provide oversight for the RCWP in the State and to assist USDA and EPA in their comprehensive, joint water quality monitoring and evaluation of selected project areas, including coordination with the LCC.

(5) Develop procedures for coordination between the RCWP and other water quality programs at the local level.

(6) Assist the State ASC Committee in developing the membership of the LCC. For multi county projects, there will be one LCC.

(7) Review and forward the annual Plan of Work and recommended changes of the LCC to the NCC through the Administrator, ASCS.

(k) *The Local Rural Clean Water Coordinating Committee (LCC).* The LCC is chaired by the County ASC Committee Chairperson. Other members include a representative of the agency members on the NCC, where applicable, and a representative of the soil and water conservation district, the designated water quality management agency, State forestry agency, and others as designated by the STC.

(Where more than one county is in a

project area only one LCC will be established by the project area.) The duties of the committee are to ensure that a process exists and actions are taken to implement any approved project. The duties will include, among others which may be outlined by the SCC, the following:

(1) Assure an adequate level of public participation in implementing the project.

(2) Provide project coordination, including development of the plan of work for implementing the approved project using various USDA agencies, local agencies and interested groups.

(i) Enlist resources from other agencies and local groups.

(ii) Conduct informational and educational activities relating to the project.

(iii) Develop criteria with the SCC for use by the County ASC Committee and the soil conservation district to establish priorities among individual applications for developing water quality plans.

(iv) Assist with the development of an adequate plan for project monitoring and evaluation.

(3) Consult with SCC for coordination with USDA State officials, State water quality official, and EPA regional representatives to develop criteria for project plan of work and project coordination.

(4) Review the project Plan of Work annually and recommend changes in the approved project to the SCC.

(l) *State ASC Committee will:*

(1) Provide the Chairperson for the SCC and be responsible for administration of the RCWP project(s) in the State.

(2) Submit those project applications recommended by the SCC to the Administrator, ASCS.

(3) Provide overall administrative support for the RCWP through the County ASC Committee(s).

(4) Designate a County ASC Committee Chairperson to serve as Chairperson of the LCC in multi-county projects.

(5) Approve the BMPs for inclusion in project applications.

(6) Be responsible for all other administrative functions as provided in these regulations.

(m) *The Governor of each State may:*

(1) Recommend to the SCC Chairperson appropriate additional individuals for membership on the SCC.

(2) Furnish to the SCC a listing of the water quality priority areas in the State.

(n) *The State soil and water conservation agency may:*

(1) Participate on the SCC and LCC.

(2) Assist in preparing and submitting RCWP project applications.

(3) Carry out responsibilities of soil conservation districts where no soil conservation district exists.

(b) *The State water quality agency may:*

- (1) Participate on the SCC and LCC.
- (2) Assist in preparing and submitting RCWP project applications.
- (3) Assist in monitoring and evaluating the water quality effectiveness of projects.

(p) *The County ASC Committee will:*

- (1) Be responsible for administration of the RCWP at the local level.
- (2) Provide the chairperson of the LCC.

(3) Provide overall administrative support for the RCWP approved project through the ASCS County Office, including accepting applications, administering the contracts and making payments and preparing reports.

(4) Recommended approval of BMP's.

(5) Together with the Soil Conservation District, determine the priority for technical assistance among individual applicants for water quality plans based on criteria developed by the LCC to assure that the most critical water quality problems are addressed.

(6) Establish the cost share level for BMP's in the RCWP project applications in consultation with the LCC.

(7) Utilize the Community ASC Committee(s) and LCC in encouraging farmers in the project area to install needed BMPs on the priority basis developed by the LCC.

(8) Be responsible for developing, and annually reviewing and carrying out the plan of work for the approved project.

(9) Assist the LCC in and coordinate the overall evaluation of the effectiveness of the project in improving water quality.

(q) *The Soil Conservation District will:*

(1) Participate on the local coordinating committees.

(2) Assist in the preparation and submission of applications for the RCWP.

(3) Assist in the promotion of the approved RCWP project.

(4) Together with the County ASC Committee, determine the priority of technical assistance among individual applicants for water quality plans based on criteria developed by the LCC to assure that the most critical water quality problems are addressed.

(5) Approve participants' water quality plans and revisions.

§ 700.6 Officials not precluded from exercising authority.

Nothing in these regulations shall preclude the Secretary, Administrator, ASCS, NCC, or Deputy Administrator,

State and County Operations, ASCS; from administering any or all phases of the RCWP programs or exercising other functions delegated to the LCC, County ASC Committee, SCC, State ASC Committee or any employee(s). In exercising this authority either the Secretary, Administrator, ASCS, or Deputy Administrator, ASCS, may delegate a person or persons to be in charge with full authority to carry out the program or other function(s) without regard to the LCC. ASC committee(s), or employee(s) for such period of time as he or she may deem necessary.

Subpart B—Project Authorization and Funding

§ 700.10 Applicability.

The RCWP is applicable in project areas that meet the criteria for eligibility contained in § 700.12 and are authorized for funding by the Secretary.

§ 700.11 Availability of funds.

(a) The allocation of funds to the County ASC Committee(s) in a project area is to be made on the basis of the total funds needed to carry out the approved project.

(b) The obligation of Federal funds for RCWP contracts with participants is to be made on the basis of the total contract costs.

§ 700.12 Eligible project areas.

(a) Only those project areas which reflect the water quality priority concerns developed through the water quality management planning process and have identified agricultural nonpoint source water quality problems are eligible for authorization under RCWP. Only those critical areas or sources of pollutants significantly contributing to the water quality problems are eligible for financial and technical assistance.

(b) An RCWP project area is a hydrologically related land area. Exceptions may be made for ease of administration, or to focus on concentrated critical areas. To be designated as an RCWP project area eligible for authorization, the area's water quality problems must be related to agricultural nonpoint source pollutants, including sediment, animal waste, irrigation return flows, runoff, or leachate that contain high concentrations of nitrogen, phosphorus, dissolved solids, toxics (pesticides and heavy metals), or high pathogen levels.

§ 700.13 Project applications.

Existing and subsequent project applications submitted for consideration must contain adequate information on each item specified in § 700.14.

Instructions on such information requirements will be issued by the Administrator, ASCS.

Opportunity will be provided prior to final approval of a project for the LCC and the SCC, in consultation with the Governor, through the applicable County and State ASC Committees, for modification necessary to bring them into conformance with the provisions of these regulations.

§ 700.14 Review and approval of project applications.

(a) In reviewing applications and recommending priorities, the NCC will consider the following:

(1) Severity of the water quality problem caused by agricultural and silvicultural related pollutants, including:

(i) State designated uses of the water affected, (ii) Kinds, sources, and effects of pollutants, (iii) Miles of stream or acres of water bodies affected, and

(2) Demonstration of public benefits from the project, including:

(i) Effects on human health, (ii) Population benefited by improved water quality, (iii) Effects on the natural environment, and (iv) Additional beneficial uses of the waters that result from improvement of the water quality,

(3) Economic, and technical feasibility to control water quality problems within the life of the project, including:

(i) Size of the area and BMPs needed, (ii) Cost per participant and cost per acre for solution of problem, and (iii) Cost effectiveness of BMPs.

(4) Suitability of the project for the experimental RCWP in the testing of programs, policies and procedures for the control of agricultural non-point source pollution, including:

(i) Project representative of a geographic area with significant water quality problems. (ii) The potential of the project for monitoring and evaluation, including existing base line data.

(5) State, local and other input in the project area, including:

(i) Funds for cost-sharing and technical assistance. (ii) Commitment of local leadership to promote the program.

(6) The project's contribution to meeting the national water quality goals including identification and relative significance of other major sources of pollutants which affect the water quality in or near the project area.

(b) Based on the project application, the NCC is to recommend an upper limit of the Federal contribution to the total cost of the project. This includes both BMP cost-share and technical assistance costs.

(c) All project applications will be reviewed by EPA. BMPS approval for funding require EPA concurrence.

except that the Secretary may assume EPA's concurrence, if EPA does not act within 15 days following receipt of the request for concurrence.

(d) The Secretary will approve projects for funding taking into consideration the recommendations of the NCC and consultation with EPA. The Chairperson, State ASC Committee, through the SCC, will assure that involved Federal, State, and local agencies are informed of the project approval.

§ 700.15 Project and technical assistance funding.

(a) Upon approval of a project, the Administrator, ASCS, will transfer funds to the State(s) ASC Committee for funding the project. The State committee will transfer funds to the County ASC Committee(s) for the county or counties in an approved project.

(b) ASCS will transfer funds to the applicable agency or organization providing the specific technical assistance. The transfer will be made on a project by project basis.

§ 700.16 Termination of project funding.

(a) Based on evidence of failure to accomplish the approved project, including inadequate level of participation, the Administrator, ASCS, may issue a termination notice after conferring with the Administrator, EPA and the NCC.

(b) The State ASC Committee shall give 10-day written notice to the applicable County ASC Committee of intent to terminate project funding. The termination shall establish the effective date of termination and the date for return of funds.

(c) After receipt of a project termination, the County ASC Committee shall not make any new commitments or enter into any new RCWP contracts. Those contracts in force at the time of project termination will remain in force until completed.

Subpart C—Participant's RCWP Contracts

§ 700.20 Eligible land.

RCWP is only applicable to privately owned agricultural lands in approved project areas.

§ 700.21 Eligible person.

(a) Any land owner or operator whose land or activities in a project area is contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality

plan is eligible to enter into an RCWP contract.

(b) This program will be conducted in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964 and amendments thereto and the Regulations of the Secretary of Agriculture (7 CFR 15.1-15.12).

§ 700.22 Application for assistance.

(a) Land owners or operators must apply for RCWP assistance through the office of the County ASC Committee(s) by completing the prescribed application form.

(b) The priority for developing water quality plans among applicants is to be determined by the County ASC Committee and the soil conservation district based on the criteria developed by the LCC in consultation with the SCC, with technical assistance from SCS.

§ 700.23 Water quality plan.

(a) The participant's water quality plan, developed with technical assistance and certification by the SCS or its designee and approved by the CD, is to include appropriate BMPs identified in the water quality planning process. Such BMPs must reduce the amount of pollutants that enter a stream or lake by:

(1) Methods such as reducing the application rates or changing the application methods of potential pollutants, and

(2) Methods such as practices or combinations of practices which prevent potential pollutants from leaving source areas or reduce the amount of potential pollutants that reach a stream or lake after leaving a source area.

(b) Participants' water quality plans shall include BMPs for the treatment of all critical areas or sources on the farm on that land within the project area regardless of eligibility for cost-sharing with RCWP funds. Management type BMPs which are not cost-shared but for which technical advice will be given project participants shall be listed in the plan.

(c) The participant is responsible for compliance with all applicable Federal, State, and local laws including those relating to the environment, in installing BMPs to solve the nonpoint source water quality problems.

(d) Time schedules for implementing BMPs are to be provided in the participant's water quality plan.

§ 700.24 Cost sharing.

(a) The level of cost-sharing for each project is approved by the Secretary, taking into consideration the

recommendation of the NCC. The federal cost-share shall not exceed 75%, unless otherwise approved.

(b) The maximum cost-sharing by Federal, State, or Subdivision thereof shall not exceed 100% of the cost of carrying out the BMP.

(c) The County ASC Committee(s) in consultation with the LCC will annually set maximum individual BMP cost-share rates for the project area.

(d) BMPs to be cost shared must have a positive effect on water quality.

(e) Cost sharing is not to be made available for measures installed primarily for:

(1) Bringing additional land into crop production.

(2) Increasing production on existing crop land.

(3) Flood protection as the primary purpose.

(4) Structural measures authorized for installation under Pub. L. 83-566.

§ 700.25 RCWP contract.

(a) To participate in RCWP, a land owner or operator must enter into a contract in which they agree to carry out the water-quality plan. Any person who controls, or shares control, of the farm, or ranch, for the proposed contract period must sign the contract.

(b) Cost-sharing payments cannot be provided for any measure that is initiated before the contract is approved by the County ASC Committee.

(c) The participant must furnish satisfactory evidence of his or her control of the farm, or ranch.

(d) RCWP contracts shall include the basic contract document, the participant's water-quality plan, schedule of operations, and special provisions as needed.

(e) Technical assistance will be provided to participants to develop the water quality plan and to install BMPs.

(f) SCS or its designee shall approve the technical adequacy of the Water Quality Plan.

(g) Participants shall install BMPs according to the specifications that are applicable at the time measures are installed.

(h) The contract period is to be not less than 3 and not more than 10 years. A contract is to extend for at least 1 year after the application of the last cost-shared BMPs. All contract items are to be accomplished prior to contract expiration.

(i) BMPs are to be maintained by the participant at no cost to the RCWP.

(j) All cost shared BMPs shall be maintained for a minimum of 5 years after year of installation or for the established life span of the BMP if the life span exceeds 5 years.

(k) The County ASC Committee in consultation with the LCC shall establish a BMP life span for each BMP offered in the approved project area. Each BMP cost-shared shall have a life span of at least 5 years, unless otherwise approved by the Administrator, ASCS.

(l) A participant may enter into a pooling agreement with other participants to solve mutual water quality problems.

(m) Participants are responsible for:

- (1) Accomplishing the water quality plan.

(2) Obtaining and maintaining any required permits and easements necessary to perform the planned work.

(3) Applying or arranging for the application of BMPs, as scheduled in the plan, according to approved standards and specifications.

(4) The operation and maintenance of BMPs installed during the contract period, and

(5) Obtaining the authorities, rights, easements, or other approvals necessary to maintain BMPs in keeping with applicable laws and regulations.

(n) Unless otherwise approved by the NCC, the County ASC Committees shall not enter into any new RCWP contracts after five (5) years from the date when RCWP funds are first made available to the project.

§ 700.26 Contract modifications.

(a) The County ASC Committee by mutual agreement with the landowner or operator, may modify contracts previously entered into if it is determined to be desirable to carry out the purposes of the program, facilitate the practical administration thereof, or to accomplish equitable treatment with respect to other conservation, land-use, and/or water quality programs.

(b) Requirements of active contracts may be modified by the County ASC Committee only if such modifications are specifically provided for in these regulations. The concurrence of SCS or its designee in modifications is necessary when modifications involve a technical aspect of the participant's water quality plan. A contract may be modified only if it is determined that such modifications are desirable to carry out purposes of the program or to facilitate the program's practical administration.

(c) Contracts shall be modified when the participants add or delete land to the farm.

(d) Contracts may be modified to add, delete, or substitute BMPs when:

(1) The installed measure failed to achieve the desired results through no fault of the participant,

(2) The installed measure deteriorated because of conditions beyond the control of the participant,

(3) Another BMP will achieve the desired results, or

(4) Extent of BMP is changed.

(e) Contract modifications are not required when items of work are accomplished prior to scheduled completion or within 1 year following the year of scheduled completion. Other time schedule revisions will require modification.

(f) If, during the contract period, all or part of the right and interest in the land is transferred by sale or other transfer action, the contract is terminated on that portion of the contract, the participant:

(1) Forfeits all right to any future cost-share payments on the transferred portion, and

(2) Must refund all cost-share payments that have been made on the transferred land unit unless the new land owner or operator becomes a party to the contract, except that where it is determined by the County ASC Committee with the concurrence of the technical agency and with the approval of the State ASC Committee, and the established BMPs will provide water quality benefits for the design life of the BMP, the payment may be retained.

(g) If the new land owner or operator becomes a party to the contract:

(1) Payment which has been earned, may be made to the participant who applied the BMPs and had control prior to the transfer.

(2) The new land owner or operator is to assume all obligations of the previous participant with respect to the transferred land,

(3) The contract with the new participant is to remain in effect with the original terms and conditions, and

(4) The original contract is to be modified in writing to show the changes caused by the transfer. If the modification is not acceptable to the County ASC Committee, the provisions of (f)(1) and (2) of this section apply.

§ 700.27 Cost-share payment.

(a) *General.* Participants are to obtain or contract for materials or services as needed to install BMPs. Federal cost-share payments are to be made by the County ASC Committee upon certification by the District Conservationist, SCS, or designee, that the BMPs, or an identifiable unit thereof, have been properly carried out and meet the appropriate standards and specifications.

(b) *Payment maximum.* The maximum RCWP cost-share payment to a participant shall be limited to \$50,000.

(c) *Basis for cost-share payment.*

(1) Cost-share payments are to be made by the County ASC Committee at the cost-share percentage specified in the project approval notice and by one of the following methods as set out in the contract:

(i) Average cost, or

(ii) Actual cost but not to exceed the average cost.

(2) If the average cost at the time of starting the installation of a BMP or identifiable unit is less than the costs specified in the contract, payment is to be at the lower rate. If the costs at the start of installation are higher, payment may be made at the higher rate. A modification will be necessary if the higher cost results in a significant increase in the total cost-share obligation. Cost-share payment is not to be made until the modification reflecting the increase is approved.

(d) *Average cost development.*

Average costs are to be developed by the County ASC Committee for each project using cost data from the local area. These costs shall be reviewed by the SCC for consistency with average costs in other USDA programs. These average costs shall be updated annually by the County ASC Committee in consultation with the LCC.

(e) *Application for payment.* Cost-share payments shall be made by the County ASC Committee after a participant has completed a BMP or an identifiable unit of a BMP and it is determined to meet standards and specifications. Application for payment must be submitted to the County ASC Committee, on the prescribed form and be supported by such cost receipts as are required by the County ASC Committee. It is the participant's responsibility to apply for payments.

(f) *Authorizations for payments to suppliers.*

(1) The contract may authorize that part or all of the Federal cost share for a BMP or an identifiable unit be made directly to suppliers of materials or services. The materials or services must be delivered or performed before payment is made.

(2) Federal cost shares will not be in excess of the cost share attributable to the material or service used or not in excess of the cost share for all identifiable units as may be requested by the participant.

(g) *Material inspection and analysis.* When authorizations for payments to suppliers are specified, the County ASC Committee, its representatives, or the Federal Government reserve the right to inspect, sample, and analyze materials or services prior to their use.

(h) *Assignments, set-offs, and claims.*

(1) Any person who may be entitled to any cost-share may assign rights thereto in accordance with regulations governing the assignments of payments. (31 U.S.C. 203, as amended, and 41, U.S.C. 15, as amended.)

(2) If any participant to whom compensation is payable under RCWP is indebted to the United States and such indebtedness is listed on the country register of indebtedness maintained by the County ASC Committee, the compensation due the participant must be used (set-off) to reduce that indebtedness. Indebtedness to USDA is to be given first consideration. Deductions for setoffs involving a nonresident alien shall be made as provided by 26 U.S.C. 871. Setoffs made pursuant to this section are not to deprive the participant of any right to contest the justness of the indebtedness involved. (See 7 CFR Part 13.)

(3) Any cost-share payment due any participant shall be allowed without deduction of claims for advances except as provided for above and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the participant or any other creditor.

(i) *Access to land unit and records.* The County ASC Committee, the agency providing technical assistance or representatives thereof, shall have the right of access at reasonable times to land under application or contract, and the right to examine any program records to ascertain the accuracy of any representations made in the applications or contract.

(j) *Suspension of payments.* No cost-share payments will be made pending a decision on whether or not a contract violation has occurred.

(k) *Ineligible payments.* The filing of requests for payment for BMPs not carried out, or for BMPs carried out in such a manner that they do not meet the contract specifications, constitutes a violation of the contract.

§ 700.28 Appeals.

(a) The applicant may, prior to execution of the contract, request that the County ASC Committee review or reconsider administrative criteria being used in developing his or her contract.

(1) The applicant shall make a written request to the County ASC Committee setting forth the basis for the appeal.

(2) The County ASC Committee shall have 30 days in which to make a decision and notify the applicant in writing.

(3) The decision of the County ASC Committee may be appealed to the State ASC Committee.

(4) The State ASC Committee decision shall be final.

(b) The applicant/participant may request and receive a review by the SCS State Conservationist of criteria used in developing the water quality plan or BMP specifications.

(c) After the contract has been executed, the participant may request and receive a review of administrative procedures under the ASCS appeals procedures set out in 7 CFR 780.

§ 700.29 Contract violations.

(a) The following actions constitute a violation of the RCWP contract by a participant:

(1) Knowingly or negligently damaging or causing BMPs to become impaired.

(2) Failing to comply with the terms of the contract.

(3) Filing a false claim.

(4) Misusing conservation materials or services.

(5) Adopting a land use or practice during the contract period which tends to defeat the purposes of the program.

(b) *Contract termination as a result of violations.*

(1) The participant agrees to forfeit all rights to further cost-sharing payments under a contract and to refund all cost-share payments received if the County ASC Committee with the concurrence of the State ASC Committee, determines that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The violation was of such a nature as to warrant termination of the contract.

(2) The participant shall be obligated to refund all cost-share payments, including those paid to vendors for materials and services.

(c) *Payment adjustments and refunds resulting from violations.*

(1) The participant agrees to refund cost-share payments received under the contract or to accept payment adjustments if the County ASC Committee determines and the State ASC Committee concurs that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The nature of the violation does not warrant termination of the contract.

(2) Payment adjustments may include decreasing the rate of the cost share, or deleting from the contract a cost-share commitment, or withholding cost-share payments earned but not paid. The participant who signs the contract may be obligated to refund cost-share payments.

§ 700.30 [Reserved]

Subpart D—Monitoring and Evaluation

§ 700.40 General program monitoring and evaluation.

(a) *Requirement.* All approved RCWP projects will be monitored in sufficient detail to determine BMP application progress and to generally document water quality improvement trends through the life of the project. This will include, among others, data on BMP installation progress, payments made, refunds, periodic water quality monitoring for addressing short and long-term trends in water quality.

(b) *Monitoring report.* A water quality monitoring report will be submitted with the annual BMP progress report. The initial report will include:

(1) A description of water quality monitoring strategy for the area,

(2) Data collection schedule,

(3) Parameters being monitored (and baseline values),

(4) Collection and analytical methods,

(5) A summary of existing data and trends.

Subsequent reports will update the initial data and report any significant changes in water quality land use or occurrences.

(c) *Program monitoring funding.* The project application and the proposed monitoring plan are to include an estimate of the local and State financial and technical support. General monitoring will not be financed with RCWP funds.

§ 700.41 Comprehensive USDA/EPA joint project water quality monitoring, evaluation, and analysis.

(a) *Requirement.* The Secretary and Administrator, EPA will jointly select a limited number of projects to be comprehensively monitored and evaluated from a list of projects recommended by the NCC. The NCC will develop criteria for selecting the project areas.

(b) *Project selection.* The NCC will recommend projects for this comprehensive program. The project areas are to be representative of the agricultural and silvicultural nonpoint source pollution problems.

(c) *Plan development.* After a project is selected for the comprehensive monitoring and evaluation, the SCC is to submit within 90 days, a plan for USDA-EPA review and approval. USDA and EPA will have 30 days for the plan review and approval process.

(d) *Plan requirements.* In general, the comprehensive monitoring plan will address and include the following:

(1) *Objective.* Define the purpose and scope of the monitoring program and

establish clear objectives for each activity proposed.

(2) *Monitoring strategy.* Define the basic hydrological and meteorological factors within the proposed RCWP project area and identify the strategy and parameters to be used to identify the changes in water quality attributable to the installation of BMPs. Wherever possible, identify and quantify changes in land use, land use patterns and farming practices that will effect the quantity, quality or timing of nonpoint source pollutants reaching an aquatic system. Detail information as to number and location of sampling stations and the frequency of sample collection.

(3) *Socioeconomic impacts.* Identify the positive and negative impacts on the landowners in the project area and estimate the community or off-site benefits expected of the project if completed as planned.

(4) *Institutional aspects.* Identify and clearly define the role and responsibility for each participating agency including, where appropriate fiscal and manpower commitments.

(5) *Educational aspects.* Clearly define the approach(es) to be used to inform and educate individual landowners. Include procedures for periodic evaluation of this effort so the mid-course corrections can be made if needed.

(6) *Quality assurance.* To insure that the data collected is useable to make National projections, a quality assurance program must be included that is consistent with that of the EPA Region within which the project is located.

(7) *Data storage.* The data collected on comprehensive monitoring projects must be available to USDA and EPA RCWP user groups.

(e) *Reporting.* Reports for these projects are to be made at least annually to the NCC based on guidance sent to the SCC by the Administrator, ASCS.

(f) *Funding.* Funding for comprehensive monitoring will be provided from RCWP funds and other authorizations.

§ 700.42 Program evaluation.

(a) The RCWP will be evaluated annually by the USDA. The evaluation will be based on the reports provided in these regulations and on special studies undertaken by USDA or EPA as part of the RCWP program.

(b) The USDA Deputy Under Secretary for International Affairs and Commodity Program will have the responsibility for coordinating the program evaluation and preparing an annual report for transmittal to the Secretary of Agriculture and the

Administrator of EPA. The Deputy Assistant Secretary for Natural Resources and the Director of Economics, Policy Analysis and Budget, USDA, and the Assistant Administrator for Water and Waste Management, EPA will assist in this effort through their representative on the NCC.

Note.—A program of assistance to landowners and operators similar to that in this program was developed in 1978 by the Soil Conservation Service (SCS). The SCS went through the rule making process for such program. Draft regulations were issued in April 1978. Public hearings and public comment were received on such program and final regulations were issued on November 1, 1978 by the SCS. An environmental impact statement (EIS) and an impact analysis statement was also developed on such program. The above referred to regulations, public comments, and impact statements were utilized to the extent feasible in developing this experimental Rural Clean Water Program. In view of the foregoing, as well as the fact that it is important that the project area be designated under the RCWP before normal planting time, it is hereby determined that these regulations are being published under the emergency provisions of 5 U.S.C. 553 and Executive Order 12044 and that the 30-day comment period is warranted. Accordingly, all comments must be received by January 21, 1980 in order to be assured of consideration.

These regulations are being classified as "significant", therefore a draft Impact Analysis and a draft Environmental Impact Statement is available for review from Alan Durick, ASCS, Washington, D.C.

Dated: December 19, 1979.

Approved by:

Jim Williams,

Acting Secretary.

[FR Doc. 79-39285 Filed 12-20-79; 8:45 am]

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Friday
December 21, 1979

Part XII

Department of the Interior

Geological Survey

Revised Outer Continental Shelf Orders Governing Oil and Gas Lease Operations

DEPARTMENT OF THE INTERIOR

Geological Survey

Revised Outer Continental Shelf Orders Governing Oil and Gas Lease Operations

Notice is hereby given that, pursuant to Title 30 CFR Part 250.11, the Chief, Conservation Division, U.S. Geological Survey, has approved the issuance of revisions to the Outer Continental Shelf (OCS) Orders for the following OCS Areas:

Gulf of Mexico
Pacific
Gulf of Alaska
Atlantic

Revised Area OCS Orders Nos. 1, 2, 3, 4, 5, 7, 8, and 12 will be effective January 1, 1980. These Orders supersede the corresponding Orders currently in effect for the OCS Areas listed above.

During the development of the final version of these Orders, it was determined that the requirements for the Orders for the North, South, and Mid-Atlantic Areas were the same. Therefore, the requirements were incorporated into a single set of Atlantic Area OCS Orders.

These Orders incorporate appropriate suggestions which were received in response to the solicitations for comments and postponement announcements as presented by the following Federal Register Notices:

1. Vol. 44, No. 127, June 29, 1979, requested comments on the final version of OCS Orders Nos. 1, 2, 3, 4, 5, 7, and 12 for the Gulf of Mexico, Pacific, Gulf of Alaska, and Atlantic Areas as published in the Federal Register, Part IV, Vol. No. 44, No. 98, May 18, 1979. This Notice postponed the effective date of the Orders to October 1, 1979.

2. Vol. 44, No. 189, September 27, 1979, postponed the effective date of the Orders to December 1, 1979, and announced that the final orders would include the final version of Arctic Orders Nos. 1, 2, 3, 4, 5, 7, and 12.

3. Vol. 44, No. 128, July 2, 1979, requested comments on proposed OCS Order No. 8 and proposed "Operating Procedures for the OCS Platform Verification Program" for the Gulf of Mexico, Pacific, Gulf of Alaska, Atlantic, and Arctic Areas.

4. Vol. 44, No. 232, November 30, 1979, postponed the effective date of the Orders to January 1, 1980.

These Orders have also been revised to reflect the revision of the operating regulations contained in Title 30 of the Code of Federal Regulations, Part 250 (30 CFR 250), which implements the

Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978. These regulation revisions were published in the Federal Register, Vol. 44, No. 209, Part VII, on October 26, 1979, with an effective date of December 13, 1979.

The Arctic OCS Orders are not being published in final form at this time as announced in the September 27, 1979, Federal Register. They will be published in the near future with an analysis of the difference between these Orders and the Orders in effect in other OCS Areas. However, the Arctic Orders will be published and have an effective date prior to conducting any operation subject to these Orders.

Comments were received from the following organizations:

Alaska Legal Services Corporation
Alaska Oil and Gas Association
American Bureau of Shipping
AMOCO Production Co.
Atlantic Richfield Co.
Axelson, Inc.
Brown & Root, Inc.
Chevron USA, Inc.
Chicago Bridge and Iron Co.
Continental Oil Co.
Det Norske Veritas
Engineering Specialties, Inc.
Exxon Company, USA
Getty Oil Co.
Gulf Oil Exploration and Production Co.
H. M. Tiedmann & Co., Inc.
Hunt Oil Co.
J. Ray McDermott & Co.
Lone Star Steel Co.
Marathon Oil Co.
Massachusetts Executive Office of Environmental Affairs
National Ocean Industries Association
Natural Resources Defense Council, Inc.
Offshore Operators Committee
Otis Engineering Corporation
Pace Marine Engineering Systems, Inc.
Pennzoil Co.
Phillips Petroleum Co.
Shell Oil Co.
Sun Production Co.
Tennessee Gas Pipeline
Texaco, Inc.
Trans-Continental Gas Pipeline Corporation
Trustees for Alaska
Union Oil Company of California, Gulf and Western Regions
U.S. Department of the Interior, Fish and Wildlife Service
U.S. Navy, Naval Facilities Engineering Command

Summaries of the comments received, discussions for accepting or rejecting the suggestions of the commenters, the final versions of the Orders, and the final version of the document entitled "Operating Procedures for the OCS Platform Verification Program" are published below. The requirements of certain paragraphs and subparagraphs are different for the various Areas due to environmental, geological, geophysical, or geographical differences.

The Areas which are affected by these varying requirements are identified in the appropriate paragraphs and subparagraphs of the Orders. Booklet copies of the final Orders for each Area will contain only those requirements which are applicable to that Area.

The term OCS Area as used herein is defined as an established organizational unit of a U.S. Geological Survey Region which is under the jurisdiction of an Area Oil and Gas Supervisor. An Area is comprised of one or more Districts which are under the administration of a District Supervisor.

These Area OCS Orders are applicable to leases on the Outer Continental Shelf. The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, 83rd Congress, 1st Session) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Where these Area OCS Orders refer to approvals or determinations by the Supervisor, these references mean the appropriate Area Oil and Gas Supervisor. In those instances where approvals or determinations are to be made by the District Supervisor, the Orders so state and the determination is made by the appropriate District Supervisor.

Departures granted under the provisions of the previous Area OCS Orders shall remain in effect, provided these specific provisions under which the departures were granted remain unrevised in these Orders.

For further information, contact Mr. Richard B. Krah, Chief of the Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 640, Reston, Virginia 22092 (703-860-7531). The primary author of this document is Mr. Lloyd M. Tracey, OCS Orders and Standards Section, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 640, Reston, Virginia 22092 (703-860-7835).

Federal Register reprints of the revised Area OCS Orders are available from the following:

Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, P.O. Box 7944, Metairie, Louisiana 70011.
Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street, N.W., Washington, D.C. 20006.
Conservation Manager, Western Region, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025.
Area Oil and Gas Supervisor, Alaska Area, P.O. Box 259, Anchorage, Alaska 99510.

Conservation Manager, Pacific Region, 1340 West 6th Street, Los Angeles, California 90017.

Chief, Conservation Division, U.S. Geological Survey, Mail Stop 640, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Booklet copies of the revised Area OCS Orders will be available from the addresses listed above after January 1, 1980.

Copies of the U.S. Geological Survey Standards, which are referenced in Area OCS Order No. 2, are available from the Chief, Conservation Division, at the address above.

Dated: December 18, 1979.

Don E. Kash,

Chief, Conservation Division.

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General Comments

Comments. One commenter contended that "Generally, the revised OCS Orders in their present form are more restrictive and more demanding in paperwork and recordkeeping by both Industry and Survey which certainly is not in accord with Presidential Executive Order 12044."

Discussion. The commenter's contention that full compliance with the revised Orders results in an increase over the paperwork and recording requirements of existing OCS Orders is correct; however, the comment fails to recognize that those increased requirements are the result of revisions in the OCS Orders to reflect the requirements of applicable laws including the 1978 Amendments of the OCS Lands Act. In keeping with the intent of Executive Order 12044, we have worked to keep the increased requirements to a minimum.

Comments. One commenter contended that "the rulemaking procedure was inadequate and in violation of Sections 552 and 553 of the Administrative Procedure Act, as well

as Executive Order number 12044, because, among other things, the proposed National Orders were arbitrarily and substantially changed after the period provided for public comment * * *"

Discussion. The issuance of revised OCS Orders, as set forth below, is not formal rulemaking and thus does not violate the Administrative Procedure Act. However, under a participatory procedure similar to that of the Administrative Procedure Act, the revised Orders as published in the *Federal Register*, Vol. 44, No. 98, May 18, 1979, reflected appropriate responses to comments that had been received in response to the proposed National OCS Orders which were published in the *Federal Register*, Vol. 42, No. 125, on June 29, 1977, and Vol. 42, No. 165, on August 25, 1977. The summaries of comments and discussions which were published with the OCS Orders on May 18, 1979, provided adequate response to all comments received. The revisions to the OCS Orders which were not the results of comments have been examined by the USGS, and it has determined that all of those revisions were either for the purpose of clarification or were requirements incorporated into the OCS Orders to avoid hazardous situations recognized as a result of blowouts or other accidents which occurred during the time period between the publication of the proposed National Orders in 1977 to the publication of final Orders on May 18, 1979. Although we believe all such revisions were fully justified, in response to several requests that the comment period be reopened, the USGS announced in the *Federal Register*, Vol. 44, No. 127, on June 29, 1979, an additional comment period ending August 1, 1979. That Notice also announced the postponement of the effective date of the revised OCS Orders to October 1, 1979. The revised Orders which are published below reflect the consideration given to the comments which were received between June 29 and August 1, 1979. In order to respond to the large volume of comments received, the effective date of the Orders was postponed to December 1, 1979, as announced in the *Federal Register*, Vol. 44, No. 189, on September 27, 1979. The effective date was subsequently extended to January 1, 1980, as announced in the *Federal Register*, Vol. 44, No. 232, on November 30, 1979. This extension was necessary to provide time to incorporate the final revisions of the regulations which were published in the *Federal Register*, Vol. 44, No. 209, on October 26, 1979. These

regulations are to be effective on December 13, 1979.

It should be noted that the Preamble of each of the revised OCS Orders cites the new and revised regulations which implement the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978.

It should also be noted that, due to technical and editorial revisions, the paragraph numbering has been changed in many of the OCS Orders. In the discussion of the revisions, the new paragraph numbering coincides with the final Order. The former paragraph numbering is shown in parenthesis.

Comments. One commenter noted that the term "operator" has been replaced with the term "lessee" throughout the revised OCS Orders. The commenter also contended that "There appears to be some confusion between 'drilling contractor' and 'operator.' We agree that the 'drilling contractor' is the lessee's agent and that the 'lessees' are generally responsible for drilling and development of the lease. Therefore, with regard to provisions addressing legal liabilities, 'lessee' would be correct. However, many of the provisions apply to operational questions, such as submission of forms, reporting, etc. We suggest that the 'operator' is the proper party in those instances, not the lessee (non-operator). In those instances, the lessee (non-operator) would have to first obtain the information from the operator before it could respond. This requirement would be unnecessary, burdensome, and inefficient. We urge you to direct such requirements to the 'operator' not 'lessee' (non-operator) with regard to operational activity."

Discussion. As indicated on page 29261 of the *Federal Register*, May 18, 1979, under the discussion for the revisions of subparagraph 2.1.1., the USGS maintains that the lessee is legally responsible for all requirements for compliance including drilling and developing the lease. The USGS recognizes that much of the information which is required must be submitted in behalf of the lessee(s) by the operator.

The Preambles of OCS Orders Nos. 2 and 5 have been revised to clarify that required information may be submitted by the "designated lease operator."

Comments. One commenter stated, "It is clear from the record that no study of economic feasibility has been made, so the Orders are not sanctioned under Section 21 (of the OCSLAA of 1978)."

Discussion. It is assumed that the commenter refers to the economic feasibility findings which are provided for in conjunction with the requirements for the use of the best available and safest technologies (BAST) in

accordance with section 21(b) of the OCSLAA of 1978. It is intended that economic feasibility findings will be made on a case-by-case basis, for example, whenever a specific item is identified as meeting or not meeting BAST requirements.

OCS Order No. 1

Paragraph 1

Comments. One commenter suggested that the Order should provide different requirements for large and small structures.

Discussion. These suggestions were adopted. Paragraph 1 was reorganized into two subparagraphs, 1.1 *Large Platforms and Structures*, 1.2 *Small Structures*.

The requirements for large platforms are the same as the original Order. The requirements for small structures are the same as the existing OCS Order for the Gulf of Mexico Area and are consistent with the U.S. Coast Guard requirements.

Paragraph 2

Comments. One commenter suggested that the entire paragraph be deleted since it would create an unnecessary hazard during its installation and during subsequent drilling operations.

Discussion. The USGS disagrees. This requirement is in accordance with 30 CFR 250.37 which requires each drilling structure to be clearly identified. The sign will not create any hazard since it may be affixed outside the derrick and will not interfere with the drilling operations. We have revised the Order to allow the option of installing the sign on the heliport. We feel that these signs are necessary to facilitate the identification of particular floating drilling vessels by air traffic, especially during emergency conditions.

Paragraph 3

Comments. One commenter suggested that the words "floating platforms" be added to the first sentence.

Discussion. The USGS agrees with the intent of this suggestion; therefore, the Order was revised by deleting the word "semi-submersible." The words "floating platforms" are considered to be all inclusive.

Paragraph 4

Comments. One commenter felt that only potentially hazardous or sizeable submerged objects should be reported to the U.S. Coast Guard.

Discussion. This suggestion was not adopted. The U.S. Coast Guard has the responsibility for the determination of the hazards to navigation and commercial fishing operations;

therefore, all submerged objects must be reported for their evaluation.

Paragraph 5

Comments. No comments received. *Discussion.* A new paragraph 5, *Marking of Equipment*, was added in accordance with the new regulation, 30 CFR 250.54, which implements section 403(b) of the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978. The subsequent paragraph was renumbered.

U.S. Department of the Interior,
Geological Survey Conservation
Division

OCS Order No. 1—Effective January 1, 1980

Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.37 and 250.54.

1. Identification of Fixed Platforms or Structures.

1.1 Large Platforms and Structures.

Platforms and structures which have helicopter landing facilities shall be identified at two diagonal corners by a sign with letters and figures not less than 30 centimeters (12 inches) in height with the following information:

- a. The name of the lease operator.
- b. The area designation based on OCS Official Protraction Diagrams.
- c. The block number in which the platform or structure is located.
- d. The platform or structure designation.

The information shall be abbreviated as in the following example:

The Blank Oil Company operates "C" platform on Block 999 of the Salisbury Area. The identifying sign on the platform would indicate: BOC-SAL-999-C.

1.2 *Small Structures.* Small structures, including single well structures which do not have helicopter landing facilities, shall be identified with one sign only, with letters and figures not less than 7.6 centimeters (3 inches) in height.

The information shall be abbreviated as in the following example:

The Blank Oil Company operates well No. 1 which is equipped with a protective structure in Block 68 in the East Cameron Area. The identifying sign on the protective structure would show: BOC-E.C.-68-No. 1.

2. *Identification of Mobile Drilling Units.* Floating platforms, bottom-setting mobile rigs, and drilling ships shall be identified by one sign with letters and figures not less than 30 centimeters (12

inches) in height affixed to the derrick or the heliport so as to be visible to approaching traffic and shall contain the following information:

- The name of the lease operator.
- The area designation based on OCS Official Protraction Diagrams.
- The block number in which the drilling unit is located.
- The OCS lease number.
- The well number.

3. *Identification of Wells.* The OCS lease and well number shall be painted on the wellhead or on a sign affixed to the wellhead of each singly completed well. In multiply completed wells, each completion unit shall be individually identified at the wellhead. All identifying signs shall be maintained in a legible condition.

4. *Identification of Subsea Objects.* All subsea objects resulting from lease operations which are determined by the U.S. Coast Guard District Commander to be hazards to navigation or to the deployment of commercial fishing devices shall be identified by suitable aid-to-navigation devices as directed by the District Commander. Prior to the establishment of a subsea object or in the event of the accidental submergence of an object, the owner shall inform the District Commander of the object's description, location, and unobstructed depth of water above the object's highest point. Based on this information, the District Commander will determine what marking and permits, if any, will be required (14 U.S.C. 83, 85, 43 U.S.C. 1333; 33 CFR 67). The owner shall maintain these navigational markings onsite and properly functioning at all times while the obstruction remains.

5. *Marking of Equipment.* Whenever practicable, all materials, equipment, tools, containers, and items used on the OCS are to be properly color coded, stamped, or labeled with the owner's identification prior to actual use. For oil and gas operations, this means the owner's identification, as approved or prescribed by the Director, is to be placed upon all materials, cable, equipment, tools, containers, and other objects which could be freed and lost overboard from rigs, platforms, or supply vessels and are of sufficient size or are of such a nature that they could be expected to interfere with commercial fishing gear if dropped overboard.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:
Don E. Kash,
Chief, Conservation Division.

OCS Order No. 2

Preamble

Comments. No comments received.
Discussion. In accordance with section 21 of the OCSLAA of 1978, a sentence has been added to the preamble of this Order to require the use of the best available and safest technologies (BAST).

Subparagraph 1.2

Comments. Several commenters stated that the last sentence should be revised to require that "if drilling activity does not commence within 6 months" be changed to 12 months. It was contended that the 6 months requirements will "create new problems as a result of rig scheduling, partnership agreements and availability of equipment."

Another comment stated that the last sentence in this subparagraph should be changed to provide that "if drilling activity does not commence within one year after approval date, the permit will expire unless an application for extension due to unusual circumstances is made to the District Supervisor."

Discussion. The USGS has considered the reasons submitted for the proposed change. The last sentence of subparagraph 1.2 has been deleted.

Paragraph 2

Comments. Several commenters suggested that some of the subparagraphs which require the submittal of information should be deleted from the requirements for the Gulf of Mexico Area.

Discussion. It has been recognized that some of the requirements of this paragraph should be modified for the Gulf of Mexico Area. The modifications are discussed below on an item-by-item basis.

Subparagraph 2.1.1. Fitness of Drilling Unit

This subparagraph was extensively revised for the Gulf of Mexico Area. It was determined that the list of items (a-e) which is required to be submitted as evidence of the fitness of the drilling unit is not required because many of these items are already available in the files of the District Supervisors for the Gulf of Mexico Area. The list was deleted and replaced by the following sentence, "This evidence shall include drawings and specifications or other information as required by the District Supervisor." This evidence is to be

submitted with the Application for Permit to Drill rather than with the Exploration Plan or Development and Production Plan as not required for all other Areas of the OCS.

As a result of the extensive revisions of paragraph 2 for the Gulf of Mexico Area, it was not necessary to categorize the requirements into General Requirements, Mobile Drilling Units, and Fixed Drilling Platforms as required for all other areas for the OCS. The subparagraph heading "2.1 General Requirements" has been deleted from the requirements for the Gulf of Mexico Area and the subsequent subparagraphs have been renumbered and retitled as follows:

- 2.1 Fitness of Drilling Unit.
- 2.2 Pre-Drilling Inspection.
- 2.3 Well Site Surveys.
- 2.4 Oceanographic, Meteorologic, Performance Data.

For the Gulf of Mexico Area the following sentence has been added to subparagraph 2.1: "Mobile drilling units which have their jacking equipment removed or have been otherwise immobilized, will be considered fixed drilling platforms and applications shall also be submitted in accordance with OCS Order No. 8." This sentence has been added to subparagraph 2.3, *Fixed Drilling Platforms*, for the other areas of the OCS.

Subparagraph 2.1.3 Well Site Surveys

The requirements of this subparagraph (renumbered 2.3 for the Gulf of Mexico Area) have been revised for all Areas of the OCS. The revised subparagraph requires the lessee to submit a shallow geologic hazards report which the supervisor will evaluate to determine if additional shallow geologic hazard surveys are required. The phrase "or other surveys required by the Supervisor" was added because the Supervisor may require other surveys, such as archaeological surveys or biological surveys, to be conducted in certain areas as stipulated by lease terms.

Subparagraph 2.1.4 Oceanographic, Meteorological, and Performance Data

Comments. Several commenters proposed that this subparagraph be deleted, or if not deleted, the Gulf of Mexico should be exempted, since the data required is readily available.

Discussion. The USGS believes that these requirements are necessary in frontier areas. It is agreed that the Gulf of Mexico Area has accumulated sufficient oceanographic, meteorological, and performance data to merit an exemption. Therefore, subparagraphs 2.4 for the Gulf of Mexico

Area and 2.1.4 for the other Areas have been revised to require "Where such information is not readily available, lessees shall collect and report oceanographic, meteorological, and performance data during the period of operations as required by the Supervisor."

Subparagraph 2.1.5 Subfreezing Operations

Subparagraph 2.1.5, *Subfreezing Operations*, has been deleted from the requirements for the Gulf of Mexico and Pacific Areas.

Subparagraph 2.2 Mobil Drilling Units (Pacific, Gulf of Alaska, and Atlantic Areas)

As a result of the reorganization of the requirements for paragraph 2 of the Gulf of Mexico Area, subparagraph 2.2 *Mobil Drilling Units*, has been deleted from the Gulf of Mexico Area requirements. For the other Areas of the OCS, subparagraph 2.2 has been revised as follows:

Subparagraph 2.2(a)

This subparagraph has been revised to require a listing of the maximum environmental and operational conditions used for the design.

This revision is a clarification of the previous wording. The reference to the Critical Operations and Curtailment Plan was deleted from the requirements for the Gulf of Mexico Area and has been incorporated as item f. of subparagraph 2.1.1 for all other Areas of the OCS.

Subparagraph 2.2(b)

The requirements of subparagraph 2.2(b) have been segregated into two categories, (1) the Pacific Area and (2) the Gulf of Alaska and Atlantic Areas. The requirements for the Gulf of Alaska and Atlantic Areas now include a listing of ice loading and icing conditions.

Subparagraph 2.2(c)

This subparagraph has been revised to require the submittal of sea-bed data.

Subparagraph 2.2(d)

This subparagraph contains the requirement pertaining to the certification of the drilling units which was formerly in subparagraph 2.2(c). The last sentence of the former subparagraph 2.2(c) pertaining to the resubmittal of data after a drilling unit has been approved for use in an Area has been incorporated into subparagraph 2.1 for the Gulf of Mexico Area, and subparagraph 2.1.1, for all other Areas. It should be noted that the requirement for including a current

American Bureau Shipping (ABS) of Classification, a U.S. Coast Guard Certificate of Inspection, or other appropriate certification, has been deleted from the Gulf of Mexico requirements. Due to the large number of mobile drilling units operating in the Gulf of Mexico Region without inspection certificates, it has been determined that it is not practical to enforce this requirement at this time; therefore, the requirement has been deleted from paragraph 2 for the Gulf of Mexico Region.

Subparagraph 2.2

Comments. It was suggested that this subparagraph should be rewritten to make it clear that existing installations are exempt from compliance with new requirements in accordance with Section 30(b) of the OCS Lands Act Amendments (OCSLAA) of 1978.

Discussion. This commenter also made a similar comment of the following Orders and subparagraphs:

OCS orders and subparagraphs:

- No. 2—5.1.1.
- No. 2—5.1.3.
- No. 2—5.2.
- No. 5—4.2.
- No. 5—4.4(g).
- No. 5—5.1.5.
- No. 5—5.1.6.
- No. 5—5.1.8.
- No. 5—5.1.10.
- No. 7—1.1.3(2).
- No. 7—3.1.3(b).

This discussion is applicable in response to the comments on the subparagraphs listed above.

The intent of section 30 of OCSLAA is to require that any vessel, rig, platform, or other vehicle or structure which is built or rebuilt 1 year after the effective date of the regulations which implement the Lands Act Amendments shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary establishes. Section 30(b) states that the regulations issued under subsection (a)(2) shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to the date of enactment of this section until such time after such date as such vehicle or structure is rebuilt. It is clear that section 30(a)(2) is applicable to the design, construction, alternation, and repair of new platforms. This does not address new requirements for existing platform equipment.

Section 21(b), "Safety Regulations," states that " * * * the Secretary, * * * shall require on all new drilling and production operations and, wherever practical on existing operations, the use of the best available and safest technologies (BAST) * * *." It is also

evident from section 21(b) that new requirements may be added to new and old platforms " * * * wherever failure of equipment would have a significant effect on the safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies."

The requirement for the use of BAST has been added to the preamble of this Order. The intent of subparagraph 2.2 of the Order is to obtain data upon which to assess the fitness of mobile drilling units to perform the planned drilling operations in a specific geographic area. These data are not required to determine if the drilling units meet such minimum standards of design, construction, alteration, or repair, as the Secretary may prescribe.

The revision of subparagraph 2.2 as suggested by the above comment was not adopted; however, paragraph 2 for the Gulf of Mexico Region was reorganized and restructured in response to other comments as previously discussed.

Subparagraph 3.1

Comments. It was suggested that the fourth sentence of subparagraph 3.1 should be revised as follows: (1) Delete the requirement "12 meters (39 feet) below the ocean floor." (2) Insert "the depth of the structure casing shoe." It was contended that "placement of the Mudline Suspension starting ring should determine the depth at which cement should be removed below the mudline. Sufficient data is not always available to place the starting ring within 39' of the mudline."

Discussion. The USGS agrees with the commenter's reason for the suggestion. This suggestion was adopted.

Comments. In the penultimate paragraph, one commenter suggested that the first sentence be changed to state that "The lessee, its assignee or the lease operator * * *."

Discussion. This suggestion was not adopted because it is not necessary to use the term "assignee," since one who has been assigned an interest in a lease becomes the lessee.

Comments. Another commenter stated that pipe/casting manufacturers produce "numerous proprietary grades of casing" for which there are no API Standards. It was further stated that excessive paper work would be eliminated if each manufacturer of proprietary grade casing files their specification with each District Supervisor.

Discussion. The USGS agrees with this proposal. Accordingly, the sentence in the fourth paragraph is changed as

follows: "If casing to be used is not fabricated to API Standards, the yield strengths of the casing shall be included on the Application for Permit to Drill (From 9-331C), provided these specifications are not on file with the U.S. Geological Survey (USGS)."

Comments. It was suggested that the penultimate sentence of the first paragraph be revised to insert "after consulting with" in lieu of "in accordance with the instructions of."

Discussion. This suggestion was not adopted. The proposed phrase implies that anything the lessee proposes to do would be acceptable to the Supervisor. The phrase " * * * as approved by the District Supervisor" was adopted.

Comments. A commenter recommended that item "d" be amended to add: "A + 25-foot tolerance shall be allowed for casing and drill depth requirements." It was contended that: "casing joint lengths and hole fill require some tolerance to meet a specified depth limit."

Discussion. This change was not adopted. Exceptions to the casing setting depth may be authorized by the District Supervisor if evidence supporting the need for such exceptions is presented.

Subparagraph 3.2

Comments. It was suggested that the last sentence be changed to add the phrase "with a larger diameter bit than outside diameter of the casing," following the word "drilled" and before the word "the."

Discussion. It is not believed necessary to include this phrase, since, when any hole is drilled to be cased, the casing outside diameter must be smaller than the bit.

Subparagraph 3.3.1

Comments. It was suggested that the fourth sentence in the first paragraph be revised by changing the word "exact" to "approximate." Another suggestion stated that the following sentence be added to the first paragraph: "Exceptions to the above casing setting depth restraints may be authorized by the District Supervisor if evidence supporting the need for such exceptions is presented by the operator."

It was contended that: "As deeper waters are reached, the fracture gradient is reduced with water depth and these current depths may not permit circulation to the surface. (i.e.) fracture gradient insufficient to support a column of liquid. Casing setting depth exceptions may be required to ensure the safety of operations."

Discussion. Proposed casing programs are to be submitted with the Application

for Permit to Drill. Actual well conditions, depth of prospective zones, and other considerations may justify changes in casing setting depth(s), subject to approval by the Supervisor. The word "exact" has been deleted.

Comments. One commenter noted that "137 meters" in the last sentence of the Pacific paragraph is in error and should be 152 meters.

Discussion. The "137 meters" (450 feet) is correct and is consistent with Pacific field rules.

Comments. No comments received.

Discussion. A new paragraph was added for the Gulf of Mexico, which is quoted, in part, as follows: "The District Supervisor may approve a request to waive the requirement for setting conductor casing * * *." Due to the drilling experience in the Gulf of Mexico, it has been determined that in certain cases the setting conductor pipe may be eliminated. After drilling the first well at a specific location, it has been common practice not to require conductor casing on adjacent wells after it has been confirmed that no shallow hazards exist. This provision was not added to the other Orders, due to insufficient drilling history to justify this practice.

Subparagraph 3.3.2

Comments. It was observed that "the suggested change in paragraph 3.1 for removal of cement to the mudline hanger applies to paragraph 3.3.2 as well. It is necessary to remove the cement to the mudline hanger assemblies in order to facilitate the operation of mudline suspension equipment and to permit temporary abandonment and re-entry of wells.

Discussion. The USGS agrees with this comment. The following sentence has been added to subparagraph 3.3.2: "Upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment."

Subparagraph 3.3.3

Comments. It was suggested that the following sentence be added after the first sentence: "For floating drilling operations that use a one stack blowout preventer system, a lesser volume of cement is permissible to prevent sealing the annular space between the conductor casing and surface casing." It was contended that "Measurements to test the seal between the surface and conductor casing are difficult to register when all variables on a floating rig are considered.

"If the surface-conductor casing annulus is sealed at the bottom when using a one-stack subsea blowout preventer system, the subsea casing hanger pack-off sealing this annulus cannot be effectively pressure-tested without bursting of the conductor casing each time the BOP's are tested to pressure exceeding the collapse pressure of the casing. With some formation exposed below the conductor pipe, the formation should break down before collapse of the surface pipe or burst of the conductor pipe, if a leak occurs in the sealing arrangement."

Discussion. The following statement was adopted. "For floating drilling operations that use a one-stack blowout preventer (BOP) system, a lesser volume of cement is permissible to prevent sealing the annular space between the conductor casing and surface casing, when approved by the District Supervisor. Any annular space open to the drilled hole must be sealed in accordance with the requirements in Order No. 3 upon abandonment."

Subparagraph 3.4

Comments. It was suggested that the fourth sentence be deleted, which states: "Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight."

It was contended that: "Formation fracture strength (in shale) often increases over a period of time with exposure to mud filtrate. Therefore, it is not possible in many cases to test a casing shoe soon after drilling out as high as needed to reach a given mud weight objective. Subsequent (and progressively higher) formation tests are not desirable either since some amount of 'new hole' is always exposed and a fracture if initiated in a long open-hole section is difficult or impossible to repair without running more casing. Also, testing to 'leak-off' or otherwise inadvertently initiating a borehole fracture can limit the initial (undisturbed) strength of the borehole."

Discussion. This suggestion was not adopted; however, this sentence was changed to the following: "Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor."

The USGS considers the data of formation leak-off or testing to an equivalent mud weight a necessary procedure in wild cat or exploratory wells. Once these data are adequately developed in a given field, it would not be required on each well.

Subparagraph 3.6

Comments. It was suggested that the word "prolonged" be inserted before the word "unscheduled" in the first line of the first sentence in the paragraph following the table. Another commenter suggested inserting: "that result in redrilling of the entire open hole interval" after the second use of "operation" in the third line.

Discussion. The USGS is in general agreement with these comments. This paragraph has been rewritten as follows: "In the event of prolonged drill pipe operations which could cause damage to the casing, the casing shall be pressure-tested, calipered, or otherwise evaluated, as approved by the District Supervisor."

Comments. It was suggested that the fourth paragraph be revised in the first sentence to delete "addition to" and insert "lieu of." Also in the first sentence, delete "sufficient time must elapse" and insert "the waiting time need not exceed the time required." It was contended that: "Industry experience over the past several years shows that there is no reasonable necessity to wait on cement any longer than the time necessary to reach a compressive strength of 500 psi. Cement can be designed and pretested to reach this strength in a minimum time, taking into account bottom hole temperature."

Discussion. These suggestions were not adopted. There are a large number of cement types (slurries) the lessee may elect to use, depending on well depth, temperature, and other well conditions. Cement setting time varies considerably, depending on the percent bentonite, or calcium chloride, or other additives (or retarders) used. It is believed that the 8- and 12-hour waiting time requirements are reasonable.

Comments. Another commenter suggested that "The second to last paragraph should be deleted or reworded to state that the compressive strength of the bottom 500' of cement should be at least that of the formation in which it is set." It was contended that: "On conductor and surface casing cement jobs, the slurry composition is often modified to prevent loss of circulation. This modification precludes development of 500 psi compressive strengths; however, this is insignificant as the surrounding formations generally have less than 100 psi compressive strength."

Discussion. The suggestion was not adopted. Surface casing is commonly set at depths where formation compressive strengths substantially exceed 100 psi.

Comments. It was suggested that, in paragraph 4, the 502 feet annular cement

fill be changed to 100 feet. It was stated that there will be excessive Writing on Cement (WOC) time on conductor casing where lightweight, low fluid loss cement must be used in the upper portion of the annulus to prevent lost circulation.

Discussion. The suggestion was not adopted. It is believed that only 100 feet that has attained 500 psi compressive strength does not provide integrity to the total cement column, sufficient to resume drilling operations.

Paragraph 4

Comments. One commenter stated that: "It is felt that the maximum individual inclination survey limit of 6 degrees is too restrictive and that the limit of 3 degrees for average inclination is sufficiently limiting. It is suggested that the maximum individual inclination survey limit of 6 degrees be dropped." Another commenter suggested that this paragraph be revised to require that " * * * well will be considered directional if any one survey exceeds 6° and overall average angle exceeds 3°."

Another commenter suggested that the first sentence in the last paragraph be revised by inserting the following qualifying phrase after surface casing: "If directional at that depth." It was further suggested: "Insert a 2nd sentence 'Dipmeter directional data is an acceptable substitution for directional surveys.' In the present 3rd sentence, insert after 'structural casing,' 'if directional at this depth or below surface casing if vertical.'"

It was contended that: "For most drilling cases unless the well is intended to be directional, shallower than the surface casing setting depth, the well will be virtually vertical (1° inclination), and surveys above surface casing depth on vertical wells would serve no useful purpose."

Discussion. It is agreed that a maximum individual inclination survey limit of 6 degrees can be too restrictive. Therefore, this requirement was deleted.

The USGS is concerned with maintenance of lease line and other spacing requirements; however, the USGS is also concerned as to the location of the bottom of the hole throughout the drilling of the well to total depth.

It is not agreed that directional surveys should start below surface casing, since this casing is permitted to be set as deep as 4,500 feet. Hole deviation may become substantial at this depth under certain drilling conditions.

Subparagraph 5.1.1

Comments. Several commenters suggested that the term "maximum anticipated surface pressure" be changed to "anticipated surface pressure." Another comment suggested that the phrase "maximum burst load" be used. Some of the rationale submitted in support of "anticipated surface pressure" is quoted as follows: "Use of 'maximum anticipated surface pressure' as defined by the USGS on page 29263, FR May 18, 1979, in this context would require use of equipment that is not available. (The definition allows for consideration of a gas filled wellbore)."

"Casing design requirements and bit size restriction through high pressure BOP's would be all but impossible to live with. In addition, the capability of shutting in a well and achieving primary well control by circulating under the 'maximum anticipated' pressure is also only a remote possibility."

"The anticipated surface pressure shall consider all pertinent factors for well control such as (a) Formation Pressure (b) Formation Fracture Gradients (c) Mud Densities (d) Casing Setting Depths."

One commenter defined anticipated surface pressure as follows: "Anticipated surface pressure is defined as the surface well pressure to be exposed to a casing string and its related wellhead equipment. Anticipated surface pressure will take into account the anticipated drilling, completion and producing conditions. It will consider mud densities to be used below various casing strings, fracture gradients of the exposed formations, casing setting depths, total well depth, formation fluid type and other pertinent conditions. Considerations for anticipated surface pressure will vary for each segment of the well."

Discussion. The USGS has analyzed the rationale submitted in support of the phrase "anticipated surface pressure." The commenter's suggestion that "anticipated surface pressure" be used instead of "maximum-anticipated surface pressure" is adopted. The commenter's definition of anticipated surface pressure has also been adopted as stated above.

On the Application for Permit to Drill, the lessee shall include anticipated surface pressures at all casing setting depths and at total depth. The calculations and rationale to substantiate the stated pressures shall also be included.

Comments. In another comment on subparagraph 5.1.1, it was suggested that: "The paragraph also ought to be

rewritten so as to make it clear that existing BOP equipment is exempted from compliance with the new requirements, under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2.

Subparagraph 5.1.1

Comments. No comments received.

Discussion. The last sentence in the first paragraph of subparagraph 5.1.1 has been changed to read as follows: "The working pressure of any blowout preventer shall exceed the anticipated surface pressure to which it may be subjected." The phrase "except that the working pressure of the annular preventer need not exceed 34,475 kPa (5,000 psi)" has been deleted.

This revision was made since there are some situations where high anticipated surface pressures would require the use of an annular BOP with a working pressure greater than 34,475 kPa (5,000 psi).

Subparagraph 5.1.1.f and 5.1.1.g

Comments. It was suggested that this subparagraph be revised to provide for the use of flexible steel hose and hammer unions.

Discussion. The USGS agrees that the use of flexible steel hoses and hammer unions is common industry practice, and has adopted the suggestion. This equipment is acceptable provided the working pressure ratings are equal to or exceed the other pressure fittings in the choke manifold.

Comments. It was proposed that the following sentence be added: "Equipment downstream of the choke need not meet this pressure requirement."

Discussion. This proposal was not adopted since API RP 53 provides for this.

Subparagraph 5.1.3

Comments. It was proposed to add that this requirement does not apply to the Gulf of Mexico.

Discussion. All Area OCS Orders will ultimately be published in separate books. Since this subparagraph does not apply to the Gulf of Mexico or the Pacific Areas, subparagraph 5.1.3, "Subfreezing Operations," will be deleted from the Orders for these Areas.

Comments. Another comment concerning subparagraph 5.1.3 stated that: "Further, as written, the provision fails to indicate that existing BOP's and related equipment are exempted from compliance with the new equipment under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2.

Subparagraph 5.2

Comments. Several commenters were concerned with notes 1, 3, and 4, which explain the BOP requirements in the table. It was stated that: "Reworking is needed here to include grandfather clause for the requirement of top-of-the-riser diverter mounting. Use of the subsea stack and choke and kill lines as a diverter system is still routine on some of the older Gulf of Mexico floaters. Conversion to top-of-the-riser mounting would require extensive rig modification, which is not necessary."

Discussion. The USGS believes that the commenters misinterpreted the intent of the first paragraph and notes 1, 3, and 4 of the table. Notes 1 and 2 apply after drive pipe has been set and during the drilling of the conductor hole. This is the intent of the first sentence, by the phrase "drilling below."

Note 1 refers to subparagraph 5.4.1. The first sentence of subparagraph 5.4.1 has been revised by adding the phrase "utilizing an annular-type preventer" after the words "diverter system." It is the intent that the conductor hole should be drilled, using an annular-type preventer to permit diversion of hydrocarbons or other fluids. In view of these considerations, a grandfather clause referred to in the comment is not necessary.

Subparagraph 5.2, Note 5

Comments. No comments received.

Discussion. This note was changed to read as follows: "When a tapered drill string is in use, the BOP stack shall be equipped with two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe."

This revision was made to clarify that two sets of pipe rams are required for the larger size pipe and one set of rams for the smaller size pipe in a tapered string, since most of the string consists of the larger size pipe, which should have a back-up set of rams.

Comments. Another comment concerning subparagraph 5.2 stated that: "Further, the paragraph ought to be rewritten so as to make it clear that existing subsea BOP's are exempted from compliance with new requirements under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2.

Comments. It was proposed that the phrase "or storm packer" be added to the last sentence of subparagraph 5.2, after "bridge plug." It was stated that: "The inclusion of the term more clearly

defines equipment that the operator may select to use depending upon well conditions."

Discussion. This suggestion was adopted.

Subparagraph 5.3

Comments. No comments received.

Discussion. The first item in the table, "Drive or Structural," was amended to add "1-Annular." This requires that when drilling a conductor hole (or surface hole), an annular-type preventer and a diverter system is required to enhance the safety of this drilling operation.

Comments. It was suggested that Note 1 be revised to add the following at the end of the paragraph: "The flowpath from the BOP to the branch point of diverter lines in new systems shall have a minimum internal diameter of 15 centimeters (6 inches)." It was contended that "For clarification that only one flowpath is required from the BOP to the branch point."

Discussion. This suggestion was adopted for clarity.

Subparagraph 5.3, Note 2

Comments. No comments received.

Discussion. The wording of subparagraph 5.3, Note 2, was changed to read the same as subparagraph 5.2, Note 5.

Subparagraph 5.4.1

Comments. It was suggested that in the third sentence the word "prevent" was in error.

Discussion. This word was changed to "permit." This typographical error was previously recognized and corrected by *Federal Register* Notice, Vol. 44, No. 127, page 38004, June 29, 1979.

Subparagraph 5.4.2

Comments. It was stated that the second sentence reads: "This program shall include all known pertinent information, including, . . . a schematic diagram indicating the equipment to be installed from the rotary table to the proposed conductor-casing seat, and . . ." It was recommended the schematic diagram requirement be deleted, since "the riser is not used there will be no equipment to show in a diagram."

Discussion. This is true if the marine riser cannot be used to drill the conductor hole. However, some conductor holes are drilled with a riser equipped with a dump valve, which permits seafloor diversion of returns. In these cases, a schematic is required.

Subparagraph 5.7

Comments. No comments received.

Discussion. It is considered necessary that all BOP tests should be recorded. Therefore, the following sentence was added: "All BOP tests shall be recorded in the driller's report."

Subparagraph 5.7.2

Comments. Several commenters recommended that the last sentence be deleted. It was contended that: "The testing of the smaller pipe rams with this frequency and while off bottom with open hole is a hazardous exposure and should be avoided. The small pipe rams should be tested with the same frequency and in the same manner with the other ram-type BOP's."

Discussion. The USGS agrees with the above rationale, and has deleted the last sentence.

Comments. Another commenter recommended that the following sentence be added for clarification: "After drilling out, the blind rams need not be tested."

Discussion. For the Gulf of Mexico Area, a new sentence was added as follows: "After drilling out of each casing or liner shoe, the blind rams need not be tested until before drilling out the subsequent casing or liner shoe." This requirement would result in the blind rams being tested each 1 or 2 weeks based on the known rapid drilling rates in relatively soft formations. This sentence was not added for the other Areas because of insufficient history of drilling rates. Blind rams are required to be tested once each week in the other Areas.

Comments. Another commenter is quoted as follows: "Section 5. (Blowout Preventer (BOP) Equipment Requirements). This section appears flawed with a serious inconsistency. Although Section 5.1.1. requires 'the working pressure of any blowout preventer shall exceed the maximum-anticipated surface pressure to which it may be subjected,' Section 5.7.2, Pressure Testing Surface BOP Systems reads:

"Ram-type BOPs and related control equipment shall be tested at the maximum-anticipated surface pressure or at 70% of the minimum internal yield pressure of the casing, whichever is the lesser. The annular type BOP shall be tested at 70% of the minimum internal yield pressure of the casing, whichever is the lesser."

Therefore, if 70% of the minimum internal yield pressure of the casing is less than the maximum anticipated surface pressure at a ram-type BOP, if a blowout occurred at maximum pressure, the BOP would not have been tested for that great a pressure and failure might ensue. Similarly, at best, the annular

BOP will be tested at 70% of the maximum anticipated surface pressure. This minimum testing cannot assure proper functioning of the equipment at full load.

Discussion. The commenter incorrectly quoted the second sentence of subparagraph 5.7.2. The phrase "of its rated working pressure or 70%" was deleted in the comment. This deletion changed the meaning of the second sentence concerning annular type BOP testing. Testing annular type BOP's at 70 percent of the anticipated surface pressure is not the intent, as stated in the penultimate sentence of the commenter. The annular type preventers are to be tested at 70 percent of their rated working pressure, or 70 percent of the internal yield pressure of the casing, whichever is lesser. Casing strings are designed with the minimum internal yield pressure greater than the anticipated surface pressure at their setting depths.

In BOP testing, the limiting factor is the minimum internal yield pressure of the casing. The safety factor of 70 percent is used to protect the casing string from pressures exceeding the internal yield in the event of a test plug failure. In all cases, BOP's are factory tested to pressure greater than their working pressure. It is not practical to field test BOP's above their working pressure which could be greater than the internal yield pressure of the casing.

Subparagraph 5.7.4a

Comment. One commenter suggested that the requirement for actuation of pipe rams be modified to require daily or once per trip actuation, whichever is less.

Discussion. This suggestion was not adopted since on long-bit runs, it could be several days before a trip is made.

Subparagraph 5.7.5

Comments. It was proposed that the first paragraph be deleted. It was contended that: "Industry experience indicated that closing the pipe rams on the empty hole causes extrusion damage of the ram rubbers and that closing the pipe rams on moving pipe causes excessive wear of the ram rubbers. It is recommended that the daily operational tests of pipe rams of subsea blowout preventers be eliminated."

Discussion. This proposal was not adopted. In view of widespread use of modern-day motion compensators, the movement of pipe through the rams is considered minimal. Wear will be minimized by using correct accumulator closing pressures. Some models of Subsea BOP stacks require frequent function to keep ram cavities free of

debris, thus making them more dependable. Subparagraph 5.7.5 has been revised to provide that pipe rams on subsea stacks shall be actuated every other day. The sentence "In order to prevent damage to the rams, complete closure of the rams on the drill pipe is not required, provided movement of the rams is indicated by the hydraulic system pressure and flow indicators," was added for clarification.

Subparagraph 5.8

Comments. A commenter proposed that the following two sentences be added: "When using the underwater television equipment for other purposes, it is expected that the BOP stack and marine riser systems be inspected. Deployment of the television equipment for the express purpose of inspection of the stack and riser systems needs to be done only weekly at the time of performance of the subsea BOP tests."

Discussion. This proposal was not adopted. The USGS believes that daily inspection is necessary in order to verify the integrity of the BOP stack and marine riser.

Comments. Another commenter proposed "If the manufacturer suggest minimal maintenance, then all that must be done is minimal maintenance. If a manufacturer found that because he recommended minimal maintenance he sold more BOP's, maybe he would recommend minimal maintenance and be happy to sell more BOP's."

Discussion. Blowout preventers are the most important mechanical safety and well control devices on any drilling rig. It is in the manufacturers interest to ensure the reliability of their equipment. Therefore, maintenance procedures are designed to provide the maximum reliable service life.

Subparagraph 5.9

Comments. A comment suggested that a phrase in the last sentence be changed from "at any time" to "any reasonable time." Another commenter recommended that the following phrase be added to the last sentence: "after consulting with the operators' senior representative present." It was contended that: "During certain times in drilling operations, a BOP drill would be hazardous. Consultation with operator's representative would avoid such hazards."

Discussion. It is agreed that drills should not be conducted during unusual operations. The last sentence has been revised to add the following: "after notifying the lessee's senior representative present."

Comments. No comments received.

Discussion. It is considered necessary that all BOP drills should be recorded. Therefore, the following paragraph was added: "All BOP drills shall be recorded on the driller's report."

Subparagraph 6.1

Comments. A commenter suggested that in subparagraph 6.1C, in the penultimate paragraph, the term "vacuum-type" should be deleted. It was further stated that: "To define vacuum type only precludes any advancements on new equipment for this purpose. It would also require removal of existing equipment."

Discussion. The USGS agrees, and has adopted this suggestion. The term "an operable gas separator" has been adopted.

Subparagraph 6.2.a.

Comments. A commenter proposed the following: "Section 6.2(a) provides for monitoring of mud levels, and requires visual and audio warning devices. The Gulf of Alaska Operations Orders specified numerical maximum changes beyond which warning devices would be triggered. We suggest that such a provision be added to this section."

Discussion. The sensitivity of the pit volume measuring devices should be custom-designed to provide the maximum sensitivity possible considering the type of vessel or structure. Therefore, limitations should not be placed on these indicators.

Subparagraph 6.3

Comments. It was the consensus of some commenters that subparagraphs 6.3a and 6.3b required excessive mud quantities, which may exceed certain rig mud storage capacity. Another commenter stated that: "The requirement should include only that which is common practice in the offshore, i.e. to keep weighting material storage full at all times and to have replacement for useage within several hours of reach. Material storage volume requirements should be specified as the 'quantity required to weight up the system 1 ppg.'" Another opinion stated that "a very simple and practical approach to this subject is to require a minimum mud material inventory of the amount necessary to increase the weight of the active mud system by 1 pound/gallon."

Discussion. The USGS agrees that some rig mud storage capacity would be exceeded under the requirements of subparagraphs 6.3a and 6.3b; therefore, the requirements of subparagraphs 6a and 6b have been deleted. Since the Order requires a table of mud quantities

versus well depth to be submitted with the Application for Permit to Drill, the District Supervisory will evaluate the criteria used to determine these quantities.

The second paragraph clearly provides for adjustment where the required quantities exceed rig storage capacity. This paragraph states: "When the mud quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisor of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time required for delivery of the mud supplies."

Subparagraph 7.2

Comments. One commenter suggested adding "storm packer" following bridge plug in the last sentence.

Discussion. The USGS agrees and "storm packer" was added.

Paragraph 9

Comments. A comment stated that: "The effective date of the Order does not provide sufficient time for operators to prepare this plan and file it for approval."

It was also suggested that 6 months be allowed to submit a critical operations and curtailment plan after the effective date of this Order.

Discussion. It is recognized that the May 18, 1979, Order did not address future and existing platforms and Mobile drilling units. Therefore, language was added to the Orders to provide for new installations and to allow time for the submittal of plans for existing facilities which do not have plans.

Comments. It was stated that: "Present wording requires the name of the person with responsibility for safety of drilling operations. We feel very strongly that this should be the title of the person and not a name—thus allowing more flexibility of personnel and much more practical." Another commenter suggested that in this subparagraph, "eliminate the words . . . at the site . . . and replace with . . . the person in charge of overall drilling operations. . . ." It was also stated that: "The representative 'at the site' does not have overall responsibility for the operation and is subject to change due to work schedule."

Discussion. The USGS does not agree that only a title of the person in charge should be submitted. Generally, titles within an organization may remain the same, i.e., "Drilling Superintendent," "Drilling Foreman," etc. In normal

operations, and particularly in times of emergency, it is considered essential that the names corresponding to these positions be known, so that the individual may be contacted. It is agreed that the lessee's representative may not have the "overall responsibility for the operation" at the site. Accordingly, this subparagraph has been revised to read: "The name of the person who has responsibility, as the person in charge of overall drilling operations."

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 2—Effective January 1, 1980

Drilling Operations

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.30, 250.34, 250.36, 250.38, 250.40, 240.41, and the provisions of this Order except for those provisions superseded by the issuance of field drilling rules.

This Order requires the lessee to submit plans, applications, data, and other information. In all cases where the lessee(s) has (have) identified another party as designated lease operator in accordance with 30 CFR 250.31 and where the term "operator" is defined in accordance with 30 CFR 250.2(gg), the required information may be submitted by the designated lease operator.

In addition to the requirements of this Order, the lessee shall comply with the requirements of paragraph 9, *Requirements for Drilling Rigs*, of OCS Order No. 5.

1. Plans and Applications.

1.1 *Exploration Plan and Development and Production Plan.* In accordance with 30 CFR 250.34, the lessee shall submit Exploration Plans and Development and Production Plans to the Supervisor for approval. All wells drilled under the provisions of this Order shall be included in the appropriate plan.

1.2 *Application for Permit to Drill.* Prior to commencing drilling under an approved Exploration Plan or a Development and Production Plan, the lessee shall file, in triplicate, an Application for Permit to Drill (Form 9-331 C) with the District Supervisor for approval. Additionally, the Supervisor will prescribe the number of public information copies to be submitted.

2. Drilling from Fixed Platforms and Mobile Drilling Units. Gulf of Mexico:

2.1 *Fitness of Drilling Unit.*

Applications for installations of fixed

drilling platforms or structures, including artificial islands, shall be submitted in accordance with OCS Order No. 8. Mobile drilling units which have their jacking equipment removed, or have been otherwise immobilized, will be considered fixed drilling platforms and applications shall also be submitted in accordance with OCS Order No. 8.

All fixed and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The lessee shall submit with the Application for Permit to Drill evidence to the District Supervisor of the fitness of the drilling unit to perform the planned drilling operation. This evidence shall include drawings and specifications or other information as required by the District Supervisor. After a drilling unit has been approved for use in an area, this information need not be resubmitted unless required by the District Supervisor, or there are changes in equipment which affect the rated capability of the unit.

2.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS Area, all fixed drilling platforms and mobile drilling units shall be made available for a complete inspection by the District Supervisor.

2.3 *Well-Site Surveys.* Lessees shall submit a shallow geologic hazards report, and conduct such shallow geologic hazard surveys or other surveys as required by the Supervisor. The results of these surveys, and an analysis of the geological hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor.

2.4 *Oceanographic, Meteorological, Performance Data.* Where such information is not readily available, lessees shall collect and report oceanographic, meteorological, and performance data during the period of operations as required by the Supervisor.

Pacific, Gulf, of Alaska, and Atlantic:

2.1 *General Requirements.*

Pacific, Gulf of Alaska, and Atlantic:

2.1.1 *Fitness of Drilling Unit.* All fixed and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The lessee shall submit with the Exploration Plan or Development and Production Plan evidence to the Supervisor of the fitness of the drilling unit to perform the planned drilling operation.

After a drilling unit has been approved for use in an area, the information listed below need not be resubmitted unless required by the Supervisor, or there are changes in equipment which affect the rated capability of the unit. This evidence shall include the following specifications or other information as requested by the District Supervisor:

- The rated capacity of all major drilling equipment.
- Drilling safety systems.
- Firefighting equipment.
- Pollution-prevention equipment associated with the drilling operation.
- A schematic diagram of the drilling unit.

f. A "Critical Operations and Curtailment Plan" as described in paragraph 9 of this Order.

Pacific, Gulf of Alaska, and Atlantic:

2.1.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS Area, all fixed drilling platforms and mobile drilling units shall be made available for a complete inspection by the District Supervisor.

2.1.3 *Well-Site Surveys.* Lessees shall submit a shallow geological hazards report, and conduct such shallow geologic hazard surveys, or other surveys as required by the Supervisor. The results of these surveys and an analysis of the geological hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor.

2.1.4 *Oceanographic, Meteorological, Performance Data.*

Pacific, Gulf of Alaska, and Atlantic: Where such information is not readily available, lessees shall collect and report oceanographic, meteorological, and performance data during the period of operations as required by the Supervisor.

2.1.5 *Subfreezing Operations.*

Gulf of Alaska and Atlantic: Lessees shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment and materials are suitable for operations in those Areas which are subject to subfreezing conditions.

Pacific, Gulf of Alaska, and Atlantic:

2.2 *Mobile Drilling Units.*

Applications for drilling from mobile drilling units shall include the following:

- A listing of the maximum environmental and operational conditions used for the design.

Pacific: b. A listing of the regional maximum environmental conditions, including wave, wind, current, storm surges, seismic motion, and of the

unusual site-specific environmental conditions anticipated to be encountered at the drill site during the drilling operations.

Gulf of Alaska and Atlantic: b. A listing of the regional maximum environmental conditions, including wave, wind, current, ice loading, icing, storm surges, and seismic motion, and of the unusual site-specific environmental conditions anticipated to be encountered at the drill site during the drilling operations.

Pacific, Gulf of Alaska, and Atlantic: c. Sediment and seabed data, including seabed profiles, sediment consistency, allowable bearing and sliding loads, and nearby potential seabed hazards, i.e., sand waves, slumps, and mud slides.

Pacific, Gulf of Alaska, and Atlantic: d. Current American Bureau of Shipping Classification, U.S. Coast Guard Certificate of Inspection, or other appropriate classifications, with operational limitations.

Pacific, Gulf of Alaska, and Atlantic:

2.3 *Fixed Drilling Platforms.* Applications for installations of fixed drilling platforms or structures, including artificial islands, shall be submitted in accordance with OCS Order No. 8. Mobile Drilling Units which have their jacking equipment removed or have been otherwise immobilized will be considered fixed drilling platforms and applications shall also be submitted in accordance with OCS Order No. 8.

3. *Well Casing and Cementing.*

3.1 *General Requirements.*

All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1). The Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. Wells drilled in areas which are underlain by freshwater aquifers shall have casing programs which are designed to protect the freshwater zones. In cases where cement has filled the annular space back to the ocean floor, upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing. If there are indications of inadequate cementing (such as lost returns, cement channeling, or mechanical failure of equipment in the surface, intermediate, and production casings strings), the lessee shall evaluate the adequacy of the cementing operations by pressure testing the casing shoe, running a

cement bond log, running a temperature survey, or a combination thereof before continuing operations. If the evaluation indicates inadequate cementing, the lessee shall recement or take other actions as approved by the District Supervisor. The lessee shall verify the adequacy of the remedial cementing operations as required by the District Supervisor.

The design criteria for all wells shall consider and be submitted with the Application for Permit to Drill, all pertinent factors for well control, such as:

- a. Formation fracture gradients.
- b. Formation pressure.
- c. Anticipated surface pressure.
- d. Casing setting depths.

The lessee shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling-rate evaluation, shale-density analysis, or other appropriate methods in order to enhance the evaluation of conditions of abnormal pressure and to minimize the potential for the well to flow or kick.

All casing, except drive pipe or structural casing, shall be new pipe which meets or exceeds American Petroleum Institute (API) standards, or reconditioned used pipe that has been tested to assure that it will meet or exceed API standards for new pipe. If casing to be used is not fabricated to API standards, the yield strengths of the casing shall be included on the Application for Permit to Drill (Form 9-331 C), provided these specifications are not on file with the U.S. Geological Survey (USGS).

3.2 Drive or Structural Casing.

This casing shall be set by driving, jetting, or drilling to a minimum depth of 30 meters (98 feet) below the ocean floor or to other depths, as may be required or approved by the District Supervisor, in order to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

3.3 Conductor and Surface Casing Setting and Cementing Requirements.

3.3.1 Conductor and Surface Casing Setting Depths.

Gulf of Mexico: Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation

to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the setting depths for those wells which may encounter abnormal pressure conditions.

Conductor casing setting depths shall be between 152 meters (499 feet) and 305 meters (1,000 feet) TVD below the Gulf floor. Surface casing setting depths shall be between 457 meters (1,499 feet) and 1,372 meters (4,500 feet) TVD below the Gulf floor. The District Supervisor may approve a request to waive the requirement for setting conductor casing at a specific well location provided the following conditions are fulfilled:

- a. At least one well has been drilled adjacent to the specified well location.
- b. The well logs and mud monitoring procedures demonstrate to the District Supervisor's satisfaction the absence of shallow hydrocarbons or hazards.

Engineering and geologic data which are used to substantiate the proposed setting depths of the conductor and surface casing (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

Pacific: Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and the water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the setting depths for those wells which may encounter abnormal pressure conditions.

Conductor casing settings depths shall be between 91 meters (298 feet) and 152 meters (499 feet) TVD below the ocean floor. Surface casing setting depths shall be between 305 meters (1,000 feet) and 366 meters (1,200 feet) TVD below the ocean floor, but may be set 457 meters

(1,499 feet) in the event that conductor casing is set as deep as 137 meters (450 feet) TVD below the ocean floor.

Engineering and geologic data which are used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with Application for Permit to Drill.

Gulf of Alaska and Atlantic: Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the setting depths for those wells which may encounter abnormal pressure conditions. Except as may otherwise be prescribed, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,593 feet) TVD below ocean floor. Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with Application for Permit to Drill.

3.3.2 Conductor Casing Cementing Requirements.

Conductor casing shall be cemented with a quantity of cement sufficient to fill the calculated annular space back to the ocean floor. Cement fill to the ocean floor shall be verified by the observation of cement returns. In the event that observation of cement returns is not feasible or possible, an excess volume of cement shall be used to assure fill to the ocean floor. The excess volume shall be approved by the District Supervisor. Upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment.

3.3.3 Surface Casing Cementing Requirements.

Gulf of Mexico, Gulf of Alaska, and Atlantic: Surface casing shall be cemented with a quantity of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, and with sufficient cement to fill the calculated annular space to at least 60 meters (197 feet) inside the conductor casing.

For floating drilling operations that use a one-stack blowout preventer (BOP) system, a lesser volume of cement is permissible to prevent sealing the annular space between the conductor casing and surface casing, when approved by the District Supervisor. Any annular space open to the drilled hole must be sealed in accordance with the requirements in Order No. 3 upon abandonment. After drilling a maximum 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine the depth and maximum mud weight to be used in the intermediate hole.

Pacific: Surface casing shall be cemented with a quantity of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, and with sufficient cement to fill the calculated annular space to the ocean floor, or as approved by the District Supervisor.

For floating drilling operations that use a one-stack blowout preventer (BOP) system, a lesser volume of cement is permissible to prevent sealing the annular space between the conductor casing and surface casing, when approved by the District Supervisor. Any annular space open to the drilled hole must be sealed in accordance with the requirements in Order No. 3 upon abandonment.

After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine

the depth and maximum mud weight to be used in the intermediate hole.

3.4 Intermediate Casing Setting and Cementing Requirements.

One or more strings of intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe or on subsequent pressure tests. After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine the depth and maximum mud weight to be used in the hole below the intermediate-casing string.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. This requirement for isolation may be satisfied by squeeze cementing prior to completion, suspension of operations, or abandonment, whichever occurs first. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 meters (492 feet) above the zones to be isolated or 150 meters (492 feet) above the casing shoe in cases where zonal coverage is not required. If a liner is used as an intermediate string, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for intermediate casing. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's report. If the test indicates an improper seal, the top of the liner shall be squeeze cemented. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

3.5 Production Casing.

Production casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones above the shoe which contain hydrocarbons; but in any case, a calculated volume sufficient to fill the

annular space at least 150 meters (492 feet) above the uppermost hydrocarbon zone must be used. Open-hole and slotted-liner completions are permitted when approved by the District Supervisor.

When a liner is used as production casing below intermediate casing, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for the production casing. Testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners and recorded on the driller's report. If the test indicates an improper seal, the top of the liner shall be squeeze cemented.

3.6 Pressure-Testing of Casing.

Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table below. The test pressure shall not exceed 70 percent of the internal yield pressure of the casing. If the pressure declines more than 10 percent in 30 minutes or if there is another indication of a leak, the casing shall be recemented, repaired, or an additional casing string run, and the casing tested again. The above procedures shall be repeated until a satisfactory test is obtained.

Casing and Minimum Surface Pressure

Conductor—1,400 kilopascals (kPa) (203 psi).
Surface—*00 kPa (1,000 psi).

Intermediate, Liner, and Production—*10,400 kPa (1,508 psi) of 5 kPa/m (0.22 psi/ft.) whichever is greater.

In the event of prolonged drill pipe operations which could cause damage to the casing, the casing shall be pressure-tested, calipered, or otherwise evaluated, as approved by the District Supervisor.

After cementing any of the above strings, drilling shall not be resumed until a time lapse of 8 hours under pressure for the conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's report.

In addition to the time lapse stated above, sufficient time must elapse to allow the bottom 153 meters (502 feet) of annular cement fill, or total length of annular cement fill, if less, to attain a compressive strength of at least 3.448

* Must not exceed 70 percent of the minimum internal yield pressure.

kPa (500 psi) or as approved by the District Supervisor before drilling resumes.

The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required.

4. Directional Surveys.

Gulf of Mexico: Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical. Inclination surveys shall be obtained on all vertical wells at intervals not exceeding 300 meters (984 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds an average of 3 degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all planned angle-change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth. Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction. A composite dipmeter directional survey including a listing of the directionally computed inclinations and azimuths on a well classified as vertical will be acceptable as fulfilling the applicable requirement of this paragraph.

Pacific, Gulf of Alaska, and Atlantic: Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical. Inclination surveys shall be obtained on all vertical wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds an average of 3 degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all planned angle-change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth. Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction. A composite dipmeter directional survey including a listing of the directionally computed inclinations and azimuths on a well classified as vertical will be acceptable as fulfilling the applicable requirements of this paragraph.

5. Blowout-Preventer (BOP) Equipment Requirements.

5.1 *General Requirements.* Blowout preventers and related well-controlled equipment shall be installed, used, maintained, and tested in a manner necessary to assure well control.

5.1.1 *BOP Equipment.* Blowout-preventer equipment shall consist of an annular preventer and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any blowout preventer shall exceed the anticipated surface pressure to which it may be subjected.

Information submitted with the Application for Permit to Drill shall include the anticipated surface pressure and the criteria used to determine this pressure. All blowout-preventer systems shall be equipped with:

a. A hydraulic actuating system that provides sufficient accumulator capacity to supply 1.5 times the volume necessary to close all BOP equipment units with a minimum pressure of 1,400 kPa (203 psi) above the precharge pressure. An accumulator backup system, supplied by a secondary power source independent from the primary power source, shall be provided with sufficient capacity to close all blowout preventers and hold them closed. Locking devices shall be provided on the ram-type preventers. The method of BOP actuation control such as hydraulic, acoustic, or other methods, shall be described and included in the Application for Permit to Drill.

b. At least one operable remote blowout-preventer-control station, in addition to the one on the drilling floor. This control station shall be in a readily

accessible location away from the drilling floor.

c. A drilling spool with side outlets, if side outlets are not provided in the BOP body, to provide for separate kill and choke lines.

d. A kill line equipped with 2 kill-line valves is required. The master valve shall be located adjacent to the BOP. This valve shall not normally be used for opening or closing on flowing fluid. The second valve shall be located adjacent to the master valve. This valve shall be used as the control valve.

e. A fill-up line above the uppermost preventer.

f. A choke manifold equipped in accordance with "API Recommended Practice for Blowout-Prevention Equipment Systems," API RP 53, First Edition, February 1976, reissued February 1978, Sections 3A and 3B, or subsequent revisions which the Chief, Conservation Division, has approved for use.

g. Valves, pipes, flexible steel hoses, and other fittings upstream of, and including, the choke manifold shall have a pressure rating at least equal to the anticipated surface pressure.

h. A wellhead assembly with a working pressure at least equal to the anticipated surface pressure.

5.1.2 *Auxiliary Equipment.* The following auxiliary equipment shall be provided and maintained in operable condition at all times:

a. A kelly cock shall be installed below the swivel and an essentially full-opening valve of such design that it can be run through blowout preventers shall be installed at the bottom of the kelly. A wrench to fit each valve shall be stored in a conspicuous location readily accessible to the drilling crew.

b. An inside blowout preventer and an essentially full-opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. These valves shall be maintained on the rig floor to fit all connections that are in the drill string.

c. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole at the time.

5.1.3 Subfreezing Operations.

Gulf of Alaska and Atlantic: The blowout preventers and related control equipment shall be suitable for operations in those Areas which are subject to subfreezing conditions.

5.2 *Subsea BOP Requirements.* The minimum requirements for drilling below the casing strings for subsea blowout-preventer stacks are tabulated below:

Drive or structural—See Notes [1] and [2]. Conductor—1-Annular, 1-Diverter System [3] and [4].

Surface 1-Annular, 2-Pipe Rams, 1-Blind Shear Ram.

Intermediate 1-Annular, 2-Pipe Rams [5], 1-Blind Shear Ram.

Note 1.—When drilling fluids are circulated to the drilling vessel, a diverter system as described in subparagraph 5.4.1 shall be installed on top of the marine riser.

Note 2.—If returns to the surface cannot be established, refer to subparagraph 5.4.2.

Note 3.—The choke and kill lines or equivalent vent lines, equipped with necessary connections and fittings, can be used for diversion, if approved by the District Supervisor, or an annular preventer or pressure-rotating, packoff-type head, equipped with suitable diversion lines, shall be installed on top of the marine riser.

Gulf of Mexico

Note 4.—To be installed on top of the marine rise. Diverter systems installed prior to the effective date of this Order shall include a minimum of two 10-centimeter (4-inch) internal diameter lines and full-opening valves. Diverter systems installed or modified after the effective date of this Order shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

Pacific, Gulf of Alaska, and Atlantic:

Note 4.—To be installed on top of the marine riser. The diverter system shall provide, as a minimum, two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

All Areas

Note 5.—When a tapered drill string is in use, the BOP stack shall be equipped with two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe.

Subsea blowout-preventer stacks shall be equipped with blind shear rams. A subsea accumulator or a suitable alternate approved by the District Supervisor is required to provide fast closure of the preventers and to operate all critical functions in case of loss of power fluid connection to the surface.

The blowout-preventer system shall include dual pod control systems in accordance with API RP 53, First Edition, February 1976, reissued February 1978, Subsection 5.B.13, or subsequent revisions which the Chief, Conservation Division, has approved for use. Prior to the removal of the marine riser for installing casing, the riser shall be displaced with seawater. Sufficient hydrostatic head shall be maintained within the well bore to compensate for the reduction in head and to maintain a safe well condition. If repair or replacement of the blowout-preventer stack is necessary after installation, this work shall be accomplished after casing has been cemented prior to drilling out

the casing shoe or by setting a cement or bridge plug or storm packer to assure safe well conditions.

5.3 *Surface BOP Requirements.* The minimum requirements for drilling below the casing strings for conventional surface blowout-preventer stacks are tabulated below:

Drive or structural 1-Annular, 1-Diverter System [1].

Conductor 1-Annular, 1-Diverter System

Surface 1-Annular, 2-Pipe Rams, 1-Blind Ram.

Intermediate 1-Annular, 2-Pipe Rams [2], 1-Blind Ram.

Gulf of Mexico

Note 1.—Diverter systems installed prior to the effective date of this Order shall include a minimum of two 10-centimeter (4-inch) internal diameter lines and full-opening valves. Diverter systems installed or modified after the effective date of this Order shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves. The flowpath from the BOP to the branch point of diverter lines in new systems shall have a minimum internal diameter of 15 centimeters (6 inches).

Pacific, Gulf of Alaska, and Atlantic

Note 1.—The diverter system shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves. The flowpath from the BOP to the branch point of diverter lines in new systems shall have a minimum internal diameter of 15 centimeters (6 inches).

All Areas

Note 2.—When a tapered drill string is in use, the BOP stack shall be equipped with two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe.

5.4 Drive Pipe or Structural Casing BOP Requirements.

5.4.1 *Drilling Operations from Bottom-Supported Rigs.* Before drilling below this string with a bottom setting rig, a diverter system utilizing an annular type preventer and related equipment shall be installed for circulating the drilling fluid to the drilling structure. The diverter system shall be equipped with remote-control valves in the main and diverter flow lines that can be operated from the control panel prior to shutting in the well. The diverter lines shall vent in different directions to permit downwind diversion. A schematic diagram and operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9-331 C) to the District Supervisor for approval.

5.4.2 *Floating Drilling Operations.* In drilling operations where a floating or semi-submersible type of drilling vessel is used and formation competency at the

structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling the conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, a schematic diagram indicating the equipment to be installed from the rotary table to the proposed conductor-casing seat, and a contingency plan for moving off location.

5.5 *Conductor Casing.* Before drilling below this sting, at least one remote-controlled, annular-type blowout preventer shall be installed. A diverter system and other equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed as described in subparagraph 5.4.1.

5.6 *Surface and Intermediate Casing.* Before drilling below these strings, the blowout-preventer system shall consist of at least four remote-controlled, hydraulically operated blowout preventers including at least two equipped with pipe rams, one with blind rams, and one annular type. Subsea blowout-preventer stacks used with floating drilling vessels shall include one set of blind shear rams.

5.7 *Testing of BOP Systems.* Prior to conducting high-pressure tests, all BOPs shall be tested to a low pressure of 1,400 to 2,000 kPa (203 to 290 psi). All BOP tests shall be recorded in the driller's report.

5.7.1 BOP Testing Frequency.

Surface and subsea BOP stacks shall be tested as follows:

a. When installed.
b. Before drilling out after each string of casing has been set.
c. At least once each week, but not exceeding 7 days between tests, alternating between control stations. A period of more than 7 days between blowout-preventer tests is allowed when well operations prevent testing and remedial efforts are being performed, provided the tests will be conducted as soon as possible before normal operations resume, and the reason for postponing testing is entered into the log. Well operations which prevent testing are stuck drill pipe and pressure control operations. Testing shall be at staggered intervals to allow each drilling crew to operate the equipment.
d. Following repairs that require disconnecting a pressure seal in the assembly.

5.7.2 *Pressure Testing Surface BOP Systems.*

Gulf of Mexico: Ram-type BOPs and related control equipment including the choke manifold shall be tested at the anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. The annular-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Before drilling out of each casing or liner shoe, the blind rams shall be tested as required for pipe rams. After drilling out of each casing or liner shoe, the blind rams need not be tested until before drilling out the subsequent casing or liner shoe.

Pacific, Gulf of Alaska, and Atlantic: Ram-type BOPs and related control equipment including the choke manifold shall be tested at the anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. The annular-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser.

5.7.3 Pressure Testing Subsea BOP Systems.

Gulf of Mexico: Subsea BOPs and all related well-control equipment shall be stump-tested at the surface with water to the anticipated surface pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure. After the installation of the BOP stack on the sea floor, the control equipment and pipe rams, conforming to the drill string within the stack, shall be tested as required under subparagraph 5.7.2. Before drilling out of each casing or liner shoe, the blind shear rams shall be tested as required for blind rams under subparagraph 5.7.2.

Pacific, Gulf of Alaska, and Atlantic: Subsea BOPs and all related well-control equipment shall be stump-tested at the surface with water to the anticipated surface pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure. After the installation of the BOP stack on the sea floor, the control equipment and ram-type BOPs shall be tested as required under subparagraph 5.7.2.

5.7.4 Actuation of Surface BOP Systems.

The following minimum-actuation frequencies are required:

a. Pipe Rams—Daily. In order to prevent damage to the rams, complete closure of the rams on drill pipe is not required, provided proper operation is indicated.

b. Blind Rams—Once each trip while the drill pipe is out of the hole. If

multiple trips are made, only one actuation per day is required.

c. Annular-Type Preventer—Once each week in conjunction with the pressure test.

d. Control Stations—Once each trip from alternate control stations, while the drill pipe is out of the hole; however, not more than once each day if multiple trips are made. If either systems is not functional, further drilling operations shall be suspended until that system becomes operable.

e. Choke manifold valves, kelly cocks, drill pipe safety valves—Weekly.

5.7.5 Actuation of Subsea BOP Systems. The actuation frequency requirements for subsea BOP systems shall be the same as those listed in subparagraph 5.7.4 for surface BOP systems, except the pipe rams shall be actuated every other day. In order to prevent damage to the rams, complete closure of the rams on the drill pipe is not required, provided movement of the rams is indicated by the hydraulic system pressure and flow indicators.

The blind shear rams shall be actuated once each trip from alternate control stations and control systems; however, not more than once each day if multiple trips are made. During the weekly pressure tests, all hydraulic systems except those actuating the blind shear rams shall be actuated from each control station and control system.

5.8 Inspection and Maintenance. All BOP systems, marine risers, and associated equipment shall be inspected and maintained in accordance with the manufacturer's recommended procedures. The BOP systems and marine risers shall be visually inspected at least once each day if the weather and sea conditions permit the inspection. Inspection of subsea installations may be accomplished by the use of television equipment.

5.9 Blowout-Preventer Drills. All drilling personnel shall be indoctrinated in blowout-preventer drills and be familiar with the blowout-preventer equipment before starting work on the well. A blowout-preventer drill shall be conducted for each drilling crew in accordance with the well-control drill requirements of the U.S. Geological Survey (USGS) Outer Continental Shelf Standard "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS-OCS-T 1), First Edition, December 1977, and subsequent revisions thereto. A BOP drill may be required by a USGS designated representative at any time during the drilling operation, after notifying the lessee's senior representative present.

All BOP drills shall be recorded in the driller's report.

6. Mud Program.

The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials shall be maintained readily accessible for use at all times to assure well control.

6.1 Mud Control. Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper documentation in the driller's report prior to pulling the drill pipe as follows:

a. There was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole.

b. The weight of the returning mud is not less than the weight of the mud entering the hole.

c. Other mud properties recorded on the daily drilling log are within the specified ranges required by the mud program. When the mud in the hole is circulated, the driller's report shall be so noted.

When coming out of the hole with drill pipe, the annulus shall be filled with mud before the change in mud level decreases the hydrostatic pressure 517 kPa (75 psi) or every 5 stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled prior to filling the hole and the equivalent mud volume shall be calculated and posted. A mechanical, volumetric, or electronic device for measuring the amount of mud required to fill the hole shall be utilized.

When there is an indication of swabbing or influx of formation fluids, the necessary safety devices and action shall be employed to control the well. The mud shall be circulated and conditioned, on or near bottom, unless well or mud conditions prevent running the drill pipe back to the bottom.

For each casing string, the maximum pressure to be contained under the blowout preventer, before controlling excess pressure by bleeding through the choke, shall be posted near the driller's control console.

An operable gas separator shall be installed in the mud system prior to commencement of drilling operations. The separator shall be maintained for use throughout the drilling and completion of the well.

The mud in the hole shall be circulated or reverse-circulated prior to

pulling the drill-stem test tools from the hole.

6.2 Mud Testing and Monitoring Equipment. Mud-testing equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour, or more frequently, as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in "API Recommended Practice for Standard Procedure for Testing Drilling Fluids," API RP 13B, Seventh Edition, April 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use. The results of the tests shall be recorded and maintained at the drill site.

The following mud-system monitoring equipment shall be installed with derrick floor indicators and used when mud returns are established and throughout subsequent drilling operations:

a. Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall include both a visual and an audio warning device.

b. Mud-volume measuring device for accurately determining mud volumes required to fill the hole on trips.

c. Mud-return indicator to determine that returns essentially equal the pump discharge rate.

d. Gas-detecting equipment to monitor the drilling mud returns, with indicators located in the mud-logging compartment or on the derrick floor. If the indicators are in the mud-logging compartment, there shall be a means of immediate communication with the rig floor, and the equipment shall be continually manned.

6.3 Mud Quantities. The lessee shall include, with his Application for Permit to Drill, a tabulation of well depth versus minimum quantities of mud material, including weighting material, to be maintained at the drill site to assure well control.

When the mud quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisor of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time required for delivery of the mud supplies.

Daily inventories of mud materials, including weighting material, shall be recorded and maintained at the well site. Drilling operations shall be suspended in the absence of minimum quantities of mud material specified in the table or as modified in the approved plan.

7. Supervision, Surveillance, and Training.

7.1 Supervision. A representative of the lessee shall provide onsite supervision of drilling operations on a 24-hour basis.

7.2 Surveillance. From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig-floor surveillance continuously, unless the well is secured with blowout preventers, bridge plugs, storm packer, or cement plugs.

7.3 Training. By December 1, 1979, lessee and drilling contractor personnel shall be trained and qualified in accordance with the provisions of the USGS Outer Continental Shelf Standard "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS-OCS-T 1), First Edition, December 1977, and subsequent revisions thereto.

Any driller, toolpusher, or operator's representative who received training in well-control operations between December 1, 1975, and December 1, 1979, will be credited with having met the training requirements of GSS-OCS-T 1.

After December 1, 1979, in order to maintain qualification, employees must successfully complete a USGS-approved refresher course annually and repeat the basic well-control course every 4 years, as described in the provisions of GSS-OCS-T 1. Credit for these courses shall be obtained from USGS-approved schools.

The refresher course shall be completed within 45 days of the student's anniversary date. The anniversary date is established upon the student's successful completion of a basic course in well control. Records shall be maintained at the drill site for the affected personnel, indicating the specific training and refresher courses successfully completed, the dates of completion, and the names and dates of the courses.

In those Areas which are subject to subfreezing conditions, the lessee shall ensure that personnel responsible for maintenance of the blowout-preventer stack, the associated-control equipment, and the hydraulic-control fluids shall be instructed in the proper procedures to prevent freezing of the hydraulic-control fluids in the control system and the fluids in the choke and kill lines.

8. Hydrogen Sulfide. When drilling operations are planned which will penetrate reservoirs known or expected to contain hydrogen sulfide (H_2S), or in those Areas where the presence of H_2S is unknown, or upon encountering H_2S ,

the preventive measures and the operating practices set forth in USGS Outer Continental Shelf Standard "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," No. 1 (GSS-OCS-1), Second Edition, June 1979, or subsequent revisions thereto, shall be followed.

9. Critical Operations and Curtailment Plans.

Gulf of Mexico: Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire, explosion, oil spills and other discharges or emissions. Prior to conducting any such operations the lessee shall file with the District Supervisor, for approval, a Critical Operations and Curtailment Plan to be followed while conducting drilling operations in each District area. Plans shall be filed for existing platforms and operating mobile drilling units, which do not have approved plans, within 90 days after the effective date of this Order. This plan shall include:

a. The guidelines the operator will follow to assure coordination, control, and, if necessary, curtailment of drilling activities.

b. The name of the person who has responsibility as the person in charge of overall drilling operations.

c. An outline of any additional safety or antipollution measures that are required when conducting critical drilling operations.

The lessee shall review the plan at least annually. The lessee shall notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

Pacific, Gulf of Alaska, and Atlantic: Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire, explosion, oil spills, and other discharges or emissions. The lessee shall submit with the Exploration Plan or Development and Production Plan a Critical Operations and Curtailment Plan to be followed while conducting drilling operations on each lease. Plans shall be filed for existing platforms and operating mobile drilling units, which do not have approved plans, within 90 days after the effective date of this Order. This plan shall include:

a. A list or description of the critical drilling operations that are, or are likely to be, conducted on the lease. This list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions.

This list shall include operations such as:

- (1) Drilling in close proximity to another well.
- (2) Drill-stem testing.
- (3) Running and cementing casing.
- (4) Cutting and recovering casing.
- (5) Logging or wireline operations.
- (6) Well-completion operations.
- (7) Moving the drilling vessel off location in an emergency, repositioning the vessel on location, and reestablishing entry into the well.

b. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but not necessarily be limited to the following:

- (1) Whether the drilling operations are to be conducted from mobile or fixed platforms.
- (2) The availability and capability of containment and cleanup equipment and spill-control system response time.
- (3) Abnormal or unusual conditions expected to be encountered during drilling operations.
- (4) Known or anticipated meteorologic or oceanographic conditions.
- (5) Availability of personnel and equipment for particular operations to be conducted.
- (6) Other factors peculiar to the particular lease under consideration.

c. The name of the person who has responsibility as the person in charge of overall drilling operations.

When any circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the lessee shall notify the District Supervisor and shall curtail the critical operations as set forth under 9a.

Deviations from the plan shall require prior approval of the District Supervisor. If emergency action requires deviation from the plan, the District Supervisor shall be notified as soon as possible. The lessee shall review the plan at least annually. The lessee shall notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

10. *Field Drilling Rules.* When sufficient geological and engineering information is obtained as a result of drilling operations, the lessee may make an application or the Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Supervisor, development wells shall be drilled in accordance with these rules and the

requirements of this Order which are not affected by such rules.

11. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 205.11(b).

Approved:
Don E. Kash,
Chief, Conservation Division.

OCS Order No. 3

Paragraph 1

Comments. No comments received.

Discussion. A new paragraph 1, *Application for Approval to Abandon a Well*, was added in accordance with the regulation, 30 CFR 250.92, *Sundry Notices and Reports on Wells*. The subsequent paragraphs were renumbered.

Subparagraph 2.4.1.b

Comments. One commenter suggested that subparagraph 2.4.1.b (1.4.1.b) be reworded to clarify where the cement should be set.

Discussion. The USGS has revised this subparagraph for clarification.

Paragraph 3(2)

Comments. One commenter suggested that subparagraph 2.3 (1.3), *Plugging or Isolating Perforated Intervals*, should be included in the exceptions to temporary abandonment. It was felt that a producible zone would be damaged if subjected to the cement job.

Discussion. This suggestion was not adopted. Since temporary abandonment does not have any time constraints, this type of plugging should be required to prevent migration of fluids. The subparagraph allows for isolation of the zone by setting a bridge plug above the interval as long as the perforations are isolated from the hole below. This method will prevent formation damage.

Comments. It was suggested that subparagraph 2.5 (1.5), *Plugging of Annular Space*, be included in the exceptions to temporary abandonment. If test casing were installed, it would be undesirable to perforate and squeeze before testing other formations.

Discussion. The suggestion was not adopted. We agree that it would be undesirable to perforate and squeeze a test casing string. However, we believe that a request for departure is required to justify a waiver of the requirement for cementing the annular space. A departure of this nature may be approved on a case-by-case basis after consideration of all the risk factors.

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 3—Effective January 1, 1980

Plugging and Abandonment of Wells

The Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.15 and 250.92. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations shall not be commenced prior to obtaining approval from the appropriate District Supervisor. Oral or telegraphic approvals shall be in accordance with 30 CFR 250.13.

1. *Application for Approval to Abandon a Well.* In accordance with 30 CFR 250.92, the lessee shall submit for approval a Form 9-331, *Sundry Notices and Reports on Wells*, containing the following information:

1.1 *Notice of Intention to Abandon a Well.* A detailed statement of the proposed work for abandonment of any well. For all wells, the statement shall describe the proposed work (including by depths, the kind, location, and length of plugs) and plans for mudding, cementing, shooting, testing, and removing casing, and other pertinent information. The statement as to a producible well shall set forth the reasons for abandonment, the amount and date of last production, and complete data from the last well test.

1.2 *Subsequent Report of Abandonment.* A detailed report of the manner in which the abandonment or plugging work was accomplished, including the nature and quantities of materials used in the plugging and the location and extent, by depths, of casing left in the well, and the volume of mud fluid used. If an attempt was made to cut and pull any casing string, a description of the methods used and results obtained must be included.

2. Permanent Abandonment.

2.1 *Isolation of Zones in Open Hole.* In uncased portions of wells, cement plugs shall be spaced to extend 30 meters (98 feet) below the bottom to 30 meters (98 feet) above the top of any oil, gas, and freshwater zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata or the surface. The placement of additional cement plugs to prevent the migration of formation fluids in the well bore may be required by the District Supervisor.

2.2 *Isolation of Open Hole.* Where there is open hole below the casing, a cement plug shall be placed in the deepest casing string in accordance with "a" or "b" below. In the event lost circulation conditions have been experienced or are anticipated, a permanent-type bridge plug may be placed in accordance with "c" below:

a. A cement plug set by the displacement method so as to extend a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the casing shoe.

b. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the casing shoe, with a cement plug calculated to extend at least 30 meters (98 feet) below the casing shoe and 15 meters (49 feet) above the retainer.

c. A permanent-type bridge plug set within 45 meters (148 feet) above the casing shoe with 15 meters (49 feet) of cement on top of the bridge plug. This bridge plug shall be tested in accordance with subparagraph 1.7 prior to placing subsequent plugs.

2.3 *Plugging or Isolating Perforated Intervals.* A cement plug shall be set by the displacement method opposite all open perforations (perforations not squeezed with cement) extending a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the perforated interval or down to a casing plug, whichever is less. In lieu of setting a cement plug by the displacement method, the following two methods are acceptable, provided the perforations are isolated from the hole below:

a. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the top of the perforated interval with a cement plug calculated to extend at least 30 meters (98 feet) below the bottom of the perforated interval and 15 meters (49 feet) above the retainer.

b. A permanent-type bridge plug set within 45 meters (148 feet) above the top of the perforated interval with 15 meters (49 feet) of cement on top of the bridge plug.

2.4 *Plugging of Casing Stubs.* If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the casing stub.

2.4.1 *Stub Termination Inside Casing String.* A stub terminating inside a casing string shall be plugged by one of the following methods:

a. A cement plug set so as to extend 30 meters (98 feet) above and 30 meters (98 feet) below the stub.

b. A cement retainer set 15 meters (49 feet) above the stub with a volume of

cement equivalent to 45 meters (148 feet) squeezed below the retainer and with an additional 15 meters (49 feet) placed above the retainer.

c. A permanent bridge plug set 15 meters (49 feet) above the stub and capped with 15 meters (49 feet) of cement.

2.4.2 *Stub Termination Below Casing String.* If the stub is below the next larger string, plugging shall be accomplished in accordance with either subparagraph 2.1 or 2.2.

2.5 *Plugging of Annular Space.* Any annular space communicating with any open hole and extending to the ocean floor shall be plugged with cement.

2.6 *Surface Plug.* A cement plug at least 45 meters (148 feet) in length, with the top of the plug 45 meters (148 feet) or less below the ocean floor, shall be placed in the smallest string of casing which extends to the ocean floor.

2.7 *Testing of Plugs.* The setting and location of the first plug below the surface plug shall be verified by one of the following methods:

a. By placing a minimum pipe weight of 6,800 kilograms (15,000 pounds) on the cement plug, cement retainer, or bridge plug. The cement placed above the bridge plug or retainer need not be tested.

b. By testing the plug with a minimum pump pressure of 6,900 kPa (1,000 psi) with no more than a 10-percent pressure drop during a 15-minute period.

2.8 Mud.

Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling the intervals between the plugs.

2.9 *Clearance of Location.* All casing, wellhead equipment, and piling shall be removed to a depth of at least 5 meters (16 feet) below the ocean floor, or at a depth approved by the District Supervisor after a review of data on the ocean bottom conditions. The operator shall verify that the location has been cleared of all obstructions.

3. *Temporary Abandonment.* Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for the requirements in subparagraphs 2.6 and 2.9. When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest casing string. If a cement plug is set, it is not necessary for the cement plug to extend below the casing shoe into the open hole.

The lessee shall set a retrievable or permanent bridge plug, or a cement plug

at least 30 meters (98 feet) in length in the casing between 5 and 60 meters (18 and 197 feet) below the ocean floor.

When a casing stub extends above the ocean floor, the lessee shall comply with the requirements of OCS Order No. 1, paragraph 4, "Identification of Subsea Objects."

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:
Don E. Kash,
Chief, Conservation Division.

OCS Order No. 4

Paragraph 1

Comments. Several commenters suggested that an Application of Determination of Well Producibility should be filed at the operator's discretion. The thought was that the application would be a "waste of time" for dry holes, and that an operator would lose competitive advantage by submitting such proprietary data.

Discussion. The USGS believes that the application provides necessary scientific and technical information concerning the geology of the Outer Continental Shelf and OCS lease areas under USGS jurisdiction. The timely submittal of this information is required for the Supervisor's evaluation of the diligence of the lessee in the development of the lease.

The proprietary nature of all information submitted with the Application for Determination of Well Producibility will be evaluated, in accordance with the Freedom of Information Act. Data which is determined to be proprietary will not be released.

U.S. Department of the Interior, Geological Survey, Conservation Division

OCS Order No. 4—Effective January 1, 1980

Determination of Well Producibility

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.12. An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production of oil and gas in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of

production has been approved in accordance with 30 CFR 250.12.

1. *Application for Determination of Well Producibility.* An application shall be submitted to the District Supervisor for the determination of every new well's capability of producing until a well, drilled on the lease, has been determined to be capable of producing oil or gas in paying quantities. The application shall be submitted within 60 days after the drilling rig has been moved from the well.

2. *Criteria for the Determination of Well Producibility.* The Supervisor shall prescribe which of the following criteria is to be used to determine the capability of a well to produce in paying quantities.

2.1 *Production Tests.* All tests must be witnessed by an authorized representative of the U.S. Geological Survey. Test data accompanied by the lessee's affidavit, or third-party test data, may be accepted in lieu of a witnessed test, provided approval is obtained from the District Supervisor prior to the performance of the test. All tests must conform to the following minimum requirements:

a. A production test for oil wells of at least 2 hours' duration following stabilization of flow.

b. A deliverability test for gas wells of at least 2 hours' duration following stabilization of flow or a 4-point back-pressure test.

2.2 *Production Capability Determination.*

Gulf of Mexico: The following may be considered as reliable evidence that a well is capable of producing oil or gas in paying quantities:

a. A resistivity log of the well showing a minimum of 15 feet of producible sand in one section that does not include any interval which appears to be water-saturated. All of the section counted as producible shall exhibit the following properties:

(1) Electrical spontaneous potential exceeding 20 negative millivolts beyond the shale base line. If mud conditions prevent a 20-negative-millivolt reading beyond the shale base line, a gamma ray log deflection of at least 70 percent of the maximum gamma ray deflection in the nearest clean water-bearing sand may be substituted.

(2) A minimum true resistivity ratio of the producible section to the nearest clean water-bearing sand of at least 5:1.

(3) A porosity log indicating porosity in the producible section.

b. Sidewall cores and core analyses which indicate that the section is capable of producing oil or gas.

c. The aforementioned criteria will ascertain that a well is producible. However, recognizing the fact that all

geologic formations in the Gulf of Mexico Region do not possess the same physical properties and, therefore, do not lend themselves to one single method of log analysis, the U.S. Geological Survey may, at its discretion, accept sound log-interpretation techniques which demonstrate that a well would produce hydrocarbons in a particular area, even though the well might not qualify under items "a" and "b." The lessee can support the determination of well producibility by submitting further evidence such as wireline formation tests and/or mud logging analyses.

Pacific, Gulf of Alaska, and Atlantic: When the District Supervisor determines that open hole evaluation data, such as wireline formation tests, drill stem tests, core data, and logs, have been demonstrated as reliable in a geologic area, such data may be considered as acceptable evidence that a well is capable of producing in paying quantities.

3. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:

Don E. Kash,
Chief, Conservation Division.

OCS Order No. 5

Paragraph 1

Comments. One commenter suggested that the requirement for the use of the best available and safest technology (BAST) be specifically stated in this Order.

Discussion. This paragraph was revised to include language requiring the use of BAST.

Subparagraph 3.1

Comments. Several commenters stated that: (1) the requirement that the attendant be "at the wellhead" is unnecessary if the well is shut-in, (2) "at the wellhead" can be a dangerous location if operations are to be conducted overhead, and (3) the attendant could be more effective if free to move about a monitor overall operations.

Discussion. "At the wellhead" is considered overly restrictive, and attendance is not necessary if the well is shut-in (not open to flow from a hydrocarbon-bearing zone). The subparagraph was revised accordingly.

Subparagraph 3.1

Comments. A commenter who uses a tubular/annular type subsurface-safety device which vents annular gas pressure on wells lifted by electric submersible

pumps requested that this type of safety device be included in the list of acceptable devices. Another commenter suggested that criteria be established for the determination of the capability of a well to flow.

Discussion. The revised list includes the tubular/annular type subsurface-safety device. The availability of criteria from the District Supervisor toward determination of the capability of a well to flow was noted in the revised subparagraph.

Subparagraph 3.1.1.a. and 3.1.1.b

Comments. One commenter claimed that advances in technology have solved earlier problems related to the control lines and connections of surface-controlled subsurface-safety valves (SSCSV's).

Discussion. The primary reason for requiring subsurface-controlled safety valves (SSCSV's) at pressures above 4,000 psi were problems of communication in the control lines and tubing hangers at these higher pressures.

A determination was made that these problems have been solved adequately by improvements in technology. The requirement for SSCSV's above 4,000 psi has been removed accordingly.

Subparagraph 3.2

Comments. Several commenters suggested that this paragraph be revised to conform to the February 1, 1980, compliance date as announced in the **Federal Register** Notice, Vol. 44, No. 117, pg. 34650, dated June 15, 1979.

Discussion. The paragraph was revised as suggested.

Comments. It was suggested that the definition of inventory include valves presently in wells and on the shelves to facilitate operations.

Discussion. By **Federal Register** Notice of June 15, 1979, the term replacement was defined as occurring when that portion of the valve assembly containing the serial number is removed from the inventory and a new certified valve is placed in the inventory. The word inventory does include those subsurface valves in wells and currently on the lessees shelves. In addition, as long as the portion of the valve assembly containing the serial number can be repaired, it would not have to be replaced.

Subparagraph 3.3

Comments. Several commenters suggested that this paragraph be revised to conform to the February 1, 1980, compliance date as announced in the **Federal Register** Notice, Vol. 44, No. 117, pg. 34650, dated June 15, 1979.

Discussion. Subsequent to this **Federal Register** Notice, the latest edition of the American Petroleum Institute Recommended Practice 14B (API RP 14B) was disapproved for use by the Chief, Conservation Division. All references to API RP 14B have been removed from this Order.

Subparagraph 3.4

Comments. Several commenters requested that the Gulf of Mexico Area be specifically excluded from the requirement to furnish evidence that the surface-controlled subsurface-safety devices and related equipment are capable of normal operation under subfreezing conditions since the area is not normally subject to these conditions.

Discussion. It was not intended that the Gulf of Mexico or Pacific Areas be subjected to this requirement. For clarity, the subparagraph about subfreezing conditions has been removed from the Gulf of Mexico and Pacific Area requirements.

Subparagraph 3.4.1

Comments. One commenter argued that the requirement to test wireline retrievable valves monthly for 3 months after being removed for frequently conducted routine operations results in excessive testing and causes unnecessary wear and possible failure of the valves.

Discussion. The comment about excessive testing leading to possible failure has validity. The paragraph has been revised to remove all monthly testing requirements for both wireline and tubing retrievable valves. Also, the reference to API RP 14B was deleted for the reasons as stated in the discussion under subparagraph 3.3.

Comments. Another commenter argued that the rate of testing is too infrequent and that frequency should be increased over the life of the devices since equipment becomes less reliable with age.

Discussion. The performance of subsurface-safety valves is very closely monitored under a formal failure and inventory reporting system as outlined in paragraph 6 of the Order.

Statistical analyses of these data do not suggest that an increase in the testing frequency, over that to be required, would contribute to safety or reliability.

Subparagraph 3.5

Comments. No comments received.

Discussion. The words "or jacket" were deleted as being unnecessary and a source of confusion.

Subparagraph 3.5.1

Comments. One commenter apparently suggests that subsurface-controlled subsurface-safety valves (SSCSV's) be tested in place by surface means.

Discussion. There is no known hazard-free and convenient method to flow test a SSCSV for closure in a well.

Subparagraph 3.6

Comments. No comments received.

Discussion. The words "after the date of this Order" have been deleted. These words have appeared in previous Orders for several years and have outlived their original intent. Any remaining installations of tubing plugs not of the pump-through type shall be brought into conformance.

Subparagraph 3.7

Comments. No comments received.

Discussion. It was determined that the proper functioning of subsurface-safety devices in injection wells is if such importance to warrant the formal, periodic testing program.

Subparagraph 3.8

Comments. Several commenters stated that: (1) "at the wellhead" can be a dangerous location if operations are being conducted overhead, (2) the attendant could be more effective if free to move about and monitor overall operations, and (3) clarification was needed as to under what conditions attendance at the wellhead is required.

Discussion. "At the wellhead" is considered overly restrictive, and attendance is not necessary if the well is shut-in (not open to flow from a hydrocarbon-bearing zone). The subparagraph was revised accordingly.

Subparagraph 3.11

Comments. One commenter claimed that the paperwork required to be prepared and maintained offshore is excessive.

Discussion. The USGS is aware of the paperwork burden and constantly searches for methods and places to reduce the load without sacrificing essential information. Any comments with specific recommendations would be very welcome.

Subparagraph 3.11.a

Comments. It was suggested that, for clarity, the term "design" be qualified as the "manufacturer's design."

Discussion. This suggestion was adopted.

Subparagraph 3.11.f

Comments. Commenters remarked that this requirement is unclear and that

it is difficult to make accurate verifications of personnel.

Discussion. The subparagraph was revised to require the identity of the person qualified in accordance with subparagraph 5.7.

Paragraph 4

Comments. One commenter alleged that the language used in this paragraph is vague and does not assure use of BAST.

Discussion. Paragraph 1 of this Order was revised to require the use of BAST.

Subparagraph 4.2

Comments. No comments received.

Discussion. The January 1, 1980, date was based on the Order being effective July 1, 1979. Both dates are moved forward 6 months.

Comments. One commenter suggested that subparagraph 4.2 should be deleted. The commenter contended "As suggested, this paragraph is in contradiction to the statutory limitations set forth in the Outer Continental Shelf Lands Act Amendments of 1978."

Discussion. This suggestion was not adopted. This commenter made a similar comment on subparagraphs 4.4(g), 5.1.5, 5.1.6, 5.1.8, and 5.1.10 of this Order and several subparagraphs of OCS Orders Nos. 2 and 7. Refer to the discussion of subparagraph 2.2 for OCS Order No. 2.

Subparagraph 4.3

Comments. Another commenter requested that valves used to vent casing pressure on certain low-pressure wells produced by electric submersible pumps be exempt from certification requirements.

Discussion. These valves used as casing vent valves on wells produced by electric submersible pumps are not considered to primarily surface-safety valves and are therefore exempt from the requirements of API RP 14D and certification requirements.

Comments. Several commenters suggested that this paragraph be revised to conform with the **Federal Register** Notice, Vol. 44, No. 117, pg. 34650, dated June 15, 1979.

Discussion. The paragraph was revised as suggested.

Subparagraph 4.4.g

Comments. One commenter requested that this requirement be limited to new installations made after the effective date of the Order.

Discussion. The paragraph was revised to apply only to installations made after the effective date of the Order.

Subparagraph 5.1.1

Comments. One commenter remarked that subparagraph 5.1.1 was apparently contradictory to subparagraph 5.1.1d.

Discussion. Subparagraph 5.1.1 was revised to remove the apparent contradiction.

Subparagraph 5.1.1c

Comments. Two commenters recommended removal of the requirement that the high pressure shut-in sensor be set no higher than 10 percent above the highest operating pressure of the vessel on the grounds that there is no justification for protecting a vessel from pressures below its working pressure and that such a pressure sensor setting would cause nuisance shut-ins.

Discussion. The comments were not accepted since the margin of safety surrendered is not offset by possible nuisance shut-ins or other adverse effects.

The phrase "by the use of pressure recorders" was added in order to clarify the intent of the requirement for the recording of operating pressure ranges.

Comments. Another commenter noted that some production processes operate at less than 35 kPa (5 psi) and suggested that the activation pressure of low-pressure sensors on these pressure vessels be approved by the District Supervisor on a case-by-case basis.

Discussion. The suggestion was adopted. The language in the unrevised subparagraph did not adequately cover vessels operating at these low pressures.

Subparagraph 5.1.2a

Comments. No comments received.

Discussion. There have been several questions from field personnel as to the interpretation of the first sentence of the subparagraph and the recommendations of Section A-1 of API RP 14C. The first sentence was revised to make it clear that the high- and low-pressure sensors are to be located on the flowline in accordance with Section 1-A and Figure A-1 of API RP 14C.

The second sentence was deleted. The requirement for equipment to permit testing of pressure sensors with an external pressure source is stated in subparagraph 5.1.3 of this Order.

Comments. One commenter recommended that the high-pressure flowline sensor may be set at 250 psi above the normal operating pressure of the system to allow for swings in pressure, such as heading.

Discussion. This recommendation was not accepted. The reduction in the level of safety by such a broad license is not offset by the efforts involved in resetting

pilots or using two sets of pilots and in using pressure recorders.

Subparagraph 5.1.4

Comments. Several commenters objected to the requirement for posting a schematic of the Emergency Shutdown (ESD) System and to the requirement for platform shutdown not to exceed 45 seconds. Other commenters suggested a time delay between closure of the surface-safety valve and the subsurface-safety valve.

Discussion. The posting of a schematic of the ESD was considered as not worthwhile and the requirement deleted. The paragraph was also revised to provide for designed time delays between closure of the surface and subsurface valves.

Subparagraph 5.1.5

Comments. Several commenters objected to the requirement for spark arrestors on other than diesel engines on the basis that natural gas engines, do not emit particulate matter, arrestors would be harmful to the engines and that arrestors are not available for many natural gas engines, including turbines.

Discussion. These arguments are cogent and the requirement for arrestors has been limited to diesel engines.

Subparagraphs 5.1.7.a(1)(2)(3), b(1)(2)

Comments. No comments received.

Discussion. It was determined that both suction and interstage scrubbers should be protected. The Order was revised accordingly.

Suparagraph 5.1.8

Comments. Several Commenters objected to the requirements for fixed water-spray systems in the well bays and to the language that chemicals may be used in lieu of a water-spray system only.

Discussion. The subparagraph was revised to limit the requirement for fixed water-spray systems to the enclosed well-bay areas and to permit the use of chemicals in lieu of water-spray systems.

Subparagraph 5.1.9a

Comments. Several commenters requested that the term "adequate ventilation" be defined.

Discussion. The definition of adequate ventilation as defined in API RP 14C was adopted.

Subparagraphs 5.1.9a (1), (2), (3)

Comments. Several commenters found these definitions of a high-hazard area as vague and very incomplete. One commenter also remarked that it is

impractical to show the multiplicity of fusible plugs on a posted diagram.

Discussion. It is agreed that the definition of a high-hazard area as presented is inadequate and the posting of a schematic of detection points does not serve a useful purpose. The subparagraph was deleted accordingly.

Subparagraph 5.1.9b

Comments. Several commenters recommended to allow the low-level concentration gas detection devices to be automatic whereas the high-level concentration or hazardous gas detection devices would still be the manual-reset type.

Discussion. The main danger of explosion is in the high-level gas concentrations. It is in this area where a manual-reset alarm is important. On the other hand, in areas of low gas concentrations, it becomes burdensome to continuously have to manually reset alarms where an automatic device would suffice. The Order was revised accordingly.

Subparagraph 5.1.9c

Comments. Several commenters objected to the requirement for the use of both fuel gas odorant and an automatic gas-detection and alarm system.

Discussion. It was determined that in continuously manned areas of the platform, either an odorant or automatic detection and alarm system would suffice.

Subparagraph 5.1.9d

Comments. One commenter recommended that this requirement be deleted on the basis that it is ambiguous and subject to arbitrary interpretation and that the other subparagraphs provide adequate descriptions of gas detector and alarm requirements.

Discussion. This recommendation was not accepted. This subparagraph gives the District Supervisor the authority to make a decision in areas that are not readily discernible—grey areas. It is not an attempt to be arbitrary but instead to ensure safety.

Subparagraph 5.1.9e

Comments. Once commenter suggested that the subparagraph be explained or deleted since, as worded, it defies comprehension.

Discussion. The USGS agrees that the wording is confusing and has revised the subparagraph to more clearly state the intent.

Subparagraph 5.1.10

Comments. One commenter suggested that language be added granting

authority to the Supervisor to grant departures for the use of nonshielded secondary leads on certain 2-cycle engines.

Discussion. The Supervisor has the authority without so stating in this subparagraph. Accordingly, the subparagraph was not revised.

Subparagraph 5.1.10e

Comments. Two commenters remarked that posting of an elementary schematic would serve no useful purpose and the requirement should be deleted.

Discussion. The posting of a schematic does not serve a worthwhile purpose. However, the schematic should be available for those in charge of maintaining the system in operational order. The subparagraph was revised accordingly.

Subparagraph 5.1.10f

Comments. One commenter requested that the term "qualified" be defined.

Discussion. A definition of a qualified person was added to the subparagraph.

Subparagraph 5.2

Comments. No comments received.

Discussion. For clarity, language was added which explicitly exempts atmospheric and pressure vessels which have been taken out of service from compliance with safety device requirements, provided the vessel is securely isolated from production facilities and with the intention that it remains isolated for an extended period.

Subparagraph 5.3

Comments. Several commenters requested that the requirement be qualified to cover only those operations which are significantly different from those in the General Plan. This is intended to avoid duplicate paperwork and submittals.

Discussion. This suggestion was adopted. If not reworded, it would impose an unnecessary paper burden on the operator if a supplemental plan should be required each time wireline, workover, or other activities were performed simultaneously with production operations.

Subparagraph 5.4

Comments. One commenter stated that when proper precautions are taken, welding can be safely performed on a platform without installing a "Safe-Welding Area."

Discussion. When a safe-welding area cannot be established pursuant to the National Fire Protection Association Bulletin No. 51B, the Order provides

under subparagraph 5.4.3 for procedures which will ensure safe welding.

Subparagraph 5.4.1

Comments. No comments received.

Discussion. The requirement that a general plan be submitted within 90 days after the effective date of the Order was revised to require that an approved plan exist prior to conducting any welding, burning, or hot tapping operations. The 90-day clause was deleted from the Gulf of Mexico Order because this clause has been in the existing Gulf of Mexico Order No. 8 since October 1, 1976. The clause is not necessary for the Gulf of Alaska because there are no existing platforms or operating drilling rigs; therefore, compliance is required prior to conducting welding and burning operations.

The 90-day clause was retained for the Pacific and Atlantic Areas to cover existing platforms and drilling operations.

Subparagraph 5.4d

Comments. Several commenters recommended that revisions be made so as to permit hot tapping.

Discussion. The recommendation was adopted. Hot tapping is widely used and considered a safe practice when properly outlined and defined. The subparagraphs were revised to permit hot tapping with the stipulation that a presubmitted plan has been approved.

Subparagraph 5.4e

Comments. One commenter maintained that drilling, workover, or wireline operations could be carried on simultaneously with welding if proper safety practices are enforced.

Discussion. This compromise in levels of safety was not accepted.

Subparagraph 5.4f

Comments. One commenter maintained that well production and welding in the well bay area can safely occur simultaneously if proper procedures are followed.

Discussion. This compromise in levels of safety was not accepted.

Subparagraph 5.5h

Comments. No comments received.

Discussion. The wording in this subparagraph was revised in order to clarify the intent.

Subparagraph 5.5i

Comments. One commenter suggested that this subparagraph be deleted since it could cause extensive shut-ins and create some safety hazards.

Discussion. This requirement was deleted in its entirety since the testing of specific devices as required in other subparagraphs is fully adequate.

Subparagraphs 5.6 and 5.6.1

Comments. One commenter stated that the quality assurance program provides the only 5-year record-retention requirement, and under the FIRS program, the USGS will receive inventory and failure reports on all safety devices; therefore, the lessee should not be required to maintain duplicate records for the many devices not subject to the quality assurance program for more than 1 year at the offshore field office.

Discussion. It is required that some safety devices be tested at least once a year and the results recorded. In order to verify compliance, it is necessary that records be kept for longer than 1 year.

Subparagraph 5.7

Comments. One commenter noted that the third paragraph in paragraph 5.7 is deficient in that: (1) It does not require that the manufacturer's representatives be at least qualified by the manufacturer to service, install, or repair the safety system or device and (2) it does not require that the supervisory person qualified in accordance with API RP T-2, who is supervising the manufacturer's representative, be familiar with or knowledgeable of the manufacturer's specific safety system or device.

The commenter further noted that the above deficiencies may create a situation where neither the manufacturer's representative nor the supervisor is familiar with the specific system or device to be installed, serviced, or repaired.

Discussion. This comment is valid. The revised paragraph requires the person servicing the equipment and the supervisor to be qualified.

Paragraph 6

Comments. It was suggested that the FIRS program be voluntary and not be required by those who see no practical benefit from the program.

Discussion. The purpose of the safety device FIRS program is for the USGS to identify potential problem areas, rather than having to experience an expensive and dangerous series of replacements. Implementation of a program on a voluntary basis would not provide sufficient meaningful information with regard to the various operating conditions, uses, and corrective actions taken.

Comments. It was commented that the FIRS system is a valuable tool for use by offshore operations but that the decision

to use specific equipment should be left to the lessee, taking into account the lessee's specific operating conditions and economics.

Discussion. It is not the intent of the FIRS program to tell lessees which equipment to buy, but to report what failure trends are occurring on individual pieces of equipment covered by the program. It could serve as a tool for lessees to identify which pieces of equipment would perform best in different operating conditions.

Subparagraph 6.1.1

Comments. It was suggested that provisions for a name or signature of the person completing or approving the failure data submitted to the USGS be included in the FIRS program. The commenters felt this would provide the safety equipment manufacturers with a point of contact for determining actual failure cause and contributing circumstances, and would assist them in identifying the most appropriate corrective action.

Discussion. The USGS concurs with this recommendation and has revised the subparagraph to require the signature of the person initiating and/or approving the data submitted. This signature will identify the person to be contacted by the equipment manufacturer for obtaining any additional information required in the performance of their failure analysis.

Subparagraph 6.1.2

Comments. It was suggested that the pneumatic or hydraulic fastbleed relay used as a 3-way or 4-way fast block-and-bleed device with SSV or SDV actuators be included in the listing of the required inventory and failure reporting.

Discussion. These relays are under consideration. The UDS plans to implement the FIRS program as it now stands and, based on the data gathered, decide on whether these relays should be added in the next revision of the FIRS program.

Subparagraph 6.1.3.1a and 6.1.3.1b

Comments. One commenter suggested that it be made clear that only active devices and not those which have not yet been placed in service are to be included in the reports.

Discussion. The devices to be included in the required reports were qualified as the active devices in the revised subparagraphs.

Subparagraph 6.1.4.1

Comments. One commenter suggested that the time frame be extended to at least 60 days to allow proper handling of

the failure reports and to combine the malfunction and failure reports required by SPPE-1 and 2 and API RP 14B.

Discussion. The time frame allowed by subparagraph 6.1.4.1 is between 30 and 60 days (depending on the time of failure). In most cases, this time will be sufficient. In the event it is not, the USGS has provided a procedure in which a failure report with incomplete data may be submitted to the USGS and updated at some later date (see page F-13, column 73 and page F-15 in the FIRS instruction booklet).

All references to API RP 14B have been removed from the Order as explained in the discussion for subparagraph 3.3.

Subparagraph 6.1.4.

Comments. One commenter remarked that 30 days is insufficient time to reply and requested this be changed to 60 days.

Discussion. The 30-day time period was increased to 6 weeks. This is considered a reasonable response time.

Subparagraph 6.1.4.3

Comments. Several commenters suggested that the USGS differentiate by definition between failure and malfunction. They felt this was needed because failure and malfunction are defined in applicable API documents. Their concern was that the only time a failure occurs is when a piece of equipment fails to perform its designed function.

Discussion. With regard to defining failure and malfunction, the USGS believes there is no need to differentiate between the two. However, the report the USGS develops will contain a "critical" failure mode (failure) and an "other" mode (malfunction). This will, in essence, differentiate between equipment that did not perform with regard to its designed function (critical mode).

U.S. Department of the Interior,
Geological Survey Conservation
Division

OCS Order No. 5—Effective January 1, 1980

Production Safety Systems

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 250.11 and in accordance with 30 CFR 250.30, 250.38, 250.45, and 250.46. The lessee shall be responsible for compliance with the requirements of this Order in the installation and operation of the production safety systems on all platforms and structures located on the leasehold including those facilities not operated or owned by the lessee. All

applications for approval under the provisions of this Order shall be submitted to the District Supervisor.

This Order requires the lessee to submit plans, applications, reports, data, and other information. In all cases where the lessee(s) has (have) identified another party as designated lease operator in accordance with 30 CFR 250.31, and where the term "operator" is defined in accordance with 30 CFR 250.2(gg), the required information may be submitted by the designated lease operator.

1. Use of Best Available and Safest Technologies (BAST).

The lessee is encouraged to continue the development of safety-system technology. As research and product improvement results in increased effectiveness of existing safety equipment or the development of new equipment systems, such equipment may be used and, if such technologies provide a significant cost effective incremental benefit to safety, health, or the environment, shall be required to be used if determined to be BAST.

Gulf of Mexico and Pacific: Conformance to the standards, codes, and practices referenced in this Order will be considered to be the application of BAST. Specific equipment and procedures or systems not covered by standards, codes, or practices will be analyzed to determine if the failure of such would have a significant effect on safety, health, or the environment. If such are identified and until specific performance standards are developed or endorsed by the U.S. Geological Survey (USGS), and as directed by the Supervisor on a case-by-case basis, the lessee shall submit such information necessary to indicate the use of BAST, the alternatives considered to the specific equipment or procedures, and the rationale why one alternative technology was considered in place of another. This analysis shall include a discussion of the costs involved in the use of such technology and the incremental benefits gained.

Gulf of Alaska and Atlantic: Conformance to the standards, codes, and practices referenced in this Order will be considered to be the application of BAST. Specific equipment and procedures or systems not covered by standards, codes, or practices will be analyzed to determine if the failure of such would have a significant effect on safety, health, or the environment. If such are identified and until specific performance standards are developed or endorsed by the U.S. Geological Survey (USGS), the lessee shall submit such information necessary to indicate the use of BAST, the alternatives considered

to the specific equipment or procedures, and the rationale why one alternative technology was considered in place of another. This analysis shall include a discussion of the costs involved in the use of such technology and the incremental benefits gained.

2. *Quality Assurance and Performance of Safety and Pollution Prevention Equipment.* Safety and Pollution-Prevention Equipment (SPPE) shall conform to the following quality assurance standards or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. American National Standards Institute/American Society of Mechanical Engineers Standard "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME SPPE-1-1977, December 1977 (formerly ANSI/ASME-OCS-1-1977).

b. American National Standards Institute/American Society of Mechanical Engineers Standard "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME-SPPE-2-1977, December 1977 (formerly ANSI/ASME-OCS-2-1977).

The dates for compliance with these quality assurance standards, the applicable SPPE components, and the applicable SPPE specifications are identified in subparagraph 3.2 and subparagraph 4.3.

3. Subsurface-Safety Devices.

3.1 Installation.

Gulf of Mexico, Pacific, Gulf of Alaska, and Atlantic: All tubing installations open to hydrocarbon-bearing zones shall be equipped with a subsurface-safety device such as a Surface-Controlled Subsurface-Safety Valve (SCSSV), a Subsurface-Controlled Subsurface-Safety Valve (SSCSV), and injection valve, a tubing plug, or a tubular/annular subsurface-safety device, unless, after application and justification, the well is determined to be incapable of flowing. Criteria and procedural guidelines for the determination of the capability of a well to flow are established by and are available from the District Supervisor. The device shall be installed at a depth of 30 meters (98 feet) or more below the ocean floor within 2 days after production is stabilized. The well shall be attended in the immediate vicinity of the well so that emergency actions may be taken, if necessary, while the well is open to flow from a hydrocarbon-bearing zone, unless a subsurface safety device is installed.

3.1.1 *Subsurface-Safety Valves.* The requirements for subsurface-safety valves vary according to when the wells are completed. Alternatives to the following requirements may be approved by the Supervisor when greater reliability or safety can be demonstrated.

a. *Wells completed after the effective date of this Order.* All tubing installations shall be equipped with a surface-controlled, or other remotely controlled, subsurface-safety device.

b. *Wells completed prior to the effective date of this Order.* All tubing installations shall be equipped with a surface- or other remotely controlled subsurface-safety device when the tubing is first removed and reinstalled.

3.2 *Specification for Subsurface-Safety Valves.* Surface-controlled and subsurface-controlled subsurface-safety valves required by subparagraphs 3.4 and 3.5, which are installed on new installations or replaced on old installations after February 1, 1980, shall conform to "American Petroleum Institute (API) Specification for Subsurface-Safety Valves," API Spec 14A, Fourth Edition, November 1979, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation.

For purposes of this requirement, the term replacement is defined as occurring when that portion of the valve assembly containing the serial number is removed from inventory and a new certified valve is placed in inventory.

3.3 *Design, Installation, and Operation.* Subsurface-safety devices shall be designed, adjusted, installed, and maintained to insure reliable operation. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3.4. Surface-Controlled Subsurface-Safety Valves.

Gulf of Mexico and Pacific: After the effective date of this Order, all tubing installations open to a hydrocarbon-bearing zone shall be equipped with a surface-controlled subsurface-safety valve, except as specified in subparagraphs 3.1, 3.5, and 3.6. The surface controls may be located on the site or at a remote location.

Gulf of Alaska and Atlantic: After the effective date of this Order, all tubing installations open a hydrocarbon-bearing zone shall be equipped with a surface-controlled subsurface-safety valve, except as specified in subparagraphs 3.1, 3.5, and 3.6. The surface controls may be located on the site or at a remote location.

The lessee shall furnish evidence that the surface-controlled subsurface-safety devices and related equipment are capable of normal operation under subfreezing conditions.

3.4.1 *Testing of Surface-Controlled Subsurface-Safety Valves.* Each surface-controlled, or other remotely controlled, subsurface-safety device installed in a well shall be tested in place for proper operation when installed or reinstalled and thereafter at intervals not exceeding 6 months. If the device does not operate properly, it shall be removed, repaired, reinstalled or replaced, and tested to insure proper operation.

3.5 *Subsurface-Controlled Subsurface-Safety Valves.* Tubing installations in wells completed from single well or and multiwell satellite caissons or ocean floor completions may be equipped with a subsurface-controlled subsurface-safety valve in lieu of a surface-controlled, or other remotely controlled, subsurface-safety valve.

3.5.1 *Inspection and Maintenance of Subsurface-Controlled Subsurface-Safety Valves.* Each subsurface-controlled subsurface-safety valve installed in a well shall be removed, inspected, and repaired or adjusted as necessary and reinstalled at intervals not exceeding:

(1) 6 months for those valves not installed in a landing nipple.

(2) 12 months for those valves installed in a landing nipple.

3.6 Tubing Plugs in Shut-in Wells.

Gulf of Mexico, Pacific, Gulf of Alaska, and Atlantic: A tubing plug shall be installed in lieu of, or in addition to, other subsurface-safety devices if a well has been shut in for a period of 6 months. Tubing plugs shall be set at a depth of 30 meters (98 feet) or more below the ocean floor. All tubing plugs installed shall be of the pump-through type. All wells perforated and completed but not placed on production shall be equipped with a subsurface-safety valve or tubing plug within 2 days after completion. A surface-controlled subsurface-safety valve of the pump-through type may be used as a pump-through tubing plug for the purpose of this subparagraph, provided the surface control has been rendered inoperative. A shut-in well which is equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding 6 months. If a liquid leakage rate in excess of 400 cc/min or a gas leakage rate in excess of 7 dm³/sec (15 cubic ft/min) is observed, the plug shall be removed, repaired, and reinstalled, or an additional tubing plug may be installed in lieu of removal and repair.

3.7 *Injection Wells.* A surface-controlled subsurface-safety valve or an injection valve capable of preventing backflow shall be installed in all wells placed in injection service after the effective date of this Order.

Wells which were placed in injection service prior to the effective date of this Order shall be equipped with a surface-controlled subsurface-safety valve or injection valve capable of preventing backflow when the tubing is first removed and reinstalled.

Surface-controlled subsurface-safety valves shall be tested in accordance with subparagraph 3.4.1. Injection valves shall be tested in the manner as outlined for testing tubing plugs in subparagraph 3.6.

These requirements are not applicable if the District Supervisor concurs that the well is incapable of flowing. The lessee shall verify the no-flow condition of the well annually and submit an annual report certifying the no-flow status of the well.

3.8 *Temporary Removal for Routine Operations.* Each wireline- or pumpdown-retrievable subsurface-safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of a Sundry Notice and Report on Wells (Form 9-331) for a period not to exceed 15 days. The well shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. The removal of the subsurface-safety device shall be noted in the records as required by subparagraph 3.11g. The well shall be attended in the immediate vicinity of the well so that emergency actions may be taken, if necessary, while the well is open to flow from a hydrocarbon-bearing zone until the subsurface-safety device is reinstalled, unless attendance has been waived by the District Supervisor. The well shall not be open to flow while the subsurface-safety device is removed except when flowing the well is necessary for that particular operation.

The provisions of this paragraph are not applicable to the testing and inspection procedures in subparagraphs 3.4.1, 3.5.1, 3.6, and 3.7.

3.9 *Additional Safety Equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface-safety device is installed after the effective date of this Order shall be equipped with a landing nipple, with flow couplings or other protective equipment above and below, to provide for the setting of the subsurface-safety valve. The control system for all surface-controlled subsurface-safety valves shall be an integral part of the

platform Emergency Shutdown System (ESD) as defined in API RP 14C, Appendix C, Section C1. In addition to the activation of the ESD system by manual action on the platform, the system may be activated by a signal from a remote location. Surface-controlled subsurface-safety valves shall close in response to shut-in signals from the ESD system or the fire loop, or both.

3.10 *Emergency Action.* All tubing installations open to hydrocarbon-bearing zones and capable of flowing in which the subsurface-safety device has been removed, in accordance with the provisions of this Order, shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. A subsurface-safety device shall be available for each well on the platform. In the event of an emergency such as an impending storm, this device shall be properly installed as soon as possible with due consideration being given to personnel safety.

3.11 *Records.* The lessee shall maintain records for a minimum period of 5 years for each subsurface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. (If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office.) The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS). The records to be maintained shall contain verification of:

a. The manufacturer's design, including make, model, and type. For subsurface-controlled valves, number of the spacers, size of beans, springs, and the pressure settings.

b. The devices having been manufactured in accordance with the quality-assurance requirements of ANSI/ASME-SPPE-1 (formerly ANSI/ASME-OCS-1) as required by paragraph 2.

c. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME-SPPE-1.

d. The record of all configuration modifications to the certified design.

e. Installation at the required setting depth and in accordance with the manufacturer's instructions.

f. The identity of the personnel qualified in accordance with subparagraph 5.7 who directed all installations and removals.

g. The results of tests required by this Order, the dates of removals and

reinstallations, and the reasons for removals and reinstallations.

h. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE-2529 and OE-2670 of ANSI/ASME-SPPE-1.

3.12 *Reports.* Well completion reports (Form 9-330) and any subsequent reports of workover (Form 9-331) shall include the manufacturer, the type, and the installed depth of the subsurface-safety devices.

4. *Design, Installation, and Operation of Surface Production Safety Systems.*

Gulf of Mexico and Pacific: All production facilities, including separators, treaters, compressors, headers, and flowlines, shall be designed, installed, and maintained in a manner which will facilitate an efficient, safe, and pollution-free operation.

Gulf of Alaska and Atlantic: All production facilities, including separators, treaters, compressors, headers, and flowlines, shall be designed, installed, and maintained in a manner which will facilitate an efficient, safe, and pollution-free operation.

The lessee shall furnish evidence that the surface-safety system and related equipment are capable of normal operation under subfreezing conditions, and that all equipment and operating procedures take into account floating ice, icing, and other extreme environmental conditions that may occur in the Area.

4.1 *New Platforms.* New platform production facilities shall be protected with a basic and ancillary surface-safety system designed, analyzed, tested, and maintained in operating condition in accordance with the provisions of "API Recommended Practice for Analysis, Design, Installation, and Testing of Basic Surface-Safety Systems on Offshore Production Platforms," API RP 14C, Second Edition, January 1978, except Section A9, "Pipelines," which will be covered under OCS Order No. 9, or subsequent revisions which the Chief, Conservation Division, has approved for use and the additional requirements of the Order. For this application, the word "should" contained in API RP 14C shall be read "shall," except for those contained in explanatory statements, sections 3.4c and 4.3a(4)(a)-(f). If processing components are to be utilized, other than those for which Safety Analysis Checklists (SAC's) are included in API RP 14C, the analysis technique and documentation specified therein shall be utilized to determine the effects and requirements of these components upon the safety system.

4.2 *Existing Platforms.*

Gulf of Mexico: Existing platforms shall comply with the provisions of API RP 14C except Section A9, "Pipelines," which will be covered under OCS Order No. 9, and with the additional safety and pollution-control requirements of paragraphs 4 and 5 of this Order. The submittal of information relative to design and installation features, as listed in subparagraph 4.4, is not required until an equipment modification to an existing facility is performed (other than those necessary for proper maintenance of the facility).

Pacific: Existing platforms shall comply with the provisions of API RP 14C except Section A9, "Pipelines," which will be covered under OCS Order No. 9, and with the additional safety and pollution-control requirements of paragraphs 4 and 5 of this Order, by July 1, 1980. The submittal of information relative to design and installation features, as listed in subparagraph 4.4, is not required until an equipment modification to an existing facility is performed (other than those necessary for proper maintenance of the facility).

4.3 *Specification for Wellhead Surface-Safety Valves.* All wellhead Surface-Safety Valves (SSV's) required by subparagraphs 4.1 and 4.2, which are installed on new installations or replaced on old installations after February 1, 1980, shall conform to "API Specification for Wellhead Surface Safety Valves for Offshore Service," API Spec 14D, Second Edition, November 1977, as amended by Supplement 2, November 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation.

For purposes of this requirement, the term replacement is defined as occurring when that portion of the valve assembly (valve or actuator) containing the serial number is removed from inventory and a new certified valve is placed in inventory.

4.4 *Submittal of Safety-System Design and Installation Features.* Prior to installation, the lessee shall submit for approval to the District Supervisor, in duplicate, information relative to design and installation features, as indicated in subparagraphs a through g. This information shall also be maintained at the lessee's onshore field engineering office. All approvals are subject to field verifications. This information shall include:

a. A schematic flow diagram showing size, capacity, and design working pressure of separators, treaters, storage tanks, compressors, pipeline pumps, and metering devices.

b. A schematic flow diagram (reference API RP 14C, example: figure

E1) and the related Safety Analysis Function Evaluation (SAFE) chart (reference API RP 14C, Subsection 4.3c). These diagrams and charts shall be developed in accordance with the provisions of API RP 14C and the additional requirements of this Order.

c. A schematic piping diagram showing the size and maximum-allowable working pressure with reference to welding specification(s) or code(s) used. The maximum-allowable working pressures shall be determined in accordance with "API Recommended Practice for Design and Installation of Offshore Production Platform Piping Systems," API RP 14E, First Edition, August 1975, and Supplement 2, October 1977, or subsequent revisions which the Chief, Conservation Division, has approved for use. The recommendations contained in API RP 14E are acceptable for the design and installation of the platform piping system.

d. A diagram of the fire-fighting system.

e. Electrical system information including the following:

(1) A plan of each platform deck outlining any nonrestricted area, i.e., areas which are unclassified with respect to electrical equipment installations and outlining areas in which potential ignition sources, other than electrical, are to be installed. The area outline shall include the following information:

(a) Any surrounding production or other hydrocarbon source and a description of the deck, overhead, and firewall.

(b) Location of generators, control rooms, panel boards, major cabling—conduit routes, and identification of the wiring method, including the identification of each wire and cable type that is utilized.

(2) Elementary electrical schematic of any platform safety-shutdown system with a functional legend.

(3) Classification of areas for electrical installations in accordance with the National Electrical Code, 1978 Edition, and with the "API Recommended Practice for Classification of Areas for Electrical Installations at Drilling Rigs and Production Facilities on Lands and on Marine Fixed and Mobile Platforms," API RP 500B, Second Edition, July 1973, or subsequent revisions which the Chief, Conservation Division, has approved for use.

f. The design and schematics of the installation and maintenance of all fire and gas detection systems shall include the following:

(1) Type, location, and number of detection heads.

(2) Type and kind of alarm, including emergency equipment to be activated.

(3) Method used for detection.

(4) Method and frequency of calibration.

(5) Name of organization to perform system inspection and calibration.

(6) A functional block diagram of the detection system, including the electric power supply.

g. Certification that the design for the mechanical and electrical systems to be installed were approved by registered professional engineers. After these systems are installed, the lessee shall submit a statement to the District Supervisor certifying that the new installations conform to the approved designs or the lessee shall request approval of the "As-Built" changes.

5. *Additional Safety and Pollution-Control Requirements.* The following requirements modify or are in addition to those contained in API RP 14C.

5.1 *Design, Installation, and Operation.*

5.1.1. *Pressure Vessels.* Unless otherwise qualified for use according to subparagraph 5.1.1d below, pressure vessels shall be designed, fabricated, stamped, and maintained in accordance with specific sections of the ASME Boiler and Pressure Vessel Code as listed below. The pressure vessels shall conform to the July 1, 1977, edition of the Code or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. Pressure relief valves shall be designed, installed, and maintained in accordance with applicable provisions of sections I, IV, and VIII. The relief valves shall conform to the valve-sizing and pressure-relieving requirements specified in these documents; however, the relief valves shall be set no higher than the maximum-allowable working pressure of the vessel. All relief valves and vents shall be piped in such a way as to prevent fluid from striking personnel or ignition sources.

b. Steam generators shall be equipped with low-water level controls (LWL) in accordance with applicable provisions of sections I and IV.

c. The lessee shall determine, by the use of pressure recorders, the operating pressure ranges of all pressure-operated vessels in order to establish the pressure-sensor settings. Current pressure recorder charts shall be maintained at the nearest offshore field office. The high-pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the vessel. This setting shall also be sufficiently below the relief valve's set pressure to assure that the pressure source is shut in before the relief valve

starts relieving. The low-pressure shut-in sensor shall activate no lower than 15 percent or 35 kilopascals (kPa) (5 psi), whichever is greater, below the lowest pressure in the operating range. The activation of low-pressure sensors on pressure vessels which operate at less than 35 kilopascals (kPa) (5 psi) shall be approved by the District Supervisor on a case-by-case basis.

d. All pressure or fired vessels used in the production of oil or gas, ordered after the effective date of this Order, shall conform to the requirements stipulated in the edition of the ASME Boiler and Pressure Vessel Code, sections I, IV, and VIII, as appropriate, in effect at the time the vessel is ordered. Uncoded vessels shall be hydrostatically tested to a pressure 1.5 times their working pressures prior to placing in service. The test date, test pressure, and working pressure shall be marked on the vessel in a prominent place. A record of the test shall be maintained by the lessee in the field area.

5.1.2. Flowlines.

a. All flowlines from wells shall be equipped with high- and low-pressure shut-in sensors located in accordance with Section A1 and Figure A1 of API RP 14 C. The lessee shall determine, by the use of pressure recorders, the operating pressure ranges of flowlines in order to establish pressure-sensor settings. Current pressure-recorder charts shall be maintained at the nearest offshore field office.

The high-pressure shut-in sensor(s) shall be set no higher than 10 percent above the highest operating pressure of the line; but, in all cases, it shall be set sufficiently below the maximum shut-in wellhead pressure or the gas-lift supply pressure to assure actuation of the surface-safety valve. The low-pressure shut-in sensor(s) shall be set no lower than 10 percent of 35 kPa (5 psi), whichever is greater, below the lowest operating pressure of the line in which it is installed.

b. If a well flows directly to the pipeline before separation, the flowline and valves from the well located upstream of, and including, the header inlet valve(s) shall have a working pressure equal to or greater than the maximum shut-in pressure of the well, unless the flowline is protected by one of the following:

(1) A relief valve which vents into the platform flare scrubber or some other location approved by the District Supervisor.

(2) An additional automatic shutdown valve controlled by an independent high-pressure sensor. The platform flare scrubber shall be designed to handle,

without liquid-hydrocarbon carryover to the flare, the maximum-anticipated flow of liquid-hydrocarbons which may be relieved to the vessel.

5.1.3 *Pressure Sensors.* Pressure sensors may be of the automatic- or nonautomatic-reset type. When the automatic-reset types are used, a nonautomatic-reset relay shall be installed. All pressure sensors shall be equipped to permit testing with an external pressure source.

5.1.4 *Emergency Shutdown System.* The manually operated ESD valve shall be quick-opening and nonrestricted to enable the rapid actuation of the shutdown system. ESD stations may utilize a loop of breakable synthetic tubing in lieu of a valve only at the boat landing.

On an emergency shutdown, the subsurface-safety valve (SSSV) shall close in not more than 2 minutes after the shut-in signal has closed the surface safety valve (SSV). Design delayed closure time greater than 2 minutes shall be justified by the lessee based on the individual well's mechanical/production characteristics and approved by the District Supervisor.

Electro-pneumatic systems shall meet the corresponding design and functional requirements as those which apply to pneumatic systems.

A schematic of the ESD system which indicates the control functions of all safety devices shall be maintained on the platform or nearest offshore field office.

5.1.5 *Engine Exhausts.* Engine exhausts shall be equipped to comply with the insulation and personnel-protection requirements of API RP 14C, Section 4.2c(4). Exhaust piping from diesel engines shall be equipped with spark arrestors.

5.1.6 *Glycol-Dehydration Units.* A pressure relief system or an adequate vent shall be installed on the glycol regenerator, or at a location approved by the District Supervisor, which will prevent overpressurization of all glycol-dehydration units. The set pressure of the pressure-relief system shall be determined by the lessee and approved by the District Supervisor. The discharge of the relief valve shall be vented in a nonhazardous manner. The glycol-dehydration unit shall be properly maintained to prevent overpressurization of the unit.

5.1.7 Gas Compressors.

a. *Existing Compressor Installations.* Each compressor installation existing as of the effective date of this Order shall be equipped with the following protective equipment:

(1) A Level Safety High (LSH) and a Pressure Safety Valve (PSV) to protect each interstage and suction scrubber.

(2) A pressure Safety High (PSH) and a Pressure Safety Low (PSL) on the suction scrubber and discharge line. A PSH and a PSL shall also be installed on each interstage scrubber unless the compressor is protected by a Temperature Safety High (TSH) shutdown control on the compressor cylinders.

(3) A Level Safety Low (LSL) to protect each interstage and suction scrubber, unless fluid dump is through a choke restriction to another pressure vessel.

(4) Compressor installations which are installed in a building, room, or compartment are excluded from the requirements of API RP 14C, Subsection A8.3b, "Flow Safety Devices (FSV)," and Subsection A8.3d, "Shutdown Devices (SDV)," which require that these devices be located outside of the building.

b. *New Compressor Installations.* Each compressor installed after the effective date of this Order shall be equipped with the following protective equipment:

(1) A PSH, a PSL, a PSV, and an LSH to protect each interstage and suction scrubber.

(2) An LSL to protect each interstage and suction scrubber, unless the fluid is dumped through a choke restriction to another pressure vessel. An LSL shut-in control(s) installed in interstage and suction scrubber(s) may be designed to actuate the automatic shutdown valve(s) (SDV's) installed in the scrubber dump line(s).

(3) A TSH on each compressor cylinder or other components as applicable.

(4) In addition to the provisions of API RP 14C, Subsection A8.3, PSH and PSL shut-in sensors and LSH shut-in controls protecting compressor suction and interstage scrubbers shall be designed to actuate automatic SDV's located in each compressor suction and fuel gas line so that the compressor unit and the associated vessels can be isolated from all input sources.

All automatic SDV's installed in compressor suction and fuel gas piping shall also be actuated by the shutdown of the prime mover.

c. *Small Compressor Installations.* Compressor installations of 745 kilowatts (1,000 horsepower) or less are excluded from those requirements of API RP 14C, A8.3d, which provide for installation of a blowdown valve (BDV) on the discharge line.

5.1.8 *Firefighting Systems.* Firefighting systems installed after the effective date of this Order shall

conform to: (1) Subsection 5.2, "Fire Water Systems," of "API Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms," API RP 14C, First Edition, September 1978, or (2) subsequent revisions which the Chief, Conservation Division, has approved for use, and (3) the additional requirements of this subparagraph.

A firewater system consisting of rigid pipe with firehose stations shall be installed. The firewater system shall be installed to provide needed protection in all areas where production-handling equipment is located. A fixed water-spray system shall be installed in enclosed well-bay areas where hydrocarbon vapors may accumulate.

Acceptable pump drivers include diesel engines, natural gas engines, and electric motors. Fuel or power shall be available for at least 30 minutes of run-time during platform shut-in time. If necessary, an alternate fuel supply shall be installed to provide for this pump-operating time unless an alternate firefighting system has been approved by the District Supervisor. Existing firefighting systems shall be reworked to conform to these run-time requirements on or before January 1, 1981.

A firefighting system using chemicals may be used or may be required in lieu of a water system if the District Supervisor determines that the use of a chemical system provides equivalent fire protection control. A diagram of the firefighting system showing the location of all firefighting equipment shall be posted in a prominent place on the platform or structure.

5.1.9 Fire and Gas Detection System.

a. Fire (flame, heat, or smoke) sensors shall be used in all enclosed high-hazard areas. Gas sensors shall be used in all inadequately ventilated, enclosed, high-hazard areas. Adequate ventilation is as defined in API RP 14C, Appendix C, paragraph C1.3b.

b. All detection systems shall be capable of continuous monitoring. Fire detection systems and portions of combustible gas detection systems related to the higher gas concentration levels shall be of the manual-reset type. Combustible gas detection systems control shall be in effect for wells or fields having a history of sand production. The erosion-control program may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. An annual report, by lease, indicating the wells which have erosion-control programs in effect and the results of the programs shall be submitted by the first of December to the USGS Conservation Manager in the appropriate Regional Office.

c. A fuel gas odorant or an automatic gas-detection and alarm system are required in enclosed, continuously manned areas of the facility.

d. The District Supervisor may require a gas detector or alarm in any potentially hazardous area.

e. Fire detection systems shall be of an approved type, designed and installed in accordance with the

National Fire Protection Association Standard for Automatic Fire Detectors, No. 72E, 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use. Gas detection systems shall be of an approved type, designed and installed in accordance with sections 9.1 and 9.2 of "API Recommended Practice For Design and Installation of Electrical Systems for Offshore Production Platforms," API RP 14F, First Edition July 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use.

5.1.10 *Electrical Equipment.* The following requirements shall be applicable to all electrical equipment and systems:

a. All engines with ignition systems shall be equipped with a low-tension ignition system of a low-fire-hazard type and shall be designed and maintained to minimize the release of sufficient electrical energy to cause ignition of an external, combustible mixture.

b. All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500B in effect at the time of approval.

c. At the time of approval, wiring methods shall conform to the National Electrical Code, 1978 Edition, or to the Institute of Electrical and Electronic Engineers (IEEE) "Recommended Practice for Electric Installation on Shipboard," IEEE Std. 45-1977, or subsequent revisions which the Chief, Conservation Division, has approved for use. Each conductor of a wire, a cable, or a bus bar shall be made of copper on all new installations constructed after the effective date of this Order.

d. The elementary electrical schematic of the platform safety-shutdown system required by subparagraph 4.4e(2) shall be maintained on the platform or structure. This schematic shall indicate the control functions of all electrically actuated safety devices.

e. Maintenance of these systems shall be by personnel who are familiar with the construction and operation of the equipment and the hazards involved.

5.1.11 *Erosion.* A program of erosion control shall be in effect for wells or fields having a history of sand production. The erosion-control program

may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. An annual report, by lease, indicating the wells which have erosion-control programs in effect and the results of the programs shall be submitted by the first of December to the USGS Conservation Manager in the appropriate Regional Office.

5.2 General Platform Operations.

a. Surface- or subsurface-safety devices shall not be bypassed or blocked out of service unless they are temporarily out of service for startup, maintenance, or testing procedures. Only the minimum number of safety devices necessary for the operation shall be taken out of service. Personnel shall monitor the bypassed or blocked-out functions. Any surface- or subsurface-safety device which is temporarily out of service shall be flagged.

b. When wells are disconnected from producing facilities and blind-flanged or equipped with a tubing plug, compliance is not required with the provisions of API RP 14C or this Order concerning:

(1) Installation of automatic fail-close SSV on wellhead assemblies.

(2) Installation of the PSH and the PSL shut-in sensors downstream of the choke in flowlines from wells.

(3) Installation of flow safety valves (FSV's) in header individual flowlines.

c. When pressure or atmospheric vessels are positively isolated from production facilities (for example, inlet valve locked closed or inlet line blind-flanged) and are to remain isolated for an extended period of time, safety device compliance is not required with API RP 14C or this Order.

d. All open-ended lines connected to producing facilities shall be plugged or blind-flanged, except those lines designed to be open-ended, such as flare or vent lines.

5.3 Simultaneous Platform Operations.

Prior to conducting activities simultaneously with production operations which could increase the possibility of occurrence of undesirable events, such as harm to personnel or to the environment or damage to equipment, a "General Plan for Conducting Simultaneous Operations" in a producing field shall be filed for approval with the District Supervisor. This plan shall be modified and updated by supplemental plans when actual simultaneous operations are scheduled which are significantly different from those covered in the General Plan. Activities requiring these plans are drilling, completion, workover, wireline, pumpdown, and major construction operations.

5.3.1 *General Plan.* The "General Plan for Conducting Simultaneous Operations" shall include:

a. A narrative description of operations.

b. Procedures for the mitigation of potentially undesirable events including:

(1) The guidelines the lessee will follow to assure coordination and control of simultaneous activities.

(2) The identity of the person having overall responsibility at the site for the safety of platform operations.

5.3.2 *Supplemental Plan.* The "Supplemental Plan for Conducting Simultaneous Operations" shall include:

a. A floor plan of each platform deck indicating critical areas of simultaneous activities.

b. An outline of any additional safety measures that are required for simultaneous operations.

c. Specification of any added or special equipment or procedural conditions imposed when simultaneous activities are in progress.

5.4. *Welding and Burning Practices and Procedures.* The following requirements are applicable to any welding or burning practice or procedure performed on:

a. An offshore mobile-drilling unit during the drilling mode.

b. A mobile workover unit during any drilling, completion, recompletion, remedial, repair, stimulation, or other workover activity.

c. A platform, structure, artificial island, or other installation during any drilling, completion, workover, or production operation.

d. A platform, structure, artificial island, or other installation which contains a well open to a hydrocarbon-bearing zone.

For the purpose of this Order, the terms "welding" and "burning" are defined to include arc or acetylene cutting and arc or acetylene welding.

All offshore welding and burning shall be minimized by onshore fabrication when feasible.

5.4.1 *General Welding, Burning, and Hot Tapping Plan.*

Gulf of Mexico and Gulf of Alaska:

Each lessee shall file for approval by the District Supervisor a "Welding, Burning, and Hot Tapping Safe Practices and Procedures Plan." The plan shall include the qualification standards or requirements for personnel and the methods by which the lessee will assure that only personnel meeting such standards or requirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be thoroughly familiar with this plan. An approved plan is required prior to the conduct of any welding, burning or hot tapping operation. An existing approved plan which does not include a hot tapping plan shall be revised or supplemented to include an approved plan prior to the conduct of a hot tapping operation. All welding and burning equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall

be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

Pacific and Atlantic: Each lessee shall file for approval by the District Supervisor a "Welding, Burning, and Hot Tapping Safe Practices and Procedures Plan." The plan shall include the qualification standards or requirements for personnel and the methods by which the lessee will assure that only personnel meeting such standards or requirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be thoroughly familiar with this plan. An approved plan is required prior to the conduct of any welding, burning, or hot tapping operation. An existing approved plan which does not include a hot tapping plan shall be revised or supplemented to include an approved plan prior to the conduct of a hot tapping operation. Plans shall be filed for existing platforms and operating mobile drilling units, which do not have approved plans, within 90 days of the effective date of this Order. All welding and burning equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

5.4.2 *Designated Safe-Welding and Burning Areas.* The lessee shall establish, if feasible, and so designate areas on the platform determined to be safe-welding areas pursuant to the National Fire Protection Association Bulletin "Cutting and Welding Processes," No. 51 B, 1976, or subsequent revision which the Chief, Conservation Division, has approved for use. Approval for the use of such areas shall be obtained from the District Supervisor. These designated areas shall be identified in the General Plan and a drawing showing the location of these areas shall be maintained on the facility. Welding or burning performed in any other areas shall be performed in compliance with the procedures set forth in subparagraph 5.4.3.

5.4.3. *Undesignated Welding and Burning Areas.* All welding or burning which cannot be done in an approved safe-welding area shall be performed in

compliance with the procedures outlined below.

a. Prior to the commencement of any welding or burning operation on a structure, the lessee's designated person-in-charge at the installation shall personally inspect the qualifications of the welder or welders to assure that they are properly qualified in accordance with the lessee-approved qualification standards or requirements for welders. The designated person-in-charge and the welders shall personally inspect the work area for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the designated person-in-charge shall issue a written authorization for the work.

b. During all welding and burning operations, one or more persons shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual welding or burning operations are in progress. If welding is to be done in an area which is not equipped with a gas detector, the Fire Watch shall also maintain a continuous surveillance with a portable gas detector during welding.

c. Prior to any welding or burning operation, the Fire Watch shall have in his possession firefighting equipment in a usable condition. At the end of the welding operation, the equipment shall be returned to a usable condition.

d. No welding, other than approved hot tapping, shall be done on piping, containers, tanks, or other vessels which have contained a flammable substance unless the contents have been rendered inert and determined to be safe for welding or burning by the designated person-in-charge.

e. If drilling, workover, or wireline operations are in progress on the platform, welding operations in other than approved safe-welding areas shall not be conducted unless the well(s) where these operations are in progress contain noncombustible fluids and the entry of formation hydrocarbons into the wellbore is precluded. All other provisions of this section shall also be applicable.

f. If welding or burning operations are conducted in the well-bay or production area, all producing wells shall be shut in at the surface-safety valve.

5.5 *Safety Device Testing.* The safety-system devices which are required by this order shall be tested by the lessee at the interval specified below or more frequently if operating conditions warrant.

Testing shall be in accordance with API RP 14C, appendix D, and the following:

a. All PSV's shall be tested for operation at least once every 12 months. These valves shall be either bench-tested or equipped to permit testing with an external pressure source.

b. All Pressure Sensors-High/Low (PSHL) shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

c. All SSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The SSV's shall be tested for operation in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection L, and tested for leakage in accordance with subsection M. If the valve does not operate properly or any fluid flow is observed in step 3 of the leakage test, the valve shall be repaired or replaced.

d. All flowline FSV's shall be checked for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The FSV's shall be tested for leakage in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection D. If the leakage measured in step 6 exceeds a liquid flow of 400 cc/min or a gas flow of 7 dm³/sec (15 cubic ft/min), the FSV's shall be repaired or replaced.

e. All LSH and LSL controls shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. These tests shall be conducted by raising and lowering the liquid level across the level-control detector.

f. All automatic inlet SDV's which are actuated by a sensor on a vessel or a compressor shall be tested for operation at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

g. All SDV's located in liquid-discharge lines and actuated by vessel low-level sensors shall be tested for operation once each calendar month, but at no time shall more than 6 weeks elapse between tests.

h. The TSH shutdown controls installed on existing compressors in lieu of a PSH and PSL on interstage scrubbers shall be tested every 6 months and repaired or replaced as necessary.

i. All pumps for firewater systems shall be inspected and test-operated weekly.

j. All fire (flame, heat, or smoke) and gas detection systems shall be tested for operation and recalibrated every 6 months.

k. The lessee shall notify the District Supervisor when the lessee is ready to conduct a preproduction test and

inspection of the integrated safety system. The lessee shall also notify the District Supervisory upon commencement of production in order that a post-production test and inspection of the integrated system may be conducted.

5.6 *Records.* The lessee shall maintain records for a minimum period of 5 years for each surface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. (If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office). The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS). The records shall show the present status and history of each device, including dates and details of installation, inspection, testing, repairing, adjustments, and reinstallation.

5.6.1 *Surface-Safety Valve and Associated Actuator Records.* Records for subsurface-safety valves and associated actuators which require compliance with paragraph 2 shall contain additional information showing verification of:

a. The devices having been manufactured in accordance with the quality assurance requirements of ANSI/ASME-SPPE-1 (formerly ANSI/ASME-OCS-1) as required by paragraph 2.

b. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME-SPPE-1.

c. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE-2529 and OE-2670 of ANSI/ASME-SPPE-1.

5.7 *Safety Device Training.* *Gulf of Mexico:* Personnel engaged in installing, inspecting, testing, and maintaining these safety devices are required to be qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T-2, revised October 1975, or subsequent revisions which the Chief, Conservation Division, has approved for use.

Documented evidence of the qualification of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T-2 if they are working on equipment

supplied by their company, provided they have received training and are qualified by the manufacturer to install, service, or repair the specific safety device or safety system, and if they are directly supervised by an API RP T-2 qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

Pacific, Gulf of Alaska, and Atlantic: Before January 1, 1982, the lessee shall ensure that all personnel engaged in installing, inspecting, testing, and maintaining these safety devices will have been qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T-2, revised October 1975, or subsequent revisions which the Chief, Conservation Division, has approved for use.

Documented evidence of the qualifications of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T-2 if they are working on equipment supplied by their company, provided they have received training and are qualified by the manufacturer to install, service, or repair the specific safety device or safety system, and if they are directly supervised by an API RP T-2 qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

Before January 1, 1981, the lessee shall submit an application for approval to the Chief, Conservation Division, describing the training to be conducted and the methods the lessee will utilize. The application shall include:

a. A designation of the lessee's representative who is responsible for training and coordinating training matters with the USGS.

b. The categories of personnel to be qualified.

c. The training organizations and courses to be utilized.

d. The method for ensuring the qualifications of third-party personnel.

e. The method for determining when additional training or requalification is required and the method for obtaining this training and requalification.

f. The method of monitoring operations to ensure that only qualified personnel perform certain functions.

g. The method of maintaining documented evidence of qualification at the work site.

6. *Failure and Inventory Reporting System (FIRS).* The USGS has established a safety and pollution-prevention device Failure and Inventory Reporting System (FIRS), to enhance the reliability and safety of operations in the OCS. This system applies to offshore structures, including satellites and jackets, which produce or process hydrocarbons and includes the attendant portions of hydrocarbon pipelines, when physically located on the structure. When the devices specified herein are used as a part of the production safety and pollution-prevention system, the lessee shall:

a. Submit an initial inventory and periodic updates in accordance with the procedures described in subparagraph 6.1.3.

b. Report all device failures which occur. The report content and format shall be in accordance with the procedures described in subparagraph 6.1.4.

c. If the method of data submitted as described in subparagraph 6.1.1 is USGS Form 9-1994 and Form 9-1995, the lessee shall submit the original of the form to the USGS and retain the two copies.

Inventory and failure data required by this Order shall be submitted to the USGS Conservation Manager in the appropriate Regional Office.

6.1 *Data and Reporting Requirements.*

6.1.1 *Format.* Inventory and failure data shall be submitted in a format containing the same information that is in the Safety Device Inventory Report (Form 9-1994) and the Safety Device Failure Report (Form 9-1995), and as outlined in the respective User's Instruction Booklets. Copies of the forms and booklets may be obtained from the USGS Conservation Manager in the appropriate Regional Office.

The specific method of submitting the required data may be selected from the following:

a. USGS Forms 9-1994 and 9-1995, using a standard coding convention (e.g., all letters capitalized, Z, I, letter O, number 0).

b. ADP card decks of standard 80-column cards.

c. Magnetic tapes which are 9-track, 800 BPI, unlabeled, blocking cannot exceed 1,040 characters, odd parity, single gap (i.e., compatible with IBM equipment EBCDIC).

Regardless of which method is used for submitting the inventory and failure data, a cover letter forwarding the data to the USGS shall contain the signature of the person initiating/approving the information contained therein.

When form 9-1995 is used, the form shall contain a signature in the lower right corner of the person initiating/approving the report.

6.1.2 *Device Coverage.* Inventory and failure reports are to be submitted on the safety and pollution-prevention devices on offshore structures, including satellites and jackets, which produce or process hydrocarbons, and the hydrocarbon pipelines thereon. These reports shall be submitted on the following devices:

- a. Blowdown Valve (BDV).
- b. Burner Flame Detector (BSL).
- c. Check Valve (FSV).
- d. Combustible Gas Detector (ASH).
- e. Emergency Shutdown Valve (ESD).
- f. Level Sensor: High (LSH), Low (LSL), Hi/Lo (LSHL).
- g. Pressure Sensor: High (PSH), Low (PSL), Hi/Lo (PSHL).
- h. Relief Valve (PSV).
- i. Shutdown Valve (SDV).
- j. Subsurface-Safety Valve (SSSV).
- k. Surface-Safety Valve (SSV).
- l. Temperature Sensor: High (TSH), Low (TSL), Hi/Lo (TSHL).
- m. Valve Actuator on the shutdown valve, the blowdown valve, the surface-safety valve (VA).

6.1.3 *Device Inventory Reporting.*

6.1.3.1 *Initial Inventory.*

a. For platforms in existence at the time this Order becomes effective, a complete inventory of the active safety and pollution-prevention devices shall be submitted no later than 6 months after the effective date of this Order.

b. For platforms completed after this Order becomes effective, a complete inventory of the active safety and pollution-prevention devices shall be submitted no later than 1 month after the initial platform production date.

6.1.3.2 *Inventory Updates.* An updating of or addition/deletion to the latest inventory shall be submitted on a monthly basis so as to maintain a current and accurate data base. The inventory will be updated by using the contents of the Safety Device Inventory Report (Form 9-1994) and the Safety Device Failure Report (Form 9-1995), as described in the FIRS Instruction Booklet.

Inventory updating due to the addition, deletion, or chargeout of a device is accomplished by the lessee reporting all of the data required on the Safety Device Inventory Report (9-1994).

Whenever a device fails and is either replaced with a new device or "fixed" and put back into service, the inventory shall be updated to reflect this change. Inventory updating, due to the failure of a device, will be performed by the USGS, using the contents of the Safety Device Failure report (Form 9-1995).

Inventory updating information shall be received no later than 30 days following the month in which the device change was made.

6.1.3.3 *Inventory-Reporting Methods.* Inventory data shall be reported either on the Safety Device Inventory Reporting forms (Form 9-1994), punched cards, or magnetic tapes. The reports shall contain all of the required information in the standard format as described in subparagraph 6.1.1.

6.1.3.4 *Inventory Verification.* The device inventory shall be verified by the lessee to ensure that the inventory data base is maintained on a current basis and that changes are being incorporated as they occur. The verification shall be accomplished no more frequently than once each 6-month period. When verification is required, the USGS will provide the lessee with a copy of the information on record, in the lessee's selected reporting format. The lessee shall review the information and either submit a letter stating that the information is correct, or make the appropriate corrections to the information provided by the USGS. The letter or appropriate corrections shall be received no later than 30 days following the month in which the inventory information which is to be verified was forwarded to the lessee.

6.1.3.5 *Inventory-Reporting Deviation.* A lessee may submit an inventory, update, or verification report differing from that described in subparagraph 6.1.3 when authorized by the USGS.

6.1.4 *Device Failure Reporting.*

6.1.4.1 *Failure-Data Submittal*

The failure data, as defined in subparagraph 6.1.4.3, shall be received no later than 30 days following the month in which the failure was detected. This data must contain all of the required information and be submitted in the standard format either on Safety Device Failure Report forms (Form 9-1995), punched cards, or magnetic tape, as previously described in subparagraph 6.1.1. Information on the failed device must match that previously submitted in inventory reporting. A formal failure analysis is not required by this Order, but each failed device shall undergo sufficient test/disassembly to establish the basic cause(s) of the failure.

6.1.4.2 *Failure-Data Verification.* After receipt of the complete failure data from the lessees, the USGS will make a printout of all failures by manufacturer, model, and reported cause. Each manufacturer listed will be furnished a copy of the printout containing the reported failures of his devices only. If he disagrees with the reported failure causes, he is invited to

investigate the questioned causes in coordination with the reporting lessee and provide a coordinated reply within 6 weeks after receipt of the printout. If no reply is received within that time period, the originally reported causes will be considered to be correct, and the data will be evaluated accordingly.

6.1.4.3 *Failure Definition.* The safety and pollution-prevention device Failure and Inventory Reporting System does not differentiate between a malfunction and a failure. For the purpose of this program, a failure is defined as the inability of a device to perform its designed function within specified limits. A device is considered to have failed if it does not operate properly (perform its function) as required within the specified tests' tolerances. Examples of device failures are included in FIRS instruction Booklet.

A failure report is not required for:

- a. Adjustments made within specified tolerances.
- b. Adjustments required due to changes in operating conditions.

6.2. *Records.* The lessee shall maintain FIRS data records for a minimum period of 5 years. Equipment failure records shall be maintained in the nearest offshore field office for a minimum period of 2 years. (If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office.) The records may then be transferred to the onshore filed office for the remaining 3 years of the 5-year retention period. The records shall be available for review by any authorized representative of the USGS.

7. *Crane Operations.* Cranes shall be operated and maintained to ensure the safety of facility operations in accordance with the provisions of "API Recommended Practice for Operations and Maintenance of Offshore Cranes," API RP 2D, October 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use. Records of inspection, testing, maintenance, and crane operators qualified in accordance with the provisions of API RP 2D shall be kept in the field area for a period of 2 years.

"API Specification for Offshore Cranes," API Specification 2C, February 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use shall be used as a guideline for the selection of cranes.

8. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* The lessee shall make a planned, continuing effort to eliminate accidents due to human error. This effort shall include the training of personnel in their functions. A program to achieve safe and pollution-free

operations shall be established. This program shall include instructions in the provisions of "API Recommended Practice Orientation Program for Personnel Going Offshore for the First Time," API RP T-1, January 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use. "API Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," API Bulletin T-5, September 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use shall be used as a guide in developing employee safety and pollution-prevention motivation programs.

9. *Requirements for Drilling Rigs.*

9.1 *Fixed Structures.* The following requirements contained in this Order are applicable to drilling rigs on fixed structures:

a. Paragraph 1, "Use of Best Available and Safest Technologies (BAST)."

b. Subparagraph 5.1.10, "Electrical Equipment."

c. Subparagraph 5.4, "Welding Practices and Procedures."

d. Paragraph 8, "Employee Orientation and Motivation Programs for Personnel Working Offshore."

9.2 *Mobile Drilling Units.* The following requirements contained in this Order are applicable to drilling rigs on mobile drilling units:

a. Paragraph 1, "Use of Best Available and Safest Technologies (BAST)."

b. Subparagraph 5.4, "Welding Practices and Procedures."

c. Paragraph 8, "Employees Orientation and Motivation Programs for Personnel Working Offshore."

10. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 7

Subparagraph 1.1.1, 1.1.4, 1.2.1

Comments. Two commenters felt that the disposal of muds, cuttings, or produced water into the ocean should be prohibited. The concern was how this disposal affected the quality of the water and the organisms depending upon it.

Discussion. This suggestion was not adopted. The USGS feels that these products can be disposed of properly through stringent EPA disposal standards. Proposed lease stipulations prohibit disposal in water less than 10 meters due to inadequate circulation. In deeper waters, each lease is considered

separately, and disposal practices are closely monitored to insure that sensitive areas will not be damaged.

Subparagraph 1.1.3

Comments. Several commenters objected to the requirement for a closed sump on platforms and structures since modern technology has produced many types of open-ended sumps that will adequately prevent the discharge of oil.

Discussion. The USGS agrees that properly designed open sumps will prevent oil discharge and has changed the subparagraph to allow for the use of all properly designed and maintained sumps. The revised language also allows for the continued use of existing sumps as long as they are proven effective in preventing the discharge of oil.

Comments. One commenter recommended that the offshore disposal of contaminants from sumps should be prohibited.

Discussion. The Order prohibits disposal of any substance that will cause pollution. Contaminants from sumps will be treated accordingly as provided in lease stipulations and the authority of the District Supervisor.

Comments. Two commenters thought that the words "by subparagraph 1.1.3(a)" should be replaced with "to prevent the discharge of oil," because drilling units do not encounter the volumes of hydrocarbons that platforms do and should not need to meet all of the platform requirements.

Discussion. The suggestion was not adopted. It is the policy of the OCSLA Amendments to provide for pollution control on all offshore units. The revised subparagraph allows for the use of open sumps that prevent oil discharge and thus gives more flexibility for pollution control on all units.

Subparagraphs 1.1.3a and 1.1.3b

Comments. One commenter suggested that the original subparagraph 1.1.3a(2), *Existing Installations*, should be deleted. The commenter stated "... existing installations are exempted from compliance with the new requirements under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted. This commenter made a similar comment on subparagraph 3.1 of this Order and several subparagraphs of OCS Orders Nos. 2 and 5. Refer to the discussion of subparagraphs 2.2 for OCS Order No. 2.

Subparagraph 1.1.3 was revised and restructured in response to other comments. The phrase "After the effective date of this Order," was added to subparagraphs 1.1.3a and 1.1.3b. Subparagraph 1.1.3a covers existing

installations by requiring that "Improperly designed, operated, or maintained sump piles which do not prevent the discharge of oil into OCS waters shall be replaced as required by the District Supervisor."

Subparagraph 1.2.3

Comments. Several commenters thought that reporting requirements of equipment disposed into the ocean should be limited to those that may pose a hazard to navigation and fishing.

Discussion. It is the responsibility of the U.S. Coast Guard to determine which submerged objects present potential hazards, therefore, all equipment that enters the ocean should be reported.

Subparagraph 2.2.1

Comments. One commenter thought that a daily inspection of lease areas was not adequate for pollution detection. The suggestion was to provide for a systematic continuous monitoring system to detect spills and discharges.

Discussion. This suggestion was not adopted. The USGS feels that daily inspection procedures are adequate, especially when employing air surveillance. Special sensors that shut down production operations in the event of malfunction are required in accordance with Order No. 5. No effective equipment that is economically feasible has been developed for monitoring pollution around platforms.

Subparagraph 2.2

Comments. Several commenters thought that inspections of unattended facilities should be conducted "frequently" instead of "daily."

Discussion. The District Supervisor may prescribe other intervals in the event of adverse conditions. The daily requirement is necessary to uphold the best possible pollution control.

Comments. One commenter suggested changing the word "immediately" to the phrase "as soon as practicable."

Discussion. The intent of the word "immediately" is to perform repairs with the least possible delay, and the word will be retained to provide for the best possible pollution prevention. Departures may be granted in the event of extreme circumstances.

Subparagraph 3.1

Comments. One commenter was uncertain whether this section allowed for the use of organized pollution-control companies.

Discussion. The intent of this subparagraph does allow for these companies since the equipment "shall

be available to each lessee * * * at a location approved by the Supervisor."

Comments. One commenter suggested that subparagraph 3.1 should be * * * rewritten so as to make it clear that existing installations are exempted from compliance with new requirements."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2 of OCS Order No. 2.

Subparagraph 4.1

Comments. One commenter suggested that the language provide for drills to be conducted by pollution-control equipment contractors. This procedure would avoid unnecessary repetitive training for each rig and would combine efforts in a more economical manner.

Discussion. The USGS agrees with this rationale and has adopted language that allows the contractor to conduct drills. The responsibility for the drills still lies with the lessee.

Comments. No comments received.

Discussion. The subparagraph did not specify any requirement for the frequency of the drills; therefore, language was added to require drills to be conducted at least once every 12 months.

Comments. One commenter suggested that the time schedule of drills should be contingent upon weather and drilling activities.

Discussion. Application can be made for time flexibility due to unforeseen events in the schedule submitted to the Supervisor.

Paragraph 5

Comments. It was questioned whether the USGS has the authority to approve the use of chemical agents or other activities instead of the U.S. Coast Guard.

Discussion. This authority is granted to USGS pursuant to the Memorandum of Understanding between the USGS and the U.S. Coast Guard dated August 16, 1971.

U.S. Department of the Interior,
Geological Survey Conservation
Division

OCS Order No. 7—Effective January 1, 1980

Pollution Prevention and Control

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.43. The lessee shall comply with the following requirements:

1. **Pollution Prevention.** During the exploration, development, production, and transportation of oil and gas, the lessee shall prevent pollution of the

ocean. Furthermore, by the disposal of waste materials into the ocean, the lessee shall not create conditions which will adversely affect the public health, life, property, aquatic life, wildlife, recreation, navigation, commercial fishing, or other uses of the ocean.

1.1 Liquid Disposal.

1.1.1 **Drilling-Mud Components.** The lessee shall submit as a part of the Application for Permit to Drill (Form 9-331 C), a detailed list of drilling-mud components including the common chemical or chemical trade name of each component, a list of the drilling-mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling-mud disposal. The disposal of drilling mud is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of disposal of drilling-mud disposal into the ocean shall be obtained from the District Supervisor; each request will be decided on a case-by-case basis.

1.1.2 **Hydrocarbon-Handling Equipment.** All hydrocarbon-handling equipment for testing and production such as separators, tanks, and treaters shall be designed and operated to prevent pollution. Maintenance or repairs which are necessary to prevent pollution of the ocean shall be undertaken immediately.

1.1.3 Curbs, Gutters, and Drains for Fixed Platforms or Structures and Mobile Drilling Units.

a. **Fixed Platforms or Structures.** After the effective date of this Order, curbs, gutters, drip pans, and drains shall be installed in all deck areas in a manner necessary to collect all contaminants and piped to a properly designed, operated, and maintained sump system which will automatically maintain the oil at a level sufficient to prevent discharge of oil into OCS waters. Sump piles shall not be used as a processing device to treat or skim liquids, but shall be used to collect treated produced water, treated sand, liquids from drip pans and deck drains, and as a final trap for hydrocarbon liquids in the event of equipment upsets. Improperly designed, operated, or maintained sump piles which do not prevent the discharge of oil into OCS waters shall be replaced as required by the District Supervisor.

b. **Mobile Drilling Units.** After the effective date of this Order, curbs, gutters, and drains which collect contaminants associated with the drilling operation on a mobile drilling unit shall be installed as required by subparagraph 1.1.3a.

Curbs, gutters, and drains which collect contaminants not associated

with the drilling operation are subject to regulation by the U.S. Coast Guard.

1.1.4 **Discharges from Fixed Platforms or Structures and Mobile Drilling Units.** Discharges from fixed platforms or structures and mobile drilling units, including sanitary waste, produced water, drilling mud, and deck drainage, are subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended.

1.2 Solid Material Disposal.

1.2.1 **Well Solids.** The disposal of drill cuttings, sand, and other well solids containing oil is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of disposal of drill cuttings, sand, and other well solids shall be obtained from the District Supervisor.

1.2.2 **T3Containers.** Containers and other similar solid waste materials shall not be disposed of into the ocean.

1.2.3 **T3Equipment.** Disposal of equipment into the ocean is prohibited except under emergency conditions. The location and description of any equipment disposed of into the ocean shall be reported to the District Supervisor and to the U.S. Coast Guard in accordance with paragraph 4 of OCS Order No. 1.

2. Personnel, Inspection, and Reports.

2.1 **T3Personnel.** The lessee's personnel shall be instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Contractor personnel providing services offshore shall be informed in writing, prior to executing contracts, of the lessee's obligations to prevent pollution and of the provisions of this Order.

2.2 T3Pollution Inspections.

2.2.1 **T3Manned Facilities.** Manned drilling and production facilities shall be inspected daily to determine if pollution is occurring. Maintenance or repairs which are necessary to prevent pollution of the ocean waters shall be undertaken and performed immediately.

2.2.2 **T3Unattended Facilities.** Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor to determine if pollution is occurring. Necessary maintenance or repairs shall be made immediately.

2.3 **T3Pollution Reports.** All spills of oil and liquid pollutants shall be reported orally to the District Supervisor and shall be confirmed in writing. All

reports shall include the cause, location, volume of spill, and action taken. Reports of spills of more than 5.0 cubic meters (31.5 barrels) shall include information on the sea state, meteorological conditions, size, and appearance of slick. All spills of oil and liquid pollutants shall also be reported in accordance with the procedure contained in 33 CFR 153.203.

2.3.1 **T3Spills.** Spills shall be reported orally within the following time limits:

a. Within 12 hours, if spills are 1.0 cubic meters (6.3 barrels) or less.

b. Without delay, if spills are more than 1.0 cubic meters (6.3 barrels).

2.3.2 **Observed Malfunctions.** Lessees shall notify each other of observed pollution resulting from another's operation.

3. **Pollution-Control Equipment and Materials and Oil Spill Contingency Plans.** The lessee shall submit a description of procedures, personnel, and equipment that will be used in reporting, cleanup, and prevention of the spread of any pollution resulting from an oil spill which might occur during exploration or development activities. The following subparagraphs describe the minimum requirements for pollution-control equipment and procedures.

3.1 **Equipment and Materials.** Pollution-control equipment and materials shall be maintained by, or shall be available to, each lessee at an offshore location or at a location approved by the Supervisor. The equipment shall include containment blooms, skimming apparatus, cleanup materials, chemical agents and other items needed for the existing climatic conditions, and shall be available prior to the commencement of drilling and production operations. The equipment and materials shall be inspected monthly and maintained in a state of readiness for use. The results of the inspections shall be recorded and maintained at the site.

3.2 **Oil Spill Contingency Plans.** The lessee shall submit an Oil Spill Contingency Plan for approval by the Supervisor, with or prior to submitting an Exploration Plan or a Development and Production Plan. Oil Spill Contingency Plans shall be reviewed annually. All modifications of the Oil Spill Contingency Plan and the results from the review of the plan shall be submitted to the Supervisor for approval. The Oil Spill Contingency Plan shall contain the following:

a. Provisions to assure that full resource capability is known and can be committed during an oil spill, including the identification and inventory of applicable equipment, materials, and

supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment of the equipment.

b. Provisions for varying degrees of response effort depending on the severity of the oil spill.

c. Provisions for identifying and protecting areas of special biological sensitivity.

d. Establishment of procedures for the purpose of early detection and timely notification of an oil spill including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil spill, and the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil spill is discovered.

e. Provisions for well-defined and specific actions to be taken after discovery and notification of an oil spill, including:

(1) Specification of an oil spill response operating team consisting of trained, prepared, and available operating personnel.

(2) Predesignation of an oil spill response coordinator who is charged with the responsibility and is delegated commensurate authority for directing and coordinating response operations.

(3) A preplanned location for an oil spill response operations center and a reliable communications system for directing the coordinated overall response operations.

(4) Provisions for disposal of recovered spill materials.

4. Drills and Training.

4.1 **Drills.** Drills for familiarization with pollution-control equipment and operational procedures shall be the lessee's responsibility and shall be held at least once every 12 months by the lessee or a contractor serving the lessee. The personnel identified as the oil spill response operating team in the Contingency Plan shall participate in these drills. The drills shall be realistic and shall include deployment of equipment. A time schedule with a list of equipment to be deployed shall be submitted to the Supervisor for approval. The drill schedule shall provide sufficient advance notice to allow U.S. Geological Survey personnel to witness any of the drills. Drills shall be recorded, and the records shall be made available to U.S. Geological Survey personnel. Where drill performance and results are deemed inadequate, the Supervisor may require an increase in the frequency or a change in the location of the drills until satisfactory results are achieved.

4.2 *Training.* The lessee shall ensure that training classes for familiarization with pollution-control equipment and operational procedures are provided for the oil spill response operating team. The supervisory personnel responsible for directing the oil spill response operations shall receive oil spill control instruction suitable for all seasons. The lessee shall retain course completion certificates or attendance records issued by the organization where the instruction was provided. These records shall be available to any authorized representative of the U.S. Geological Survey upon request.

5. *Spill Control and Removal.* Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the lessee's Oil Spill Contingency Plan shall be subject to modification when directed by the Supervisor. The primary jurisdiction to require corrective action to abate the source of pollution shall remain with the Supervisor, pursuant to the provisions of this Order and the Memorandum of Understanding (MOU) between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey), dated August 16, 1971. The use of chemical agents or other additives shall be permitted only after approval by the Supervisor in accordance with Annex X, National Oil and Hazardous Substances Pollution Contingency Plan, and in accordance with the previously mentioned MOU.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approval:
Don E. Kash,
Chief, Conservation Division.

OCS Order No. 8

Title and Preamble

Comments. No comments received.
Discussion. The title of Outer Continental Shelf (OCS) Order No. 8 was revised by deleting the words "and Associated Equipment" to be consistent with the content of the Order. Provisions for associated production equipment and operations are now contained in OCS Order No. 5.

General Comments

Comments. Two commenters contended that the Department of the Interior or U.S. Geological Survey (USGS) has not complied with the provisions of Executive Order (E.O.) 12044 concerning the analysis of the potential economic impact of the Platform Verification Program.

Discussion. E.O. 12044 was effective on March 23, 1978, and was not retroactively applicable to rules under revision at that time. OCS Order No. 8 was published for revision in the Federal Register on August 25, 1977, and on June 7, 1977, the USGS published notice of intent to develop Platform Structural Verification Standards. When this proposed Standard was published for comment in the Federal Register on December 5, 1978, the Department of the Interior determined that a regulatory analysis under E.O. 12044 was not required.

Comments. Four commenters objected to being asked to comment on OCS Order No. 8 without copies of three companion documents referenced in the Order, and one stated that without the complete package "the impact of the program is impractical to quantify."

Discussion. The USGS considers that the public has been afforded appropriate opportunity to review and comment on all aspects of the Platform Verification Program and on OCS Order No. 8. The three companion documents were published for comment on December 5, 1978, and the period for submittal of comments was extended to March 1, 1979. The various comments that were received have been evaluated, and the first edition of these documents is being printed at this time. There has been little change in the basic content of these documents, except for the materials-requirements section which was changed as a result of detailed input from industry technical representatives.

Comments. Three commenters expressed strong opposition to the Platform Verification Program and revised OCS Order No. 8 because it "will certainly result in increasing the cost * * * due to over-restrictive requirements," * * * stifling industry growth." * * * collectively, these items start to become quite burdensome," * * * an unnecessary duplication of effort and expense and an unnecessary cost burden * * *."

Discussion. Numerous industrial representatives have stated that third-parties for design reviews, fabrication inspectors, and installation operation monitors are now commonly hired. In addition, a National Research Council Marine Board panel, staffed by a broad cross section of experienced industrial, governmental, and academic representatives, concluded that "the proposed third-party verification program for new offshore platforms will enhance the orderly extension of OCS oil and gas activities in an expeditious and efficient way by assuring the public and the Congress of the integrity of the fixed offshore platforms. A secondary

benefit will be a more uniform application of current technology." The USGS believes that the revised Order and the Verification Program are vital as our Nation's energy needs require extending the search for oil and gas into frontier OCS areas.

Comments. One commenter suggested a time limit of "10 days to two weeks" be placed on the Supervisor to approve or disapprove plans.

Discussion. This may not be practical in all cases, but when possible, the expeditious handling of all applications, reports, and verification plans will continue to be the USGS policy. Legislative constraints and regulatory directives influence such matters and must be followed.

Comments. Two commenters emphasized the importance of minimizing delay and strongly urged that fabrication be allowed to commence prior to final design approval.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Order.

Comments. One commenter stated that " * * * operators should be permitted to make repairs on a structure without approval being required * * *."

Discussion. The Order requires approval be obtained for major modifications and repairs. Furthermore, if certain damage requires immediate repair to assure structural integrity, the Order will in no way jeopardize such a situation while the Supervisor's approval is obtained. Prudent action should be taken under emergency conditions.

Comments. One commenter suggested that, on the effective date of the Order, the USGS should specify what structures are to be included or excluded from the new requirements.

Discussion. The provisions of this Order will not be retroactively effective. It will apply to all new platform applications and major modifications or repairs received in the office of the Supervisor on or after the effective date of the Order. If the Plan of Development/Production has been received, subject to submittal of platform design details, the new Order will not apply.

Paragraph 1

Comments. One commenter considered subparagraph 1.1 to be a major change in scope of the Verification Program; that the Requirements should be restricted to verification only and not to design, fabrication, and installation; and that the Gulf of Mexico is a mature area with no need for these requirements.

Discussion. The USGS does not agree with any of these comments. The primary thrust of the Platform Verification Program has been for platforms to be installed in frontier areas and in deepwater locations, and for platforms of unique design. This has been and remains a basic program concept to be accomplished by the two major elements: substantive (Requirements document) and procedural (OCS Order No. 8). These procedural requirements have been and are now contained in OCS Order No. 8. There is no major change in scope, nor can these requirements be limited to the verification function. The performance standards must be applied to the design, fabrication, and installation activities if the verification process is to be expedited. The proposed Order recognizes the maturity and successful past history of platform operations in the Gulf of Mexico area. Subparagraph 1.3 requires the application of the Verification Program to only certain platforms that meet specified conditions intended to consistently apply the primary thrust of the program to the Gulf of Mexico.

Comments. It was pointed out that the words "the design fabrication and installation" should be deleted from the second and third lines of subparagraph 1.1.

Discussion. The correction was made to clarify the intent of the subparagraph.

Comments. One commenter recommended that single-pile caissons be removed from the "other structure" category.

Discussion. This recommendation is not adopted because a primary USGS responsibility for platform or other structure approval is consideration of and protection of the environment. Therefore, no exceptions can be permitted, particularly to exploratory well structures.

Comments. A number of commenters objected to the inclusion of "repairs of damage" under the approval provisions of this Order in subparagraph 1.2. There is concern that delays in obtaining approval may pose risks and unsafe conditions to equipment, personnel, and the environment.

Discussion. It appears that the significant concern expressed by various commenters was possibly a misunderstanding of the intent of the subparagraph. It was intended to cover major repairs of damage to structural members affecting the structural integrity of the platform or other structure. In addition, the last sentence of subparagraph 1.2 was intended to provide for those situations where there was some question as to how to

proceed, where a verbal approval may be appropriate for emergency repairs in a timely manner, or whether the condition is or is not determined to be a major modification or repair. Minor repairs, such as replacing damaged decking, handrails, stairways, or boat landings, are not intended to be subject to approval by the Supervisor.

Subparagraph 1.2 has been modified to clarify the intent, adopting some of the suggested changes, but retaining the requirement for approval by the Supervisor of major modifications and repairs. In addition, the subparagraph provides for the possibility of emergency repairs proceeding expeditiously with subsequent notification to and approval by the Supervisor.

Comments. Two commenters suggested the deletion of the words "or repairs of damage" from subparagraph 1.3 to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion and believe that appropriate review can be accomplished under subparagraph 1.2 prior to approval by the Supervisor of major repairs of damage. The subparagraph has been modified accordingly.

Comments. One commenter questioned reference to the Supervisor for Operations Support in the Gulf of Mexico in subparagraph 1.3 and also suggested a rearrangement of the manner and timing of submittal of proposed platform applications.

Discussion. The words "for Operations Support" have been deleted from the Gulf of Mexico subparagraph 1.3 for consistent reference to the appropriate Supervisor as defined in the Preamble of this Notice. Concerning the arrangement of subsections and manner of submittal of applications, the USGS prefers the original format.

Comments. Three commenters expressed concern, confusion, or disagreement with the term "frontier area," especially in the Gulf of Mexico as used in subparagraph 1.3.

Discussion. A "frontier area" on the OCS is one in which there have been little, if any, oil and gas exploratory and development operations, e.g., the entire Atlantic OCS area, the Beaufort Sea, and all deepwater areas. For the Gulf of Mexico, the MAFLA, and South Texas areas, all areas involving 400 feet or greater water depths are considered frontier areas, as well.

Comments. One commenter suggested the substitution of the words "sites subject to" in lieu of "areas of" in the Gulf of Mexico subparagraph 1.3(c).

Discussion. The USGS does not agree with this suggestion due to the nature

and distribution of areas of unstable bottom conditions. The platform site selected may be stable but surrounded by or in close proximity to an area of unstable bottom conditions. The lessee must identify the design considerations necessary in areas of general unstable bottom conditions.

Comments. One commenter stated that "The documents listed in subparagraphs 1.4.1, 1.4.2, 1.4.3, and 1.4.4 are shown as First Edition. These first editions should include any changes that are accepted from the comments made by interested parties on the draft documents," and another asked if the documents have been modified to include industry comments.

Discussion. All comments have been analyzed, and the documents will be changed as warranted upon concurrent publication with OCS Order No. 8.

Paragraph 2

Comments. Four commenters expressed disagreement with the words "prior to commencing any such work" due to the possible delays involved and apparently are willing to assume the risk that proposed changes will be approved. They suggested deletion of the words from subparagraph 2.1.

Discussion. The USGS is willing to accept this suggestion in order to minimize delays in the fabrication or installation process; however, the following sentence has been added: "The lessee assumes the risk of making changes or modifications without prior approval of the Supervisor."

Comments. One commenter questioned the certification requirement by a registered professional structural engineer or civil engineer specializing in structural design and suggested that "a certified or recognized naval architect-marine engineering firm would be able to qualify."

Discussion. The USGS insists upon certification by qualified professional personnel experienced in structural design of offshore platforms and other structures covered by this Order. Any naval architect-marine engineering firm having such qualified personnel and experience will be acceptable.

Comments. Two commenters suggested removing the words "or repairs" from subparagraphs 2.3, 2.5, and 3.1.

Discussion. We agree with the suggestion, and the subparagraphs have been modified accordingly.

Comments. Numerous commenters expressed concern about the possible delays that may result from the provision in subparagraph 2.5 requiring design approval "prior to commencing the fabrication."

Discussion. We agree, and the words "prior to commencing the fabrication and obtain approval for the" have been deleted and the word "and" inserted in subparagraph 2.5.

Paragraph 3

Comments. One commenter questioned the required design documentation for approval of "major platforms" as compared to "single-pile caissons and other small well protectors."

Discussion. We agree that less design documentation will be necessary for a single-pile caisson than for a major platform; however, the exact details will have to be determined on a case-by-case basis with the concurrence of the Supervisor.

Comments. One commenter recommended replacing the word "approval" with the word "submittal" in subparagraph 3.2.1 in order to expedite the overall verification process.

Discussion. We agree with the recommendation and subparagraph 3.2.1 has been so modified.

Comments. Four commenters pointed out that "finalized construction drawings" may not be available to be included with the submittal of design documentation.

Discussion. Subparagraph 3.2.1. has been revised to require submittal of design drawings and material specifications for primary load-bearing structural members. The submittal of construction drawings and specifications will be required as a part of the Fabrication Verification Plan (subparagraph 3.3), and finalized as-built drawings are to be retained and made available by the lessee for the functional life of the platform or other structure (paragraph 4, "Records").

Comments. One commenter suggested that material specifications need not be submitted if the platform is designed in accordance with the requirements.

Discussion. We disagree with this suggestion. The characteristics of the materials of construction are a very pertinent design consideration, and their documentation is necessary for a meaningful design review.

Comments. One commenter inquired as to what information is contained in the Plan of Development/Production and if platform design data is included in the Plan.

Discussion. The complete details on submittal of Plans of Development/Production are contained in 30 CFR 250.34 of the OCS Operating Regulations. Platform design documentation is a necessary part of the Plan. This documentation must at least present a preliminary design sufficient

to assess the approach proposed and its applicability.

Comments. One commenter strongly questioned "the need for an the advisability of adding" the Universal Transverse Mercator grid system coordinates for platform location data in subparagraph 3.2.1.1 as "an unjustified increase in paperwork and * * * source of confusion."

Discussion. Concern seems to be unfounded as conversion tables and techniques are readily available, and these are generally accepted methods of accurately describing a location. The USGS receives public requests for coordinates of a platform location on each of the systems.

Comments. Two commenters pointed out that complete details may not be available to comply with the requirements of subparagraphs 3.2.1.1.d and c at the time design documentation is submitted.

Discussion. The General Platform Information requirements need not all be submitted with the design documentation, and it will be permissible to supplement the application when these details are available.

Comments. Two commenters suggested omitting items "g" and "h" in subparagraph 3.2.1.1 because "g" is redundant and "h" is unclear.

Discussion. We agree that item "g" is redundant as Material Specifications are required by subparagraph 3.2.1.4.c; therefore, it is deleted from subparagraph 3.2.1.1.

We do not think item "h" (Design Standard) is unclear; however, we feel that the objective is obtained by receipt of the documentation required by subparagraph 3.2.1 and the verification process. Therefore, item "h" has also been deleted.

Comments. One commenter suggested that the level of detail and the methodologies to be used regarding information required in the environmental reports which accompany the Plan of Development/Production be clarified and, further, that an explanation be provided as to the relationship of this information to the environmental information required under OCS Order No. 8.

Furthermore, the commenter recommended that the following requirements be included in the environmental information to be submitted in accordance with OCS No. 8:

1. Tests should be conducted to determine the concentration of light hydrocarbons in the seabed and subsurface soils and sediments.

2. Side-scan sonar profiles should be conducted over the sites proposed for structures to determine if geologic (e.g., sand waves) or manmade hazards are present.

Discussion. Discussion of the details and methodologies to be used for information required by 30 CFR 250.34 is beyond the scope of OCS Order No. 8. However, 30 CFR 250.34 requires "a narrative description of the existing environment, with an emphasis on those environmental values that may be affected by the proposed action"; whereas, the requirement for submittal of environmental information under OCS Order No. 8 is for determination of the effects of the environment on the structural integrity of platforms to be installed in OCS waters.

Concerning item 1, subparagraph 3.2.1.3.a requires the type of data submittal which will indicate any existence of light hydrocarbons. Concerning item 2, whereas the use of side-scan sonar is not specifically called for, the identification of sea-floor hazards is required by subparagraphs 3.2.1.3.a, c, and e.

Comments. One commenter suggested that the phrase " * * * wind and gust velocities with relative heights * * *" be replaced with " * * * vertical distribution of wind and gust velocities * * *" in subparagraph 3.2.1.2.a.

Discussion. We agree with this suggestion, and the wording has been modified accordingly.

Comments. One commenter suggested that the word "data" used in subparagraphs 3.2.2.a and 3.2.1.2.c be replaced by the word "criteria."

Discussion. The USGS disagrees with this suggestion. The use of the word "data" in 3.2.1.2.a is considered to be appropriate and corresponds to its use (with accompanying description) in subparagraph 2.1.2 of the Requirements. However, we do agree that the term "loading data" used in subparagraph 3.2.1.2.c should be replaced by the term "derived loads," and that wording has been modified accordingly.

Comments. Two commenters suggested that subparagraph 3.2.1.2.b be deleted in view of the fact that the subject matter contained therein is also contained in subparagraph 3.2.1.3.

Discussion. We agree with this suggestion, and the appropriate modification has been made.

Comments. One commenter suggested that the USGS obtain geophysical and soil-boring information directly from the seismic and drilling contractors.

Discussion. We disagree with this suggestion. The USGS requires the submittal of such information from the lessees.

Comments. One commenter suggested that subparagraph 3.2.1.3.b should be stated in more general terms by ending the sentence after the word "foundation."

Discussion. We agree with this suggestion, and the appropriate modification has been made.

Comments. One commenter suggested that a soil stability analysis will not be necessary in areas where repeated analysis and soil-boring data indicate stable bottom conditions.

Discussion. We agree that the present wording should be clarified to reflect this fact, and subparagraph 3.2.1.3.c has been modified accordingly.

Comments. Two commenters suggested that subparagraph 3.2.1.4.d is unclear and should be clarified or deleted.

Discussion. We agree, and the wording has been shortened and clarified.

Comments. One commenter suggested that the discussion regarding structural fatigue be relocated from subparagraph 3.2.2.b to 3.2.1.4.e.

Discussion. We agree with this suggestion, and the discussion on fatigue has been relocated accordingly.

Comments. One commenter suggested that the wording " * * * where components of high strength steel are subjected to cyclic loading" be inserted after the wording in parentheses at the end of the second sentence in subparagraph 3.2.4.e (Gulf of Mexico).

Discussion. We agree with this suggestion, and the sentence has been modified accordingly.

Comments. Two commenters questioned the necessity of performing a fatigue analysis of platforms for which the use of high-strength steel is limited to only a small percentage of the total structural members.

Discussion. In general, if primary load-bearing structural members are fabricated of high-strength steel for the purpose of using higher allowable cyclic stress levels (higher than those allowed for mild steel), a fatigue analysis will be required for those members.

Comments. One commenter recommended replacing the word "approval" with the word "submittal" in subparagraph 3.2.2 in order to expedite the overall verification process.

Discussion. We agree with this suggestion, and the change in wording has been made.

Comments. One commenter suggested removal of the words "or repairs" from subparagraph 3.2.2 in order to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion, and the subparagraph has been modified accordingly.

Comments. One commenter suggested deletion of the words "as a part of the plan" in subparagraph 3.2.2.

Discussion. We disagree with this suggestion and prefer to retain this wording.

Comments. One commenter suggested that whenever the word "plan" is used in subparagraph 3.2.2, an identification be made as to which "plan" is being referred.

Discussion. We agree with this suggestion, and the appropriate identification has been added.

Comments. One commenter questioned the uniformity of the level of involvement of the CVA's in various projects.

Discussion. The USGS will ensure that a minimum required level of involvement be maintained by all CVA's.

Comments. One commenter suggested that it will be a duplication of effort for the lessee to furnish the qualifications of the CVA, as this information will be obtained and maintained by the Platform Verification Section.

Discussion. A CVA's qualifications may be initially submitted to the USGS either by the CVA directly or through the lessee. The requirement for submission of qualifications addressed by this comment is to ensure that the appropriate personnel on the staff of the CVA will be used and that the qualifications of the CVA have not changed.

Comments. One commenter suggested that the USGS should not require resubmittal of the Verification Plan(s) in the event of the CVA changes.

Discussion. The USGS does not agree with this suggestion.

Comments. One commenter suggested the deletion of the words "or repairs" from subparagraph 3.3 to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion, and the subparagraph has been modified accordingly.

Comments. Numerous commenters expressed concern about the possible delays that may result from the provision in subparagraph 3.3 requiring the lessee to submit a Fabrication Verification Plan subsequent to approval of the design.

Discussion. We agree, and the word "approval" has been deleted and the word "submittal" inserted in subparagraph 3.3.

Comments. One commenter suggested that we should specify what information

is required when submitting the Fabrication Plan.

Discussion. We agree with this suggestion, and subparagraph 3.3 has been modified to incorporate the following: " * * * fabrication drawings and material specification of all the main load carrying members included in the space frame analysis * * *"

Comments. One commenter suggested the deletion of the words "or repairs" from subparagraph 3.4 to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion, and the subparagraph has been modified accordingly.

Comments. One commenter suggested the deletion of the words "subsequent to the approval of the fabrication" from subparagraph 3.4.

Discussion. We agree with this suggestion, and the subparagraph has been modified to require submittal of the Installation Verification Plan subsequent to the submittal of the Fabrication Verification Plan.

Paragraph 4

Comments. One commenter suggested " * * * it may be desirable to maintain design records for the life of the platform, maintenance of all other records should be limited to 5 years."

Discussion. We do not agree with this suggestion. However, the subparagraph has been modified to incorporate the following: "the as-built structural drawings, the design assumptions and analysis, and a summary of the NDE records."

U.S. Department of the Interior,
Geological Survey Conservation
Division

OCS Order No. 8—Effective January 1,
1980

Platforms and Structures

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 30 CFR 250.11 and in accordance with 30 CFR 250.18.

1. Applicability.

1.1 *New Platforms.* Subsequent to the effective date of this Order, all new fixed or bottom-founded platforms or other structures (e.g., single-pile caissons, ice islands, and gravel islands) shall be designed, fabricated, and installed in accordance with the applicable provisions of the document, entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," and shall require approval under the provisions of this Order.

Where doubt exists as to the applicability of this Order, questions shall be referred to the Supervisor.

1.2 *Major Modifications and Repairs.* Subsequent to the effective date of this Order, major modifications and repairs of damage to all fixed or bottom-founded platforms or other structures shall require approval by the Supervisor. Major modifications are defined as any structural change which materially alters the original plan or any major deviation from operations. Major repairs or damage are defined as operations involving members affecting the structural integrity of a portion of or all of the platform or other structure.

Repairs to primary structural elements may be made to restore an existing permitted condition without prior approval under emergency conditions. The Supervisor shall be notified within 24 hours of the damage and subsequent repairs, and approval shall be obtained.

Where doubt exists as to the applicability of this Order, questions shall be referred to the Supervisor.

1.3 Platform Verification.

Pacific, Gulf of Alaska, and Atlantic: All new platforms or other structures, and major modifications to platforms or other structures, shall be subject to review under the requirements of the Platform Verification Program and to the approval of the Supervisor.

Gulf of Mexico: All new platforms or other structures, and major modifications to platforms or other structures which meet any of the following conditions, shall be subject to review under the requirements of the Platform Verification Program and to the approval of the Supervisor:

- Installed in water depths exceeding 120 meters (400 feet).
- Having natural periods in excess of 3 seconds.
- Installed in areas of unstable bottom conditions.
- Installed in frontier areas.
- Having configurations and designs which are unique in relation to typical Gulf of Mexico installations.

All new platforms or other structures and major modifications or repairs to platforms or other structures not subject to the requirements of the Platform Verification Program shall be subject to the review and approval of the Supervisor.

1.4 *References.* Other aspects of the Platform Verification Program are described in more detail in the following documents, and these documents shall be considered as references for this Order.

1.4.1 *Operating Procedures for the OCS Platform Verification Program.* The document, entitled "Operating Procedures for the OCS Platform Verification Program," October 1979, describes the elements of the Platform

Verification Program, the verification steps, the function of the Platform Verification Section, and the procedures for resolution of disputes; defines standards which shall be met by individuals or organizations in order to be approved as Certified Verification Agents (CVA); and provides instructions to the CVA.

1.4.2 *Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as

"Requirements." It identifies mandatory state-of-the-art performance standards which shall be met in designing, fabricating, and installing platforms or other structures and major modifications to platforms or other structures.

1.4.3 *Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Appendices." It identifies alternative engineering design procedures which may be utilized, where applicable, to conform to the "Requirements."

1.4.4 *Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Commentary." It provides an explanation of the basic intent of the "Requirements" and also discusses the "Requirements," the "Appendices," and the current relative development of the state of practice for pertinent parts of both.

2. Responsibility.

2.1 *Submission.* All applications for approval under the provisions of this Order shall be submitted to the Supervisor. All significant changes or modifications (i.e., any structural change which materially alters the original plan or any major deviation from operations) to approved applications shall be submitted for approval to the Supervisor. The lessee assumes risk of making changes or modifications without prior approval of the Supervisor. Where doubt exists as to whether a change is significant, questions shall be referred to the Supervisor.

2.2 *Certification.* The lessee shall have detailed structural plans and specifications for new platforms or other structures and major modifications certified by a registered professional structural engineer or civil engineer specializing in structural design. The lessee shall also sign and date the

following certification: Lessee certifies that the design of the (structure/modification) has been certified by a registered professional structural engineer or a civil engineer specializing in structural design, and the (structure/modification) will be fabricated, installed, and maintained as described in the application and any approved modification thereto. Certified design and as-built plans and specifications will be on file at _____.

2.3 *Verification.* The lessee shall nominate a CVA(s) in the verification plan and have the design, fabrication, and installation of all platforms or other structures and modifications to platforms or other structures which are subject to review under the requirements of the Platform Verification Program verified by a CVA(s).

2.4 *Approval.* For new platforms or other structures and major modifications thereto subject to review under the requirements of the Platform Verification Program, the lessee shall obtain approval for the design and fabrication from the Supervisor prior to transporting the platform or other structure to the installation site.

2.5 *Notification.* The lessee shall be responsible for notifying the Supervisor at least 1 week prior to transporting the platform or other structure to the installation site.

3. Submissions.

3.1 *General.* The lessee shall submit to the Supervisor, in triplicate, all documentation necessary for approval of new platforms or other structures and major modifications in accordance with the provisions of this Order. Listed hereafter is the documentation which shall be submitted; however, more detailed information and data may be required on a case-by-case basis and upon specific request by the Supervisor.

3.2 Design.

3.2.1 *Design Documentation.* The lessee shall submit design documentation with or subsequent to the submittal of the Plan of Development/Production or the Plan of Exploration. The design documentation shall include design drawings and material specifications for primary load-bearing members included in the space frame analysis, the certification by the lessee, and the name of the registered professional engineer. In addition, the design documentation shall incorporate the following:

- General platform information.
- Environmental and loading information.
- Foundation information.
- Structural information.

3.2.1.1 *General Platform Information.* The general platform information shall include the following:

a. Identification data including the platform or structure designation, the lease number, the area name, the block number, and the lessee's name.

b. Location data consisting of longitude and latitude coordinates, Universal Transverse Mercator grid system coordinates, state plane coordinates in the Lambert or Transverse Mercator Projection system, and a plat drawn to a scale of 1 centimeter = 240 meters (1 inch = 2,000 feet) showing surface location and distance from the nearest lease lines.

c. Intended primary use and other intended functions such as planned drilling, production, processing, well protection, compression, pumping or storage facility, or other operations.

d. Personnel facilities, personnel access to living quarters, number and location of boat landings, heliports, cranes, and evacuation routes.

e. Platform or structure details which consist of drawings, plats, front and side elevations of the entire structure, and plan views that clearly illustrate the following: essential parts (i.e.,

equipment arrangement, number and location of well slots); design loadings of each deck; water depth; nominal size and thickness of all primary load-bearing jacket and deck structural members; nominal size, makeup, thickness, and design penetration of piling.

f. Corrosion protection or durability details which consists of the corrosion-protection method; expected life; and durability criteria for the submerged, splash, and atmospheric zones.

3.2.1.2 *Environmental and Loading Information.* The environmental and loading information shall include the following:

a. Environmental data, which consists of a summary listing of data, as addressed in the "Requirements," that have a bearing on the design, installation, and operation (e.g., wave heights and periods, current, vertical distribution of wind and gust velocities, water depth, storm and astronomical tide data, marine growth, snow and ice effects, and air and sea temperatures).

b. Derived loads which consists of a listing of total design functional loads and loads due to wind, wave, ice, and current forces for longitudinal, transversal, and diagonal approaches.

3.2.1.3 *Foundation Information.* The foundation information shall include the following:

a. Seabed testing results which consist of a brief summary of the major strata encountered at the location of the

boring(s) presented in tabular form, a detailed subsurface profile illustrating results of field and laboratory testing, a listing of field and laboratory investigations and tests with a basic summary of resultant determinations, and the identification of properties and conditions of the seabed and the subsoil, and the identification of any manmade hazards or obstructions.

b. Load effects which consist of a description of the effect of the environmental and functional loads on the foundation.

c. A soil stability report including a determination, with supporting information, of the susceptibility or nonsusceptibility of the area to soil movement and, if susceptible to soil movement, an analysis of slope and soil stability.

d. Foundation design criteria which consist of a summary of the design criteria as specified in the "Requirements."

e. Sea floor survey results which consist of a summary of the survey specified in the "Requirements."

3.2.1.4 *Structural Information.* The structural information shall include the following:

a. Design life criteria which consist of the identification of the basis of the design life of the structure.

b. Design loading and criteria which consist of a summary description of the design load conditions and design load combinations taking into consideration the worst environmental and operational conditions anticipated over the service life of the platform or structure.

c. Material specifications which consist of a listing and descriptions of the appropriate specifications.

d. Design strength criteria which consist of a description of the method(s) used in design (i.e., elastic, plastic ductility, ultimate).

e. Fatigue assessment details which consist of:

Pacific, Gulf of Alaska, and Atlantic: A summary of the fatigue analysis as specified in the "Requirements." The requirement for fatigue analysis shall be determined on a case-by-case basis. Where doubt exists concerning the requirement for this analysis, questions shall be referred to the Supervisor.

Gulf of Mexico: A summary of the fatigue analysis as specified in the "Requirements." A fatigue analysis shall be performed for each steel template, pile-supported platform with natural periods greater than 3 seconds, and for each structure to be fabricated of high-strength steel (i.e., over 345 MPa (50ksi) minimum yield) where components of high-strength steel are subjected to

cyclic loading. The requirement for a fatigue analysis shall be determined on a case-by-case basis for all other platforms or other structures. Where doubt exists concerning the requirements for this analysis, questions shall be referred to the Supervisor.

3.2.2 *Design Verification Plan.* For the new platforms or other structures and for modifications which are subject to review under the requirements of the Platform Verification Program, the lessee shall submit a design verification plan with or subsequent to the submittal of the Plan of Development/Production. The verification plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished with the platform application. Furthermore, the documentation listed under 3.2.1, as well as computer program descriptions which consist of abstracts of the computer programs used or to be used in various phases of the design process, shall be submitted as a part of the design verification plan.

The design verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, or if the level or work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

3.3 *Fabrication.* For new platforms or other structures and for modifications which are subject to review under the requirements of the Platform Verification Program, the lessee shall submit a fabrication verification plan subsequent to the submittal of the design. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall include fabrication drawings and material specifications of all the primary load-bearing members included in the space-frame analysis and a summary description of the following:

- Structural tolerances.
- Welding procedures.
- Fabrication standards.
- Material quality-control procedures.
- Methods and extent of Non-Destructive Examinations (NDE) for welds and materials.
- Quality assurance procedures.

The fabrication verification plan shall be resubmitted for approval if the CVA

changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

3.4 Installation. For new platforms or other structures and for modifications subject to review under the requirements of the Platform Verification Program, the lessee shall submit an installation verification plan subsequent to the submittal of the fabrication verification plan. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall also include a summary description of the planned marine operations, contingencies considered, alternate courses of action, and a summary description of the inspections to be performed during marine operations, including a graphical identification of areas to be inspected and acceptance/rejection criterion. The installation verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

For structures fabricated and installed in place (e.g., ice islands and gravel islands), the fabrication and installation verification plans may be combined.

4. Records. The lessee shall compile, retain, and make available for review for the functional life of the platform or other structure that is subject to the provisions of this Order, the as-built structural drawings, the design assumptions and analysis, and a summary of the NDE records.

5. Departures. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.11(b).

Approved:
Don E. Kash,
Chief, Conservation Division.

Operating Procedures for the OCS Platform Verification Program

Title

Comments. No comments received.
Discussion. None

General Comments

Comments. One commenter expressed strong opposition to the Outer Continental Shelf (OCS) Platform Verification Program (PVP) because it will result in increased cost due to over-restrictive requirements, will delay development of oil and gas resources, and will inhibit efficient operations which have been successful "for more than thirty years."

Discussion. The additional requirements imposed are for those platforms subject to the OCS Platform Verification Program. These platforms will be installed in areas in which the follow-conditions exist: there is little or no past experience upon which to base engineering judgments; platforms may be subjected to loading conditions which were not experienced in the past; platforms could cause significant safety hazards if they collapse or sustain significant structural damage; and they may not be easily evacuated. The U.S. Geological Survey (USGS) was delegated the responsibility and authority to address these concerns by the Secretary of the Department of the Interior in conjunction with the mandated responsibility stated in 30 CFR 250 to prevent damage to the environment, waste of any natural resource, or injury to life or property. The environmental, economic, and human significance of such a loss justifies the program.

Comments. Three commenters questioned the need for an the applicability of the concept of the Certified Verification Agent.

Discussion. Numerous industry representatives have stated that design reviews by a third party, fabrication inspectors, and installation monitors are now commonly used. In addition, a National Research Council Marine Board panel, staffed by a broad cross section of experienced industrial, governmental, and academic representatives, concluded that "the proposed third-party verification program for new offshore platforms will enhance the orderly extension of OCS oil and gas activities in an expeditious and efficient way by assuring the public and the Congress of the structural integrity of the fixed and bottom founded offshore platforms." A secondary benefit will be a more uniform application of current technology and an application of the concept of best and safest technology (BAST) which is identified in the 1978 Amendments to the OCS Lands Act.

Comments. Two commenters contended that the USGS has not complied with the provisions of

Executive Order 12044 concerning the analyses of the potential economic impact of the OCS Platform Verification Program.

Discussion. Executive Order 12044 was effective on March 23, 1978, and was not retroactively applicable to rules under revision at that time. OCS Order No. 8 was published for revision in the *Federal Register* on August 25, 1977, and on June 7, 1977, the USGS published in the *Federal Register* a Notice of Intent to develop Platform Structural Verification Standards. When the Proposed Standard was advertised as available for public comment in the *Federal Register* on December 5, 1978, the Department of the Interior determined that a regulatory analysis made under Executive Order 12044 was not required.

Comments. Two commenters objected to being asked to comment on the Operating Procedures without having the three associated technical documents available for comment as well. The claim was made that these associated technical documents had never been made available for public comment.

Discussion. The USGS considers that the public has been afforded ample opportunity to review and comment on all aspects of the OCS Platform Verification Program. The three associated technical documents were announced in the *Federal Register* on December 5, 1978, as being available for public comment. The comment period ended on March 1, 1979. The numerous comments that were received have been evaluated, and the First Edition of these documents is being printed at this time. There has been little change in the basic content of these documents, except for the Materials Section which was changed as a result of detailed input from industry technical representatives.

Comments. One commenter recommended that the OCS Platform Structural Verification Program is expanded to include mobile drilling units when immobilized and used as production platforms.

Discussion. This eventuality has been addressed in OCS Order No. 2, subparagraph 2.2. In the meantime, work and responsibility in this area are currently the subjects of discussions and lead to the development of a Memorandum of Understanding with the U.S. Coast Guard.

Comments. One commenter recommended that the OCS Platform Structural Verification Program be expanded to include subsea completion facilities.

Discussion. The USGS considers subsea completion facilities to be mechanical equipment and not

structures. The organization and expertise of the Platform Verification Section and potential Certified Verification Agents cannot adequately address the subsea completion facility. However, pertinent environmental and geophysical engineering concerns can be addressed on an as-needed basis when requested by the Supervisor.

Comments. One commenter recommended that either the term "Area Supervisor" or the term "Supervisor" be used consistently throughout the Operating Procedures.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Operating Procedures.

Comments. Two commenters expressed the need to perform repairs to damaged principal structural elements as expeditiously as possible without seeking preliminary additional approvals.

Discussion. We agree. The Operating Procedures have been revised to delete references to repairs from the requirements of the OCS Platform Verification Program. We believe that an appropriate review can be accomplished at the specific request of the Supervisor and prior to approval being given, in accordance with 30 CFR 250.18, by the Supervisor.

Comments. Two commenters suggested that a time limit be placed on the Supervisor for approval or disapproval of the various phases of work.

Discussion. This may not be practical in all cases, but, when possible, the expeditious handling of all applications, reports, and verification plans will continue to be the policy of the USGS. Legislative constraints and regulatory directives influence such matters and must be followed. However, to mitigate the potential for delays, it is recommended that the Certified Verification Agent(s) be involved early in the project and that preliminary discussions with the Platform Verification Section (PVS) be held at the beginning of each phase of work and not just upon completion.

Comments. Four commenters emphasized the importance of minimizing delays and strongly urged that each phase of work be allowed to commence prior to final approval of the preliminary phase of work.

Discussion. The USGS agrees that this is a potential source of delay; however, changes are not necessary to the Operating Procedures. It is emphasized that the lessee is responsible for ensuring that the required reports, documentation, and information are supplied to the Supervisor in order to provide for an adequate review prior to

approval or disapproval. Any modifications or changes which may be required for approval shall be the responsibility of the lessee.

Preface

Comments. One commenter was concerned that, based on his experience in the North Sea, procedures of this type do not accommodate innovation. The commenter recommended that a procedure be incorporated to make possible a preliminary approval of an alternative design approach.

Discussion. The USGS had this same concern when developing the OCS Platform Verification Program (PVP). By having the review of the Plan of Development/Production as the first formalized step in the PVP, innovative approaches will get early consideration. In addition, for innovative approaches, early involvement of the Certified Verification Agent (CVA) and the Platform Verification Section (PVS) in the design phase, at the request of the lessee, is recommended and will ensure a common understanding of the proposed approach during the preliminary stages of work and before an extensive amount of time is spent on the design. The PVP is flexible enough to incorporate the same preliminary review procedure for the fabrication and the installation phases of work.

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Comments. No comments received.
Discussion. None.

I. Introduction

Comments. No comments received.
Discussion. None.

II. Verification Steps

Comments. No comments received.
Discussion. None.

II.A. Identification of Responsible Parties

Comments. Five commenters recommended the insertion of the Installation Contractor in the list of parties directly involved in the verification process.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Operating Procedures.

Comments. One commenter recommended the deletion of the discussion of the Environmental Data and Information Management System (EDIMS).

Discussion. The USGS does not agree with the deletion. Although the EDIMS discussion is provided for information only and is not regulatory in nature, the concept of a computer-based, engineering information management

system is an integral part of the OCS Platform Verification Program. EDIMS will assist in attaining the mandated requirement in the 1978 Amendments to the OCS Lands Act to utilize the BAST in the development of OCS resources. EDIMS can be used as a common starting point in the discussion of the adequacy of design and installation approaches and will aid in collecting and making available engineering information useful in the expeditious and safe development of OCS resources.

II.B. Responsibilities

Comments. Three commenters indicated that the first sentence of paragraph II.B.1 appeared to be incomplete and confusing.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Operating Procedures.

Comments. One commenter was concerned that a Certified Verification Agent (CVA) may be approved and hired for one phase of the verification process or some combination of phases. It was felt that this could lead to difficulties in defining the "borderlines of responsibilities" and could increase the workload.

Discussion. The USGS does not agree. It is considered essential to allow a CVA to be used for one phase of the work, or for some combination of phases, to ensure that there is a choice of firms with expertise in that phase of the work. Although it will be important to identify "borderlines of responsibility" and to prevent interference and duplication, the problems which could be encountered are far outweighed by the positive aspects of this arrangement.

Comments. One commenter indicated concern that, although the Certified Verification Agent(s) is under contract to and responsible to the lessee, he submits his reports directly to the Supervisor. It was recommended that all reports be submitted to the lessee and that the lessee provide copies to the Supervisor.

Discussion. The USGS does not agree. The concept of the CVA was considered a more acceptable and flexible alternative to having the USGS build a large technical staff to perform the same work. As a result of budgetary limitations, it was not considered possible for the USGS to hire and maintain a staff of experts and provide the same degree of flexibility as can be done through the use of the CVA concept. However, the CVA concept also has inherent problems which must be addressed. One of the main problems is how to assure the CVA's objectivity and independent judgment. It is felt that

by having the CVA's submit their reports directly to the Supervisor, rather than through the lessee, the CVA's will feel more independent in their statements and actions and will, therefore, provide better engineering judgments.

Comments. One commenter recommended deletion of the indicated responsibility of BOMOGO to coordinate the establishment and operation of the Environmental Data and Information Management System (EDIMS).

Discussion. The USGS does not agree with the deletion of this stated responsibility; however, it does agree to rephrase the stated responsibility to provide a better indication of responsibility. As was stated earlier in response to a comment on paragraph II.A, the concept of a computer-based, engineering information management system is an important feature of the OCS Platform Verification Program and conforms to the mandated requirement in the 1978 Amendments to the OCS Lands Act to utilize BAST.

III. Disputes Procedures

Comments. One commenter stated that, since the Certified Verification Agent is hired by the lessee, the word of the lessee should be considered final in any dispute with the CVA. Therefore, arbitration by the Platform Verification Section (PVS) is not necessary and should be deleted.

Discussion. The USGS does not agree. As was stated earlier in response to a comment on paragraph II.B, the concept of the CVA has been made an essential feature of the OCS Platform Verification Program in lieu of the USGS hiring a large technical staff. Should a problem arise which results in a dispute between the lessee and the CVA, this disputes procedure would be essential to prevent the CVA from losing his objectivity and independent judgment.

Comments. One commenter stated that, since the Certified Verification Agent (CVA) is hired by and is responsible to the lessee, the CVA should not have any disputes with the Platform Verification Section, and no arbitration would be necessary.

Discussion. The USGS does not agree. The Certified Verification Agent (CVA) is not responsible only to the lessee even though the CVA is hired by the lessee. The CVA is responsible to the lessee and to the USGS to provide an independent, third-party review of a particular phase of the work. Since there is no single engineering solution to any problem, and one solution may be considered better by one expert and not by another expert, it is considered

essential that a procedure be included that will allow for the arbitration of disagreements and the mitigation of resultant delays.

IV. Certified Verification Agent Criteria

Comments. One commenter was of the opinion that only certifying agencies presently used by the marine industry should be CVA's.

Discussion. The USGS does not agree. It is not the intention of the USGS to limit the list of CVA's to certifying agents or agencies presently used by the marine industry. The USGS hopes to be able to develop a list of approved CVA's which will include both small and large private firms and existing certifying agencies to ensure that the best expertise is available. For this reason, a firm may be used as a CVA in one phase of the work or in some combination of the phases of work.

Comments. One commenter was concerned that the qualification standards for Certified Verification Agents (CVA's) is overly strict and could cause delays arising out of problems in securing a CVA.

Discussion. The USGS does not agree. The qualifications are essential to ensure that experienced, qualified individuals and organizations can become CVA's. However, the CVA concept will be continually monitored by the Platform Verification Section to ensure that minor problems do not cause significant delays in lease development.

Comments. One commenter was concerned that the list of CVA's will be limited to only firms with specific experience in particular areas and that firms with related experience would not be acceptable. A revision to paragraph IV.B was submitted for consideration.

Discussion. The USGS does not wish to prevent qualified firms from becoming CVA's. The proposed revision has been reviewed and will be incorporated in the Operating Procedures.

Comments. One commenter was concerned that firms that normally design, fabricate, or install offshore oil and gas platforms could not maintain their objectivity as a CVA for a particular platform without conflict of interest. It was recommended to limit selection of CVA's to organizations "whose primary function is third-party verification."

Discussion. The USGS does not agree. In order to ensure that the best expertise is available to be utilized in the CVA function, it is imperative that firms not be prevented from becoming CVA's on the basis of their having designed, fabricated, or installed platforms. The potential for conflict of interest must be dealt with on a case-by-case basis.

Comments. One commenter was concerned that the CVA qualifications enumerated "do not indicate a minimum degree of professional competency" and recommended some type of written or oral test be required.

Discussion. The USGS does not agree. Since the work to be performed may vary widely, a written or oral test would not be a valid or equal method of evaluation. Evaluations must be made on a case-by-case basis and weighted to ensure that technically competent firms, professional integrity, and past experience are major factors. However, interviews will be utilized as appropriate.

Comments. One commenter was concerned that general language which restricts firms to acting only as CVA's for a particular platform is ambiguous and could be misconstrued.

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures.

V. Instructions to CVA

Comments. One commenter was concerned that the instructions to CVA's for the fabrication phase of the work were not detailed enough. The need to be more definitive concerning the frequency of inspection was expressed to ensure that frequent disassembling and rebuilding of major portions of the structure do not occur.

Discussion. The USGS agrees that this is a potential problem but does not believe that it can be adequately addressed in the Operating Procedures. This must be a consideration of the lessee in deciding when to involve the CVA in the fabrication phase of the work and also in preparing the contract with the CVA. Decisions of this nature can only be made on a case-by-case basis.

Comments. One commenter was confused as to whether the inspection contractors normally employed for fabrication by an operator can be used as a CVA.

Discussion. If a firm or agent meets the required qualification of a CVA and is approved by the USGS, they may be used as a CVA. Ambiguous language in paragraph IV.B which may have caused the confusion has been changed.

Comments. Three commenters emphasized that the lessee should also receive copies of reports submitted to the USGS by the CVA.

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures. The number of copies and the required submission date to the lessee have not been specified since these requirements would be a part of a contractual

agreement and may vary on a case-by-case basis.

V.A. Instructions—Design Phase

Comments. One commenter was concerned that the design verification for complex structures could not be completed within the specified 6 weeks after completion of the design.

Discussion. The USGS does not agree. The lessee is responsible for involving the CVA as early as possible. With proper scheduling, this problem should not arise.

V.B. Instructions—Fabrication Phase

Comments. One commenter recommended that the list of typical fabrication items to be verified be changed to include "welder and welding procedure qualification and identification."

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures.

Comments. One commenter was concerned that the CVA could believe that he is authorized to shut down the job if approval for design changes are not obtained.

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures.

V.C. Instructions—Installation Phase

Comments. Six commenters questioned the need for the CVA to witness the transportation to the site and recommended deletion of this requirement.

Discussion. The USGS agrees, and appropriate changes have been made.

Comments. One commenter questioned the worth of visual examinations of structural elements during installation and recommended that the USGS require more sophisticated techniques to be used.

Discussion. The USGS does not agree. An initial inspection will ensure that no significant damage that affects the structural integrity of a platform has occurred. The nature of this initial inspection is such that a visual examination by trained divers with television monitoring is completely adequate for its intended purpose. Since this inspection would be done shortly after installation, marine growth would not be a problem and more advanced Nondestructive Examination (NDE) techniques do not appear to be appropriate except to establish a baseline against which future inspection results could be compared.

Operating Procedures for the OCS Platform Verification Program

(Prepared by the U.S. Geological Survey, Conservation Division, Branch of Marine Oil and Gas Operations)
October 1979.

Preface

This document is intended to describe general requirements and operating procedures for the Platform Verification Program concerning the structural integrity of fixed and/or bottom-founded new platforms or other structures, and major modifications or repairs to such structures, associated with oil and gas on the Outer Continental Shelf (OCS) of the United States. The Platform Verification Program is intended to provide maximum assurance for structural integrity while at the same time:

- Assuring both the Government and industry that OCS resource development may proceed in a safe manner within reasonable time frames;
 - Incorporating sufficient flexibility to accommodate a variety of designs and methods of installation for all OCS Areas; and
 - Accommodating and encouraging new technology.
- Other aspects of the Platform Verification Program are described further and in more detail in the following documents:
- OCS Order No. 8.
 - Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Requirements").
 - Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Appendices").
 - Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Commentary").

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I. Introduction

The U.S. Geological Survey (USGS) has been delegated authority by the Secretary of the Interior to regulate oil and gas operations on leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.). This authority includes responsibilities relating to prevention of waste and the conservation of natural resources. The manifestation of this responsibility which is addressed by the Platform Verification Program involves ensuring that offshore oil and gas platforms and other structures have a high probability of surviving the environmental and operational conditions to which they may be exposed.

The Platform Verification Program is a mandatory program which makes available to the appropriate Area Oil and Gas Supervisor the technical resources necessary to evaluate the structural adequacy of fixed or bottom-founded platforms or other structures and major modifications thereto.

II. Verification Steps

The platform verification process will be initiated by submission of a Plan of Development/Production or a Plan of Exploration by the lessee to the Supervisor and, for a major modification, by submission of an application of the proposed action by the lessee to the Supervisor.

The process for a new platform or other structure will be performed in four steps associated with the Supervisor's approval of the following items:

- Plan of Development/Production or Plan of Exploration.
- Platform Design.
- Platform Fabrication.
- Platform Installation.

For a major modification to a platform or other structure, the process may be performed in three steps associated with the Supervisor's approval of one or all of the following items and in a manner similar to that for a new platform or other structure:

- Design.
- Fabrication.
- Installation.

Installation is defined to include all marine operations relative to installation, from load-out to final field erection.

A. Identification of Responsible Parties

The following parties are directly involved in the verification process:

- Lessee.
- Supervisor.
- Platform Verification Section (PVS).
- Certified Verification Agent/Agents (CVA).
- Design Contractor.
- Fabrication Contractor.
- Installation Contractor.
- Branch of Marine Oil and Gas Operations, Conservation Division (BOMOGO).

Additionally, an Environmental Data and Information Management System (EDIMS) is planned for future development by the USGS. EDIMS will be a computer-based information system which is primarily designed to provide environmental, geologic, and geotechnical information for baseline purposes and to support engineering review of platform proposals by the PVS as well as any other USGS organizational units which have a need for such data. EDIMS will also be made available to all parties involved in the verification process. The system will initially be based upon publicly available data but may eventually incorporate proprietary data requiring appropriate controls.

B. Responsibilities

1. *General.* The responsibility for the structural adequacy of a particular platform lies with the lessee. The CVA, the design contractor, the fabrication contractor, and the installation contractor will be hired by, and will be directly responsible to, the lessee to assure that the proposed platform or other structure meets the requirements of the lessee and the "Requirements" of the USGS.

2. *Lessee.* The lessee is responsible for the following:

- a. To meet the requirements of OCS Order No. 8.
- b. To nominate and to hire an approved CVA for the design, fabrication, and installation phases, or some combination of these verification phases.

3. *CVA.* The CVA is responsible for the following:

- a. To obtain USGS approval as a CVA.
- b. To provide an independent review of the design, fabrication, and/or installation phases.
- c. To maintain their objectivity without conflict of interest and applicable individual or staff technical capability for each platform project.
- d. To submit to the lessee copies of the CVA verification report and recommendations.
- e. To submit to the Supervisor three copies of the final CVA verification report and recommendations.

f. To review changes affecting the particular phase of the verification process within his scope of responsibility.

g. To explain the final CVA verification report and recommendation, as necessary.

4. *Supervisor.* The Supervisor is responsible for the review and approval of all operations on an OCS lease by the lessee. Under this program, the activities will be covered by a Plan of Development/Production or a Plan of Exploration, and the Supervisor will be responsible for the following:

a. To approve or disapprove the final design of the platform or other structure and the verification plans considering the recommendations of the PVS.

b. To receive and distribute all submissions by the lessee and the CVA.

5. *PVS.* The PVS acts as a technical advisor to the supervisor and is responsible for the following:

- a. To certify, monitor, and evaluate CVA's.
- b. To review and evaluate, as necessary, portions of Plans of Development/Production or Plans of Exploration pertinent to the structural aspects of platforms and other structures subject to the Platform Verification Program.

c. To make recommendations in writing to the Supervisor concerning the design, fabrication, and installation of proposed platforms and other structures pursuant to OCS Order No. 8.

d. To enter into discussions or disputes, as necessary, for various phases of the verification process.

e. To evaluate and accept or reject all CVA recommendations.

6. *BOMOGO.* The BOMOGO, acting as staff advisor to the Chief, Conservation Division, is responsible for the following:

- a. To coordinate and administer the establishment and operation of EDIMS.
- b. To enter into discussions or disputes, as necessary, for various phases of the verification process.

III. Disputes Procedures

Disputes that arise during any phase of the verification process will be arbitrated by the USGS. Formal request for arbitration of a dispute shall be made by one of the disputing parties to the designated arbitrator.

A. Lessee vs. CVA

Disputes between the lessee and the CVA concerning the Platform Verification Program will be arbitrated by the PVS.

B. Lessee vs. PVS

Disputes between the lessee and the PVS concerning the Platform Verification Program will be arbitrated by the Supervisor.

C. CVA vs. PVS

Disputes between the CVA and the PVS will be arbitrated by the Chief, Conservation Division.

D. Other

All other disputes, or disputes that cannot be satisfactorily resolved as indicated above, will be arbitrated in accordance with 30 CFR 250.81.

IV. Certified Verification Agent Criteria

Pursuant to the provisions of OCS Order No. 8, the USGS will maintain a list of Certified Verification Agents (CVA) to be utilized for the design review of proposed platforms and the monitoring of the fabrication and installation processes. CVA's will be qualified by the Platform Verification Section (PVS).

A. Application for Certification

Individuals or organizations may apply directly to the PVS for certification or may be nominated by a lessee planning to utilize the services of an individual or organization with respect to a particular platform proposal. The qualifications of the individual or organization must be submitted in detail for review by PVS personnel.

B. Qualification Standards

CVA's will be selected on the basis of technical competence and experience in offshore engineering, objectivity without conflict of interest, and ability to apply USGS requirements and to operate within limits of USGS inspection procedures.

The submittal of qualifications should include the following:

1. Previous appropriate experience in third-party verification, quality assurance, or actual performance of the design, fabrication, and/or installation of offshore oil and gas platforms or other marine structures.
2. Technical capabilities of individual or staff and primary staff to be associated with CVA functions.
3. Size and type of organization or corporation and financial status.
4. In-house availability of, or ready access to, appropriate technology, such as computer programs and hardware, and testing materials and equipment.
5. Ability to perform regionally or nationally, considering current commitments.

6. Previous experience with USGS requirements and procedures. (Such experience is desirable but not mandatory.)

Any individual or organization may be certified for any or all of the three phases of concern, namely, design, fabrication, and installation. Pertinent experience and capability will be required for each phase. For the design phase, the design review must be conducted by, or under the direct supervision of, an experienced registered professional civil and/or structural engineer. In order to maintain objectivity and to operate as an unbiased technical reviewer, individuals or organizations acting as CVA's for a particular platform shall not function in any capacity other than that of a CVA for that specific platform. After submittal of the above qualifications and after approval by the PVS, an appropriate certification will be issued to the agent. The review by PVS personnel may involve a visit to the CVA applicant's office or facility to check the applicant's capacity to perform the CVA's functions.

The PVS will periodically spot check the CVA's activities, staff, and facilities to assure adherence to USGS instructions, requirements, and procedures. Unexplainable or unacceptable deviations may result in withdrawal of approval as CVA by the PVS.

C. Recertification

Initial certification as CVA will remain in effect for 2 years unless otherwise revoked by the PVS. Recertification will be considered upon receipt of a written request from the CVA at any time within 90 days prior to the expiration of the initial or the extended period. The request shall confirm the CVA's capabilities and shall note any changes from the original application. However, once a certification has expired, it is not renewable without reapplication in accordance with paragraphs A and B above. Extensions may be approved for an additional period of 2 years.

If certification is revoked or expires, a reapplication may be submitted for a temporary period only to cover continuing work on a specific platform.

V. Instructions to CVA

A. Design Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all documents required to facilitate the design review.

The CVA shall conduct the design verification to insure that the proposed platform has been designed to withstand the maximum environmental and functional load conditions anticipated during the service life of the platform at the proposed location.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of all proposed planning criteria, environmental data, load determinations, stress analyses, material designations, soil and foundation conditions, safety factors, and other pertinent parameters of the proposed platform design.

All data provided to the CVA must be handled by the CVA in the strictest of confidence. The proprietary nature of the lessee's platform design shall be honored, and the CVA shall neither copy and disseminate the data nor utilize information acquired in another competitive venture.

Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee. A final report shall be prepared which summarizes the material reviewed by the CVA, his findings, and his recommendation that the Supervisor either accept, request modifications, or reject the proposed design. In addition, the report shall include particulars of how, by whom, and when the independent review was conducted and any special comments considered necessary.

The design verification for a specific platform should be completed and the final report submitted to the lessee and, in triplicate, to the Supervisor within 6 weeks of the receipt of design data or approval to act as a CVA, whichever is later.

B. Fabrication Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all data, schedules, material specifications, welding requirements, and testing procedures required to facilitate the fabrication process review and monitoring.

The CVA shall monitor the fabrication of the platform to verify that it has been built in accordance with the approved design plans and specifications and in accordance with the fabrication plan. Periodic onsite inspections shall be made while fabrication is in progress. The following are typical of the fabrication items to be verified:

1. Quality control by: (a) lessee (b) builder.
2. Fabrication site facilities.

3. Material quality and identification methods.

4. Specified fabrication procedures and adherence to same.

5. Welder and welding procedure qualification and identification.

6. Structural tolerance specified and adherence to same.

7. NDE requirements and evaluation results of the specified examinations.

8. Destructive testing requirements and results.

9. Repair procedures.

10. Installation of corrosion protection systems and splash zone protection.

11. Erection procedures (to ensure that overstressing of members does not occur).

12. Alignment procedures.

13. Dimensional check of the overall structure.

14. Status of quality control records at various stages of fabrication.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of the fabrication of the platform. Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee. If the CVA finds that fabrication procedures are changed or design specifications are modified, both the lessee and the Supervisor shall be informed. This may require submittal of additional applications for approval to the Supervisor of design or fabrication plan changes. A final report shall be prepared by the CVA covering the adequacy of the entire fabrication phase; giving details on how, by whom, and when the independent monitoring activities were conducted; and any special comments considered necessary. The final report shall describe the CVA's activities during the verification process, summarize his findings, and contain his confirmation (or denial) of compliance with the design specs and the approved fabrication plan. The report shall be submitted to the lessee and, in triplicate, to the Supervisor immediately after completion of the fabrication of the platform.

C. Installation Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all drawings, data, schedules, and equipment, barge, and support vessel plans required to facilitate the monitoring of installation activities.

The CVA shall witness the load-out of the platform from the fabrication site, shall review the towing records and conduct an onsite survey after

transportation to the proposed location, shall witness the actual installation of the platform, and shall verify that the platform has been installed at the proposed location in accordance with the approved design and the Installation Plan.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of the installation activities. The following are typical parts of the overall process to be verified:

1. Load-out and initial flotation operations (if any).
2. Towing operations to the specified location.
3. Launching and uprighting operations.
4. Submergence operations.
5. Pile installation.
6. Final deck and/or component installation.

The CVA, in observing the installation activities, shall spotcheck equipment, procedures, and recordkeeping, as necessary, to determine compliance with the USGS "Requirements" and the approved plans, and shall immediately report to the Supervisor and the lessee any discrepancies or damage to structural members. Approval for modified installation procedures or for major deviation from approved installation procedures shall be obtained from the Supervisor. The Supervisor shall be notified of damage to, and repair of, primary structural members. Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee.

A final report shall be prepared by the CVA covering the adequacy of the entire installation phase; giving details on how, by whom, and when the independent monitoring activities were conducted; and giving any special comments considered necessary. The final report shall describe the CVA's activities during the verification process, summarize the findings, and contain a confirmation (or denial) of compliance with the approved Installation Plan. The report shall be submitted to the lessee and, in triplicate, to the Supervisor within 2 weeks of completion of the installation of the platform.

OCS Order No. 12

Paragraph 1

Comments. One commenter felt that the new requirement to identify all public information is confusing and not consistent with the current practice of only identifying confidential

information. It was suggested that the current system be retained.

Discussion. This suggestion was not adopted. In order to maintain confidentiality of certain information, this new system will insure that only those items marked "Public Information" will be made available. All other information will be held confidential.

Paragraph 2

Comments. One commenter questioned the words "It has been determined" and asked on what basis the USGS made such a determination. There was concern as to the operator's competitiveness after release of certain information.

Discussion. The basis for such a determination that certain data shall be made available is in accordance with the Freedom of Information Act, the OCSLA Amendments of 1978, and the Department of the Interior regulations contained in 30 CFR Part 250.

Definitions of confidential and public information are found in 30 CFR 250.2, "Definitions," and 250.3, "Data and information to be made available to the public." The USGS believes that the term "It has been determined" is vague and subject to interpretation, and in order to avoid confusion, the words have been deleted from the introductory sentence of paragraph 2 and subparagraph 2.10.

Subparagraph 2.1

Comments. No comments received. *Discussion.* Nonproprietary well status information must be reported in accordance with 30 CFR 250.93, *Monthly report of operations*. The remarks column is often used to make proprietary explanatory statements. The subparagraph was revised to require the lessee to delete such proprietary information from the public information copy.

Subparagraphs 2.2.2 and 2.2.3

Comments. It was suggested that "Item 26, Type Electric and Other Logs Run" should be exempt from public inspection after commencement of production since certain geological and geophysical data are exempt from disclosure under the Freedom of Information Act.

Discussion. This suggestion was not adopted. The USGS believes that revealing the kinds of logs run will not destroy an operator's competitiveness. It is the policy of the Department of the Interior to make records available to the greatest extent possible according to 43 CFR 2.13(d) which implements the Freedom of Information Act. In addition,

lease stipulations require that certain geological and geophysical information are subject to public inspection according to 30 CFR 250.3, "Data and information to be made available to the public."

Comments. One commenter was concerned that the release of shallow seismic data for public inspection would destroy the operator's competitiveness since this information can have significance for geology at greater depths.

Discussion. The USGS feels that shallow seismic data will not harm the operator's competitiveness since the information is extremely theoretical and, without deeper seismic work, is virtually useless for deep stratigraphic interpretation. In the event of reasonable claim of certain confidential information, the Supervisor can grant exemptions from public scrutiny as stated in this subparagraph.

Subparagraph 2.11

Comments. One commenter suggested that confidential and proprietary information should not be made available upon the expiration of the lease if "there is unleased federal or state owned acreage in the immediate vicinity of the expired lease." This could result in competitors' access to information acquired at lessee's expense.

Discussion. The request is contrary to the language of 30 CFR 250.3, "Data and information to be made available to the public." This regulation requires release of all information in a certain length of time or as long as the lease remains in effect, *whichever is less*. This means all information is available at least by the expiration of the lease. Subparagraph 2.11 reflects this thought.

Paragraph 3

Comments. No comments received.

Discussion. The introduction to paragraph 3 was revised to include the caveat "Except as provided in 30 CFR 250.3, 250.4, and 252.7, the release of this data is subject to the following restrictions." This caveat is necessary to reflect revisions in the 30 CFR 250 and 252 regulations which were published in the *Federal Register*, Vol. 44, No. 209, on October 26, 1979, and Vol. 44, No. 153, on August 7, 1979.

Subparagraph 3.2

Comments. No comments received.

Discussion. In order to be consistent with 30 CFR 250.3, "Data and information to be made available to the public," the USGS adopted the language of the regulation regarding geological

and geophysical data in sections 3.2(a) and 3.2(b).

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 12 Effective January 1, 1980

Public Inspection of Records

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.3, 250.34, 252.6, and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. § 552, will be governed by the provisions of 43 CFR Part 2 (40 FR 7304, February 19, 1975).

1. *Filing of Reports.* All reports on Forms 9-152, 9-330, 9-331, 9-331 C, 9-1869, 9-1870, and the forms used to report the results of multipoint back-pressure tests shall be filed by the lessee in accordance with the following:

a. All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. This copy of the form shall be made available for public inspection.

b. All items on the form not marked "Public Information" shall be completed in full, and such forms and all attachments thereto shall not be available for public inspection.

c. The copy marked "Public Information" shall be completed in full except that the items described in subparagraphs 2.1 through 2.4 below, and the attachments relating to such items, may be excluded.

2. *Availability of Records.* The following records pertaining to leases and wells in the Outer Continental Shelf (OCS) and submitted under 30 CFR 250 shall be made available for public inspection, as specified below, in the Area Office:

2.1 *Form 9-152—Monthly Report of Operations.* All information contained on this form shall be available except proprietary information which may be included in the remarks column. The lessee shall delete such proprietary data from the public information copy.

2.2 *Form 9-330—Well—Completion or Recompletion Report and Log.*

2.2.1 *Prior to Commencement.* Prior to commencement of production, all information contained on this form shall be available except:

- a. Item 1a, Type of Well.
- b. Item 4, Location of Well, at top production interval and at total depth.
- c. Item 22, If Multiple Completion, how many.
- d. Item 24, Producing Interval.

e. Item 26, Type Electric and Other Logs Run.

f. Item 28, Casing Record.

g. Item 29, Liner Record.

h. Item 30, Tubing Record.

i. Item 31, Perforation Record.

j. Item 32, Acid, Shot, Fracture, Cement Squeeze, Etc.

k. Item 33, Production.

l. Item 37, Summary of Porous Zones.

m. Item 38, Geologic Markers.

2.2.2 *After Commencement of Production.* After commencement of production, all information shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers.

2.2.3 *5 Years' Elapsed Time.* If production has not commenced after an elapsed time of 5 years from the date of filing Form 9-330 as required in 30 CFR 250.38(b), excluding the total time that operations and production are suspended by direction of the Secretary of the Interior, or his duly authorized representative, and further excluding the total time that operations and production are stopped or prohibited by Court Order, all information contained on this form shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers. Within 90 days prior to the end of the 5-year period, exclusive of exceptions noted above, the lessee shall file a Form 9-330 containing all information requested on the form except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9-330.

2.3 *Form 9-331—Sundry Notices and Reports on Wells.*

2.3.1 *"Request for Approval to."* When used as a "Request for Approval to:" conduct operations, all information contained on this form shall be available except Item 4, Location of Well, at top production interval and at total depth, and Item 17, Describe Proposed or Completed Operations.

2.3.2 *"Subsequent Report of."* When used as a "Subsequent Report of:" operations, and after commencement of production, all information contained in this form shall be available, except information contained in Item 17 pertaining to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

2.4 *Form 9-331 C—Application for Permit to Drill, Deepen, or Plug Back.* All information contained on this form and the location plat attached thereto shall be available except Item 4, Location of Well at Proposed Production

Zone, and Item 23, Proposed Casing and Cementing Program.

2.5 *Form 9-1869—Quarterly Oil Well Test Report.* All information contained on this form shall be available.

2.6 *Form 9-1870—Semiannual Gas Well Test Report.* All information contained on this form shall be available.

2.7 *Multipoint Back Pressure Test Report.* All information contained in this report shall be available.

2.8 *Sales of Lease Production.*

Information contained on the monthly U.S. Geological Survey computer printout showing sales volumes, value, and royalty on production of oil, condensate, gas, and liquid products by lease shall be made available.

2.9 *Availability of Inspection Records.* All accident-investigation reports, pollution-incident reports, facilities-inspection data, and records of enforcement actions are also available for public inspection.

2.10 *Availability of Data and Information Submitted by Lessees.*

Certain information submitted by lessees, as a result of OCS Orders and OCS Notices to Lessees and Operators, is nonproprietary in nature, or release of such information is necessary for the proper development of the lease. This information will be made available for public inspection, except for those portions which the lessee shall designate, with the Supervisor's approval, as trade secrets and commercial or financial information which is privileged or confidential. The available information will include:

- a. Notices of support activity.
- b. Oceanographic and meteorological data collected from drilling units and production facilities during the period of operations.
- c. Results of site surveys required prior to drilling or placement of platforms or structures, such as shallow geologic hazards surveys, archaeological/cultural resource surveys, or other surveys related to the placement of platforms or structures.
- d. Drawings, maximum environmental design criteria, and rated capability data of mobile drilling units and structures.
- e. Oil Spill Contingency Plans.
- f. Critical Operations and Curtailment Plans.
- g. Other data required under 30 CFR 250.34.

2.11 *Expired Leases.* All information is available upon the expiration of a lease.

e. *Information Exempt from Public Inspection.* The information in subparagraphs 2.1 through 2.4 which has been restricted from public inspection is

classified as geological and geophysical data. Except as provided in 30 CFR 250.3, 250.4, and 252.7, the release of this data is subject to the following restrictions:

3.1 *Leases Issued Prior to June 11, 1976.* For leases issued prior to June 11, 1976, the classified data is exempt from disclosure under exemption No. (9) of the Freedom of Information Act [5 U.S.C. § 552(b)(9) and 43 CFR 2.13 subsection (c), *Statutory Exemptions*, (9)].

3.2 *Leases Issued After June 11, 1976.* For leases issued after June 11, 1976, the classified data is available in accordance with 30 CFR 250.3, *Data and information to be made available to the public*, as follows:

a. Geophysical data, processed geophysical information, and interpreted geological and geophysical information shall not be available for public inspection, except as provided in 2.10c, without consent of the lessee as long as the lease remains in effect or for a period of 10 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of this information is necessary for proper development of the field or area.

b. Geological data and analyzed geological information shall not be made available for public inspection without the consent of the lessee as long as the lease remains in effect or for a period of 2 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area. In accordance with 30 CFR 250.38, *Well Records*, data and well records shall be transmitted to the Supervisor upon request or, if not requested, within 30 days following completion of suspension of any well. For the purpose of orderly release of data, in all cases the date of submission will be considered to be 30 days following such completion or suspension.

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b)

Approved:
Don E. Kash,

Chief, Conservation Division.

[FR Doc. 79-39290 Filed 12-20-79; 8:45 am]

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12-26-79
Vol. 44 No. 248
Pages 76263-76476

Federal Register

Wednesday
December 26, 1979

NOTE:

Due to a shortage of newsprint, today's Federal Register is printed on a higher quality paper. As supplies become available, the Federal Register will resume the use of newsprint.

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- 76412 **Approaches to Controlling Fraud and Abuse** Justice/LEAA announces a competitive research grant; apply by 3-1-80
- 76329 **Food Stamps** USDA/FNS advises the public of revisions in policy interpretation system to assist State agencies; comments by 2-25-80
- 76440 **Savings Bonds** Treasury/PDB issues rules governing Series EE and HH which will be placed on sale January 2, 1980; effective 1-1-80 (Part II of this issue)
- 76299 **Water Resources Project** USDA/SCS and Interior/FWS issues advance proposal of guidelines for use of channel modification as means of water management; comments by 2-25-80
- 76459 **Trade Agreement** ITC issues rules regarding procedures for conduct of investigations of whether injury to domestic industries result from imports sold at less than fair value or from subsidized exports to United States; effective 1-1-80 (Part III of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Rules and Regulations

Federal Register

Vol. 44, No. 248

Wednesday, December 26, 1979

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 1

Investment Securities; Eligibility of Securities for Purchase, Dealing in and Underwriting; Limitations on Holding

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment deletes from 12 CFR Part 1 individual investment securities rulings issued by the Comptroller during the period 1962 through 1978. The rulings were issued to advise banks on the application of federal banking law and regulations to securities which the bank holds, or desires to purchase, deal in or underwrite. While the individual rulings no longer will be codified in the CFR, they will continue to be available from the Office of the Comptroller upon request.

EFFECTIVE DATE: The rulings became effective when originally issued in letter form. Their removal from 12 CFR Part 1 becomes effective upon the publication of this document.

FOR FURTHER INFORMATION CONTACT: Radcliffe Park, Assistant Director, LASD, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1680.

SUPPLEMENTARY INFORMATION: 12 CFR 1.9 provides that a bank may request the Comptroller to rule on the application of 12 CFR Part 1 or paragraph Seventh of 12 U.S.C. 24 to any security which it holds, or desires to deal in, underwrite, or purchase for its own account.

Since 1962 these rulings have been published in the Federal Register and codified as 12 CFR 1.105-1.480. This formidable number of rulings now deleted from the code and similar rulings issued in 1979 are being reviewed for the purpose of developing a general set of principles for the application of federal banking law and regulations to such securities. It is expected that the principles developed will be codified through the usual public procedures as a part of the Investment Securities Regulation (12 CFR Part 1).

This action is being taken in fulfillment of the Comptroller's pledge in response to Executive Order 12044 on improving government regulations. See

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years—Amendment No. 101; Corrections

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; corrections.

SUMMARY: The final rulemaking corrections published in the Federal Register on Tuesday, February 6, 1979 (44 FR 7107-7108) on the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, Amendment No. 101, contained two typographical errors. This notice is being published to correct those errors.

EFFECTIVE DATE: December 26, 1979.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

The corrections are as follows:
Item 20 should be corrected to read:
"20. Under those Virginia counties designated for Tobacco Crop Insurance in the left column of 44 FR 759, insert "Prince George 11a" . . .
Item 21 should be corrected to read:
21. Under those Wisconsin counties designated for Tobacco Crop Insurance

in the left column of 44 FR 759, insert "Monroe 55" . . . "

Issued in Washington, D.C., on December 18, 1979.

Dated: December 18, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Approved by:

James D. Deal,

Manager.

[FR Doc. 79-39383 Filed 12-21-79; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1888

Special Assistance to Drought Stricken Areas; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction.

SUMMARY: The Farmers Home Administration corrects a document which was published at 44 FR 27409 on May 10, 1979. This action is taken to correct a cross reference. Item 4 of the document under the heading "PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS" is corrected to read:

§ 1888.13 [Corrected]

4. In § 1888.13(e) change the reference from "Part 1942, Subpart A and Part 1823, Subpart P" to "Part 1942, Subparts A and H."

EFFECTIVE DATE: December 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph H. Linsley, Rm. 6346 South Agriculture Building, 14th and Independence SW, Washington, D.C. 20250. Phone: 202-447-4057.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: December 17, 1979.

James E. Thornton,
Associate Administrator, Farmers Home Administration.

[FR Doc. 79-39344 Filed 12-21-79; 8:45 am]

BILLING CODE 3410-07-M

43 FR 22324, 43 FR 52121, 43 FR 762 (May 24, 1978, Nov. 8, 1978, Jan. 3, 1979).

Consideration is also being given to the publication of current rulings at suitable intervals as notices in the Federal Register.

Drafting Information

The principal drafter of this document was Mr. Radcliffe Park, Assistant Director, Legal Advisory Services Division.

Adoption of Amendment

§§ 1.105 through 1.480 [Deleted]

12 CFR Part 1 is amended by rescinding the subheading immediately preceding § 1.105 and by deleting §§ 1.105 through 1.480.

Dated: December 18, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-39350 Filed 12-21-79; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 19905; Amdt. 39-3644]

Airworthiness Directives; British Aerospace/Societe Nationale Industrielle Aerospatiale, Concorde Type I Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) which supersedes telegraphic AD T79EU11, which was previously made effective to all known United States operators of British Aerospace/Societe Nationale Industrielle Aerospatiale Model Concorde Type I airplanes. The AD requires checking of the main landing gear tire pressure before each flight, and replacement of any tire and wheel assembly where the tire is found insufficiently inflated in accordance with specified criteria to prevent potential failure of the main landing gear tires or wheels.

DATE: This amendment becomes effective on December 26, 1979.

Compliance schedule—as prescribed in body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from:

Societe Nationale Industrielle Aerospatiale (SNIA), 37, blvd. de Montmorency, 75781 Paris Cedex 16, France
or

British Aerospace, Inc., Brooklands Road, Weybridge, Surrey, England RT13 OSJ

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Christie, Chief, Technical Standards Branch, AWS-110, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, D.C. 20591, Telephone 202-426-8374.

SUPPLEMENTARY INFORMATION: An emergency airworthiness directive, T79EU6, was adopted on July 30, 1979 and superseded on September 10, 1979 by emergency airworthiness directive T79EU11. The ADs were made effective immediately upon receipt of telegrams to all known U.S. operators of Concorde Type I airplanes. AD action was necessary because of main landing gear tire blowouts resulting from underinflated tires. Such conditions require checking of the main landing gear tire pressure before each flight, and replacement of any tire and wheel assembly where the tire is found insufficiently inflated in accordance with specified criteria.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest, and good cause existed to make the ADs effective immediately as to all known U.S. operators of British Aerospace/Societe Nationale Industrielle Aerospatiale Model Concorde Type I airplanes by telegraphic means.

Subsequent to issuance of telegraphic AD T79EU11, the FAA was advised that the United Kingdom's Civil Aviation Authority (CAA) had developed and approved a procedure for dealing with the same tire problem for Concordes subject to CAA regulation. That procedure was similar to that taken by the FAA in the telegraphic AD. The FAA has determined that the CAA AD provides an equivalent means of compliance with the FAA AD. Therefore, telegraphic AD T79EU11 is being superseded by a new AD that permits the Chief, Aircraft Certification Branch, AEU-100, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, to approve an equivalent means of compliance which may include the CAA procedure or any other means of compliance found to provide an equivalent level of safety, in

compliance with this AD. This amendment will afford operators of Concorde aircraft with added flexibility in complying with the AD. Since this change is relieving and imposes no additional burden on any person, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

British Aerospace/Societe Nationale Industrielle Aerospatiale: Applies to Concorde Type I airplanes. To prevent failure of the main landing gear tires or wheels or both resulting from underinflated tire conditions, accomplish the following, or an FAA-approved equivalent:

(a) Before each flight after the effective date of this AD check the tire pressure of each main landing gear tire in accordance with the instructions of Chapter 12.14.32 of the Maintenance Manual as follows:

(1) When the gate stop time is more than 4 hours, verify the tire pressure within 2 hours preceding start of engines.

(2) When the gate stop time is between 3 and 4 hours, verify the tire pressure within the hour preceding the start of engines.

(3) When the gate stop time is 2 to 3 hours verify the tire pressure within 30 minutes preceding the start of engines.

(4) When the gate stop time is less than 2 hours verify the tire pressure within 30 minutes preceding the start of engines and comply with paragraph (c) of this AD.

(b) If as a result of the tire pressure verifications required by paragraph (a)(1), (a)(2) or (a)(3) of this AD, the tire pressure was found to be—

(1) Between 14.6 bars/212 psi and 15 bars/218 psi, no further action required;

(2) From 14.2 bars/206 psi to 14.6 bars/212 psi, reinflate to 15 bars/218 psi;

(3) From 13.4 bars/195 psi to 14.2 bars/206 psi, reinflate to 15 bars/218 psi and record this action for future reference;

(4) From 12.6 bars/183 psi to 13.4 bars/195 psi, replace that wheel and tire and comply with paragraph (e) of this AD; or

(5) Below 12.6 bars/183 psi, replace that wheel and tire and also replace the adjoining wheel and tire and comply with paragraph (e) of this AD.

(c) If as a result of the tire pressure verification required by paragraph (a)(4) of this AD the pressure was found to be—

(1) Above 14.6 bars/212 psi—no further action is required;

(2) From 14.2 bars/206 psi to 14.6 bars/212 psi, reinflate the tire to 15 bars/218 psi;

(3) From 12.6 bars/183 psi to 14.2 bars/206 psi, replace that tire and wheel and comply with paragraph (e) of this AD; or

(4) Below 12.6 bars/183 psi, replace that wheel and tire and also replace the adjoining wheel and tire and comply with paragraph (e) of this AD.

(d) Prior to further flight, replace the wheel and tire, and accomplish the "push-in" fuse plug check in accordance with Aerospatiale Campaign Wire 32CW076, Issue 4, if—

(1) The cockpit brake temperature indicator records a temperature above 510C/950F;

(2) A rejected takeoff is executed from a speed over 100 knots, with a brake cooling fan inoperative and the corresponding brake was not deactivated; or

(3) A landing was accomplished with a brake cooling fan inoperative and the corresponding brake was not deactivated.

(e) Perform the non-destructive test, and the "push-in" fuse plug check on any wheel removed from the aircraft as required in paragraph (b), (c), or (d) of this AD, in accordance with Aerospatiale Campaign Wire 32CW076, Issue 4.

(f) Any discrepancies found on the wheels, tires, brakes or on the fuse plugs during the inspections defined above must be reported to the Chief, Aircraft Certification Staff, AEU-100, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. (Reporting approved by the Office of Management and Budget under OMB No. 04-RO174.)

(g) An equivalent means of compliance with the requirements of this AD may be used if approved by the Chief, Aircraft Certification Staff, AEU-100, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. This supersedes telegraphic AD T79EU11, dated September 10, 1979.

This amendment becomes effective December 26, 1979.

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.

Note.—The FAA has determined that this document involves a regulation which is not

significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on December 14, 1979.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 79-39137 Filed 12-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-41; Amdt. 39-3641]

Airworthiness Directives; Lockheed Model 382 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Lockheed Model 382 series airplanes by providing for substantiation of an alternate compliance time for cable inspection. This amendment is needed to provide the operator an opportunity to substantiate a change of throttle cable inspection time.

DATES: Effective January 2, 1980.

Compliance schedule is as prescribed in body of AD.

FOR FURTHER INFORMATION CONTACT: W. J. Lawrence, Aerospace Engineer, ASO-214, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3427, 44 FR 12021, AD 79-05-05, which currently requires throttle cable inspection at F.S. 245 and at the engine horse collar every 1800 hours' time in service on Lockheed Model 382 series aircraft.

After issuing Amendment 39-3427, the FAA has determined that substantiation of an alternate compliance time should now be provided. Therefore, the FAA is further amending Amendment 39-3427 by providing the operator an opportunity to substantiate an alternate throttle cable inspection time on Lockheed Model 382 series airplanes.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation

Regulations (14 CFR 39.13) is amended by amending Amendment 39-3427, 44 FR 12021, AD 79-05-05 by revising paragraph (a)(3) to include the following: An alternate compliance time must be substantiated by the operator and recommended by the assigned FAA Principal Maintenance Inspector and approved by the Chief, Engineering and Manufacturing Branch, Southern Region. This amendment becomes effective January 2, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on December 12, 1979.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 79-39138 Filed 12-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-85; Amdt. No. 39-3642]

Airworthiness Directives; Piper Aircraft Corp., PA-32RT-300 and PA-32RT-300T

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires repetitive inspection of rudder skins and repair (if necessary) or modification to prevent development of cracks in the rudder skins of certain Piper Aircraft Corporation PA-32RT-300 and PA-32RT-300T series aircraft. The AD is prompted by 12 reports of small cracks in the rudder skins; growth of these cracks could result in a weakening of the structural integrity of the rudder.

DATES: Effective January 7, 1980.

Compliance as prescribed in body of AD.

ADDRESSES: Piper Service Letter No. 882 may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven, Pennsylvania 17745, telephone (A/C 707) 748-6711. Piper Kits, Part Number 763 936V and 763 940V may be obtained from Piper Aircraft Corporation, Vero Beach Division, Vero

Beach, Florida 32960, telephone (A/C 305) 567-4381.

A copy of the Service Letter is also contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Steve Flanagan, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20635, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been 12 reports of small cracks developing in the skin beads at the trailing edge of the rudder on certain Piper PA-32RT-300 and PA-32RT-300T series aircraft. If allowed to go uncorrected, growth of these cracks could result in a weakening of the rudder structural integrity, with a possible degradation of airplane directional control.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation: Applies to the following Model PA-32RT-300 and PA-32RT-300T series airplanes, certificated in all categories:

PA-32RT-300 Lance II

32R-7885001 to 32R-7885025 Inclusive
32R-7885027 to 32R-7885261 Inclusive
32R-7885263 to 32R-7885285 Inclusive
32R-7935001 to 32R-7935035 Inclusive
32R-7935037 to 32R-7935045 Inclusive
32R-7935047 to 32R-7935059 Inclusive
32R-7935062, 32R-7935064,
32R-7935066, 32R-7935067,
32R-7937069 to 32R-7937076 Inclusive
32R-7935078,
32R-7935083 to 32R-7935085 Inclusive
32R-7935088 to 32R-7935090 Inclusive
32R-7935092 to 32R-7935097 Inclusive
32R-7935101,
32R-7935103 to 32R-7935105

PA-32RT-300T Turbo Lance II

32R-7887001 to 32R-7887222 Inclusive
32R-7887224 to 32R-7887226 Inclusive
32R-7887228 to 32R-7887237 Inclusive
32R-7887239 to 32R-7887243 Inclusive
32R-7887245 to 32R-7887254 Inclusive
32R-7887256 to 32R-7887261 Inclusive
32R-7887263,
32R-7887265 to 32R-7887289 Inclusive
32R-7937001, 32R-7937002,

32R-7937004 to 32R-7937011 Inclusive
32R-7937013, 32R-7937014,
32R-7937016, 32R-7937017,
32R-7937019, 32R-7937020,
32R-7937024 to 32R-7937028 Inclusive
32R-7937029, 32R-7937030,
32R-7937032, 32R-7937034,
32R-7937035, 32R-7937038,
32R-7937039, 32R-7937041,
32R-7937042, 32R-7937044,
32R-7937046,
32R-7937049 to 32R-7937051 Inclusive
32R-7937054 to 32R-7937058 Inclusive
32R-7937060, 32R-7937066,
32R-7937068 to 32R-7937070 Inclusive
32R-7937072, 32R-7937073,
32R-7937075, 32R-7937076,
32R-7937078 to 32R-7937080 Inclusive
32R-7937082 to 32R-7937086 Inclusive
32R-7937088, 32R-7937089,
32R-7937091, 32R-7937094,
32R-7937096 to 32R-7937099 Inclusive
32R-7937101, 32R-7937102,
32R-7937104,
32R-7937107 to 32R-7937115 Inclusive
32R-7937117, 32R-7937119,
32R-7937122, 32R-7937124,
32R-7937125, 32R-7937126

Compliance as prescribed in the body of the AD.

To prevent initiation and/or growth of rudder skin cracks, with resulting possible weakening of rudder structural integrity, accomplish the following, unless already accomplished:

a. Within the next 25 hours time-in-service after the effective date of this AD, and at intervals not to exceed 25 hours time in service, visually check the area along the skin beads at the trailing edge of the rudder for cracks. This check may be accomplished by the pilot.

Note.—A maintenance record entry showing compliance with these repetitive visual checks is required.

b. If crack(s) are found, repair within the next 10 hours time in service in accordance with the instructions contained in Piper Kit Part Number 763 940V, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

c. If no crack(s) are found during the checks required by Paragraph a, modify the rudder within the next 100 hours time in service after the effective date of this AD in accordance with the instructions contained in Piper Kit Part Number 763 936V, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

d. Verify that the rudder balance, after repair or modification, is within the limits established in the Piper Lance II Service Manual.

e. Compliance with paragraphs b or c, and d, above terminates the repetitive checks required in paragraph a above.

f. Upon submission of substantiating data through an FAA Aviation Safety Inspector, the Chief, Engineering and Manufacturing Branch, FAA Southern Region, may adjust the repair or modification compliance time.

Piper Service Letter No. 882 also deals with this subject.

This amendment is effective January 7, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on December 11, 1979.

George R. La Caille,
Acting Director, Southern Region.

[FR Doc. 79-39132 Filed 12-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 77-WE-39-AD; Amdt. 39-3643]

Airworthiness Directives; Piper (Ted Smith) Model 600 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Piper Aerostar Model 600 Series airplanes which requires modification of the fuel quantity indicating system, revisions to the Airplane Flight Manual and other changes. The amendment is needed to permit extension of the compliance requirement date for modification of the fuel quantity indicating system from December 31, 1979 to June 1, 1980, to prevent grounding of aircraft due to unavailability of necessary modification kits at the date originally established. While the safety considerations of the required installation remain significant the associated steps of AD, already accomplished, will provide a satisfactory safety level pending deferred accomplishment.

DATES: Effective December 27, 1979.

Compliance schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration,

Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3387, AD 79-01-05, which currently requires installation of a low fuel warning system, requires initial and periodic inspections of the wing and fuel filler caps for air leakage, reduces the total usable fuel quantity from 174.5 U.S. gallons to 165.5 U.S. gallons, requires modifications to the fuel gaging system in the cockpit, requires installation of wing fuel tank overpressure valves on aircraft that lack this feature, and requires revisions to the Airplane Flight Manual and placards, on Piper (Ted Smith) Model 600 Series airplanes.

Since issuing Amendment 39-3387 the FAA has confirmed that a part delivery problem exists will regard to modification parts required to improve the readability and significance of the fuel quantity indicating system as required by Paragraph (d)(1) of Amendment 39-3387.

The modification parts delivery schedule presently available indicates that an extension of compliance time from the presently specified date or December 31, 1979 to a date of June 1, 1980 will preclude grounding of airplanes and is consistent with a minimum exposure period.

The FAA has evaluated the safety implications of this exposure period and has concluded that, given the associated safety elements of the AD which are already accomplished, a satisfactory safety level can be maintained for the additional time period specified.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending amendment 39-3387, (44 FR 1082), AD 79-01-05, Paragraph (d) to read as follows:

* * * * *

(d) By June 1, 1980, accomplish the following modification * * *

* * * * *

This amendment becomes effective December 27, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of

Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on December 12, 1979.

William R. Krieger,
Acting Director, FAA Western Region.

[FR Doc. 79-39140 Filed 12-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-GL-19-AD, Amdt. 39-3636]

Airworthiness Directives; Bendix Energy Controls Division, Fuel Injector System, RSA-5AD1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection of the regulator section of the referenced Bendix fuel injector system. The results of the inspection determine the modifications necessary to assure the proper engagement of the regulator stem lock nut. This AD was prompted by instances in the field where the lock nut became loose and caused a cutoff in the fuel supply resulting in a loss of engine power.

DATES: Effective date is December 26, 1979.

ADDRESSES: The applicable service bulletin may be obtained from Bendix Energy Controls Division, South Bend, Indiana 46620, telephone (219) 237-2758. Copies of the service information referenced in this AD are contained in the Rules Docket Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Biemond, Service Difficulty Section, AGL-217, Engineering and Manufacturing Branch, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 359.

SUPPLEMENTARY INFORMATION: There have been two instances of engine power loss due to improper engagement of the regulator stem nut on the RSA series fuel injector units. The units affected by this AD are Model No. RSA-5AD1, Parts List Nos. 2524145-8 and 2524145-9. These units are installed on, but not limited to, Lycoming Engine Model Nos. I0-320-B1A, -B1C, and -B2A. This AD requires an inspection to determine if the regulator stem lock nut

is properly engaged and to provide additional locking means by crimping.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure are impracticable and contrary to the public interest, and good cause exists for making the AD effective immediately to all known operators of aircraft with the referenced Bendix fuel injector.

This AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39, Federal Aviation Regulations, to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

Bendix Energy Controls Division: Applies to all Model No. RSA-5AD1, P/N's 2524145-8 and 2524145-9 fuel injector units. Compliance required as indicated unless previously accomplished. Compliance/rework is indicated by the letter "N" stamped on the head of the brass plug. Prior to the next twenty-five (25) hours of aircraft time in service, or within the next thirty (30) calendar days from the date of this AD, whichever occurs first, inspect the regulator stem and lock nut on Bendix fuel injector units, Model Nos. RSA-5AD1, P/N's 2524145-8 and 2524145-9. Based upon the number of threads extending beyond the lock nut, accomplish the instructions as outlined in Bendix Service Bulletin RS-68 dated August 20, 1979 or FAA approved equivalent. (Amendment 2 dated September 6, 1979 picks up these two RSA-5AD1 units which were not included in the basic bulletin.)

This amendment becomes effective December 26, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Ill., on December 3, 1979.

Wayne J. Barlow,
Director, Great Lakes Region.

[FR Doc. 79-39294 Filed 12-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-51]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Worthington, Minnesota to accommodate a new Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Runway 29 instrument approach procedure into the Worthington Municipal Airport, Minnesota, established on the basis of a request from Airport officials to provide that airport with an additional instrument approach procedure to serve a newly constructed Runaway 11/29.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions. The floor of the controlled airspace within the transition area will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately one-half mile beyond that now depicted. The control zone airspace will not be altered. The development of the proposed procedures necessitates the FAA to alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace at times when the control zone is not effective. In addition, aeronautical maps and charts will reflect the area of the instrument procedures which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 60752 of the Federal Register dated October 22, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Worthington, Minnesota.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 20, 1980, as follows:

In § 71.181 (44 FR 442) the following transition area is amended to read:

Worthington, Minnesota

That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Worthington Municipal Airport (Lat. 43°39'17"N, Long. 95°35'01"W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-51, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on December 7, 1979.

Wm. S. Dalton,
Acting Director, Great Lakes Region.

[FR Doc. 79-39287 Filed 12-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-52]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Houghton Lake, Michigan to accommodate new Very

High Frequency Omnidirectional Range (VOR) Runway 9 and Runway 27 instrument approach procedures into the Roscommon County Airport, Houghton Lake, Michigan, established on the basis of a request from the County Airport officials to provide that airport with additional instrument approach procedures.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1,200 feet above the surface to 700 feet for a distance of approximately three miles beyond that now depicted. The development of the proposed procedures necessitates the FAA to alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitudes for these procedures may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 60749 of the Federal Register dated October 22, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Houghton Lake, Michigan.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 20, 1980, as follows:

In § 71.181 (44 FR 442) the following transition area is amended to read:

Houghton Lake, Michigan

That airspace extending upward from 700 feet above the surface within an 8.5 statute mile radius of the Roscommon County Airport, Houghton Lake, Michigan (Lat. 44°21'N; Long. 84°40'W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-52, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on December 7, 1979.

Wm. S. Dalton,
Acting Director, Great Lakes Region.

[FR Doc. 79-39288 Filed 12-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-53]

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate controlled airspace near Glenwood, Minnesota to accommodate a new instrument approach into Glenwood Municipal Airport, Glenwood, Minnesota established on the basis of a request from the Glenwood Airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument

procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 60748 of the Federal Register dated October 22, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Glenwood, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 20, 1980, as follows:

In § 71.181 (44 FR 442) the following addition should be made:

Glenwood, Minnesota

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Glenwood Municipal Airport, Glenwood, Minnesota (Lat. 45°38'41"N; Long. 95°19'14"W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-53, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on December 7, 1979.

Wm. S. Dalton,
Acting Director, Great Lakes Region.

[FR Doc. 79-39292 Filed 12-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-54]

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate controlled airspace near Hutchinson, Minnesota to accommodate a new instrument approach into Hutchinson Municipal Airport, Hutchinson, Minnesota established on the basis of a request from the local airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT:

Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 60749 of the Federal Register dated October 22, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Hutchinson, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 20, 1980, as follows:

In § 71.181 (44 FR 442) the following addition should be made:

Hutchinson, Minnesota

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Hutchinson Municipal Airport, Hutchinson, MN. (Lat. 44°52'N; Long. 94°23'W), excluding that portion which overlaps the Litchfield, Minnesota transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-54, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on December 7, 1979.

Wm. S. Dalton,
Acting Director, Great Lakes Region.

[FR Doc. 79-39289 Filed 12-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-50]

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate controlled airspace near Shell Lake, Wisconsin to accommodate a new Non-Directional Radio Beacon (NDB) Runway 31 instrument approach into Shell Lake Municipal Airport, Shell Lake, Wisconsin established on the basis of a request from the Municipal Airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region,

2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 60751 of the Federal Register dated October 22, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Shell Lake, Wisconsin. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of this Notice of Proposed Rulemaking.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 20, 1980, as follows:

In § 71.181 (44 FR 442) the following addition should be made:

Shell Lake, Wisconsin

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Shell Lake Municipal Airport, Shell Lake, Wisconsin. (Lat. 45°45'N; Long. 91°55'W) and 3.0 miles each side of the 325° true bearing to the Shell Lake (SSQ) NDB (Lat. 45°43'55"N; Long. 91°55'05"W) extending from the 6.5 mile radius area out to 8.5 miles. (Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not

significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-50, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on December 7, 1979.

Wm. S. Dalton,
Acting Director, Great Lakes Region.

[FR Doc. 79-39288 Filed 12-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 19907; Amdt. No. 95-289]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT:

Gary W. Wirt, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on December 17, 1979.

James M. Vines,
Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

§ 95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
Versi INT, W Va	Libbr INT, W Va	3000
Libbr INT, W Va	Clarksburg, W Va VOR	3100
Pueblo, Colo LOM	Pynan INT, Colo	7600
	(Via COS 169 RAD) COP 17 NM PU	
Pynan INT, Colo	Colorado Springs, Colo VOR	9400

§ 95.1001 DIRECT ROUTES—U.S.
is amended to delete:

FROM	TO	MEA
Pueblo, Colo LOM	Pynan INT, Colo	7600
	(Via COS 169 RAD) COP 17 NM PU	
Pynan INT, Colo	Colorado Springs, Colo VOR	9400

§ 95.1001 DIRECT ROUTES—U.S.
is amended to read in part:

FROM	TO	MEA
Duluth, Minn VOR	Traverse City, Mich VOR	24000

§ 95.5000 HIGH ALTITUDE RNAV ROUTES

J888R is amended to read in part:

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
Amott, Alas W P	107	75 Amott	245°065 to COP	18000	45000
Malas, Alas W P			244°064 to Malas		

J996R is amended to read in part:

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
Carbu, Alas W P	114	11 Carbu	047°227 to COP	18000	45000
Amott, Alas W P			048°228 to Amott		

§ 95.6007 VOR FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
*Pates INT, Ind	Boiler, Ind VOR	2500
*4000—MRA		

§ 95.6008 VOR FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Bryce Canyon, Utah VOR	*Greel INT, Utah	
Via N alter	Via N alter	**16000
*10000—MRA		
*13300—MOCA		
Greel INT, Utah	*Sakes INT, Utah	
Via N alter	Via N alter	**16000
*14000—MCA Sakes INT, W bound		
*13300—MOCA		

§ 95.6009 VOR FEDERAL AIRWAY 9
is amended to read in part:

FROM	TO	MEA
McComb, Miss VOR	*Brandon INT, Miss	
Via E alter	Via E alter	2000
*3400—MRA		
Brandon INT, Miss	Jackson, Miss VOR	
Via E alter	Via E alter	2000

§ 95.6010 VOR FEDERAL AIRWAY 10
is amended to read in part:

FROM	TO	MEA
Plano INT, Ill	Vanis INT, Ill	4000
*2100—MOCA		

§ 95.6013 VOR FEDERAL AIRWAY 13
is amended to read in part:

FROM	TO	MEA
Harlingen, Tex VOR	Rayma INT, Tex	1600
Rayma INT, Tex	Ascat INT, Tex	*4000
*1300—MOCA		
Pague INT, Tex	Corpus Christi, Tex VOR	1600
Corpus Christi, Tex VOR	Worry INT, Tex	1700
Austis INT, Tex	Palacios, Tex VOR	1700
Humble, Tex VOR	Daisetta, Tex VOR	
Via E alter	Via E alter	2000
Daisetta, Tex VOR	Lufkin, Tex VOR	2000
Via E alter		
Texarkana, Ark VOR	*Pandy INT, Ark	2300
*5000—MRA		
Pandy INT, Ark	Deens INT, Ark	2300

§ 95.6014 VOR FEDERAL AIRWAY 14
is amended to read in part:

FROM	TO	MEA
Childress, Tex VOR	Hobart, Okla VOR	3700
Hobart, Okla VOR	*Waste INT, Okla	3500
*3500—MRA		
Minco INT, Okla	Oklahoma City, Okla VOR	3000
Oklahoma City, Okla VOR	Sapulpa INT, Okla	
Via S alter	Via S alter	4000
Tulsa, Okla VOR	Adair INT, Okla	2500
Adair INT, Okla	Neasha, Mo VOR	2900
Tulsa, Okla VOR	Vinta INT, Okla	
Via N alter	Via N alter	2600
Vinta INT, Okla	Neasha, Mo VOR	
Via N alter	Via N alter	2900
*Pryor INT, Okla	Neasha, Mo VOR	
Via S alter	Via S alter	2900
*2900—MRA		

§ 95.6015 VOR FEDERAL AIRWAY 15
is amended to read in part:

FROM	TO	MEA
Sealy INT, Tex	Prair INT, Tex	
Via W alter	Via W alter	*3500
*1700—MOCA		
Prair INT, Tex	Couth INT, Tex	
Via W alter	Via W alter	2000
Couth INT, Tex	College Station, Tex VOR	
Via W alter	Via W alter	1900
College Station, Tex VOR	Satty INT, Tex	2200
Satty INT, Tex	Waco, Tex VOR	2000
Scurry, Tex VOR	Blue Ridge, Tex VOR	2400
Blue Ridge, Tex VOR	Ardmore, Okla VOR	2600
Ardmore, Okla VOR	Pharo INT, Okla	3000
Pharo INT, Okla	Okmulgee, Okla VOR	2500
Ardmore, Okla VOR	Okmulgee, Okla VOR	
Via E alter	Via E alter	3000
*Pryor INT, Okla	Neasha, Mo VOR	2900
*2900—MRA		

§ 95.6016 VOR FEDERAL AIRWAY 16
is amended to read in part:

FROM	TO	MEA
Salt Flat, Tex VOR	Drill INT, Tex	8000
Midland, Tex VOR	Big Spring, Tex VOR	
Via S alter	Via S alter	4400
Big Spring, Tex VOR	Weepe INT, Tex	4200
Weepe INT, Tex	*Laran INT, Tex	4500
*6500—MRA		
Laran INT, Tex	Merke INT, Tex	4500
Abilene, Tex VOR	Truss INT, Tex	3100

Truss INT, Tex

FROM	TO	MEA
Truss INT, Tex	*3100—MOCA	
Quitman, Tex VOR	Texarkana, Ark VOR	2300
Seal Beach, Calif VOR	*Jagrit INT, Calif	
Via S alter	Via S alter	**4000
*6000—MCA Jagrit INT, E bound		
*2000—MOCA		
Jagrit INT, Calif	*Kayah INT, Calif	
Via S alter	Via S alter	6000
*7400—MCA Kayah INT, E bound		
Kayah INT, Calif	March, Calif VOR	
Via S alter	Via S alter	8000

§ 95.6017 VOR FEDERAL AIRWAY 17
is amended to read in part:

FROM	TO	MEA
Laredo, Tex VOR	*Kahan INT, Tex	2300
*5000—MRA		
San Antonio, Tex VOR	*Winks INT, Tex	3000
*3200—MRA		
Winks INT, Tex	*Budat INT, Tex	3000
*3500—MRA		
Austin, Tex VOR	*Grown INT, Tex	2500
*4000—MRA		
Grown INT, Tex	Belton INT, Tex	2500
Waco, Tex VOR	*Willi INT, Tex	2000
*4000—MRA		
Willi INT, Tex	Acton, Tex VOR	2500
Bridgeport, Tex VOR	Icana INT, Tex	2900
Icana INT, Tex	Duncan, Tex VOR	2800
Duncan, Tex VOR	Alexx INT, Tex	3000
Alexx INT, Tex	Oklahoma City, Okla VOR	2800
Oklahoma City, Okla VOR	*Curri INT, Okla	
Via W alter	Via W alter	3500
*4300—MRA		
Rolls INT, Okla	Gage, Okla VOR	
Via W alter	Via W alter	4000

§ 95.6018 VOR FEDERAL AIRWAY 18
is amended to read in part:

FROM	TO	MEA
Shreveport, La VOR	*Catta INT, La	
Via N alter	Via N alter	2000
*3000—MRA		
Catta INT, La	Monroe, La VOR	
Via N alter	Via N alter	2000
Monroe, La VOR	*Pecks INT, Miss	
Via N alter	Via N alter	2300
*2800—MRA		

§ 95.6020 VOR FEDERAL AIRWAY 20
is amended to read in part:

FROM	TO	MEA
Pague INT, Tex	Corpus Christi, Tex VOR	1600
Corpus Christi, Tex VOR	Copan INT, Tex	1600
Copan INT, Tex	Baint INT, Tex	1700
Hobby, Tex VOR	Beaumont, Tex VOR	1800

§ 95.6025 VOR FEDERAL AIRWAY 25
is amended to read in part:

FROM	TO	MEA
Red Bluff, Calif VOR	Baudr INT, Calif	4000
Baudr INT, Calif	*Imor INT, Calif	5000
*7000—MCA Imor INT, N bound		

§95.6035 VOR FEDERAL AIRWAY 35 is amended to read in part:			§95.6069 VOR FEDERAL AIRWAY 69 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Glade Spring, Va. VOR	Stacy INT, Va.	*6000	Shreveport, La. VOR	*Cotta INT, La	2000
*5200 - MOCA			*3000 - MRA		
Charleston, W Va VOR	Benza INT, W. Va	4000	Cotta INT, La.	El Dorado, Ark VOR	2000
			Shreveport, La. VOR	*Cotta INT, La	
			Via W alter	Via W alter	2000
			*3000 - MRA		
			Cotta INT, La	*Faste INT, La	2000
			Via W alter	Via W alter	
			*3500 - MRA		
			Faste INT, La	El Dorado, Ark VOR	2000
			Via W alter	Via W alter	
			El Dorado, Ark VOR	Pine Bluff, Ark VOR	2000
			§95.6070 VOR FEDERAL AIRWAY 70 is amended to read in part:		
			FROM	TO	MEA
			Carpus Christi, Tex. VOR	Capon INT, Tex	1600
			Capon INT, Tex	Baint INT, Tex	1700
			Palacios, Tex VOR	Delve INT, Tex	1800
			Ticks INT, La	Picayune, Miss VOR	1900
			§95.6071 VOR FEDERAL AIRWAY 71 is amended to read in part:		
			FROM	TO	MEA
			Baton Rouge, La VOR	*Wack INT, La	2000
			*3000 - MRA		
			Razarback, Ark VOR	Gamps INT, Mo	
			Via W alter	Via W alter	3000
			§95.6074 VOR FEDERAL AIRWAY 74 is amended to read in part:		
			FROM	TO	MEA
			Pioneer, Okla VOR	Manan INT, Okla	2700
			Swall INT, Okla	Sharn INT, Okla	
			Via N. alter	Via N. alter	3300
			Bran INT, Ark	*Scran INT, Ark	
			Via N. alter	Via N. alter	2500
			*3300 - MRA		
			Bibbs INT, Ark	Little Rock, Ark VOR	
			Via N. alter	Via N. alter	3500
			Little Rock, Ark VOR	Pine Bluff, Ark VOR	
			Via N. alter	Via N. alter	2000
			§95.6076 VOR FEDERAL AIRWAY 76 is amended to read in part:		
			FROM	TO	MEA
			Patts INT, Tex	Big Spring, Tex VOR	4500
			Big Spring, Tex VOR	Hyman, Tex VOR	4000
			Hyman, Tex VOR	*Water INT, Tex	4400
			*7000 - MRA		
			Water INT, Tex	San Angelo, Tex VOR	4400
			Evile INT, Tex	Bredy INT, Tex	3800
			Bredy INT, Tex	Lland, Tex VOR	3500
			Austin, Tex VOR	*Butler INT, Tex	2400
			*3000 - MRA		
			Industry, Tex VOR	Eagle Lake, Tex VOR	
			Via S alter	Via S alter	2000
			§95.6077 VOR FEDERAL AIRWAY 77 is amended to read in part:		
			FROM	TO	MEA
			Abilene, Tex VOR	*Waven INT, Tex	3500
			*6000 - MRA		
			§95.6036 VOR FEDERAL AIRWAY 36 is amended to read in part:		
FROM	TO	MEA			
Sault Ste Marie, Mich VOR	U S Canadian Border	*3000			
*2100 - MOCA					
			§95.6054 VOR FEDERAL AIRWAY 54 is amended to read in part:		
FROM	TO	MEA			
Quitman, Tex VOR	Texarkana, Ark VOR	2300			
Lanns INT, Ark	Little Rock, Ark VOR				
Via N alter	Via N alter	2000			
			§95.6062 VOR FEDERAL AIRWAY 62 is amended to read in part:		
FROM	TO	MEA			
Texico, N.M. VOR	Spade INT, Tex	5700			
			§95.6063 VOR FEDERAL AIRWAY 63 is amended to read in part:		
FROM	TO	MEA			
Davenport, Iowa VOR	Rackford, Ill VOR	2700			
Rackford, Ill. VOR	Jonesville, Ill VOR	2700			
Razarback, Ark VOR	Gamps INT, Mo	3000			
			§95.6066 VOR FEDERAL AIRWAY 66 is amended to read in part:		
FROM	TO	MEA			
El Paso, Tex VOR	Hudspeth, Tex VOR	7400			
Bridgeport, Tex VOR	Blue Ridge, Tex VOR	2800			
Blue Ridge, Tex	Sulphur Springs, Tex VOR	2300			
Sulphur Springs, Tex VOR	Texarkana, Ark VOR				
Via S Alter	Via S Alter	2300			
			§95.6068 VOR FEDERAL AIRWAY 68 is amended to read in part:		
FROM	TO	MEA			
Hobbs, N.M. VOR	Aneel INT, Tex	5200			
Aneel INT, Tex	Midland, Tex VOR	5000			
Hobbs, N.M. VOR	Gomit INT, Tex				
Via S Alter	Via S Alter	5200			
Gomit INT, Tex	Midland, Tex VOR				
Via S alter	Via S alter	5000			
Steep INT, Tex	Tankr INT, Tex	4400			
Tankr INT, Tex	San Angelo, Tex. VOR	3700			
Midland, Tex VOR	Deric INT, Tex				
Via S alter	Via S alter	4400			
Deric INT, Tex	San Angelo, Tex VOR				
Via S alter	Via S alter	*5000			
*4100 - MOCA					
San Angelo, Tex VOR	Junction, Tex VOR	4000			
San Angelo, Tex VOR	Junction, Tex VOR				
Via S alter	Via S alter	4000			
Dassy INT, Tex	*Camfy INT, Tex	4000			
*4000 - MRA					
Camfy INT, Tex	*Tatar INT, Tex	3500			
*4300 - MRA					
Tatar INT, Tex	San Antonio, Tex VOR	3500			

§95.6112 VOR FEDERAL AIRWAY 112 is amended to read in part:			§95.6114 VOR FEDERAL AIRWAY 114 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Pasco, Wash. VOR	Watsy INT, Wash		Childress, Tex VOR	Vasty INT, Tex	3700
Via W alter	Via W alter	3500	Vasty INT, Tex	Wichita Falls, Tex VOR	3000
Watsy INT, Wash.	*Graph INT, Wash		Kiawa INT, Tex	Blue Ridge, Tex VOR	2500
Via W. alter	Via W. alter	5000	Blue Ridge, Tex VOR	Quitman, Tex VOR	2300
*6000 - MRA			Childress, Tex VOR	*Sneed INT, Tex	
			Via S. alter	Via S. alter	4000
			*4000 - MRA		
			*Nubay INT, La.	Boyce INT, La	
			E-bound	E-bound	2000
			*6000-MRA	W-bound	4500
			*Nubay INT, La.	Boyce INT, La.	
			Via N. alter	Via N. alter	
			E-bound	E-bound	2000
			W-bound	W-bound	4500
			§95.6124 VOR FEDERAL AIRWAY 124 is amended to read in part:		
			FROM	TO	MEA
			Lanns INT, Ark	Little Rock, Ark VOR	2000
			§95.6127 VOR FEDERAL AIRWAY 127 is amended to read in part:		
			FROM	TO	MEA
			Pala, Ill. VOR	Rackford, Ill VOR	2700
			§95.6131 VOR FEDERAL AIRWAY 131 is amended to read in part:		
			FROM	TO	MEA
			McAlester, Okla. VOR	*Hoffe INT, Okla	2700
			*4700 - MRA		
			Hoffe INT, Okla.	Okmulgee, Okla. VOR	2700
			§95.6136 VOR FEDERAL AIRWAY 136 is amended to read in part:		
			FROM	TO	MEA
			So. Baston, Va. VOR	Durham INT, N.C.	2600
			§95.6140 VOR FEDERAL AIRWAY 140 is amended to read in part:		
			FROM	TO	MEA
			Amarillo, Tex. VOR	Gaani INT, Tex	5000
			Bisc INT, Tex	Sayre, Okla VOR	
			Via N. alter	Via N. alter	4800
			Walnut Ridge, Ark VOR	Helms INT, Mo	2400
			§95.6161 VOR FEDERAL AIRWAY 161 is amended to read in part:		
			FROM	TO	MEA
			Bridgeport, Tex VOR	Ardmore, Okla. VOR	3000
			Tulsa, Okla VOR	Novel INT, Okla	2500
			§95.6163 VOR FEDERAL AIRWAY 163 is amended to read in part:		
			FROM	TO	MEA
			Brownsville, Tex. VOR	Manay INT, Tex	1500
			Manay INT, Tex.	Ascol INT, Tex	*4000
			*1300 - MOCA		
			§95.6081 VOR FEDERAL AIRWAY 81 is amended to read in part:		
			FROM	TO	MEA
			Merge INT, Tex	Patts INT, Tex	4500
			Lubbock, Tex VOR	Plainview, Tex VOR	5000
			Plainview, Tex VOR	*Yacan INT, Tex	5000
			*7000 - MRA		
			Yacan INT, Tex	Amarillo, Tex VOR	5000
			Plainview, Tex VOR	*Forkk INT, Tex	
			Via E alter	Via E alter	5000
			*7500 - MRA		
			Forkk INT, Tex	Amarillo, Tex VOR	
			Via E alter	Via E alter	5000
			Lanti INT, Tex	Dalhart, Tex VOR	5700
			§95.6088 VOR FEDERAL AIRWAY 88 is amended to read in part:		
			FROM	TO	MEA
			Tulsa, Okla VOR	Vinta INT, Okla	2600
			§95.6094 VOR FEDERAL AIRWAY 94 is amended to read in part:		
			FROM	TO	MEA
			Deming, N.M. VOR	Hubey INT, N.M	
			Via S. alter	Via S. alter	*9000
			*7600 - MOCA		
			Hubey INT, N.M	Newman, N.M. VOR	
			Via S alter	Via S alter	9200
			Newman, Tex VOR	Salt Flat, Tex VOR	8800
			Salt Flat, Tex VOR	Dilli INT, Tex	8000
			Hyman, Tex VOR	Tuscola, Tex VOR	4000
			Canton INT, Tex	Gregg Co. Tex VOR	2000
			Gregg Co. Tex VOR	Elm Grove, La VOR	2000
			§95.6102 VOR FEDERAL AIRWAY 102 is amended to read in part:		
			FROM	TO	MEA
			Salt Flat, Tex VOR	Carlsbad, N.M VOR	
			Via S alter	Via S alter	8000
			§95.6110 VOR FEDERAL AIRWAY 110 is amended to read in part:		
			Deming, N.M. VOR	Truth or Consequences, N.M VOR	8000

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595.6300 VOR FEDERAL AIRWAY 300
 FROM TO MEA
 Sault Ste Marie, Mich. VOR U.S. Canadian Border 3000
 U.S. Canadian Border Naash INT, Mich. 3000
 Naash INT, Mich. U.S. Canadian Border *6000
 *2100 - MOCA

595.6306 VOR FEDERAL AIRWAY 306
 is amended to read in part:
 FROM TO MEA
 Couth INT, Tex Navasota, Tex VOR 2000
 Austin, Tex VOR *Butler INT, Tex.
 Via S. alter 2400
 *3000 - MRA
 Navasota, Tex VOR Gomer INT, Tex. 2000
 Gomer INT, Tex. Cleep INT, Tex. *5000
 *1800 - MOCA
 Cleep INT, Tex. Daisetta, Tex. VOR *1900
 *1400 - MOCA
 Humble, Tex. VOR Daisetta, Tex. VOR
 Via S. alter 2000
 Daisetta, Tex. VOR Silbe INT, Tex. 2000

595.6360 VOR FEDERAL AIRWAY 360
 FROM TO MEA
 Sault Ste Marie, Mich. VOR U.S. Canadian Border *3000
 *2100 - MOCA

595.6367 VOR FEDERAL AIRWAY 367
 is amended to read in part:
 FROM TO MEA
 International Falls, Minn. VOR U.S. Canadian Border 3000

595.6369 VOR FEDERAL AIRWAY 369
 is added to read:
 FROM TO MEA
 Navasota, Tex. VOR Dallas Fort Worth, Tex. VOR *6000
 *3400 - MOCA

595.6407 HAWAII FEDERAL AIRWAY 7
 is amended by adding:
 FROM TO MEA
 Kona, Hawaii VOR Reels INT, Hawaii 5000
 *Reefs INT, Hawaii Moana INT, Hawaii 2000
 *3600 - MCA Reefs INT, SE-bound
 Moana INT, Hawaii Lanai, Hawaii VOR *4000
 *2800 - MOCA

595.6437 VOR FEDERAL AIRWAY 437
 is amended to read in part:
 FROM TO MEA
 Savannah, Ga. VOR Charleston, S. C. VOR *2000
 *1400 - MOCA

595.6477 VOR FEDERAL AIRWAY 477
 is amended to read in part:
 FROM TO MEA
 Humble, Tex. VOR Gomer INT, Tex 1700
 Gomer INT, Tex. Dacus INT, Tex 1900

595.6484 VOR FEDERAL AIRWAY 484
 is amended to read in part:
 FROM TO MEA
 Waden INT, Ida. *Dryad INT, Utah **12000
 *13000 - MCA Dryad INT, S-bound
 *10100 - MOCA
 Dryad INT, Utah Switz INT, Utah *#16000
 *11900 - MOCA
 #MEA is established with a gap in navigation signal coverage

§95.7010 JET ROUTE NO. 10 is amended by adding:			
FROM	TO	MEA	MAA
Wolbach, Neb VORTAC	Des Moines, Iowa VORTAC	18000	45000
§95.7018 JET ROUTE NO. 18 is amended to delete:			
FROM	TO	MEA	MAA
Salina, Kans VORTAC	Kirksville, Mo VORTAC	18000	45000
Kirksville, Mo.	Bradford, Ill VORTAC	18000	45000
§95.7018 JET ROUTE NO. 18 is amended by adding:			
FROM	TO	MEA	MAA
Salina, Kans. VORTAC	St Josephs, Mo VORTAC	18000	45000
St Josephs, Mo VORTAC	Bradford, Ill. VORTAC	18000	45000
§95.7073 JET ROUTE NO. 73 is amended to read in part:			
FROM	TO	MEA	MAA
LaBelle, Fla VORTAC	Lakeland, Fla VORTAC	18000	45000
Lakeland, Fla VORTAC	Tallahassee, Fla. VORTAC	18000	45000
§95.7524 JET ROUTE NO. 524 is amended to read:			
FROM	TO	MEA	MAA
Bugsy INT, N Y	U S. Canadian Border	18000	45000

By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS			
AIRWAY SEGMENT	CHANGEOVER POINTS		
FROM	TO	DISTANCE FROM	
V-12 is amended to read in part:			
Dayton, Ohio VOR	Appleton, Ohio VOR	41	Davtan
V-16 is amended by adding:			
Seal Beach, Calif VOR	March, Calif VOR		
Via S. alter	Via S alter	24	Seal Beach
V-283 is amended by adding:			
Seal Beach, Calif VOR	March, Calif VOR	24	Seal Beach

§95.8005 JET ROUTES CHANGEOVER POINTS			
AIRWAY SEGMENT	CHANGEOVER POINTS		
FROM	TO	DISTANCE FROM	
J-18 is amended by adding:			
St Josephs, Mo. VORTAC	Bradford, Ill VORTAC	135	St Josephs

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 770

Base Entry Regulations for Naval Installations in the State of Hawaii

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Navy is adding Subpart C to 32 CFR Part 770 in order to set forth regulations governing entry upon naval installations in the State of Hawaii. These regulations limit entry to authorized persons because naval installations in Hawaii serve military functions vital to national defense. It is essential that military operations and training at naval installations in Hawaii be continued without undue or unnecessary interruption. Additionally, there are several industrial areas within these naval installations where construction activities and the operation of heavy machinery pose grave danger for unauthorized visitors. Further, various types of inherently dangerous materials of a flammable or incendiary nature are stored at naval installations in the State of Hawaii. Proper safeguarding of these materials mandates strict control of visitors in the interest of public safety. It is intended that these regulations apprise members of the general public of the rules governing access to naval installations in the State of Hawaii.

EFFECTIVE DATE: December 26, 1979.

FOR FURTHER INFORMATION CONTACT: Commander G. B. Powell, JAGC, U.S. Navy, Staff Judge Advocate, Headquarters, Commander Naval Base, Pearl Harbor, Hawaii 96860, Telephone No. (808) 471-9713 or (808) 471-9849.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred by 50 U.S.C. 797, as implemented by Department of Defense Directive 5200.8 of August 20, 1954, together with the authority conferred under 5 U.S.C. 301 and 10 U.S.C. 6011, as delegated in 32 CFR 700.701 and 32 CFR 700.714, the Commander, Naval Base, Pearl Harbor, Hawaii, as area coordinator, has adopted entry regulations entitled, "Entry Regulations for Naval Installations in the State of Hawaii." Naval installations in Hawaii serve military functions vital to national defense. In this regard, it is essential that the use of such naval installations be continued without undue

interruption. Additionally, due to the nature of industrial activities at several installations, there exist conditions inherently dangerous to the public. Accordingly, these regulations limit entry upon naval installations in the State of Hawaii to authorized personnel and those persons who have obtained advance consent pursuant to these regulations. It has been determined, in accordance with 32 CFR Part 296 and 32 CFR 701.57 that publication of these regulations for public comment prior to adoption is impractical, unnecessary, and contrary to the public interest, since the nature and national importance of the operations conducted at installations covered by this subpart, as well as the inherently dangerous conditions frequently existing at such installations, mandate the immediate and uninterrupted effectiveness of these regulations.

Accordingly, 32 CFR Part 770 is hereby amended by adding a new Subpart C as follows:

Subpart C—Base Entry Regulations for Naval Installations in the State of Hawaii

Sec.
770.25 Purpose.
770.26 Definitions.
770.27 Background.
770.28 Entry restrictions.
770.29 Entry procedures.
770.30 Violations.
770.31 List of major naval installations in the State of Hawaii and cognizant commanders authorized to grant access under these regulations.
Authority: 50 U.S.C. 797; DoD Dir. 5200.8 of August 20, 1954; 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 770.714.

Subpart C—Base Entry Regulations for Naval Installations in the State of Hawaii

§ 770.25 Purpose.

The purpose of this Subpart is to promulgate regulations governing entry to naval installations in the State of Hawaii.

§ 770.26 Definitions.

For the purpose of this subpart the following definitions apply:

(a) *Naval installations.* A naval installation is a shore activity and is any area of land, whether or not fenced or covered by water, that is administered by the Department of the Navy or by any subordinate naval command. The term "naval installation" applies to all such areas regardless of whether the areas are being used for purely military purposes, for housing, for support purposes, or for any other purpose by a naval command. Section 770.31 contains a list of the major naval installations in Hawaii. This list is not considered to be

all inclusive and is included only as a representative guide. For the purposes of this Subpart the area of water within Pearl Harbor is considered to be within a naval installation.

(b) *Outleased areas.* Certain portions of naval installations in Hawaii which are not for the time needed for public use or for which a dual use is feasible have been outleased to private interests. Examples of such outleased areas are the Moanalua Shopping Center and lands such as Waipio Peninsula, which has been outleased for agricultural purposes. For the purpose of this Subpart, outleased areas which are not within fenced portions of naval installations are not considered to be a part of naval installations. Rules for entry onto the outleased areas are made by the lessees, except in the case of Waipio Peninsula where the lessee (Oahu Sugar Company) is not authorized to allow anyone to enter Waipio Peninsula for any purpose not connected with sugar cane production.

§ 770.27 Background.

(a) Naval installations in Hawaii constitute a significant element of the national defense establishment. It is vital to the national defense that the use of such areas be at all times under the positive control of the Department of the Navy. Strict control must be exercised over access to naval installations in order to preclude damage accidental and intentional to Government property, injury to military personnel, and interference in the orderly accomplishment of the mission of command.

(b) There are several industrial areas within naval installations in Hawaii wherein construction activities and the use of heavy machinery pose grave risk of danger to visitors.

(c) Various types of flammable or incendiary materials and ordnance are stored at a number of locations within naval installations in Hawaii.

(d) Classified documents and equipment requiring protection from unauthorized disclosure by Executive order 12065 for reasons of national security are located at various locations within naval installations in Hawaii.

(e) In order to effect the positive control of the Navy over its installations in Hawaii, it is essential that entry onto those installations be restricted to authorized persons only.

(f) These entry regulations are being promulgated under the authority of Commander, Naval Base, Pearl Harbor, who has been assigned as immediate area coordinator for all naval installations in the State of Hawaii by Commander-in-Chief, U.S. Pacific Fleet.

§ 770.28 Entry restrictions.

Each commander is responsible for the security of his/her command. Therefore, entry onto a command or into part of a command may be controlled by the commander through the imposition of such restrictions as may be required by attendant circumstances. Within the State of Hawaii, entry into a naval installation is not permitted without the permission of the responsible commander.

§ 770.29 Entry procedures.

(a) Operational, security, and safety considerations take priority over requests by individuals to visit a naval installation. Consistent with such considerations, visits by members of the general public may be authorized at the discretion of the commander. The commitment of resources which would be required to safeguard the persons and property of visitors as well as military property and personnel must of necessity preclude or severely restrict such visiting. The purpose and duration of the visit and the size of the party and areas to be visited are other considerations which may affect the commander's decision whether to permit visiting by members of the public.

(b) Any person or group desiring to enter a particular naval installation or portion thereof, shall submit a written request to the commander of the installation well enough in advance to allow a reasonable time for reply by mail. Mailing addresses to commanders of major installations covered by this Subpart are listed in § 770.31. Full compliance with a naval installation's local visitor registration and entry control procedures shall be deemed the equivalent of obtaining the advance consent of the commander for entrance upon the installation for the purpose of this subpart. Authorization to enter one naval installation or a portion of one installation does not necessarily include the authorization to enter any other naval installation or all portions of an installation.

§ 770.30 Violations.

(a) Any person entering or remaining on a naval installation in the State of Hawaii, without consent of the commander or his authorized representative, shall be subject to the penalties of a fine of not more than \$500 or imprisonment for not more than six months, or both. See 18 U.S.C. 1382.

(b) Moreover, any person who willfully violates this regulation is subject to a fine not to exceed \$5,000 or

imprisonment for one year, or both. See 50 U.S.C. 797.

§ 770.31 List of major naval installations in the State of Hawaii and cognizant commander authorized to grant access under these regulations.

(a) *On Oahu.* (1) Naval Base, Pearl Harbor (including the Naval Station, Naval Submarine Base, Naval Shipyard, Naval Supply Center, Naval Public Works Center, Marine Barracks, Ford Island, Bishop Point Dock Area, Commander-in-Chief Pacific Fleet and Commander Naval Logistics Command Headquarters Areas, Johnson Circle Navy Exchange/Commissary Store Area, Navy-Marine Golf Course, miscellaneous other commands, and areas within the Naval Base, Pearl Harbor complex, and the waters of Pearl Harbor). Contact:

Commander, Naval Base, Pearl Harbor, Hawaii 96860.

(2) Naval Western Oceanography Center, Pearl Harbor. Contact:

Commanding Officer, Naval Western Oceanography Center, Box 113, Pearl Harbor, Hawaii 96860.

(3) Naval Air Station, Barbers Point. Contact:

Commanding Officer, Naval Air Station, Barbers Point, Hawaii 96862.

(4) Naval Communication Area Master Station, Eastern Pacific, Wahiawa. Contact:

Commanding Officer, Naval Communication Area Master Station, Eastern Pacific, Wahiawa, Hawaii 96786.

(5) Naval Magazine (Lualualei, Waikale, and West Loch). Contact:

Commanding Officer, Naval Magazine, Lualualei, Hawaii 96792.

(6) Naval Radio Transmitting Facility, Lualualei. Contact:

Commanding Officer, Naval Base, Pearl Harbor, Hawaii 96860.

(7) Naval and Marine Corps Reserve Training Center, Honolulu. Contact:

Commanding Officer, Naval and Marine Corps Reserve Training Center, Honolulu, 530 Peltier Avenue, Honolulu, Hawaii 96818.

(8) Military Sealift Command Office. Contact:

Commander, Naval Base, Pearl Harbor, Hawaii 96860.

(9) Mauna Kapu (Pacific Missile Range Facility). Contact:

Commanding Officer, Pacific Missile Range Facility, Hawaiian Area, Barking Sands, Kekaha, Kauai, Hawaii 96752.

(10) Kunia Facility; FORACS III Sites; Degaussing Station, Waipio Peninsula; Damon Tract (Remnant) Opana Communications Site. Contact: Commander, Naval Base, Pearl Harbor, Hawaii 96860.

(11) Outlying areas of the Naval Supply Center, Pearl Harbor (including the Ewa Junction Storage Area, Ewa Drum Storage Area, Manana Supply Area, Pearl City Supply Area, and the Red Hill Fuel Storage Area). Contact:

Commander, Naval Base, Pearl Harbor, Hawaii 96860.

(12) Pump Stations (Halawa, Waiawa, Red Hill, and Barbers Point). Contact:

Commander, Naval Base, Pearl Harbor, Hawaii 96860.

(13) Halawa Water Storage Area; Barbers Point, Independent Water Supply Reservoir Site; Sewage Treatment Plant; Fort Kam (tri-service); Utility Corridors, Lynch Park (Ohana Nui). Contact:

Commander, Naval Base, Pearl Harbor, Hawaii 96860.

(14) Navy housing areas (including Moanalua Terrace, Radford Terrace, Makalapa, Maloelap, Halsey Terrace, Catlin Park, Hale Moku, Pearl Harbor, Naval Shipyard, McGrew Point, Halawa, Hukulani, Manana, Pearl City Peninsula, Red Hill, Iroquois Point, Puuloa, and Camp Stover). Contact:

Commander, Naval Base, Pearl Harbor, Hawaii 96860.

(b) *On Kauai.*

(1) Pacific Missile Range Facility, Barking Sands, Kekaha.

Contact: Commanding Officer, Pacific Missile Range Facility, Hawaiian Area, Barking Sands, Kekaha, Hawaii 96752.

(c) *Other areas.*

(1) Kahoolawe Island. Contact:

Commander, Third Fleet, Pearl Harbor, Hawaii 96860. Also see 32 CFR 763.

(2) Kaula. Contact:

Commander, Third Fleet, Pearl Harbor, Hawaii 96860.

Dated: December 17, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 39342 Filed 12-21-79; 8:45 am]

BILLING CODE 3810-71-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[FRL 1376-4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Clean Air Act requires states to submit plans to control emissions of designated pollutants (e.g. sulfuric acid mist, fluoride and total reduced sulfur compounds) from designated facilities. However, a state is not required to submit a plan if it certifies that no applicable sources are located within the state. Therefore, EPA is today approving certifications submitted by the Alaska Department of Environmental Conservation, the Oregon State Department of Environmental Quality and the Washington State Department of Ecology for negative declarations for certain source categories.

DATE: December 26, 1979.

ADDRESS: The certifications may be examined during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch M/S 629, 1200 Sixth Avenue, Seattle, Washington 98101

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT:

George C. Hofer, Chief, Technical Support and Special Projects Section, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-1125, FTS No. 399-1125

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act, as amended, requires EPA to establish procedures under which states submit plans to control certain existing sources of certain pollutants. On November 17, 1975 (40 FR 53340), EPA began to implement Section 111(d) by promulgating Subpart B of 40 CFR Part 60, establishing procedures and requirements for adoption and submittal of state plans for control of "designated pollutants" from "designated facilities." Designated pollutants are those not already listed under Section 108(a) of the Act (National Ambient Air Quality Standards) or Section 112(b)(1)(A) (Hazardous Air Pollutants), but for which standards of performance for new source have been established under

Section 111(b) (Standards of Performance for New Stationary Sources).

If a state does not have a designated facility within its borders, a state may submit a certification of negative declaration in lieu of a control plan. The States of Alaska, Oregon and Washington have submitted such certifications for various designated pollutants.

EPA is therefore today approving the three (3) certifications of negative declaration.

Part 62 of Chapter I, Title 40, Code of Federal Regulations is amended by adding subparts C, MM and WW as follows:

Subpart C—Alaska

Fluoride Emissions From Phosphate Fertilizer Plants

Sec.

62.350 Identification of plan.

Acid Mist From Sulfuric Acid Plants

62.351 Identification of plan.

Total Reduced Sulfur Emissions From Kraft Pulp Mills

62.352 Identification of plan.

Fluoride Emissions From Primary Aluminum Reduction Plants

62.353 Identification of plan.

* * *

Subpart MM—Oregon

Fluoride Emissions From Phosphate Fertilizer Plants

62.9350 Identification of plan.

Acid Mist From Sulfuric Acid Plants

62.9351 Identification of plan.

* * *

Subpart WW—Washington

62.11850 Identification of plan.

Authority: Secs. 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7411 and 7601).

Subpart C—Alaska

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.350 Identification of plan—negative declaration.

The Alaska Department of Environmental Conservation submitted on June 9, 1977, certification that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Acid Mist From Sulfuric Acid Plants

§ 62.351 Identification of plan—negative declaration.

The Alaska Department of Environmental Conservation submitted on June 9, 1977, certification that there

are no existing sulfuric acid plants in the State subject to Part 60, Subpart B of this Chapter.

Total Reduced Sulfur Emissions From Kraft Pulp Mills

§ 62.352 Identification of plan—negative declaration.

The Alaska Department of Environmental Conservation submitted on June 9, 1977, certification that there are no existing kraft pulp mills in the State subject to Part 60, Subpart B of this Chapter.

Fluoride Emissions From Primary Aluminum Reduction Plants

§ 62.353 Identification of plan—negative declaration.

The Alaska Department of Environmental Conservation submitted on June 9, 1977, certification that there are no existing primary aluminum reduction plants in the State subject to Part 60, Subpart B of this Chapter.

Subpart MM—Oregon

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.9350 Identification of plan—negative declaration.

The Oregon State Department of Environmental Quality submitted on June 1, 1977, certification that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Acid Mist From Sulfuric Acid Plants

§ 62.9351 Identification of plan—negative declaration.

The Oregon State Department of Environmental Quality submitted on January 27, 1978, certification that there are no existing sulfuric acid plants in the State subject to Part 60, Subpart B of this Chapter.

Subpart WW—Washington

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.11850 Identification of plan—negative declaration.

The Washington State Department of Ecology submitted on August 29, 1979, certification that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

(Sections 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7411 and 7601)).

Date: December 17, 1979
Douglas M. Costle,
Administrator.
(FR Doc. 79-39377 Filed 12-21-79; 8:45 am)
BILLING CODE 6560-01-M

FEDERAL EMERGENCY
MANAGEMENT AGENCY
44 CFR Part 67

National Flood Insurance Program;
Final Flood Elevation Determinations

AGENCY: Federal Insurance
Administration, FEMA.
ACTION: Final rule.

SUMMARY: Final base (100-year) flood
elevations are listed below for selected
locations in the nation.

These base (100-year) flood elevations
are the basis for the flood plain

management measures that the
community is required to either adopt or
show evidence of being already in effect
in order to qualify or remain qualified
for participation in the National Flood
Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of
the Flood Insurance Rate Map (FIRM),
showing base (100-year) flood
elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT:
Mr. R. Gregg Chappell, National Flood
Insurance Program, (202) 426-1460 or
Toll Free Line (800) 424-8872, (In Alaska
and Hawaii call Toll Free Line (800) 424-
9080), Room 5150, 451 Seventh Street,
SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The
Federal Insurance Administrator gives
notice of the final determinations of
flood elevations for each community
listed.

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Fordyce, Dallas County (Docket No. FI-5683).	Jug Creek	Approximately 120 feet upstream of corporate limits.	*218
	Maps available at Director of Administration's Office, City Hall, Fordyce, Arkansas 71742.		Approximately 100 feet upstream of US Highway 79B.	*240
Colorado	Eaton (Town), Weld County (Docket No. FI-5665).	Eaton Draw	Downstream Corporate Limits 100 feet upstream from crossing County Road 74 150 feet downstream from centerline County Road 74 at centerline	*4,789 *4,802 *4,808
	Maps available at Town Hall, 2231 First Street, Eaton, Colorado 80615.			
Colorado	Frisco (Town), Summit County (Docket No. FI-5673).	Tenmile Creek	Most downstream corporate limit 4th Avenue (Creekside Drive) at centerline Madison Avenue 50 feet upstream from centerline Creekside Drive second crossing 20 feet upstream from centerline U.S. Highway 6 20 feet upstream from centerline Most upstream corporate limit 80 feet south along Madison Avenue from its intersection with Creek- side Drive	*9,026 *9,048 *9,069 *9,082 *9,106 *9,108 #2
		Meadow Creek	Meadow Creek Drive 40 feet downstream from centerline Meadow Creek Drive 20 feet upstream from centerline Ten Mile Drive 30 feet downstream from centerline Ten Mile Drive 30 feet upstream from centerline Dirt Road second crossing 60 feet upstream from centerline Most upstream corporate limit	*9,030 *9,035 *9,045 *9,051 *9,056 *9,069
	Maps available at the Town Hall, 300 Main Street, Frisco, Colorado.			
Connecticut	Groton, City, New London County (Docket No. FI-5665).	Long Island Sound	Coastline Thames River Birch Plain Creek	*11 *11 *11
	Maps available at the Office of the Building and Zoning Officials, Municipal Building.			
Georgia	DeKalb County, Unincorporated Areas (Docket No. FI-5570).	South River	Downstream County Limits (200 feet) upstream from centerline Klondike Road (upstream side) Flatbridge Road (2,000 feet) upstream from centerline Snapfinger Road (upstream side) Confluence with Snapfinger Creek Flakes Mill Road at centerline Waldrup Road at centerline Pantherville Road at centerline Interstate 285 (200 feet) upstream from centerline West Side Place (upstream side) Moreland Avenue at centerline Browns Mill Road (downstream side) Browns Mill Road (upstream side) Berline Drive at centerline South Goddard Road (upstream side) Confluence with Crooked Creek (Tributary to South River) South Goddard Road at centerline Pole Bridge Creek Confluence with Stephenson Creek Browns Mill Road at centerline Browns Mill Road (downstream side) Browns Mill Road (upstream side)	*663 *681 *695 *707 *728 *739 *757 *781 *776 782 *786 *683 *690 *699 *715 *705 *749 *690 *680 *690 *707

This final rule is issued in accordance
with Section 110 of the Flood Disaster
Protection Act of 1968 (Title XIII of the
Housing and Urban Development Act of
1968 (Pub. L. 90-448), 42 U.S.C. 4001-
4128, and 44 CFR Part 67.4(a) (presently
appearing at its former Title 24, Chapter
10, Part 1917.4(a) of the Code of Federal
Regulations)). An opportunity for the
community or individuals to appeal this
determination to or through the
community for a period of ninety (90)
days has been provided. No appeals of
the proposed base flood elevations were
received from the community or from
individuals within the community.

The Administrator has developed
criteria for flood plain management in
flood-prone areas in accordance with 44
CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-year) flood
elevations for selected locations are:

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			South Goddard Road at centerline	*707
			North Goddard Road (40 feet) upstream from centerline	*745
	Clarks Creek		Hearn Road upstream from centerline	*725
			Lombard Road (25 feet) upstream from centerline	*731
			Amster Road (50 feet) upstream from centerline	*776
	Com Creek		Confluence with Clark's Creek	*736
			Flakes Mill Road at centerline	*752
	Snapfinger Creek		Dogwood Farm Road (25 feet) upstream from centerline	*732
	Panther Branch		Snapfinger Road (downstream side)	*762
			Snapfinger Road (upstream side)	*767
			Rock Springs Road (125 feet) upstream from centerline	*787
			Thompson Mill Road at centerline	*801
	South River Tributary "A"		Minola Road at centerline	*837
			LeHigh Boulevard (downstream side)	*775
			LeHigh Boulevard (upstream side)	*816
			Fiat Shoals Road (upstream side)	*828
	Conley Creek		Wesley Chapel Road (40 feet) upstream from centerline	*884
			River Road at centerline	*748
			Ellingswood Road (300 feet) downstream from centerline	*770
			Boulder Crest Road (250 feet) upstream from centerline	*775
			Conley Road at centerline	*806
			Southern Railroad at centerline	*811
			Moreland Drive (downstream side)	*822
	Cobbs Creek		Flat Shoal Road at centerline	*757
			Rainbow Drive at centerline	*793
			Interstate 20 (upstream side)	*798
			Interstate 285 (40 feet) upstream from centerline	*804
			Snapfinger Road at centerline	*853
			Glenwood Road (30 feet) downstream from centerline	*872
			Brookfield Lane at centerline	*883
			Averada Way (100 feet) downstream from centerline	*907
			Midway Road at centerline	*924
			Beach Drive (30 feet) upstream from centerline	*931
			Memorial Drive (30 feet) upstream from centerline	*944
	Shoal Creek		Interstate 285 at centerline	*762
			Rainbow Drive at centerline	*708
			Interstate 20 (50 feet) upstream from centerline	*816
			Tony Drive (70 feet) upstream from centerline	*823
			McAfee Road (upstream side)	*860
			Glenwood Road (40 feet) downstream from centerline	*879
			White Oak Drive (80 feet) upstream from centerline	*885
			Memorial Drive (40 feet) downstream from centerline	*901
			Midway Road (upstream side)	*928
	Creek A, Shoal Creek		Tony Drive (50 feet) downstream from centerline	*860
	East Fork Middle Branch Shoal Creek		Midway Road (100 feet) upstream from centerline	*936
	Fowler Branch		Columbia Drive (upstream side)	*952
			Snapfinger Road (upstream side)	*822
			Glenwood Road (30 feet) upstream from centerline	*873
	Cobbs Creek Tributary "A"		Brookfield Lane (40 feet) upstream from centerline	*684
			Sherry Dale Lane (30 feet) upstream from centerline	*688
			Cornwall Road (50 feet) downstream from centerline	*939
	Blue Creek		Oakvale Road at centerline	*760
			Panthersville Road at centerline	*760
			River Road (60 feet) downstream from centerline	*769
			River Road (50 feet) upstream from centerline	*774
			Bouldercrest Road (upstream side)	*836
			Sautee Terrace (50 feet) upstream from centerline	*873
	Dolittle Creek		Clifton Springs Road (200 feet) upstream from centerline	*765
			Flat Shoals Road (50 feet) upstream from centerline	*789
			Tilson Circle (30 feet) upstream from centerline	*874
			Pinewood Drive at centerline	*883
			McAfee Road (upstream side)	*917
			Barberie Lane (40 feet) downstream from centerline	*926
			Atlanta City Limits	*936
	Doless Creek		Clifton Springs Road (upstream side)	*763
			Interstate 285 (50 feet) upstream from centerline	*779
			Fiat Shoals Road (upstream side)	*816
			Interstate 20 (40 feet) upstream from centerline	*849
	Dolittle Creek, East Branch "B"		Pinewood Drive (90 feet) upstream from centerline	*892
			McAfee Road at centerline	*920
	West Branch Dolittle Creek		Confluence with Dolittle Creek	*789
			Upstream Limit of Detailed Study	*812
	Sugar Creek		Interstate 265 at centerline	*769
			Mary Lou Lane (200 feet) upstream from centerline	*797
			Brannon Road (60 feet) upstream from centerline	*862
			Interstate 20 (upstream side)	*878
			Fayetteville Road (100 feet) upstream from centerline	*893
			Glenwood Avenue at centerline	*815
	East Branch "A" Sugar Creek		Confluence with Sugar Creek	*891
			Upstream Limit of Detailed Study	*907
	East Branch "B" Sugar Creek		Glenwood Avenue (downstream side)	*915
			Upstream Limit of Detailed Study	*828
	Intrenchment Creek		Constitution Road (600 feet) upstream from centerline	*785
			Key Road (90 feet) upstream from centerline	*797
			East Custer Avenue (50 feet) upstream from centerline	*858
			Moreland Avenue (200 feet) downstream from centerline	*861

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)							
		North Branch Intrincement Creek	Eastland Road (50 feet) upstream from centerline.....	*860							
		Swift Creek.....	Skyhaven Drive (downstream side).....	*891							
			Confluence with Yellow River.....	*723							
			Rock Chapel Road at centerline.....	*758							
		Tributary "A" Swift Creek.....	Rodgers Lake Road at centerline.....	*810							
			Upstream Limit of Detailed Study.....	*861							
			Confluence with Swift Creek.....	*758							
		Tributary "A" Swift Creek.....	Georgia Railroad (downstream side).....	*803							
			Rodgers Lake Road (upstream side).....	*872							
			Georgia Railroad (upstream side).....	*810							
		Tributary "A" Swift Creek.....	Maddox Road (downstream side).....	*843							
			Rock Chapel Road (upstream side).....	*748							
			Stone Mountain Creek.....	Rock Bridge Road (200 feet) upstream from centerline.....	*761						
		Crooked Creek.....	North Deshon Road (downstream side).....	*772							
			Steward Mill Road (upstream side).....	*790							
			Stonewall Jackson Drive/Dam (upstream side).....	*843							
		Crooked Creek Tributary "A".....	Hugh Howell Road at centerline.....	*843							
			Liburn Stone Mountain Road (150 feet) upstream from centerline.....	*844							
			Silverhill Road upstream from centerline.....	*855							
		Tributary A, Stone Mountain Creek.....	McCurdy Road at centerline.....	*925							
			South Deshon Road at centerline.....	*769							
			Stephenson Road (300 feet) upstream from centerline.....	*783							
		Little Stone Mountain Creek.....	Alford Road (50 feet) upstream from centerline.....	*798							
			Oakleaf Drive (downstream side).....	*889							
			Mystery Valley Golf Course Drive (50 feet) upstream from centerline.....	*839							
		Parkwood Park Tributary.....	Shadow Rock Drive (downstream side).....	*917							
			Confluence with Stone Mountain.....	*770							
			North Deshon Road (upstream side).....	*822							
		Burnt Fork Creek.....	Upstream Limit of Detailed Study.....	*846							
			Stone Mountain Parkway at centerline.....	*843							
			Old Stone Mountain Road (75 feet) upstream from centerline.....	*888							
		North Fork Peachtree Creek.....	Liburn Stone Mountain Road (upstream side).....	*937							
			Gunstock Drive (30 feet) upstream from centerline.....	*961							
			Coventry Road (downstream side).....	*931							
		Henderson Mill Creek.....	Coventry Road (upstream side).....	*942							
			Scott Boulevard (downstream side).....	*952							
			Most downstream crossing of Seaboard Coast Line Railroad (downstream side).....	*891							
		North Fork Peachtree Creek.....	North Druid Hills Road (upstream side).....	*915							
			Pangborn Road (downstream side).....	*957							
			Riderwood Drive (downstream side).....	*964							
		North Fork Peachtree Creek.....	Frazier Road (50 feet) upstream from centerline.....	*980							
			Hudson Road at centerline.....	*988							
			Montreal Circle (500 feet) upstream from centerline.....	*995							
		North Fork Peachtree Creek.....	Interstate 285 at centerline.....	*1,012							
			Bulford Highway at centerline.....	*827							
			Corporate Boulevard at centerline.....	*839							
		North Fork Peachtree Creek.....	Days Inn Road at centerline.....	*852							
			Century Boulevard at centerline.....	*855							
			Shallowford Road (downstream side).....	*875							
		North Fork Peachtree Creek.....	Flowers Road (South) at centerline.....	*882							
			Frontage Road (upstream side).....	*895							
			Perimeter Road-Interstate 285 (downstream side).....	*898							
		Henderson Mill Creek.....	Northcrest Road (upstream side).....	*907							
			Pleasantdale Road (downstream side).....	*912							
			Confluence with Peachtree Branch.....	*894							
		South Fork Peachtree Creek.....	Henderson Creek Road (upstream side).....	*907							
			Henderson Mill Road (downstream side).....	*921							
			Briarcliff Road (50 feet) downstream from centerline.....	*836							
		Peavine Creek.....	Houston Mill Road (upstream side).....	*872							
			Candle Lake Bridge and Dam (30 feet) upstream from centerline.....	*878							
			Seaboard Coast Line Railroad (120 feet) upstream from centerline.....	*884							
		South Fork Peavine Creek.....	Willivee Drive at centerline.....	*901							
			Lawrenceville Highway 29 (upstream side).....	*915							
			Valley Brook Road (upstream side).....	*924							
		Lutewater Creek.....	McLendon Drive (upstream side).....	*932							
			Casa Drive (100 feet) upstream from centerline.....	*942							
			Montreal Road (120 feet) upstream from centerline.....	*954							
		Peavine Creek.....	Brockett Road (100 feet) upstream from centerline.....	*975							
			Idlewood Road (upstream side).....	*996							
			Greer Circle at centerline.....	*1,021							
		South Fork Peavine Creek.....	Old Briarcliff Road (300 feet) upstream from centerline.....	*838							
			Oxford Road (downstream side).....	*861							
			North Decatur Road at centerline.....	*866							
		Lutewater Creek.....	Clifton-Oxford Road (upstream side).....	*882							
			Vickers Drive (130 feet) upstream from centerline.....	*890							
			Durant Falls Drive (downstream side).....	*922							
		South Fork Peavine Creek.....	Decatur City Limits.....	*930							
			Confluence with Lutewater Creek.....	*867							
			Clifton Road (upstream side).....	*893							
		Lutewater Creek.....	Ponce De Leon Avenue at centerline.....	*904							
			Confluence with South Fork Peavine Creek.....	*867							
			Lutewater Road (downstream side).....	*889							
		Lutewater Creek.....	Decatur City Limits.....	*890							
			Confluence with Henderson Mill Creek.....	*894							
			Henderson Mill Road at centerline.....	*907							
		Nancy Creek.....	Evergreen Drive (upstream side).....	*853							
			Johnson Ferry Road (upstream side).....	*860							
			Ashtford-Dunwoody Road (downstream side).....	*870							
		Tilly Mill Road (downstream side).....	North Peachtree Road (upstream side).....	*934							
						Interstate 285 at centerline.....	*936				
						Tilly Mill Road (downstream side).....	*852				
		Maps available at City Clerk's Office, City Hall, Lawrenceville, Georgia 30245.									
		Georgia.....		City of Lawrenceville, Gwinnett Co. (FI-5673).	Pew Creek.....	Just upstream of Johnson Rd.....	*831				
				Pew Creek Tributary 1.....	Just upstream of King Arthur Drive.....	*976					
					Just upstream of Stone Mountain Road.....	*981					
								Just upstream of Georgia Highway 124.....	*988		
		Redland Creek.....			Just upstream of Georgia Highway 124.....	*987					
		Shoal Creek.....		Just upstream of Maithe St.....	*1010						
				Just upstream of Paper Mill Road.....	*831						
				Just upstream of Ezzard Street.....	*977						
Yellow River.....				Approximately 150 feet upstream of Norcross-Lawrenceville Road.....	*958						
Just downstream of Georgia Highway 316.....		*901									
		Maps available at City Engineer's Office, City Hall, 26 South Main Street, Statesboro, Georgia 30458.									
		Clearwater County, Unincorporated Areas (Docket No. FI-5673).	Clearwater River.....	100 feet upstream confluence with North Fork Clearwater River.....	*981						
				State Highway 7 100 feet upstream of centerline.....	*1,013						
				Orofino Creek.....	Private Bridge 50 feet upstream of centerline.....	*1,038					
				Whiskey Creek.....			1st crossing County Bridge 50 feet upstream of centerline.....	*1,188			
							2nd crossing County Bridge 100 feet upstream of centerline.....	*1,239			
							Whiskey Creek Road (1st crossing) at centerline.....	*1,329			
				Jim Ford Creek.....			Camas Prairie Railroad Bridge 60 feet upstream of centerline.....	*1,217			
							1st crossing Private Bridge 40 feet upstream of centerline.....	*1,267			
							2nd crossing Private Bridge 20 feet upstream of centerline.....	*1,368			
				Grasshopper Creek.....			Camas Prairie Railroad Bridge 40 feet upstream of centerline.....	*1,042			
							County Bridge 60 feet upstream of centerline.....	*1,058			
							Confluence with Grasshopper Creek 80 feet upstream of centerline.....	*2,985			
	Elk Creek.....			Confluence with Jim Ford Creek 80 feet upstream of centerline.....	*2,985						
				Elk River Dam 50 feet upstream of centerline.....	*2,823						
				Elk Creek Bridge 20 feet upstream of centerline.....	*2,825						
Mill Creek Tributary.....			Approximately 150 feet downstream of Williams Street.....	*185							
								Approximately 340 feet upstream of Packing House Road.....	*201		
								Just upstream of US Highway 80, Georgia Highway 26.....	*203		
Mill Creek Tributary Branch 1.....				Just downstream of Zetterower Avenue.....	*188						
									Approximately 200 feet upstream of Packinghouse Road.....	*222	
									Just upstream of East Main Street.....	*224	
Mill Creek Tributary Branch 2.....			Just upstream of US Highway 80.....		*193						
			Just upstream of Parrish Street (US Highway 301).....		*195						
			Approximately 40 feet upstream of Whiteville Road.....	*204							
Mill Creek Tributary Branch 3.....			Approximately 30 feet upstream of Mathews Road.....	*210							
			Poplar Street.....	*203							
			Just upstream of Zetterower Avenue.....	*203							
Mill Creek Tributary Branch 4.....			Approximately 60 feet downstream of Woodrow Circle.....	*203							
								Approximately 75 feet upstream of Woodrow Avenue.....	*210		
				Maps available at City Engineer's Office, City Hall, 26 South Main Street, Statesboro, Georgia 30458.							

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)	
		Peachtree Branch	Confluence with Henderson Mill Creek	*894	
		Nancy Creek	Henderson Mill Road at centerline	*907	
			Evergreen Drive (upstream side)	*853	
			Johnson Ferry Road (upstream side)	*860	
		Tilly Mill Road (downstream side)	Ashtford-Dunwoody Road (downstream side)	*870	
			North Shallowford Road (130 feet) upstream from centerline	*829	
			North Peachtree Road (upstream side)	*934	
		Interstate 285 at centerline		*936	
		Tilly Mill Road (downstream side)		*852	
		Maps available at DeKalb County Courthouse, 556 North McDonough, Decatur, Georgia 30030.			
Georgia	City of Lawrenceville, Gwinnett Co. (FI-5673).	Pew Creek	Just upstream of Johnson Rd.	*831	
		Pew Creek Tributary 1	Just upstream of King Arthur Drive	*976	
			Just upstream of Stone Mountain Road	*981	
		Redland Creek	Just upstream of Georgia Highway 124	*988	
			Just upstream of Georgia Highway 124	*987	
		Shoal Creek	Just upstream of Mattie St.	*1010	
			Just upstream of Paper Mill Road	*831	
		Yellow River	Just upstream of Ezzard Street	*877	
			Approximately 150 feet upstream of Norcross-Lawrenceville Road	*898	
		Just downstream of Georgia Highway 316		*901	
Maps available at City Clerk's Office, City Hall, Lawrenceville, Georgia 30245.					
Georgia	City of Statesboro, Bulloch County (FI-5683).	Little Lotts Creek	Just upstream of South Corporate Limits	*187	
			Approximately 300 feet downstream of Gentryly Road	*198	
			Just upstream of Georgia Highway 87	*205	
			Just upstream of South Main Street	*207	
			Jones Avenue	*217	
			West Grady Street	*217	
			Just downstream of West Main Street	*222	
			Just upstream of Alkin Street	*226	
			Just upstream of Roundtree Street	*232	
			Little Lotts Creek Tributary A	Just upstream of Windsor Way	*191
Approximately 50 feet downstream of Laurel Lane	*199				
Little Lotts Creek Tributary B	Approximately 50 feet downstream of Gentryly Road	*210			
	Just downstream of Old Savannah and Statesboro Railroad Fill	*193			
Little Lotts Creek Tributary C	Just upstream of Brannen Street	*204			
	Approximately 100 feet upstream of confluence with Little Lotts Creek	*200			
Little Lotts Creek Tributary D	Just upstream of Donehoo Street	*213			
	Just upstream of Georgia Highway 67	*206			
Little Lotts Creek Tributary E	Just upstream of Highway 301 (South Main Street)	*211			
	Just upstream of Stillwell Street	*212			
Little Lotts Creek Tributary F	Just downstream of East Grady Street	*226			
	Just downstream of Cromartie Drive	*217			
Little Lotts Creek Tributary G	Just upstream of Cromartie Drive	*217			
	Just upstream of Harden Road	*219			
Little Lotts Creek Tributary H	Just upstream of Johnson Street	*221			
	Just downstream of Bulloch Street	*218			
Little Lotts Creek Tributary J	Approximately 130 feet downstream of Johnson Street	*222			
	Just upstream of Proctor Street	*222			
Mill Creek Tributary	Approximately 150 feet downstream of Williams Street	*229			
	Approximately 340 feet upstream of Packing House Road	*185			
Mill Creek Tributary	Just upstream of US Highway 80, Georgia Highway 26	*201			
	Just downstream of Zeltower Avenue	*203			
Mill Creek Tributary Branch 1	Approximately 200 feet upstream of Packinghouse Road	*188			
	Just upstream of East Main Street	*222			
Mill Creek Tributary Branch 2	Just upstream of US Highway 80	*224			
	Just upstream of Parrish Street (US Highway 301)	*193			
Mill Creek Tributary Branch 2	Approximately 40 feet upstream of Whiteville Road	*185			
	Approximately 30 feet upstream of Mathews Road	*204			
Mill Creek Tributary Branch 3	Poplar Street	*210			
	Just upstream of Zeltower Avenue	*203			
Mill Creek Tributary Branch 4	Approximately 80 feet downstream of Woodrow Circle	*203			
	Approximately 75 feet upstream of Woodrow Avenue	*210			
Maps available at City Engineer's Office, City Hall, 26 South Main Street, Statesboro, Georgia 30458.					
Ohio	Clearwater County, Unincorporated Areas (Docket No. FI-5673).	Clearwater River	100 feet upstream confluence with North Fork Clearwater River	*981	
			State Highway 7 100 feet upstream of centerline	*1,013	
			Orofino Creek	Private Bridge 50 feet upstream of centerline	*1,038
				Konkville Bridge 50 feet upstream of centerline	*1,188
				1st crossing County Bridge 100 feet upstream of centerline	*1,239
			Whiskey Creek	2nd crossing County Bridge 100 feet upstream of centerline	*1,329
				Whiskey Creek Road (1st crossing) at centerline	*1,217
				Camas Prairie Railroad Bridge 60 feet upstream of centerline	*1,229
			Jim Ford Creek	1st crossing Private Bridge 40 feet upstream of centerline	*1,267
				2nd crossing Private Bridge 20 feet upstream of centerline	*1,368
Camas Prairie Railroad Bridge 40 feet upstream of centerline	*1,042				
Grasshopper Creek	County Bridge 60 feet upstream of centerline	*1,058			
	Confluence with Grasshopper Creek 80 feet upstream of centerline	*2,985			
	Confluence with Jim Ford Creek 80 feet upstream of centerline	*2,965			
Elk Creek	Elk River Dam 50 feet upstream of centerline	*2,823			
	Elk Creek Bridge 20 feet upstream of centerline	*2,825			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
Maps available at Clearwater County Courthouse, Orofino, Idaho.				
Idaho	Garden City (City), Ada County (Docket No. FI-5329).	Boise River	Road 50 feet upstream from centerline Glenwood Street Bridge 50 feet upstream from centerline Truman Canal 100 feet upstream from centerline Main Street Bridge 50 feet upstream from centerline Fairview Avenue 50 feet upstream from centerline Union Pacific Railroad Bridge 50 feet upstream from centerline Americana Boulevard Bridge 50 feet upstream from centerline	*2,607 *612 *2,665 *2,669 *2,870 *2,671 *2,672
Maps are available at City Hall, 201 East 50th, Garden City, Idaho.				
Illinois	(V) South Roxana, Madison County (Docket No. FI-5678).	Local runoff and ponding	Northwest corner of the village, covering Daniel Boone Train from State Highway 111 to Smith Avenue, and Velma Avenue near the Highway. Southwest corner of the village, covering the corporate limits east of State Highway 111 to the intersection of Sinclair Avenue and Wilson Street.	*428 *428
Maps available at the Office of the Mayor's Assistant, Village Hall, Box 107, 211 Sinclair Avenue, South Roxana, Illinois 62087.				
Kentucky	City of Paintsville, Johnson Co. (FI-5673).	Levisa Fork Paint Creek	Just upstream of Rt. 40 Bridge Just upstream of Rt. 1428 Bridge Just upstream of College Street Bridge Hoss Mill Branch Road Extended	*613 *613 *613 *613
Maps available at Flood Plain Administrator's Office, City Hall, Paintsville, Kentucky 41210.				
Louisiana	City of Donaldsonville, Ascension Parish (FI-5682).	Mississippi River Bayou McCall Ponding Area No. 1 Ponding Area No. 2	Just upstream of corporate limits Community Lane (extended) Approximately 200 feet southwest along Mulberry Street from the intersection of Mulberry Street and West Tenth Avenue. Intersection of Catalpa Street and West Ninth Street	*34 *19 *19 *20
Maps available at City hall, Donaldsonville, Louisiana 70346.				
Maine	Sebec (Town), Piscataquis County (Docket No. FI-5051).	Meadow Brook	Sebec Station Road 25 feet upstream from centerline Ladd Road (downstream crossing) 100 feet downstream from centerline. Ladd Road (downstream crossing) 100 feet upstream from centerline. Ladd Road (upstream crossing) at centerline State Route 16 100 feet upstream from centerline	*302 *349 *365 *410 *468
Maps available at Town Office, RFD 2, Box 118, Sebec, Maine 04426.				
Maryland	Snow Hill, Town, Worcester County (Docket No. FI-5673).	Pocomoke River	Downstream Corporate Limits State Route #12 Upstream Corporate Limits	*6 *6 *6
Maps available at the Municipal Building.				
Massachusetts	Avon (Town), Norfolk County (Docket No. FI-4751).	Beaver Brook Trout Brook	Pond Street 50 feet upstream from centerline Harrison Boulevard 50 feet upstream from centerline State Highway 24 50 feet upstream from centerline Old Railroad Grade 50 feet downstream from centerline Old Railroad Grade 50 feet upstream from centerline Connelly Road 50 feet upstream from centerline Lodge Drive 150 feet downstream from centerline	*210 *211 *213 *214 *226 *116 *123
Maps available at Buckley Center, Avon, Massachusetts 02322.				
Massachusetts	Town of Buckland, Franklin County (Docket No. FI-5550).	Ciesson Brook Deerfield River	Confluence with Deerfield River Just downstream of Ashfield Road (near Depot Road) Just downstream of Ashfield Road (north of confluence of Maynard Brook) Just upstream of Upper Road Just above New England Power Company Dam No. 3 Just upstream of Bridge of Flowers Just upstream of U.S. Route 2 Just above New England Power Company Dam No. 4 Approximately 3,500 feet upstream of confluence of Ciesson Brook Upstream corporate limit	*485 *486 *543 *636 *411 *415 *423 *480 *490 *116 *518
Maps available at Town Office, 17 State Street, Buckland, Massachusetts 01370.				
Massachusetts	Peabody, City, Essex County (Docket No. FI-5678).	Ipswich River North River Proctor Brook Endicott Street Garden Road (Upstream) Trask Road Culvert Peabody Road (Upstream) Strongwater Brook	Downstream Corporate Limits Upstream Corporate Limits Downstream Corporate Limits Confluence of Proctor Brook Confluence with North River Endicott Street Garden Road (Upstream) Trask Road Culvert Peabody Road (Upstream) Confluence with North River Main Street Culvert (Upstream) Pierpont Street (Downstream)	*49 *53 *11 *28 *28 *40 *49 *56 *66 *14 *19 *24

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
Maps available at the Public Services Office, Berry Street, Peabody, Massachusetts.				
Massachusetts	Westborough (Town), Worcester County (Docket No. FI-5057).	Goldthwaite Brook Tapley Brook Beverly Harbor	Confluence with Proctor Brook Boston and Maine RR near Tapley Brook (Downstream) Boston and Maine RR near Tapley Brook (Upstream) Summit Street (Upstream) Dam at Corvin Street (Upstream) First Avenue (Upstream) Confluence with Goldthwaite Brook Sidneys Pond Waters River	*28 *39 *45 *60 *62 *96 *45 *48 *11
Maps available at the Town Hall, West Main Street, Westborough, Massachusetts 01581.				
Massachusetts	Westborough (Town), Worcester County (Docket No. FI-5057).	Lower Assabet River Upper Assabet River Rutters Brook Denny Brook Branch Jackstraw Brook Picadilly Brook	Maynard Street at centerline George Nichols Dam at centerline Old Nourse Street 70 feet upstream from centerline Nourse Street at centerline East Main Street 25 feet upstream from centerline Robin Road 35 feet upstream from centerline South Street 20 feet upstream from centerline High School Road at centerline Hopkinton Road 100 feet upstream from centerline Morse Street 100 feet upstream from centerline Warren Street 20 feet upstream from centerline Hopkinton Road 10 feet downstream of centerline Hopkinton Road 30 feet upstream from centerline Belknap Street 20 feet downstream of centerline Belknap Street 100 feet upstream from centerline Upton Road at centerline	*280 *312 *332 *335 *285 *291 *286 *306 *285 *296 *332 *298 *306 *357 *363 *424
Maps available at Town Hall, West Main Street, Westborough, Massachusetts 01581.				
Michigan	Birmingham (City), Oakland County (Docket No. FI-5565).	Main River Rouge Quarton Lake Branch	Maple Street 25 feet upstream from centerline Hunter Boulevard 100 feet downstream from centerline 16 Mile Road at centerline Quarton Lake Dam 10 feet downstream from centerline Quarton Lake Dam 10 feet upstream from centerline Redding Street 10 feet upstream from centerline	*725 *748 *750 *727 *736 *748
Maps available at the Office of the City Engineer, City Hall, 151 Martin Street, Birmingham, Michigan.				
Michigan	(TWP) South Haven, Van Buren County (Docket No. FEMA-5702).	Lake Michigan Black River South Branch Black River North Branch Black River	Entire reach with Township of South Haven Downstream corporate limits Just upstream of Interstate 196 Just upstream of 71 1/2 Street Upstream corporate limits At confluence with Black River Upstream corporate limits	*584 *584 *585 *588 *587 *585 *585
Maps available at Township Hall, M140 and Blue Star Highway, South Haven, Michigan 49090.				
Minnesota	(C) East Bethel, Anoka County (Docket No. FI-5578).	Cedar Creek	Downstream western corporate limits 500 feet upstream of Sims Road Just upstream of 221st Avenue Just upstream of State Highway 65 Just downstream of Gopher Drive	*883 *892 *896 *899 *893
Maps available at City Hall, 2751 Viking Boulevard, N.E., Wyoming, Minnesota 55092.				
Minnesota	(C) LeRoy, Mower County (Docket No. FI-5678).	Upper Iowa River	Eastern corporate limit Upstream side of County Highway 12 Upstream side of Chicago and North Western Railroad Upstream side of County Highway 14 Western corporate limit approximately 4,600 feet upstream of Chicago and North Western Railroad	*1,261 *1,268 *1,271 *1,272 *1,273
Maps available at LeRoy Municipal Building, P.O. Box V, LeRoy, Minnesota 55951.				
Nebraska	(C) Ralston, Douglas County (Docket No. FI-5688).	Ralston Creek Big Papillion Creek	100 feet upstream of 72nd Street 100 feet downstream of Burlington Northern Railroad Upstream side of Burlington Northern Railroad Downstream side of 75th Street Upstream side of 78th Street Upstream corporate limit 1,600 feet upstream of 78th Street 500 feet upstream of southwest corporate limit Upstream side of 72nd Street Downstream side of L Street	*1,009 *1,012 *1,019 *1,026 *1,033 *1,044 *1,048 *1,011 *1,012
Maps available at City Hall, 77th and State Streets, Ralston, Nebraska 68127.				
New Jersey	Chatham (Township), Morris County (Docket No. 5519).	Passaic River	Mount Vernon Avenue at centerline Central Avenue (Fairmont Avenue (50 feet) upstream from centerline. Snyder Avenue at centerline	*205 *212 *214
Maps available at Municipal Building, Southern Boulevard, Chatham, New Jersey 07928.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Flemington, Borough, Hunterdon County (Docket No. FI-5636).	Walnut Brook	Downstream Corporate Limits	*168
			Private Bridge (Upstream)	*172
			Corporate Limits	*174
			State Route 12 (Upstream)	*178
			Limit of Detailed Study	*181
Maps available at the Clerk's Office, Borough Hall, Flemington, New Jersey.				
New York	Green Island (Village), Albany County (Docket No. FI-5673).	Hudson River	Green Island Bridge remnants 100 feet upstream from centerline	*27
			Confluence with Fifth Branch Mohawk River	*31
		Fifth Branch Mohawk River	Delaware and Hudson Railroad 50 feet upstream from centerline	*31
		State Basin	Albany Avenue 50 feet upstream from centerline	*27
Maps available at the Village Hall, 20 Clinton Street, Green Island, New York.				
New York	Riverside, Village, Steuben County (Docket No. FI-5639).	Chemung River	Downstream Corporate Limits	*931
			Upstream Corporate Limits	*934
Maps available at the Village Hall, Painted Post, New York.				
New York	Sand Lake (Town), Rensselaer County (Docket No. FI-5665).	Wynants Kill	Stop 13 Road 50 feet downstream from centerline	*458
			Stop 13 Road 50 feet upstream from centerline	*463
			Brookside Park Road 75 feet upstream from centerline	*499
			State Highway 43 (at station 5.550) 150 feet upstream from centerline	*528
			Thais Road 125 feet upstream from centerline	*582
			Garner Road 150 feet downstream from centerline	*607
			Garner Road at centerline	*614
			Eastern Union Turnpike 50 feet upstream from centerline	*769
			Glass Lake Road 50 feet downstream from centerline	*817
Maps available at Town Clerk's Office, Town Hall, Routes 43 and 66, Sand Lake, New York.				
North Carolina	Carteret County Unincorporated Areas (Docket No. FI-5673).	Bogue Sound Transition Zone	Jones Street—200 feet northwest from its southernmost point	*9
		Panlico Sound and Neuse River	Piney Island	*11
		Adams Creek, South River	Intersection of Turnpike Road and County Highway 1316	*11
		North River	U.S. Highway 70 Bridge—at centerline	*6
		Bogue Sound, Newport River	Simons Island	*6
			Intersection of New Bern Road and County Highway 1161	*7
		Adams Creek Canal and Harlowe Creek	Phillips Island	*7
		Atlantic Ocean	County Highway 1160—100 feet south from intersection with New Bern Road	*8
			Wreck Point	*10
			Cape Point	*10
		Core Sound, Pamlico Sound, Atlantic Ocean	Morgan Island	*8
			Cunningham Hammock Island	*8
			Bells Island	*8
			Fortin Island	*8
			Brown Island	*8
			Crocket Island	*8
			Dump Island	*8
			Wainwright Island	*8
			Whalebone Island	*8
			Intersection of Straits Road and Gloucester Road	*8
			Intersection of Nassau Road and Interstate Highway 70	*8
			Intersection of Intersection Highway 70 and County Highway 1371	*8
			Evargreen Island	*8
			Drum Pond Point	*9
			Beach Island	*10
Maps available at County Courthouse, Beaufort, North Carolina.				
North Carolina	Gibsonville (Town), Alamance and Guilford Counties (Docket No. FI-5665).	Tributary to Travis Creek	Ossipee Street 200 feet upstream from centerline	*612
			Alamance and Guilford County limits	*629
		Back Creek Tributary	U.S. Highway 70 200 feet upstream face of bridge	*599
			Sanitary Landfill Road 100 feet upstream from centerline	*625
Maps available at Town Hall, 129 West Main Street, Gibsonville, North Carolina.				
North Carolina	Hillsborough (Town), Orange County (Docket No. FI-5665).	Eno River	State Route 1197 at centerline	*509
			State Route 1134 150 feet upstream from centerline	*521
			U.S. Highway 70 (upstream crossing) at centerline	*535
		Cates Creek	U.S. Highway 70 (Business Route) 200 feet upstream from centerline	*522
			Interstate Highway 85 200 feet downstream from centerline	*551
			Interstate Highway 85 200 feet upstream from centerline	*558
			State Route 1009 10 feet downstream from centerline	*592
Maps available at Town Hall, 101 E. Orange Street, Hillsborough, North Carolina.				
North Carolina	Unincorporated Areas of Traddell County (FI-5683).	Third Creek	Just upstream of I-77	*762
			Just upstream of U.S. Highway 21	*767
			Just upstream of U.S. Highways 64 and 70	*617
		Fourth Creek	Just upstream of Bell Road	*753
			Just downstream of Greenbriar Road	*765
		Morrison Creek	Just upstream of N.C. Highway 115	*825
			Just upstream of North Drive	*836
		West Branch Rocky River	Just upstream of a Farm Bridge	*719

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Branch Rocky River Tributary	Just upstream of the confluence with West Branch Rocky River	*716
		Dye Creek	Just upstream of SR 1142	*710
			Just upstream of White Oaks Road	*770
		Dye Creek Tributary	Approximately 1500 feet upstream of confluence with Dye Creek	*745
		Rocky River	Just upstream of SR 1142	*708
			Just downstream of SR 1146	*755
		Back Creek	Just downstream of NC Highway 80	*814
		Reeds Creek	Just downstream of US Highway 21	*761
			Just downstream of NC Highway 150	*796
Maps available at Irdeil County Manager's Office, County Office, Annex Building, Center Street, Statesville, North Carolina 26677.				
North Carolina	Salisbury (City), Rowan County (Docket No. FI-5665).	Henderson Branch	Confederate Avenue—40 feet downstream from centerline	*661
			Confederate Avenue—20 feet upstream from centerline	*665
			Annandale Avenue—120 feet downstream from centerline	*666
			Annandale Avenue—40 feet upstream from centerline	*669
			Jackson Street—120 feet downstream from centerline	*687
			Jackson Street—20 feet upstream from centerline	*690
			Church Street—10 feet downstream from centerline	*695
			Church Street—20 feet upstream from centerline	*698
		Henderson Branch Tributary	Henderson Street—at centerline	*695
			Lafayette Street—40 feet downstream from centerline	*708
			Lafayette Street—40 feet upstream from centerline	*709
		Mahaley Branch	Catawba Street—150 feet downstream from centerline	*658
			Catawba Street—50 feet upstream from centerline	*673
			Grove Street—125 feet downstream from centerline	*673
			Grove Street—50 feet upstream from centerline	*682
			Southern Railway—50 feet upstream from centerline	*694
			West Street—75 feet downstream from centerline	*720
			West Street—50 feet upstream from centerline	*724
		Mahaley Branch Tributary	Bank Street—40 feet downstream from centerline	*719
			Bank Street—10 feet upstream from centerline	*721
			West Street—45 feet downstream from centerline	*728
			West Street—10 feet upstream from centerline	*731
		Maple Avenue Branch	Milford Hills Road—100 feet downstream from centerline	*685
			Milford Hills Road—20 feet upstream from centerline	*688
			Eaman Street—50 feet downstream from centerline	*697
			Eaman Street—20 feet upstream from centerline	*700
			Victory Street—50 feet downstream from centerline	*704
			Victory Street—20 feet upstream from centerline	*708
			Wilson Road—50 feet upstream from centerline	*713
		Wiley Avenue Branch	Stanley Street—60 feet downstream from centerline	*698
			Stanley Street—20 feet upstream from centerline	*702
			Jordan Street—60 feet downstream from centerline	*708
			Jordan Street—20 feet upstream from centerline	*709
			Fries Street—100 feet upstream from centerline	*720
			Crosby Street—120 feet downstream from centerline	*735
			Crosby Street—20 feet upstream from centerline	*745
		Park Avenue Branch	Cedar Street—40 feet downstream from centerline	*695
			Cedar Street—140 feet upstream from centerline	*700
		Innis Street Creek	Green Street—100 feet downstream from centerline	*701
			Green Street—200 feet upstream from centerline	*706
			Clay Street—10 feet downstream from centerline	*714
			Clay Street—50 feet upstream from centerline	*719
			Liberty and Shaver Streets—150 feet downstream from centerline	*720
			Liberty and Shaver Streets—50 feet upstream from centerline	*724
		Thomas Street Creek	Boundary Street—10 feet upstream from centerline	*707
			Clay Street—10 feet downstream from centerline	*709
			Clay Street—10 feet upstream from centerline	*712
			Southern Railway—70 feet upstream from centerline	*721
		Main Street Tributary	Military Avenue centerline	*730
		Hopkins Street	Hopkins Street—100 feet downstream from centerline	*710
			Hopkins Street—20 feet upstream from centerline	*714
		Vance Avenue	Hopkins Street—100 feet downstream from centerline	*710
			Hopkins Street—20 feet upstream from centerline	*714
			Carolina and Northwestern Railroad—40 feet downstream from centerline	*722
		Concord Road Creek	Dolly Madison Industries Entrance Road—70 feet downstream from centerline	*715
			Dolly Madison Entrance Road—20 feet upstream from centerline	*718
			Service Road—10 feet downstream from centerline	*723
			Service Road—20 feet upstream from centerline	*726
			Interstate 85—10 feet downstream from centerline	*730
			Interstate 85—50 feet upstream from centerline	*731
		Tar Branch	Faith Road—100 feet downstream from centerline	*717
			Faith Road—80 feet upstream from centerline	*722
			Rowan Circle—20 feet upstream from centerline	*729
			Rose Avenue—120 feet downstream from centerline	*742
			Rose Avenue—80 feet upstream from centerline	*752
			Carolina Boulevard—40 feet upstream from centerline	*745
		Tar Branch Tributary	Rose Avenue—20 feet upstream from centerline	*761
			Carolina Boulevard—20 feet upstream from centerline	*689
		Town Creek	Bringle Ferry Road at centerline	*698
			Innis Street—300 feet upstream from centerline	*710
			Vance Avenue—150 feet upstream from centerline	*710
			Klumac Street at centerline	*715

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Crane Creek.....	Stokes Ferry Road—100 feet upstream from centerline.....	*700
			U.S. Highway 52—100 feet downstream from centerline.....	*701
			Southern Railway at centerline.....	*705
		Grants Creek.....	Old Mocksville Road—20 feet upstream from centerline.....	*648
			U.S. Highway 601—40 feet upstream from centerline.....	*655
			U.S. Highway 70—100 feet upstream from centerline.....	*661
			Southern Railway 100 feet upstream from centerline.....	*667
			Old Wilkesboro Road 100 feet upstream from centerline.....	*669
			Annexed area south of Cedar Springs Road downstream corporate limit.....	*691
		Woodleaf Branch.....	Annexed area south of Cedar Springs Road upstream corporate limits.....	*693
			Lincolnton Road 120 feet downstream from centerline.....	*679
		Maps available at City Clerk's Office, 132 North Main, Salisbury, North Carolina.		
North Dakota.....	Napoleon (City), Logan County (Docket No. FI-5673).	McKenna Coulee River.....	Downstream corporate limits 350 feet upstream from centerline.....	*1,947
			Third Street West 200 feet downstream from centerline.....	*1,952
			Soe Line Railroad 200 feet downstream from centerline.....	*1,957
		Maps available at City Hall, 105 West Third, Napoleon, North Dakota 58561.		
Oklahoma.....	City of Edmond, Oklahoma County (FI-5693).	Deep Fork.....	Just upstream of Choctaw Road.....	*932
			Just upstream of Edmond Road (U.S. Highway 66).....	*969
			Just upstream of Midwest Boulevard.....	*995
		Tinker Creek.....	Just downstream of 150th Street.....	*1,008
		Deep Fork Tributary 4.....	Just upstream of I-35.....	*1,058
		Coffee Creek.....	Just upstream of Douglas Boulevard.....	*978
			Just upstream of Air Depot Boulevard.....	*1,021
		Coffee Creek Tributary 1.....	Just upstream of Covell Road.....	*1,028
		Coffee Creek Tributary 2.....	Just upstream of Covell Road.....	*1,088
		Coffee Creek Tributary 3.....	Just upstream of Coffee Creek Road.....	*1,083
		Cowbell Creek.....	Just upstream of Coffee Creek Road.....	*1,023
			Just downstream of Sorghum Mill Road.....	*1,037
		Cowbell Creek Tributary 1.....	Just upstream of Coffee Creek Road.....	*1,030
			Just upstream of Sooner Road.....	*1,064
		Peavine Creek.....	Just upstream of Sorghum Mill Road.....	*1,051
		Spring Creek.....	Approximately 150 feet downstream of Midwest Boulevard.....	*993
			Just downstream of Interstate 35.....	*1,031
			Just upstream of Pine Oak Street.....	*1,100
		Spring Creek Tributary 1.....	Approximately 120 feet downstream of Edmond Road.....	*1,065
		Spring Creek Tributary 2.....	Approximately 100 feet downstream of South 15th Street.....	*1,063
			Just downstream of Coltrane Road.....	*1,098
		Spring Creek Tributary 3.....	Just downstream of Bryant Avenue.....	*1,092
		Chisholm Creek.....	Just downstream of Coffee Creek Road.....	*1,030
			Just downstream of Covell Road.....	*1,040
		Chisholm Creek Tributary 1.....	Just upstream of Coffee Creek Road.....	*1,050
			Just downstream of North Kelly Avenue.....	*1,089
		Chisholm Creek Tributary 2.....	Approximately 200 feet downstream of Covell Road.....	*1,043
			Just upstream of Santa Fe Road.....	*1,085
		Chisholm Creek Tributary 3.....	Approximately 350 feet above confluence with Chisholm Creek.....	*1,041
		Chisholm Creek Tributary 4.....	Just upstream of Edmond Road.....	*1,082
			Just downstream of South 15th Street.....	*1,108
		Maps available at Engineering Department, City Hall, 23 East First Street, Edmond, Oklahoma 73034.		
Oregon.....	Union County (Unincorporated Areas) (Docket No. FI-55229).	Phillips Creek.....	Lumber Yard Access Bridge—20 feet upstream from centerline.....	*2,730
			Residence Access Bridge.....	*2,754
			Limit of Detailed Study at centerline.....	*2,778
		Little Creek.....	Godlet Road Bridge—100 feet upstream centerline.....	*2,753
			Corporate Limits (upstream from Godley Road Bridge) 20 feet upstream from centerline.....	*2,762
			Most Upstream Corporate Limits from Godley Road Bridge at centerline.....	*2,817
			Limit of Detailed Study at Bridge—20 feet upstream from centerline.....	*2,857
		North Powder River.....	Limit of Detailed Study at centerline.....	*3,222
			Corporate Limit (upstream from Limit of Detailed Study) at centerline.....	*3,234
			Thief Valley Road—20 feet upstream from centerline.....	*3,244
			U.S. Route 30—20 feet upstream from centerline.....	*3,257
		Grande Ronde at Island City.....	Most Downstream Limit of Detailed Study at centerline.....	*2,709
			Union Pacific Railroad Bridge at centerline.....	*2,726
			Most Upstream Limit of Detailed Study at centerline.....	*2,734
		Grande Ronde at Elgin.....	Most Downstream Limit of Detailed Study at centerline.....	*2,634
			Corporate Limits (upstream from most downstream Limit of Detailed Study) at centerline.....	*2,646
			State Highway 82 Bridge (Wallowa Lake Highway)—20 feet upstream from centerline.....	*2,649
			New Cedar Street Bridge—20 feet upstream from centerline.....	*2,654
			Corporate Limits (upstream from New Cedar Street Bridge) at centerline.....	*2,658
			State Highway 82 Bridge (upstream from New Cedar Street Bridge) (Wallowa Lake Highway)—20 feet upstream from centerline.....	*2,661
			Limit of Detailed Study at State Highway 82 Bridge (Wallowa Lake Highway) at centerline.....	*2,674
		Maps available at Union County Courthouse, LaGrande, Oregon 97850.		

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania.....	Township of Braintrim Wyoming County (Docket No. FI-5678).	Susquehanna River.....	Downstream corporate limits.....	*651
			Downstream Laceyville corporate limits.....	*656
			Upstream corporate limits.....	*665
		Tuscarora Creek.....	Confluence with Susquehanna River.....	*655
			Upstream of U.S. Route 6 Bridge.....	*658
			Upstream corporate limits.....	*682
	Maps available at the residence of Mr. Heller, 14 Maple Street, Laceyville, Pennsylvania.			
Pennsylvania.....	Laceyville, Borough, Wyoming County (Docket No. FI-5678).	Susquehanna River.....	At Laceyville Bridge (LR65041).....	*657
		Little Tuscarora Creek.....	At Conrail Bridge.....	*657
			At Main Street (Old U.S. 6).....	*669
			At Culvert outlet.....	*678
			At Culvert inlet.....	*681
			Upstream Corporate Limits.....	*702
	Maps available at the Laceyville Public Library.			
Pennsylvania.....	Borough of Mount Wolf, York County (Docket No. FI-5673).	Hartman Run.....	Downstream Corporate Limits.....	*351
			Chestnut Street (Downstream).....	*359
			Chestnut Street (Upstream).....	*365
			Downstream Conrail (Upstream).....	*369
			Upstream Conrail (Upstream).....	*374
			Maple Street, State Route 921 (Downstream).....	*376
			Maple Street, State Route 921 (Upstream).....	*381
			Walnut Street (Upstream).....	*389
			Conrail 500 feet upstream of Walnut Street (Upstream).....	*394
			Conrail 80 feet downstream of upstream Corporate Limits (Downstream).....	*395
		Tributary No. 2 to Hartman Run.....	Conrail 80 feet downstream of upstream Corporate Limits (Upstream).....	*401
			Conrail 100 feet upstream of confluence with Hartman Run (Upstream).....	*383
			South Main Street (Upstream).....	*385
			Walnut Street (Upstream).....	*394
			Upstream Corporate Limits.....	*417
	Maps available at the Borough Building, Mount Wolf, Pennsylvania.			
Pennsylvania.....	Township of Woodbury, Blair County (Docket No. FI-5678).	Frankstown Branch Juniata River.....	Downstream corporate limits.....	*800
			Corporate limits at the Borough of Williamsburg (downstream).....	*852
			Corporate limits at the Borough of Williamsburg (upstream).....	*858
			Upstream Corporate Limits.....	*877
		Clover Creek.....	Confluence with Frankstown Branch Juniata River.....	*824
			Township Route 435 (upstream).....	*824
			Township Route 397 (upstream).....	*893
			Upstream Corporate Limits.....	*1,073
		Piney Creek.....	Confluence with Frankstown Branch Juniata River.....	*867
			Fourth crossing of abandoned railroad (upstream).....	*954
			First crossing of Legislative Route 07061 (upstream).....	*1,003
			Upstream Corporate Limits.....	*1,083
	Maps available at the Woodbury Township Building, Williamsburg, Pennsylvania.			
South Carolina.....	Town of Clover, York County (FI-5678).	Allison Creek.....	Just upstream of Western Corporate limits.....	*722
		Calabash Branch.....	Just downstream of Flat Rock Street.....	*738
			Approximately 200 feet upstream of McConnell Street.....	*746
	Maps available at Town Hall, P.O. Box 181, Clover South Carolina 29710.			
South Carolina.....	Town of Pendleton, Anderson County (FI-5678).	Eighteen Mile Creek.....	Just upstream Blue Ridge Railroad.....	*700
			Just downstream of US HWY 76.....	*702
		Shanklin Creek.....	Just upstream of Harrison Street.....	*768
			Just downstream of Queen Street.....	*777
		Town Creek Tributary.....	Just upstream of Southern Corporate limits.....	*757
	Maps available at Town Hall, 108 South Depot Street, Pendleton, South Carolina 29670.			
South Dakota.....	Blunt (City), Hughes County (Docket No. FI-5673).	West Fork Medicine Knoll Creek.....	Downstream corporate limits 150 feet upstream from centerline.....	*1,619
			U.S. Highway 14 (Pierre Street) 100 feet upstream from centerline.....	*1,622
			Adams Street 100 feet downstream from centerline.....	*1,624
		Medicine Knoll Creek.....	Most downstream limit of flooding affecting the City of Blunt.....	*1,614
			Most upstream limit of flooding affecting the City of Blunt.....	*1,615
	Maps available at City Hall, Blunt, South Dakota.			
South Dakota.....	Box Elder (City), Pennington County (Docket No. FI-5555).	Box Elder Creek.....	Spruce Drive at centerline.....	*3,020
			Corporate limits 450 feet southwest of intersection of Westside Drive and U.S. Highways 14 and 16.....	*3,051
		Box Elder Creek, East Tributary.....	Interstate Highway 90 at centerline.....	*3,034
		Box Elder Creek, West Tributary.....	Hillview Drive (downstream crossing) at centerline.....	*3,031
			U.S. Government Railroad 90 feet downstream from centerline.....	*3,043
			U.S. Government Railroad 70 feet upstream from centerline.....	*3,049
			South Gate Drive 20 feet upstream from centerline.....	*3,057
		Box Elder Creek.....	Intersection of Douglas Road and Morningside Road.....	#2
	Maps available at City Hall, Box Elder, South Dakota.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
South Dakota	New Underwood (Town), Pennington County (Docket No. FI-5665).	Box Elder Creek	Most downstream corporate limits	*2,840		
			Most upstream corporate limits	*2,844		
		Unnamed Tributary to Box Elder Creek	Elm Street 20 feet upstream from centerline	*2,841		
			South Ash Creek 20 feet upstream from centerline	*2,846		
			Box Elder Street 40 feet upstream from centerline	*2,851		
			Most upstream corporate limits	*2,861		
Maps available at Town Hall, Pine Street, New Underwood, South Dakota.						
Tennessee	Unincorporated Areas of Marion County (FI-5038)	Tennessee River	Confluence of Battle Creek	*614		
			Just downstream of Nickajack Dam	*616		
			Just upstream of Nickajack Dam	*635		
		Sequatchie River	Just upstream of U.S. Highways 41, 64 and 72	*620		
			Just upstream of Tennessee Highway 27	*648		
		Little Sequatchie River	Just upstream of Nickeltown Road	*624		
			Approximately 100 feet upstream of Tennessee Highway 27	*634		
		Battle Creek	Confluence of Sweden Creek	*618		
			Just upstream of U.S. Highways 41 and 64 (Northwest of Battle Creek Institute)	*631		
			Just upstream of U.S. Highways 41 and 64 (North of Gaines Road)	*636		
			Just upstream of Sweden Cove Road (North of Gilliams Cove Road)	*623		
			Just downstream of Sweden Cove Road (South of Scene Cemetery)	*634		
		Big Flery Gizzard Creek	Just upstream of Flery Gizzard Road (upstream crossing east of Anderson Cove)	*652		
	Just downstream of Flery Gizzard Road (north of Pine Set School)	*798				
Maps available at Clerk Master's Office, Marion County Courthouse, Jasper, Tennessee 37347.						
Tennessee	Town of Oliver Springs, Morgan County (FI-5093).	Indian Creek	50 feet downstream of Green Street	*840		
			Just upstream of Windrock Road	*796		
			Just upstream of Tennessee Highway 62	*785		
			Just upstream of Kingston Avenue	*782		
		Little Cow Creek	Just downstream of Eastern Corporate Limits	*799		
		Mineral Springs Branch	Just upstream of Kingston Avenue	*788		
		Middle Creek	100 feet downstream of Corporate Limits	*786		
			Just upstream of New Valley Road	*784		
		Poplar Creek	Just downstream of Louisville and Nashville Railroad	*785		
			1,500 feet upstream of Strutt Street	*780		
Maps available at City Hall, Oliver Springs, Tennessee 37840.						
Texas	City of Denison, Grayson County (FI-5693)	Iron Ore Creek	Approximately 100 feet upstream of US Highway 75 (Southbound)	*620		
		Loy Creek	Just upstream of Loy Lake Road	*657		
		Waterloo Creek	Just upstream of Flowers Drive	*620		
			Just upstream of the Missouri-Kansas-Texas Railroad	*646		
Maps available at Drafting Department, City Hall, Denison, Texas 78007.						
Vermont	Rockingham (Town), Windham County (Docket No. FI-4416)	Connecticut River	Upstream Bellows Falls Corporate limits	*266		
			Confluence with Williams River	*297		
		Saxtons River	Barbers Park Road 10 feet upstream from centerline	*396		
			Halt Bridge Road 175 feet upstream from centerline	*410		
			Hartly Hill Road 20 feet upstream from centerline	*467		
			Private Road at centerline	*547		
			Upstream corporate limits	*587		
		Weaver Brook	State Route 121 50 feet upstream from centerline	*589		
			Milk Dam 10 feet upstream from centerline	*594		
		William River	U.S. Route 5 50 feet downstream from centerline	*297		
			U.S. Route 5 150 feet upstream from centerline	*302		
			Brockways Mills Road 10 feet downstream from centerline	*443		
			Brockways Mills Road 90 feet upstream from centerline	*452		
			Fourth Crossing Mountain Railroad 75 feet upstream from centerline	*463		
			Upstream corporate limits	*512		
		Maps available at Municipal Building, Village Square, Bellows Falls, Vermont 05101.				
		Virginia	Blacksburg, Town, Montgomery County (Docket No. FI-5628)	Toms Creek	Downstream Corporate Limits	*1,883
	S.R. 655 (Upstream)			*1,990		
	S.R. 651 (Upstream)			*1,923		
	Limit of Detailed Study			*1,956		
Cedar Run	Downstream Limit of Detailed Study			*1,975		
	Access Road (Upstream)			*1,979		
	Upstream Limit of Detailed Study			*2,024		
Stroubles Creek	Downstream Corporate Limits			*1,984		
	Limit of Detailed Study from U.S. Route 460 Bypass			*1,994		
	Limit of Detailed Study Upstream from U.S. Route 460 Bypass			*2,013		
	Confluence of East Branch Stroubles Creek			*2,024		
	Greenhouse Road			*2,031		
East Branch Stroubles Creek	Confluence with Stroubles Creek			*2,024		
	Limit of Detailed Study			*2,031		
Slate Branch	Downstream Corporate Limits			*2,032		
	Limit of Detailed Study			*2,046		
Maps available at the Blacksburg Planning Department, Blacksburg, Virginia.						

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
West Virginia	Moundsville, City, Marshall County (Docket No. FI-5663).	Ohio River	Upstream Corporate Limits	*653
			Downstream Corporate Limits	*652
		Maps available at the City Building, 800 6th Street, Moundsville, West Virginia.		
West Virginia	New Cumberland, City, Hancock County (Docket No. FI-5673).	Ohio River	Downstream Corporate Limits	*677
			Confluence of Hardin Run	*678
			Upstream Corporate Limits	*679
Maps available at the City Building, Jefferson Street, New Cumberland, West Virginia				
Washington	Des Moines (City), King County (Docket No. FI-5678).	Puget Sound	Unprotected area north of Des Moines Marina and area outside the breakwater.	*16
			Protected area within the breakwater and area shadowed by the breakwater.	*9
		Des Moines Creek	Unprotected area south of Des Moines Marina	*9
			Cliff Avenue south—20 feet upstream from centerline	*11
			Private Drive Bndge—70 feet upstream from centerline	*14
			Footbridge east of S. 218th Street—10 feet upstream from centerline	*21
		Maps available at City Hall, 21630 11th Avenue South, Des Moines, Washington.		
Washington	Kitsap County (Unincorporated) Areas (Docket No. FI-5562).	Blackjack Creek (Upper Reach)	Dogwood Road 100 feet upstream from centerline	*179
			Lider Road 100 feet upstream from centerline	*187
			Sidney Road at centerline	*201
		South Fork Blackjack Creek	Confluence with Blackjack Creek (Upper Reach)	*188
			Sidney Road 30 feet upstream from centerline	*201
		Gorst Creek	State Route 3 50 feet upstream from centerline	*110
			Old Navy Yard Way (Old Belfair Valley Road) at centerline	*35
		No Name Creek No. 4	State Route 3 60 feet unstream from centerline	*46
		Perish Creek	Old Navy Yard Way (Old Belfair Valley Road) 30 feet	*67
			State Route 3 100 feet downstream from centerline	*112
		Ross Creek	State Route 160 10 feet upstream from centerline	*14
			State Route 16 50 feet downstream from centerline	*111
		Chico Creek	State Route 3 125 feet downstream from centerline	*16
			State Route 3 150 feet upstream from centerline	*25
			Erlands Point Road 50 feet downstream from centerline	*33
			Erlands Point Road 75 feet upstream from centerline	*39
			North Lake Way 75 feet downstream from centerline	*83
			North Lake Way 100 feet upstream from centerline	*69
			Taylor Road 25 feet downstream from centerline	*94
			Taylor Road 25 feet upstream from centerline	*103
		Kitsap Creek	Confluence with Chico Creek	*77
			West Kitsap Lake Road 10 feet downstream from centerline	*153
		Dickerson Creek	Taylor Road 25 feet downstream from centerline	*91
			Taylor Road 25 feet upstream from centerline	*96
			David Road 25 feet upstream from centerline	*114
			Burlington Northern Railroad 50 feet downstream from centerline	*147
		Curley Creek	Hinkley Road Extended 600 feet southeast of intersection of Locker and Hinkley Roads.	*48
			Sedgewich Road 50 feet upstream from centerline	*109
		Beaver Creek	Ollala Road (Long Lake Road) centerline	*120
			Beach Drive 25 feet downstream from centerline	*31
			Beach Drive 20 feet upstream from centerline	*37
			Beaver Creek Road 30 feet upstream from centerline	*43
		No Name Creek No. 6	State Route No. 3 (Kitsap Way) 80 feet downstream from centerline	*22
			State Route No. 3 (Kitsap Way) 60 feet upstream from centerline	*30
			Silverdale Loop Road at centerline	*56
			Ballard Lane at centerline	*121
		Tnbutary to Noname Creek No. 6	New State Route 3 50 feet downstream from centerline	*93
		Barker Creek	Barker Creek Road Culvert 140 feet downstream from centerline	*13
			Barker Creek Road Culvert 50 feet upstream from centerline	*23
			Neis Nelson Road 100 feet downstream from centerline	*46
		Clear Creek	Neis Nelson Road 100 feet upstream from centerline	*54
			County Bridge (Myhre Road) 10 feet upstream from centerline	*24
			New State Route 3 100 feet upstream from centerline	*41
		No Name Creek No. 7	Schold Road at centerline	*41
			Clear Creek Road 50 feet downstream from centerline	*69
		Dogfish Creek	State Highway 305 50 feet downstream from centerline	*16
			State Highway 305 70 feet upstream from centerline	*29
			Little Valley Road 25 feet downstream from centerline	*34
			Little Valley Road 25 feet upstream from centerline	*40
		East Fork Dogfish Creek	Little Valley Road 15 feet upstream from centerline	*36
		Union River	Private Bridge (4.55 miles above mouth) 10 feet upstream from centerline.	*135
			Old Navy Yard Way 50 feet upstream from centerline	*173
		East Fork Union River	Confluence with Union River	*146
			Old Navy Yard Way Extended 50 feet upstream from centerline	*222
		No Name Creek No. 3	Confluence with Union River	*175
			Wilkinson Road 40 feet downstream from centerline	*195
			Wilkinson Road 10 feet upstream from centerline	*202
		Hazel Creek	Minard Road 15 feet upstream from centerline	*216
		Tahuya Lake	600 feet south of intersection of Gold Creek Road and Kings Way	*593
		Wye Lake	300 feet west of intersection of Wye Lake Boulevard and Sylvan Street.	*305
		Wildcat Lake	1500 feet north of intersection of Wildcat Lake Road and Thayer Road.	*360

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Long Lake.....	1200 feet northeast of intersection of Dorman Drive and Mullenix Road.	*120
		Island Lake.....	300 feet east of intersection of Carey Street and Island Lake Road.....	*219
		Panther Lake.....	County Limits between Kitsap and Mason Counties.....	*500
		Hood Canal.....	Western Coastal areas of Kitsap County.....	*10
		Puget Sound.....	Northern and eastern coastal areas of Kitsap County.....	*10
Maps available at the County Courthouse, 614 Division Street, Port Orchard, Washington 98366.				
Washington	Richland (City), Benton County FI-5673.	Yakima River.....	Union Pacific Railroad Bridge at centerline.....	*352
			Van Giesen Street at centerline.....	*374
			Upstream corporate limits.....	*376
Maps available at City Hall, 505 Swift Boulevard, Richland, Washington.				
Wisconsin	(C) Cedarburg, Ozaukee County (Docket No. FI-5678).	Cedar Creek.....	At downstream of corporate limits near sewage treatment plant.....	*710
			At corporate limits 1,600 feet downstream of Portland Avenue.....	*711
			Just downstream of Columbia Mill Dam.....	*767
			Just upstream of North Highland Drive.....	*772
			Just downstream of Ruck Dam.....	*780
			Just upstream of Ruck Dam.....	*787
			Just downstream of Woolen Mill Dam.....	*797
			Just upstream of Woolen Mill Dam.....	*800
			Upstream corporate limits.....	*804
Maps available at the Office of the City Clerk, P.O. Box 41, Cedarburg, Wisconsin 53012.				
Wisconsin	(V) Grafton, Ozaukee County (Docket No. FI-5678).	Milwaukee River.....	Approximately 0.3 mile downstream of Lime Kiln Dam.....	*701
			Just downstream of Lime Kiln Dam.....	*704
			Just upstream of Lime Kiln Dam.....	*712
			Just downstream of Chair Factory Dam.....	*715
			Just upstream of Chair Factory Dam.....	*727
			Just downstream of Bridge Street.....	*729
			Just upstream of Grafton Dam.....	*740
			Approximately 0.6 mile upstream of Washington Street (north of intersection of Holly Lane and Nancy-Lynn Drive).	*742
Maps available at the Office of the City Clerk, 1102 Bridge Street, Grafton, Wisconsin 53024.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: December 10, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-39212 Filed 12-21-79; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 79-839]

Amendment of Section 0.351 Concerning Authority of the Chief Administrative Law Judge

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: FCC authorizes administrative law judges to move hearing from a field location to the District of Columbia if all hearing sessions will be held in the District of Columbia and if all parties agree. The Chief Administrative Law Judge has heretofore acted on requests to move a hearing from a field location, to assure that travel and other expenses were

kept within budgetary limits, but budgetary considerations are not present if the move is to the District of Columbia.

EFFECTIVE DATE: December 28, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Upton Guthery, Office of General Counsel, 202-632-6990.

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of Section 0.351, Authority of the Chief Administrative Law Judge.

Order

Adopted: December 10, 1979.

Released: December 17, 1979.

By the Commission:

1. The purpose of this order is to amend our rules to allow a presiding administrative law judge to move a

hearing to Washington, D.C. if all parties to the proceeding concur. Under our present rules, if a field location for a hearing is specified initially, the presiding administrative law judge may move the hearing only if all appropriate proceedings at that location have been completed; otherwise, under § 0.351(d), only the Chief Administrative Law judge may change the place of the hearing. The Chief Judge is involved to assure that travel and other expenses are kept within budgetary limits. However, when a field location is specified initially and all of the parties concur in holding the hearing, instead, in the District of Columbia, budgetary considerations are not present and it is unnecessary to involve the Chief Judge. Accordingly, we are amending section 0.351(d) to limit the Chief Judge's authority in this

respect, the result being that requests supported by all parties that the hearing be held in the District of Columbia will be acted on by the presiding judge.

2. The amendment is set out in the attached Appendix. Because it is procedural in nature, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable. Authority for the amendment is set out in Sections 4(i) and 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 155(d).

3. Accordingly, It is ordered, effective December 28, 1979, that Section 0.351(d) of the Rules and regulations is amended as set out in the Appendix hereto.

(Secs. 4, 5, 303, 48 Stat., as amended, 1060, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

1. In Part O of Chapter I of Title 47 of the Code of Federal Regulations, a sentence is added at the end of § 0.351(d), to read as follows:

§ 0.351 Authority delegated.

(d) * * * However, if all parties to a proceeding concur in holding all hearing sessions in the District of Columbia rather than at any field location, the presiding administrative law judge may act on the request.

[FR Doc. 79-39260 Filed 12-21-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 501

Organization and Delegation of Powers and Duties

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule improves the processing of investigatory actions and furthers consistency of NHTSA regulations regarding delegations of authority. This is accomplished by delegating from the Administrator to the Executive Secretary the authority to issue subpoenas pursuant to Title IV of the Motor Vehicle Information and Cost Savings Act.

EFFECTIVE DATE: December 26, 1979.

FOR FURTHER INFORMATION CONTACT: Kathy DeMeter, Office of Chief Counsel, National Highway Traffic Safety

Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1834.

SUPPLEMENTARY INFORMATION: This notice amends the delegation at 49 CFR 501.8 with respect to the exercise of authority to issue subpoenas under sections 414 and 505 of the Motor Vehicle Information and Cost Savings Act, Pub. L. 92-513, as amended by Pub. L. 94-364 and Pub. L. 94-163 (15 U.S.C. 1990(d), 2005)). This amendment delegates from the Administrator to the Executive Secretary the authority to issue subpoenas pursuant to the Cost Savings Act, thereby placing all subpoena authority under the Acts administered by the agency in the hands of the Executive Secretary. This amendment will expedite the processing of investigatory actions.

This amendment relates to matters of agency organization and procedure and may therefore be issued without opportunity for notice and comment. In consideration of the foregoing, paragraph (c) of § 501.8 in Title 49, Code of Federal Regulations is amended to read as follows:

§ 501.8 Delegations.

(c) Executive Secretary. The Executive Secretary is delegated authority to issue subpoenas, at the request of the Assistant Chief Counsel for Litigation and after notice to the Administrator, for the attendance of witnesses and production of documents pursuant to the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act.

(Sec. 414, Pub. L. 94-364, 90 Stat. 985 (15 U.S.C. 1990(d)); Sec. 505, Pub. L. 94-163, 89 Stat. 908, (15 U.S.C. 2005); delegations at 49 CFR 1.50)

Issued on: December 12, 1979.

Joan Claybrook,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 79-39147 Filed 12-21-79; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Vessels; Fee Schedule for Calendar Year 1980; Final Regulations

AGENCY: National Oceanic and Atmospheric Administration, (NOAA)/Commerce.

ACTION: Final Regulations.

SUMMARY: This amendment revises and updates the foreign fishing regulations (50 CFR Part 611). The amendment (1) revises the fee schedule for fishing by foreign vessels in fisheries under the exclusive fishery management authority of the United States; (2) requires that vessel permit fees be paid in advance when permit applications are made; (3) imposes a time limit for claiming poundage fee refunds; and (4) requires the submission of an effort plan by foreign countries.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7432.

SUPPLEMENTARY INFORMATION: Section 201(d) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended (the Act), provides that foreign fishermen may be allowed to fish for " * * * that portion of the optimum yield of a fishery which will not be harvested by vessels of the United States * * * ." Section 204(b)(10) of the Act further provides that reasonable fees shall be paid by the owner or operator of any foreign fishing vessel for which a permit is issued. Fishing vessels are defined by section 3(11) of the Act to include several types of vessels in addition to those actually engaged in harvesting fish. These include any vessel " * * * aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing." Section 204(b)(10) of the Act further provides, in part: "In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement." The schedule of fees was codified as 50 CFR 611.22 on May 4, 1978 (43 FR 19232). These regulations amend, among other things, the 1979 fee schedule which was published as final rulemaking in the Federal Register on December 19, 1978 (43 FR 59292).

The 1977-1979 fee schedules included fee charges for foreign fishing permits and for the poundage of each allocated species. The 1980 fee schedule does not change the methodology for determining poundage fees although the poundage fee system is under review and NOAA may propose changes in the foreign fee

system for 1981. Exvessel values on which the 1980 poundage fees are based have been updated to reflect the most current data available to NMFS. Exvessel values used in prior years often were derived from data which were 18 months old when those schedules became effective.

The change in vessel permit procedures was proposed because under the previous system, where applications could be filed and processed without cost to the applicant, the number of applications was nearly double the number of permits actually paid for and issued.

This practice is wasteful of administrative costs and Council time. Consequently, permit applications received after January 15, 1980, will not be accepted unless accompanied by the appropriate permit fees. NOAA expects that this requirement of advance payment of permit fees will lead foreign nations to be more judicious in the number of permit applications submitted. Permit fees for applications received after January 15, 1980 will be refunded only if the applications subsequently are not approved. Applications received before January 15, 1980, may be withdrawn on or before that date, and the advance payment of permit fees made for the applications withdrawn before that date will be refunded.

The normal procedure followed by foreign countries in making vessel applications is to submit them directly to the Department of State. Handling the fee payments would have created administrative problems for the Department. Section 611.22 has been revised to accommodate that problem. At the time applications are filed with the Department of State, the applicant will pay the appropriate fee to the National Marine Fisheries Service (NMFS), and will provide NMFS with a list of the vessels for which the payments are made.

Comments Received

Proposed regulations were published in the Federal Register on October 15, 1979 (44 FR 59257). Comments were received from the Western Pacific Fishery Management Council, the North Pacific Fishery Management Council, two other Federal agencies, and several foreign governments.

Several comments addressed the poundage fees by reviewing the average exvessel values of various species of fish. Specifically, the listed values for

tanner crab, snails, Pacific squid, Atka mackerel, sablefish, Alaska pollock, and Pacific herring were disputed.

a. *Tanner crab*. The proposed exvessel price was \$882/m.t. The Government of Japan (GOJ) requested a price of \$740/m.t. The 1979 price in Kodiak, Alaska, was \$882 (in April-June), and \$661 (in July). The proposed price of \$882 will be adopted, using the Kodiak in-season price as the standard.

b. *Snails*. The proposed exvessel price was \$1,657/m.t. The GOJ said that it was too high and had been set too high in 1977, 1978, and 1979. It recommended an exvessel price of \$632/m.t. The average price in Japan, according to the U.S. Tokyo fisheries attache (TFA) was \$658 during January through June 1979. Because there is no U.S. exvessel price for snails, the Tokyo reported exvessel price of \$658/m.t. is being adopted.

c. *Pacific squid*. The proposed exvessel price was \$1,614/m.t. It was based on a Hawaii landing. The North Pacific Fishery Management Council (NPFMC), the Union of Soviet Socialist Republics (USSR), Republic of Korea (ROK), and GOJ said this price was too high. The NPFMC did not recommend a price; USSR recommended \$201.90, ROK recommended \$458, and the GOJ recommended \$313. The TFA reports that the average exvessel price in Japan during January through June 1979 was \$324. Therefore, the Tokyo reported average exvessel price of \$324/m.t. is being adopted.

d. *Atka mackerel*. The proposed exvessel price was \$394/m.t. The USSR and the ROK requested that the 1979 price of \$223 be continued in 1980, and the GOJ requested that the price be reduced to \$152. The TFA reports an average price of \$132 from January-June 1979, but the exvessel fee price of \$223/m.t. is being adopted because two foreign nations agree that last year's price is appropriate.

e. *Sablefish*. The only comment on sablefish was made by the NPFMC, which said the proposed exvessel prices for both longline and trawl-caught sablefish (\$1,543/m.t. and \$576/m.t. respectively) based on September 1979 landings in Alaska were too low. Prices per metric ton for longline-caught sablefish in southeast Alaska in 1979 were: \$1,279 (May), \$1,587 (June-August), and \$1,543 (September). The midseason Alaska price is being adopted and increases the 1980 fee schedule longline price from \$1,543 to \$1,587. Prices for trawl-caught sablefish landed in southeast Alaska in 1979

were: \$661 (April though July) and \$576 in September. Again, the mid-season Alaska price is being adopted and increases the base 1980 exvessel price for trawl-caught sablefish from \$576 to \$661/m.t.

f. *Pacific herring (with roe)*. The proposed exvessel price was \$1,750/m.t. The ROK requested a price of \$991, the same as the 1979 price. The 1979 price in Kodiak, Alaska was \$1,543 (May) and \$1,433 (June). The 1979 base exvessel price adopted will be \$1,488, the average Kodiak price.

g. *Pollock*. One comment on the proposed exvessel pollock price was received. The NPFMC said the proposed price of \$176/m.t. was too low and suggested a price of \$220. The TFA reports the following average prices per metric ton in Japan from January through June 1979:

pollock with roe, \$339; and
pollock without roe, \$134.

Round and dressed pollock prices in southeast Alaska ranged from \$154 to \$165 in April through June; however, since the U.S. harvest was about one-hundredth of the pollock optimum yield, the Alaska prices do not reflect the true market value of pollock in the U.S. zone.

The relative proportions of roe and roeless pollock caught by Japan in the U.S. FCZ are not known. Japan contends that Soviet pollock contains a greater roe component. It is worth noting in this context that the exvessel price from Japan for pollock caught in the USSR zone is reported to be \$667.00/m.t. Adopting a higher pollock exvessel price would be consistent with anticipated increased enforcement costs which may result from serious under-reporting in the Alaska fisheries. Therefore, the price of \$220/m.t. advanced by the NPFMC will be adopted in 1979.

h. *Other species*. Attention was directed to the omission of exvessel prices for turbot and idiot rockfish. TALFFs for these species are anticipated in 1980.

Final exvessel prices are being adopted for these species based on Alaska landings in 1979. This action is not a major change from the proposed fee schedule in that the exvessel price for idiot rockfish is equal to the proposed price for rockfish, and the adopted price for turbot is based on the same source as the price for rockfish, the 1979 Alaska season price.

The following table summarizes the changes made in the proposed prices.

Species	Proposed 1980 exvessel price (m.t.)	Adopted exvessel price (m.t.)
Tanner crab	\$882	\$882
Snails	1657	658
Pacific squid	1614	324
Atka mackerel	394	223
Sablefish (longline caught)	1543	1587
Sablefish (trawl caught)	576	661
Alaska pollock	176	220
Pacific herring (with roe)	1750	1488
Turbot (including arrow tooth flounder and Greenland turbot)		265
Rockfish, idiot		397

The Western Pacific Fishery Management Council proposed that charges and fees pertaining to the approximately 200-300 foreign vessels landing their catch in American Samoa be waived or reduced. The reason behind this proposal was that such fees might inhibit the future development of that fishery to the detriment of the American Samoa economy.

The average size of foreign vessels which are contracted by U.S. tuna canneries in this fishery ranges from about 181 GRT to about 138 GFT. At \$1 per GRT, permit fees for the vessels could run roughly \$150 each.

Estimates of the total value poundage fees for the 1980 Pacific billfish fishery amount to \$6000. Thus, each vessel on the average, would pay about \$20 in poundage fees. Each vessel fishing in the FCZ in this fishery would incur fee costs of about \$170.

Very little is known about the marginal costs of the Samoan tuna operations, but the additional costs resulting from foreign fees do not appear to be unreasonable and should not significantly affect their economics.

Therefore, these modest additional costs should not jeopardize the existing arrangements between these foreign fleets and the U.S. canneries. Consequently, NOAA intends to apply the fee schedule to all foreign vessels fishing under the Pacific billfish fishery plan in 1980.

Effort Plan

The proposed requirement that foreign nations submit 1980 effort plans for each directed fishery in which allocations are received is adopted. The purpose of the effort plan, which will estimate catch per vessel per day, is to give NOAA and the Regional Fishery Management Councils estimates of the concentrations of foreign fishing vessels that will fish in different areas and different times of the year. The effort plans also will assist NOAA in developing options for a new fee schedule, which might be based on fishing days instead of poundage allocations. Foreign nations are not

required to adhere to their effort plans in 1980.

Two foreign governments expressed their deep concern that the effort plan would lead to a new fee schedule based on fishing days. However, neither government objected to submitting effort plans in 1980. One other commenter addressed the necessity of a revised effort plan when only 100 metric tons (mt) are allocated, or reallocated. Since NOAA does not intend to create a large burden of paperwork, an effort plan will be required only when directed fishery allocations or reallocations of at least 1,000 mt are made. However, the U.S. government may occasionally request a plan for a smaller reallocation.

Other Changes

The table of Total Allowable Level of Foreign Fishing (TALFFs) in § 611.20(c), and all references to it, were proposed to be deleted. No action is being taken on this proposed change at this time. NOAA reserves the opportunity to act on the proposed change in the near future.

It was originally proposed that poundage fee refund applications should be submitted no later than 90 days after the end of the fishing season. Several objections were raised to this proposal. One objection was based on the fact that several FMPs do not require the submission of annual catch and effort statistics until May 30 of the following year. Further, this May 30 date appears in at least one governing international fisheries agreement. As a consequence, May 30 is adopted as the date after which refund claims will not be honored.

The Assistant Administrator for Fisheries finds and determines that (1) these regulations are not significant within the meaning of Executive Order 12044; (2) these regulations do not require the formulation of an Environmental Impact Statement under the National Environmental Policy Act of 1969; and (3) for good cause, such as the fact that the 1980 fishing season in some fisheries begins on January 1, 1980, these regulations must become effective on that date even though the thirty-day delay in implementation required under Administrative Procedure Act must be waived in part.

Signed at Washington, D.C., this 19th day of December 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

(16 U.S.C. 1801 et seq.)

50 CFR Part 611 is amended as follows:

§ 611.21 [Amended]

1. Amend 611.21 by renumbering the existing text as paragraph (a) and adding the following paragraph (b).

(a) * * *

(b) *Effort Plan*. (1) After the Secretary of State notifies each foreign nation of its allocation or reallocation of target species, each such nation shall prepare and submit an effort plan to the Assistant Administrator for Fisheries, NOAA, Washington, D.C. 20235. Effort plans may be submitted after fishing begins if adequate time to prepare the plan does not exist between the allocations or reallocations and the start of fishing, but the plan must be submitted before 30 days have elapsed after a corresponding allocation or reallocation. The effort plan should describe, for each fishery, the range of vessel sizes, gear types and size and catch rate per species per day fishing, and should specify the following information:

(i) The number of vessels in each vessel class expected to be used in each directed fishery.

(ii) The approximate time schedule for each fishery, including the number of fishing days and days on ground required to harvest the allocation or reallocation, based on catch rates in the U.S. fishery conservation zone to date (if the nation has previous experience in the applicable fishery in the U.S. fishery conservation zone).

(iii) Factors which may cause a deviation from this plan.

(2) Nations will not be required to submit revised plans if, during actual fishing, it is necessary to deviate from the plan other than as the result of reallocations.

(3) In those cases when the allocation or reallocation is less than 1,000 m.t. no effort plan need be submitted unless specifically requested by the National Marine Fisheries Service.

§ 611.22 [Amended]

2. Amend 611.22 by deleting paragraph (a)(1) and inserting the following:

(a) * * *

(1) *Permit Fees*. (i) The owner or operator of each foreign vessel applying for a permit under § 611.3 is required to pay a permit fee at the time of application, unless otherwise provided in paragraph (a)(1)(ii) of this section. At the time each vessel permit application is submitted to the Department of State pursuant to § 611.3, the applicant must send the appropriate permit fee payments, as specified in Table I of this section, to the National Marine Fisheries Service in accordance with § 611.22(a)(3). In the case of vessels described in more than one category in

Table I, the highest applicable fee will be charged. The permit fee payments must be accompanied by a written list of the vessels for which the payments are made. Permit fees will be refunded only if the application is not approved. On a case-by-case basis, the Assistant Administrator for Fisheries may allow the substitution of like vessels when the original vessel has become disabled or otherwise cannot participate in the fishery.

Table I

Vessel activity	Permit fee
Catching (activities described in § 611.2(r) (1) or (2)) with an applicable national allocation (per gross registered ton)	\$1.00
Catching (activities described in § 611.2(r) (1) or (2)) without an applicable national allocation, i.e., a nonretention fishery (per vessel)	200.00
Processing (activities described in § 611.2(r)(3)(i)) (per gross registered ton, up to \$2,500)	0.50
Other support (activities described in § 611.2(r)(3) (ii) or (iii)) (per vessel)	200.00

(ii) A nation may submit applications before January 15, 1980, without paying permit fees at the time of application. Permit fees must be paid on or before January 15, 1980, for all applications on file on that date. In addition, if a nation wishes to have a permit issued prior to January 15, 1980, the permit fee must be paid before issuance. For applications submitted on or after January 15, 1980, permit fees must be paid at the time of application.

§ 611.22 [Amended]

3. Amend § 611.22(a)(2) by deleting the words "where U.S. landing data are available in 1977," and substituting the word "for".

§ 611.22 [Amended]

4. Amend § 611.22(a)(3)(iii) by amending the first sentence of that section to read as follows: "Refunds of poundage fees for a calendar year will be made only upon written application received by NMFS, Washington, D.C. on or by the subsequent May 30.

§ 611.22 [Amended]

5. Amend § 611.22 by revising paragraph (b) as follows:

(b) The following exvessel prices to be used for computing fees are based on U.S. commercial landings price using the most recent reliable information for 1979, or based on Japanese prices below:

Exvessel Values Per Metric Ton

Species	1980 values
Atlantic:	
Butterfish	\$5927
Hake, red	1315
Hake, silver	1369
Herring, river	1113
Mackerel, Atlantic	1530
Other finfish	1930
Sharks (except dogfish)	1,091
Squid— <i>Loligo</i>	1176
Squid— <i>Teuthis</i>	993
Pacific and North Pacific:	
Alaska mackerel	223
Cod, Pacific	419
Crabs, Snow (Tanner)— <i>Oplio</i>	682
Flounders	397
Hake (Pacific whiting)	178
Herring, sea—roeless	165
Herring, sea—w/roe	1,488
Jack mackerel	154
Ocean perch	397
Other groundfish	155
Pollock	220
Rockfishes	337
Rockfish, Idiot	397
Sablefish—longline	1,587
Sablefish—trawl	661
Snails (meats)	658
Squid	324
Turbot (including arrow tooth flounder and Greenland turbot)	265
Western Pacific:	
Dolphin	4,354
Other billfish	1,111
Seamount groundfish	397
Sharks (except dogfish)	825
Striped marlin	2,516
Swordfish	3,036
Wahoo	2,968

¹Maine, Massachusetts, Rhode Island, New York, New Jersey, and Virginia, U.S. landings—January–June 1979.

²U.S. landings, New York, January–June 1979.

³Prices in Japan, January–June 1979.

⁴U.S. landings, Alaska, September 1979.

⁵U.S. landings, Alaska, season price, 1979.

⁶U.S. landings, Washington, Oregon and California—September 1979.

⁷Based on price for U.S. landings of northern anchovy—September 1979.

⁸Hawaii landings, 1978.

⁹Ex-vessel price paid in 1979 in Japan for Soviet-caught pollock.

Note.—No fees will be charged for rattails (grenadiers). This species is taken incidentally in the sablefish longline fishery. The species is of no commercial value, and is routinely discarded by U.S. and foreign fishermen.

§ 611.22 [Amended]

6. Delete 611.22(d).

[FR Doc. 79-39345 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Ch. VI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Ch. I

Water Resources Project Type Activities; Channel Modification Guidelines

AGENCY: Soil Conservation Service, USDA, Fish and Wildlife Service, Department of the Interior.

ACTION: Advanced Notice of Proposed Rulemaking.

SUMMARY: On March 1, 1978, the Soil Conservation Service (SCS) and the Fish and Wildlife Service (FWS) published in the Federal Register (FR 43, 8276) final guidelines for use of channel modification as a means of water management in water resource project type activities of the SCS. The SCS and FWS give advance notice of their intention to convert the guidelines to rules and regulations with proposed rules to be published in the Federal Register on or about May 1, 1980. Experience gained from use of the guidelines will be assessed to determine needed changes at the time they are published as regulations. Some needed changes identified to date have been incorporated into amended guidelines included as a part of this notice.

DATES: Comments and suggestions concerning the conversion of these guidelines to rules and regulations should be on or before February 25, 1980. The amended Channel Modification Guidelines will become effective on the date of this publication and serve as interim guidelines until rules and regulations are published.

ADDRESS: Comments and suggestions should be submitted to Lynn A. Greenwalt, Director, Fish and Wildlife

Service, U.S. Department of the Interior, Washington, D.C. 20240; or Norman A. Berg, Administrator, Soil Conservation Service, P.O. Box 2890, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Michael J. Spear, Associate Director—Environment, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4767). Joseph W. Haas, Assistant

Administrator for Water Resources, Soil Conservation Service, P.O. Box 2890, U.S. Department of Agriculture, Washington, D.C. 20013 (202-447-4527).

SUPPLEMENTARY INFORMATION: Since the final guidelines were published on March 1, 1978, the SCS and FWS have been monitoring the use of the guidelines to determine their effectiveness and needed changes. This effort will be continued to the time of publishing final rules and regulations. In the meantime, needed changes identified to date have been incorporated into amended guidelines. The more substantive changes include:

1. Selective snagging—The description of this type of channel modification was changed to provide more emphasis on performing channel work using the least destructive methods; i.e., primarily with hand-operated equipment.

2. Wetland types 1 and 2—The guidelines concerning wetland types 1 and 2 were changed to conform with SCS's rules and regulations for complying with the Executive Order 11990—Protection of Wetlands, as published in the Federal Register on July 30, 1979. As stated, technical or financial assistance for draining wetland types 1 and 2 will not be provided by SCS unless the land has been cultivated to produce food, feed, fiber, and/or oilseed for at least 3 of the 5 years before the request for assistance. This means that the land use history must be established prior to receipt of an application for project assistance. The history cannot be established during the planning process.

3. Procedures—This section has been modified to clarify the coordination role and responsibilities for resolving issues that may arise. The SCS planning staff should be working with the FWS Field Supervisor (Ecological Services), whereas, the next level of resolution should be between the SCS State Conservationist and the FWS Area Manager.

Federal Register

Vol. 44, No. 248

Wednesday, December 26, 1979

Accordingly, the following amended Channel Modification Guidelines are published for informational purposes.

Dated: December 4, 1979.

Norman A. Berg,

Administrator, Soil Conservation Service, U.S. Department of Agriculture.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service, U.S. Department of the Interior.

CHANNEL MODIFICATION GUIDELINES (Amended December 1979)

(Prepared By U.S. Department of the Interior, Fish and Wildlife Service, U.S. Department of Agriculture, Soil Conservation Service)

Channel Modification Guidelines

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Channel Modification Guidelines

I. Introduction

A. Purpose. These guidelines are promulgated by the Soil Conservation Service (SCS) and the Fish and Wildlife Service (FWS) to guide their personnel in identifying when and where channel modification may be used as a technique for implementing water and related land resource projects. They will be used in the planning of all SCS projects or measures which qualify for either technical, financial, and/or credit assistance under the authorities for flood prevention projects, small watershed projects, and resource conservation and development projects. These program authorities contain provisions for maintaining and enhancing fish and wildlife resources as well as achieving other water management objectives.

B. Policy. It is the policy of SCS and FWS that care and effort will be made to maintain and restore streams, wetlands, and riparian vegetation as functioning parts of a viable ecosystem upon which fish and wildlife resources depend.

It is also the policy of SCS and FWS to use an interdisciplinary planning process which will permit a balancing of the need to maintain a viable, naturally functioning ecosystem and projected food and fiber, economic, and other social needs.

The application of these guidelines, the resource inventory, interpretation, and planning assistance provided by SCS and FWS will ensure identification and consideration of alternatives to channel modification.

C. Applicability. These guidelines become effective as of the date they are approved. They will be applied to: (1) all new planning starts; (2) all projects in the planning phase, unless SCS and FWS agree it is not important and feasible to apply the guidelines; (3) all projects approved for construction, (a) when supplements or revisions are prepared which would result in an increase in the amount or type of channel modification which would increase the potential adverse environmental impact; or (b) when SCS and FWS agree that (i) important fish and wildlife habitat is involved and threatened; (ii) project modification is practicable; and (iii) project modification to minimize adverse environmental impact has not been accomplished as a result of reviews mandated by the National Environmental Policy Act or other congressional, Presidential, or Secretarial initiatives.

After the guidelines have been in use for a year or more, their effectiveness will be reviewed, and changes will be made if determined to be necessary. These guidelines may be terminated at the request of either agency.

II. Background

Congress has recognized that erosion, floodwater, and sediment can cause damage in the watersheds of the rivers and streams of the United States. It has found that loss of life and damage to property constitute a menace to the national welfare and that the Federal Government should cooperate with States and their political subdivisions for the purposes of preventing such damages and of furthering the conservation, development, utilization, and disposal of water. In so doing, this action will also preserve, protect, and improve the Nation's land and water resources and the quality of the environment.

Congress has also recognized that rivers and streams, wetlands, and riparian vegetation constitute a valuable resource which is vital to the public interest in naturally functioning ecosystems, water transport, and

maintenance of fish and wildlife populations. Dependent upon the situation, wetlands can serve as: (1) natural flood detention areas; (2) sediment and debris traps; (3) water purifiers and in recycling nutrients; (4) groundwater recharge areas; (5) nursery areas for aquatic animal species; (6) important habitats for a wide variety of plant and animal species, some of which have been depleted to the point that their continued existence is endangered; and (7) areas which produce highly valuable crops of timber, fish, and wildlife.

High flows in rivers and streams and periodic overflow have significant value in creating and maintaining meandering channels and in cleansing and redistributing substrates. This action by water provides riffles, pools, or other habitat for fish spawning and rearing and production of aquatic invertebrates. It also provides diverse plant successional areas and other types of shoreline habitat that fulfill fish and wildlife food and cover requirements. However, it is also recognized that many areas adjacent to streams and wetlands are well-suited for and have a long history of agricultural and urban uses.

Channel modification, used in a sensitive manner, is one method that can be utilized in solving specific water management problems. It may be needed to restore a water course impaired or damaged naturally or through man's unwise use or management of adjacent or upstream lands. It may also be needed to provide a safe and healthy environment and for the maintenance of existing agricultural productivity.

However, channel modification can cause serious damage to fish and wildlife resource values. In addition to the direct impacts on the stream and immediate environs, the practice has, on occasion, led directly or indirectly to major drainage of wetlands, clearing of bottomland forests for intensive agriculture, and increased flooding and siltation in downstream areas. Channel modification for flood control, drainage, and irrigation projects has often resulted in severe conflict with the function of the associated ecosystems, changing or reducing both the variety and abundance of fish and wildlife resources.

Because of the variety of values associated with water, it is incumbent upon the SCS and the FWS to continue to share their technical expertise to help ensure decisions which will result in the maximum benefits to assure long-term agricultural productivity and optimum environmental quality.

III. Guidelines

A. Alternatives. The guidelines for channel modification will be used when formulating alternatives plans under the Water Resources Council's Principles and Standards. The planning process will include an inventory of resources, including fish and wildlife habitats and their geographic delineation. It will also identify appropriate means for minimizing adverse impacts on habitat values. Measurement of habitat values will be determined on a case-by-case basis in accordance with habitat evaluation procedures promulgated by FWS and developed jointly with SCS.

Alternative plans will be formulated to: (1) emphasize environmental quality; (2) optimize national economic development; and (3) provide varying mixes of the components of the environmental quality and national economic development objectives. The formulation of these plans will include inputs from all interested agencies, organizations, or individuals interacting with sponsoring local organizations. For each alternative plan, there will be a display or accounting of relevant beneficial and adverse effects. A comparison of the displays will identify trade-offs between the environmental quality and economic development objectives. Within this framework and in compliance with the requirements of the National Environmental Policy Act (NEPA), equal consideration will be given to environmental and economic and technical aspects in the decisionmaking process.

In compliance with the mandates of NEPA and the Water Resources Council's Principles and Standards, the FWS will assist the SCS to develop, evaluate, and recommend alternatives, if any, to channel modification when it is expected to cause, directly or indirectly, measureable losses of fish and wildlife resources. Channel modifications will not be considered if a practical alternative exists.

A practical alternative is one which meets all of the following tests: (1) is consistent with the Water Resources Council's Principles and Standards; (2) makes a significant contribution to project objectives; and (3) results in less damage to fish and wildlife habitat. Thus, channel modification will normally emerge as the last resort measure.

The following three broad types of alternatives will be considered singly or in combination:

1. Soil and Water Conservation practices.

2. Nonstructural—Nonstructural measures may include, but are not

limited to, land use regulation, land acquisition, the maintenance of aquatic areas, floodplain zoning, flood-proofing existing buildings, flood forecasting, flood warning, flood hazard information, flood insurance, tax adjustments, emergency assistance, and relocation of properties and people.

3. Structural—Structural alternatives to channel modification include, but are not limited to, dams, floodways, dikes, levees (including set back levees), flood walls, pumping plants, diversions, and wetland development, maintenance, and restoration.

B. Types of Channel Modification. Channel modification is defined in these guidelines to include actions such as riprapping, selective snagging, clearing and snagging, widening, deepening, realignment, and lining, listed generally in order of ascending impact on fish and wildlife resources.

1. Selective Snagging—Selective removal of obstructions from the channel and stream banks to increase its capacity to convey water. Removal operations are performed primarily with hand-operated equipment, water-based equipment or small equipment used in a manner that will minimize soil and water disturbances. This includes the removal of downed timber, trees likely to fall into the channel at an early date, and accumulations of debris, sediment or obstructions that will adversely impact on design flow requirements.

2. Clearing and Snagging—The removal of obstructions from the channel and stream banks, including the removal of vegetation and accumulations of bedload material, to increase its capacity to convey water. It may include the removal of sediment bars, drifts, logs, snags, boulders, piling, piers, headwalls, and debris.

3. Riprapping—The placement of irregular permanent material such as rock in critical areas along the watercourse to protect the earth materials against excessive erosive forces.

4. Widening—the overall widening of a channel to restore or increase its capacity to convey water. This usually involves clearing, snagging, and excavation of a portion of the channel side slope(s). Where practical, widening is performed on one side only with appropriate consideration given to alternating from one side to the other.

5. Deepening—The overall deepening of a channel to increase its capacity to convey water and/or provide drainage. Deepening usually involves clearing or snagging and excavation of a portion of the channel bottom and the channel side slope(s).

6. Realignment—The construction of a new channel or a new alignment and may involve the clearing, snagging, widening, and/or deepening of the existing channel where the new alignment coincides with the existing channel. It may include straightening the alignment to restore or increase the capacity of the channel to convey water.

7. Lining—Placement of a nonvegetative protective lining overall or part of the perimeter of a channel to prevent erosion or to increase the capacity of the channel to convey or conserve water.

C. Criteria for Channel Modification as an Alternative. The following criteria will be utilized in the planning process for determining when channel modification can be considered an alternative. If used, channel modification will be the minimum required, either alone or in combination with other measures. It will be accomplished using the least damaging construction techniques and equipment in order to retain as much of the existing characteristics of the channel and riparian habitat as possible. Such construction practices include, but are not limited to, seasonal construction, minimum clearing, reshaping spoil, limiting excavation to one bank (on alternating sides where appropriate), and prompt revegetation of disturbed areas.

Channel modification may be considered as an alternative for project purposes for which the SCS is currently authorized by law and which are in conformance with agency (SCS) policy and regulations, provided the modification is designed to resolve specific problems and would not cause directly or indirectly any of the following to occur:

1. Jeopardize the continued existence of endangered species and threatened species by the destruction or modification of habitat of such species which is determined to be critical under the endangered Species Act of 1973, or amended, or species similarly classified under law of the State(s) in which the project is located.

2. Result in restricted access to use of streams or stream segments developed specifically for recreation or fish and wildlife use by the general public.

3(a). The intent or purpose is to drain or otherwise alter wetland types 3 through 20,¹ or the result of the modification would be to indirectly alter wetlands types 3 through 20 and provisions for appropriate mitigation or compensation by establishment of

¹ Wetland types as described in FWS Circular #39 or subsequent publications.

similar habitat values in the project area are not provided; or

(b). The intent or purpose is to alter wetland types 1 and 2, including conversion to cropland, pastureland, or other uses unless the land has been cultivated to produce food, feed, fiber, and/or oilseed for at least 3 of the 5 years before the request for assistance. In any case, their preservation will be strongly recommended when they are adjacent to types 3 through 20 or are needed to maintain a balanced aquatic or semi-aquatic ecosystem.

Also, channel modification will not be considered as an alternative unless it can be accomplished with little or no direct or indirect adverse² effect on:

1. Stream or stream segments now designated or undergoing study under the Wild and Scenic Rivers Act or officially designated pursuant to other federal or State(s) legislative actions for their important natural, esthetic, or recreational values.

2. Streams located in or flowing through or contiguous to established wilderness areas, parks, refuges, or other areas set aside pursuant to Federal or State(s) legislative actions for fish and wildlife esthetic or recreational values.

3. Important fish and wildlife habitat values, including riparian habitat, in the project impact area, State, or nation after providing for all appropriate mitigation, compensation, or preservation measures. Conservation easements or other comparable means will be utilized wherever necessary to provide reasonable life or project protection for wetlands or riparian areas subject to secondary drainage predicted to occur as a result of, or be facilitated by channel modification. (Measurement of habitat values will be determined on a case-by-case basis in accordance with habitat evaluation procedures to be promulgated by FWS and developed jointly with SCS.)

IV. Coordination and Interaction

The FWS and the SCS recognize that the application of the above guidelines can most effectively be accomplished through cooperative effort during all planning phases of a water resource project. The FWS and the SCS will work cooperatively with State fish and wildlife agencies to inventory and assess the fish and wildlife resources and to plan alternatives, enhancements, replacement, or necessary mitigation measures.

² Rule of reason must be used in applying these guidelines and determining the actual net effects and their significance at the field level considering the value of the resource and importance of the project objectives.

The level of effort to be devoted by FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation. Even though FWS discontinues

participation in planning, they will eventually, as prescribed by law, become involved with reviewing and commenting on the watershed plan. In such instances, FWS will not oppose the project plan on the basis of channel modifications unless it is clearly evident that the plan is not in conformance with the provisions of these guidelines after consultation with SCS determining this to be the case.

The following procedures will be used in the planning of water resource projects. The coordination identified is between the field levels of FWS and SCS; however, *both agencies recognize that planning will always involve State fish and wildlife agencies as well as the interested public and sponsoring agencies at all stages throughout the planning process.*

Coordination of Field Level Planning ¹

Process	SCS action	FWS action
Preapplication	Potential application under consideration. Notifies FWS that potential application is being considered and issues invitation to meetings.	Participate in meetings.
Application	Assists sponsors in developing information when appropriate. (Normally requires from one to several days.) Request from FWS available fish and wildlife information and viewpoints concerning potentials for an impacts of a probably project. Receives application. Notifies FWS in writing that application has been received and when field examination is to begin. Issues invitation to FWS to participate in all meetings and in study and evaluation of available information. (Field examination may require a few days to several weeks.) Initiates field examination and assembles available information, coordinates study and evaluation of available information and data. Begins environmental assessment.	Furnishes available information and FWS viewpoint concerning potentials for and impacts of a probable project. If requested, participates jointly with SCS and State fish and wildlife studies needed and report findings as may be required. (Field level letter.) Participates in meetings.
Planning	Identifies problems and needs, potential solutions, and broad alternatives worthy of further study. Request FWS to work cooperatively with SCS and State fish and wildlife agency in any special studies required in this step. Prepares field examination report (includes pertinent fish and wildlife information from FWS) and provides copy to FWS. Requests FWS to participate in developing a plan of study. Prepares the study plan. Requests planning authority (submits views of FWS with request for planning authorization). Receives notice of planning authorization. Notifies FWS in writing. Initiates and coordinates Preliminary Investigation (PI) and continuous environmental assessment. Notifies FWS in writing. (PI may require from several weeks to 2 years). SCS initiates preparation of PI report and update of the study plan. Requests FWS participation in PI and update of plan of study.	Participates in field examination. Assembles and furnishes available fish and wildlife information and data. Participates in study and evaluation of available information and data and in identification of problems and study needs and potential solutions worthy of further study. Works cooperatively with SCS and State fish and wildlife agency in any special studies required and in preparing an appropriate report. Provides inputs (letter report) for the field examination report. Participate with SCS in developing a plan of study. FWS will advise as to scope and detail of specific studies needed, capability of FWS to perform studies, and its desire to participate in design of any contracts to secure necessary information.
Detailed Planning	Sends PI report to FWS and others..... Coordinates the detailed planning stage and continuation of the environmental assessment. Notifies FWS that detailed planning is to commence and issues invitation to participate in detailed planning and in meetings.	Furnishes additional inputs to problems, needs, alternatives and impacts as the PI process progresses and jointly makes recommendations for mitigation, compensation, and enhancement. Furnishes inputs for the PI report and updating of study plan. Participates with SCS to review the PI report with the public. Participates with SCS and others in detailed planning of alternatives and the components. Works cooperatively with State fish and wildlife agency and SCS to formulate the alternatives and to assess fish and wildlife impacts. Works cooperatively with SCS and State in preparation of recommendations for mitigation, compensation, and enhancement for initial draft plan and, when prepared, an EIS. Participates in meetings. Provides detailed report in accordance with Fish and Wildlife Coordination Act and Section 12 of P.L. 93-565.
Review (Formal)	Prepares initial draft plan and, when required, an EIS. Initiates local field review and issues an invitation to FWS to participate in this review. Provides FWS with initial draft plan and an EIS, if prepared. Prepares a draft plan and EIS, if required, and circulates for interagency review.....	Provides review comments on initial draft and participates in local field review. Provides comments to Interior and works with SCS in an attempt to resolve issues, if warranted. Review plan and EIS according to FWS and Interior instructions.
Operations	SCS prepares final plan and EIS, if required. Forwards plan and EIS through system for approval and authorization. Receives notice of authorization for installation. Notifies FWS. (Regional and area offices.) Prepares construction plans and invites FWS to review them. Notifies FWS of supplement when the channel modification guidelines are applicable. (See page 2.) Prepares supplemental plans when necessary and circulates for local field review. Forwards supplemental plan for approval. Provides FWS copy of supplemental plan.	Reviews pertinent construction plans. Participates in formulating supplemental plan when the channel modification guidelines are applicable. Same involvement as in planning and provides inputs for supplemental plan. Also provides comments on supplemental plan when circulated for local field review.
Maintenance	Advises FWS and State fish and wildlife agency of scheduled maintenance inspections during the life of the project.	Participates in maintenance inspections at FWS discretion. Coordinates with SCS and sponsors to determine when inspections are to be made or needed. If appropriate, makes recommendations for changes in O&M agreement if necessary to ensure that proper maintenance is accomplished.

¹ All steps apply to planning for small watershed projects. Appropriate steps will be followed for P.L.-531 and Resource Conservation and Development measures planning.

NOTES

1. SCS notifies FWS when planning is suspended, project action terminated, or other stop actions are taken.

2. The level of effort to be devoted by the FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation.

V. Resolution of Issues

General

It is recognized that issues may

develop which cannot be resolved at the field level. When issues arise, it will be the practice of the FWS and the SCS to refer such cases and issues to the next

higher respective administrative level for resolution and ultimately, if necessary, to the Secretaries of Agriculture and Interior. The Secretary

of Agriculture will seek the advice and counsel of the Secretary of the Interior in reaching his decision. Consultation between the two agencies will, at each level, occur throughout the decision process.

Procedure

1. Most of the problems in applying the guidelines will be identified at the field planning level. When this occurs, the SCS Planning Staff Leader will consult directly with the FWS Field Supervisor (Ecological Services) and attempt to resolve the issue.
2. Should the SCS Planning Staff Leader and the FWS Field Supervisor (ES) be unable to reach agreement, the issue should be referred and coordinated as follows:

USDA	in consultation with	USDI
State Conservationist, SCS	Area Manager, FWS. Administrator, SCS	Director, FWS. Assistant Secretary for Natural Resources and Environment.
Secretary of Agriculture	Secretary of the Interior.	Assistant Secretary for Fish and Wildlife and Parks.

Each level of review normally shall be completed in 45 days. Additional time may be required when new data are needed to resolve the issue.

The decision on whether channel modification will be part of a project plan shall rest with the Secretary of Agriculture. If disagreement still exists at the Secretary's level, the FWS views and recommendations will be appended to the project plan.

At all levels in the decision process, the desires and needs of the local sponsors, environmental groups, State and Federal agencies, and interested public will be taken fully into account.

Dated: December 12, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

Dated: December 4, 1979.

Norman A. Berg,
Administrator, Soil Conservation Service.

(FR Doc. 79-39249 Filed 12-21-79; 8:45 am)

BILLING CODE 3410-16-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 16, 17, and 160

Vinson-Trammel Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft

Cross Reference: On October 26, 1979, the Internal Revenue Service proposed

new regulations to implement the provisions of the Vinson-Trammel Act that limit profits from contracts for new complete naval ships, military aircraft and parts thereof (44 FR 61611). For a document issued by the Department of Defense requesting comments on DoD recommended changes to those proposed rules, see FR Doc. 79-39459 published elsewhere in this issue. Refer to the table of contents at the front of this issue under "Defense Department" to determine the correct page number.

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 42

Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914; Extension of Public Comment Period

AGENCY: Department of Justice.

ACTION: Extension of comment period.

SUMMARY: The Department of Justice published proposed rulemaking in the Federal Register of September 21, 1979 (44 FR 54950) to prohibit discrimination against handicapped persons in programs and activities receiving Federal financial assistance from the Department of Justice. The proposed rule is designed to comply with section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 11914 (41 FR 17871, April 28, 1976) which relate to nondiscrimination against handicapped persons in programs and activities receiving Federal financial assistance.

The notice of proposed rulemaking provided for a ninety day comment period ending December 21, 1979. To increase the public participation in the comment period, the Department mailed approximately 4,000 copies of the published proposed rule to interested parties, including copies to approximately 200 public and private committees, associations and organizations representing the interests of handicapped persons or interested in the problems of handicapped persons. Thus far the Department has received few written comments. Accordingly, the Department will extend the public comment period to encourage further public participation.

DATES: Comments should be received by the Department of Justice by January 4, 1980. Comments received after that date will be considered, if feasible, before the proposed rule is prepared in final form.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule or for tape copies of this proposed rule contact the following:

(1) For LEAA programs: Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, Telephone: 202/376-3691;

(2) For other Department of Justice Federal assistance programs: Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Telephone: 202/633-2374.

Dated: December 19, 1979.

Drew S. Days III,
Assistant Attorney General, Civil Rights Division.

(FR Doc. 79-39345 Filed 12-21-79; 8:45 am)

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Ch. I

Vinson-Trammel Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft; Proposed Regulations

AGENCY: Office of the Secretary of Defense.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Vinson-Trammel Act (the "Act") limits profits from contracts and subcontracts for new complete naval ships, military aircraft and parts thereof (10 U.S.C. §§ 2382, 7300). Written and oral views from the public are invited with respect to a proposed Department of Defense (DoD) form to be used by contractors and subcontractors in making the report to the Secretary of the military department required by the Act and with respect to proposed regulations for the administration of DoD's responsibilities under the Act.

DATES: Written views and requests to present oral views must be delivered or mailed by March 25, 1980. Hearings for the presentation of oral views will be combined with the hearings that are to be held pursuant to the notice, published elsewhere in this issue of the Federal Register, in which DoD invites public comment with respect to proposed regulations of the Department of the Treasury implementing the Act. The information and instructions set forth in that notice with respect to presentation of oral views are equally applicable to presentation of oral views in the instant proceeding.

ADDRESSES: Send written views and requests to present oral views to: Deputy Under Secretary of Defense

(Acquisition Policy), Attention: CPF, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Major Grady Jacobs, USAF, Directorate of Contracts and Systems Acquisition (CPF), Office of the Deputy Under Secretary of Defense (Acquisition Policy), Pentagon Building, Room 3D 116, Washington, D.C. 20301, 202-697-8334 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The profit limitation provisions of the Vinson-Trammel Act, (the "Act") codified in 10 U.S.C. 2382 and 7300, apply to any contract or subcontract which exceeds, or may exceed, \$10,000 in amount for the construction or manufacture of any complete aircraft or naval vessel, or any portion thereof. The Act imposes a profit limitation of 10 percent with respect to such vessel contracts and 12 percent with respect to such aircraft contracts and requires, further, that the contractor or subcontractor make a report under oath to the Secretary of the military department, at the conclusion of the contract, setting forth the contract price, the cost of performing the contract, the net profit or loss and the percentage of the contract price that is net profit or loss. The profit limitation provisions are not applicable to contracts or subcontracts involving less than \$10,000 or to a contract or subcontract for scientific equipment for communications, target detection, navigation or fire control if the Secretary of the military department concerned designates the contract for exemption. The operation of the profit limitation provisions of the Act has been suspended pursuant to the Renegotiation Act of 1951, 50 U.S.C. App. 1211-1223 and predecessor laws. When that suspension ended on September 30, 1976 upon the expiration of the Renegotiation Act, DoD undertook a fresh look at the DoD reporting form and regulations implementing the Act that had been last used more than 30 years ago. The proposed report form and DoD regulations set forth and described below result from that review.

Proposed DoD Form for Contractor's Report

The "Report of Profit on Army, Navy or Air Force Contract", NME Form No. 147 (1 Dec. '48), is the current DoD form for the report that the Act, 10 U.S.C. § 2382(b), 7300(b), requires contractors and subcontractors to submit to the military department Secretaries at the completion of a contract or subcontract covered by the Act. That form is

proposed to be revised as set forth in Exhibit 1. It will be noted that the revised form incorporates the same definition of "costs of contract performance" as DoD is considering proposing for use in the proposed Department of Treasury regulations. A common definition of that term will facilitate preparation of the return to be filed under the Act with the Department of the Treasury (Internal Revenue Service forms 949 and 949-A), aid in the administration of the Act and reduce paperwork demands on contractors. Comments are invited as to any changes to the form set forth as Exhibit 1 that are needed to serve these objectives or are otherwise appropriate. After consideration of public comments has been completed, the form will be submitted to the Office of Management and Budget for approval pursuant to OMB Circular A-40 "Management of Federal Reporting Requirements", which implements the Federal Reports Act, 44 U.S.C. 3502-3511.

Department of Defense Regulations Implementing the Act

Regulations for implementation of the Act along the lines of those contained in the Navy Procurement Directives, 32 CFR 737.33-200 *et. seq.* (1979) will be proposed to be issued for DoD-wide application.

Written Comments and Public Hearing Procedures

You are invited to participate in this proceeding by submitting written views with respect to the proposals set forth in this notice. Four copies of these documents should be submitted and should be received by March 25, 1980, 4:30 p.m. in order to be considered. To provide interested persons the fullest possible opportunity to make their views known to DoD, public hearings will be held as stated in the "DATES" and "ADDRESSES" sections of this Notice.

H. E. Lofdahl, Director,
Correspondence and Directives, Washington Headquarters Services, Department of Defense.
December 18, 1979.

BILLING CODE 3010-70-M

Exhibit 1—General Instructions

REPORT OF PROFIT		IMPORTANT: Read Instructions on reverse side before completing this form.	Date of Report	Form Approved OMB No. _____
VINSON-TRAMMELL ACT (10 U.S.C. 2382 and 7300)		TO: Washington Headquarters Services ATTN: DIOR/PEID The Pentagon Washington, D.C. 20301		(Do Not Write in This Space. For Use by IRS.)
1. This Report is for ("X" appropriate box): ☐ Prime Contract ☐ Subcontract		2. Taxpayer Identifying Number of Firm Preparing Report		
3a. Name and Address of Contractor Completing This Form (Include Zip Code)		3b. Contract Number		
		3c. Contract Award Date (Month, Year)		
		3d. Date of Contract Completion (Month, Year)		
4. Name and Address of Firm Issuing This Contract (Include Zip Code)		5. Name and Address of Prime Contractor (If Known):		
6a. This Contract or Subcontract is for construction or manufacture of all of part of ("X" one): ☐ Naval Vessel ☐ Aircraft		6b. Type of Contract ("X" one): ☐ Firm Fixed Price ☐ Cost Plus Fixed Fee ☐ Cost Plus Incentive Fee ☐ Other (specify) _____ ☐ Fixed Price Incentive		
7. COMPUTATION OF PROFIT				
7a. Total Contract Price				\$
7b. Contract Price of Items Subject to Vinson-Trammell Act				\$
7c. Cost of Performance of Items Subject to Vinson-Trammell Act				\$
7d. Net Profit (or Loss) on Items Subject to Vinson-Trammell Act (Line 7b minus line 7c)				
7e. Percent of Net Profit (or Loss) to Contract Price of Items Subject to Vinson-Trammell Act (Line 7d divided by Line 7b)				%
8. Remarks				
9. CERTIFICATION: I Certify Under Penalty of Perjury That To the Best of My Knowledge and Belief The Above Information Is Accurate, Complete And Current As of _____ Date Executed on _____ Date				
Typed Name and Title EXHIBIT 1 Page 1 of 3 pages Signature				

BILLING CODE 3010-70-C

General Instructions

This report is required by the Vinson-Trammell Act of March 27, 1934 (48 Stat. 503), as amended, of contractors and subcontractors performing contracts for the construction or manufacture of all or part of any complete new aircraft or naval vessel.

A separate report is required for each contract or subcontract for which the contract price of items subject to the Vinson-Trammell Act exceeds \$10,000.

The original of this report is to be submitted to the Washington Headquarters Services, Attn: DOIR/PIED, The Pentagon, Washington, D.C. 20301. A duplicate of this report is to be submitted to the Internal Revenue Service (IRS) as an attachment to the IRS Form 949 (Naval Vessels) or 949-A (Aircraft).

This report is to be submitted to the Department of Defense not later than the date of submission of the report to the IRS.

Specific Instructions

Self-explanatory items are not discussed.

Item 3b: Insert complete contract, subcontract, or purchase order number, as applicable.

Item 3c: Insert date of award (month, year) of this contract, subcontract, or purchase order, as applicable. Month and year are to be expressed as numbers (e.g. February 1977 is 2,77).

Item 3d: Insert date (month, year) of completion of this contract, subcontract, or purchase order, as applicable. Month and year are to be expressed as numbers (e.g. February 1977 is 2,77). The contract is complete as of the date of the last delivery of the naval vessel, military aircraft or portion thereof covered by contract, subcontract, or purchase order. For further information see 26 CFR 160.5.

Item 4: Leave blank if this is a report on a prime contract. If this is a report on a subcontract or purchase order, insert the name and address of the firm issuing this subcontract or purchase order.

Item 5: Leave blank if this is a report on a prime contract or the prime contractor is unknown.

Item 7a: Contract price or total contract price means the amount or total amount to be received under the contract, subcontract, or purchase order. For further information see 26 CFR 160.8.

Item 7b: Contract price of items subject to the Vinson-Trammell Act *excludes* prices set forth in the contract, subcontract, or purchase order for (1) items not delivered as part of a complete new aircraft or naval vessel (e.g. spares, etc.) and (2) items of scientific equipment for communications, target

detection, navigation, or fire control if they have been exempted from the Act by the Department of Defense. For further information see 26 CFR 160.8.

Item 7c: The cost of performance of items subject to the Vinson-Trammell Act is defined as follows:

Allocability: Allocations of direct and indirect cost to contracts subject to the Act will be made in accordance with (1) the Cost Accounting Standards and/or Section XV of the Defense Acquisition Regulation that is applicable to the contract, subcontract or purchase order, or (2) if the contract, subcontract or purchase order is not subject to Cost Accounting Standards and/or Section XV of the Defense Acquisition Regulation, on a reasonable basis consistently applied that reflects recognized accounting principles and practices. For further information see 26 CFR 160.9.

Allowability: All ordinary and necessary costs that are allowable for Federal income tax purposes are allowable for the purpose of the Vinson-Trammell Act, but only to the extent that such amounts would be allowable as deductions if the sole taxable income of the contractor were the receipts and accruals under the contract. Expenses for entertainment, bribes, kickbacks, and other illegal payments are not allowable as the cost of performance for the purpose of the Act. For further information see 26 CFR 160.9.

Item 8: This block is provided for comments or explanatory information, as required.

[FR Doc. 79-39458 Filed 12-21-79; 8:45 am]
BILLING CODE 3810-70-M

32 CFR Ch. I**Vinson-Trammell Act: Excess Profits on Contracts for Naval Vessels or Military Aircraft: Proposed DoD Approval of IRS Proposed Regulations (26 CFR Parts 1, 16, 17, and 160)**

AGENCY: Office of the Secretary of Defense.

ACTION: Request for comments on IRS proposed regulations.

SUMMARY: On October 26, 1979, the Internal Revenue Service, U.S. Treasury Department published in the Federal Register (44 FR 61611) proposed new regulations to implement the provisions of the Vinson-Trammell Act (the "Act") that limit profits from contracts for new complete naval ships, military aircraft and parts thereof (10 U.S.C. 2382, 7300).

The Act requires that these regulations be made in agreement with the Secretaries of the military

departments. This notice sets forth several significant changes to the proposed regulations that the Office of the Secretary of Defense is considering putting forward to the Department of the Treasury for the purposes of arriving at regulations that can be agreed to by the Secretary of Defense on behalf of the Secretaries of the military departments. Written and oral views from the public are invited with respect to these and other needed changes to the proposed regulations.

DATES: Written views and requests to present oral views must be delivered or mailed by March 25, 1980. Hearings for the presentation of oral views will be held in Washington, D.C. We are willing to hold hearings also at the following places, if we receive enough requests therefor: Boston, Mass., Chicago, Ill., Dallas, Tex., San Francisco, Calif. If you desire to be heard at one of these places, your request to present oral views should so state. The dates and place(s) established for such hearing(s) will be published in the Federal Register.

ADDRESSES: Send written views and requests to present oral views to: Deputy Under Secretary of Defense (Acquisition Policy), Attention: CPF, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Major Grady Jacobs, USAF, Directorate of Contracts and Systems acquisitions (CPF), Office of the Deputy Under Secretary of Defense (Acquisition Policy), Pentagon Building, Room 3D 116, Washington, D.C. 20301, 292-697-8334 (Not a toll-free call).

SUPPLEMENTARY INFORMATION:**Background**

The profit limitation provisions of the Vinson-Trammell Act, (the "Act") codified in 10 U.S.C. 2382 and 7300, apply to any contract or subcontract which exceeds, or may exceed, \$10,000 in amount for the construction or manufacture of any complete aircraft or naval vessel, or any portion thereof. The Act imposes a profit limitation of 10 percent with respect to such vessel contracts and 12 percent with respect to such aircraft contracts and requires, further, that the contractor or subcontractor make a report under oath to the Secretary of the military department, at the conclusion of the contract, setting forth the contract price, the cost of performing the contract, the net profit or loss and the percentage of the price that is net profit or loss. The method of computing excess profit is required by the Act to be determined by the Secretary of the Treasury with the agreement of the Secretaries of the military departments and made

available to the public. The operation of the profit limitations of the Act was suspended by the Renegotiation Act of 1951, 50 U.S.C. App. 1211-1233, and the predecessor laws. With the lapse of the Renegotiation Act of 1951 on September 30, 1976, contracts with the military departments for the construction or manufacture of all or part of any complete aircraft or naval vessel were again subject to reporting and recoupment of profits under the Act.

Changes to Proposed Department of the Treasury Regulations

The current regulations of the Department of the Treasury, set forth in 26 CFR 1.1471 (1978), have not been significantly changed since their initial issuance in 1939. New regulations are needed in order to take account of changes that have occurred in the laws and practices that relate to defense procurement. On October 26, 1979, the Internal Revenue Service, Department of the Treasury, published a proposal in the Federal Register (44 FR 61611) to revoke the current regulations and adopt new regulations. The Act provides that the method of computing excess profits be determined by the Secretary of the Treasury in agreement with the Secretary of Defense. DoD is considering changes to the proposed new regulations that should be put forward to the Department of the Treasury during consultations with respect to such agreement. The texts of significant changes that are under consideration are set forth below. DoD invites comments on these changes and on any other needed changes to the proposed Department of Treasury regulations.

Accordingly, the Department of Defense proposes the following changes:

1. Section 160.5 would be amended to read as follows:

"The date of delivery of the last naval vessel, military aircraft or portion thereof covered by the contract or subcontract shall be considered the date of completion of the contract or subcontract unless otherwise determined jointly by the Secretary of Defense and the Commissioner, or their duly authorized representatives. Except as otherwise provided in the preceding sentence, the correction of defects in delivered articles or the performance of warranty or guarantee work in respect to such articles will not operate to extend the date of completion. If a contract or subcontract is at any time cancelled or terminated, it is completed at the time of the cancellation or termination, or such later time as may, in individual cases, be determined jointly by the Secretary of Defense and

the Commissioner, or their duly authorized representatives. As to a refund in case of adjustment due to any subsequently incurred additional costs, see § 160.19."

2. Section 160.9 would be amended to read as follows:

"(a) Allocability:

Except as otherwise provided herein, direct and indirect cost of performing contracts and subcontracts shall be allocated in accordance with: (A) The Cost Accounting Standards and/or Section XV of the Defense Acquisition Regulation if and to the extent so agreed in the contract or subcontract or (B) in absence of the agreements described in (A), on a reasonable basis consistently applied that reflects recognized accounting principles and practices. Interest expense shall be allocated in accordance with the apportionment provisions of I.T.R. § 1.861-8(e)(2).

(b) Allowability:

Except as otherwise provided herein, all costs that would be allowable as deductions under Chapter 1 of the Internal Revenue Code shall, to the extent allocable to contracts and subcontracts, be allowable for the purpose of computing the cost of performance. The amounts of such costs shall be computed in accordance with methods used for public financial reporting purposes. However, the cost of performance shall not exceed the amounts that would be allowable as deductions if the sole taxable income of the contractor were the receipts and accruals under the contract. Expenses for entertainment, and bribes, kickbacks or other illegal payments are not allowable as costs of performance."

Written Comments and Public Hearing Procedures.

A. *Written Comments.* You are invited to participate in this proceeding by submitting written views with respect to the matters set forth in this notice. Four copies of these written views should be submitted and should be received by March 25, 1980, 4:30 p.m. in order to be considered.

B. *Public Hearings.* To provide interested persons the fullest possible opportunity to make their views known to DoD, public hearings will be held as stated in the "DATES" and "ADDRESSES" sections of this Notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m. on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The request should contain a phone number where you may be contacted through the

day before the hearing. You should bring 50 copies of your statement to the hearing.

A DoD official will be designated to preside at the hearings, which will not be judicial in nature. Questions may be asked only by those conducting the hearing. Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearings, including the transcripts, will be retained by DoD and made available for inspection from the person identified in the "FURTHER INFORMATION" section of this Notice at the place stated therein between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, every effort will be made to publish advance notice in the Federal Register of such cancellation. Moreover, actual notice will be given to all persons scheduled to testify at the hearings. It is not possible, however, to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact the person identified in the "FURTHER INFORMATION" section of this Notice on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

H. E. Lofdahl,

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

December 18, 1979.

[FR Doc. 79-39459 Filed 12-21-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[FRL 1379-5]

Approval and Promulgation of Implementation Plans; Revisions to the South Coast Air Quality Management District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the South Coast Air Quality Management District's rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources

Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before February 25, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

South Coast Air Quality Management District, 9420 Telstar Avenue, El Monte, CA 91731

California Air Resources Board, P.O. Box 2815, 1102 "Q" Street, Sacramento, CA 95814

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules on January 2, 1979:

South Coast Air Quality Management District

Rule 301 Permit Fees.
Rule 303 Hearing Board Fees.
Rule 708.3 Traffic Abatement Plans.

Regulation XII. Rules of Practice and Procedure

Rule 1201 Discretion to Hold Hearing.
Rule 1202 Notice.
Rule 1203 Petitions.
Rule 1204 Answers to Petitions.
Rule 1205 Function of the Board.
Rule 1206 Appearances.
Rule 1207 Service and Filing.
Rule 1208 Rejection and Filing.
Rule 1209 Form and Size.
Rule 1210 Copies.
Rule 1211 Subpoenas.
Rule 1212 Continuances.
Rule 1213 Requests for Continuances or Time Extensions.
Rule 1214 Transcript and Record.
Rule 1215 Hearing Officers.
Rule 1216 Presiding Officer.
Rule 1217 Disqualification of Hearing Officer or Board Member.
Rule 1218 Ex Parte Communications.
Rule 1219 Evidence.

Rule 1220 Prepared Testimony.
Rule 1221 Official Notice.
Rule 1222 Order of Proceedings.
Rule 1223 Prehearing Conference.
Rule 1224 Opening Statements.
Rule 1225 Conduct of Cross-Examination.
Rule 1226 Oral Argument.
Rule 1227 Briefs.
Rule 1228 Motions.
Rule 1229 Decisions.
Rule 1230 Exceptions.
Rule 1231 Judicial Review.

EPA has evaluated the above rules and is proposing to approve them because they appear to be consistent with the requirements of Clean Air Act, Section 110 and 40 CFR Part 51.

In addition, regulations were submitted on January 2, 1979 concerning organic liquid loading, spray coating, and wood flat stock coating. These regulations will be addressed in a separate Federal Register notice.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove rules submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before February 25, 1980, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received on a determination whether the amendments meet the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to determine whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the revision being acted upon in this notice and has determined that it is a specialized revision not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a))

Dated: December 11, 1979.
Sheila M. Prindiville,
Acting Regional Administrator.
[FR Doc. 79-39254 Filed 12-21-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 52

(FRL 1379-8)

Approval and Promulgation of Sulfur Dioxide State Implementation Plan Revisions—Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On December 14, 1978, the Illinois Pollution Control Board (IPCB) adopted revisions to Rules 101 and 204 of Chapter II Part II of the Illinois Air Pollution Control Regulations which control sulfur dioxide (SO₂) emissions from fuel combustion emission sources located outside the Chicago, Peoria, and St. Louis major metropolitan areas (MMA's), and to control SO₂ emissions from existing processes designed to remove sulfur compounds from the flue gasses of petroleum and petrochemical processes. The revised rules were submitted to USEPA by the State of Illinois on March 21, 1979 as proposed revisions to the Illinois State Implementation Plan (SIP) pursuant to the requirements of Section 110 of the Clean Air Act (42 U.S.C. 7410). The purpose of this notice is to announce receipt of the proposed revisions, to discuss the results of USEPA's review of the revisions, and to invite public comment on the revisions themselves, and on USEPA's proposed rulemaking action.

DATE: Written comments must be submitted on or before January 25, 1980.

ADDRESSES: Comments should be submitted to Mr. Gary Gulezian, Acting Chief, Regulatory Analysis Section, Air Programs Branch, USEPA Region V, 230 South Dearborn, Chicago, Illinois 60604.

Copies of the SIP revision and supporting documentation are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Gulezian, Acting Chief, Regulatory Analysis Section, Air

Programs Branch, USEPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6053.

SUPPLEMENTARY INFORMATION: Rule 204 (Sulfur Standards and Limitations) of Chapter II Part II of the Illinois Air Pollution Control Regulations was adopted by the Illinois Pollution Control Board in 1972 and approved by USEPA as the Illinois State Implementation Plan for SO₂. Included in the plan was Rule 204(c)(1)(B), which required sources located outside the Chicago, Peoria, and St. Louis (Illinois) MMA's to meet an emission standard of 6.0 pounds of SO₂ per million BTU of heat input. This standard was based upon the washability of Illinois coal and was aimed at eliminating easily avoidable emissions at relatively low cost. The Air Regulations also include Rule 204(e), which provided a formula by which owners of fuel combustion sources were to determine the total amount of SO₂ per hour which could be emitted from all sources owned by them and located within a one-mile radius. The formula was aimed at preventing violation of the short-term sulfur dioxide standard.

On March 7, 1974, the Illinois Pollution Control Board (IPCB) initiated inquiry hearings into the technical basis for Rule 204. Numerous public hearings were held throughout the State through January of 1978.

The revisions were adopted by the IPCB in final form on December 14, 1978. The revisions to rules 101 (definitions) and 204 were submitted to USEPA by Illinois on March 21, 1979. Supplemental information was submitted by the State by letter dated September 19, 1979.

The revisions propose to amend the Illinois SIP in the following ways:

The proposed SIP revision [Rule 204(c)(1)(C)] eliminates the 6.0 lb. SO₂/MBTU cap for major sources (i.e. with heat input greater than 250 MBTU/hr) and requires these to comply with revised Rule 204(e). Fuel combustion emission sources with actual heat input less than or equal to 250 MBTU/hr located outside the Chicago, Peoria, and St. Louis MMA's [Rule 204(c)(1)(B)] may choose an emission limit of 6.8 lbs. SO₂/MBTU or the pounds per hour emission limit under revised Rule 204(e).

Rule 204(c)(2)(C) adds a provision which retroactively increases the SO₂ emission limit for facilities which burned residual fuel oil (other than utilities) during the 1977 winter fuel emergency in recognition of the waiver granted to the State of Illinois under section 110(f) of the Clean Air Act.

Rule 204(e) has also been revised significantly. The proposed rule applies only to sources outside the Chicago,

Peoria, and St. Louis MMA's. Existing sources within the MMA's must continue to meet the 1.8 lbs./MMBTU emission limit contained in Rule 204(c)(1)(A). New sources must meet 204(a) or 204(b). However, it should be noted that rules 204(a)(1) and 204(c)(1)(A) have been remanded by a State Appellate Court. USEPA has cited the Illinois SIP as being deficient as a result of the remand (44 FR 40723).

Rule 204(e) contains a new formula for determining maximum hourly emissions [Rule 204(e)(1)] to protect short term SO₂ NAAQS. The physical stack height used in the 204(e)(1) formula may not exceed "good engineering practice" as defined in section 123 of the Clean Air Act and implementing USEPA regulations unless the source demonstrates that a greater height is necessary to prevent downwash or fumigation conditions.

Proposed Rule 204(e) also contains a "grandfather" provision [Rule 204(e)(2)] which allows sources in compliance with Federally approved 204(e) but not in compliance with the new 204(e)(1) to choose between the two formulas. This provision was designed to prevent undue economic burdens on sources which would lose their compliance status as a result of the change in formula.

Proposed Rule 204(e)(3) provides a mechanism for obtaining a site specific emission limitation as an alternative to Rules 204(e)(1) or 204(e)(2). Under 204(e)(3) the burden of proof is on the petitioning source to prove that the alternative emission limitation will not contribute to a violation of NAAQS or any applicable PDS increment.

Sources granted an emission limit under 204(e)(3) must conduct an ambient monitoring and dispersion modeling program for one year. At the end of the study period, the results must be submitted to the IEPA along with an application for a revised operating permit. The IEPA is empowered to deny the permit and require a more stringent emission limitation if the study results indicate a potential for violations of NAAQS.

Rule 204(e)(4) contains a requirement that where emission limitations determined by new Rule 204(c)(1)(B) or Rule 204(e)(1) are less stringent than the emission limitation generated under existing Rule 204(e), sources may not increase emissions to the new allowable limits without first obtaining a new operating permit from the IEPA.

The application for a new permit must include a demonstration that the new total emissions will not violate any applicable PSD increment.

The proposal amends Rule 204(f)(1)(D) to delete the requirement contained in

the federally approved SIP that existing processes designed to remove sulfur compounds from the flue gases of petroleum and petrochemical processes meet the SO₂ emission limitation determined by rule 204(e).

Rule 204(h): Compliance Dates

Rule 204(h) specifies compliance dates applicable to all sources subject to Rule 204. This Rule is largely a reordering of the Federally approved 204(h) with the following exceptions:

for Rules 204(c)(1)(B) [Existing sources outside the Chicago, St. Louis, and Peoria MMA's with actual heat input less than or equal to 250 MBTU/hr];

204(c)(1)(C) [Existing sources outside the Chicago, Peoria, and St. Louis MMA's with actual heat input greater than 250 MBTU/hr]; and

204(e)(1) and (e)(2) [Maximum hourly emission limitations for fuel combustion sources located outside the Chicago, Peoria, and St. Louis MMA's];

compliance is required by December 14, 1978 (the date of Board adoption of the revised rules), for 204(e)(3) [site specific alternative emission limitation for existing fuel combustion emission sources located outside the Chicago, Peoria, and St. Louis MMA's], the following compliance dates apply:

For sources in compliance with Federally approved Rule 204(e) prior to December 14, 1978, compliance with the new emission limitation is required by the date of commencement of the monitoring and modeling pursuant to Rule 204(e)(3)(C) (i.e., within 6 months of Board approval of the alternative standard).

For sources not in compliance with Federally approved 204(e) prior to December 14, 1978, compliance with the alternative standard is required immediately upon Board approval.

Rule 204(i)

Rule 204(i) is a new rule which prohibits the use of dispersion enhancement techniques as a means of complying with the Rule 204(e) mass emission limitations except as provided for by § 123 of the Clean Air Act and regulations promulgated by USEPA thereunder. Stack gases may be reheated where air pollution control equipment results in a reduction of flue gas temperature, provided that the degree of reheat does not exceed the temperature drop across the control equipment.

USEPA has reviewed the Illinois submittal. The result of that review and USEPA's proposed rulemaking actions are discussed below.

Rule 101—Definitions

USEPA proposes to approve the revised definitions for Clean Air Act and PSD increment. It should be noted, however, that the IPCB has defined "PSD increment" only with respect to sulfur dioxide. This definition will have to be expanded to include the other criteria pollutants prior to USEPA approval of the Illinois SIP for PSD.

Rules 204(c) and 204(e)

Revised rules 204(c) and 204(e) represent significant relaxations of the Illinois sulfur dioxide State Implementation Plan. Relaxations of the SIP can be approved by USEPA only where it is shown that the relaxations will continue to provide for attainment and maintenance of NAAQS and will not violate any applicable PSD increment.

The State of Illinois did not submit a detailed computer dispersion modeling study to predict the ambient air quality impact of these rules. In lieu of an air quality impact study, the opinion of the Illinois Pollution Control Board contains the following support for the proposed revisions:

1. The 6 lb. SO₂/million BTU "cap" was eliminated for larger than 250 million BTU sources because the Board's record indicated that it is not technically or economically feasible for all sources to meet the 6 lb. standard by washing Illinois coal. The standard was changed from 6.0 to 6.8 lbs./MBTU to approximately double the amount of Illinois coal that can be burned without controls and still meet NAAQS. In the Board's opinion, the impact of these smaller boilers on air quality is minor; and since the areas affected by the rule are designated as attainment or unclassified, the change should not affect air quality.

2. Sources which would be allowed emission limitations greater than the limit in federally approved 204(e) cannot increase emissions without first obtaining a new operating permit from the Illinois EPA based on an application which proves that the PSD increment will not be violated [Rule 204(f)].

3. The revised 204(e)(1) formula represents "state of art" modeling assumptions based on a . . . conservative set of worst case meteorological and physical parameters", and thus is superior to federally approved 204(e).

4. In addition to the above, Illinois rule 102 prohibits any source from preventing the attainment or maintenance of any applicable air quality standard regardless of whether the source is in compliance with a specific emission limitation.

USEPA finds the above rationale inadequate for purposes of approving the proposed revisions for the following reasons:

1. While economic and technical considerations relative to the washability of Illinois coal are important considerations in Illinois' decision to relax its SO₂ emission

limitations, such relaxations must also be supportable on air quality grounds. Board assumptions as to the relative impact of these sources without specific technical support are inadequate to justify a relaxation of the SIP. An adequate air quality impact study is required to support SIP relaxations in attainment areas to assure continued attainment and maintenance of NAAQS, and protection of PSD increments.

2. The showing required under 204(f) for a revised operating permit is not adequate to answer the above concerns since the required showing *only* affects relaxations beyond the emission limitation generated by federally approved 204(e). For many sources, rule 204(e) is *not* the limiting rule under the federally approved SIP. Relaxations from 6 lbs. SO₂/MBTU up to the rule 204(e) limit can be significant, and the rule does not require the source to provide an air quality impact demonstration or apply for a revised permit.

3. USEPA has determined that emission limitations generated by the Rule 204(e)(1) formula may not be adequate to insure attainment and maintenance of NAAQS in all cases since (a) insufficient conservatism is built into the equation to insure that NAAQS would be protected in all cases, without the need for additional air quality impact assessments; and (2) ambient air quality impact studies were not performed to determine if the limitations generated by the formula would indeed protect air quality standards.

4. Relying on Rule 102 as technical support for a SIP relaxation would result in the full burden of proof falling on the enforcing agency to show that (a) NAAQS have already been violated, and (b) the source in question is causing or significantly contributing to the violation. USEPA deems the above inadequate to support a SIP revision.

Therefore, USEPA proposes to approve revised rules 204(c)(1)(B), 204(c)(1)(C), 204(e)(1) and 204(e)(2) for those specific source for which these rules *do not* represent a relaxation of the federally enforceable SIP upon certification by the State of Illinois of the names and locations of such sources, the sources' current federally enforceable SIP emission limitation, and the source's emission limitation under the revised rule. This certification must be made prior to the close of the public comment period announced in this notice. USEPA proposes to disapprove rules 204(c)(1)(B), 204(c)(1)(C), 204(e)(1) and 204(e)(2) for all other sources. USEPA will reconsider this action if, at a future date, additional technical support is submitted by the State of Illinois which demonstrates that the relaxed emission limitations will not cause or contribute to violations of NAAQS or violate applicable PSD increments. This additional technical support can take the form of areawide or statewide modeling studies performed by the State, or individual air quality impact

assessments adequate to support a SIP relaxation for an individual source. The above noted studies must be carried out in accordance with USEPA modeling guidelines.

USEPA proposes to approve revised rule 204(c)(2)(C) since it codifies the waiver granted to the State of Illinois under section 110(f) of the Clean Air Act during the winter fuel emergency of 1977.

USEPA proposes to approve rule 204(e)(3) as a process by which Illinois can set alternative SO₂ emission limitations upon a showing that the proposed emission rate will not cause or contribute to a violation of NAAQS or any applicable PSD increment. However, each such emission limitation, along with the appropriate technical support, must be submitted to USEPA for review and approval. Until such time as the revised emission limitation is submitted to and approved by USEPA, the emission limitation contained in the federally approved SIP will remain in effect and federally enforceable for the source in question.

USEPA proposes to disapprove rule 204(e)(4) as not being adequate to protect NAAQS since the rule as written does not require an air quality impact assessment or a showing that NAAQS and applicable PSD increments will be protected when sources increase allowable emissions from 6lbs. SO₂/MBTU to a less restrictive allowable emission limitation derived under federally approved rule 204(e).

USEPA proposes to disapprove rule 204(f)(1)(D) since the rule as written completely deregulates SO₂ emissions from existing processes designed to remove sulfur compounds from the flue gases of petroleum and petrochemical processes without providing an assessment of the ambient air quality impact of SO₂ emissions from these sources, or a showing that increasing the allowable emissions from these sources will not cause or contribute to violations of NAAQS or any applicable PSD increment.

USEPA proposes to approve of rule 204(h) (compliance schedules) for those same sources for which USEPA is proposing approval of rules 204(c) and 204(e). USEPA proposes to disapprove 204(h) for all other sources.

USEPA proposes to approve rule 204(i) (dispersion enhancement techniques) as being consistent with section 123 of Clean Air Act.

USEPA solicits comments on both the proposed SIP revisions and the proposed USEPA action on these revisions from all interested parties. USEPA also encourages residents and industries in adjoining states to comment on any

interstate air quality impacts of the Illinois SIP. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before January 25, 1980, will be considered in USEPA's final rulemaking on the SIP. All comments received will be available for inspection at Region V Office Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedure requirements of Executive Order 12044.

This Notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: December 14, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-39349 Filed 12-21-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 52**[FRL 1380-1]****Proposed Approval of Illinois Sulfur Dioxide State Implementation Plan for Commonwealth Edison Kincaid Station**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. Environmental Protection Agency (USEPA) proposes to approve an emission limitation of 105,162 lbs. of sulfur dioxide (SO₂) per hr. for Commonwealth Edison Company's Kincaid generating station located near Sicily, in Christian County, Illinois. Because this revised emission limitation represents a relaxation of the federally approved Illinois State Implementation Plan (SIP), it must be approved by USEPA before it becomes effective under the Clean Air Act. 42 U.S.C. 7410. The purpose of this notice is to invite public comment on the revised emission limitation, and on USEPA's proposed rulemaking action.

DATES: Written comments must be submitted on or before January 25, 1980.

ADDRESSES: Comments should be submitted to Mr. Gary Gulezian, Acting Chief, Regulatory Analysis Section, Air Programs Branch, USEPA Region V, 230 South Dearborn, Chicago, Illinois 60604.

Copies of the SIP revision and supporting documentation are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460. Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary Gulezian, Acting Chief, Regulatory Analysis Section, Air Programs Branch, USEPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6053.

SUPPLEMENTARY INFORMATION: On December 14, 1979, the Illinois Pollution Control Board (IPCB) adopted changes to Illinois' sulfur dioxide rule 204 which revises emission limitations for fuel combustion emission sources located outside of the Chicago, Peoria, and St. Louis major metropolitan areas (MMA's). Included in the revision were proposed rules 204(c)(1)(C), which eliminates the federally approved 6 lb. SO₂ per million BTU maximum sulfur dioxide emission limitation for large fuel combustion emission sources outside the MMA's; and rule 204(e)(1), which establishes a maximum hourly emission limitation for fuel combustion emission sources outside the MMA's. The State of Illinois did not conduct or submit air quality impact studies in support of the proposed revision, and thus, the submittal could not adequately insure protection of NAAQS. Therefore, in an accompanying notice of proposed rulemaking, USEPA has proposed to approve the revisions for only those specific sources for which the rules do *not* represent a relaxation of the federally enforceable SIP; and to disapprove the rules for all other sources until such time as the State submits an air quality study which demonstrates that for the sources in question, the SIP revision will not cause or contribute to a violation of national ambient air quality standards (NAAQS).

On September 19, 1979, the State of Illinois submitted an air quality study to USEPA on behalf of the Commonwealth Edison Company. The study demonstrated that emissions allowed under Illinois rule 204(e)(1) would not cause or contribute to violation of

NAAQS. USEPA has reviewed the air quality impact study and had determined that the study is adequate to support a SIP revision. Therefore, USEPA proposes to approve the rule 204(e)(1) SO₂ emission limitation of 105,162 lbs./hr. for the Commonwealth Edison Company's Kincaid generating station.

USEPA solicits comments on the proposed SIP revisions and the proposed USEPA action on these revisions from all interested parties. USEPA also encourages residents and industries in adjoining states to comment on any interstate air quality impacts of the Illinois SIP. Comments should be submitted to the address listed in the front of this Notice. Public comments received within 30 days of publication of this Notice will be considered in USEPA's final rulemaking on the SIP. All comments received will be available for inspection at Region V Office Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedure requirements of Executive Order 12044.

This Notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended.

Dated: December 14, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-39348 Filed 12-21-79; 8:45 am]
BILLING CODE 6560-01-M

Office of Pesticide Programs**40 CFR Part 162****[OPP 30034; FRL 1349-6]****Registration Standards for the Registration of Pesticides; Advance Notice of Proposed Rulemaking**

AGENCY: Environmental Protection Agency (EPA or Agency), Office of Pesticide Programs (OPP).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Administrator of EPA has authorized the development of proposed regulations governing the registration of pesticides. The proposal would amend existing regulations by establishing a new system, called the "registration standards system," for registering and reregistering pesticide products. The proposed regulations would also include a number of miscellaneous changes to the existing registration regulations, 40 CFR Part 162.

Under the registration standards system, EPA would develop a document containing a comprehensive statement of the Agency's regulatory position on all pesticide products containing the same active ingredient(s). This document, or registration standard, would describe the data (including limitations and deficiencies) upon which the regulatory position is based, the rationale for the position, and the conditions which must be met to register a product under the standard. Finally, the Agency would establish procedures for making certain that products covered by a registration standard comply with the decisions it contains. The registration standards system is intended to create an open and well-documented decision-making process which will result in the effective, efficient, and fair regulation of pesticides.

In implementing this system, the Agency will need to comply with the decisions resulting from the pending litigation. Therefore, the final design of the registration standards system may differ from that as discussed in this document.

DATES: Comments must be received on or before February 25, 1980.

ADDRESS: Send comments to Document Control Officer, (TS-793), Room E-447, EPA, 401 M Street, SW., Washington, D.C. 20460. Comments received will be available for public inspection in Room 447, East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION OF APPLICATION OF REGISTRATION STANDARDS, CONTACT:

Henry Jacoby, Registration Division (TS-767), Office of Pesticide Programs, EPA, Room E-305, 401 M Street, SW., Washington, D.C. 20460 (202) 755-2562. For information concerning development of registration standards, contact: John Bowser, Special Pesticide Review Division (TS-791), OPP, EPA, 401 M Street SW., Washington, D.C. 20460, (703) 557-7973.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce EPA's intention to propose amendments to the regulations governing the registration and reregistration of

pesticide products (40 CFR Part 162). The primary purpose of the amendments would be to establish a new system for making decisions on the registration of pesticide products called the registration standards system. This notice describes the system EPA has in mind and explains how decisions generated by that system would be applied to individual pesticide products. The proposed regulations will also address a number of other changes in 40 CFR Part 162. The other changes being considered by EPA are listed briefly at the end of this notice, and may be discussed in more detail in subsequent notices.

The reader is encouraged to consider the ideas contained in this notice in the context of the overall program of pesticide regulation, which is discussed generally in the Implementation Plan for the Federal Pesticide Act of 1978 (44 FR 4352, January 19, 1979). For other related aspects of the regulatory program, refer to the Conditional Registration Regulations (44 FR 27932, May 11, 1979), the Data Compensation Regulations (44 FR 27945, May 11, 1979), and the Proposed Guidelines for Registering Pesticides (43 FR 29696, July 10, 1978 and 43 FR 37336, August 22, 1978).

The Agency welcomes comments on the registration standards system and on the revisions to Part 162, Subpart A. Specific issues on which EPA particularly desires comment are listed in Part VIII of this notice. Comments are also requested on alternative approaches to pesticide registration or reregistration.

The following is an outline of the major topics addressed in this notice: I. Introduction to the Registration Standard System; II. Organization of a Registration Standard; III. Preparation of a Registration Standard; IV. Maintenance of a Registration Standard; V. Registration and Reregistration Under a Standard; VI. Legal Status of a Registration Standard; VII. Order of Development of Standards; and VIII. Request for Comments.

I. Introduction to the Registration Standards System

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) gives EPA responsibility for regulating the use of pesticides in the United States. EPA does so primarily by "registering" pesticide products,¹ that is by issuing a license allowing the product to be legally sold and distributed in commerce if EPA determines (in accordance with

¹ A pesticide product is a pesticide chemical in a form which is offered for distribution and sale. The pesticide product also includes the labeled container and any supplemental labeling.

FIFRA § 3(c)(5)) that its use will not cause unreasonable adverse effects on the environment. (EPA also has authority to conditionally register products which are substantially similar to, or contain additional uses of, currently registered products. This authority requires a somewhat different determination. See FIFRA § 3(c)(7).) No pesticide product may be used unless it has first been registered. In addition to acting on applications for new registration, EPA is also responsible for reviewing the acceptability of each of the 35,000 currently registered pesticide products and imposing restrictions necessary to ensure that use of any of these products does not cause "unreasonable adverse effects on the environment." This activity is called "reregistration."

EPA intends to use a new approach to making decisions on the registration and reregistration of pesticide products. This approach has been alternately termed the "generic standards system," and the "registration standards system." The latter term will be used in this document although the meaning is synonymous. Under this system, EPA intends to develop a document called a "registration standard" which states the Agency's regulatory position with respect to a group of pesticide products containing the same active ingredient. The system for developing a registration standard will emphasize the collection and review of all relevant data, systematic documentation of decisions, and thorough explanation of the reasons supporting the decisions.

EPA will issue two kinds of registration standards, "interim" and "completed" standards. These terms refer to the completeness of the data base which the Agency used to make its decisions. These kinds of registration standards are discussed further in Part III A.

EPA thinks that a good system should: (1) base regulatory decisions on a comprehensive data base; (2) provide accurate documentation of the regulatory decision and the deliberations leading to that decision; (3) whenever practicable, draw scientific and regulatory conclusions for groups of similar products rather than individual products; and (4) provide a means for members of the public to comment on issues and supply information before the Agency makes a decision.

Under the system described here, EPA would systematically gather and assess data from the broadest base possible, including the Agency's files, published literature, and other government agencies. This broad data base would

significantly increase the accuracy and completeness of the Agency's risk/benefit assessments, which support its regulatory decisions concerning pesticide chemicals.

Accurate documentation would make it easier for the public to identify and evaluate information considered by the Agency in reaching its decisions. It would also simplify the Agency's task should it need to review the decision at a later time. Finally it would simplify the regulatory process for the Agency, applicants, and registrants. Once the Agency reaches a regulatory position for a group of products, applicants and registrants would only have to demonstrate that their products comply with the requirements of the standard. EPA would not need to repeat for each new application and each currently registered product covered by the standard, the decision-making process that led the Agency to establish a regulatory position for that group of products.

II. Organization of a Registration Standard

The Agency plans to write each registration standard in two major parts. One part would address one pesticide active ingredient and the manufacturing-use products containing that ingredient. (Manufacturing-use products are products which are intended for end-use as a pesticide only after reformulation or repackaging.) The other major part would address each distinct kind of end-use product (such as a wettable powder, a dust, or an emulsifiable concentrate) which contains the active ingredient. (An end-use product is labeled with directions for use against pests in the form it is sold or after dilution by the user. All products which are not manufacturing-use products are end-use products.) Each major part of the standard would include at least the following sections:

(1) *Regulatory Position.* This section would define which uses of a pesticide are acceptable for registration and would usually establish some limitations or restrictions on the composition of products which would be acceptable. Those limitations may be expressed as allowable ranges in the concentration of the active ingredient(s), deliberately added inert ingredients, or contaminants. For some standards, to maximize applicability or in order not to reveal composition information which is protected from disclosure by the law, certain restrictions on composition may be expressed as maximum or minimum values for specific properties, e.g., minimum acute oral LD₅₀ levels. The regulatory position would also describe

the acceptable uses of products to which the standard applies.

The description of acceptable uses may vary in detail, but would usually identify the target pests, application site, and appropriate application parameters (e.g., rate, method, and frequency). Depending on the available data, the description may include the classification of each of the acceptable uses as either (1) "general use" (for use by anyone) or (2) "restricted use" (for use only by or under the supervision of pesticide applicators certified as competent in the handling and use of restricted use pesticides or for use under other restrictions). The description of acceptable uses may also identify other restrictions or conditions of registration such as special packaging or protective clothing or worker reentry intervals which EPA considers necessary to prevent unreasonable adverse effects on the environment. In addition, the regulatory position would identify labeling requirements and contain examples of acceptable labels. Finally, if the Agency has issued an interim standard because data which are necessary for full evaluation of the uses of the pesticide product have not yet been developed and submitted, the regulatory position would identify the additional information which is needed to make a full regulatory decision and thus to develop a completed standard.

(2) *Regulatory Rationale.* This section would explain how the Agency used its assessment of the chemical, toxicological, and environmental characteristics of the pesticide active ingredient (or of formulations containing that ingredient), of the potential for exposure, and of the benefits of the pesticide to determine the acceptability of products covered by the standard. The regulatory rationale would document the reasons which support the Agency's decisions expressed in the regulatory position part of the standard, including any assumptions made by the Agency. In particular, this section would explain the reasons for imposing any new use restrictions or requiring label modifications for currently registered products. It may also include a discussion of regulatory options which were considered in reviewing particular uses and the Agency's reasons for choosing one option rather than another.

(3) *Assessment of the Data Base.* This section would identify all data which were reviewed by the Agency and considered in support of the registration of manufacturing-use products and end-use products covered by the standard. The section would identify the sources of the data and would report the

Agency's conclusions about the validity and the significance of the data. In an interim standard, this section would also indicate any items of data which were not available at the time the data base was assessed but which are necessary for a complete characterization of the risks or benefits associated with the use of the pesticide active ingredient or its formulated products. (Some of the data which are normally required to support the registration of a pesticide are described in the registration guidelines proposed at 43 FR 29696 (July 10, 1978) and 43 FR 37336 (August 22, 1978).) EPA notes that some regulatory decisions, such as those involving resolution of a Rebuttable Presumption Against Registration (RPAR), may require, in addition to that required by the guidelines, information such as economic benefit analysis, efficacy, or additional risk data.

(4) *Tolerance Assessment.* For pesticides whose use results in residues on food or feed, the standard will include a section on tolerances.² Although the Agency establishes tolerances for those residues under the authority of the Federal Food, Drug, and Cosmetic Act (FFDCA) rather than FIFRA, the establishment of a tolerance or an exemption from the requirement of a tolerance is a prerequisite to registration under FIFRA of any pesticide product with a food or feed crop use. Moreover, most of the data used in making a tolerance decision are also considered in deciding whether to register a pesticide product. Accordingly, the Agency believes that registration standards development is the appropriate context in which to reassess tolerances.

In this section, the Agency would list the individual tolerances found acceptable after reassessment. This section would also include a description and discussion of the data considered in connection with the tolerance reassessment which were not discussed elsewhere in the standard. The section would explain the rationale for the Agency's decisions, and in particular would address the methods used to calculate acceptable daily intake levels

² The FFDCA makes unlawful the sale or distribution in interstate commerce of any raw agricultural commodity or processed food or feed that is "adulterated." Under the FFDCA, a raw agricultural commodity or processed food or feed which contains any pesticide residue is adulterated unless a regulation has been issued establishing the permissible level of pesticide residue. EPA has the authority to exempt or to establish permissible levels of pesticide residues, which result from the use of a pesticide product, in or on raw agricultural commodities or processed food or feed. These regulatory clearances are referred to as "tolerances."

(ADI's) for residues of the pesticide and the basis for estimating human exposure. This section would also express the Agency's assessment of human exposure in relation to the ADI. In addition, the tolerance assessment would discuss those tolerances, if any, which the Agency proposes to revise or revoke and the reasons for the action.

In some cases, EPA may conclude that the use of end-use products covered by the standard is likely to result in a residue in food or feed for which no tolerance has been established. In these cases, the tolerance section would identify what tolerances need to be established and what regulatory action would be taken in the absence of such tolerances.

There are also a few tolerances established to permit movement in commerce of food or feed bearing residues which do not result from use of the pesticide in this country. For example, a tolerance may be requested in order to permit importation into this country of a food or feed commodity grown abroad but not domestically or treated with a pesticide not registered for use in the United States. In this case the Agency proposes to follow the reassessment process just outlined, although the final document obviously would not include an assessment of the acceptability of such uses of the chemical, except to the extent necessary to evaluate the tolerance itself.

(5) *Bibliography*. This section would identify all data considered by the Agency in developing the standard. The bibliography would identify the data submitted, the date on which the data were submitted, and whether and for how long the data are entitled to "exclusive use" under FIFRA § 3(c)(1)(D)(i). Another portion of the standard would identify which specific data (if less than the entire data base) were considered by the Agency in deciding that specific products and uses are registrable.

III. Preparation of a Registration Standard

The Agency has identified at least five major stages in the initial construction of a registration standard: (1) preliminary activities, (2) data gathering, (3) data review, (4) preparation of a regulatory position and publication of the proposed standard, and (5) consideration of public comments and publication of the standard.

A. Preliminary Activities: Phased Testing Program

Ideally, at the time EPA is ready to begin development of a registration standard for a particular pesticide, all

the required studies on the pesticide will already have been performed (in a valid manner) and submitted. EPA could then assess all the data and reach a comprehensive position on all risks and benefits of the active ingredient and the various products. This would be the most efficient use of EPA's resources and would shorten the period during which the pesticide was under Agency review.

This ideal situation is not likely to occur, at least not soon. There are several reasons:

(1) EPA now requires more data than it did when many products were first registered.

(2) Some of these studies take several years to complete but have not yet been started or are just now underway.

(3) Some studies which have been conducted were performed using protocols now regarded as fundamentally inadequate or are otherwise unacceptable for use in decision-making.

Thus, for the registration standards on currently registered pesticides which EPA will start to develop in the next few years, the Agency expects that it will be impossible to promptly issue completed standards addressing all the risks a pesticide may pose. Instead of delaying issuance of any standard at all in such a case, EPA will issue an *interim* standard which addresses those issues for which sufficient data exist and which lists the studies which must still be performed and establishes a timetable for their performance. At a later date the standard will be reissued as a *completed* standard, after the previously missing data have been submitted and evaluated.

In the case of registration standards on which EPA will not be ready to start work for several years, however, delays in completion caused by the need to wait for data to be generated can be considerably lessened (if not altogether avoided) by steps the Agency can take now to assure that needed testing of already-registered pesticides is started promptly. We will refer to this as the "phased testing program."

The first step in this program would be to state the categories of testing it should cover. The Agency will be primarily concerned with studies which take more than six months to perform; short-term testing requirements can be imposed soon after the start of actual work on a standard and still be finished in time to be used when needed.

A quick screening of the Agency's files can disclose which data "gaps"—complete absence of data of a particular type—exist for any particular active ingredient. It makes sense to identify

these data gaps quickly and take steps to require registrants to commence testing so that the data will be available when needed.

The Agency also anticipates, however, that in some cases data which are on file are so clearly unusable for present-day decision-making that new testing to replace those data obviously must be done. There will also be data on file which, although having inadequacies, can perhaps serve as the basis for decisions. EPA does not think that it would be an efficient use of its resources to preliminarily review all the existing data now in an attempt to discover all their flaws and to specify each test that must be performed. Instead, the Agency will develop for each of the various classes of data included in the phased testing program a set of "rejection criteria" for judging which existing studies totally fail to satisfy the data.

As the next step in the phased testing program, EPA would review its files for each group of pesticide products to determine what types of data included in the phased testing program were available. If no data were available, EPA would inform the registrants of products to which the data would be relevant that they must produce the data by a specified time. Usually the data would be due on the date when the Agency plans to start work on the registration standard, but more time would be allowed if the period needed to perform the study extended beyond that date. EPA would also direct the registrants to review the available studies and identify those which did not satisfy the rejection criteria. Registrants would also be required to fill any data gaps resulting from application of the rejection criteria.

Once registrants had received notice that they were subject to a requirement to produce additional data, they would have 90 days in which to respond. (See FIFRA § 3(c)(2)(B).) Within that time, each registrant would have to make one of the following responses: (1) state that data are available from a study which is acceptable in light of the rejection criteria; (2) request a waiver of the data requirement; (3) promise, either individually or in cooperation with others, to produce the data by the date specified; or (4) request voluntary cancellation. If none of these responses was made within 90 days, the registration would be suspended under FIFRA § 3(c)(2)(B)(iv). A request for voluntary cancellation would be processed promptly, and the registration of the product would be cancelled. If EPA received a request for a waiver, it

would postpone action on the data requirement until it had reviewed and acted on the waiver request. If the waiver were denied, the data requirement would be reinstated with a new deadline for producing the data. A statement that data are available and possibly acceptable would be handled in the same way. No action would be taken until those data had been reviewed and EPA had determined whether they were adequate to allow the Agency to make a determination under FIFRA § 3(c)(5).

B. Data Gathering

(1) *Previously Registered Pesticides*.

When the actual collection and organization of data on a particular active ingredient is about to begin, the Agency will issue a Federal Register notice announcing the initiation of development of the registration standard and soliciting submission of information on the chemical. At this point in the process, participation by registrants and other members of the public would probably be limited chiefly to submitting data concerning the pesticide and raising issues which they believe the Agency should consider in the course of developing the registration standard.

During the public comment period initiated by the Federal Register notice, the Agency will collect, and then sort by subject, data from the Agency's internal files, the published literature, and data from other government agencies. The Agency will incorporate data received in response to the notice into this data base. The Agency then will compile a bibliography citing each element of the data base and prepare an index of products and currently registered use patterns for the active ingredient under review. As a check on the accuracy and completeness of the bibliography and index, the Agency will make these documents available for public review and comment.

(2) *New Pesticides*. The first applicant for registration of a product with a "new" active ingredient (one not contained in any previously registered product) will bear the responsibility for submitting sufficient data concerning the safety of the active ingredient as well as of the product for which he seeks registration. The registrant's data may form the entire data base, if the active ingredient is a new chemical never before manufactured or marketed, but the Agency will use any additional data that are available.

C. Data Review

During this stage, EPA would review thoroughly the validity of all relevant data which are available from any

source. Though EPA reviewers may consider the registration guidelines in determining whether data are valid, data will not be rejected merely because they were not developed in accordance with the guidelines test standards. Rather, EPA will determine whether the studies were performed in a manner which would permit the Agency to use the resulting data to reach scientifically reliable conclusions. If EPA concludes that more information is needed, the data assessment would indicate the uses to which those data would be relevant.

EPA would then develop written assessments of the valid data which explain the conclusions which can be drawn from the data concerning the toxic, physical, chemical, and environmental characteristics of the active ingredient and the pesticide formulations in which it appears. The Agency would also discuss whether, in light of these characteristics, any use of products covered by the standards poses risks to man or the environment.

If the hazard associated with any use meets or exceeds the criteria in 40 CFR 162.11(a)(3), EPA will publish a notice of Rebuttable Presumption Against Registration (RPAR) against those uses in the *Federal Register*. The kinds of hazards which trigger the issuance of a RPAR notice include: oncogenicity, mutagenicity, and other chronic toxic effects; acute mammalian toxicity; adverse effects on wildlife at levels near anticipated levels of exposure; and others as well. The issuance of a RPAR notice initiates an in-depth review of the risks and benefits associated with use of a pesticide subject to the RPAR notice. The relationship of the process of reviewing uses subject to a RPAR and not subject to a RPAR is discussed in the section below.

D. Preparation of a Regulatory Position and Publication of a Proposed Standard

Next, EPA would develop its regulatory position with respect to the registrability of each of the uses of the products covered by the standard. EPA's regulatory position would state which current and/or proposed uses of a pesticide EPA considers acceptable for registration and what additional regulatory requirements, if any, were necessary to reduce the risks to an acceptable level. EPA would also establish the schedule for submitting any additional data required to develop a completed standard. All of these decisions, along with a complete explanation of EPA's reasoning, would be contained in the regulatory position and regulatory rationale sections of the standard and would be proposed for public comment. (These sections are

described in section II (1) and (2) of this notice.)

EPA currently uses a system called the RPAR process to reach decisions on the registrability of certain uses of pesticide products which may cause unreasonable adverse effects on the environment. If EPA has issued an RPAR notice applying to some or all of the uses of the products covered by the standard, EPA would continue to use an intensive risk/benefit analysis to reach decisions on those uses.

EPA plans to develop regulatory positions on products which do not meet RPAR criteria using a decision-making system which will not normally include an extensive quantification or discussion of benefits. An important purpose of developing a regulatory position on pesticide uses not subject to RPAR review is to determine ways to assure that the risks of continued uses are commensurate with the benefits from such uses. EPA will consider various requirements which could decrease the identified risks. EPA will compare the reduction in risk with the reduction in benefits (if any) which would result from imposing a particular risk reduction requirement. Such requirements will be imposed whenever EPA concludes that the reduction in risk is greater than the resulting decrease in social or economic benefits.

A wide variety of restrictions may be imposed on pesticide products to limit the risks which products pose to man and the environment. EPA may impose them on some or all uses of a pesticide product. For registration purposes, the most important risk reduction elements to consider are:

(1) *Formulation*: (a) Physical form of the product, (b) The percentage of active ingredient, or (c) Reduction of the contaminant level.

(2) *Labeling (Major Considerations)*: (a) Restrictions on the site of application, (b) Rate and/or frequency of application, (c) Requirement of certain methods of application, (e.g., closed system) or exclusion of others, (d) Protective clothing and/or respirator, (e) Use as part of an integrated pest management program, or (f) Reentry and/or preharvest intervals.

(3) *Labeling (Minor Considerations)*: (a) Use directions (such as those for storage/disposal), (b) Warning statements, or (c) Graphics and/or layout.

(4) *Special packaging requirements* (such as childproofing).

(5) *Requirements for coloration/discoloration of the product*.

(6) *Requirement for use by certified applicators*.

(7) *Other terms or conditions, such as requirements for:* (a) Monitoring of the medical condition of workers (e.g., applicators and field workers) and removal of workers from exposure, when necessary; (b) Alterations of taste and/or smell of the product; (c) Toll-free telephone service providing information on treatment of pesticide poisoning or other incident; and

(8) *Tolerance levels, residue levels and the acceptable daily intake of the chemical.* The Agency has not decided how much public participation should be requested while it is considering regulatory options for non-RPAR pesticides. Public participation is a key element of RPAR reviews and will remain so. However, public participation outside the RPAR process could also provide the Agency with useful information for judging which of several possible regulatory options would reduce the risk associated with a particular use most effectively and efficiently. On the other hand, as in the data review phase, formal public participation during the analysis of regulatory options could delay the development of the proposed registration standard. Moreover, the public would have an opportunity to review and comment on the proposed standard which would include the preliminary selection of regulatory options. The Agency is interested in determining at what point and in what form public participation would be most advantageous.

EPA also has not yet decided how to handle the situation in which some but not all uses of a pesticide are subject to RPAR review. At present, EPA plans to continue its regular review of the uses which are not subject to an RPAR, while the RPAR review proceeds independently. EPA has not decided whether to issue a proposed standard for those uses which the Agency finishes reviewing first or to issue a standard covering all uses only after both reviews are completed.

The Agency would conclude this stage by publishing a notice of availability of the proposed standard in the *Federal Register*. (If the Agency decides to establish standards by the notice and comment rulemaking process, EPA would publish a standard as a proposed rule.) The notice would include the proposed regulatory position and possibly the regulatory rationale, the data assessment, the tolerance assessment, and the bibliography sections, as well. The Agency would also consider other forms of public review and input such as public hearings.

E. Incorporation of Public Comments and Publication of Interim and Completed Standards

During this stage the Agency plans to review and evaluate public comments received on the proposed standard and make any appropriate changes. Once changes are completed, the Agency would publish a notice of availability of the standard. (Again, if the Agency decides to establish standards by the notice and comment rulemaking process, EPA would publish a standard as a final rule.) The standard would represent the Agency's regulatory position on a pesticide and its uses, based on the data available at that time.

IV. Maintenance of a Registration Standard

The Agency will need a process to keep registration standards updated. A standard would need revision: (1) when EPA periodically reviews the standard to incorporate new information developed since the initial development or previous review of a standard; (2) if the Agency determines, at some time after the standard was developed that new data of a type not previously required were necessary; (3) whenever new information, or a reinterpretation of old data, indicates that a significant risk to human health or the environment existed and had not been taken into account in the regulatory rationale for the standard; (4) when a registrant requests that the scope of the standard be expanded to include a product use beyond the scope of the existing standard. Finally, EPA will revise an interim standard when the additional, required data have been submitted.

EPA intends to screen new data as they become available during the period between the routine updatings of a standard. Whenever the Agency identifies an issue requiring immediate attention, it will begin reconsideration of its regulatory position in light of the new information. The Agency intends to file the other new information and to evaluate it fully at the time of the routine revision of the standard.

v. Registration and Reregistration Under a Standard

The Agency intends that decisions on the registrability of individual pesticide products will be controlled by the decisions reflected in the regulatory position of any applicable registration standard. Unless someone convinces EPA that the standard should be modified, applications³ which do not

³An application may seek any one of the following kinds of registration actions:

comply with the standard would be denied, and existing registrations which are not brought into compliance would be cancelled.

Applicants and registrants may have to meet additional requirements to obtain or continue their registrations. These requirements may be grouped in three categories. The first category of requirements is "risk reduction requirements" and includes requirements concerning composition, restrictions on use, labeling, or packaging of the product. These kinds of requirements are designed to ensure that use of the pesticide product does not cause unreasonable adverse effects on the environment. The second category of requirements is "additional data requirements." These requirements obligate applicants and registrants to generate and submit additional data which are needed by the Agency to make registration decisions. The third category, "data compensation requirements," is created by FIFRA § 3(c)(1)(D). With certain exceptions, these requirements obligate applicants to make offers to pay compensation to any other applicant or registrant who has submitted data relevant to the decision that the applicant's product should be registered or reregistered.

The legal procedures used to make these requirements binding on applicants and registrants will vary depending on the nature of the requirement, the current status of the registration, and whether the applicant or registrant accepts or challenges EPA's decision.

A. Implementation of Interim Standards

The Agency anticipates that during the early years of developing registration standards, standards would progress through the issuance of an interim standard to a completed standard. The data base now necessary to permit the Agency to make the determination required by FIFRA § 3(c)(5) is extensive, and many existing registrations probably are not supported by all of the data now needed. Generation of some of these data will take several years. Therefore, during the

a. Registration of a "new product" (one not previously registered). This new product may contain one or more "new" active ingredients (i.e., active ingredients not contained in any previously registered product). Or the product may contain only "old" active ingredients, with a formula that is either substantially similar to, or quite different from already registered products, and with or without proposed use patterns that differ from already registered products.

b. Amendment to a previously issued registration. The amendment may propose a change in ingredient composition, a change in the use patterns, or other changes.

next several years, issuance of a completed registration standard will be the exception rather than the rule. As the Agency's phased testing program is implemented, however, the number of completed registration standards which result from the standards building process is expected to increase.

The fact that a registration standard has been completed would not preclude the Agency from using it as the basis for registration and reregistration actions. EPA expects that, in most cases, enough data will be available during the development of an interim standard to permit EPA to make some important regulatory decisions. An interim standard usually would contain the Agency's position on appropriate labeling and classification, and possibly on other kinds of use, composition or packaging restrictions. Decisions about these kinds of restrictions usually are based primarily on acute and subchronic toxicity data and other data which are usually available or easily and quickly obtainable. The Agency intends to apply these decisions to currently registered products, as well as to new registrations, immediately upon completion of an interim standard. Such action would lead to greater uniformity among all of the products covered by the standard. The interim standard would also identify additional data which EPA has determined will be necessary to make a FIFRA § 3(c)(5) determination. These data requirements will also be applied immediately to registrants of currently registered products, as well as to persons seeking to register new products.

B. Registration of Currently Registered Products Covered by and Complying With a Registration Standard

A registration standard would cover all pesticide products containing a specific active ingredient. A product would comply with a regulatory standard if its composition and acute toxicity were within the stated limits set by this standard, and if it met all restrictions on use, labeling, or packaging specified in the regulatory position.

Even if a currently registered product covered by an interim registration standard fully complies with that standard, so that no changes in labeling, packaging, composition, or use are necessary, the registrant still would be required to arrange for the submission of any data needed to complete portions of the standard which apply to the product. EPA would impose those data requirements under FIFRA § 3(c)(2)(B), which authorizes EPA to require registrants to submit additional

data to continue their registration. To do so, EPA must identify the data, establish a specific schedule for submission of the data, and notify all registrants subject to the requirement. Each registrant, in turn, would need to inform EPA within ninety days of receiving the notice that it is taking appropriate steps to produce the data, either individually or in cooperation with other registrants.

Regardless of whether the standard is interim or completed, registrants of currently registered products will also be required to offer to pay compensation for data on which the Agency relied in developing the standard, under FIFRA Section 3(c)(1)(D). These data will be identified in the standard. As discussed in Section V(F) of this notice, EPA has not yet decided which legal procedure to use to make data compensation requirements binding on registrants.

Finally, if the standard is completed and if no changes are required in the current registration, EPA would issue an unconditional reregistration for the product upon compliance with the administrative requirements.

C. Registration of Currently Registered Products Covered by But Not Complying With a Registration Standard

The registration standards system is designed to give the registrant ample notice of the requirements which EPA is considering for his product. Both proposed interim and proposed completed standards will be available for public comment. (See Section III(D) of this notice.) At any time during this process, a registrant may request an amendment to his registration to bring the product into compliance with EPA's anticipated regulatory position. EPA expects, however, that most registrants would not act until EPA has revised a proposed standard in response to public comment. Therefore, EPA expects most currently registered products would not comply with all of the requirements in the regulatory position of the applicable registration standard when it is issued.

In many cases the changes required for a product to come into compliance with the risk reduction requirements would be minor and easily achieved. Registrants may need only to supply up-to-date product chemistry information, revise use directions, add precautionary statements, or perhaps reformat their labels. In other cases, however, a registrant may have to make major changes to comply with the registration standard. For example, a registrant might need to reduce the content of the active ingredient in his product, or he might need to remove a use from the product label.

EPA's purpose is to impose consistent requirements on products with similar composition and uses. Therefore, EPA would attempt to bring all products into compliance with the regulatory position of a standard once an applicable standard had been issued. To do so, EPA would normally issue a Notice of Intent to Cancel under FIFRA § 6(b). This notice will be published in the *Federal Register* and will be sent to the registrant. The notice will explain the conditions which the registrant must meet in order to comply with the standard. Within 30 days a registrant either must request a hearing or must submit an application to amend his registration to comply with the standard.⁴ If he takes neither action within the 30 days, his registration would be cancelled immediately by operation of law. (See FIFRA § 6(b).) If he requests a hearing within 30 days, EPA would conduct an administrative hearing to determine whether to cancel the registration. The scope of the issues in such a hearing would depend on the legal status of the Agency's decisions contained in the registration standard. (See Section VI of this notice.) If, following any hearing, EPA reaches a position different from that reflected in the standard, EPA would revise the standard accordingly. The registrant would then be granted registration to the extent permitted by the new position.

The registrant may respond to the Notice of Intent to Cancel by submitting an application to amend the registration of his product. EPA's action will then depend on whether the amendment complies with the standard and on whether the standard is interim or completed. If the application complies with the standard, EPA will approve the amendment. (Some of the kinds of information which might be required in these applications are discussed in the following section, V(D).) EPA will issue an unconditional reregistration in the case of a completed standard, but under an interim standard, EPA would continue in force the kind of registration which the applicant previously held, subject to the terms of the amendment bringing the product into conformity with the standard. If the application to amend does not comply with the standard, the application will be denied under FIFRA § 3(c)(6), and the registration of the product will automatically be cancelled since the registrant had not taken the appropriate

⁴The Agency would allow a registrant more than 30 days to submit a completed application if the applicant filed a preliminary application during the 30-day period and requested an extension of time to allow completion of application materials.

action within 30 days of receiving the Notice of Intent to Cancel. The applicant would be free to submit a second application which made the necessary corrections, or under FIFRA § 3(c)(6), the applicant could request an administrative hearing on the denial of his application. Such a hearing would be handled like a cancellation hearing.³ If the applicable standard is an interim one, additional data requirements would be imposed under the authority of FIFRA § 3(c)(2)(B). (See discussion in Section V(B).)

Finally, under one of the procedures discussed in Section V(F), EPA would require the registrant to offer to pay compensation for data relied on in development of the standard to the extent required by the data compensation regulations.

D. Registration of New Products or Amendments to Current Registrations Which Are Covered by and Comply With a Registration Standard

When EPA has issued a registration standard (either interim or completed), the standard would address the registrability of every use of any currently registered product covered by the standard. Any person who then wishes to obtain a new registration for any of the acceptable uses, or to expand his current registration to include additional acceptable uses, may submit an application for new or amended registration. EPA would approve the application to register the product if the product complied with the standard, if the applicant satisfied the data compensation requirements of FIFRA § 3(c)(1)(D) and, in the case of an interim standard, if the product were eligible for registration under FIFRA § 39(c)(7).

EPA will require the applicant for a new registration to submit data and labeling which demonstrate that his product complies with the standard. The data would consist primarily of product chemistry data which demonstrate that the product will have a composition which is acceptable under the standard. The standard would identify a range for the percentage of the active ingredient(s) which would be acceptable in the product and, in some cases, also for impurities of the product. The applicant would also be required to state the upper and lower limits for the deliberately added inert ingredients in the product, and to certify that those limits would not be exceeded in the

³ The hearing would address only the issue of whether the Agency should unconditionally reregister the product under FIFRA § 3(c)(5). The issue of whether conditional registration under § 3(c)(7) is proper would be outside the scope of the hearing.

production of his pesticide. In some cases, the applicant would be required to submit acute toxicity data confirming that the product's toxicity was within the stated limits. The applicant would also be required to submit efficacy data to support the registration of a public health use if those data are required to be derived from tests on the individual formulation. (This last requirement primarily would apply to rodenticide and disinfectant uses.) Finally, the applicant would need to provide labeling which meets the requirements of the standard.

Under FIFRA § 3(c)(1)(D), EPA may not approve an application unless the applicant has first made offers to pay compensation for data considered in support of his registration, to the extent required by FIFRA § 3(c)(1)(D) and implementing regulations. By using information in the standard which identifies specific data supporting specific uses and products, an applicant will be able to identify each data submitter who is entitled to receive an offer to pay compensation from the applicant. As provided by the data compensation regulations (40 CFR 162.9-3, 44 FR 27945, May 11, 1979), the applicant must make such offers to pay and must notify EPA that he has made all required offers to pay. Only after receiving this notification may EPA register the product.

If the applicant satisfies the data compensation requirements and his application is complete and complies with the standard, his application normally would be approved. An application under a completed standard would be registered unconditionally. If, however, the standard is an interim one, EPA would register the product conditionally, under the authority of FIFRA § 3(c)(7). The principal condition on a conditional registration would be that the registrant commit himself to produce additional data identified in the interim standard as necessary to permit the Agency to develop a completed standard within the time period specified by the standard.

E. Registration of New Products Which Are Covered by but Do Not Comply With a Registration Standard

Under the system the Agency contemplates, an applicant who wished to register a pesticide (or amend the registration of a registered product) which would not comply with an applicable registration standard would have to request that EPA amend the standard to allow registration of the type sought. Such an application would have to contain all information necessary for the Agency to decide

whether to amend the standard. After EPA had reviewed the material submitted in the application and determined whether to amend the standard, EPA would review and act on the application for registration. If EPA decided to amend the standard, the application would be treated as described in the preceding discussion, Section V(D).

If, after review of the application, EPA decided not to make the amendment, EPA would deny the application under FIFRA § 3(c)(6). As noted earlier, the applicant could correct the deficiencies in the application or request a hearing in which he could attempt to show that the use for which he has applied would not cause unreasonable adverse effects on the environment and therefore should be registered. As also noted earlier, if, following any hearing, EPA reaches a position different from that reflected in the standard, EPA would revise the standard accordingly and grant registrations conforming to the revised standard.

An important question to be resolved is whether a public comment period should always be provided prior to amendment of a standard. EPA would handle requests for amendments to standards using approximately the same procedures used in the initial development of a standard, including publication of the proposed amendment and an opportunity for public comment, followed by issuance of an amendment to the standard and approval of the requested registration application. There will be occasions, however, when EPA may believe it would serve the public interest to authorize a new use of a pesticide more quickly than would be possible if EPA waited to obtain and evaluate public comments on a proposed amendment to the standard. In such a case, EPA could amend the standard without prior public comment.

F. Making Data Compensation Requirements Binding on Currently Registered Products

With certain limited exceptions, firms which apply to register new products or to amend existing registrations after September 30, 1978, are subject to the most recent amendments to FIFRA and must offer to pay compensation for all data in the Agency's files which are relevant to their registration and are otherwise compensable under FIFRA §§ 3(c)(1)(D) and 3(c)(2)(D). Registrants of currently registered products who do not apply for amendments, however, are not subject to FIFRA's data compensation provisions, because the statutory requirements imposing data

compensation obligations apply only to registration applications.

One result which is expected from the process of reevaluating all currently registered pesticide products under the registration standards system is that all registrants will be required to comply with the data compensation provisions of FIFRA § 3(c)(1)(D) and implementing regulations. (In many cases, the data base which would underlie an EPA decision to permit continued registration has been augmented greatly by some manufacturers (and not at all by others) in the years which have intervened since the initial authorization for use of the pesticide was granted.)

There are several ways in which EPA may impose data compensation requirements on existing registrants. EPA has not decided which approach is most efficient and fair. Briefly the alternatives are:

(1) Require applications to renew registration every five years under FIFRA § 6(a)(1).

(2) Require applications to amend an existing registration to comply with a standard.

(3) Require applications to be submitted to "reregister" every product, without regard to whether the product complies with the applicable standard.

(4) Require some combination of the first three approaches.

The first possible approach is to rely on the authority contained in FIFRA § 6(a)(1). That section provides that in order to avoid automatic cancellation, every five years a registrant must request EPA to continue his registration. This request must conform with whatever regulations the Agency has established for the renewal program. Though EPA has published regulations describing the renewal program, 40 CFR 162.6(c), the Agency has only required renewals in a few instances since 1972. EPA is now considering issuing regulations which would establish an active renewal program. Those regulations would require, as a condition of renewal, that a registrant requesting renewal make offers to pay compensation for all data on which EPA has relied in allowing that product to continue to be registered. Within five years of the beginning of the renewal program, all existing registrations would have become subject to the data compensation requirements. After five years, the renewal program would serve as a mechanism for requiring existing registrants to fulfill data compensation obligations for data relevant to their registration added to the information base supporting the standard during the preceding five-year period.

EPA could choose to apply the renewal program to products which are not yet covered by a standard, or instead to wait until a standard has been developed. The advantage of beginning to renew the registration of products before they are covered by a standard is that the data compensation obligations will be fulfilled much sooner. The disadvantage of starting before a standard is developed would be the difficulty in identifying which data are relevant to a particular end-use product registration. Questions concerning which data are relevant to the registrability of a particular end-use product will be definitively answered by EPA in the process of developing a standard. Thus, if EPA waited until after a standard were developed, end-use registrants would have less difficulty complying with the data compensation requirements of a renewal program, because they would know precisely which items of data may give rise to compensation requirements. Most of these problems could be avoided if only manufacturing use products were subject to the renewal requirement, or if only that data pertaining to safety of a product's active ingredients were covered by the compensation requirement.

The second approach to compelling existing registrants to comply with data compensation obligations would be to treat an application to amend a registration to avoid cancellation as an action subject to FIFRA § 3(c)(1)(D). As noted earlier, EPA expects that most currently registered products will not be in compliance with some aspect of the risk reduction requirements in the first standard (whether interim or completed) which covers the products. EPA will issue a Notice of Intent to Cancel the registration of any product which fails to comply with the standard. To avoid cancellation, the registrant must apply to amend his existing registration to comply with the standard. Under the present data compensation regulations, such an application is not subject to FIFRA § 3(c)(1)(D). (See 40 CFR 162.9-1(b)(17), 44 FR 27945; May 11, 1979.) EPA could amend this regulation, however, and require such applicants to make offers to pay compensation to the submitters of data relevant to their product.

There are both advantages and disadvantages to this approach. The main advantage is that this approach clearly involves an application for a registration action, unlike the first approach which is tied to a request for a renewal. One disadvantage of this approach is that it will only apply to

registered products which do not comply with the applicable standard. Some products may comply with the standard, and they would not be subject to any data compensation obligation although extensive evaluation of the data base which supports the standard will have occurred in the course of considering whether to modify the standard. (EPA expects the number of such products to be small, however.) Certain registrants, without regard to the amount or quality of the data they submitted to support their application, may have had their products registered and may have them remain registered without being subject to data compensation requirements to the same extent as the registrants of other, similar products. A second disadvantage of this approach is that it fails to provide a mechanism for compelling registrants to pay compensation for data on which the Agency subsequently relies but which do not lead the Agency to revise the existing standard to which they are relevant.

The third approach to imposing data compensation obligations on existing registrants involves requiring all current registrants to apply for reregistration, and when they do, requiring that they make offers to pay compensation in compliance with FIFRA § 3(c)(1)(D). Though there is no statutory provision which explicitly gives EPA the authority to require a current registrant to apply for reregistration, it may be inferred from the statutory scheme and FIFRA's legislative history. Congress has directed the Agency to "reregister" all currently registered pesticides. (See FIFRA § 3(g).) Since FIFRA § 2(z) defines "registration" to include "reregistration," the statutory scheme for registration must also be used for reregistration. The statute is premised on the assumption that products which are not reregistered must apply for registration. Logically then, once EPA has established its procedures for reregistration, the Agency may require all products which are not reregistered to submit applications for reregistration. These applications would clearly be actions to which the data compensation requirements of FIFRA § 3(c)(1)(D) apply.

This third approach would be based on the legal conclusion that EPA has the authority to cancel the existing registration of a product simply on the ground that the registrant had not applied for reregistration. Unless failure to apply for reregistration was a ground for cancellation, any registrant could disregard the application requirement and continue to distribute his pesticide

product in commerce. Thus, this ground for cancellation arguably must exist in order to give meaning to the reregistration requirement of FIFRA § 3(g). Moreover, a reregistration application could be regarded as "other material required to be submitted" under FIFRA § 6(b)(1) and failure to submit it regarded as grounds for cancellation. However, it should be noted that FIFRA § 6 does not specifically list failure to apply for reregistration as a ground for cancellation.

Finally, a combination of these approaches could be used. For instance, EPA could require all currently registered products to apply for reregistration, and could also require renewal applications every five years thereafter, in order to ensure that all registrants be subjected to the § (c)(1)(D) requirement with respect to all data used in either developing or maintaining a standard.

VI. Legal Status of Registration Standards

There are two alternatives for the legal status of registration standards. Standards could be developed and issued either as decisions under general procedural regulations, or as separate regulations, themselves. Public involvement would be the same under either alternative and would include, at a minimum, a period for public comment on the proposed standard.

Under the first alternative, each standard would contain the Agency's regulatory position on products containing a particular chemical, but it would not be a separate rulemaking. The legal status of a standard would be comparable to that of an RPAR decision document.⁶ The position in the standard would be made binding on registrants and applicants through subsequent decisions made in administrative hearings and in the registration process. (See Section V of this notice.) Similarly, amendments to standards would be only a statement of the Agency's position and would require further action to bind registrants or applicants.

The second alternative would be to issue each registration standard as a regulation, using rulemaking procedures. The development of standards as regulations would follow the procedures published to implement Executive Order 12044, "Improving Government Regulations." These procedures are

⁶ In terms of the Administrative Procedure Act, 5 U.S.C. 551 et seq., the standard would be a preliminary step in the issuance of a licensing order, and would not be a "final disposition." (5 U.S.C. 551(6)) not reviewable "agency action" (5 U.S.C. 702).

intended to improve management insight in the development of regulations, to involve the public and other governmental organizations in evaluating regulatory proposals, to analyze the effects of new and existing regulations and to avoid unnecessary regulatory burdens on the public.

The major difference between the two alternatives is the scope of the issues which would be raised in a hearing requested by a registrant, applicant, or other interested party challenging the regulatory position taken by the Agency in the standard. Under the first alternative, the administrative hearing, when requested, could be very broad, addressing every relevant issue of fact raised by any party to the hearing. Hearings of this type have been conducted in the past and have been quite time-consuming; some have lasted several years. By contrast, if the final standard is promulgated as a regulation, the Agency could drastically limit the issues for any subsequent hearing. The major issues could be restricted to two: the applicability of the standard to particular products; and compliance of the products with the standard. Such a hearing could take approximately two to three months, depending on the number of products registered under the standard, and might take even less time.

The Agency has questions about the legality of the rulemaking alternative in light of Section 6 of FIFRA. That section provides that after the Agency has issued a Notice of Intent to Cancel the registration of a pesticide, EPA must hold a hearing to determine whether to take such action, is requested. The abbreviated hearing described above may not satisfy the requirement to hold a hearing, especially, if the standard calls for major changes to existing regulations.

Obviously, if the second alternative is legal, the choice between the two alternatives depends primarily on which is more efficient for making Agency decisions binding on registrants and applicants. The first alternative would involve longer adjudicatory hearings, but a shorter amount of time to issue standards than the second alternative. If the number of standards which are challenged is relatively small, the first alternative will allow the Agency to produce more standards and begin registration and reregistration actions under the standard in a more timely fashion. However, if a large number of standards are challenged and result in lengthy administrative hearings, this will seriously limit the Agency's ability to continue with the registration standards process. At this time, the

Agency cannot predict the number of hearings which will be requested to challenge decisions made in registration standards. Therefore it is difficult to determine which alternative would be more efficient.

EPA is also considering other changes which could shorten adjudicatory hearings. EPA expects to revise the regulations governing administrative hearings following the issuance of a cancellation notice. The primary impact of such revisions would be to limit the scope of the issues which could be considered in a hearing. If adopted, these revisions might also lead the Agency to favor the non-rulemaking method of issuing registration standards.

VII. Order of Development of Standards

One of EPA's most important decisions in the registration standards system is the order in which to develop standards on pesticide products. The Agency intends to begin the development of standards covering previously unregistered pesticides in the same order as it receives applications to register those pesticides. While EPA, has decided on the pesticides to be reviewed in the next year, the Agency has not yet decided on the order in which to develop registration standards for currently registered pesticides in future years. Congress has provided some guidance on this matter in FIFRA § 3(g) which states:

The Administrator shall accomplish the reregistration of all pesticides in the most expeditious manner practicable: *Provided*, that, to the extent appropriate, any pesticide that results in a postharvest residue in or on food or feed crops shall be given priority in the reregistration process.

Consistent with this mandate, EPA's goals for the registration standards system are to balance pesticide risks and benefits beginning with high exposure food and feed uses and to reregister products efficiently and expeditiously. In establishing the order for reviewing currently registered products, EPA will pay particular attention to the extent to which each of these goals can be achieved most effectively.

While it is important to give priority to the development of standards which will result in dealing with major risk potentials first, we cannot significantly delay beginning standards development for the sake of developing highly sophisticated prioritization criteria. More important, in order to apply such highly sophisticated criteria, the Agency would need to perform a data review and assessment virtually equivalent to the process of developing a standard itself. Therefore, the Agency will be

relying on certain indicators of potential risk in ranking pesticide chemicals for standards development. The three indicators we have identified are: (1) documented adverse effects, (2) type of exposure, and (3) amount of exposure. In addition, since the size and quality of the data base can directly influence the time it takes to complete a standard, EPA needs to consider whether it is more advantageous to begin to develop many, relatively easy standards, a few very difficult ones, or a mixture of both. Finally, EPA also thinks it important to consider beginning work at the same time on several different standards for products with the same or similar uses. This cluster approach would enable the Agency to make regulatory decisions which take into account the risks and the benefits of pesticides which may be used as alternatives to pesticides whose uses are found unacceptable. This approach might also realize some efficiencies in data review.

These are the various factors the Agency is considering in developing priorities for standards development. However, the Agency is not sure exactly how these factors should be used and what importance should be assigned to each and thus requests comments on the merits of prioritization.

VIII. Request for Comments

A. Registration Standard

The Agency requests comments on the following specific issues in the preparation and maintenance of registration standards:

(1) *Public Participation*. What should be the extent and form of public participation and notification during the preparation of the regulatory position? Public review and comment occurring during this stage of the process could improve the analysis of the regulatory options; however, such participation probably would also lengthen the review process. The Agency would like comments on the usefulness of public participation during the preparation of the regulatory position and suggestions for possible timing and methods of public participation which would not cause serious disruption of the review process. We also seek comments about the desirability of public comment prior to issuing amendments to standards.

(2) *Content of the Registration Standard*. Should sections be included in the standards other than those described in Section III of this notice? For example, the Agency could add a section to provide a complete regulatory history of an active ingredient including first registrations, emergency exemptions issued, and state special

local needs registrations. Commenters should reflect on the anticipated contribution of such a complete history to current pesticide regulation compared to the amount of research necessary to construct it.

(3) *Publication in the Federal Register*. How much of the registration standard document should the Agency publish in the Federal Register? Publication of the entire document would make it widely and easily available but would be costly to the Agency and could provide more information than is actually needed by many interested parties. Alternatively, the Agency could publish a notice of availability of the registration standard document which included the regulatory position sections of the standard (or other summary statement) or publish just the notice of availability itself.

(4) *Prioritization*. The weight to be given to the various factors in establishing priorities for standards development and possible prioritization schemes.

(5) *Maintenance of Standards*. Appropriations of a periodic (such as every five years) revision of the standard and possible screening systems for monitoring new data.

(6) *Phased Testing Program*. Apparent strengths and weaknesses of the phased testing program described and the usefulness of developing the rejection criteria document.

(7) *Status of a Registration Standard*. Alternative approaches to the legal status of registration standards. Should the Agency issue standards as statements of proposed regulatory action, or as regulations developed through rulemaking procedures?

Commenters should consider the following: are rights of applicants and the interested public to a hearing under Section 6(b) protected; which process would allow EPA to begin actual enforcement of the standard in a more timely fashion; which process would make the more reasonable use of available resources.

(8) *Data Compensation*. Advantages and drawbacks of the various methods described in Section V(F) of this notice for requiring compliance with the data compensation provisions of FIFRA § 3(c)(1)(D).

(9) *Inert Ingredients*. The development of standards for pesticidally inert ingredients in pesticides products. The Agency is aware that commonly used pesticidally inert ingredients may pose potential health or environmental problems. In developing inert ingredient standards, the Agency will utilize other Federal agencies' authority—especially testing and review authority—to provide

the information to be included in the discussion on the inert ingredients.

B. Additional Changes in FIFRA Section 3 Regulations

In this notice, the Agency has described the registration standard, its development and its anticipated use in the registration process. To ensure compatibility of the standard approach to registration with the regulations governing registration, 40 CFR Part 162, the Agency will review and revise the present regulations.

The anticipated revisions for the purpose of implementing the registration standard approach will affect mainly § 162.6 *Registration procedure*, § 162.7 *Disposition of applications*, § 162.11 *Criteria for determinations of unreasonable adverse effects*, and § 162.30 *Classification regulations*.

The anticipated changes are as follows:

1. § 162.6 will be revised in order to define the applicant's responsibility for documentation required to confirm compliance to a particular standard or to support a request for an amendment to an already established standard.

2. § 162.7 will be revised to reflect the Agency's responsibility in responding to an applicant.

3. § 162.11 has to be revised to reflect the program's stated goal of merging the Rebuttal Presumption Against Registration (RPAR) and the classification procedure with the standard-building process.

4. § 162.30 will be revised to indicate that once a standard is established for a chemical, that standard will supersede any classification regulation previously established for the chemical.

5. New regulations may be written to cover the phased testing program under FIFRA Section 3(c)(2)(B).

The regulations will also modify existing regulations implementing Section 3 of the Act in other ways. Since promulgation of the Section 3 regulations in 1975, FIFRA has been amended twice, but the regulations have not yet been revised to reflect significant statutory changes. In addition, experience with these regulations over the last four years has brought to light certain problems which were not anticipated during their development, but which should now be corrected. Finally, the existing regulations can also profit substantially from careful editorial work to ensure that the Agency's regulatory requirements are expressed clearly and concisely.

In revising the present regulation, OPP will evaluate the need for revisions in at least the following areas:

1. Procedural and administrative changes required throughout the entire regulations.

2. Revisions and additions to the present definitions.

3. Revisions to the labeling requirements for the purpose of uniformity with other regulations (e.g., childproof packaging, flash point testing), to transfer certain topics to the labeling guidelines, and to institute a viable labeling program prior to establishment of registration standards.

4. Review of the criteria for basing a rebuttable presumption against registration (RPAR). This review will evaluate various revision options for each criterion.

In the process of revising the regulations, the Agency may publish additional notices for comments on specific issues. These notices will be published when the Agency feels additional information and comments are warranted. Any comments on other parts of the Section 3 regulations which should be revised or on the changes identified here may be submitted now or in the future as the Agency publishes additional notices.

Dated: December 13, 1979.

Douglas M. Costle,
Administrator.

[FR Doc. 79-39252 Filed 12-21-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL EMERGENCY
MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5757]

National Flood Insurance Program;
Proposed Flood Elevation
Determinations

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT:
Mr. R. Gregg Chappell, National Flood
Insurance Program, (202) 426-1460 or
Toll Free Line (800) 424-8872 (In Alaska
and Hawaii call Toll Free Line (800) 424-

9080), Room 5150, 451 Seventh Street
SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The
Federal Insurance Administrator gives
notice of the proposed determinations of
base (100-year) flood elevations for
selected locations in the nation, in
accordance with Section 110 of the
Flood Disaster Protection Act of 1973
(Pub. L. 93-234), 87 Stat. 980, which
added Section 1363 to the National
Flood Insurance Act of 1968 (Title XIII of
the Housing and Urban Development
Act of 1968 (Pub. L. 90-448)), 42 U.S.C.
4001-4128, and 44 CFR 67.4(a) (presently
appearing at its former Title 24, Chapter
10, Part 1917.4(a)).

These elevations, together with the
flood plain management measures
required by § 60.3 (formerly § 1910.3) of
the program regulations, are the
minimum that are required. They should
not be construed to mean the community
must change any existing ordinances
that are more stringent in their flood
plain management requirements. The
community may at any time enact
stricter requirements on its own, or
pursuant to policies established by other
Federal, State, or regional entities.
These proposed elevations will also be
used to calculate the appropriate flood
insurance premium rates for new
buildings and their contents and for the
second layer of insurance on existing
buildings and their contents.

The proposed base (100-year) flood
elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Diaz, Jackson County	White River	At Highway 17 over Main Street Ditch	*228
			At Highway 18 over Main Street Ditch	*228
Maps available at City Hall, Highway 17, Diaz, Arkansas 79520.				
Send comments to Mayor Blount Hohn or Ms. Jean Suttins, City Clerk, City Hall, Highway 17, Diaz, Arkansas 72043.				
Connecticut	Clinton, Town, Middlesex County	Long Island Sound	Coastline	*11
		Menunkatesuck River	State Route 145 (Upstream) (Downstream Corporate Limits)	*12
			Dam at Chapman Pond (Upstream)	*14
			Carter Hill Road (Upstream)	*24
			Valley Road (Upstream)	*33
			2nd Dam upstream of Woods Road (Downstream)	*38
			2nd Dam upstream of Woods Road (Upstream)	*51
			0.1 Mile upstream of Kelseytown Road	*58
		Hammonasset River	U.S. Route 1	*11
			Dam upstream of River Road (Upstream)	*13
			Upstream Corporate Limits	*17
		Indian River	U.S. Route 1	*11
			Dam upstream of Glenwood Road (Downstream)	*22
			Dam upstream of Glenwood Road (Upstream)	*27
			Farm Road (Upstream)	*37
			0.26 Mile upstream of Hurd Bridge Road	*45
Maps available at the Town Hall, Clinton, Connecticut.				
Send comments to Honorable Daniel Vace, Jr., Mayor of Clinton, Town Hall, 52 East Main Street, Clinton, Connecticut 06413.				
Connecticut	Stonington, Town, New London County	Whitford Brook	Confluence with Mystic river	*12
			Upstream of Latern Hill Road	*14
			Downstream of State Route 184	*15
			Upstream of State Route 184	*22
			Upstream of Hyde Pond Dam	*25
		Copps Brook	Confluence with Quianabog Cove	*12
			Upstream of Mistuxet Avenue	*25
			Upstream of Jerry Browne Road	*26

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Hillsborough County, unincorporated areas.	Stony Brook	Upstream of Mystic Reservoir Dam	*45
			Downstream of Interstate Route 95 (N.B.)	*46
			Upstream of Interstate Route 95 (S.B.)	*47
			Confluence with Stonington Harbor	*12
			Upstream of Private Road approximately 1,400 feet upstream of Flanders Road	*26
			3,050 feet upstream of Flanders Road	*29
			3,320 feet upstream of Flanders Road	*43
			Downstream of Silvias Pond Dam	*70
			Upstream of Silvias Pond Dam	*81
			Upstream of Private Road approximately 2,400 feet upstream of Silvias Pond Dam	*83
		Anguilla Brook	Downstream of Pequot Trail	*86
			Upstream of Pequot Trail	*92
			Confluence with Wequetequock cove	*12
			Upstream of Green Haven Road	*13
			Upstream of Wequetequock Pond Dam	*15
			Downstream of U.S. Route 1	*19
			Upstream of U.S. Route 1	*24
			Upstream of Dam approximately 1,000 feet upstream of U.S. Route 1	*26
			Upstream of South Anguilla Road	*41
			Upstream of Pequot Trail	*43
		Paucatuck River	Upstream of Old Pequot Trail No. 2	*44
			Downstream of Interstate Route 95 (N.B.)	*49
			Upstream of Interstate Route 95 (S.B.)	*51
			3,000 feet upstream of Interstate Route 95 (S.B.)	*61
			Confluence with Wheeler Brook	*77
			Upstream of State Route 78	*15
			Upstream of White Rock Road	*16
			Confluence of Spillway Bypass	*18
			Spillway Bypass	*23
			Upstream Corporate Limits	*23
		Fishers Island Sound	Entire Shoreline	*12
		Alafia River	Intersection of river and center of Bell Shoals Road	*24
			Intersection of river and center of State Route 640	*31
			Intersection of river and center of State Route 640	*48
			Intersection of river and center of State Route 676	*54
			Intersection of creek and center of State Route 676	*19
			50 feet upstream from center of State Route 674	*12
			Intersection of creek and center of Seaboard Coast Line	*15
			Intersection of creek and center of Symmes Road	*19
			Intersection of river and center of 56th Street	*23
			Intersection of river and center of U.S. Route 301	*50
		Hillsborough River	100 feet upstream from center of U.S. Route 301	*22
			Intersection of river and center of Carlton Lake Road	*46
			Intersection of river and center of unnamed road 9,100 feet upstream of mouth	*60
			100 feet upstream from center of Balm Road	*14
			Intersection of creek and center of Boyette Road	*21
			Intersection of creek and center of State Route 581	*35
			Intersection of State Routes 580 and 589	*10
			Intersection of Bayshore Road (State Route 45, U.S. Route 41) and Big Bend Road (State Route 672)	*11
			Intersection of Shell Point Road State Route 870 and U.S. Route 41 (State Route 45)	*10
			Intersection of river and center of 40th Street	*23
Louisiana	City of Lafayette, Lafayette Parish	Coulee Mine	Intersection of John F. Kennedy Boulevard and Hoover Boulevard	*10
			Intersection of Bayshore Boulevard and Interbay Boulevard	*11
			Intersection of Frank Adamo Drive (State Route 60) and 50th Street (U.S. 41)	*11
		Lateral No. 1	Just upstream of West Bayou Parkway	*17
			Just downstream of West Congress Street	*26
			Just upstream of Erastie Landry Road	*31
			Just downstream of Dulles Boulevard	*36
			Just downstream of U.S. Highway 90	*36
			Just upstream of Johnson Street	*22
			Just upstream of Jeanne Street	*33
			Just upstream of Cameron Street	*36
			Just downstream of N. University Ave	*39
			Just upstream of N. University Ave	*42
Louisiana	City of Lafayette, Lafayette Parish	Coulee Mine	Just upstream of University Ave	*29
			Just upstream of West Congress Street	*31
			At Dawn Street	*31
			Just downstream of Surrey Street	*34
			Just upstream of Center Street	*37
			Just downstream of Southern Pacific Railroad	*40
			Just upstream of Johnston Street	*28

Maps available City Hall, City Hall Plaza, Tampa, Florida.
Send comments to Honorable Bob Martinez, Mayor, City of Tampa, City Hall, City Hall Plaza, Tampa, Florida 33602.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
		Vermilion River	Intersection of Drive and Wayside Drive.....	*29	
			Just downstream of Lionel Drive.....	*30	
			At New Flanders Highway.....	*15	
			At Pinhook Street.....	*16	
			At U.S. Highway 90.....	*16	
			Just downstream of Interstate 10.....	*17	
			Just downstream of Interstate 10.....	*17	
			At Eastern downstream crossing of South College Road.....	*16	
Maps available at the Planning Commission Office, City Hall, 733 Jefferson, Lafayette, Louisiana 70502.					
Send comments to Mayor Kenneth F. Bowen, P.O. Box 1470-C, Lafayette, Louisiana 70502.					
Maine	Presque Isle, City, Aroostook County.	Aroostook River	Confluence of Hardwood Brook.....	*409	
			Confluence of Richardson Brook.....	*411	
			Confluence of Birch Brook.....	*414	
			About 2.8 miles upstream of Birch Brook.....	*420	
			Bangor and Aroostook Railroad.....	*426	
			Upstream Caribou Road.....	*428	
			Upstream Corporate Limits.....	*434	
			Upstream Aroostook Valley Railroad.....	*428	
			Upstream Park Street.....	*431	
			Downstream of State Street Bldge and Dam.....	*433	
		Presque Isle Stream	Upstream of State Street Bridge and Dam.....	*436	
			3,550 feet upstream of Bangor and Aroostook Railroad.....	*437	
Maps available at the City Hall, Presque Isle, Maine.					
Send comments to Mr. Dana Connors, City Manager of Presque Isle, City Hall, Presque Isle, Maine 04769.					
Maine	Washburn Town, Aroostook County.	Aroostook River	Downstream Corporate Limits.....	*436	
			Upstream Aroostook Valley R.R.....	*438	
			Confluence of Kennard Brook.....	*445	
			Upstream Bangor and Aroostook R.R.....	*452	
			Upstream Corporate Limits.....	*455	
			Upstream Garner Creek Road.....	*456	
			Upstream Bidge Street.....	*480	
			Upstream Bangor and Aroostook Spur Dam.....	*499	
			Confluence of Deadwater Brook.....	*524	
			Upstream Woodland Road.....	*541	
		Salmon Brook	5,000 feet upstream of Woodland Road.....	*569	
			600 Feet Downstream of Corporate Limits.....	*584	
Maps available at the Office of the Town Selectmen, Town Hall, Washburn, Maine.					
Send comments to Mr. Sheldon Richardson, Town Manager of Washburn, Town Hall, Washburn, Maine 04786.					
Maine	Winthrop, Kennebec County.....	Cobbesseecontee Lake	Shoreline.....	*170	
			Little Cobbesseecontee Lake.....	*170	
			Lake Annabessacook.....	*173	
			Maranacook Lake.....	*215	
			Upper Narrows Pond.....	*177	
			Lower Narrows Pond.....	*177	
			Wilson Pond.....	*245	
			Dexter Pond.....	*245	
			Berry Pond.....	*245	
Maps available at Codes Enforcement Office, Town Office, Winthrop, Maine.					
Send comments to Mr. James W. Catlin, Codes Enforcement Officer, Town of Winthrop, Town Office, Winthrop, Maine 04364.					
Montana	Missoula, City, Missoula County...	Clark Fork River	Crossing of Russell Street over channel.....	*3,166	
			Northwest corner of intersection of U.S. Highway 12 and 93 and South 3rd Street.....	*3,179	
			Intersection of Madison Street and Burlington Northern Railroad.....	*3,185	
			East side of intersection of Pattee Canyon Road and Southwest Higgins Avenue.....	*3,223	
			Southernmost intersection of Pattee Canyon Road and Hillcrest.....	*3,314	
			Crossing of East Front Street over channel.....	*3,188	
			Private Road crossing in northeastern corner of community.....	*3,260	
			Westernmost corner of community approximately 3,000 feet west of intersection of Fort Road and Post Siding Road.....	*3,123	
			Southern edge of southern I-90 ramp approximately 700 feet south-east from crossing of I-90 over channel.....	#1	
			100 feet northeast of intersection of Russell Street and 39th Street.....	#1	
		Pattee Creek	Intersection of Spartan and Stephens.....	#1	
			South side of Whitaker Street from Crestline to Pinetridge.....	#1	
			Westernmost intersection of Arlington and Cyprus.....	#1	
			300 feet south of intersection of 39th Street and Reserve Street.....	#1	
			South side of U.S. Highway 12 and 93 approximately 500 feet south-west from its intersection with Dore Lane.....	#1	
			Bancraft Road between Benton and Livingston.....	#2	
			100 feet south of intersection of Russell Street and 39th Street.....	#2	
			Southern side of Southwest Higgins Avenue between Northview and Stephens.....	#2	
			750 feet south of intersection of 39th and Reserve Street.....	#2	
			Old Childrens Fishpond.....	#3	
Maps available at the office of the Building Inspector, City Hall, 201 West Spruce Street, Missoula, Montana 59801.					
Send comments to Honorable Bill Cregg, Mayor, City of Missoula, City Hall, 201 West Spruce Street, Missoula, Montana 59801.					

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)						
New Hampshire	Brentwood, Town, Rockingham County.	Exeter River	Confluence of Little River	*69						
			Downstream of Haigh Road	*72						
			Upstream of Haigh Road	*76						
			7,500 feet upstream of Haigh Road	*78						
			Phillips Dam	*133						
			Upstream of State Route 107	*135						
			Maps available at the Town Hall.							
			Send comments to Mr. William Vahey and Mr. Bruce Stevens, Selectmen of the Town of Brentwood, Town Hall, Route 111A, Brentwood, New Hampshire 03833.							
			North Dakota	Harwood City, Cass County	Red River of the North	The entire incorporated area of the City of Harwood	*691			
						Maps available at the home of the City Auditor, Box H8, Harwood, North Dakota.				
Send comments to Honorable Milo Haugen, Mayor, City of Harwood, Harwood, North Dakota. Attn: Marjorie Fee, City Auditor.										
Oklahoma	City of Anadarko, Caddo County	Washita River				Just upstream of U.S. Hwy 28	*1,176			
						Tributary 1	Just downstream of Central Avenue	*1,186		
							Approximately 150 feet downstream of U.S. Hwy 62	*1,176		
						Maps available at City Hall, 501 W. Virginia Street, Anadarko, Oklahoma 73005.				
						Send comments to Mayor Clark McCaskill or Mr. Royce Hunter, City Manager, City Hall, 501 W. Virginia Street, Anadarko, Oklahoma 73005.				
						Oklahoma	Town of Jones, Oklahoma County	North Canadian River	Just upstream of N.E. 78th Street	*1,103
									Just upstream of Hiwassee Road	*1,117
			Approximately 90 feet downstream of N.E. 78th Street	*1,113						
			Just upstream of N.E. 78th Street	*1,127						
			Approximately 130 feet downstream of N.E. 78th Street	*1,127						
Just downstream of N.E. 63rd Street	*1,151									
Just downstream of St. Louis and San Francisco Railroad	*1,109									
Approximately 100 feet upstream of Hiwassee Road	*1,166									
Just upstream of N.E. 93rd Street	*1,118									
Just upstream of St. Louis and San Francisco Railroad	*1,125									
		North Canadian Tributary 8X	Approximately 100 feet upstream of St. Louis and San Francisco Railroad	*1,153						
			Approximately 125 feet upstream of N.E. 93rd Street	*1,154						
			Approximately 100 feet upstream of N.E. 108th Street	*1,132						
			Maps available at City Hall, 110 East Main, Jones, Oklahoma 73049.							
			Send comments to Mayor Joe Burkhart or Mr. S. O. Gillespie, Chief Planning Commissioner, City Hall, 110 East Main, Jones, Oklahoma 73049.							
			Oklahoma	City of Pauls Valley, Garvin County.	Washita River	Just downstream of State Highway 19	*673			
						Just downstream of Highway 77	*680			
						Just downstream of The Gulf, Colorado and Santa Fe Railroad	*660			
						Just downstream of U.S. Highway 77 (Chickasaw Avenue)	*673			
						Just upstream of County Road	*682			
Intersection of U.S. Highway 77 (Chickasaw Street) and Garvin Avenue.	*671									
Maps available at City Hall, 220 W. Paul Street, Pauls Valley, Oklahoma 73075.										
Send Comments to Mayor Howard Bosworth or Mr. Gary Morris, City Planner, City Hall, 220 W. Paul Street, Pauls Valley, Oklahoma 73075.										
Oklahoma	Town of Valley Brook, Oklahoma County	Crooked Oak, Creek				Just upstream of S.E. 59th Street	*1,236			
						Maps available at City Hall, 6315 Camille Avenue, Valley Brook, Oklahoma 73149.				
			Send comments to Mayor Joe R. Mance, City Hall, 6315 Camille Avenue, Valley Brook, Oklahoma 73149.							
			Pennsylvania	Arnold City, Westmoreland County.	Allegheny River	Downstream Corporate Limits	*754			
						Upstream Corporate Limits	*755			
						Maps available at City Hall, 1829 5th Avenue, Arnold, Pennsylvania.				
						Send comments to Honorable William Demao, Mayor of Arnold City Hall, 1829 5th Avenue, Arnold, Pennsylvania 15068.				
						Pennsylvania	Ligonier, Borough, Westmoreland County.	Loyalhanna Creek	Approximately 1,800 downstream of S.R. 711	*1,146
									Approximately 1,100' downstream of S.R. 711	*1,147
									T-950 (West Main Street) upstream	*1,146
West Vincent Street upstream	*1,149									
Approximately 350' upstream of Abandoned R.R. at Corporate Limits	*1,153									
Maps available at the Borough Building, 120 East Main Street, Ligonier, Pennsylvania.										
Send comments to Mr. Robert Carnahan, Chairman of the Board of Supervisors of Ligonier, 120 East Main Street, Ligonier, Pennsylvania 15658.										
Pennsylvania	South Park, Township, Allegheny County.	Peters Creek	Approximately 1,700 feet downstream of Norfolk & Western Railway	*820						
			Approximately 650 feet upstream of Norfolk & Western Railway	*825						
			Approximately 170 feet downstream of Snowden Road	*830						
			Approximately 2,000 feet upstream of Snowden Road	*840						
			Approximately 850 feet downstream of Chessie Railroad	*842						
			Approximately 400 feet upstream of Chessie Railroad	*855						

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Lick Run.....	Approximately 650 feet downstream of Norfolk & Western Railway Approximately 100 feet upstream of Norfolk and Western Railway..... Approximately 1,100 feet upstream of Norfolk & Western Railway..... Approximately 1,900 feet upstream of Norfolk & Western Railway..... Approximately 2,800 feet upstream of Norfolk & Western Railway..... Approximately 2,200 feet downstream of Snowden Road..... Approximately 900 feet downstream of Snowden Road..... Approximately 1,100 feet upstream of Snowden Road..... Approximately 450 feet downstream of Wallace Road..... Approximately 520 feet upstream of Wallace Road..... Approximately 180 feet downstream of Private Road to U.S. Bureau of Mines..... Approximately 100 feet downstream of McElheny Road..... Approximately 1,200 feet upstream of McElheny Road..... Approximately 1,150 feet downstream of Wilson Road..... Approximately 80 feet downstream of Wilson Road..... Cochrans Mill Road (Downstream Side)..... Approximately 700 feet downstream of Hough Drive..... Approximately 1,250 feet upstream of Hough Drive..... Curry Hollow Road (Downstream Side)..... Curry Hollow Road (Upstream Side)..... Approximately 600 feet upstream of Curry Hollow Road.....	*822 *831 *839 *847 *857 *867 *875 *885 *895 *904 *912 *922 *930 *940 *949 *958 *978 *985 *992 *993
Maps available at the South Park Township Building. Send comments to Mr. Robert C. Bryer, South Park Township Manager, 2675 Brownsville Road, Library, Pennsylvania 15129.				
West Virginia.....	Wheeling, City, Ohio County.....	Ohio River.....	Downstream Corporate Limits..... U.S. Route 40..... Confluence of Glens Run..... Upstream Corporate Limits..... Confluence with Ohio River..... Washington Avenue (Upstream side)..... State Route 88 (Upstream side)..... Upstream Corporate Limits..... Little Wheeling Creek..... Confluence with Wheeling Creek..... Shilling Street Bridge (Upstream side)..... Upstream Corporate Limits.....	*657 *659 *661 *662 *669 *687 *687 *706 *685 *690 *692 *702
Maps available at the City Engineer's Office, Wheeling, West Virginia. Send comments to Mr. Jack C. Maloney, City Manager, City and County Building, 1500 Chapline Street, Wheeling, West Virginia 26003.				
Vermont.....	Montgomery, Town, Franklin County.....	Trout River.....	Confluence with West Hill Brook..... Downstream State Route 118..... Approximately 150 feet upstream of State Route 118 Bridge..... Downstream of covered bridge (Town Highway No. 42)..... Upstream of covered bridge..... Approximately 2,400 feet downstream of Vincent Bridge..... Vincent Bridge..... Approximately 2,250 feet upstream of Vincent Bridge..... Approximately 4,850 feet upstream of Vincent Bridge..... Approximately 3,400 feet downstream of confluence with South Branch Trout River..... Approximately 2,600 feet downstream of confluence with South Branch Trout River..... Approximately 400 feet downstream of confluence with South Branch Trout River..... Approximately 550 feet downstream of State Route 118 Bridge..... Downstream of State Route 118 Bridge..... Upstream of State Route 118 Bridge..... Approximately 280 feet upstream of State Route 118 Bridge..... Black Falls Brook..... Approximately 160 feet upstream of confluence with Trout River..... Approximately 820 feet upstream of confluence with Trout River..... Downstream Covered Bridge..... Approximately 50 feet upstream of Covered Bridge..... Approximately 140 feet upstream of Covered Bridge.....	*464 *465 *470 *470 *475 *480 *482 *484 *488 *497 *500 *516 *524 *526 *528 *532 *466 *475 *497 *500 *526
Maps available at the Town Office, Route 118, Montgomery Center, Vermont. Send comments to Mr. Merrill Cabana, Chairman of the Board of Selectmen of Montgomery, R.F.D. 1, Richford, Vermont 05478.				
Rhode Island.....	Little Compton, Town, Newport County.....	Rhode Island Sound.....	Entire Shoreline of the Town of Little Compton.....	*12
Maps available at the office of the Town Clerk. Send comments to Ms. Jane Cabot, President of the Town Council, Town Hall, Little Compton, Rhode Island 02837.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: December 6, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-39214 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 4, 26, 35, 78, 97, 109, 167, 185, and 196

[CGD 76-170]

Casualty Reporting Requirements; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to Supplemental Notice of Proposed Rulemaking.

SUMMARY: This document corrects a supplemental notice of proposed rulemaking published in the Federal Register of December 3, 1979 which proposes amendments to certain criteria in the casualty reporting regulations. The supplemental notice, as published is confusing as to the intent of the revision contained in paragraph 4 on page 69310 and incorrectly states the comment period date on page 69308.

DATE: The correct date that comments must be received on or before is February 1, 1980.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/TP24) (CGD 76-170), U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/TP24), Room 2418, Department of Transportation, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: CDR H. T. BLOMQUIST, Office of Merchant Marine Safety (G-MM/TP24), Room 2407, Department of Transportation, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1455.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-39085 appearing at page 69308 in the Federal Register of December 3, 1979, the date that comments must be received on or before should be changed from March 3, 1980 to February 1, 1980. In addition, the document contains confusing information as to which paragraphs, within the various sections listed are being amended. In order to clarify what is intended, paragraph 4 in column 2 of Federal Register page 69310 is corrected to read as follows:

4. By revising the following paragraphs in Title 46 to read exactly the same as the proposed revision to § 4.05-1: § 35.15-1(a), § 78.07-1(a), § 98.07-1(a), § 109.411(a), § 187.65-65(a), § 185.15-1, § 196.07-1(a).

(Sec. 10, 18 Stat. 128 (33 U.S.C. 361); R.S. 4450, as amended (46 U.S.C. 239); R.S. 462, as

amended (46 U.S.C. 416); sec. 17, 54 Stat. 16 (46 U.S.C. 526p); sec. 6(b)(1) 80 Stat. 938 (46 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Dated: December 12, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-39231 Filed 12-21-79; 8:45 am]

BILLING CODE 4910-14-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1100 and 1104

[Ex Parte MC82 (Sub-3)]

New Procedures In Motor Carrier Revenue Proceedings (Notice Period and Protest Rules for Motor Carrier General Rate Increase Proposals)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission proposes to modify the protest and reply periods in motor carrier general rate increase proposals subject to the so-called "MC-82" rules (49 CFR Part 1104). The proposed rules would advance the "due date" for protests by 7 days and replies by 13 days. This modification would enable the Commission to have before it all evidence 13 days earlier and act sooner than presently possible.

DATES: Comments must be filed by January 25, 1980.

ADDRESSES: An original and 15 copies, if possible, of your views, marked Docket No. 37133, should be forwarded to: Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder, Phone: 202-275-7693.

SUPPLEMENTAL INFORMATION: The Traffic Committee of the Society of the Plastics Industry, Inc. (SPI or petitioner), petitioned on February 6, 1979 for a rulemaking to amend 49 CFR 1100.40, 1100.200, and 1104.1 governing the notice period on general rate increase proposals subject to the so-called "MC-82" rules (49 CFR Part 1104). Its goal is more advance notice of Commission decisions. The National Traffic League (NITL) had also made a similar request informally by letter of June 23, 1978. On June 25 and June 29, 1979, The American Paper Institute, Inc., (API), and The Traffic Committee of the Glass Packing Institute (GPI), filed statements in support of the petition.

SPI contends that the Commission

¹ Formerly docketed as No. 37133

generally decides on the merits of revenue increase proposals only one or two days prior to their effective date. SPI argues that, as a result, shippers lack sufficient lead time to change their computerized cost schedules. Such a brief notice period, petitioner further contends, causes confusion as to the proper transportation charges.

Petitioner proposes that when a rate bureau files a general increase traiff to be effective in 45 days, protests should be due 20 days before the effective date (no change from the present "MC-82" requirement), replies should be due 5 (instead of 13) days after the protest date, and a decision due 4 days after the reply date. Shippers would then have 11 days' lead-time between a Commission decision and the rate increase.

SPI also suggests that a petition for reconsideration should be due within 2 days of the decision, and its disposition within 2 more days (7 days before the effective date). Petitioner requests that if the Commission or proponent carriers require more time, then the Commission should extend the subsequent notice period commensurately.

API and GPI support the proposed rulemaking. API argues that insufficient notice makes it difficult for shippers, whether manually or by computer, to incorporate the increased rates into their operations. As a result, API contends, shippers must either amend their invoices or absorb the increased transportation charges.

NITL suggests that the Commission commit itself to acting on motor carrier general increases at least five days before their effective date. It also requests three-days' notice when the Commission suspends the proposed increase without prejudice to the implementation of some lesser increase.

We are by this decision instituting a rulemaking with a view toward adopting a revised timetable governing the handling of motor carrier general increase requests. We recognize that shippers need more notice of decisions on general increase proposals and we here propose to consider whatever action is possible to accomplish this.

The Commission has not, at this time, determined if the four day period for decision is sufficient, but we hope to develop procedures to guarantee that our decisions will be issued five days before the effective date of changed rates. We here seek comments on all the proposals to reduce the time for filing replies and petitions, and seek other suggestions to resolve this problem.

Pending completion of this rulemaking we will make every effort to act further in advance of the effective date of proposed general rate increases in order to give parties as much notice as possible.

This rulemaking does not significantly affect either the quality of the human environment or conservation of energy resources.

This notice is promulgated pursuant to authority under 49 U.S.C. 10321, and 5 U.S.C. 553.

Dated: December 14, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gersham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39351 Filed 12-21-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1125

[Ex Parte No. 293 (Sub-2)]

Standards for Determining Rail Service; Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Corrections to the withdrawal of proposed rulemaking.

SUMMARY: There was an error in the title of Ex Parte No. 293 Sub-2, published at 44 FR 71851, Dec. 12, 1979. The title should have read Part 1125, not Part 1127. The telephone Number given for James R. Wells was also incorrect and should have read (202) 275-0838.

EFFECTIVE DATE: December 7, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Wells, (202) 275-0838.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39244 Filed 12-21-79; 8:45 pm]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 44, No. 248

Wednesday, December 26, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Stamp Program; Policy Interpretation Response System

SUMMARY: This notice advises the public of revisions in the policy interpretation system established by the Food and Nutrition Service (FNS) to assist State agencies in implementing the Food Stamp Act of 1977.

COMMENTS AND SUGGESTIONS: In keeping with our desire to promote the goals of Executive Order 12044, Improving Government Regulations, FNS National Office will consider comments and suggestions on the adequacy of these procedures until February 25, 1980. We are particularly interested in knowing whether these procedures will result in policy interpretations being made on a timely basis and whether the public will be sufficiently aware of these interpretations. FNS may make changes in these procedures after reviewing the public comment.

DATE: Comments must be received on or before February 25, 1980, in order to be assured of consideration.

ADDRESS: Comments on these procedures should be addressed to Byron A. Smith, Director, State Operations Division, Family Nutrition Programs, Washington, DC 20250. All written comments, suggestions, and observations will be open to public inspection at the office of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street SW., Washington, DC, Room 673.

FOR FURTHER INFORMATION CONTACT: Patrick Waldron, Chief, Policy Section, Program Policy and Analysis Branch, State Operations Division, Family Nutrition Programs, Food and Nutrition

Service, Washington, DC 20250 202-447-9523.

SUPPLEMENTARY INFORMATION:

Background

In September of 1978, as FNS moved toward publication of final regulations governing the implementation of the Food Stamp Act of 1977 (the Act), it was recognized that State agencies were likely to have many questions which might not be explicitly covered in the regulations. To ensure timely and consistent implementation of the Act, a central system for quick responses to questions from State agencies was, therefore, established. Under this system, State agency inquiries were submitted through FNS Regional Offices to the FNS National Office. Responses to inquiries were numbered and provided to all FNS Regional Offices, which in turn, provided copies of these responses to State agencies and advocacy groups. This notice advises the public of changes made in the policy interpretation response system intended to improve efficiency and ensure that interested parties are informed of policy interpretation actions by FNS.

New Policy Interpretation System

Effective immediately, all policy interpretation inquiries submitted by FNS Regional Offices will be screened according to the four categories listed below. The procedures for determining the categories and handling the inquiries were developed in consultation with the Department's Office of General Counsel. The four categories are:

1. Inquiries that require rulemaking;
2. Inquiries that embody interpretation of the Act or regulations, or statements of policy of major importance and general applicability;
3. Inquiries that embody interpretations or clarifications of the Act or regulations of a limited nature, or dealing with particular factual situations which are common to a group of households; and
4. Inquiries that can be answered by direct reference to the Act or regulations or refer to the application of the regulations to the factual circumstances of a particular household.

FNS Regional Offices will screen inquiries from State agencies and other sources in accordance with the four categories listed above. Answers falling into category four may be answered by

the Regional Office. Inquiries falling into categories one through three shall be forwarded to the FNS National Office for a response.

When FNS National Office receives an inquiry that requires a regulation to resolve the issue, no answer to the question will be provided until the rulemaking process has been observed. For instance, an inquiry might bring to light a procedural defect, an area where no procedure exists to handle a situation, or an unintended result of an existing procedure that needs correction.

Answers to questions embodying interpretations of the Act or regulations, or statements of policy of major importance and general applicability will be issued as notices of general applicability and will be published in the Federal Register on a periodic basis. As with questions which require rulemaking, no answer will be provided until the notice is printed in the Federal Register. Unless otherwise specified, each notice will become effective 60 days from its date of publication. These interpretations will be numbered sequentially by fiscal year and updated periodically to delete obsolete material. It is anticipated that the amount of material of this type will not be large. An example of the type of material that might be issued as a notice would include an interpretation concerning the effect of participation in a newly-established State or Federal Program on food stamp participants or a clarification of an apparently widely misunderstood policy that affects many participants.

Responses to questions embodying interpretations or clarifications of the Act or regulations of a limited nature, or dealing with particular factual situations which are common to a group of households (as opposed to applying policy to the factual circumstances of a single household) will be binding on State agencies but will not be published in the Federal Register. Copies of each such response will be sent by the FNS National Office to each FNS Regional Office which will in turn provide each of the State agencies within its area with a copy.

In addition, these responses will be numbered sequentially by fiscal year and included quarterly in the FNS Index of Records available to the public. This Index is prepared in accordance with the Freedom of Information Act. Free

copies of the current Index and copies of specific policy interpretations may be obtained by writing or visiting the FNS offices listed in 7 CFR 271.6(b).

Responses to questions that can be answered by direct reference to the Act or regulations need not be indexed nor published and will require no general distribution. In addition, advice given to a FNS Regional Office on how the Act or regulations apply to the unique circumstances of a particular household will not be indexed.

FNS believes the above procedures satisfy the requirements of the Administrative Procedures Act (5 U.S.C. 553) and E.O. 12044 in regard to those policy interpretations that require formal rulemaking, and also ensure that interpretations of general applicability and those that should be binding on all State agencies are available to all interested parties.

Status of Existing Policy Interpretation Memoranda

The FNS National Office has reviewed all existing memoranda generated by the policy interpretation response system initiated in September of 1978. This material has been categorized in accordance with the new policy interpretation system described above. Appendix A lists all issued and nonissued memoranda by control number, subject, regulation reference, date and status.

Category one memoranda are withdrawn and will be reissued as proposed rules in the near future and, if adopted as proposed, will be binding on State agencies. Category two memoranda are withdrawn and are being reissued as notices of general applicability in Appendix B of this Notice.

Category three memoranda have been renumbered sequentially by fiscal year and will also be published in the FNS Index of Records available to the public. Category four memoranda have been dropped from the system, and are not listed in the FNS Index since they merely constitute restatements of the Act or regulations, or provide material of an informational nature only. Appendix A also lists memoranda that are being withdrawn because they were incorrect, duplicative responses or were superseded by subsequent amendments to the regulations.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: December 4, 1979.

Robert Greenstein,

Administrator, Food and Nutrition Service.

Appendix A

The following is a listing of the status of all control numbers issued under the Policy Interpretation Response System during Fiscal Year 1979.

BILLING CODE 3410-30-M

Control Number	Subject/Reg Reference	Date	Status	New Number
1-1	Cross-referencing to obtain additional information 272.1 (c)	11-29-78	Indexed	79-01
1-2	Charging for copies 272.1 (c)	11-17-78	Indexed	79-02
1-3	Bilingual requirements for notices 272.6 (f)	11-17-78	Withdrawn (1)	
1-4	Outreach-informational & noninformational material distinction? 272.6 (f)	11-22-78	Not Indexed	
1-5	Housing for the elderly exempt as institution 273.1 (e)	11-17-78	Indexed	79-03
1-6	Definition of "scheduled" interview 273.2 (e)	1-9-79	Indexed	79-04
1-7	What is alternative information when tax dependency form is not returned 273.5 (d)	12-7-78	Indexed	79-05
1-8	Verification-reliance upon forms 273.2 (f)	11-18-78	Not Indexed	
1-9	Who can complete the ES-511 273.7 (a)	11-17-78	Indexed	79-06
1-10	Standard percentage for fair market value 273.8 (e)	12-1-78	Indexed	79-07

Control Number	Subject/Reg Reference	Date	Status	New Number
1-11	Vacation house 273.8 (e)	11-22-78	Indexed	79-08
1-12	Commingled funds 273.8 (f)	11-17-78	Not Indexed	
1-13	PA dependent care payments 273.9 (c)(5)(iii)	11-17-78	Not Indexed	
1-14	Marked ID cards for elderly feeding programs 273.10 (g)	11-24-78	Not Indexed	
1-15	Counting of loans for self-employed households as resources 273.8 (e)(5)	11-17-78	Indexed	79-09
1-16	Self-employment coupon allotments 273.11 (a)	12-11-78	Withdrawn (2)	
1-17	Addict/alcoholic treatment centers 273.11 (e)	11-17-78	Not Indexed	
1-18	Methods of restoration 273.17	11-24-78	Indexed	79-10
1-19	Waiver of interview for expedited certification? 273.2 (4)(3)(i)	11-17-79	Not Indexed	
1-20	Who decides what material is given household for fair hearing 273.15	11-17-78	Indexed	79-11

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Control Number	Subject/Reg Reference	Date	Status	New Number
1-21	Can consolidated FNS-250 report be submitted? 274.8 (b)	11-17-78	Not Indexed	
1-22	Can a household request a fraud hearing 273.16 (d)	11-17-78	Indexed	79-12
1-23	Restoring benefits to households that move 273.17	11-27-78	Withdrawn (3)	
1-24	Can SA increase December '78 allotment? 273.10 (c)(4)	11-22-78	Not Indexed	
1-25	Waiver on single PA-FS interview--expedited service. 273.2 (1)	11-24-78	Withdrawn (4)	
1-26	Must head of household attend fair hearing? 273.15	11-29-78	Not Indexed	
1-27	Caseload conversion 272.1 (g)	12-27-78	Not Indexed	
1-28	Retrospective benefits 273.10	12-13-78	Indexed	79-13
1-29	Expedited service-mail issuance 273.3 (1)	1-5-79	Not Indexed	
1-30	Questions on certification handbook 273.18	12-15-78	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
1-31	Exclusion of educational allowances for Indian students 271.9 (c)	1-12-79	Not Indexed	
1-32	Cost of doing business for households with roomers & boarders 273.1 (b), 273.11 (b)	1-29-79	Not Indexed	
1-33	Not released			
1-34	Conversion of cases when changes are reported 272.1 (g)	1-29-79	Indexed	79-14
1-35	Obtaining nonfinancial information for conversion 272.1 (g)	1-29-79	Not Indexed	
1-36	VISTA Income 273.9 (c)	3-6-79	Withdrawn (5)	
1-37	Equity value of nonexempt resources (savings bonds) 273.8 (c)	3-12-79	Indexed	79-15
1-38	Identification of single language households thru available data sources 273.4 (c)(6), 273.1 (g)	3-13-79	Indexed	79-16
1-39	Not released			
1-40	Time requirements for processing reported changes in income 273.12 (c)(1)	3-23-79	Indexed	79-17

Control Number	Subject/Reg Reference	Date	Status	New Number
1-41	Administrative fraud hearings 273.1b (d)(c)	1-22-79	Not Indexed	
1-42	Not released			
1-43	Not released			
1-44	Not released			
1-45	Not released			
1-46	Not released			
1-47	Not released			
1-48	Not released			
1-49	Not released			
1-50	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
1-51	Not released			
1-52	Not released			
1-53	80 - never used			
1-54	Not released			
1-55	Not released			
1-56	Not released			
1-57	Not released			
1-58	Not released			
1-59	Not released			
1-60	Not released			

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Control Number	Subject/Reg Reference	Date	Status	New Number
2-27	Fair market value & producing income consistent with that value 273.8 (a)	12-15-78	Indexed	79-38
2-28	Capital gains 273.11 (a)	12-11-78	Not Indexed	
2-29	Personal property & personal effects 273.8 (c)	12-13-78	Indexed	79-39
2-30	Knowingly transferred resources 273.8 (c)	12-15-78	Indexed	79-40
2-31	Not released 273.8 (f)			
2-32	Use of actual utility expenses; verification of utility expenses 273.1 (c)	12-15-78	Not Indexed	
2-33	Commingled funds 273.8 (f)	12-15-78	Indexed	79-41
2-33	Consideration of loan under homestead act 273.8 (f)	12-15-78	Indexed	79-42
2-34	Standard utility in public housing 273.9 (d)	12-15-78	Withdrawn (9)	
2-35	Not released 273.12			

Control Number	Subject/Reg Reference	Date	Status	New Number
2-36	What is "encouraging" household to file 273.2 (c)	12-11-78	Indexed	79-43
2-37	Initial request for verification - in writing? 273.2 (h)	12-7-78	Indexed	79-44
2-38	Request for verification - written or oral? 273.2 (h)	12-15-78	Indexed	79-45
2-39	Written request for verification - timing of 10 days 273.2 (h)	12-11-78	Not Indexed	
2-40	Verification delays by household which out of its control 273.2 (h)(f)	12-15-78	Not Indexed	
2-41	Home visits 273.2 (e)	1-9-79	Not Indexed	
2-42	Delays - interview 273.2 (h)	12-15-78	Indexed	79-46
2-43	Delays in processing 273.2 (h)	12-27-78	Not Indexed	
2-44	SA delaying beyond 60 days 273.2 (f)	1-5-79	Not Indexed	
2-45	Filing incomplete application 273.2 (c)	12-11-78	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
2-46	INS documents - other forms or documents suitable substitutes? 273.2 (f)(1)(ii)	12-13-78	Not Indexed	
2-47	"Conclusive evidence" - definition 273.2 (f)	12-7-78	Indexed	79-47
2-48	Standards/examples of collateral contacts 273.2 (f)	12-11-78	Not Indexed	
2-49	Expedited service for PA - same procedures? 273.2 (f)(2)	12-11-78	Indexed	79-48
2-50	Opportunity to participate 273.2 (f)(1)(i)	12-15-78	Not Indexed	
2-51	Expedited Service - verification of all household members or just applicant? 273.2 (f)	12-15-78	Indexed	79-49
2-52	Expedited Service - delay in reapplying 273.2 (f)(1)(ii)	12-15-78	Not Indexed	
2-53	Certification period 273.10 (f)	12-15-78	Not Indexed	
2-54	Effective date of changes 273.12	12-15-78	Indexed	79-50
2-55	Stolen cash 273.12	12-11-78	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
2-56	Lack of verification and claims 273.12	12-15-78	Indexed	79-51
2-57	Single notice of adverse action 273.12	12-10-78	Not Indexed	
2-58	Right to report changes 273.12	12-15-78	Indexed	79-52
2-59	Meaning of "issued" in an ATP system 273.12	12-11-78	Indexed	79-53
2-60	Reporting changes and over issuances 273.12	12-13-78	Not Indexed	
2-61	Notifying households of effect of a reported change 273.12	12-15-78	Not Indexed	
2-62	Mass change 273.12	1-18-79	Indexed	79-54
2-63	Reporting addition of a member needing to register for work 273.12	12-20-78	Withdrawn (10)	
2-64	Failure to send required notices 273.12	1-5-79	Not Indexed	
2-65	Charging people for information requested from file 273.12	12-15-78	Not Indexed	

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Control Number	Subject/Reg Reference	Date	Status	New Number
2-76	Waiver of full-time training coordinator 272.4 (e)	12-27-78	Not Indexed	
2-77	Complaints received via hotline 272.6 (f)	12-13-78	Not Indexed	
2-78	Hotlines required beyond 6 months 272.6 (f)	12-15-78	Not Indexed	
2-79	Expedited benefits 273.2 (1)	1-5-79	Not Indexed	
2-80	Signature spaces on ID cards 273.10 (g)	12-11-78	Indexed	79-58
2-81	Recording annual ATPs on HR 274.2 (a)	12-14-78	Withdrawn (12)	
2-82	Cash refunds - overpayments 271.1 (e) (old regulations)	12-28-78	Not Indexed	
2-83	Preamble - Implementation of claims & credit procedures 273.17	12-5-78	Withdrawn (11)	
2-84	Providing notice to ineligible of lost benefits 272.1 (g)	1-23-79	Indexed	79-59
2-85	Recovering CTC issuance in mail insurance county 274.3	1-5-79	Withdrawn (14)	

Control Number	Subject/Reg Reference	Date	Status	New Number
2-86	Exemption from disclosure rules for advocacy group 272.1 (c)	12-15-78	Not Indexed	
2-87	Availability of warning letters to public 272.1 (d)	12-2-78	Indexed	79-55
2-88	Resolving ATP's if needed for prosecutions 272.1 (f)	1-5-79	Not Indexed	
2-89	Implementing requirements at county by county level 272.1 (g)	12-28-78	Withdrawn (11)	
2-90	Determining bilingual needs 272.1 (g)	12-15-78	Indexed	79-56
2-91	Leadtime difference for bilingual volunteers versus State agency staff 272.1 (g)	12-15-78	Not Indexed	
2-92	Completion schedule for staffing standards study 272.4 (b)	12-28-78	Not Indexed	
2-93	"Approximately 50 percent" definition 272.4 (c)	1-5-79	Not Indexed	
2-94	Assessing bilingual needs 272.4 (c)	1-5-79	Not Indexed	
2-95	Prohibiting persons from training sessions as participants 272.4 (d)	12-27-78	Indexed	79-57

Control Number	Subject/Reg Reference	Date	Status	New Number
2-96	Fraud collection 273.18 (d)	12-11-78	Indexed	79-67
2-97	Claim for not reporting change within 10 days 273.18	12-15-78	Not Indexed	
2-98	National form on lost benefit registration 273.17	12-11-78	Not Indexed	
2-99	Good cause 273.15	12-13-78	Not Indexed	
2-100	Ability to repay 273.18	12-15-78	Withdrawn (16)	
2-101	PA fair hearing and FS fraud hearing 273.16	1-5-79	Indexed	79-68
2-102	Statute of limitation on claims 273.18	1-5-79	Indexed	79-69
2-103	Documentation of hardship 273.18	12-13-78	Indexed	79-70
2-104	PA recoupment as hardship 273.18	12-15-78	Indexed	79-71
2-105	Concept behind times for one & two tiered systems 273.18	1-5-79	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
2-86	Coded ID cards 273.10	12-15-78	Indexed	79-60
2-87	ID Codes 273.10	12-11-78	Not Indexed	
2-88	Suspension of ATP's still allowed? 274.2 (e)	12-11-78	Withdrawn (15)	
2-89	Expedited service-alcoholic/drug rehabilitation residents? 273.2	12-15-78	Not Indexed	
2-90	Using print-out to satisfy 3 year ATP retention 274.7	12-8-78	Indexed	79-61
2-91	Auditing issuance - can bank's own auditors be used? 274.1	12-13-78	Indexed	79-62
2-92	Client notification by closing out issuer 274.9	12-11-78	Indexed	79-63
2-93	Lost benefits due prior to EPR 273.17	12-15-78	Indexed	79-64
2-94	Responsibility of State agency to pursue collection 273.18	12-15-78	Indexed	79-65
2-95	Off setting claims under \$35.00 273.17	12-13-78	Indexed	79-66

Control Number	Subject/Reg Reference	Date	Status	New Number
2-106	Denial during interview at home; where to hold fair hearing 273.15 (1)	12-27-78	Indexed	79-72
2-107	Verification of lost benefits 273.17	12-28-78	Indexed	79-73
2-108	Fraud claim when household head dies 273.18	1-5-79	Indexed	79-74
2-109	Reviewing determination of ability to repay 273.18	12-15-78	Not Indexed	
2-110	Fair hearings 273.15	12-13-78	Indexed	79-75
2-111	Attendance at agency conference 273.15	12-15-78	Indexed	79-76
2-112	Definition of agency Director 273.15	12-13-78	Indexed	79-77
2-113	Has FNS contacted HEN on combined PA/FS procedures 273.2 (1)	12-13-78	Not Indexed	
2-114	Referral to free legal help in hearings 273.15	12-15-78	Indexed	79-78
2-116	Fair hearing timeliness 273.15	1-30-79	Indexed	79-79

Control Number	Subject/Reg Reference	Date	Status	New Number
2-115	Disqualification 273.16	1-9-79	Not Indexed	
2-116	90 day period for requesting fair hearing 273.15 (g)	12-7-78	Withdrawn (17)	
2-116 (Correct-106)	" 273.15 (g)	1-30-79	Withdrawn (18)	
2-117	Tax dependency status of Puerto Rican students 273.5 (d)	1-12-79	Indexed	79-80
2-118	Defining "responsible member" 273.1 (d)	1-9-79	Indexed	79-81
2-119	Which State agency does licensing 273.1 (c)	12-13-78	Not Indexed	
2-120	Specifics on exemptions under 202 & 236 273.1 (e)	12-15-78	Not Indexed	
2-121	Intent to make profit for boarding houses 273.1 (c)	1-5-79	Indexed	79-82
2-122	Boarding houses not licensed in areas where required 273.1 (c)	12-13-78	Withdrawn (19)	
2-123	Dependent care exemption status 273.7 (f)	12-16-78	Indexed	79-83

Control Number	Subject/Reg Reference	Date	Status	New Number
2-124	Notices to disqualified households 273.13	12-20-78	Not Indexed	
2-125	Not released 273.7			
2-126	Fulfilling notice requirements for transient households 273.3	12-20-78	Indexed	79-84
2-127	"Regular" participation in drug program 273.7 (b)	1-25-79	Not Indexed	
2-128	Not released 273.7 (b)			
2-129	Verification of alien status at recertification 273.2 (f)	12-15-78	Indexed	79-85
2-130	Migrant camps & communal dining 273.1 (a)	12-15-78	Indexed	79-86
2-131	Care homes as institutions 273.1 (c)	12-15-78	Not Indexed	
2-132	Groups of persons living in noncommercial boarding houses 273.1 (b)	12-15-78	Not Indexed	
2-133	Tax dependency - fault for delay in verification 273.2 (c)(1)(4)(f)	12-15-78	Withdrawn (20)	

Control Number	Subject/Reg Reference	Date	Status	New Number
2-134	Self-employment income 273.11 (a)	12-15-78	Not Indexed	
2-135	Work registration & correspondence courses 273.7 (b)	12-4-78	Withdrawn (21)	
2-136	Claim verification 273.18	1-5-79	Indexed	79-87
2-137	Past due bills 273.10 (d)	12-15-78	Indexed	79-88
2-138	Work registration & correspondence courses 273.7 (b)	12-16-78	Indexed	79-89
2-139	Late student funds 273.10 (e)	1-18-79	Indexed	79-90
2-140	Self-employment income 273.11 (a)	12-13-78	Indexed	79-91
2-141	Cost of doing business 273.11 (b)	12-15-78	Indexed	79-92
2-142	Averaging student funds 273.10 (c)	12-15-78	Indexed	79-93
2-143	Reporting changes 273.12	12-27-78	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
2-144	Averaging expenses 273.10 (d)	1-5-79	Indexed	79-94
2-145	Averaging expenses 273.10 (d)	12-15-78	Indexed	79-95
2-146	Drug/alcoholic centers 273.11 (e)	12-11-78	Indexed	79-96
2-147	Handling late educational loan/grant 273.9 (c)	12-15-78	Indexed	79-97
2-148	Requesting continuation of benefits 273.15	1-9-79	Indexed	79-98
2-149	ID cards for non-participants receiving lost benefits 273.10 (g)	12-7-78	Indexed	79-99
2-150	Supplemental benefits 273.10 (e)	12-1-78	Withdrawn (22)	
2-151	Questionable utility costs 273.2 (f)	12-11-78	Indexed	79-100
2-152	Right to report changes under monthly reporting 273.12	11-29-78	Indexed	79-101
2-153	Request fair hearings after 90 days 273.17 (a)	11-29-78	Indexed	79-102

Control Number	Subject/Reg Reference	Date	Status	New Number
2-154	Can advocate sit in on household interview? 273.2 (a)	11-29-78	Indexed	79-103
2-155	Commingled funds 273.8 (f)	12-1-78	Indexed	79-104
2-156	Taft-Hartley Act & work registration 273.7 (i)	12-14-78	Indexed	79-105
2-157	Exemption for care of incapacitated 273.7 (b)	12-1-78	Not Indexed	
2-158	Can a form other than ES-511 be used? 273.7 (a)	12-11-78	Indexed	79-106
2-159	Households that divide 273.12	12-15-78	Indexed	79-107
2-160	Shortening certification period as a result of reported change 273.12	12-13-78	Indexed	79-108
2-161	Income averaging 273.10 (c)	12-1-78	Withdrawn (23)	
2-162	Collecting claims under \$35.00 273.18	12-11-78	Indexed	79-109
2-163	Handling "table boarders" 273.1 (h)	12-10-78	Indexed	79-110

Control Number	Subject/Reg Reference	Date	Status	New Number
2-164	Handling of claim determinations 273.18	1-9-79	Withdrawn (24)	
2-165	Mandatory to have fraud hearings 273.16	1-29-79	Not Indexed	
2-166	VISTA Income 273.9 (c)	2-26-79	Withdrawn (25)	
2-167	Refunds - how to treat when household applies for food stamps 276.11	1-19-79	Not Indexed	
2-168	Replacing allotments 273.11 (f)	1-29-79	Not Indexed	
2-169	Student resources 273.10 (c)	1-23-79	Indexed	79-111
2-170	Biological needs for itinerant offices 272.3 (c)	1-19-79	Not Indexed	
2-171	Supplemental benefits 273.10 (e)	2-6-79	Withdrawn (26)	
2-172	Option to offset 273.18	2-15-79	Indexed	79-112
2-173	Notification of agent closure 273.18	2-22-79	Indexed	79-113

Control Number	Subject/Reg Reference	Date	Status	New Number
2-174	Not released			
2-175	Business charitable contributions are not cost of doing business 273.11 (a)	3-12-77	Indexed	79-114
2-176	Forwarding application 273.2 (c)	3-2-79	Withdrawn (27)	
2-177	Not released			
2-178	Work registration of students 273.7 (b)	3-2-79	Indexed	79-115
2-179	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-1	Halving transitional outreach for early implementation 272.1	10/13/78	Not indexed	
3-2	New basis of issuance tables for January 1979 272.1(g)	10/13/78	Not indexed	
3-3	Implementation checklist for EPR	10/18/78	Not indexed	
3-4	272.1(e) EPR implementation	10/30/78	Not indexed	
3-5	Conversion prior to next recertification 272.1(g)	10/31/78	Indexed	79-116
3-6	How to catch households receiving retroactive benefits in OC universe 273.2(a)	11/3/78	Withdrawn (28)	
3-7	Screening and follow-up applicant 273.2(f)	11/2/78	Not indexed	
3-8	Verification 273.12	11/27/78	Not indexed	
3-9	How to handle installment contract proceeds 233.3(e)(5)	11/3/78	Indexed	79-117
3-10	Penalties on a loan for a down payment on a home 273.0(d)(4)(f)	11/2/78	Indexed	79-118

Control Number	Subject/Reg Reference	Date	Status	New Number
3-10	Loan payment as shelter deduction 273.9(d)	1/18/79	Withdrawn (29)	
3-11	Disqualification if authorized representative committed fraud 273.1(f)	11/14/78	Indexed	79-119
3-12	Not released			
3-13	EPR Implementation - let DNU make change 274.2	11/9/78	Withdrawn (30)	
3-14	Forms - State agency versions approval: FRS forms availability 273.2(h)	11/3/78	Not indexed	
3-15	Converting households whose certification period ends 12/31/78 272.1(g)	11/1/78	Not indexed	
3-16	Forms deviation approval 273.2(d)	11/3/78	Not indexed	
3-17	Advising of free legal help 273.10(e)	11/3/78	Indexed	79-120
3-18	Office of eligibility 273.1(f)	11/24/78	Not indexed	
3-19	Office if grant changes - how does absence of notice affect fair rating?	11/20/78	Not indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-20	Pair hearing timeframes 273.13 273.15	12/25/78	Not indexed	
3-21	Minimum monthly allotment 273.10(e)	12/15/78	Withdrawn (31)	
3-22	Retroactive versus restored benefits 273.2(b)	11/9/79	Indexed	79-121
3-23	Tax dependency of students supported by both spouse and parents 273.5(b)	11/9/79	Indexed	79-122
3-24	After verification reported change proves incorrect 273.12	12/15/78	Indexed	79-123
3-25	Treatment of one-time only expenses 273.10(d)(3)	11/5/79	Not indexed	
3-26	Government disaster payments 273.8(e)	11/29/78	Indexed	79-124
3-27	Restoration of lost benefits 273.17	11/5/79	Indexed	79-125
3-28	Number of disqualifications 273.16	12/7/78	Indexed	79-126
3-29	Evidence to be made available to household 273.15	12/28/78	Indexed	79-127

Control Number	Subject/Reg Reference	Date	Status	New Number
3-30	Definition of fraud 273.16	12/11/78	Indexed	79-128
3-31	Hearing on denial of expedited service 273.15	12/11/78	Indexed	79-129
3-32	Resources of elderly disqualified member 273.11(e)	12/1/78	Indexed	79-130
3-33	Resources of elderly disqualified member 273.11(c)	12/1/78	Indexed	79-131
3-34	Not released			
3-35	Just State initiate fraud hearing when court action planned 273.16	11/27/78	Withdrawn (32)	
3-36	Sending nonfraud demand letters in fraud cases 273.13	11/24/78	Indexed	79-132
3-37	"Reasonable opportunity" to provide verification 273.2(f)	12/1/78	Indexed	79-133
3-38	Effect of regulations on current instructions	12/1/78	Not indexed	
3-39	Showing averaged income on form 273.12	12/1/78	Not indexed	

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Control Number	Subject/Reg Reference	Date	Status	New Number
3-40	Income conversion options 273.10(c)	12/15/79	Indexed	79-134
3-41	Unlicensed boarding houses where licensing is required 273.1(c)	11/24/78	Indexed	79-135
3-42	Exemption for MIN registrants 273.7 (b) (3)	1/18/79	Not indexed	
3-43	Implementing lost benefits	12/1/78	Not indexed	
3-44	Status of household members out of the household 273.1(a)	2/22/79	Withdrawn (33)	
3-45	Single interview - PA (AFDC) 273.1(j)	11/29/78	Not indexed	
3-46	Children away from home for the summer 273.1(a)	11/29/78	Indexed	79-136
3-47	Completing FNS-250 report during conversion 272.1(c)	12/15/78	Not indexed	
3-48	Establishing if person is authorized in household to look at records 272.1(c)(2)	12/29/78	Indexed	79-137
3-49	Fair hearing delays 273.15(c)	1/5/79	Not indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-50	Techniques of training reviews 272.4(e)	12/27/78	Not indexed	
3-51	Prescreening of training material by FNS 272.4(e)	12/28/78	Not indexed	
3-52	Relationships included as tax dependents 273.5(a)	1/18/79	Indexed	79-138
3-53	Not released			
3-54	Verification of incapacitation for dependent care deduction 273.7(b)(4)	2/12/79	Not indexed	
3-55	Must be agency director 273.15	1/5/79	Withdrawn (34)	
3-56	Providing copies of State agency materials free of charge 272.1(d)	1/5/79	Not indexed	
3-57	Meaning of "representative" 273.15	1/5/79	Not indexed	
3-58	"Training" defined 272.4(c)	12/27/78	Not indexed	
3-59	Substituting full-time agency staff development director / 272.4(c)	12/29/78	Indexed	79-139

Control Number	Subject/Reg Reference	Date	Status	New Number
3-60	Cancelled by RO			
3-61	Scheduling reviews of training materials 272.4(c)	12/20/78	Not indexed	
3-62	Guidance to be provided on training procedures 272.4(c)	1/5/79	Not indexed	
3-63	Can State include food stamp training as part of State plan for all programs 272.4(c)	1/5/79	Not indexed	
3-64	Status of property in probate 273.8(c)(3)	2/12/79	Indexed	79-140
3-65	Claime 273.18	3/13/79	Withdrawn (35)	
3-66	Transfer of resources 273.8(1)	2/1/79	Not indexed	
3-67	Not released			
3-68	Standard utility allowance 273.9(d)(5)	1/30/79	Withdrawn (36)	
3-69	Cancelled by "C"			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-70	Cancelled by RO			
3-71	Sanction procedures against States - what policy to come 276	1/23/79	Not indexed	
3-72	Cancelled by RO			
3-73	Cancelled by RO			
3-74	Transaction of ATP by ineligible household 274.2(g)	1/23/79	Withdrawn (37)	
3-75	Cancelled by RO			
3-76	Standard utility allowance 273.8(d)(5)	3/13/79	Not indexed	
3-77	Vehicle used to go to vocational high school 273.3(h)(3)(iii)	1/5/79	Not indexed	
3-78	Appointing authorized representative during certification period 273.3(h)(3)(iii)	12/20/78	Not indexed	
3-79	Designation of authorized representative 273.1(c)	12/15/78	Indexed	79-141

Control Number	Subject/Reg Reference	Date	Status	New Number
3-80	Documenting evidence 273.16	1/23/79	Not indexed	
3-81	Delay in verification and change notices	12/14/79	Not indexed	
3-82	Cancelled by RO			
3-83	Reporting changes prior to approval of application 273.10(b)	1/5/79	Withdrawn (38)	
3-84	Verification of changes at certification 273.2(f)	3/23/79	Indexed	79-142
3-85	Cancelled by RO			
3-86	Restoration to nonparticipants 273.17	12/15/78	Not indexed	
3-87	Cancelled by RO			
3-88	Cancelled by RO			
3-89	Cancelled by RO			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-90	Implementation starting date for conversion	1/12/79	Withdrawn (39)	
3-91	Determining eligibility for lost benefits 272.1(c)	3/5/79	Indexed	79-143
3-92	Claims collections 273.13	12/15/78	Withdrawn (40)	
3-93	Cancelled by RO			
3-94	Define "reasonable" 273.15	1/30/79	Not indexed	
3-95	Verification of disability thru receipt of disability payment 273.7(b)(2)	1/30/79	Not indexed	
3-96	Disqualified member moves 273.11(c)	12/14/78	Indexed	79-144
3-97	Demonstrating inaccessibility of resources 273.8(d)	1/5/79	Not indexed	
3-98	Direct and regular mail issuance in same State?	1/5/79	Indexed	79-145
3-99	Mass change - how to notify DMU? 271.2(c)	2/6/79	Withdrawn (41)	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-100	Cancelled by RO			
3-101	How to handle monthly educational benefits 273.9(b)(2)(iv)	1/5/79	Indexed	79-146
3-102	Reporting changes 273.12(a)(1)	1/5/79	Withdrawn (42)	
3-103	Authorized representatives 273.1(f)	1/18/79	Indexed	79-147
3-104	Initiating disqualification and notice of adverse action 273.16	1/5/79	Not indexed	
3-105	Disqualification for fraud 273.16	12/15/78	Not indexed	
3-106	Fair hearing timeliness 273.15	1/23/79	Withdrawn (43)	
3-107	Cancelled by RO			
3-108	Utility standard in public housing 273.9(d)	12/26/78	Indexed	79-148
3-109	Cancelled by RO			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-110	Not released			
3-111	Handling incomplete application form 273.2	12/27/78	Not indexed	
3-112	Issue of coupons by authorized representative 273.1(f)	1/1/79	Not indexed	
3-113	Florida's conversion proposal 272.1(g)	2/22/79	Not indexed	
3-114	How to handle installment contract if not for sale of land or buildings 273.3(a)(4)	3/23/79	Indexed	79-149
3-115	Time limit on coupon nondelivery reporting 274.3(c)	1/5/79	Withdrawn (44)	
3-116	Not released			
3-117	Not released			
3-118	Volunteers - problem with dis-closure of household information 273.2(f)	1/18/79	Not indexed	
3-119	Cancelled by RO			

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Control Number	Subject/Reg Reference	Date	Status	New Number
3-120	Cancelled by RO			
3-121	Cancelled by RO			
3-122	Cancelled by RO			
3-123	Cancelled by RO			
3-124	Disqualification	1/30/79	Indexed	79-150
3-125	Notification on repaying rights	2/1/79	Indexed	79-151
3-126	Prosecution under old regs.	3/13/79	Indexed	79-152
3-127	Can State agency shorten certification period	2/6/79	Withdrawn (45)	
3-128	Fraud	3/12/79	Not indexed	
3-129	How to handle recipient claims	2/12/79	Withdrawn (46)	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-130	Conversion and eligibility for lost benefits	2/1/79	Indexed	79-153
3-131	Delivery of notices	1/29/79	Indexed	79-154
3-132	Implementation - pending applications from old regs	1/25/79	Not indexed	
3-133	Cancelled by RO			
3-134	Computer issued notice of adverse action	1/13/79	Not indexed	
3-135	Cancelled by RO			
3-136	How to handle sales contract for sale of farm machinery	3/23/79	Not indexed	
3-137	Use of Florida-designed application	3/2/79	Not indexed	
3-138	Not released			
3-139	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-140	Application for food stamps and unemployment compensation at the same time	2/22/79	Not indexed	
3-141	Not released			
3-142	Certification periods	3/12/79	Indexed	79-155
3-143	Retention of claims records at State agency level	3/13/79	Indexed	79-156
3-144	Cancelled by RO			
3-145	Cancelled by RO			
3-146	Section 14 of Act - when regs on administrative review	1/23/79	Withdrawn (47)	
3-147	New application when household head is disqualified	2/12/79	Withdrawn (48)	
3-148	Handling fraud disqualification	3/23/79	Indexed	79-157
3-149	Continuation of benefits when PA reduced	1/30/79	Withdrawn (49)	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-150	Not released			
3-151	Release of information over phone or in writing	2/8/79	Indexed	79-158
3-152	Not released			
3-153	Advance notice of fraud hearing forms	1/1/79	Not indexed	
3-154	Release of addresses to the patent locator service	3/23/79	Not indexed	
3-155	Preamble - can it be referenced in State agency handbooks	2/15/79	Not indexed	
3-156	Congressional phone inquiries	2/22/79	Indexed	79-159
3-157	Vehicle used for subsistence hunting and fishing	3/23/79	Not indexed	
3-158	Service for PA applicants who are PA and should go to NA office	2/22/79	Not indexed	
3-159	PA/FS joint processing?	2/26/79	Indexed	79-160

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Control Number	Subject/Reg Reference	Date	Status	New Number
3-164	Cancelled by RO			
3-165	Cancelled by RO			
3-166	Cancelled by RO			
3-167	Cancelled by RO			
3-168	Not released			
3-169	Start of disqualification for transfer of resources 273.8(f)	3/13/79	Not indexed	
3-170	Not released			
3-171	Not released			
3-172	Cancelled by RO			
3-173	Cancelled by RO			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-153B	Mississippi PA application 273.2(e) and (f)	2/22/79	Not indexed	
3-153C	Not released			
3-153D	Not released			
3-153E	Certification periods 273.10(f)	3/2/79	Not indexed	
3-153F	Reclassification as PA - notification 273.2(f) and (g)	3/13/79	Indexed	79-161
3-159	Handling \$1, \$3, and \$5 supplemental allowances	2/22/79	Withdrawn (50)	
3-160	Treatment of expired ATP cards on the FRS-250 274.8(a)	3/12/79	Indexed	79-162
3-161	Application - signature 273.2	2/22/79	Not indexed	
3-162	Standard utility in public housing 273.9(d)	2/22/79	Indexed	79-163
3-163	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-184	Procedures for signing PA/IA applications 273.2(c)	3/23/79	Withdrawn (52)	
3-185	Not released			
3-186	Not released			
3-187	Returning coupons issued by cashier error 273.18	3/16/79	Not indexed	
3-188	Time limit on replacement allotments	3/16/79	Withdrawn (53)	
3-189	Not released			
3-190	Delay in tax dependency verification 273.2(h)	3/23/79	Not indexed	
3-191	PA and RS certification periods 273.10(f)	3/13/79	Indexed	79-166
3-192	Single notice of adverse action 273.15(f)(4)(i)	3/12/79	Not indexed	
3-193	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-174	Not released			
3-175	Cancelled by RO			
3-176	Retroactive benefits report 273.17	3/12/79	Not indexed	
3-177	Not released			
3-178	Restoring benefits to broken-up households 273.17	3/16/79	Indexed	79-164
3-179	Claims when majority of household cannot be found 273.13	3/13/79	Withdrawn (51)	
3-180	Cancelled by RO			
3-181	Not released			
3-182	FRS-250 report 274.2(a)(5)	3/13/79	Not indexed	
3-183	Status of household when disqualified member leaves before 273.7(i)	3/13/79	Indexed	79-165

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Control Number	Subject/Reg Reference	Date	Status	New Number
3-201	Recertification provisions - how are they applied? 273.4	3-23-79	Not Indexed	
3-202	Not released			
3-203	Allens admitted for work purposes 273.4	3-16-79	Not Indexed	
3-204	Cancelled by RO			
3-205	Notice of Adverse Action to NA house- hold before it becomes PA.	3-23-79	Indexed	79-167
3-206	Not released			
3-207	Not released			
3-208	Not released			
3-209	Not released			
3-210	Separate food stamp households 273.1 (a)	3-23-79	Indexed	79-168

Control Number	Subject/Reg Reference	Date	Status	New Number
3-194	Cancelled by RO			
3-195	Cancelled by RO			
3-196	Cancelled by RO			
3-197	Cancelled by RO			
3-198	Not released			
3-199	Not released			
3-200	Cancelled by RO			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-221	Cancelled by RO			
3-222	Not released			
3-223	Not released			
3-224	Cancelled by RO			
3-225	Not released			
3-226	Not released			
3-227	Not released			
3-228	Not released			
3-229	Not released			
3-230	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-211	Not released			
3-212	Cancelled by RO			
3-213	Exemption for lot if rented by owner 273.8 (c)	3-23-79	Indexed	79-169
3-214	Cancelled by RO			
3-215	Cancelled by RO			
3-216	Cancelled by RO			
3-217	Not released			
3-218	Court ordered payment to third party sent through household 273.9 (c) (1)	3-23-79	Not Indexed	
3-219	Treatment of convicted felon in relat- ion to citizenship requirement 273.4	3-23-79	Indexed	79-170
3-220	How handle retroactive benefits on FNS-256 273.8(a)	3-23-79	Withdrawn (3)	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-231	Not released			
3-232	Individuals who eat with but do not reside with the household 273.1 (a)	3-29-79	Withdrawn (55)	
3-233	Not released			
3-234	Separate household status 273.1 (a)	3-23-79	Indexed	79-171
3-235	Cancelled by RO			
3-236	Not released			
3-237	Not released			
3-238	Not released			
3-239	Not released			
3-240	Verification of loans - noncooperation 273.3 (f) (3)	3-23-79	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-241	Not released			
3-242	Handling deduction for property taxes and insurance	3-29-79	Indexed	79-172
3-243	Not released			
3-244	Not released			
3-245	Verification of coal bills	3-23-79	Not Indexed	
3-246	Not released			
3-247	Cancelled by RO			
3-248	Cancelled by RO			
3-249	Cancelled by RO			
3-250	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-251	Notification of DMV - method for mass change? 274.2	3-23-79	Not Indexed	
3-252	Not released			
3-253	Interruptions of VISTA employment 273.9 (c)(10)(11)	3-23-79	Withdrawn (56)	
3-254	Not released			
3-255	Implied contracts for tenured teachers 273.10 (c) (3) (11)	3-23-79	Indexed	79-173
3-256	Not released			
3-257	Posting of utility standard 272.1 (a) (1) (vi)	3-23-79	Not Indexed	
3-258	Requesting FNS-256 after household moves 273.10	3-23-79	Indexed	79-174
3-259	Not released			
3-260	Continuation of benefits after non-compliance with work requirements 273.7	3-29-79	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
3-261	Not released			
3-262	Not released			
3-263	Cancelled by RO			
3-264	Cancelled by RO			
3-265	Not released			
3-266	Cancelled by RO			
3-267	Cancelled by RO			
3-268	Cancelled by RO			
3-269	Cancelled by RO			
3-270	Cancelled by RO			

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Control Number	Subject/Reg Reference	Date	Status	New Number
3-281	Not released			
3-282	Not released			
3-283	Not released			
3-284	Not released			
3-285	Not released			
3-286	Not released			
3-287	Not released			
3-288	Cancelled by RO			
3-289	Cancelled by RO			
3-290	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-271	Not released			
3-272	Not released			
3-273	Not released			
3-274	Cancelled by RO			
3-275	Cancelled by RO			
3-276	Cancelled by RO			
3-277	Not released			
3-278	Not released			
3-279	Cancelled by RO			
3-280	Cancelled by RO			

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Control Number	Subject/Reg Reference	Date	Status	New Number
3-301	Not released			
3-302	Cancelled by RO			
3-302	Not released			
3-304	Not released			
3-305	Not released			
3-306	Not released			
3-307	Not released			
3-308	Not released			
3-309	Not released			
3-310	Cancelled by RO			

Control Number	Subject/Reg Reference	Date	Status	New Number
3-291	Not released			
3-292	Not released			
3-293	Not released			
3-294	Not released			
3-295	Not released			
3-296	Not released			
3-297	Not released			
3-298	Not released			
3-299	Not released			
3-300	Not released			

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Control Number	Subject/Reg Reference	Date	Status	New Number
4-20	Completing old claims 273.18	12-1-78	Not Indexed	
4-21	Claim on ATP 273.18	11-14-78	Indexed	79-182
4-22	Interviews for PA conversion 273.14	11-14-78	Not Indexed	
4-23	272.1 (g) Illegal strikes and eligibility 273.7 (j)	11-17-78	Indexed	79-183
4-24	Work registration requirements for households certified for less than 6 months 273.7 (a)	11-17-78	Not Indexed	
4-25	Minor as emergency authorized representative 273.1 (f)	11-15-78	Indexed	79-184
4-26	Parental control defined 273.1 (b)	11-24-78	Indexed	79-185
4-27	"Not warranted" seasonal variations in utility standards 273.9 (d)	11-17-78	Indexed	79-186
4-28	Verification of unemployment compensation 273.7 (b)(6)	1-23-79	Not Indexed	
4-29	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
4-10	Hotline use-allowing Minnesota to use recording as hotline 272.6 (f)	11-24-78	Withdrawn (58)	
4-11	Mail loss affidavit-attach to FMS-250? 274.3 (c)	11-8-78	Indexed	79-179
4-12	Not released			
4-13	Must participant have a local level hearing first 273.15	11-15-78	Not Indexed	
4-14	Tracking oral request for hearing 273.15	12-1-78	Indexed	79-180
4-15	Conference on denial of expedited service 273.15	11-17-78	Withdrawn (59)	
4-16	Information free legal representation 273.15	11-15-78	Indexed	79-181
4-17	Review procedures for issuance of fees 274.1 (c)	11-15-78	Withdrawn (60)	
4-18	Claims under \$35.00 273.18	11-15-78	Withdrawn (61)	
4-19	75 Percent reimbursement 273.16	11-14-78	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
4-40	Cancelled by RO			
4-41	Michigan's change notice - unit deviation 273.9 (d) (5)	12-23-78	Not Indexed	
4-42	National guidelines on utility allowance - Development 273.2 (f)	1-15-79	Not Indexed	
4-43	Student verification 273.2 (f)	1-5-79	Not Indexed	
4-44	Vailing coupons late in month - need identify? Procedure? 274.3	3-2-79	Not Indexed	
4-45	Determining need for bilingual service 272.1	3-5-79	Indexed	79-189
4-46	Waiver of daily reconciliation 273.1 (e)	1-15-79	Not Indexed	
4-47	Not released			
4-48	Cancelled by RO			
4-49	Treatment of BEOG grants 273.9 (b)	1-9-79	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
4-30	Instructions on developing outreach plans 272.6 (f)	11-17-78	Withdrawn (62)	
4-31	Boards paying vendor payments 273.1 (b)	11-24-78	Indexed	79-187
4-32	Report of lost benefits 273.17	12-11-78	Not Indexed	
4-33	Converting ATP's for 1-1-79 273.13	12-11-78	Indexed	79-188
4-34	Ending current claim procedures 272.1 (g)	12-7-78	Not Indexed	
4-35	Monthly claim determination report 273.18	12-7-78	Not Indexed	
4-36	When to implement procedures on claims 273.18	12-7-78	Not Indexed	
4-37	Processing changes 273.12	12-27-78	Not Indexed	
4-38	Loss of anticipated benefit check 273.12 (c)	1-9-79	Not Indexed	
4-39	Not released			

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Control Number	Subject/Reg Reference	Date	Status	New Number
4-60	Collateral contact-mad for aligned release 273.2 (f)	2-22-79	Not Indexed	
4-61	Not released			
4-62	Major experience for students 273.7 (i)	2-22-79	Indexed	79-193
4-63	Cost of hearing record 273.13	3-3-79	Withdrawn (67)	
4-64	Not released			
4-65	Not released			
4-66	Not released			
4-67	Consideration of eligibility when applicant filled for subsequent month 273.2 (c)	3-23-79	Not Indexed	
4-68	Not released			
4-69	Reporting claims 273.18	3-13-79	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
4-50	Averaging educational grants 273.10 (c)	1-13-79	Not Indexed	
4-51	Conversion to new regulations 272.1 (g)	2-6-79	Indexed	79-190
4-52	Implementation penelings applications from old regulations 273.1 (a)	2-1-79	Not Indexed	
4-53	Work registration exemption of other workers because one is receiving workmen's compensation 273.1 (b)	3-13-79	Withdrawn (63)	
4-54	Submit mail loss affidavit with FNS-250 274.8(a)(1)	3-13-79	Withdrawn (64)	
4-55	Rounding supplemental allotments and retroactive benefits 274.8(b)	2-8-79	Withdrawn (65)	
4-56	Notification on fraud penalties 273.16	1-25-79	Indexed	79-191
4-57	Base area for bilingual service surveys 273.4 (c)	2-22-79	Withdrawn (66)	
4-58	Pre-screening for destitute households 273.2(1)	2-1-79	Indexed	79-192
4-59	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
4-80	Not released			
4-81	Not released			
4-82	Not released			
4-83	Not released			
4-84	Not released			
4-85	Not released			
4-86	Not released			
4-87	Not released			
4-88	Not released			
4-89	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
4-70	Income averaging 273.10 (c)	3-23-79	Not Indexed	
4-71	Meaning of "able-bodied" parent 273.7 (b)	3-13-79	Indexed	79-194
4-72	Consideration of past bills 273.10 (d)	3-29-79	Not Indexed	
4-73	Form FNS-256 Participation report 274.8 (a) (c)	3-23-79	Not Indexed	
4-74	Form FNS-250 - Handling overages in transfers 274.8 (a) (2)	3-23-79	Not Indexed	
4-75	Not released			
4-76	Effective date of change 273.12	3-23-79	Not Indexed	
4-77	Not released			
4-78	Separate utility standards implementation 273.9 (d) (5)	3-13-79	Indexed	79-195
4-79	12 months plus month of discovery 273.18	5-13-79	Withdrawn (68)	

Control Number	Subject/Reg Reference	Date	Status	New Number
5-41	Fraud investigation for misuse of coupons by participants 273.15 (a)	1-9-79	Not Indexed	
5-42	Requesting replacement allotments 273.11 (f)	1-23-79	Indexed	79-214
5-43	Title XX households & single interview 273.2(j)	1-30-79	Indexed	79-215
5-44	Requesting material to determine if fair hearings needed	2-1-79	Indexed	79-216
5-45	272.1 (c) (2)	2-22-79	Indexed	79-217
5-46	Standard excess shelter table 273.9 (d) (4)	1-18-79	Indexed	79-218
5-47	Dismissing request for fair hearing 273.15	1-23-79	Not Indexed	
5-48	Fair hearing requests 273.15(a) 273.18	2-12-79	Indexed	79-219
5-49	Expedited certification - verification of alien status 273.2(f)	1-30-79	Not Indexed	
5-50	State representative at fair hearing 273.15	2-6-79	Withdrawn (73)	
	Coupons in repayment of claims 273.18			

Control Number	Subject/Reg Reference	Date	Status	New Number
5-31	Submission of forms for approval 273.2 (h)	12-18-78	Not Indexed	
5-32	Forms 273.18	1-1-79	Not Indexed	
5-33	Treatment of liquid resources-self employed households 273.8	1-18-79	Not Indexed	
5-34	Certification periods 273.10 (f)	1-9-79	Indexed	79-209
5-35	HIR system - staggering issuance 274.2(e)	1-5-79	Indexed	79-210
5-36	Application form - scheduling based on tear-off portion 273.2	12-20-78	Not Indexed	
5-37	Preparation of FNS-250 by State agencies - waiver sought 274.8 (a) (2)	1-5-79	Indexed	79-211
5-38	Hearing official 273.15	12-27-78	Indexed	79-212
5-39	Effective date of 75 percent matching for freed investigations 273.16	1-23-79	Not Indexed	
5-40	Handling changes discovered during desk reviews 272.1(c) 273.9(c)	2-22-79	Indexed	79-213

Control Number	Subject/Reg Reference	Date	Status	New Number
6-01	Roomer/Boarder payments are earned income 273.9(a)	12-1-78	Indexed	79-222
6-02	Prepaid Burial Plans 273.8(a)	12-4-78	Indexed	79-223
6-03	Non-Disaster Restoration Funds 273.8(a)	12-1-78	Indexed	79-224
6-04	Prorating Income & Commingling 273.8(e)	12-29-79	Withdrawn (74)	
6-05	Equity value of unlicensed vehicles on Indian reservations 273.8(c)	12-1-78	Indexed	79-225
6-06	Exclusion of monies received under P.L. 94-540 273.8(c)	12-1-78	Indexed	79-226
6-07	Determining value of cars not listed in "Blue Book" 273.8(g)	11-29-78	Indexed	79-227
6-08	Criteria for inaccessible funds 273.8(c)	12-1-78	Indexed	79-228
6-09	Money paid jointly to household & non-household members 273.9(c)	12-13-78	Indexed	79-229
6-10	Title XX Payments	11-24-78	Indexed	79-230

Control Number	Subject/Reg Reference	Date	Status	New Number
5-51	Use of "certified" v "Registered" Mail 274.3 (c)	2-12-78	Not Indexed	
5-52	Replacement of lost/stolen ATP 274.2 (g)	2-22-79	Not Indexed	
5-53	Counting of semiannual clothing allowance from BIA 273.9(h)	2-22-79	Not Indexed	
5-54	Not released			
5-55	Recertification of hh members after determination of eligibility 273.16(b)	3-16-79	Indexed	79-220
5-56	Value of "customized" van 273.8(c)	3-22-79	Indexed	79-221
5-57	Cancelled by RO			
5-58	Not released			
5-59	Not released			

Control Number	Subject/Reg. Reference	Date	Status	New Number
6-21	Self employed income 273.11(a)	11-26-78	Indexed	79-237
6-22	PA redeterminations & food stamp certification periods 273.10(f)	2-1-79	Withdrawn (77)	
6-23	Conversion period beginning date 273.11(g)	12-5-78	Withdrawn (78)	
6-24	Handling "table borders" 273.11(h)	11-24-78	Indexed	79-238
6-25	Sending notices to households after 60 days 273.2(g)	12-11-79	Indexed	79-239
6-26	Sending denial notice after 60 days 273.2(g)	12-7-79	Not Indexed	
6-27	Standard procedure - denying or pending status of case after 30 days 273.2(g)	11-27-78	Indexed	79-240
6-28	Pending verification 273.2(g)	11-24-78	Indexed	79-241
6-29	Delays in verifying hh. eligibility 273.2(g)-(1)	11-24-78	Indexed	79-242
6-30	Pending citizenship verification about if household transfers to another 273.2	1-05-79	Withdrawn (79)	

Control Number	Subject/Reg. Reference	Date	Status	New Number
6-11	Incentive Payments 273.9(b)	11-24-78	Indexed	79-231
6-12	Utility costs of renters 273.9(d)	11-27-78	Indexed	79-232
6-13	Fair market rent of contracts 273.8(e)	12-1-78	Indexed	79-233
6-14	Disqualified member income 273.11(d)	12-7-78	Withdrawn (75)	
6-15	Alcoholic/Drug Treatment 273.11(e)	11-27-78	Withdrawn (76)	
6-16	Want tolerance limit for mail losses to push corrective action 274.3(c)	12-15-78	Not Indexed	
6-17	Boarding house licensing 273.11(c)	11-22-78	Indexed	79-234
6-18	Is a fraud disqualification binding on all States 273.16	12-15-78	Not Indexed	
6-19	Interest on excluded funds 273.8(f)	11-26-78	Indexed	79-235
6-20	Costs of doing business 273.11(g)	11-22-78	Indexed	79-236

Control Number	Subject/Reg. Reference	Date	Status	New Number
6-41	Provision of less than monthly allotment for expedited 273.2(f)	12-28-78	Not Indexed	
6-42	Expedited Service 273.2(f)	12-28-78	Indexed	79-245
6-43	Does participation in action programs exempt one from work registration 273.7(b)	1-5-79	Indexed	79-246
6-44	Bender-need signed release 273.2(f)	2-12-79	Indexed	79-247
6-45	Visa Income 273.9(c)	2-15-79	Withdrawn (85)	
6-46	Vehicle used to go to & from high school 273.5(h)	1-15-79	Withdrawn (86)	
6-47	EMAP Payments 273.9(c)	1-19-79	Not Indexed	
6-48	Reporting Prosecutions 273.16	1-25-79	Not Indexed	
6-49	Single notice of adverse action 273.12	2-1-79	Indexed	79-248
6-50	Not released			

Control Number	Subject/Reg. Reference	Date	Status	New Number
6-31	Reporting acquisition of licensed vehicle 273.12	12-1-78	Indexed	79-243
6-32	Exemption from work registration because one household member has received temporary employment 273.7(c)	12-21-78	Indexed	79-244
6-33	Use of INS-286 273.2	12-11-78	Withdrawn (80)	
6-34	EO never used			
6-35	Required proof for bilingual waivers 272.4(c)	12-1-78	Withdrawn (81)	
6-36	Implementation of eligibility standards, etc. 273.2	12-27-78	Not Indexed	
6-37	Offering retroactive benefits of households with unbroken participation 273.17(f)	12-1-78	Withdrawn (82)	
6-38	Must a participant have a local level hearing first 273.11	1-12-79	Withdrawn (83)	
6-39	Student work registration 273.7(b)	12-7-78	Not Indexed	
6-40	Conversion period beginning date	1-1-79	Not Indexed	

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Control Number	Subject/Reg Reference	Date	Status	New Number
6-51	Handling groups in non-commercial boarding houses 273.1(h)	1-29-79	Not Indexed	
6-52	Repayment of claims with coupons 273.18	1-30-79	Withdrawn (87)	
6-53	Time limitations on certification	1-30-79	Withdrawn (88)	
6-54	Tax dependency status of married students 273.5	2-12-79	Indexed	79-249
6-55	Notices to voluntarily terminated households 273.13	2-6-79	Not Indexed	
6-56	Not released			
6-57	Not released			
6-58	Down payments as shelter costs 273.9	3-5-79	Withdrawn (89)	
6-59	Not released			
6-60	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
6-61	Committing time & suitable employment 273.7(i)	2-26-79	Not Indexed	
6-62	Tax dependency net income when parents live in Alaska or Hawaii and student lives elsewhere 273.5(b)	3-12-79	Indexed	79-250
6-63	Migrants vehicles & long distance travel 273.8(h)	2-22-79	Not Indexed	
6-64	Disqualification for refusing to continue suitable employment 273.7(h)	3-23-79	Not Indexed	
6-65	Student receiving "gifts" of money 273.9(b)	3-2-79	Not Indexed	
6-66	Loans - Repayment schedule 273.2(f)	3-5-79	Indexed	79-251
6-67	Work registration differences between FNS & US 273.7	2-22-79	Not Indexed	
6-68	Not released			
6-69	Eligibility of Aliens 273.4(b)	3-13-79	Not Indexed	
6-70	Uncompensated work as part of training 273.7	3-29-79	Not Indexed	

Control Number	Subject/Reg Reference	Date	Status	New Number
6-71	Calculating net income 273.10	3-12-79	Indexed	79-252
6-72	Utility bills & Public housing 273.12	3-23-79	Not Indexed	
6-73	Recoupment 273.9	3-24-79	Not Indexed	
6-74	Not released			
6-75	Rounding 273.10	3-16-79	Not Indexed	
6-76	Not released			
6-77	Mother with children who is tax dependent student 273.9	3-23-79	Not Indexed	
6-78	Money "disbursed" for non-household member 273.9(c)	3-23-79	Not Indexed	
6-79	Not released			
6-80	Not released			

Control Number	Subject/Reg Reference	Date	Status	New Number
6-81	Not released			
6-82	Not released			
6-83	Not released			
6-84	RO never used			
6-85	Not released			
6-86	Not released			
6-87	Not released			
6-88	Not released			
6-89	Not released			
6-90	Not released			

Control Number	Subject/Ref. Reference	Date	Status	How Number
7-41	Implementation schedule clarified	2-6-79	Indexed	79-267
7-42	Adult foster care	2-13-79	Not Indexed	
7-43	Expedited service at re-certification	3-12-79	Not Indexed	
7-44	Hearing time standards	3-12-79	Indexed	79-268

Footnotes

- (1) 1-3 Superseded by 272.6(b)(8) (11/6/79)
- (2) 1-16 Superseded by 273.11(a)(2) (6/18/79)
- (3) 1-23 Superseded by 273.15(r)(2) (6/8/79)
- (4) 1-25 To be published in Federal Register (F.R.)
- (5) 1-36 Superseded by 273.9(c)(10)(iii) (6/8/79)
- (6) 2-15 Replaced by 2-167
- (7) 2-18 Replaced by 2-18 (correction)
- (8) 2-25 To be published in F. R.
- (9) 2-34 Replaced by 3-108
- (10) 2-63 To be published in F. R.
- (11) 2-69 To be published in F. R.
- (12) 2-81 Incorrect
- (13) 2-83 To be published in F. R.
- (14) 2-85 Incorrect
- (15) 2-88 Replaced by 7-23
- (16) 2-100 Replaced by 7-18
- (17) 2-116 Replaced by 2-114
- (18) 2-116 Replaced by 2-114 (correction)
- (19) 2-122 Replaced by 3-41
- (20) 2-133 Replaced by 3-190
- (21) 2-135 Replaced by 2-138

- (22) 2-150 Superseded by 274.2(h) (6/8/79)
- (23) 2-161 To be published in F. R.
- (24) 2-164 To be published in F. R.
- (25) 2-166 Superseded by 273.9(c)(10)(iii) (6/8/79)
- (26) 2-171 Replaced by 4-55
- (27) 2-176 Superseded by 273.2(c)(2)(ii) (6/8/79)
- (28) 3-6 Superseded by 275.12(b)(1) (8/13/79)
- (29) 3-10 (addendum) Incorrect
- (30) 3-13 Superseded by 272.1(g)(1)(iii) (3/30/79)
- (31) 2-21 Replaced by 5-1
- (32) 3-35 Replaced by 5-23
- (33) 3-44 To be published in F. R.
- (34) 3-55 Replaced by 2-112
- (35) 3-65 To be published in F. R.
- (36) 3-68 Replaced by 2-26
- (37) 3-74 To be published in F. R.
- (38) 3-83 To be published in F. R.
- (39) 3-90 To be published in F. R.
- (40) 3-92 To be published in F. R.
- (41) 3-99 Replaced by 3-351
- (42) 3-102 To be published in F. R.
- (43) 3-106 Replaced by 3-20
- (44) 3-115 Replaced by 4-5
- (45) 3-127 To be published in F. R.
- (46) 3-129 To be published in F. R.
- (47) 3-146 Superseded by 276.6 (6/8/79)
- (48) 3-147 Replaced by 5-55
- (49) 3-149 Incorrect
- (50) 3-159 Superseded by 274.2(h) (6/8/79)
- (51) 3-179 To be published in F. R.
- (52) 3-184 To be published in F. R.
- (53) 3-188 Replaced by 5-42
- (54) 3-220 Replaced by 5-14
- (55) 3-232 Replaced by 2-163
- (56) 3-253 Superseded by 273.9(c)(10)(iii) (6/8/79)
- (57) 4-7 Incorrect
- (58) 4-10 Superseded by 272.6(b)(8)(11/6/79)
- (59) 4-15 To be published in F. R.
- (60) 4-17 Superseded by FNS Handbook 301, Section 9111
- (61) 4-18 Incorrect
- (62) 4-30 Superseded by 272.6(b)(8) (11/6/79)
- (63) 4-53 Replaced by 6-32
- (64) 4-54 Superseded by 274.2(h) (6/8/79)
- (65) 4-55 Superseded by 274.2(h) (6/8/79)
- (66) 4-57 Superseded by 272.4(c)(3)(i) (6/8/79)
- (67) 4-63 Replaced by 2-65
- (68) 4-79 Incorrect
- (69) 5-2 Replaced by 7-23
- (70) 5-12 To be published in F. R.

(71)	5-17	To be published in F. R.	(95)	7-21	To be published in F. R.
(72)	5-18	Replaced by 7-29	(96)	7-24	Replaced by 5-1
(73)	5-50	To be published in F. R.	(97)	7-25	Superseded by 274.2(h) (6/8/79)
(74)	6-4	Superseded by 273.8(f) (6/8/79)	(98)	7-40	Superseded by 272.1(g)(1)(iv)(B) (9-18-79)
(75)	6-14	To be published in F. R.			
(76)	6-15	To be published in F. R.			
(77)	6-22	To be published in F. R.			
(78)	6-23	To be published in F. R.			
(79)	6-30	To be published in F. R.			
(80)	6-33	To be published in F. R.			
(81)	6-35	Replaced by 5-11			
(82)	6-37	Incorrect			
(83)	6-38	Replaced by 4-13			
(84)	6-40	To be published in F. R.			
(85)	6-45	Superseded by 273.9(c)(10)(iii) (6/8/79)			
(86)	6-46	Incorrect			
(87)	6-52	To be published in F. R.			
(88)	6-53	To be published in F. R.			
(89)	6-58	Incorrect			
(90)	7-4	To be published in F. R.			
(91)	7-5	To be published in F. R.			
(92)	7-10	Superseded by 273.15(r)(2) (5/8/79)			
(93)	7-13	To be published in F. R.			
(94)	7-17	To be published in F. R.			

BILLING CODE 3410-30-C

Appendix B

These notices embody either interpretations of the Food Stamp Act of 1977, the regulations implementing the Act or statements of policy which are of major importance or general applicability. Prior to implementing this procedure of publishing "notices of general applicability" in the Federal Register, responses to the policy questions contained herein were disseminated to FNS Regional Offices, State agencies, and to other interested groups and individuals. They are now being published for public knowledge. In addition, we are publishing Policy Interpretation 80-5, which is a response to questions brought to the Department's attention by State agencies and advocacy groups independent of policy memoranda submitted by FNS Regional Offices. These policy interpretations will become effective 60 days from the date of publication.

Policy Interpretation 80-1

Regulation Citation: Section 273.9(b)(1)(i).

Subject: Treatment of Sick Pay (former 2-25).

Question: Section 273.9(b)(1)(i) of the regulations states that earned income shall include all wages and salaries of an employee. Does all sick pay, whether taxable or not, count as earned income?

Response: The criteria for determining how to count "sick pay" is dependent upon whether the person receiving the "sick pay" is going to return to work when recovered and is still considered as an employee by his employer. If the person receiving this benefit is not considered an employee while collecting the "sick pay", it cannot be counted as earned income. (See § 273.9(b)(2)(ii).) If the "sick pay" is received for time off while working (i.e., short term illness) it should be counted as earned income.

Policy Interpretation 80-2

Regulation Citation: Various provisions of Section 273.

Subject: Time limits "day one" (former 5-12, 6-53).

Question: Time limits are imposed in the regulations for certifying/denying cases, sending notices of action, reporting changes, conducting fair hearing/fraud hearings, etc. At what point in time will "day one" of these time limits begin, and will this policy be consistent throughout the regulations? If not, what will the exception be?

Response: With the exception of those portions of the regulations which specify working days, the "clocking of time limitations" begins the first calendar day following the day the triggering of

the time limit occurred. The minor variations used in the regulations, such as "by the 30th day," "on the 30th day," or "after the 30th day," are not significant for clocking time limitations. For example, State agencies are required to provide households with an opportunity to participate within 30 days of the date applications are filed. If a household files a recognizable application with a food stamp office on Friday, July 21, "day one" of the 30-day time limit period for providing an opportunity to participate will be Saturday, July 22. Where working days are specified in the regulations, the time limits begin the first working day following the day the triggering of the time limit occurred.

Policy Interpretation 80-3

Regulation Citation: Section 273.11(e). Subject: Alcoholic/Drug Treatment Centers (former 6-15).

Question: In recent months we have encountered drug/alcoholic treatment centers which, as a plan of treatment, enroll the nonaddicted family members and house them in the treatment center. This is an effort to treat the total environment of the addict.

Can the whole family be certified for food stamps and, if so, are other family members to be considered as one-person household or as a group?

Response: Under § 273.11(e) of the regulations, resident addicts and alcoholics in treatment and rehabilitation centers must be certified as one-person households. The drug addict/alcoholic treatment center must apply on behalf of each addict or alcoholic and receive and spend the coupon allotment for food prepared for and served to the certified addict or alcoholic. Eligibility of other family members is governed by §§ 273.1(e) and 273.1(a). The other family members are ineligible to receive food stamps if the institution provides them with a majority of their meals as part of its normal services. If, however, the other family members purchase and prepare their own meals separate and apart from the meals provided by the institution, they may apply for food stamp benefits as a separate household and be certified to receive such benefits if all prescribed eligibility criteria are met.

Policy Interpretation 80-4

Regulation Citation: Section 273.11(a)(1).

Subject: Self-employment Income (former 7-13).

Question: There is confusion here as to the period over which income from self-employment should be averaged when the duration of self-employment is

less than a full year. The following is illustrative of situations commonplace in Alaska, and perhaps other coastal States: A commercial fisherman is self-employed, fishing from July through September. For this purpose he has a boat of substantial value, in which he may or may not have substantial equity and 40 to 70 percent of his annual income is devoted to operating expenses. Following the end of the fishing season, his net income is dissipated rapidly, and he resorts to odd jobs, exchange of labor for subsistence goods and/or food stamp benefits to meet his needs. For food stamp purposes, would his self-employment income be annualized as indicated in § 273.11(a)(1) paragraph (1) or would paragraph (iii) apply, which provides for averaging of that income over the three months only since he may be "supplementing" his income during the remaining months by odd jobs and/or performance of labor for goods. Central to this choice, according to the language of this Section is intent, i.e., whether the income for self-employment is "intended to support the (household) on an annual basis" (i) or "intended to meet the household's needs for only part of the year" (iii). Ascertaining intent, however, has some inherent difficulties, and they increase as the interval widens between the point in time when that intention is established and the time of application for FSP benefits. The preamble to the Regulations (p. 47871) notes that the "State agency, in consultation with the household", shall determine the period of time that the income is intended to support the household, while the body of the Regulations fails to provide for this joint decision and states only that the State agency shall assign a certification period appropriate for the household's circumstances.

Response: The basic question is how do you ascertain whether self-employment income is intended to support the household on an annual basis as opposed to a portion of the year?

We agreed that there are inherent difficulties in determining "intent" when making a determination as to the period of time for which self-employment income is intended to support a household. In an effort to make such a judgment, however, other factors, in addition to the household's own statement, that could provide some indication as to how long the household could sustain itself on such income would have to be examined and evaluated. Such factors would include, but would not be limited, previous year's business and personal expenses,

tax records, anticipated expenses for the current year, income received from other sources during the previous year, income expected to be received from other sources during the coming year, and so on. Such factors, when compared with the income from seasonal self-employment, would provide a basis for making a determination as to how long the income is intended to support the household. For example, if the previous year's expenses were proportionate to the household's income from self-employment, it could be an indication that the income would sustain the household for a year, therefore the household's income could be annualized. If expenses were not proportionate with the income, it could be assumed that such income could not sustain the household for a year, therefore, income would be averaged over the period of time for which such income is received.

Further, although the period of time for which the income is intended to cover would be a factor in determining the length of the household's certification period, all household circumstances would have to be evaluated. Additionally, although information obtained by the household would provide some indication as to the appropriate certification period to be assigned, the responsibility for establishing the appropriate certification period remains that of the State agency.

Policy Interpretation 80-5

Regulation Citations: Sections 273.1, 273.2, 273.3, 273.8, 273.9.

Subject: Residents of shelters for battered spouses and other group living arrangements.

Question: Shall State agencies certify residents of shelters for battered spouses and other group settings?

Response: Current food stamp regulations do not prohibit the certification of persons residing in such facilities under certain conditions. For instance, if such persons customarily purchase and prepare meals for home consumption, they may qualify for food stamp eligibility if they meet other criteria for participation. The major factors to consider in such situations include special provisions on institutions; residence; resources and income. Other relevant provisions to consider are provisions on expedited services; out-of-office interviews; authorized representatives and the consideration of food stamp benefits as income.

The current Food Stamp Regulations describe the certification of residents of institutions. For purposes of the Food Stamp Program, residents of institutions

are individuals who receive most of their meals as a normal service of an unauthorized institution. Two groups of institutional residents may be eligible for food stamps—residents of addiction and alcoholism centers and residents of some federally subsidized housing for the elderly. All other residents of institutions are categorically ineligible to participate. Residents of abuse shelters who furnish their own meals, receive fewer than half of their meals from the abuse shelters or do not receive their meals as part of the shelter's normal services may be eligible to participate in the Program. Shelter residents who meet the definition of institutional residents are ineligible to participate.

Any individual or group of individuals meeting the definition of a household as described in § 273.1 of the food stamp regulations constitute a household. In some instances individuals residing in abuse shelters or other similar group living arrangements will have children or other dependents with them and will qualify for food stamp benefits as a group. Household composition shall be verified only when questionable and in accordance with these definitions (Section 273.2(f)). Such considerations as the storage of food or the sharing of living space shall not be used to determine household membership.

Households must apply for eligibility in the project area in which they reside. The duration of residence in a project area is not a criterion for eligibility (Section 273.3).

Persons residing in such facilities must meet the same uniform national resource standards applied to all other households. Those resources to be included in the determination are individual and jointly owned resources that are accessible. A jointly owned resource is inaccessible if the other owner(s) will not allow the household access to the resource's value and the resource cannot be divided. Resources which are inaccessible or which are owned solely by nonhousehold members shall not be considered (Section 273.8(d)).

Only the income of the applicant may be considered in the eligibility determination. The income of relatives or other persons customarily in the resident's household is not considered in the determination of eligibility unless such income, or a portion thereof, is paid directly to the resident of the facility.

Because of the absence of income, persons residing in shelters for battered spouses or other facilities may be entitled to expedited service, according to § 273.2(j). Some may even be entitled

to interviews outside the food stamp office, according to § 273.2(e).

Some residents of shelters for battered spouses are reluctant to leave the shelters, fearing for their safety. Section 273.1(f) provides for the designation of an authorized representative, who may be an employee of the shelter, another resident or anyone else who is knowledgeable about the applicant's circumstances. Under all circumstances, the applicant must designate the authorized representative in writing. An authorized representative may apply for the program on the household's behalf, obtain its coupons and buy its food with the coupons.

According to the Food Stamp Act of 1977, Section 8(b), food stamp benefits may not be considered as income or resources for any purpose under Federal, State or local laws. Therefore, any governmental funding these shelters or other group living facilities receive cannot be reduced because of food stamp benefits received by residents.

[FR Doc. 79-39209 Filed 12-21-79; 8:45 am]

BILLING CODE 5410-55-M

CIVIL AERONAUTICS BOARD

[Docket No. 37278]

American Airlines, Inc., New York-San Juan Cargo Service; Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Marvin H. Morse. Future communications should be addressed to Judge Morse.

Dated at Washington, D.C., December 18, 1979.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 79-39269 Filed 12-21-79; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Domestic Violence; Phoenix Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that public hearings of the U.S. Commission on Civil Rights will begin on February 12, 1980 in the Exhibit Hall of the Adams Hotel at Central and Adams Streets, Phoenix, Arizona. An executive session not open to the public may be convened at any appropriate time before or during the hearings.

The purpose of the hearings is to collect information within the jurisdiction of the Commission, particularly concerning the response of

the legal system to the needs of women victims of domestic violence.

The Commission is an independent bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Dated at Washington, D.C., December 18, 1979.

Arthur S. Flemming,
Chairman.

[FR Doc. 79-39227 Filed 12-21-79; 8:45 am]

BILLING CODE 6335-01-M

COMMUNITY SERVICES ADMINISTRATION

Senior Executive Service Performance Review Board; List of Members

AGENCY: Community Services Administration.

ACTION: Listing of personnel serving as members of this Agency's Senior Executive Service Performance Review Board.

SUMMARY: Public Law 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). The following is a listing of those individuals currently serving as members of this Agency's PRB:

1. Ivan Ashley, Regional Director, Region I, Boston Massachusetts
2. David M. Cohen, Deputy Associate Director for Economic Development, Office of Economic Development
3. Ben T. Haney, Regional Director, Region VI, Dallas, Texas
4. Laird F. Harris, Director for Regional Operations, Office of Community Action
5. C. Anthony Jackson, Director for Program Development, Office of Community Action
6. W. Astor Kirk, Regional Director, Region III, Philadelphia, Pennsylvania
7. Glenwood A. Johnson, Regional Director, Region V, Chicago, Illinois
8. Thomas J. Mack, Deputy General Counsel, Office of Legal Affairs and General Counsel
9. N. Dean Morgan, Regional Director, Region X, Seattle, Washington
10. Gerrold K. Mukai, Associate Director for Economic Development, Office of Economic Development
11. Josephine Nieves, Regional Director, Region II, New York, New York
12. R. Thomas Rollis, Controller, Office of Management

13. Alphonse Rodriguez, Regional Director, Region IX, San Francisco, California
14. Wayne Thomas, Regional Director, Region VII, Kansas City, Missouri
15. David E. Vanderburgh, Regional Director, Region VIII, Denver, Colorado
16. William S. Walker, Regional Director, Region IV, Atlanta, Georgia
17. Mary P. Valentino (Executive Secretary), Director of Personnel, Community Services Administration

FOR FURTHER INFORMATION CONTACT:
Mary P. Valentino, (202) 254-6170.

Graciela (Grace) Olivarez,
Director.

[FR Doc. 79-39151 Filed 12-21-79; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 150]

Resolution and Order Approving Application of the County of Suffolk, N.Y., for a Foreign-Trade Zone in the Township of Islip, N.Y.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the County of Suffolk, state of New York, filed with the Foreign-Trade Zones Board (the Board) on May 2, 1979, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Islip, New York, adjacent to the New York City Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrence of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in the Township of Islip, County of Suffolk, New York

WHEREAS, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States:

WHEREAS, the County of Suffolk (the Grantee) has made application (filed May 21, 1979) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone in the Township of Islip, County of Suffolk, New York adjacent to the New York City Customs port of entry;

WHEREAS, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

WHEREAS, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

NOW, THEREFORE, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone in the Township of Islip, County of Suffolk, New York, designated on the records of the Board as Zone No. 52, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout

the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

IN WITNESS WHEREOF, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 13th day of December 1979, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Luther H. Hodges, Jr.,

Acting Chairman and Executive Officer.

[FR Doc. 79-38131 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 151]

Resolution and Order Approving the Application of the City of Tulsa-Rogers County Port Authority for a Foreign-Trade Zone Within the Tulsa Port of Catoosa, Rogers County, Oklahoma

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Tulsa-Rogers County Port Authority (the Port Authority), filed with the Foreign-Trade Zones Board (the Board) on June 29, 1979, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at the Tulsa Port of Catoosa, Oklahoma, within the Tulsa Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the

proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and maintain a Foreign-Trade Zone Within the Tulsa Port of Catoosa, Rogers County, Oklahoma

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Tulsa-Rogers County Port Authority (the Grantee) has made application (filed June 29, 1979) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone at the port terminal and industrial park complex of the Tulsa Port of Catoosa in Rogers County, which is within the Tulsa Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 53, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions,

and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 7th day of December 1979, pursuant to Order of the Board.

Foreign-Trade Zones Board.

C. L. Haslam,

Acting Chairman and Executive Officer.

[FR Doc. 79-39347 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

Economic Advisory Board; Renewal

In accordance with the provisions of the Federal Advisory Committee Act 5 U.S.C. App. 1976 and the Office of Management and Budget Circular A-63 of March 1974, and after consultation with the General Services Administration, the Secretary of Commerce has determined that the renewal of the Economic Advisory Board is in the public interest.

The Advisory Board was first established by the Secretary of

Commerce on January 12, 1967. Its purpose is to advise the Secretary of Commerce on economic policy issues. It has discharged this mission regularly by convening quarterly to discuss various specific industry situations in terms of consumer spending, capital spending, and inventory status; the near-term outlook and policies; and the outlook, in terms of output and employment, for the forthcoming several quarters.

In renewing the Advisory Board, the Secretary has reaffirmed the importance of the timely and accurate information it has provided concerning business conditions and the current state of the economy. The Secretary has also requested for the 1980 meetings that members of the Advisory Board, in addition to presenting their individual forecasts, also provide their analyses of specific economic issues as designated by the chairperson, the Chief Economist for the Department of Commerce.

As initially chartered under the Federal Advisory Committee Act in January 1973, the Economic Advisory Board will continue with a balanced representation of 16 members, with the Chief Economist for the Department of Commerce serving as chairperson, and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Virginia R. Marketti; Office of the Chief Economist, Room 4443, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3523.

Dated: December 17, 1979.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 79-39338 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing a New Official of the Government of Colombia Authorized To Issue Export Visas and Exempt Certifications for Textile Products From Colombia

December 18, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: A new official of the Government of Colombia has been authorized to issue export visas and exempt certifications for certain cotton,

wool and man-made fiber textile products from Colombia.

SUMMARY: The Government of Colombia has notified the United States Government that Luis Felipe Erazo-Cordoba is being added to the previously published list of officials who are authorized to issue export visas and certifications for exemption for cotton, wool and man-made fiber textile products exported to the United States from Colombia (See 43 FR 4670). A complete list of Colombian officials currently authorized to issue export visas and exempt certifications accompanies this notice.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On July 26, 1976 a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the Federal Register (41 FR 30707), which established an export visa requirement and certification for exemption of certain cotton, wool and man-made fiber textile products, produced or manufactured in Colombia, and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of Colombia. The Government of Colombia has requested that a new official be recognized as authorized to issue export visas and certifications for exemption. The list that follows this notice includes the names of all Colombian officials currently authorized to issue export visas and certifications for exemption of cotton, wool and man-made fiber textile products exported to the United States.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Officials Authorized by the Government of Colombia To Issue Export Visas and Exempt Certifications for Textile Products Exported to the United States

Soledad Acevedo Fonseca
Maria Cristina Acosta-Mesa
Maria Cristina Aguirre
Hernando Arciniegas-Serna
Julia Emma de Buitrago
Luis Felipe Erazo-Cordoba
Desiderio Caceres Rondon
Silvio Castro Lamprea
Julian Contreras Trivino
Eduardo Forero-Peralta
Joaquin Gutierrez Isaza

Gloria Maria Lopez Naranjo
Dora Luz de Cobo
Martha Cecilia Munoz de Gomez
Jaime Neria Baena
Elizabeth Ordonez L.
Jaime Ospina Duque
Norma Parra-Cardona
Joffe Palaez-Mejia
Manuel Arturo Posada Gutierrez
Rafaela Vergara Echavez
Enrique White Salazar
[FR Doc. 79-39360 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From Mexico; Effective January 1, 1980

December 18, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products imported from Mexico, effective on January 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, between the Governments of the United States and Mexico, establishes specific levels of restraint for certain cotton, and man-made fiber textile products, among others, in Categories 338/339, 347/348, 633, 634/635, 638/639, 641, 647/648, and 649, produced or manufactured in Mexico and exported during the twelve-month period beginning on January 1, 1980. The agreement also establishes consultation levels for certain categories, such as Categories 359 and 604 (only T.S.U.S.A. 310.5049), which are not subject to specific ceilings and which may be increased during the year upon agreement between the two governments. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month levels of restraint. The level of restraint for Category 641 has been adjusted to account for overshipments in 1977 and 1978 amounting to 47,119 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 824), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:

William J. Boyd, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements,
U.S. Department of Commerce,
Industry and Trade Administration,
Washington, D.C.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Mexico, in excess of the indicated twelve-month levels of restraint:

Category	12-mo level of restraint
338/339.....	393,820 dozen.
347/348.....	563,493 dozen of which not more than 338,094 dozen shall be in Cat. 347 and not more than 338,094 dozen shall be in Cat. 348.
359.....	152,174 pounds.
604 (only T.S.U.S.A. No. 310 5043).....	850,659 pounds.
633.....	50,248 dozen.
634/635.....	286,450 dozen of which not more than 171,870 dozen shall be in Cat. 634 and not more than 171,870 dozen shall be in Cat. 635.
639/639.....	13,774,573 square yards equivalent of which not more than 459,152 dozen shall be in Cat. 639 and not more than 550,983 dozen shall be in Cat. 639.
641.....	235,659 dozen.
647/648.....	1,400,828 dozen of which not more than 840,497 dozen shall be in Cat. 647 and not more than 840,497 dozen shall be in Cat. 648.
649.....	2,437,500 dozen.

In carrying out this directive, entries of cotton and man-made fiber textile products in

the foregoing categories, produced or manufactured in Mexico, which have been exported prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of February 26, 1979, between the Governments of the United States and Mexico, provide, in part, that: (1) specific limits or specific sublimits may be exceeded by not more than seven percent in any agreement period; (2) these same limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton and man-made fiber textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39261 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-25-M

Further Adjusting the Levels of Restraint for Certain Cotton and Man-Made Fiber Textile Products From Macau

December 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Increasing the levels of restraint for men's and boy's cotton knit

shirts in Category 338, cotton trousers in Category 347/348, and man-made fiber coats in Category 633/634/635 by the application of swing; (2) increasing the import level for cotton coats in Category 333/334/335 by the application of swing, carryforward and an agreed increase of 9,108 dozen, and reducing the level by half of the 1978 overshipment amounting to 6,814 dozen (the remaining half of the 1978 overshipment in Category 333/334/335 will be used to reduce the level for 1980); and (3) adjusting the levels of restraint for men's and boys' woven cotton shirts in Category 340, cotton trousers in Category 347/348 and wool sweaters in Category 445/446 to account for overshipments charged to current-year levels. All changes affect the levels established for the indicated categories during the agreement year which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 294), March 2, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal provides for percentage increases in certain specific ceilings during an agreement year (swing) and for the borrowing of yardage from the succeeding year's levels (carryforward). Pursuant to the terms of the bilateral agreement, the import levels for Categories 333/334/335, 338, and 633/634/635 from Macau are being adjusted for the twelve-month period which began on January 1, 1979. Levels already established for Categories 340, 347/348 and 445/446 are being adjusted for overshipments previously made to the levels for the current agreement year:

Category:	Amount of deduction
340.....	2,292 dozen.
347/348.....	5,306 dozen.
445/446.....	9,907 dozen.

EFFECTIVE DATE: December 26, 1979.

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the Federal Register (44 FR 91) a letter dated December 27, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specific categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, which may be entered into the United States for consumption or withdrawal from warehouse for consumption during

the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels of restraint previously established for Categories 338, 333/334/335, 340, 347/348, 445/446 and 633/634/635 to the designated amounts.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.
December 19, 1979.

U.S. Department of Commerce,
Industry and Trade Administration,
Washington, D.C.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: On December 27, 1978, the Chairman, Committee for the Implementation of Textile Agreement, directed you to prohibit entry during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979 of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 26, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber products in Categories 333/334/335, 338, 340, 347/348, 445/446 and 633/634/635, produced or manufactured in Macau, in excess of the following amounts:

¹The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Category	Adjusted 12-mo level of restraint ¹
333/334/335.....	90,000 dozen.
338.....	110,530 dozen.
340.....	101,958 dozen.
347/348.....	261,943 dozen.
445/446.....	74,639 dozen.
633/634/635.....	184,753 dozen.

¹The levels of restraint have not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreement to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39262 Filed 12-21-79; 8:45 am]
BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Wool and Man-Made Fiber Textile Products From the Socialist Republic of Yugoslavia

December 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain wool and man-made fiber textile products imported from Yugoslavia, effective on January 1, 1980.

SUMMARY: The Bilateral Textile Agreement of October 26 and 27, 1978, between the Governments of the United States and the Socialist Republic of Yugoslavia, establishes levels of restraint for certain wool and man-made fiber textile products in Category 443/643, produced or manufactured in Yugoslavia and exported during the twelve-month period beginning on January 1, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool and man-made fiber textile products in Category 443/643 in excess of the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773),

September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.
December 19, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Textile Agreement of October 26 and 27, 1978, as amended, between the Governments of the United States and the Socialist Republic of Yugoslavia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption of wool and man-made fiber textile products, in Category 443/643, in excess of the following level of restraint:

Category	12-mo level of restraint
443/643.....	14,270 dozen of which not more than 7,855 dozen shall be in Cat. 443.

In carrying out this directive, entries of wool and man-made fiber textile products in Category 443/643, produced or manufactured in Yugoslavia, which have been exported prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of October 26 and 27, 1978, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, which provide, in part, that: (1) Within the

group limit the specific limit may be exceeded by no more than five percent in any agreement period; and (2) the group limit may be exceeded for carryover and carryforward not to exceed 11 percent of the applicable limit.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884) as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of wool and man-made fiber textile products from Yugoslavia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 79-39323 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From the Republic of the Philippines, Effective on January 1, 1980

December 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton, wool and man-made fiber textile products imported from the Philippines, effective on January 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines establishes specific ceilings for cotton, wool and man-made fiber textile products in Categories 340, 341pt., 442, 445/446, 459, 604, 631, 636pt., 640, 641, 645/646 pt., and 649, among other categories, during the agreement year which begins on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman, Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for

consumption or withdrawal from warehouse for consumption of textile products in the foregoing categories, produced or manufactured in the Philippines and exported during the twelve-month period which begins on January 1, 1980, in excess of the designated levels. The level for Category 645/646 has been reduced by 5,000 dozen to account for prior years' overshipments.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 19, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11851 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 340, 341pt., 442, 445/446, 459, 604, 631, 636pt., 640, 641, 645/646pt. and 649, produced or manufactured in the Philippines, in excess of the following level of restraint:

Category	12-mo level of restraint
340	220,492 dozen.
341pt.	80,689 dozen.
442	6,452 dozen.
445/446	17,421 dozen.

Category	12-mo level of restraint
459	116,138 pounds.
604	2,033,116 pounds.
631	1,511,848 dozen.
636pt.	40,249 pairs.
640	93,054 dozen.
641pt.	62,372 dozen.
641pt.	163,344 dozen.
645/646pt.	84,294 dozen.
649	3,507,489 dozen.

¹In Category 341, only T.S.U.S.A. numbers 382.0039, 382.3302, 382.3305, and 382.3309.

²In Category 635, only T.S.U.S.A. numbers 382.0413, 382.0416, 382.7832, 382.7834, 382.0466, 382.0469, 382.8173 and 382.8174.

³In Category 641, only T.S.U.S.A. numbers 382.0460 and 382.8139.

⁴In Category 641, only T.S.U.S.A. numbers 382.0459, 382.0461, 382.8133, 382.8137, 382.8143, and 382.8144.

⁵In Category 645/646, all T.S.U.S.A. numbers except 382.0427 and 382.7870.

In carrying out this directive entries of textile products in the foregoing categories, except Category 442, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Wool textile products in Category 442, exported prior to January 1, 1980, shall not be subject to this directive.

Textile products in Category 442 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) Three percent growth shall be applied to certain specified ceilings during the second and each successive agreement year; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool and man-made fiber textile

products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39324 Filed 12-21-79; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Priorities for Commission Action; General Statement of Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy.

SUMMARY: This notice lists, with brief descriptions, CPSC priority projects for fiscal year 1980. The list is divided into two parts. The first part lists those hazard-related projects designated for priority attention; the second part concerns longer range commitments of the Commission to improve the Commission's regulatory processes. Both support the Commission's efforts to reduce or eliminate unreasonable risks of injury, illness, or death associated with consumer products. This priority list is for general information to the public and Commission guidance to the staff. The list does not include all activities of the Commission. It may change when the Commission believes that revised priorities are appropriate or that other projects require Commission priority attention.

EFFECTIVE DATE: Policy now in effect.

FOR FURTHER INFORMATION CONTACT:

Charles R. Casper, Deputy Director, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. (301-432-6554).

SUPPLEMENTARY INFORMATION: On July 10, 1978 (43 FR 29744), the Commission published a listing of 24 priority projects for fiscal year 1979. The projects were selected based on the Commission policy for establishing priorities for Commission action (16 CFR 1009.3, 41 FR 27960, July 8, 1976). This policy states that the following criteria will be considered in establishing priorities for Commission action: frequency and severity of injuries; causality of injuries; chronic illness and future injuries; costs and benefits of Commission action;

unforeseen nature of the risk of injury; vulnerability of the population at risk; probability of exposure to the hazard; and, where appropriate, additional factors known to the staff and believed to warrant Commission attention. Those 24 projects were grouped into major categories describing general Commission activities such as litigation, enforcement, product specific regulatory development, voluntary standards development, and information and education.

In this document the Commission establishes priority projects for fiscal year 1980. (A proposal was made to include in the list of priority projects two additional projects: (1) reviewing the petitions process, and (2) reviewing the Commission's Freedom of Information Act and Sunshine Act regulations. The Commission decided, by a vote of 4-1, with Commissioner Statler dissenting, not to include these additional items in the priorities list.) These projects were selected in accordance with the criteria described above. Several new projects have been added to this year's listing. Others which appeared on the fiscal 1979 list have been dropped either because they are complete or because they no longer warrant priority attention. Because of limited resources, the Commission must carefully focus its activities on the most serious hazards which it can effectively address.

The fiscal year 1980 listing is divided into two sections. The first section lists on an individual hazard or product basis those products of particular concern to the Commission. The second section lists longer range commitments of the Commission to improve CPSC regulatory processes. While the Commission believes a product-by-product approach to safety is essential in protecting consumers from unreasonable risks of injury, the Commission also believes it must evaluate mechanisms for increasing the overall impact of CPSC on product safety. The second part of the priority listing, then, is intended to focus the attention of the Commission and the staff on those general areas which will enable the Commission to better fulfill its mission of reducing injuries and deaths to consumers.

The order of projects or categories appearing below does not reflect the priority of one project or category as compared to another. In addition, the projects reflect the Commission's judgment of important activities, but should not be taken to be a complete list of all activities of the Commission. The Commission works in many other areas, including enforcing existing regulations

and developing material for possible new regulations, conducting research, and monitoring the marketplace for new or unsuspected product hazards.

The Commission issues the following priority projects for fiscal year 1980:

A. Hazard-Related Projects

Aluminum Wiring. The Commission believes that some aluminum wiring installed in 1.5 million homes between 1965 and 1973 could overheat and cause fires. The Commission has asked a Federal court to declare that such aluminum wiring presents an imminent hazard and to compel aluminum wiring manufacturers to notify homeowners of the potential hazards and to correct them.

Cellulose Insulation. The Commission has issued a safety standard to address the flammability and corrosiveness of cellulose insulation. CPSC has also issued a rule requiring labeling to tell consumers how to properly install cellulose insulation to avoid fire hazards. The Commission will continue to inform industry of its obligation to enforce the standard and labeling rules and to educate the public.

Unvented Gas-Fired Space Heaters.

At least 70 deaths a year have been attributed to carbon monoxide poisoning from unvented gas-fired space heaters commonly used in American homes. The Commission will decide whether to propose a mandatory heater standard requiring the use of an oxygen depletion shut-off device.

Coal and Wood Burning Stoves. Coal and wood burning stoves may present a fire hazard if improperly installed by the seller or homeowner. The commission will consider a mandatory labeling rule regarding proper installation and maintenance of these stoves.

Upholstered Furniture. The Commission estimates that every year upholstered furniture fires caused by smoldering cigarettes kill at least 500 people and seriously injure an additional 1700. The upholstered furniture industry has recently developed a voluntary program to reduce furniture flammability. The Commission will assess the effectiveness of the industry program and decide whether a mandatory or voluntary approach is appropriate.

Cribs. Since the Commission's crib regulation went into effect in 1974, infant deaths from strangulations associated with hazardous cribs have fallen by half, about 85 lives saved each year. The Commission is considering a proposal to amend the crib regulation to further reduce head and neck entrapment hazards that may be associated with certain crib designs.

CB Antennas. More than 200 people a year have been electrocuted when base station antennas they were installing or removing touched overhead power lines. The Commission will continue in-house development of a mandatory standard for omnidirectional CB antennas to protect consumers from severe electrical hazards during installation and removal of these CB antennas.

Projectile Toys. An estimated 950 persons were treated in hospital emergency rooms in 1978 for eye injuries associated with propelled toys. With the intention of reducing these injuries, the Commission will consider alternatives, including a possible mandatory standard, to address the hazards of projectile toys.

Plastics Flammability. The use of plastic materials in homes has grown dramatically in recent years. Many different types of plastics are used in manufacturing furniture, appliances, carpeting and insulation materials. The Commission will examine the combustibility of selected plastic consumer products, as well as the toxicity of their combustion products.

Tap Water Scalds. An estimated 2,600 burns and serious scalds are caused each year by excessively hot tap water. The majority of accident victims are children and the elderly. The Commission will work with industry to develop warning labels on water heaters and lower factory pre-set temperatures on water heaters and will consider whether mandatory requirements are necessary.

Formaldehyde Toxicity. Respiratory problems, headaches, and eye and skin irritation are reported to be caused by formaldehyde gas released from some consumer products. The Commission will evaluate the possible acute and chronic toxicity of formaldehyde and consider appropriate action for specific products, particularly urea-formaldehyde (UF) foam insulation. As part of its investigation of formaldehyde in products, the Commission will conduct regional hearings in 4 cities focusing on UF foam insulation.

Benzidine Dyes. Research has indicated that certain benzidine-based dyes produce cancer in laboratory animals. The Commission will evaluate toxicity data, assess bioavailability, determine exposure, and develop control options for certain types of benzidine dyes as well as consider a reporting rule for certain dyes.

Asbestos. Consumer products containing inhalable asbestos fibers may be associated with a risk of lung cancer in humans. The Commission has published an advance notice of proposed rulemaking to gather

information on asbestos use in consumer products and to set forth a possible regulatory approach to asbestos in consumer products. The Commission will evaluate the information received and will test specific products for possible hazards.

Chain Saws. In 1977 alone, an estimated 40,000 people were treated in hospital emergency rooms for chain saw related injuries. The Commission will consider voluntary and/or mandatory action to address chain saw kickback, the biggest single cause of chain saw injuries.

B. Programs to Improve Regulatory Processes

Strengthening the chronic hazards program to increase the Commission's ability to deal with substances that may cause long-term chronic injury or illness, especially cancer.

Considering voluntary standards as an alternative or supplement to mandatory regulation.

Increasing the use of section 15 of the Consumer Product Safety Act (CPSA) to remove substantially hazardous products from the marketplace quickly.

Exploring ways in which the effectiveness of product recalls might be improved, to ensure that consumers receive adequate notice of and protection from substantially hazardous products.

Surveying the Commission's basic injury data needs and exploring new methods and sources of data collection.

Improving the Commission's outreach to minorities, low income consumers, the elderly, and other special populations and more clearly explaining our role and impact to the general public.

Expanding the use of the Commission Hotline and consumer complaints to help identify emerging hazards.

Promoting greater cooperation with state and local agencies in areas of mutual concern such as smoke detectors, burn prevention, and amusement rides.

Reviewing existing Commission product safety standards, bans, and other regulations to ensure that they are still serving important public safety goals.

The priority listings constitute general guidance for the Commission staff in planning and executing their tasks. The list is subject to continuing review for additions or modifications that may be made necessary by more recent information, and the emergence of presently unforeseen hazards.

The Commission staff will prepare work schedules detailing the progress of work on approved hazard projects and programs to improve regulatory

processes and will periodically report the status of work to the Commission. Some of the priority projects represent a commitment to ongoing activities and obviously will not be completed in one year.

An important reason for publishing this information is to advise the public that, given the limited resources available to it, Commission action will focus on the project priorities discussed in this notice, although the Commission works in other areas as well. The Commission believes that this information will enable the public to understand and follow Commission actions more easily. However, these priority listings should not discourage persons from calling the Commission's attention to other consumer products that may present risks of injury to the public.

Dated: December 19, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-39335 Filed 12-21-79; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

National Waterways Study; Announcement of Technical Workshops; Open Meeting

Technical Workshops on the National Waterways Study (NWS) will be held January 30, 1980, at Humphreys Hall, Building 247, Ft. Belvoir, Virginia. The workshops will be conducted from 8:00 AM to 5:00 PM.

The workshops are designed to provide for in-depth discussions between the public and NWS team specialists from the Corps of Engineers and the study contractors, A. T. Kearney, Inc., Data Resources, Inc., and Louis Berger Associates.

Workshop topics include:

Scenarios and commodity flow forecasts
System capacity
Evaluation measures
Strategies
Environmental considerations
Policy and institutional issues
National defense and emergency
Multiple use conflicts
Intermodal relationships
Others (specify) _____

Persons interested in attending are requested to respond in writing by 7 January 1980 and to provide the following registration information: Name, Organization, Mailing Address, Business Telephone and the names of

the workshops you would like to attend. This information will be used in arranging topical sessions, meeting facilities and insuring the availability of appropriate NWS team specialists.

Please submit registration information to National Waterways Study, Water Resources Support Center, Institute for Water Resources, Kingman Building, Ft. Belvoir, Virginia 22060. For further information phone (202) 325-7141.

Dated: December 16, 1979.

Maximilian Imhoff,
Colonel, CE, Commander and Director, Water Resources Support Center.

[FR Doc. 79-39336 Filed 12-21-79; 8:45 am]
BILLING CODE 3710-03-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet January 16-17, 1980, at the Pentagon, Washington, D.C. Sessions each day will be held from 8 a.m. to 5 p.m. All sessions will be closed to the public.

The entire agenda for the meeting will consist of a review of intelligence developments, strategic planning, and naval force structure. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest or national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311. Telephone No. (703) 756-1205.

Dated: December 19, 1979.

P. B. Walker,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-39329 Filed 12-21-79; 8:45 am]
BILLING CODE 3610-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

A. P. Green Refractories Co.; Certification of Eligible Use of Natural Gas to Displace Fuel Oil

[ERA Docket No. 79-CERT-100]

A. P. Green Refractories Company (A. P. Green) filed an application for certification of an eligible use of natural gas to displace fuel oil at its refractories manufacturing plant located in Mexico, Missouri, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on October 4, 1979. Notice of that application was published in the Federal Register (44 FR 65431, November 13, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed A. P. Green's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that A. P. Green's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on December 17, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Department of Energy,
Washington, D.C.

Re ERA Certification of Eligible Use, ERA Docket No. 79-CERT-100 A. P. Green Refractories Company.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington D.C.

Dear Mr. Plumb: Pursuant to the provision of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also

being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-100.

Sincerely,

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the A. P. Green Refractories Company—ERA Docket No. 79-CERT-100

Application for Certification

Pursuant to 10 CFR Part 595, A. P. Green Refractories Company (A. P. Green) filed an application for certification of an eligible use of 410,000 Mcf of natural gas per year at its refractories manufacturing plant located in Mexico, Missouri with the Administrator of the Economic Regulatory Administration (ERA) on October 4, 1979. The application states that the eligible seller of the gas is the Michigan Consolidated Gas Company (Consolidated) and the gas will be transported by the Panhandle Eastern Pipeline Company. The application indicates that the use of natural gas is estimated to displace 2,993,000 gallons of No. 2 fuel oil (0.3 percent sulfur) for the period November 1, 1979 to June 1, 1980 at the Mexico plant. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of 410,000 Mcf of natural gas at A. P. Green's Mexico plant purchased from Consolidated is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible seller.

Issued in Washington, D.C., on December 17, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-39257 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 50125-9062-21-41]

Atlantic City Electric Co.; Decision and Order Granting an Exemption

In the matter of Atlantic City Electric Company petition for temporary public interest exemption.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting a temporary public interest exemption from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Atlantic City Electric Company (petitioner).

The petitioner filed for this temporary public interest exemption pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on June 27, 1979. Notice of the petition and a proposed order granting this temporary exemption was published in the July 20, 1979, Federal Register (44 FR 42756) with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemption.

Based on the information provided by the petitioner, the powerplant listed in the table below is either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or is prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. This temporary exemption will allow this unit to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Deepwater (Pennsgrove, N.J.)	CT "A"	118.4	0.0

This powerplant will burn an estimated 237,439 MCF of natural gas annually which will result in an estimated displacement of 118.4 barrels

of middle distillate fuel oil per day (43,200 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in this powerplant will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that this powerplant, for which it is requesting a temporary exemption, is an existing unit that is either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplant for which this temporary exemption is issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting this temporary exemption.

Duration of Temporary Exemption

ERA grants this temporary public interest exemption for a period of five years. The temporary exemption is subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by this exempted powerplant between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemption granted under this Decision and Order is conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five year period covered by this temporary exemption, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39360 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 50496-3442-21-41]

Central Power & Light Co.; Decision and Order Granting an Exemption

In the matter of Central Power and Light Company petition for temporary public interest exemption.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting a temporary public

interest exemption from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Central Power and Light Company (petitioner).

The petitioner filed for this temporary public interest exemption pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 18, 1979. Notice of the petition and a proposed order granting this temporary exemption was published in the July 20, 1979, Federal Register (44 FR 42756) with a request for public comments relating to the petition and the proposed order. No comments were received specifically addressing the Central Power and Light Company proposed order.

Based on the information provided by the petitioner, the powerplant listed in the table below is either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or is prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. This temporary exemption will allow this unit to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
La Palma (San Benito, CT 1 Tex.)		178.1	0.7

This powerplant will burn an estimated 382,200 MCF of natural gas annually which will result in an estimated displacement of 178.1 barrels of middle distillate fuel oil per day (65,000 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in this powerplant will be a significant step

toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that this powerplant, for which it is requesting a temporary exemption, is an existing unit that is either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplant for which this temporary exemption is issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting this temporary exemption.

Duration of Temporary Exemption

ERA grants this temporary public interest exemption for a period of five years. The temporary exemption is subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by this exempted powerplant between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemption granted under this Decision and Order is conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five-year period covered by this temporary exemption, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39358 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Dockets Nos. 50631-2123-08-41, and 50631-2123-21-41]

Columbia Water & Light Department; Decision and Order Granting Exemptions

In the matter of Columbia Water and Light Department petition for temporary public interest exemptions.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Columbia Water and Light Department (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing

Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 2, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the July 20, 1979, Federal Register (44 FR 42756) with a request for public comments relating to the petition and the proposed order. No comments were received specifically addressing the Columbia Water and Light Department proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Columbia Municipal (Columbia, Mo.)	No. 8.....	30.9	0.3
	CT 1.....	10.9	0.3

These powerplants will burn an estimated 89,181 MCF of natural gas annually which will result in an estimated displacement of 41.9 barrels of middle distillate fuel oil per day (15,287 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely. To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's

balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39953 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

ERA Docket No. 51209-1394-01-41]

Gulf States Utilities Co.; Decision and Order Granting an Exemption

In the matter of Gulf States Utilities Company petition for temporary public interest exemption.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting a temporary public interest exemption from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Gulf States Utilities Company (petitioner).

The petitioner filed for this temporary public interest exemption pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 7, 1979. Notice of the petition and a proposed order granting this temporary exemption was published in the July 20, 1979 Federal Register (44 FR 42756) with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the

requested temporary public interest exemption.

Based on the information provided by the petitioner, the powerplant listed in the table below is either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or is prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. This temporary exemption will allow this unit to burn natural gas, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Willow Glen (St. Gabriel, La.)	No. 1.....	221.1	0.5

This powerplant will burn an estimated 468,004 MCF of natural gas annually which will result in an estimated displacement of 221.1 barrels of middle distillate fuel oil per day (80,690 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in this powerplant will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that this powerplant, for which it is requesting a temporary exemption, is an existing unit that is either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year

proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301 (a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternative fuel in any facility of the petitioner's utility system, including the powerplant for which this temporary exemption is issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting this temporary exemption.

Duration of Temporary Exemption

ERA grants this temporary public interest exemption for a period of five years. The temporary exemption is subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following its publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by this exempted powerplant between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemption granted under this Decision and Order is conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five year period covered by this temporary exemption, including the

means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39954 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Dockets Nos. 54015-2393-21-41, 54015-2393-22-41, 54015-2393-23-41, and 54015-2393-24-41]

Jersey Central Power & Light Co.; Decision and Order Granting Exemptions

In the matter of Jersey Central Power and Light Company petition for temporary public interest exemptions.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting a temporary public interest exemption from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Jersey Central Power and Light Company (petitioner).

The petitioner filed for this temporary public interest exemption pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on April 19, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the May 11, 1979, Federal Register (44 FR 27668) with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act.

These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Gibert (Milford, N.J.)	CT 1	24.7	0.3
	CT 2	24.7	0.3
	CT 3	24.7	0.3
	CT 4	24.7	0.3

These powerplants will burn an estimated 208,000 MCF of natural gas annually which will result in an estimated displacement of 98.6 barrels of middle distillate fuel oil per day (36,000 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner had demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of

the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39355 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 51685-2511-21-41, et al.]

Long Island Lighting Co.; Decision and Order Granting Exemptions

In the matter of Long Island Lighting Company petition for temporary public interest exemptions; ERA Docket Nos. 51685-2511-21-41, 51685-2511-22-41, 51685-2511-24-41, 51685-2511-25-41, 51685-2511-26-41, 51685-2511-27-41, 51685-2511-28-41, 51685-2511-29-41, 51685-2511-30-41, 51685-2511-31-41, 51685-2511-32-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting a temporary public interest exemption from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 506 to the Long Island Lighting Company (petitioner).

The petitioner filed for these temporary public interest exemption pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 7, 1979. Notice of the petition and a proposed order granting this temporary exemption was published in the May 11, and June 1, Federal Register (44 FR 27638) and (44 FR 31677) with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount

and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
E. F. Barrett (Island Park, N.Y.)	CT 1	0.5	0.37
	CT 2	0.5	0.37
	CT 4	0.8	0.37
	CT 5	0.8	0.37
	CT 6	0.8	0.37
	CT 7	0.8	0.37
	CT 8	0.8	0.37
	CT 9	43.8	0.37
	CT 10	43.8	0.37
E. F. Barrett (Island Park, N.Y.)	CT 11	46.6	0.37
	CT 12	46.6	0.37

These powerplants will burn an estimated 419,400 MCF of natural gas annually which will result in an estimated displacement of 186.0 barrels of middle distillate fuel oil per day (67,900 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or

any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing

the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39352 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Dockets Nos. 54020-3115-24-41, 54020-3113-23-41, and 54020-3113-24-41]

Metropolitan Edison Co.; Decision and Order Granting Exemptions

In the matter of Metropolitan Edison Company petition for temporary public interest exemptions.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Metropolitan Edison Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on June 19, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the July 20, 1979, Federal Register (44 FR 42755) with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be

displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Titus (Reading, Pa.)	CT 4	39.2	0.3
Portland (Portland Pa.)	CT 3	18.5	.3
	CT 4	25.3	.3

These powerplants will burn an estimated 171,720 MCF of natural gas annually which will result in an estimated displacement of 83.0 barrels of middle distillate fuel oil per day (30,266 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria

set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39359 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 51948-0900-05-41]

Mount Carmel Public Utility Co.; Decision and Order Granting An Exemption

In the matter of Mt. Carmel Public Utility Company petition for temporary public interest exemption.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting a temporary public interest exemption from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Mt. Carmel Public Utility Company (petitioner).

The petitioner filed for this temporary public interest exemption pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 28, 1979. Notice of the petition and a proposed order granting this temporary exemption was published in the July 20, 1979 Federal Register (44 FR 42756) with a request for public comments relating to the petition and the proposed order. No comments were received specifically addressing the Mt. Carmel Public Utility Company proposed order.

Based on the information provided by the petitioner, the powerplant listed in the table below is either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or is prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. This temporary exemption will allow this unit to burn natural gas, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Mt. Carmel (Mt. Carmel, Ill.)	No. 5	70.3	0.2

This powerplant will burn an estimated 140,000 MCF of natural gas annually which will result in an estimated displacement of 70.3 barrels of middle distillate fuel oil per day (25,643 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in this powerplant will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that this powerplant, for which it is requesting a temporary exemption, is an existing unit that is either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplant for which this temporary exemption is issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it

has met the eligibility criteria, ERA is granting this temporary exemption.

Duration of Temporary Exemption

ERA grants this temporary public interest exemption for a period of five years. The temporary exemption is subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by this exempted powerplant between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemption granted under this Decision and Order is conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplant, and an estimate of the

number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five year period covered by this temporary exemption, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39356 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act; Issuance of Orders Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on December 17, 1979, it issued orders granting temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq., and 10 CFR 501.68 and 10 CFR 508, from the prohibitions of Section 301(a) (2) and (3) of the Act to the following powerplants:

Docket No.	Owner	Generating station location	Powerplant identification	Daily middle distillate displacement (barrels)
51685-2511-21-41	Long Island Lighting Co.	E. F. Barrett (Island Park, N.Y.)	CT 1	0.5
51685-2511-22-41			CT 2	0.5
51685-2511-24-41			CT 4	0.8
51685-2511-25-41			CT 5	0.8
51685-2511-26-41			CT 6	0.8
51685-2511-27-41			CT 7	0.8
51685-2511-28-41			CT 8	0.8
51685-2511-29-41			CT 9	43.8
51685-2511-30-41			CT 10	43.8
51685-2511-31-41			CT 11	46.6
51685-2511-32-41			CT 12	46.6
52927-9041-22-41	The Toledo Edison Co.	Richland (Defiance, Ohio)	CT 2	59.4
52927-9041-23-41			CT 3	59.4
54015-2393-21-41	Jersey Central Power & Light Co.	Gilbert (Millford, N.J.)	CT 1	24.7
54015-2393-22-41			CT 2	24.7
54015-2393-23-41			CT 3	24.7
54015-2393-24-41			CT 4	24.7
51209-1294-01-41	Gulf States Utilities Co.	Willow Glen (St. Gabriel, La.)	No. 1	221.1
52970-9039-21-41	Tucson Electric Power Co.	Irvington (Tucson, Ariz.)	CT 1	25.9
52970-9039-22-41			CT 2	25.9
52970-9039-23-41			CT 3	26.0
52970-6088-21-41		North Loop (Tucson, Ariz.)	CT 1	26.0
52970-6088-22-41			CT 2	26.0
52970-6088-23-41			CT 3	26.0
52970-6088-24-41			CT 4	26.0
50631-2123-08-41	Columbia Water & Light Department	Columbia Municipal (Columbia, Mo.)	No. 8	39.9
50631-2123-21-41			CT 1	10.9

Docket No.	Owner	Generating station location	Power-plant identification	Daily middle distillate displacement (barrels)
53010-0970-02-41	University of Illinois	Abbot (Champaign, Ill.)	No. 2	173.8
53010-0970-03-41			No. 3	173.8
53010-0970-04-41			No. 4	173.8
52414-1406-25-41	Public Service Electric & Gas Co.	Linden (Linden, N.J.)	CT 5	2.7
52414-1406-26-41			CT 6	2.7
52414-1406-27-41			CT 7	1.9
52414-1406-28-41			CT 8	0.8
52414-2400-21-41		Edison (Edison, N.J.)	CT 1	49.3
52414-2400-22-41			CT 2	27.4
52414-2400-23-41			CT 3	41.1
52414-2404-30-41			CT 10	5.5
52414-2404-31-41			CT 11	8.2
52414-2403-23-41		Hudson (Jersey City, N.J.)	CT 3	1.9
52414-2402-29-41		Essex (Newark, N.J.)	CT 9	8.2
52414-2402-30-41			CT 10	24.7
52414-2402-31-41			CT 11	43.8
52414-2402-32-41			CT 12	68.5
52414-2411-26-41		Sewaren (Sewaren, N.J.)	CT 6	0.8
51918-0900-06-41	Mt. Carmel Public Utility Co.	Mt. Carmel (Mt. Carmel, Ill.)	No. 5	70.3
54020-3115-24-41		Titus (Reading, Pa.)	CT 4	39.2
54020-3113-23-41	Metropolitan Edison Co.	Portland (Portland, Pa.)	CT 3	18.5
54020-3113-24-41			CT 4	25.3
52997-0913-01-41	Union Electric Co.	Venice (Venice, Ill.)	No. 1	171.0
52997-0913-02-41			No. 2	190.5
52997-0913-03-41			No. 3	512.9
52997-0913-04-41			No. 4	512.9
52997-0913-05-41			No. 5	726.6
52997-0913-06-41			No. 6	474.0
50496-3492-21-41	Central Power & Light Co.	La Palma (San Benito, Tex.)	CT 1	178.1
50126-9362-21-41	Atlantic City Electric Co.	Deepwater (Pennsgrove, N.J.)	CT "A"	118.4

Petitions were received and filed pursuant to CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) with ERA for temporary public interest exemptions for the use of natural gas as a primary energy source. Notices of the petitions and the proposed orders granting these temporary exemptions were published in the Federal Register on May 11, June 1, and July 20, 1979, (44 FR 27668, 44 FR 31677, and 44 FR 42756). Written comments were requested on the proposed orders. All comments were considered by ERA.

A general comment from Allied Chemical Corporation expressed concern that the chemical industry has experienced production curtailments and plant shutdowns due to inadequate gas supplies for nonsubstitutable feedstock and process needs at the same time that DOE has concluded that excess supplies of natural gas are available. The Allied Chemical Corporation comment did not refer to any specific region nor did it specify impacts resulting from any particular petition or proposed order.

The State of New Jersey Department of Environmental Protection supports ERA's decision, stating, "Besides representing a positive response to the Nation's need to reduce its demand for imported petroleum products and related problems, ERA's action will result in a net air quality benefit. . . ."

The Louisiana Air Control Commission is in favor of the use of

natural gas as a primary energy source. One of its reasons is that "the use of natural gas as a primary fuel in these units will enable Louisiana's oil industry to provide more distillate and residuum to other parts of the country."

The State of New York Department of Environmental Conservation is "in favor of the use of natural gas wherever possible, since the environmental benefits are obvious. . . ."

All comments that referred to specific petitions were supportive of them. However, not all the petitions listed received specific comments.

These temporary exemptions will allow the above-named units to burn an estimated total of 9,784,978 MCF of natural gas annually, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, displacing an estimated 4,703.5 barrels of middle distillate fuel oil per day (1,716,776 barrels annually).

The orders granting these temporary exemptions shall become effective sixty calendar days following their publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. Owners of the above-named powerplants have each received the Decision and Order by certified mail. The individual orders are set forth following this notice. These temporary exemptions shall be in effect, subject to the terms and conditions stated in each order, for a period of five years and may be terminated by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B-110, 2000 M Street, N.W., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. James W. Workman, Acting Director, Existing Facilities Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7442.

Issued in Washington, D.C., on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-39365 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of Proposed Remedial Orders issued to the following firms, charging them with pricing violations, connected with the retail sale of gasoline during the time periods stated:

Firm and location	Amount	Audit period
James Bulloch, Inc., 439 Beach 129 St., Bello Harbor, N.Y.	\$2,583	8/1/79-10/5/79
Dynamic Exxon Service Center, 606 Northern Blvd. & Lakeville Rd., Great Neck, N.Y. 11020	9,569	8/1/79-11/8/79
Terzakis Bros., Inc., 112 Rantoul St., Beverly, Mass.	1,145	8/1/79-10/18/79
Louise Calabrese, P.O. Box 237, Wildwood, N.Y. 06260	1,559	8/1/79-9/25/79
Bay Shore Marina, E. Public Dock, Erie, Pa. 16510	1,875	8/26/79-8/28/79
Wolf Run Marina, P.O. Box 667, Warren, Pa. 16365	1,042	8/1/79-8/30/79
Alfred Romeo, d.b.a. Romeo's Service Station, 3458 Merrick Rd., Stauford, N.Y.	1,912	8/1/79-11/30/79
Ronald Gersol, d.b.a. Mrs. Center, 106 Old Country Road, Mineola, N.Y. 11501	3,072	8/1/79-12/3/79

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office

of Hearings and Appeals, 2000 "M" Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Philadelphia, Pennsylvania, on the 17th day of December 1979.

Herbert M. Heitzer,
District Manager, Northeast District Enforcement.

[FR Doc. 79-39366 Filed 12-21-79; 6:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 52414-1406-25-41, et al.] Public Service Electric and Gas Co.; Decision and Order Granting Exemptions Pursuant to Section 311 of the Powerplant And Industrial Fuel Use Act of 1978

In the matter of Public Service Electric and Gas Company petition for temporary public interest exemptions; ERA Docket No. 52414-1406-25-41, 52414-1406-26-41, 52414-1406-27-41, 52414-1406-28-41, 52414-2400-21-41, 52414-2400-22-41, 52414-2400-23-41, 52414-2404-30-41, 52414-2404-31-41, 52414-2403-23-41, 52414-2402-29-41, 52414-2402-30-41, 52414-2402-31-41, 52414-2402-32-41, 52414-2411-26-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Public Service Electric and Gas Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 15, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the June 1, 1979, Federal Register (44 FR 31677) with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas

as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Linden (Linden, N.J.)	CT 5	2.7	0.2
	CT 6	2.7	0.2
	CT 7	1.9	0.2
	CT 8	0.8	0.2
Edison (Edison, N.J.)	CT 1	49.3	0.1
	CT 2	27.4	0.1
	CT 3	41.1	0.1
Kearny (Kearny, N.J.)	CT 10	5.5	0.2
	CT 11	8.2	0.2
Hudson (Jersey City, N.J.)	CT 3	1.9	0.1
Essex (Newark, N.J.)	CT 9	8.2	0.2
	CT 10	24.7	0.2
	CT 11	43.8	0.2
	CT 12	68.5	0.2
Sewaren (Sewaren, N.J.)	CT 6	0.8	0.1

These powerplants will burn an estimated 618,000 MCF of natural gas annually which will result in an estimated displacement of 287.7 barrels of middle distillate fuel oil per day (105,000 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary

energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-

wide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39361 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 52927-9041-22-41,
52927-9041-23-41]

Toledo Edison Co.; Decision and Order Granting Exemptions

In the matter of the Toledo Edison Company petition for temporary public interest exemptions.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Toledo Edison Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 4, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the June 1, 1979, Federal Register [44 FR 31677] with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of

the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Richland (Defiance, Ohio).	CT 2.....	59.4	0.3
	CT 3.....	59.4	0.3

These powerplants will burn an estimated 249,622 MCF of natural gas annually which will result in an estimated displacement of 118.8 barrels of middle distillate fuel oil per day (43,344 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil,

and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing

the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39353 Filed 12-21-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 52970-9039-21-41, et al.] Tucson Electric Power Co.; Decision and Order Granting Exemptions

In the matter of Tucson Electric Power Company petition for temporary public interest exemptions; ERA Docket No. 52970-9039-21-41, 52970-9039-22-41, 52970-9039-23-41, 52970-6088-21-41, 52970-6088-22-41, 52970-6088-23-41, 52970-6088-24-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Tucson Electric Power Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 3, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the June 1, 1979, Federal Register [44 FR 31677] with a request for public comments relating to the petition and the proposed order. No comments were received specifically addressing the Tucson Electric Power Company proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount

and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Irvington (Tucson, Ariz.)	CT 1.....	25.9	0.5
	CT 2.....	25.9	0.5
	CT 3.....	25.9	0.5
North Loop (Tucson, Ariz.)	CT 1.....	25.9	0.5
	CT 2.....	25.9	0.5
	CT 3.....	25.9	0.5
	CT 4.....	25.9	0.5

These powerplants will burn an estimated 358,162 MCF of natural gas annually which will result in an estimated displacement of 181.7 barrels of middle distillate fuel oil per day (66,326 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39364 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 52997-0913-01-41; et al.]

Union Electric Co.; Decision and Order Granting Exemptions

In the matter of Union Electric Company petition for Temporary public interest exemptions; ERA Docket No. 52997-0913-01-41, 52997-0913-02-41, 52997-0913-03-41, 52997-0913-04-41, 52997-0913-05-41, 52997-0913-06-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* this Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Union Electric Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 15, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the July 20, 1979, Federal Register [44 FR 42756] with a request for public comments relating to the petition and the proposed order. No comments were received specifically addressing the Union Electric Company proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Venice (Venice, Ill.)	No. 1	171.0	0.3
	No. 2	199.5	0.3
	No. 3	512.9	0.3
	No. 4	512.9	0.3
	No. 5	726.6	0.3
	No. 8	474.0	0.3

These powerplants will burn an estimated 5,333,750 MCF of natural gas annually which will result in an estimated displacement of 2,596.7 barrels of middle distillate fuel oil per day (947,800 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of

FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39357 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket Nos. 53010-0970-02-41, 53010-0970-03-41, 53010-0970-04-41]

University of Illinois; Decision and Order Granting Exemptions

In the matter of University of Illinois petition for temporary public interest exemptions.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the University of Illinois (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on June 8, 1979. Notice of the petition and a proposed order granting these temporary exemptions was published in the July 20, 1979, Federal Register [44 FR 42756] with a request for public comments relating to the petition and the proposed order. No comments were received specifically addressing the University of Illinois proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on a daily basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Abbott (Champaign, Ill.)	No. 2	173.8	0.26
	No. 3	173.8	0.26
	No. 4	173.8	0.26
	No. 5	173.8	0.26

These powerplants will burn an estimated 1,110,000 MCF of natural gas annually which will result in an estimated displacement of 521.4 barrels of middle distillate fuel oil per day (190,300 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated

that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the Federal Register, February 24, 1980, in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on December 17, 1979.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 79-39362 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

Warren Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective: August 31, 1979; Comments by: February 6, 1980.

ADDRESS: Send comments to: Arthur H. Shaw, Deputy District Manager of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114.

FOR FURTHER INFORMATION CONTACT: Arthur H. Shaw, Deputy District Manager of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114 617-223-5265.

SUPPLEMENTARY INFORMATION: "On August 31, 1979, the Office of Enforcement of the ERA executed a Consent Order with Warren Oil Company of Providence, Rhode Island. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution."

I. THE CONSENT ORDER

Warren Oil Company, with its home office located in Providence, Rhode Island, is a firm engaged in the sale of No. 2 heating Oil, Kerosene, No. 4 Fuel Oil and No. 6 Fuel Oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Warren Oil Company, the Office of Enforcement, ERA, and Warren Oil Company entered into a Consent Order, the Significant terms of which are as follows:

1. The Consent Order settles all issues involved in Warren Oil Company's sales of No. 2 Heating Oil, Kerosene, No. 4 Fuel Oil and No. 6 Fuel Oil during the

period November 1, 1973 through April 30, 1974.

2. The ERA alleges that Warren Oil Company sold the above covered products at prices in excess of those permitted under 10 CFR 212.93, as preceded by 6 CFR 150.359.

3. Warren Oil Company in executing the Consent Order does not admit to having violated the price regulations nor does DOE make a finding that Warren has violated the regulations, but in order to resolve all issues without expensive and time consuming litigation Warren agrees to refund \$90,000 as specified in the Consent Order.

4. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. DISPOSITION OF REFUNDED OVERCHARGES

In this Consent Order, Warren Oil Company agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$90,000 on or before September 1, 1982 as follows:

1. Within 120 days of the effective date of this Consent Order, Warren shall issue a credit memorandum or check to American Hoechst Corporation of Coventry, Rhode Island in the amount of \$21,318.18.

2. The balance of refunded overcharges of \$68,681.82 will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical

impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. SUBMISSION OF WRITTEN COMMENTS

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Arthur H. Shaw, Deputy District Manager of Enforcement, Northeast District, Economic Regulatory Administration, Room 700, 150 Causeway Street, Boston, MA 02114. You may obtain a free copy of this Consent Order by writing to the same address or by calling 617-223-5275.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Warren Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time on February 6, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Philadelphia, PA on the 17th day of December 1979.

Herbert M. Heitzer,
District Manager of Enforcement,
Northeast District.

[FR Doc. 79-39367 Filed 12-21-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-00009; FRL 1360-3]

Interagency Toxic Substances Data Committee; Change of Meeting Date

AGENCY: Environmental Protection Agency (EPA), Council on Environmental Quality (CEQ).

ACTION: Change of date of Open Meeting.

SUMMARY: The date of the January meeting of the Interagency Toxic Substances Data Committee has been changed to January 8, 1980. The meeting will be held in Room 2010, New Executive Office Building, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20006 at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: Ms. Nan Fremont, Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticide and Toxic Substances (TS-793), EPA, 401 M Street, SW., Washington, D.C. 20460, Telephone: 202/755-8040.

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee take place on the first Tuesday of each month at 9:30 a.m. The meetings are held in the New Executive Office Building at the address given above, and are open to the public. The date has been changed only for the January meeting. The next meeting of the Interagency Toxic Substances Data Committee will take place on February 5, 1980.

Dated: December 19, 1979.

Nan Fremont,
Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 79-39328 Filed 12-21-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1379-7]

Water Quality Standards: Navigable Waters of the State of Nevada

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of State Water Quality Standards Approval.

SUMMARY: The Environmental Protection Agency has approved water quality standards revisions adopted by the State of Nevada. These revisions become part of the State's water quality standards contained in the document "Nevada Water Pollution Control Regulation."

FOR FURTHER INFORMATION CONTACT: Nevada Branch, Water Division, Environmental Protection Agency Region IX, 215 Fremont Street, San

Francisco, CA 94105, FTS 556-2575; (415) 556-2575.

SUPPLEMENTAL INFORMATION: Two revisions were approved by EPA, Region IX on Oct. 2, 1979; (1) Nevada Water Pollution control regulation Table 43A Water Quality Standards for Toxic Materials applicable to Table 39-41 (Truckee River) adopted by the State Environmental Commission on Dec. 14, 1978, (2) Nevada Water Pollution Control Regulations Article 4.1.3.1 Heavy Metals Limits applicable to tables 22, 23, 55, 56; and Article 4.1.3.3. Pesticide Limits for Intended Beneficial Uses applicable to tables 1-23, 45-58, adopted by the State Environmental Commission on December 12, 1978.

These revisions were taken in accordance with section 303(c) of the Clean Water Act (33 U.S.C. 1313(c)). They are consistent with the Clean Water Act as interpreted in the Agency's Water Quality Standards regulations at 40 CFR 35.1550.

AVAILABILITY: Free copies of the revisions may be obtained from the Nevada Division of Environmental Protection, 201 South Fall Street, Carson City, Nevada 89710.

(Section 303(c) of the Clean Water Act, as amended (33 U.S.C. 1313(c)))

Dated: December 15, 1979.

Sweep T. Davis,
Acting Assistant Administrator for Water and Waste Management (WH-556).

[FR Doc. 79-39332 Filed 12-21-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION**Agreement Filed**

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 7, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of

discrimination or unfairness shall be accomplished by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: 10064-3.

Filing Party: J. Alton Boyer, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, D.C. 20006.

Summary: Agreement No. 10064-3 modifies the basic agreement of the Flota Mercante Grancolombiana S. A./Lykes Bros. Steamship Co., Inc. Equal Access Agreement to extend the duration of the agreement for an interim period of sixty days through March 24, 1980.

Dated: December 19, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-39325 Filed 12-21-79; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 14, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is

contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 8090-17.

Filing Party: Jeffrey F. Lawrence, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 8090-17, entered into by the member lines of the Mediterranean North Pacific Coast Freight Conference, would amend the scope of the basic agreement for the purpose of authorizing inter-modal (minibridge) services via U.S. Atlantic and Gulf Coast ports.

Agreement No.: 9355-7.

Filing Party: Howard A. Levy, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: Agreement No. 9355-7, Atlantic and Gulf American-Flag Berth Operators, modifies the first paragraph of the first article of the basic agreement, FMC No. 9355, to add new language, to read as follows:

" * * * other matters relating to the payment and collection of freight, such as time for and currency of payment, currency conversion rules, credit conditions including security requirements and suspension and restoration of credit privileges, handling of delinquent accounts and notice to members with respect to all such matters, for cargoes of household goods * * * "(new language italicized).

Dated: December 19, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-39326 Filed 12-21-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

Regional Technical Assistance Workshop for Prospective Applicants to the Adolescent Pregnancy Prevention and Services Projects Grant Program

The Assistant Secretary for Health announces a two-day technical assistance workshop to be held on January 24-25, 1980. This workshop is being scheduled to accommodate the overflow of requests for attendance to the Regional Technical Assistance Workshops for Prospective Applicants to the Adolescent Pregnancy Prevention and Services Grants Program as published in the Federal Register, Vol. 44, no. 230, page 68035, on Wednesday, November 28, 1979.

Purpose: This workshop will provide technical assistance to prospective applicants for grants under Title VI of

Pub. L. 95-628. During the workshop the participants will be presented with information and guidance on grant application criteria, eligibility requirements, use of grant funds, allowable project cost and program development criteria for appropriate comprehensive health, education, and social services to eligible adolescents. In addition, the workshop will provide interested persons an opportunity to receive in-depth consultation of the program legislation (Title VI, Pub. L. 95-628) and the Federal regulations published in the Federal Register on July 23, 1979 [44 FR page 43226].

The workshop will be held at the following address: Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Auditorium, Lobby Level, Washington, DC.

The workshop will begin each day at 9:00 a.m. and end at 5:00 p.m.

The workshop will be limited to those individuals who submit the Office of Adolescent Pregnancy Programs registration form. Registration forms and further information may be obtained from the following address: Lulu Mae Nix, Ed.D., Director, Office of Adolescent Pregnancy Programs, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Room 725H, Washington, DC 20201, (202) 472-9093.

(Catalog of Federal Domestic Assistance Number 13.975, Adolescent Pregnancy Prevention and Services)

Dated: December 17, 1979.

Lulu Mae Nix,
Director, Office of Adolescent Pregnancy Programs.

[FR Doc. 79-39334 Filed 12-21-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

Advisory Council on Developing Institutions; Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Developing Institutions will be held January 10 and 11, 1980, from 9:00 a.m. to 4:30 p.m. in the Commissioner's Conference Room, F.O.B. 6, Room 3000, 400 Maryland Ave., SW., Washington, D.C. 20202.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (Pub. L. 92-463). The Council shall assist the

Commissioner in identifying developing institutions through which the purposes of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of that Title.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

(1) Overview of Recent Initiatives To Strengthen the Management of the Title III Program and the Status of the FY 1980 Funding Process.

(2) Current Organization and Responsibilities of the Title III Staff.

(3) Reauthorization of Title III.

(4) Advisory Council Review of Policy and Procedure Manuals Recently Developed by the Title III Staff.

(5) Advisory Council Review and Discussion of Critical Title III Issues.

Issues:

(a) Eligibility Criteria for Designation as a Developing Institution

(b) The role of the Title III Staff in the Application Review Process

(c) The Development of Program Guidelines-Parameters Regarding Title III Funding Strategies, e.g.

—multi-year awards

—size and length of awards

—funding levels for specific activities

(d) The use of Title III funds to support Desegregation Issues

(6) Report from the National Advisory Committee on Black Higher Education and Black Colleges and Universities.

(7) Swearing-in of new members on the Advisory Council on Developing Institutions.

(8) Schedule for Future Meetings.

(9) Establishment of Advisory Council Subgroups.

(10) Discussion of National Conference for Title III Coordinators.

(11) Instructions to New Members of the Advisory Council.

Records shall be kept in the form of the Council's Annual Report. Copies of the Annual Report will be available to the public at a later date at the Office of the Executive Director of the Title III Advisory Council located in Room 3905, ROB-3, 7th and D Streets, S.W.

Signed at Washington, D.C. on December 20, 1979.

Paul Carnell,

Executive Director.

[FR Doc. 79-39380 Filed 12-21-79; 8:45 am]

BILLING CODE 4110-02-M

National Institutes of Health

Committee on Cytology Automation; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the

Committee on Cytology Automation, National Cancer Institute, February 7 and 8, 1980, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20205. Except as noted below, this meeting will be open to the public on February 7 and 8, 1980, from 8:30 a.m. to 5:00 p.m., to review interagency agreements and contract progress reports from: Block Engineering, University of Chicago, Los Alamos Science Laboratory, Lawrence Livermore Laboratory, Johns Hopkins University, University of Miami, Jet Propulsion Laboratory, Research Foundation, SUNY, University of Rochester, Pennsylvania State University, and Rush-Presbyterian St. Luke's Medical Center. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public approximately eleven times during the two days for approximately thirty minutes each time to discuss personnel information concerning individuals associated with each contract, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Dr. Bill Bunnag, Executive Secretary, National Cancer Institute, Westwood Building, Room 10A10, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7147) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.394, National Institutes of Health)

Dated: December 17, 1979.

Suzanne L. Freneau,

Committee Management Officer, NIH.

[FR Doc. 79-39312 Filed 12-21-79; 8:45 am]

BILLING CODE 4110-08-M

Large Bowel and Pancreatic Cancer Review Committee, (Pancreatic Review Subcommittee); Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Large Bowel and Pancreatic Cancer, Review Committee, (Pancreatic Review Subcommittee), National Cancer Institute, January 17, 1980, the Whitehall Hotel, 1700 Smith Street, Houston, Texas. The meeting will be open to the

public on January 17, from 8:30 a.m. to 10:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on January 17, from 10:00 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. William E. Straile, Executive Secretary, National Cancer Institute, Westwood Building, Room 853, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7195) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Number 13.393, 13.394, 13.395, National Institutes of Health)

Dated: December 17, 1979.

Suzanne L. Freneau,

Committee Management Officer, NIH.

[FR Doc. 79-39313 Filed 12-21-79; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Allergy and Infectious Diseases Council; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, January 31-February 1, 1980, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public on January 31 from 9:00 a.m. until 9:30 a.m., and from 1:30 p.m. until 5:00 p.m.; on February 1 from 9:00 a.m. until 11:00 a.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92-463, the meeting of the Council will be closed to the public on January 31 from 9:30 a.m.

until their respective recesses for meetings of the NAAIDC Allergy and Immunology Subcommittee, the NAAIDC Bacterial and Viral Diseases Subcommittee, and the NAAIDC Molecular Microbiology and Parasitology Subcommittee; on February 1 from 11:00 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Council members.

Dr. William I. Gay, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, 13.856, 13.857, and 13.858, National Institutes of Health)

Dated: December 17, 1979.

Suzanne L. Freneau,

Committee Management Officer, NIH.

[FR Doc. 79-39310 Filed 12-21-79; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Council on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Council on Aging, National Institute on Aging, which was published in the Federal Register on Monday, December 17, 1979, 41 FR 73162.

This meeting was to have been open to the public from 9:00 a.m. until adjournment on January 28, and again from 9:00 a.m. until adjournment on January 29, but will now be closed to the public at 4:00 p.m. on January 29 for the review of applications. The dates and meeting place remain the same—January 28-30, 1980, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

This meeting will be closed to the public from 9:00 a.m. until adjournment on January 30, 1980.

Dated: December 17, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.
[FR Doc. 79-39307 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

National Advisory General Medical Sciences Council; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, January 31 and February 1, 1980, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on January 31, 1980, from 9 a.m. to 3 p.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6), the meeting will be closed to the public on January 31, 1980, from 3 p.m. to 5 p.m. and on February 1, 1980, from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A12, Westwood Building, Bethesda, Maryland 20205, Telephone: 301, 496-7301 will provide a summary of the meeting and a roster of council members.

Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205, Telephone: 301, 496-5231 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13-859, 13-860, 13-861, 13-862, 13-863, National Institutes of Health)

Dated: December 17, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.
[FR Doc. 79-39306 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

National Arthritis, Metabolism, and Digestive Diseases Advisory Council; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on January 23-25, 1980, in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting of the Subcommittees will be open to the public on January 23 from 10:00 a.m. to about mid-day and on January 24 the full Council meeting will be open to the public from 8:30 a.m. to 12:30 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

The first day will be devoted to meetings of the subcommittee as follows: Digestive Diseases; Arthritis, Bone and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; and the Kidney, Urologic and Blood Diseases. The exact location of each subcommittee meeting will be announced later.

In accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, US Code and Section 10(d) of P.L. 92-463, the closed portions of the subcommittees and the full Council will be on January 23 from 1:30 p.m. to closing, and on January 24 from 1:30 p.m. to adjournment on January 25, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis, Metabolism, and Digestive Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496-7277.

Mr. James N. Fordham, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20205, (301) 496-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.846-850, National Institutes of Health)

Dated: December 17, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.
[FR Doc. 79-39308 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

National Cancer Institute; Meetings for the Review of Grant Applications

Pursuant to Public Law 92-563, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5706) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Cancer Research Manpower Review Committee.
Dates: January 31, 1980, February 1-2, 1980.
Place: Building 31A; Conference Room 4, National Institutes of Health.
Times: Open, February 2, 9:00 a.m.-adjournment; Closed, January 31, 9:00 a.m.-adjournment, February 1, 9:00 a.m.-adjournment.

Closure reason: To review grant applications.
Executive Secretary: Leon J. Niemiec, Ph. D., Westwood Building; Room 10A18, National Institutes of Health, 301/496-7803.

(Catalog of Federal Domestic Assistance Number 13.398 National Institutes of Health)

Name of committee: Clinical Cancer Education Committee.
Dates: February 27-28, 1980.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open, February 27, 8:30 a.m.-9:30 a.m.; Closed, February 27, 9:30 a.m.-5:00 p.m., February 28, 8:30 a.m.-adjournment.
Closure reason: To review grant applications.

Executive Secretary: Dr. Margaret H. Edwards, Westwood Building, Room 10A18, National Institutes of Health, 301/496-7761.

(Catalog of Federal Domestic Assistance Number 13.398 National Institutes of Health)
Dated: December 17, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.
[FR Doc. 79-39311 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee and Research Subcommittee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute on February 7, 8, and 9, 1980, National Institutes of Health, Building 31, Conference Room 10, at 9:00 a.m.

This meeting will be open to the public on February 7 from 9:00 a.m. to approximately 4:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held February 6, 1980, at 8:00 p.m. in Building 31, Conference Room 9 and 10, respectively.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of P.L. 92-463, the meeting of the Council will be closed to the public on February 7 from 4:00 p.m. until recess, and on February 8 from 9:00 a.m. to adjournment on February 9 for the review, discussion and evaluation of individual grant applications. The Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8:00 p.m. adjournment on February 6, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood

Building, Room 7A17, (301) 496-7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health.)

Dated: December 17, 1979.
Suzanne L. Freneau,
Committee Management Officer, NIH.
[FR Doc. 79-39314 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

National Library of Medicine; Meeting of the Board of Regents

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on January 24-25, 1980, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meetings of the Extramural Programs Subcommittee of the Board of Regents and the Lister Hill Center and National Medical Audiovisual Center Subcommittee on the preceding day, January 23, 1980, from 2:00 to 4:00 p.m., in Conference Room "B" of the Library, and from 4:00 to 6:00 p.m., in Room M-140 of the Library, respectively.

The meeting of the Board will be open to the public from 9:00 to 5:00 p.m. on January 24 and from 9:00 a.m. to 11:00 a.m. on January 25 for administrative reports and program discussions. The entire meeting of the Lister Hill Center and National Medical Audiovisual Center Subcommittee will be open to the public for the discussion and review of Lister Hill Center programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the entire meeting of the Extramural Programs Subcommittee on January 23 will be closed to the public, and the regular Board meeting on January 25 will be closed from 11:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-6308, will furnish a summary of

the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13-879—National Institutes of Health.)

Dated: December 17, 1979.
Suzanne Freneau,
Committee Management Officer, NIH.
[FR Doc. 79-39315 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

Neurological Disorders Program—Project Review A Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Neurological Disorders Program—Project Review A Committee, National Institutes of Health, February 23-25, 1980, in the Harley Hotel, 151 E. Washington Street, Orlando, FL 32801.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on February 23rd, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public on February 24th from 8:30 a.m. to adjournment on February 25th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14B, Bethesda, MD 20205, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: December 17, 1979.
Suzanne L. Freneau,
Committee Management Officer, NIH.
[FR Doc. 79-39306 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

Neurological Disorders Program—Project Review B Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Neurological Disorders Program—Project Review B Committee, National

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Institutes of Health, February 14-16, 1980, in the Bethesda Marriott Hotel, 2 Pooks Hill Road, Bethesda, MD 20014.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on February 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public on February 15th from 8:30 a.m. to adjournment on February 16th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Herbert Yellin, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated December 17, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-39305 Filed 12-21-79; 8:45 am]
BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: U.S. Fish and Wildlife Service, Region 6, P.O. Box 25486, Denver, Colorado 80225.

The applicant requests a permit to capture or disturb individuals of some twelve endangered species in the states of Wyoming, Montana, North Dakota, South Dakota, Utah, Colorado, Nebraska, Kansas, Iowa, Missouri for scientific purposes, for the enhancement of propagation or survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are

available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4030. Interested persons may comment on this application by January 25, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 19, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39337 Filed 12-21-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Sean B. Furniss, Refuge Manager, Caribbean National Wildlife Refuge, U.S. Fish and Wildlife Refuge, P.O. Box 510, Boqueron, Puerto Rico 00622.

The applicant requests a permit to take (capture, band, and release) yellow-shouldered blackbirds (*Agelaius xanthomus*) inadvertently captured during scheduled trapping operations of shiny or glossy cowbirds (*Molothrus bonariensis*) and to monitor the use of artificial nest boxes by yellow-shouldered blackbirds on Cabo Rojo National Wildlife Refuge in southwestern Puerto Rico for enhancement of survival and scientific research. The applicant also requests authorization to take (capture, mark, and release) St. Croix ground lizards (*Ameiva polops*) on Green Cay Island to determine the present population status of this species for enhancement of survival and scientific research.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4990. Interested persons may comment on this application by January 25, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 17, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39338 Filed 12-21-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Dr. Tom J. Cade, Peregrine Fund, Inc., 159 Sapsucker Woods Road, Ithaca, New York 14850.

The applicant requests a permit to capture peregrine falcons (*Falco peregrinus p. anatum & tundrius*) in the Eastern U.S. for research and propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4992. Interested persons may comment on this application by January 25, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 17, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39339 Filed 12-21-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: LSU Medical Center, 1542 Tulane Avenue, New Orleans, Louisiana 70112.

The applicant requests a permit to import blood and tissue samples of various species of the Order Crocodilia for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2996. Interested

persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 14, 1979.

Larry LaRochelle,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39340 Filed 12-21-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: U.S. Forest Service, Institute of Pacific Islands Forestry, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

The applicant requests an amendment to his permit for research and propagation work with Hawaiian crows (*Corvus tropicus*) to allow capture of wild birds on Hawaii for banding, taking of 1cc blood samples and treatment of detectable disease.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4002. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 19, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39341 Filed 12-21-79; 8:45 am]
BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before December 14, 1979. Pursuant to section 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for

evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by January 7, 1980.

Carol Shull,
Acting Chief, Registration Branch.

FLORIDA

Escambia County

Warrington vicinity, *Perdido Key Historic District*, S of Warrington on Perdido Key.

Collier County

Carnestown vicinity, *Halfway Creek Site*.

GEORGIA

Fulton County

Atlanta, *Fire Station No. 11*, 30 North Ave. Atlanta, *Wilson, Judge William A., House*, 501 Fairburn Rd., SW.

Irwin County

Irwinville vicinity, *Davis, Jefferson, Capture Site*, N of Irwinville.

Lowndes County

Valdosta, *Barber-Pittman House*, 416 N. Ashley St.

IDAHO

Bennecko County

McCammon, *Harkness, H.O., Stable Building*, 111 S. Railroad St.

Custer County

Challis, *Challis Brewery Historic District*, Challiss Creek Rd.

ILLINOIS

Pike County

Hull vicinity, *Sny Island Archeological District*.

IOWA

Appanoose County

Centerville, *Porter Hall*, 706 Drake Ave.

Cass County

Anita, *Church of Christ, Scientist*, Cherry and 3rd Sts.

Des Moines County

Burlington, *Darwin, Mary, House*, 537 Summer St.

Burlington, *Dodge, Augustus Caesar, House*, 829 N. 5th St.

Burlington, *Mason, Charles, House*, 931 N. 6th St.

Dickinson County

Spirit Lake, *Spirit Lake Public Library*, 1801 Hill Ave.

Dubuque County

Sherrill vicinity, *Hoberkorn House and Farmstead*, W of Sherrill.

Floyd County

Charles City, *Hart, Charles Walter, House*, 800 3rd Ave. Charles City, *Parr, Charles Henry, House*, 100 W. Hulin St.

Poweshiek County

Grinnell, *Spencer, Charles H., House*, 611 6th Ave.

Story County

Story City, *Grand Auditorium and Hotel Block*, Broad St.

Winneshiek County

Decorah, *Cooley-Whitney House*, 305 Grove St. Decorah, *Steyer Opera House*, 102-104 W. Water St. Decorah vicinity, *Washington Proirie Methodist Church*, SE of Decorah.

Louisiana

Caddo Parish

Shreveport, *Shreveport Water Works Company Pump Station*, Off LA 3036.

MARYLAND

Baltimore (independent city)

Erlanger Buildings, 519-531 W. Pratt St. Heisser, Rosenfeld, and Strauss Buildings, 32-42 W. Paca St.

NEW HAMPSHIRE

Strafford County

Rollinsford, *Salmon Falls Mill Historic District*, Front St.

NEW YORK

Suffolk County

Mastic Beach, *Old Mastic House (William Floyd Estate)* 20 Washington Ave.

PENNSYLVANIA

Lockawanna County

Scranton, *Crawford, James L., House (Lockawanna House of Detention)* 313 Monroe Ave.

Lancaster County

Bowmansville, *Good, John B., House*, PA 625.

Lycoming County

Muncy, *Muncy Historic District*, Roughly bounded by Ridell Lane, Sherman, Washington, and Mechanic Sts.

Monroe County

East Stroudsburg, *East Stroudsburg Railroad Station*, Crystal St.

Hamilton Square, *Christ Hamilton United Lutheran Church and Cemetery*, Bossardsville Rd.

Montgomery County

Glenside, *Gray Towers (William Welsh Harrison House)* Easton Rd. and Limekiln Pike.

Huntingdon Valley, *Lady Washington Inn*, 2225 Huntingdon Pike.

Northampton County

Easton, *Mixsell, Jacob, House*, 101 S. 4th St.

Philadelphia County

Philadelphia, *City Park Brewery (Louis Bergdoll Brewing Company)* Roughly bounded by Pennsylvania Ave., 28th, 30th and Poplar Sts.
Philadelphia, *Fisher's Lane*, E. Logan St.
Philadelphia, *Packard Motor Corporation Building*, 317-321 N. Broad St.
Philadelphia, *Rafsnider-Welsh House*, 1923 Spruce St.
Philadelphia, *Royal Theater*, 1524-1534 South St.
Philadelphia, *South, George W., Memorial Protestant Episcopal Church of the Advocate*, 18th and Diamond St.

Schuylkill County

Pine Grove, *Nutting Hall*, 205 S. Tulpehocken St.

Somerset County

Meyersdale, *Meyers Mansion*, Meyers Ave.

Union County

UNION COUNTY COVERED BRIDGES THEMATIC RESOURCES. Reference—see individual listings under Union County.
Mifflinburg, *Hasseplug Bridge (Union County Covered Bridges Thematic Resources)* N. 4th St.
Mifflinburg vicinity, *Hayes Bridge (Union County Covered Bridges Thematic Resources)* W of Mifflinburg.
Millmont vicinity, *Millmont Red Bridge (Union County Covered Bridges Thematic Resources)* SW of Millmont.
White Deer vicinity, *Factory Bridge (Union County Covered Bridges Thematic Resources)* 1 mi. W of White Deer.

Williamsburg County

Kingstree, *Brockington-Scott House*, W. Railroad Ave.

SOUTH DAKOTA

NORTHERN AND CENTRAL TOWNSHIPS OF YANKTON MULTIPLE RESOURCE AREA (Partial Inventory) This area includes: Irene, *Gordon House*, SR 1; Ingebrigtsen-Hinseth Farmstead; Lesterville, *Kremer House*; Lasek, *Mathias House*; Ripple House; Wallach Farmstead; Mission Hill, *Larson-Simonson House*; Olson, *Lewis, Log House*, SR 1; Peterson, *Mathias, Homestead*; Simonson Farmstead, SR 1; United Church of Christ; Van Osdel House; Vangen Church; Tabor, *Stribral Homestead and Farmstead*, SR 2; Utica, *Dejong House*.
Machacek Homestead; Martin's Evangelical Church; Mueller Homestead; St. Agnes Church, SR 1; Utica Depot; Utica Public School; Volin, *Brockmueller Barn*, SR 1; ES Volin Farmstead, SR 1; Gorsett Farmstead; Gustad, *Bernt, House*, SR 1; Hoxnerg Farmstead; Marindahl Post Office, SR 1; Marindahl.
Township Hall; Sloan, John, *Homestead*; Smith, *Jessie, Farmstead*; Volin, *Louis, House*; Volin School; Volin Town Hall; Zion Lutheran Church; Yankton, *Gunderson, Endre B., Farmstead*, SR 2; Henjina Farmstead, SR 1; Human Services Center; Jencks Farmstead, SR 2; Kietzman Farmstead, SR 2; McGregor.

Walker, *Farmstead*; Merk, *Nels, Farmstead*; Old Catholic Church; Schaffer Farmstead, SR 2; Walshtown School, SR 1.

WEST VIRGINIA

Jackson County

Ripley, *Armstrong House*, 315 North St.

Kanawha County

Malden, *Malden Historic District*, Roughly bounded by RR tracks, Kanawha River, Georges Dr. and U.S. 60.

Ohio County

Wheeling, *Monroe Street East Historic District*, 12th and Byron Sts.

[FR Doc. 79-39095 Filed 12-21-79; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

[AA-6669-A through AA-6669-J]

Alaska Native Claims Section

Correction

In FR Doc. 79-37370, appearing in the issue of Wednesday, December 5, 1979, at page 69995, make the following corrections:

(1) On page 69996, the first column, under the heading of State Selection AA-21725, the fourth line is corrected to read:

"T. 10 S., R. 37 W.,"

(2) On page 69997, the first column, the fifth line down is corrected to read "6069 Parcel A and the Kvichak River;"

BILLING CODE 1505-01-M

Office of the Secretary

Outer Continental Shelf Advisory Board Policy Committee, Pacific and Alaska Regions; Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-463, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Pacific and Alaska Regional OCS policy Committees will meet on January 17, 1980, from 9:30 a.m. to 3:30 p.m. in the Seattle Federal Office Building, Room 2886, 915 2nd Avenue, Seattle, Washington.

The meeting will cover the following principal subjects:

1. Transportation of Alaska and OCS Oil
2. Federal Consistency Review of OCS Sales

3. Tanker Loading Air Emissions
4. Regional Oil Spill contingency Plans.

The meeting is open to the public. Interested persons may make oral or written presentations to the Committee. Such requests should be made by January 10, 1980, to either of the Chairpersons: Deni Greene, Office of Planning and Research, 1400 10th Street, Sacramento, California 95814 (916/445-0232) or Robert LeResche, Department of Natural Resources, Pouch M, Juneau, Alaska 99811 (907/465-2400).

The States of California, Oregon and Washington serve on the Pacific Regional Committee.

Minutes of the meeting will be available for public inspection and copying 8 weeks after the meeting at the Office of OCS Program Coordination, Room 5150, Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240.

Alan D. Powers

Director, Office of OCS Program Coordination.

December 14, 1979.

[FR Doc. 79-39321 Filed 12-21-79; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Competitive Research Grant on Government Benefit Programs: Approaches to Controlling Fraud and Abuse; Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant on "Government Benefit Programs: Approaches to Controlling Fraud and Abuse." The purpose is to study various mechanisms that can be used at the time a benefit program is being planned to prevent fraud and abuse. Another objective focuses on effective enforcement approaches in handling these problems. The findings and recommendations of the research will be of utility in enforcement and benefit program design. There will be one grant award with a maximum funding level of \$250,000 for a project of not more than 24 months in duration.

The solicitation requests the submission of preliminary proposals by organizations with research experience and appropriate background, including public administration, law, political and social science.

All preliminary proposals must be postmarked not later than March 1, 1980.

A copy of the solicitation may be obtained by sending a self addressed mailing label to:

Solicitation Request, Government Benefit Programs, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: December 17, 1979.

Harry M. Bratt,

Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-39322 Filed 12-21-79; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Notice is hereby given that on 1/19/79, Mallinckrodt, Inc., Department C. B., Mallinckrodt & Second Streets, St. Louis, MO 63147 made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug:	Schedule
Raw Opium (9600)	II
Poppy Straw (Opium Plant Form) (9650)	II
Concentrate of Poppy Straw (9670)	II

Any comments or objections may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than January 28, 1980.

December 18, 1979.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 79-39317 Filed 12-21-79; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on 1/19/79, Mallinckrodt Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, MO 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Methadone-Inter. (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium Extracts (9610)	II
Opium Fluid Extracts (9620)	II

Drug:	Schedule
Opium Tinctures (9630)	II
Opium Powders (9639)	II
Opium Granulated (9640)	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than January 28, 1980.

Dated: December 18, 1979.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 79-39318 Filed 12-21-79; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Behavioral and Neural Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Behavioral and Neural Sciences Subcommittee for Anthropology—Systematic (Museum) Collections.
Date and Time: January 21-22, 1980; 9:00-5:00 p.m.
Place: National Science Foundation, 1800 G Street, N.W., Room 628, Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Ms. Mary W. Greene, Associate Program Director for Anthropology NSF, Room 320, Washington, D.C. 20550 (202) 632-4208.

Purpose of Subcommittee: To provide advice and recommendations concerning support for improvement of systematic anthropological research collections.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial (salary) data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions

of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Dated: December 19, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-39371 Filed 12-21-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Engineering and Applied Science; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering and Applied Science.
Date: January 24 and 25, 1980.
Place: 1800 G Street, NW., Room 540, Washington, D.C. 20550.
Type of Meeting: Open.
Contact Person: Ms. Mary F. Chezmar, Executive Secretary, Advisory Committee for Engineering and Applied Science, Room 537, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-5820.

Summary Minutes: Committee Management Coordination Staff, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of Advisory Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering and Applied Science activities and programs.

Agenda: Will include:

January 24:

9:00 a.m.—Introductory Remarks;
9:45 a.m.—Structure of the EAS Advisory Committee and its Subcommittees;
10:30 a.m.—Remarks by Advisory Committee Chairperson;
11:00 a.m.—Overview of EAS Divisions;
12:15 p.m.—Lunch;
1:30 p.m.—Discussion of Task Group Assignments;
3:15 p.m.—Individual Task Group Meetings;
5:15 p.m.—Adjourn.

January 25:

9:00 a.m.—General Discussion;
9:30 a.m.—Individual Task Group Meetings;
12:15 p.m.—Lunch;
1:30 p.m.—Preliminary Reports of Task Groups and Redefinition of Issues;
3:00 p.m.—Adjourn.

Dated: December 19, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-39376 Filed 12-21-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science

Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis and Science Resources Studies.

Date and Time: January 10, 1980—9:00 a.m. to 4:30 p.m.; January 11, 1980—9:00 a.m. to 1:00 p.m.

Place: January 10, 1980—Room 540; January 11, 1980—Room 543; National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Mrs. Sharon Lemon, Division of Policy Research and Analysis, Directorate for Scientific, Technological, and International Affairs, Room 1233, National Science Foundation, Washington, DC 20550. Telephone (202) 632-5990.

Anyone who plans to attend should contact Mrs. Lemon by January 7, 1980.

Summary Minutes: May be obtained from the contact person, Mrs. Lemon, at the above address.

Purpose of Committee: To provide advice, recommendations, and oversight concerning program emphases and directions of the Divisions of PRA and SRA.

Agenda:

Thursday, January 10, 1980:

9:00 a.m.—Plenary Session;
10:00 a.m.—General Session;
1:15 p.m.—Subcommittee Meetings—Scientific and Technical Personnel, Innovation Processes, Output Indicators, and Dissemination, Distribution, and Publication;

Friday, January 11, 1980:

9:00 a.m.—Subcommittee Meetings—Environment, Energy, and Resources and Technology Assessment and Risk Analysis;
11:00 a.m.—Presentation of Committee's Findings;
1:00 p.m.—Adjournment.

Dated: December 19, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-39374 Filed 12-21-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Council Steering Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting.

Name: Steering Committee of the NSF Advisory Council.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date and Time: January 14, 1980—9 a.m. to 5 p.m.

Type of Meeting: Open.

Contact Person: Mr. Bruce Darling, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW., Washington, D.C. 20550. Telephone (202) 632-4384.

Purpose of Steering Committee: The purpose of the Steering Committee, composed of members of the NSF Advisory Council, is to assist the Chairperson and Foundation staff in planning Council activity and related matters not requiring the formation of a separate task group.

Summary Minutes: May be obtained from the contact person at above stated address.

Agenda: To review with cognizant NSF staff the issues being studied by the four task groups and other issues of general concern.

Dated: December 19, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-39372 Filed 12-21-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Ecological Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Ecological Sciences of the Advisory Committee for Environmental Biology.

Date and Time: January 16, 17 and 18, 1980; 8:30 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Persons: Dr. David W. Johnston, Program Director, Ecology Program (202) 632-7324, and Dr. Melvin I. Dyer, Program Director, Ecosystem Studies Program (202) 632-5854, Room 338, National Science Foundation, Washington, D.C. 20550.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in ecological sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

December 19, 1979.

[FR Doc. 79-39373 Filed 12-21-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Systematic Biology of the Advisory Committee for Environmental Biology.

Date and Time: January 23, 24 and 25, 1980; 7:00 p.m. to 10:00 p.m. on January 23, 1980 and 8:30 a.m. to 5:00 p.m. on January 24 and 25, 1980.

Place: Room 338, National Science Foundation, 1800 G St NW, Washington, D.C. 20550.

Type of Meeting: Part Open—Open January 23, 1980, 7:00 p.m. to 10:00 p.m.; Closed—January 24, 1980 and January 25, 1980, 8:30 a.m. to 5:00 p.m.

Contact Person: Dr. John H. Beaman, Program Director, Systematic Biology Program, Room 338, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5846.

Summary Minutes: May be obtained from contact person, Dr. Beaman, at above stated address.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in systematic biology. Open part of the meeting to discuss long-range plans for the Systematic Biology Program.

Agenda: Closed—To review and evaluate research proposals and projects as part of the selection process for awards. Open—January 23, 1980, 7:00 p.m. Discussion to include long-range plans for the Systematic Biology Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: December 19, 1979.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 79-39370 Filed 12-21-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Council Meeting Task Group No. 12

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group No. 12 of the NSF Advisory Council.

Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Date: Thursday, January 10, 1980.

Time: 9:00 a.m. until 5:00 p.m.

Type of Meeting: Open.

Contact Persons: Dr. J. D. Eveland or Dr. Trudy L. Solomon, NSF Liaisons, Task Group No. 12 of the NSF Advisory Council, National Science Foundation, Room 1229, 1800 G Street, N.W., Washington, D.C. 20550. Telephone (202) 632-7804.

Purpose of Task Group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary Minutes: May be obtained from the contact person at above stated address.

Agenda: The Task Group is asked to study how scientific information should be made available to groups responsible for setting public policy, including what kind of information is needed, what roles scientific societies and universities should play, and what NSF's role should be.

Dated: December 19, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-39375 Filed 12-21-79; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD-79-175]

National Boating Safety Advisory Council Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Wednesday and Thursday, January 16 and 17, 1980, at the Fontainebleau/Hilton Hotel in Miami Beach, Florida, beginning at 9:30 a.m. on both days. The meeting is scheduled to recess at 5:00 p.m. on Wednesday, January 16, 1980, and adjourn at noon on Thursday, January 17, 1980. The agenda for the meeting will be as follows:

1. Review of action taken at the twenty-third Meeting of the Council.
2. Executive Directors Report.
3. Visual Distress Signal Subcommittee Report.

4. Discussion and Update on Research of Level Flotation for Inboards.

5. Update on COLREGS and Unified Rules—Discussion on location of Masthead Light.

6. Presentation on the Functions of the Canadian Marine Safety Council's Small Craft Committee.

7. Presentation on Regional Harmonization of Buoyage.

8. Tour Visit of Bertram Yacht Plant.

9. Briefing on Sound Signals.

10. Discussion on Horsepower Weight Table.

11. American Boat & Yacht Council's Safe Powering Update.

12. Office of Boating Safety Report.

13. Presentation on Bridge Regulations for Intra-Coastal Waterways.

14. Members Items.

15. Chairman's Session.

16. Sailboarding Demonstration

(Weather permitting).

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Commander Neal Mahan, Executive Director, National Boating Safety Advisory Council, U. S. Coast Guard (G-BA), Washington, D.C. 20593, or by calling (202) 426-1080.

Issued in Washington, D.C., December 11, 1979.

B. E. Thompson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 79-39316 Filed 12-21-79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80-3]

Recordation of Trade Name; Xylogics, Inc.

On November 9, 1979, there was published in the Federal Register (44 F.R. 65229) a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name XYLOGICS, INC. The notice advised that prior to final action on the application, filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than 30 days from the date of publication of the notice. No responses were received in opposition to the application.

The name "XYLOGICS, INC." is hereby recorded as the trade name of Xylogics, Inc., a corporation organized under the laws of the State of Delaware

located at 42 Third Avenue, Burlington, Massachusetts 01803, when applied to electronic data processing equipment, including central processing units, memory devices, controllers, interfaces, and tape drives, disc drives, terminals, and other peripheral input and output equipment, manufactured in England and the United States. Zylogics International, Ltd., Lyton House, Mill Lane, Gerrards Cross, Bucks SL98AY, Great Britain is authorized to use the trade name.

Dated: December 14, 1979.

Harvey B. Fox,

Acting Director, Office of Regulations and Rulings.

[FR Doc. 79-39343 Filed 12-21-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. 8-658]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application by Gulf Oil Corp.

In FR Doc. 79-38793 appearing in the issue of Wednesday, December 19, 1979, in the third column, in the twelfth and thirteenth lines from the bottom, the protests date now reading "December 26, 1979" should have read "December 28, 1979."

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 248

Wednesday, December 26, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-251, Amdt. 2; Dec. 18, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the December 20, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., December 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3. Docket 31400, *Colorado Ski Points*—Instructions to staff.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 3 is being deleted from the December 20, 1979, agenda because workload considerations require that the staff request additional time to consider the recommendations to the Board. Accordingly, the following Members have voted that Item 3 be deleted from the December 20, 1979, agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Mella
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2470-79 Filed 12-19-79; 4:47 pm]

BILLING CODE 6320-01-M

2

[M-261, Amdt. 3; Dec. 19, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of items to the December 20, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., December 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

Addition: 3a. Docket 36418, Proposed plan of Alaska Airlines, Alaska Northwest Properties, Inc., Ronald F. Cosgrave, Bruce Kennedy, and Keith J. Kennedy (the Alaska Parties) to divest their stock holdings in Wien Air Alaska. (BCP, BDA)

Addition: 25a. Sharing of Federal Governments and their Political Subdivisions. (BDA)

Deletion: 6. Docket 35046, NACA petition to review prior authorization procedures for charters by foreign air carriers. (Memo 9370, BIA, OGC, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: The issues involved in staff recommendation to the Board are exceedingly complex and have required extensive research and many staff meetings to resolve. The order itself has been revised substantially on several occasions. Since the order was not even completed until December 18th, it could not have been submitted to the Minutes Section one week in advance of the Board's meeting. The present situation urgently needs resolution and cannot await the Board meeting following the meeting of the 20th. The respondents in Docket 36418 and Household Finance Corporation are locked in a takeover battle to acquire Wien Air Alaska. Until further direction of the Board, Item 3a cannot be resolved and the future of Wien will remain in doubt. Furthering the important pro-competitive policies of the Federal Aviation Act calls for prompt Board action. Item 25a must be placed on the December 20, 1979 calendar for Board consideration in order to meet a statutory deadline of January 1, 1980. Revisions requested by the Chairman were only completed in final form on December 19. Item 6 is being deleted because the staff needs additional time for coordination. Accordingly, the following Members have voted that Items 3a and 25a be added to the December 20, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Accordingly, the following Members have voted that Item 6 be deleted from the December 20, 1979 agenda and that

no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Mella
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2475-79 Filed 12-20-79; 2:45 pm]

BILLING CODE 6320-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, December 19, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Television—2—Application filed on behalf of seven communities in Alaska for authority to construct television translator stations (Mini-TV stations). Petitions to deny the applications filed by the Alaska Cable Television Association and cable television operators in each of the communities involved.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 19, 1979.

[S-2472-79 Filed 12-20-79; 2:54 pm]

BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, December 20, 1979, at 10:00 a.m.

FEDERAL REGISTER NO: 2345.

CHANGE IN MEETING: Due to extraordinary circumstances, the Commission held an executive session (closed to the public) to discuss compliance and audit policy—materiality thresholds continued from December 19, 1979.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-2474-79 Filed 12-20-79; 2:54 pm]

BILLING CODE 6715-01-M

5

[USITC SE-8-1]

INTERNATIONAL TRADE COMMISSION.
TIME AND DATE: 10:00 a.m., Thursday, January 3, 1980.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints: None.
5. Certain fish (Inv. TA-201-41)—Briefing and vote on injury.
6. Rotary scraping tools (Inv. 337-TA-62)—Briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-2473-79 Filed 12-20-79; 2:54 pm]

BILLING CODE 7020-02-M

6

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of Change in Subject of Meeting

The National Credit Union Administration Board has determined that its business requires that the previously announced closed meeting on December 20, 1979, include an additional item which will be closed to public observation: Agency action in light of district court ruling on 701.38 (Borrowed Funds from Natural Persons).

Earlier announcement of this change was not possible.

The previously announced items are:

1. Personnel Actions. Closed pursuant to exemptions (2) and (6).
2. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemption (8) and (9)(A)(ii).
3. Administrative Actions under Section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
4. Monthly review of the 1980 Budget. Closed pursuant to exemption (9)(B).

The meeting will be held at 11:00 a.m. in the Board's offices at 1776 G St., N.W., Washington, D.C. Information

may be obtained from Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

Chairman Lawrence Connell and Board Members P. A. Mack and Harold Alonza Black voted unanimously to accept this addition to the agenda.

[S-2476-79 Filed 12-20-79; 3:58 pm]

BILLING CODE 7535-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 3 p.m., December 27, 1979.

PLACE: 1776 G Street, N.W., Washington, D.C., Board Room, 7th Floor.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

RECESS: 3:15 p.m.

TIME AND DATE: 3:30 p.m., December 27, 1979.

PLACE: 1776 G Street, N.W., Washington, D.C., Board Room, 7th Floor.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemption (8) and (9)(A)(ii).
2. Administrative Actions under Section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
3. Partial Waiver of Investment Valuation Reserve Requirement. Closed pursuant to exemption (9)(A)(iii).
4. Any item carried forth from a previously announced closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-2477-79 Filed 12-20-79; 3:58 pm]

BILLING CODE 7535-01-M

8

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining Offices at Washington, D.C. Headquarters).

TIME AND DATE: Friday, December 21, 1979, at 11:30 a.m.

PLACE: Room 826A, 320 First Street, N.W., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

Wednesday
December 26, 1979

Part II

Department of the
Treasury

Fiscal Service, Bureau of the Public Debt

Regulations Governing United States
Savings Bonds, Series EE and HH

Dept. Circular, Public Debt Series No. 3-
80

Register
Federal Register

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DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

31 CFR Part 353

Regulations Governing United States Savings Bonds, Series EE and HH

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final regulations.

SUMMARY: The Department of the Treasury issues final regulations governing United States Savings Bonds of Series EE and HH which are to be placed on sale January 2, 1980. The Department has determined that, for the sake of clarity, some minor modifications should be made in several provisions of the regulations as previously published for comment. The regulations which are now published as a final rule incorporate the clarifying changes which are explained below.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Guerin, Assistant Chief Counsel, Bureau of the Public Debt, 202-376-0243.

SUPPLEMENTARY INFORMATION: The Secretary of the Treasury announced earlier this year that the sale of savings bonds of Series E and H would be terminated. Beginning in January 1980, two new series of bonds, Series EE and HH, will be offered.

On June 28, 1979, the Department of the Treasury published in proposed form, the regulations that would govern the United States Savings Bonds of Series EE and HH. The public was invited to submit written comments on these regulations; the period for receiving comments ended on August 15, 1979. Only one response was received. It proposed that each year individuals be allowed to purchase up to \$2,000 (issue price) of Series EE bonds which would be exempt from the Federal income tax if held until the purchaser's retirement. This proposal would require Congressional action since it would involve an amendment of the Internal Revenue Code. Accordingly, it is beyond the scope of these regulations. The suggestion has been forwarded to the Treasury office responsible for tax policy.

The terms and conditions of the Series EE and HH bonds, such as their denominations, maturities, and investment yields, are found in the circulars offering the bonds for sale, i.e., Department of the Treasury Circulars, Public Debt Series Nos. 1-80 and 2-80 (31 CFR, Parts 351 and 352), respectively.

Department of the Treasury Circular, Public Debt Series No. 3-80, published below as Part 353 of Title 31, Code of Federal Regulations, contains the regulations governing the two new series of bonds.

All previous series of savings bonds continue to be subject to the regulations in Department of the Treasury Circular No. 530, as revised (31 CFR, Part 315). The differences between the two sets of regulations are briefly discussed below, and minor changes that have been adopted in this final rule are explained.

Registration and Issue

In addition to the forms of registration previously authorized for savings bonds by Circular No. 530, Series EE and HH bonds may be inscribed in the name of either parent as natural guardian of a minor. This form of registration allows someone who wants to buy savings bonds for a minor, to name one parent of the child as natural guardian and, hence, the person having responsibility for the bonds.

A specific prohibition on the issuance of bonds in the furtherance of chain letter schemes has been added to the regulations. This provision reflects Treasury policy as to the propriety of purchasing savings bonds for use in chain letter and similar schemes.

Limitations on Purchases

The general limit on purchases of Series EE and HH bonds is \$30,000 and \$20,000 (face amount), respectively, for each calendar year. The current annual limit on Series E and H bonds is \$10,000 (face amount) each. The following special annual limitations are established: \$4,000 (face amount) of Series EE bonds for eligible employee thrift, savings, vacation and similar plans, and \$200,000 (face amount) of Series HH bonds for gifts to tax-exempt organizations.

In the notice of proposed rulemaking published on June 28, 1979, the limitations for Series EE and HH bonds were stated in terms of the "issue price" of the bonds. In Circular No. 530, the limitations are stated in terms of "face amount." For clarity, the final regulations for Series EE and HH bonds use "face amount" as the measure for the limitations on purchases.

Relief for Loss or Theft, et cetera

Time limits have been established for servicing claims for relief that are not filed for a reasonable period after bonds have been redeemed or after the bonds have reached final maturity. If a claim is filed ten or more years after the recorded date of redemption, a copy of the paid bond will not be available for

examination by the claimant. A claim filed six or more years after the final maturity of a bond will be processed only if the bond serial number is provided. These limitations will enable the Treasury to realize substantial administrative savings in the costs of maintaining records and servicing claims.

Payment

Under the terms of its offering, a Series EE bond will not be eligible for payment for a period of six months from its issue date. Otherwise, the regulations governing the payment of savings bonds are not essentially changed.

Most banks, trust companies, savings and loan associations, savings banks and other financial institutions are qualified to act as paying agents for Series E or EE bonds. Agents are authorized to pay eligible bonds only to individuals named as owners or coowners. Cases involving payment to surviving beneficiaries or to fiduciaries, organizations, etc., may be processed only by a Federal Reserve Bank or Branch, or the Bureau of the Public Debt, as these transactions often require submission of supporting evidence. If the owner is deceased or disabled, and there is no other person named on the bond who can request payment, instructions should be obtained from a Federal Reserve Bank or Branch or the Bureau of the Public Debt.

Series H and HH bonds are redeemable only at a Federal Reserve Bank or Branch or the Bureau of the Public Debt.

Powers of Attorney

The new savings bond regulations permit limited recognition of powers of attorney to cash bonds where the grantor has specifically authorized the attorney-in-fact to sell or redeem Treasury securities and the power of attorney containing such authority has been executed before a certifying officer. The more common power of attorney will be recognized only in those cases where the grantor has become mentally incompetent or physically disabled, provided the power specifically provides for this contingency. These two provisions operate independently of one another.

Reissue

The new regulations governing reissue differ from those in Circular No. 530 in that the name of a beneficiary may be removed from a Series EE or HH bond upon the registered owner's request alone. The consent of the beneficiary is not required.

In the notice of proposed rulemaking governing reissues of Series EE and HH bonds, no provision was made covering the adoptive relationship. This has been remedied by qualifying the word "blood", as used in the regulations, to include legal adoption. In addition, the provisions for reissue of bonds registered in coownership form have been rewritten for clarity.

Certifying Officer

Circular No. 530 has not required that requests for reissue or for other types of transactions of savings bonds be signed before an authorized certifying officer as are requests for payment of the bonds. This requirement appears only in the instructions on the reissue applications. To remove any doubt as to whether requests on Public Debt forms must be executed before a certifying officer, a new provision has been added stating that transaction forms must be properly certified, whenever required in the instructions on the form.

Deceased Owners

The Bureau of the Public Debt has pioneered procedures for the disposition of savings bonds belonging to the estates of deceased owners without requiring probate court proceedings. These procedures are being expanded to provide for payment of Series EE and HH bonds to the surviving relatives of a decedent pursuant to a table of precedence.

The minor changes that have been made in the text of the regulations that were published for comment on June 28, 1979, do not affect substantive rights of bondowners. Accordingly, the Fiscal Service is issuing, with the changes described above, Department of the Treasury Circular, Public Debt Series No. 3-80 (31 CFR, Part 353) as a final rule, effective as of January 1, 1980.

Dated: December 14, 1979.

Paul H. Taylor,

Fiscal Assistant Secretary.

Accordingly, a new Part 353 is added to Title 31 CFR to read as follows:

PART 353—REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS, SERIES EE AND HH

Subpart A—General Information

Sec.

- 353.0 Applicability.
- 353.1 Official agencies.
- 353.2 Definitions.

Subpart B—Registration

- 353.5 General rules.
- 353.6 Restrictions on registration.
- 353.7 Authorized forms of registration.
- 353.8 Chain letters prohibited.

Subpart C—Limitations on Annual Purchases

Sec.

- 353.10 Amounts which may be purchased.
- 353.11 Computation of amount.
- 353.12 Disposition of excess.
- 353.13 Employee plans—conditions of eligibility.

Subpart D—Limitations on Transfer or Pledge

- 353.15 Transfer.
- 353.16 Pledge.

Subpart E—Judicial Proceedings

- 353.20 General.
- 353.21 Payment to judgment creditors.
- 353.22 Payment or reissue pursuant to judgment.
- 353.23 Evidence.

Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bonds

- 353.25 General.
- 353.26 Application for relief—after receipt of bond.
- 353.27 Application for relief—nonreceipt of bond.
- 353.28 Recovery or receipt of bond before or after relief is granted.
- 353.29 Adjudication of claims.

Subpart G—Interest

- 353.30 Series EE bonds.
- 353.31 Series HH bonds.

Subpart H—General Provisions for Payment

- 353.35 Payment (redemption).
- 353.36 Payment during life of sole owner.
- 353.37 Payment during lives of both coowners.
- 353.38 Payment during lifetime of owner of beneficiary bond.
- 353.39 Surrender for payment.
- 353.40 Special provisions for payment.
- 353.41 Partial redemption.
- 353.42 Nonreceipt or loss of check issued in payment.
- 353.43 Effective date of request for payment.
- 353.44 Withdrawal of request for payment.

Subpart I—Reissue and Denominational Exchange

- 353.45 General.
- 353.46 Effective date of request for reissue.
- 353.47 Authorized reissue—during lifetime.
- 353.48 Restrictions on reissue.
- 353.49 Correction of errors.
- 353.50 Change of name.
- 353.51 Requests for reissue.

Subpart J—Certifying Officers

- 353.55 Individuals authorized to certify.
- 353.56 General instructions and liability.
- 353.57 When a certifying officer may not certify.
- 353.58 Forms to be certified.

Subpart K—Minors, Incompetents, Aged Persons, Absentees, et al.

- 353.60 Payment to representative of an estate.
- 353.61 Payment after death.
- 353.62 Payment to minors.
- 353.63 Payment to a parent or other person on behalf of a minor.

Sec.

- 353.64 Payment, reinvestment, or exchange—voluntary guardian of an incompetent.
- 353.65 Payment—attorney-in-fact of an incompetent or a physically disabled person.
- 353.66 Reissue.

Subpart L—Deceased Owner, Coowner or Beneficiary

- 353.70 General rules governing entitlement.
- 353.71 Estate administered.
- 353.72 Estate not administered.

Subpart M—Fiduciaries

- 353.75 Payment or reissue during the existence of the fiduciary estate.
- 353.76 Payment or reissue after termination of the fiduciary estate.
- 353.77 Exchanges by fiduciaries.

Subpart N—Private Organizations (Corporations, Associations, Partnerships, etc.) and Governmental Agencies, Units and Officers

- 353.80 Payment to corporations or unincorporated associations.
- 353.81 Payment to partnerships.
- 353.82 Reissue or payment to successors of corporations, unincorporated associations, or partnerships.
- 353.83 Reissue or payment on dissolution of corporation or partnership.
- 353.84 Payment to certain institutions.
- 353.85 Reissue in name of trustee or agent for reinvestment purposes.
- 353.86 Reissue upon termination of investment agency.
- 353.87 Payment to governmental agencies, units, or their officers.

Subpart O—Miscellaneous Provisions

- 353.90 Waiver of regulations.
- 353.91 Additional requirements; bond of indemnity.
- 353.92 Supplements, amendments, or revisions.

Authority: Sec. 22 of the Second Liberty Bond Act, as amended, 49 Stat. 21, as amended (31 U.S.C. 757c); Sec. 8 of Act of July 8, 1937, as amended, 50 Stat. 461, as amended (31 U.S.C. 738a); 5 U.S.C. 301.

Subpart A—General Information

§ 353.0 Applicability.

The regulations in this circular, Department of the Treasury Circular, Public Debt Series No. 3-80, govern United States Savings Bonds of Series EE and Series HH. These bonds bear issue dates of January 1, 1980, or thereafter. The regulations in Department of the Treasury Circular No. 530, current revision (31 CFR Part 315), govern all other United States Savings Bonds and Savings Notes.

§ 353.1 Official agencies.

(a) The Bureau of the Public Debt of the Department of the Treasury is responsible for administering the Savings Bonds Program. Authority to process transactions has been delegated

to Federal Reserve Banks and Branches, as fiscal agents of the United States.

(b) Communications concerning transactions and requests for forms should be addressed to (1) a Federal Reserve Bank or Branch; (2) the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101; or (3) the Bureau of the Public Debt, Washington, D.C. 20226. The names and addresses of the Federal Reserve Banks and Branches are:

Federal Reserve Bank of Boston, Boston, Massachusetts 02106.

Federal Reserve Bank of New York, Federal Reserve Post Office Station, New York, New York 10045. Buffalo Branch, Federal Reserve Bank, Box 961, Buffalo, New York 14240.

Federal Reserve Bank of Philadelphia, Box 66, Philadelphia, Pennsylvania 19105.

Federal Reserve Bank of Cleveland, Box 6387, Cleveland, Ohio 44101. Cincinnati Branch, Federal Reserve Bank, Box 999, Cincinnati, Ohio 45201. Pittsburgh Branch, Federal Reserve Bank, Box 867, Pittsburgh, Pennsylvania 15230.

Federal Reserve Bank of Richmond, Box 27622, Richmond, Virginia 23261. Baltimore Branch, Federal Reserve Bank, Box 1378, Baltimore, Maryland 21203. Charlotte Branch, Federal Reserve Bank, Box 300, Charlotte, North Carolina 28230.

Federal Reserve Bank of Atlanta, Atlanta, Georgia, 30303. Birmingham Branch, Federal Reserve Bank, Box 10447, Birmingham, Alabama 35202. Jacksonville Branch, Federal Reserve Bank, Jacksonville, Florida 32203. Miami Branch, Federal Reserve Bank, Box 520847, Miami, Florida 33152. Nashville Branch, Federal Reserve Bank, Nashville, Tennessee 37203. New Orleans Branch, Federal Reserve Bank, Box 61630, New Orleans, Louisiana 70161.

Federal Reserve Bank of Chicago, Box 834, Chicago, Illinois 60690. Detroit Branch, Federal Reserve Bank, Box 1059, Detroit, Michigan 48231.

Federal Reserve Bank of St. Louis, Box 442, St. Louis, Missouri 63166. Little Rock Branch, Federal Reserve Bank, Box 1261, Little Rock, Arkansas 72203. Louisville Branch, Federal Reserve Bank, Box 32710, Louisville, Kentucky 40232. Memphis Branch, Federal Reserve Bank, Box 407, Memphis, Tennessee 38101.

Federal Reserve Bank of Minneapolis, Minneapolis, Minnesota 55480. Helena Branch, Federal Reserve Bank, Helena, Montana 59601.

Federal Reserve Bank of Kansas City, Federal Reserve Station, Kansas City, Missouri 64198. Denver Branch, Federal Reserve Bank, Box 5228, Terminal Annex, Denver, Colorado 80217. Oklahoma City Branch, Federal Reserve Bank, Box 25129, Oklahoma City, Oklahoma 73125. Omaha Branch, Federal Reserve Bank, Omaha, Nebraska 68102.

Federal Reserve Bank of Dallas, Station K, Dallas, Texas 75222. El Paso Branch, Federal Reserve Bank, Box 100, El Paso, Texas 79999. Houston Branch, Federal Reserve Bank, Box 2578, Houston, Texas 77001. San Antonio

Branch, Federal Reserve Bank, Box 1471, San Antonio, Texas 78295.

Federal Reserve Bank of San Francisco, Box 7702, San Francisco, California 94120. Los Angeles Branch, Federal Reserve Bank, Box 2077, Terminal Annex, Los Angeles, California 90051. Portland Branch, Federal Reserve Bank, Box 3436, Portland, Oregon 97208. Salt Lake City Branch, Federal Reserve Bank, Box 30780, Salt Lake City, Utah 84125. Seattle Branch, Federal Reserve Bank, Box 3567, Seattle, Washington 98124.

(c) Notices and documents must be filed with the agencies referred to above and as indicated in these regulations.

§ 353.2 Definitions.

(a) "Bond" means a United States Savings Bond of Series EE or HH, unless the context indicates otherwise.

(b) "Incompetent" means an individual who is incapable of handling his or her business affairs because of a legal, mental or medical disability, except that a minor is not an incompetent solely because of age.

(c) "Issuing agent" means an organization that has been qualified under the provisions of Department of the Treasury Circular, Public Debt Series No. 4-67, current revision (31 CFR Part 317), to issue savings bonds.

(d) "Paying agent" means a financial institution that has been qualified under the provisions of Department of the Treasury Circular No. 750, current revision (31 CFR Part 321), to make payment of savings bonds.

(e) "Payment" means redemption, unless otherwise indicated by context.

(f) "Person" means any legal entity including, but without limitation, an individual, corporation (public or private), partnership, unincorporated association, or fiduciary estate.

(g) "Personal trust estates" means trust estates established by natural persons in their own right for the benefit of themselves or other natural persons in whole or in part, and common trust funds comprised in whole or in part of such trust estates.

(h) "Reissue" means the cancellation and retirement of a bond and the issuance of a new bond or bonds of the same series, same issue date, and same total face amount.

(i) "Representative of the estate of a minor, incompetent, aged person, absentee, et al." means the court-appointed or otherwise qualified person, regardless of title, who is legally authorized to act for the individual. The term does not include parents in their own right, voluntary or natural guardians, or the executors or administrators of decedents' estates.

(j) "Surrender" means the actual receipt of a bond with an appropriate request for payment or reissue by either

a Federal Reserve Bank or Branch, the Bureau of the Public Debt, or, if a paying agent is authorized to handle the transaction, the actual receipt of the bond and the request for payment by the paying agent.

(k) "Taxpayer identifying number" means a social security account number or an employer identification number.

(l) "Voluntary guardian" means an individual who is recognized as authorized to act for an incompetent, as provided by § 353.64.

Subpart B—Registration

§ 353.5 General rules.

(a) *Registration is conclusive of ownership.* Savings bonds are issued only in registered form. The registration must express the actual ownership of, and interest in, the bond. The registration is conclusive of ownership, except as provided in Sec. 353.49.

(b) *Requests for registration.* Registrations requested must be clear, accurate and complete, conform substantially with one of the forms set forth in this Subpart, and include the taxpayer identifying number of the owner or first-named coowner. The taxpayer identifying number of the second-named coowner or beneficiary is not required but its inclusion is desirable. The registration of all bonds owned by the same person, organization, or fiduciary should be uniform with respect to the name of the owner and any description of the fiduciary capacity. An individual should be designated by the name he or she is ordinarily known by or uses in business, including at least one full given name.

The name may be preceded or followed by any applicable title, such as "Miss", "Mr.", "Mrs.", "Ms.", "Dr.", "Rev.", "M.D.", or "D.D.". A suffix, such as "Sr." or "Jr.", must be included when ordinarily used or when necessary to distinguish the owner from another member of his family. A married woman's own given name, not that of her husband, must be used; for example, "Mary A. Jones" or "Mrs. Mary A. Jones", NOT "Mrs. Frank B. Jones". The address must include, where appropriate, the number and street, route, or any other local feature, city, State, and ZIP Code.

(c) *Inscription of bonds purchased as gifts.* If the bonds are purchased as gifts, awards, prizes, etc., and the taxpayer identifying number of the intended owner is not known, the purchaser's number must be furnished. In this event, the issuing agent will inscribe the word "GIFT" and the purchaser's number on the bond. Bonds so inscribed will not be associated with the purchaser's own

holdings. The registration of a bond in the name of a purchaser with another as coowner or in the purchaser's name with another as beneficiary is not considered a gift or an award.

§ 353.6 Restrictions on registration.

(a) *Natural persons.* Only an individual in his or her own right may be designated as coowner or beneficiary along with any other individual, whether on original issue or reissue, except as provided in § 353.7(f).

(b) *Residence.* The designation of an owner or first-named coowner is restricted, on original issue only, to persons (whether individuals or others) who are:

(1) Residents of the United States, its territories or possessions, or the Commonwealth of Puerto Rico;

(2) Citizens of the United States residing abroad;

(3) Civilian employees of the United States or members of its armed forces, regardless of their residence or citizenship; and

(4) Residents of Canada or Mexico who work in the United States but only if the bonds are purchased on a payroll deduction plan and the owner provides a taxpayer identifying number.

A nonresident alien may be designated coowner or beneficiary or, on authorized reissue, owner, unless the nonresident alien is a resident of an area with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States or its agencies or instrumentalities. See Department of the Treasury Circular No. 655, current revision (31 CFR Part 211). Registration is not permitted in any form which includes the name of any alien who is a resident of any restricted area.

(c) *Minors.* (1) Minors may purchase with their wages, earnings, or other funds belonging to them and under their control bonds registered in their names alone or with a coowner or beneficiary.

(2) Bonds purchased by another person with funds belonging to a minor not under legal guardianship or similar fiduciary estate must be registered, without a coowner or beneficiary, in the name of the minor or a natural guardian on behalf of a minor.

(3) Bonds purchased with funds of another may be registered to name the minor as owner, coowner, or beneficiary. If the minor is under legal guardianship or similar fiduciary estate, the registration must include an appropriate reference to it.

(4) Bonds purchased as a gift to a minor under a gift-to-minors statute must be registered as prescribed by the

statute and no coowner or beneficiary may be named.

(5) Bonds purchased by a representative of a minor's estate must be registered in the name of the minor and must include in the registration an appropriate reference to the guardianship or similar fiduciary estate. Bonds purchased by a representative of the estates of two or more minors, even though appointed in a single proceeding, must be registered in the name of each minor separately with appropriate reference to the guardianship or similar fiduciary estate.

(d) *Incompetents.* Bonds may be registered to name as owner, coowner, or beneficiary an incompetent for whose estate a guardian or similar representative has been appointed, except that a coowner or beneficiary may not be named on bonds purchased with funds belonging to the incompetent. The registration must include appropriate reference to the guardianship or similar fiduciary estate. Bonds should not be registered in the name of an incompetent unless there is a representative for his or her estate, except as provided in § 353.64.

§ 353.7 Authorized forms of registration.

Subject to any limitations or restrictions contained in these regulations on the right of any person to be named as owner, coowner, or beneficiary, bonds should be registered as indicated below. A savings bond inscribed in the form not substantially in agreement with one of the forms authorized by this Subpart is not considered validly issued.

(a) *Natural persons.* A bond may be registered in the names of individuals in their own right, but only in one of the forms authorized by this paragraph.

(1) *Single ownership form.* A bond may be registered in the name of one individual. Example:

John A. Jones 123-45-6789.

(2) *Coownership form.* A bond may be registered in the names of two individuals in the alternative as coowners. The form of registration "A and B" is not authorized. Examples:

John A. Jones 123-45-6789 or Ella S. Jones 987-65-4321.

John A. Jones 123-45-6789 or (Miss, Ms. or Mrs.) Ella S. Jones.

Ella S. Jones 987-65-4321 or John A. Jones.

(3) *Beneficiary form.* A bond may be registered in the name of one individual payable on death to another. "Payable on death to" may be abbreviated to "P.O.D." Examples:

John A. Jones 123-45-6789 payable on death to Mrs. Ella S. Jones.

John A. Jones 123-45-6789 P.O.D. Ella S. Jones 987-65-4321.

(b) *Fiduciaries (including legal guardians and similar representatives, certain custodians, natural guardians, executors, administrators, and trustees).*

(1) *General.* A bond may be registered in the name of any person or persons or any organization acting as fiduciary of a single fiduciary estate, but not where the fiduciary will hold the bond merely or principally as security for the performance of a duty, obligation, or service. Registration should conform to a form authorized by this paragraph. A coowner or beneficiary may be named only in accordance with the applicable provisions of § 353.6 (c) and (d). A common trust fund established and maintained by a financial institution authorized to act as a fiduciary will be considered a single fiduciary estate within the meaning of these regulations.

(2) *Legal guardians, conservators, similar representatives, certain custodians.* A bond may be registered in the name and title or capacity of the legally appointed or authorized representative of the estate of a minor, incompetent, aged or infirm person, absentee, et al., or in the name of that individual followed by an appropriate reference to the estate. Examples:

Tenth National Bank, guardian (or conservator, trustee, etc.) of the estate of George N. Brown 123-45-6789, a minor (or an incompetent, aged person, infirm person, or absentee).

Henry C. Smith, conservator of the estate of John R. White 123-45-6789, an adult, pursuant to Sec. 633.572 of the Iowa Code.

John F. Green 123-45-6789, a minor (or an incompetent) under custodianship by designation of the Veterans Administration.

Frank M. Redd 123-45-6789, an incompetent for whom Eric A. Redd has been designated trustee by the Department of the Army pursuant to 37 U.S.C. 602.

Arnold A. Ames, as custodian for Barry B. Bryan 123-45-6789, under the California Uniform Gifts to Minors Act.

Thomas J. Reed, as custodian for Lawrence W. Reed 123-45-6789, a minor, under the laws of Georgia.

Richard A. Rowe 123-45-6789, for whom Reba L. Rowe is representative payee for social security benefits (or black lung benefits, as the case may be). (If the beneficiary is a minor, the words "a minor" should appear immediately after the social security number.)

Henry L. Green 123-45-6789 or George M. Brown, a minor under legal guardianship of the Tenth National Bank.

Henry L. Green 123-45-6789 P.O.D. George M. Brown, a minor under legal guardianship of the Tenth National Bank.

Redd State Hospital and School, selected payee for John A. Jones 123-45-6789, a Civil Service annuitant, pursuant to 5 U.S.C. 8345(e).

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(3) *Natural guardians.* A bond may be registered in the name of either parent (natural and adoptive) of a minor, as natural guardian. The registration of a bond in this form is considered as establishing a fiduciary relationship. A coowner or beneficiary may be named but only if the funds used to purchase the bonds do not belong to the minor. Examples:

John A. Jones, as natural guardian for Henry M. Jones 123-45-6789.
Melba Smith, as natural guardian for Thelma Smith 123-45-6789 P.O.D.
Bartholomew Smith.

(4) *Executors and administrators.* A bond may be registered in the name of the representative appointed by a court to act for an estate of a decedent, or in the name of an executor authorized to administer a trust under the terms of a will although not named trustee. The name and capacity of all the representatives as shown in the letters of appointment must be included in the registration and be followed by an adequate indentifying reference to the estate. Examples:

John H. Smith and Calvin N. Jones, executors of the will (or administrators of the estate) of Robert J. Smith, deceased, 12-3456789.

John H. Smith, executor of the will of Robert J. Smith, deceased, in trust for Mrs. Jane L. Smith, with remainder over, 12-3456789.

(5) *Trustees or life tenants under wills, deeds of trust, agreements, or similar instruments.* A bond may be registered in the name and title of the trustee of a trust estate, or in the name of a life tenant, followed by an adequate identifying reference to the authority governing the trust or life tenancy. Examples:

Thomas J. White and Tenth National Bank, trustees under the will of Robert J. Smith, deceased, 12-3456789.

Jane N. Black 123-45-6789, life tenant under the will of Robert J. Black, deceased.

Tenth National Bank, trustee under agreement with Paul E. White, dated 2/1/80, 12-3456789.

Carl A. Black and Henry B. Green, trustees under agreement with Paul E. White, dated 2/1/80, 12-3456789.

Paul E. White, trustee under declaration of trust dated 2/1/80, 12-3456789.

(i) If the trust instrument designates by title only an officer of a board or an organization as trustee, only the title of the officer should be used. Example:

Chairman, Board of Trustees, First Church of Christ, Scientist, of Chicago, Illinois, in trust under the will of Robert J. Smith, deceased, 12-3456789.

(ii) The names of all trustees, in the form used in the trust instrument, must

be included in the registration, except as follows:

(A) If there are several trustees designated as a board or they are required to act as a unit, their names may be omitted and the words "Board of Trustees" substituted for the word "trustee". Example:

Board of Trustees of Immediate Relief Trust of Federal Aid Association, under trust indenture dated 2/1/80, 12-3456789.

(B) If the trustees do not constitute a board or are not required to act as a unit, and are too numerous to be designated in the registration by names and title, some or all the names may be omitted. Examples:

John A. Smith, Henry B. Jones, et al., trustees under the will of Edwin O. Mann, deceased, 12-3456789.

Trustees under the will of Edwin O. Mann, deceased, 12-3456789.

(6) *Employee thrift, savings, vacation and similar plans.* A bond may be registered in the name and title, or title alone, of the trustee of an eligible employee thrift, savings, vacation or similar plan, as defined in § 353.13(a). If the instrument creating the trust provides that the trustees shall serve for a limited term, their names may be omitted. Examples:

Tenth National Bank, trustee of Pension Fund of Safety Manufacturing Company, U/A with the company, dated March 31, 1980, 12-3456789.

Trustees of Retirement Fund of Safety Manufacturing Company, under directors' resolution adopted March 31, 1980, 12-3456789.

County Trust company, trustee of the Employee Savings Plan of Jones Company, Inc., U/A dated January 17, 1980, 12-3456789.

Trustee of the Employee Savings Plan of Brown Brothers, Inc., U/A dated January 20, 1980, 12-3456789.

(7) *Funds of lodges, churches, societies, or similar organizations.* A bond may be registered in the title of the trustees, or a board of trustees, holding funds in trust for a lodge, church, or society, or similar organization, whether or not incorporated. Examples:

Trustees of the First Baptist Church, Akron, Ohio, acting as a Board under Section 15 of its bylaws, 12-3456789.

Trustees of Jamestown Lodge No. 1000, Benevolent and Protective Order of Elks, under Section 10 of its bylaws, 12-3456789.

Board of Trustees of Lotus Club, Washington, Indiana, under Article 10 of its constitution, 12-3456789.

(8) *Investment agents for religious, educational, charitable and non-profit organizations.* A bond may be registered in the name of a bank, trust company, or other financial institution, or an individual, as agent under an agreement with a religious, educational, charitable

or non-profit organization, whether or not incorporated, if the agent holds funds for the sole purpose of investing them and paying the income to the organization. The name and designation of the agent must be followed by an adequate reference to the agreement. Examples:

Tenth National Bank, fiscal agent U/A with the Evangelical Lutheran Church of the Holy Trinity, dated 12/28/80, 12-3456789.

Sixth Trust Company, Investment Agent U/A dated September 16, 1980, with Central City Post, Department of Illinois, American Legion, 12-3456789.

John Jones, Investment Agent U/A dated September 16, 1980, with Central City Post, Department of Illinois, American Legion, 12-3456789.

(9) *Funds of school groups or activities.* A bond may be registered in the title of the principal or other officer of a public, private, or parochial school holding funds in trust for a student body fund or for a class, group, or activity. If the amount purchased for any one fund does not exceed \$2,500 (face amount), no reference need be made to a trust instrument. Examples:

Principal, Western High School, in trust for the Class of 1980 Library Fund, 12-3456789.

Director of Athletics, Western High School, in trust for Student Activities Association, under resolution adopted 5/12/80, 12-3456789.

(10) *Public corporations, bodies, or officers as trustees.* A bond may be registered in the name of a public corporation or a public body, or in the title of a public officer, acting as trustee under express authority of law, followed by an appropriate reference to the statute creating the trust. Examples:

Rhode Island Investment Commission, trustee of the General Sinking Fund under Title 35, Ch. 8, Gen. Laws of Rhode Island.
Superintendent of the Austin State Hospital Annex, in trust for the Benefit Fund under Article 3183C, Vernon's Civ. Stat. of Texas Ann.

(c) *Private organizations (corporations, associations, partnerships).* (1) *General.* A bond may be registered in the name of any private organization in its own right. The full legal name of the organization as set forth in its charter, articles of incorporation, constitution, partnership agreement, or other authority from which its powers are derived, must be included in the registration and may be followed by a parenthetical reference to a particular account other than a trust account.

(2) *Corporations.* A bond may be registered in the name of a business, fraternal, religious, non-profit, or other private corporation. The words "a corporation" must be included in the

registration unless the fact of incorporation is shown in the name. Examples:

Smith Manufacturing Company, a corporation, 12-3456789.
Green and Redd, Inc., 12-3456789 (Depreciation Acct.)

(3) *Unincorporated associations.* A bond may be registered in the name of a club, lodge, society, or a similar self-governing association which is unincorporated. The words "an unincorporated association" must be included in the registration. This form of registration must not be used for a trust fund, board of trustees, a partnership, or a sole proprietorship. If the association is chartered by or affiliated with a parent organization, the name or designation of the subordinate or local organization must be given first, followed by the name of the parent organization. The name of the parent organization may be placed in parentheses and, if well known, may be abbreviated. Examples:

The Lotus Club, an unincorporated association, 12-3456789.

Local 447, Brotherhood of Railroad Trainmen, an unincorporated association, 12-3456789.

Eureka Lodge 317 (A.F. and A.M.), an unincorporated association, 12-3456789.

(4) *Partnerships.* A bond may be registered in the name of a partnership. The words "a partnership" must be included in the registration. Examples:

Smith & Jones, a partnership, 12-3456789.
Acme Novelty Company, a partnership, 12-3456789.

(5) *Sole Proprietorships.* A bond may be registered in the name of an individual who is doing business as a sole proprietor. A reference may be made to the trade name under which the business is conducted. Example:

John Jones DBA Jones Roofing Company 123-45-6789.

(d) *Institutions (churches, hospitals, homes, schools, etc.).* A bond may be registered in the name of a church, hospital, home, school, or similar institution conducted by a private organization or by private trustees, regardless of the manner in which it is organized or governed or title to its property is held. Descriptive words, such as "a corporation" or "an unincorporated association", must not be included in the registration. Examples:

Shriners' Hospital for Crippled Children, St. Louis, Missouri, 12-3456789.

St. Mary's Roman Catholic Church, Albany, New York, 12-3456789.

Rodeph Shalom Sunday School, Philadelphia, Pennsylvania, 12-3456789.

(e) *States, public bodies and corporations, and public officers.* A bond may be registered in the name of a State, county, city, town, village, school district, or other political entity, public body, or corporation established by law (including a board, commission, administration, authority, or agency) which is the owner or official custodian of public funds, other than trust funds, or in the full legal title of the public officer having custody of the funds. Examples:

State of Maine.
Town of Rye, New York (Street Improvement Fund).
Maryland State Highway Administration.
Treasurer, City of Chicago.

(f) *The United States Treasury.* A person who desires to have a bond become the property of the United States upon his or her death may designate the United States Treasury as coowner or beneficiary. Examples:

George T. Jones 123-45-6789 or the United States Treasury.

George T. Jones 123-45-6789 P.O.D. the United States Treasury.

§ 353.8 Chain letters prohibited.

The issuance of bonds in the furtherance of a chain letter or pyramid scheme is considered to be against the public interest and is prohibited.

Subpart C—Limitations on Annual Purchases

§ 353.10 Amounts which may be purchased.

The amount of savings bonds of Series EE and HH which may be purchased and held, in the name of any one person in any one calendar year, is computed according to the provisions of § 353.11 and is limited as follows:

(a) *Series EE.*

(1) *General annual limitation.*

\$30,000 (face amount).

(2) *Special limitation.*

\$4,000 (face amount) multiplied by the highest number of employees participating in an eligible employee plan, as defined in § 353.13, at any time during the calendar year in which the bonds are issued.

(b) *Series HH.*

(1) *General annual limitation.*

\$20,000 (face amount).

(2) *Special limitation.*

\$200,000 (face amount) for bonds received in a calendar year as gifts by an organization which at the time of purchase was an exempt organization under the terms of 26 CFR 1.501(c)(3)-1.

§ 353.11 Computation of amount.

(a) *General.* The purchases of bonds in the name of any person in an

individual capacity are computed separately from purchases in a fiduciary capacity. A pension or retirement fund, or an investment, insurance, annuity, or similar fund or trust is regarded as an entity, regardless of the number of beneficiaries or the manner in which their shares or interests are established, determined, or segregated.

(b) *Bonds included in computation.* In computing the purchases for each person, the following outstanding bonds are included:

(1) All bonds registered in the name of that person alone;

(2) All bonds registered in the name of the representative of the estate of that person; and

(3) All bonds registered in the name of that person as coowner. However, in computing the amount of bonds of each series held in coownership form, the limitation may be applied to the holdings of either of the coowners or apportioned between them.

(c) *Bonds excluded from computation.*

In computing the purchases for each person, the following are excluded:

(1) Bonds on which that person is named beneficiary;

(2) Bonds to which that person has become entitled—

(i) Under § 353.70 as surviving beneficiary upon the death of the registered owner;

(ii) As an heir or a legatee of the deceased owner;

(iii) By virtue of the termination of a trust or the happening of a similar event;

(3) Bonds issued in an authorized exchange or reinvestment; and

(4) Bonds that are purchased and redeemed within the same calendar year.

§ 353.12 Disposition of excess.

If any person at any time has savings bonds issued during any one calendar year in excess of the prescribed amount, instructions should be obtained from the Bureau of the Public Debt, Parkersburg, West Virginia 26101, for appropriate adjustment of the excess. Under the conditions specified in § 353.90, the Commissioner of the Public Debt may permit excess purchases to stand in any particular case or class of cases.

§ 353.13 Employee plans—Conditions of eligibility.

(a) *Definition of plan.* Employee thrift, savings, vacation and similar plans are contributory plans established by the employer for the exclusive and irrevocable benefit of its employees or their beneficiaries. Each plan must afford employees the means of making regular savings from their wages through payroll deductions and provide for

employer contributions to be added to these savings.

(b) *Definition of terms used in this section.* (1) The term "assets" means all the employees' contributions and assets purchased with them and the employer's contributions and assets purchased with them, as well as accretions, such as dividends on stock, the increment in value on bonds and all other income; but, notwithstanding any other provision of this section, the right to demand and receive "all assets" credited to the account of an employee shall not be construed to require the distribution of assets in kind when it would not be possible or practicable to make such a distribution; for example, Series EE bonds may not be reissued in unauthorized denominations.

(2) The word "beneficiary" means (i) the person or persons, if any, designated by the employee in accordance with the terms of the plan to receive the benefits of the plan upon the employee's death or (ii) the estate of the employee.

(c) *Conditions of eligibility.* An employee plan must conform to the following rules in order to be eligible for the special limitation provided in § 353.10.

(1) *Crediting of assets.* All assets of a plan must be credited to the individual accounts of participating employees and may be distributed only to them or their beneficiaries, except as provided in subparagraph (3).

(2) *Purchase of bonds.* Bonds may be purchased only with assets credited to the accounts of participating employees and only if the amount taken from any account at any time for that purpose is equal to the purchase price of a bond or bonds in an authorized denomination or denominations, and shares in the bonds are credited to the accounts of the individuals from which the purchase price was derived, in amounts corresponding with their shares. For example, if \$50 credited to the account of John Jones is commingled with funds credited to the accounts of other employees to make a total of \$5,000 with which a Series EE bond in the denomination of \$10,000 (face amount) is purchased in December 1980 and registered in the name and title of the trustee, the plan must provide, in effect, that John Jones' account be credited to show that he is the owner of a Series EE bond in the denomination of \$100 (face amount) bearing an issue date of December 1, 1980.

(3) *Irrevocable right of withdrawal.* Each participating employee has an irrevocable right to request and receive from the trustee all assets credited to the employee's account or their value, if he or she prefers, without regard to any

condition other than the loss or suspension of the privilege of participating further in the plan. However, a plan may limit or modify the exercise of any such right by providing that the employer's contribution does not vest absolutely until the employee shall have made contributions under the plan in each of not more than 60 calendar months succeeding the month for which the employer's contribution is made.

(4) *Rights of beneficiary.* Upon the death of an employee, his or her beneficiary shall have the absolute and unconditional right to demand and receive from the trustee all assets credited to the account of the employee or their value, if he or she so prefers.

(5) *Reissue or payment upon distribution.* When settlement is made with an employee or his or her beneficiary with respect to any bond registered in the name and title of the plan trustee in which the employee has a share, the bond must be paid or reissued to the extent of the share. If an employee or the beneficiary is to receive distribution in kind, bonds bearing the same issue dates as those credited to the employee's account will be reissued in the name of the employee or the employee's beneficiary to the extent entitled, in authorized denominations, in any authorized form of registration, upon the request and certification of the trustee.

(d) *Application for special limitation.* A trustee of an employee plan who desires to purchase bonds under the special limitation should submit to the Federal Reserve Bank of the district a copy of (i) the plan, (ii) any instructions issued under the plan that concern Series EE bonds, and (iii) the trust agreement, in order to establish the plan's eligibility.

(e) *Vacation plans.* Savings bonds may be purchased under certain vacation plans. Questions concerning the eligibility of these plans to purchase bonds in excess of the general limitation should be addressed to the Bureau of the Public Debt, Parkersburg, West Virginia 26101.

Subpart D—Limitations on Transfer or Pledge

§ 353.15 Transfer.

Savings bonds are not transferable and are payable only to the owners named on the bonds, except as specifically provided in these regulations and then only in the manner and to the extent so provided.

§ 353.16 Pledge.

A savings bond may not be hypothecated, pledged, or used as security for the performance of an obligation.

Subpart E—Judicial Proceedings

§ 353.20 General.

(a) The Department of the Treasury will not recognize a judicial determination that gives effect to an attempted voluntary transfer inter vivos of a bond, or a judicial determination that impairs the rights of survivorship conferred by these regulations upon a coowner or beneficiary. All provisions of this Subpart are subject to these restrictions.

(b) The Department of the Treasury will recognize a claim against an owner of a savings bond and conflicting claims of ownership of, or interest in, a bond between coowners or between the registered owner and the beneficiary, if established by valid judicial proceedings, but only as specifically provided in this Subpart. Section 353.23 specifies the evidence required to establish the validity of the judicial proceedings.

(c) The Department of the Treasury and the agencies that issue, reissue, or redeem savings bonds will not accept a notice of an adverse claim or notice of pending judicial proceedings, nor undertake to protect the interests of a litigant not in possession of a savings bond.

§ 353.21 Payment to judgment creditors.

(a) *Purchaser or officer under levy.* The Department of the Treasury will pay (but not reissue) a savings bond to the purchaser at a sale under a levy or to the officer authorized under appropriate process to levy upon property of the registered owner or coowner to satisfy a money judgment. Payment will be made only to the extent necessary to satisfy the money judgment. The amount paid is limited to the redemption value 60 days after the termination of the judicial proceedings. Payment of a bond registered in coownership form pursuant to a judgment or a levy against only one coowner is limited to the extent of that coowner's interest in the bond. That interest must be established by an agreement between the coowners or by a judgment, decree, or order of a court in a proceeding to which both coowners are parties.

(b) *Trustee in bankruptcy, receiver, or similar court officer.* The Department of the Treasury will pay, at current redemption value, a savings bond to a trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity,

or a similar court officer under the provisions of paragraph (a) of this section.

§ 353.22 Payment or reissue pursuant to judgment.

(a) *Divorce.* The Department of the Treasury will recognize a divorce decree that ratifies or confirms a property settlement agreement disposing of bonds or that otherwise settles the interests of the parties in a bond. Reissue of a savings bond may be made to eliminate the name of one spouse as owner, coowner, or beneficiary or to substitute the name of one spouse for that of the other spouse as owner, coowner, or beneficiary pursuant to the decree. However, if the bond is registered in the name of one spouse with another person as coowner, there must be submitted either (1) a request for reissue by the other person or (2) a certified copy of a judgment, decree, or court order entered in proceedings to which the other person and the spouse named on the bond are parties, determining the extent of the interest of that spouse in the bond. Reissue will be permitted only to the extent of that spouse's interest. The evidence required under § 353.23 must be submitted in every case. When the divorce decree does not set out the terms of the property settlement agreement, a certified copy of the agreement must be submitted. Payment, rather than reissue, will be made if requested.

(b) *Gift causa mortis.* A savings bond belonging solely to one individual will be paid or reissued at the request of the person found by a court to be entitled by reason of a gift causa mortis from the sole owner.

(c) *Date for determining rights.* When payment or reissue under this section is to be made, the rights of the parties will be those existing under the regulations current at the time of the entry of the final judgment, decree, or court order.

§ 353.23 Evidence.

(a) *General.* To establish the validity of judicial proceedings, certified copies of the final judgment, decree, or court order, and of any necessary supplementary proceedings, must be submitted. If the judgment, decree, or court order was rendered more than six months prior to the presentation of the bond, there must also be submitted a certification from the clerk of the court, under court seal, dated within six months of the presentation of the bond, showing that the judgment, decree, or court order is in full force.

(b) *Trustee in bankruptcy or receiver of an insolvent's estate.* A request for payment by a trustee in bankruptcy or a

receiver of an insolvent's estate must be supported by appropriate evidence of appointment and qualification. The evidence must be certified by the clerk of the court, under court seal, as being in full force on a date that is not more than six months prior to the presentation of the bond.

(c) *Receiver in equity or similar court officer.* A request for payment by a receiver in equity or a similar court officer, other than a receiver of an insolvent's estate, must be supported by a copy of an order that authorizes the presentation of the bond for redemption, certified by the clerk of the court, under court seal, as being in full force on a date that is not more than six months prior to the presentation of the bond.

Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bonds

§ 353.25 General.

Relief, by the issue of a substitute bond or by payment, is authorized for the loss, theft, destruction, mutilation, or defacement of a bond after receipt by the owner or his or her representative. As a condition for granting relief, the Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may require a bond of indemnity, in the form, and with the surety, or security, he considers necessary to protect the interests of the United States. In all cases the savings bond must be identified by serial number and the applicant must submit satisfactory evidence of the loss, theft, or destruction, or a satisfactory explanation of the mutilation or defacement.

§ 353.26 Application for relief—After receipt of bond.

(a) If the serial numbers of the lost, stolen, or destroyed bonds are known, the claimant should execute an application for relief on the appropriate form and submit it to the Bureau of the Public Debt, Parkersburg, West Virginia 26101.

(b) If the bond serial number is not known, the claimant must provide sufficient information to enable the Bureau of the Public Debt to identify the bond by serial number. See § 353.29(c). The Bureau will furnish the proper application form and instructions.

(c) If applicable, a defaced bond and all available fragments of a mutilated bond should be submitted to the Bureau.

(d) The application must be made by the person or persons (including both coowners, if living) authorized under these regulations to request payment of the bond. In addition:

(1) If the bond is in beneficiary form and the owner and beneficiary are both living, both will ordinarily be required to join in the application.

(2) If a minor named on a bond as owner, coowner, or beneficiary is not of sufficient competency and understanding to request payment, both parents will ordinarily be required to join in the application.

(e) If the application is approved, relief will be granted either by the issuance of a bond bearing the same issue date as the bond for which the claim was filed or by the issuance of a check in payment.

§ 353.27 Application for relief—Nonreceipt of bond.

If a bond issued on any transaction is not received, the issuing agent must be notified as promptly as possible and given all information available about the nonreceipt. An appropriate form and instructions will be provided. If the application is approved, relief will be granted by the issuance of a bond bearing the same issue date as the bond that was not received.

§ 353.28 Recovery or receipt of bond before or after relief is granted.

(a) If a bond reported lost, stolen, destroyed, or not received, is recovered or received before relief is granted, the Bureau of the Public Debt, Parkersburg, West Virginia 26101, must be notified promptly.

(b) A bond for which relief has been granted is the property of the United States and, if recovered, must be promptly submitted to the Bureau of the Public Debt, Parkersburg, West Virginia 26101, for cancellation.

§ 353.29 Adjudication of claims.

(a) *General.* The Bureau of the Public Debt will adjudicate claims for lost, stolen or destroyed bonds on the basis of records created and regularly maintained in the ordinary course of business.

(b) *Claims filed 10 years after payment.* A bond for which no claim has been filed within 10 years of the recorded date of redemption will be presumed to have been properly paid. If a claim is subsequently filed, a photographic copy of the bond will not be available to support the disallowance.

(c) *Claims filed six years after final maturity.* No claim filed six years or more after the final maturity of a savings bond will be entertained unless the claimant supplies the serial number of the bond.

Subpart G—Interest**§ 353.30 Series EE bonds.**

Series EE bonds are issued at a discount. The accrued interest is added to the issue price at stated intervals and is payable only at redemption as part of the redemption value. Information regarding interest rates and redemption values is found in Department of the Treasury Circular, Public Debt Series No. 1-80 (31 CFR Part 351).

§ 353.31 Series HH bonds.

(a) *General.* Series HH bonds are current-income bonds issued at par (face amount). Interest on a Series HH bond is paid semiannually by check, beginning six months from issue date. Interest ceases at maturity, or, if a bond is redeemed before maturity, as of the end of the preceding interest payment period. For example, if a bond on which interest is payable on January 1 and July 1 is redeemed on September 1, interest ceases as of the preceding July 1, and no adjustment of interest will be made for the period from July 1 to September 1. However, if the date of redemption falls on an interest payment date, interest ceases on that date. Information regarding interest rates is found in Department of the Treasury Circular, Public Debt Series No. 2-80 (31 CFR Part 352).

(b) *Redemption value.* Series HH bonds acquired in an authorized exchange or reinvestment are redeemable at face amount. An interest adjustment will be made upon redemption of Series HH bonds purchased for cash, if redeemed within a limited period of time after issue; if held beyond this period, they are redeemable at face amount. Information as to the amount of the interest adjustment and the time period to which it applies is found in Department of the Treasury Circular, Public Debt Series No. 2-80 (31 CFR Part 352).

(c) *Payment of interest.* Series HH bond interest accounts are maintained by the Bureau of the Public Debt, Parkersburg, West Virginia 26101. Interest will be paid on each interest payment date by check mailed to the address specified for the delivery of checks in the purchase application, exchange subscription, notification of change of address or request for reissue. If no instruction is given as to the delivery of interest checks, the address inscribed on the bond for the owner or the first-named coowner will be used.

(d) *Delivery of interest.* (1) *Notices affecting delivery of interest checks.* To insure appropriate action, notices affecting the delivery of interest checks on Series HH bonds, including changes

of addresses, must be received by the Bureau of the Public Debt, Parkersburg, West Virginia 26101, at least one month prior to the interest payment date. Each notice must identify the bonds by the name and taxpayer identifying number of the bondowner. The notice must be signed by the owner or coowner, or, in the case of a minor or incompetent, as provided in paragraph (e) or (f) of this section.

(2) *Owner or coowner deceased.* (i) *Sole owner.* Upon receipt of notice of the death of the owner of a bond, payment of interest on the bond will be suspended until satisfactory evidence is submitted as to who is authorized to endorse and collect interest checks on behalf of the estate of the decedent, in accordance with the provisions of Subpart L.

(ii) *Coowner.* Upon receipt of notice of the death of the coowner to whom interest is being mailed, payment of interest will be suspended until a request for change of address is received from the other coowner, if living, or, if not, until satisfactory evidence is submitted as to the individual who is authorized to endorse and collect interest checks on behalf of the estate of the last deceased coowner, in accordance with the provisions of Subpart L.

(iii) *Owner with beneficiary.* In the case of a bond registered in the form "A payable on death to B", the check will be drawn to the order of "A" alone unless the Bureau of the Public Debt, Parkersburg, West Virginia 26101, receives notice of A's death. In that event, the payment of interest will be suspended until the bond is presented for payment or reissue. Interest so withheld will be paid to the person entitled to the bond.

(e) *Representative appointed for the estate of a minor, incompetent, absentee, et al.* Interest on Series HH bonds is paid in accordance with the provisions of § 353.60 to the representative appointed for the estate of an owner who is a minor, incompetent, absentee, et al. If the registration of the bonds does not include reference to the owner's status, the bonds should be submitted for reissue to a Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Parkersburg, West Virginia 26101, so that interest checks may be properly drawn and delivered. They must be accompanied by the proof of appointment required by § 353.60.

(f) *Adult incompetent's estate having no representative.* If an adult owner of a Series HH bond is incompetent to endorse and collect the interest checks and no legal guardian or similar

representative has been appointed to act for him or her, the relative, or other person, responsible for his or her care and support, may apply to the Bureau of the Public Debt for recognition as voluntary guardian for the purpose of receiving, endorsing, and collecting the checks.

(g) *Reissue during interest period.* Physical reissue of a Series HH bond will be made without regard to interest payment dates. The Series HH interest accounts maintained by the Bureau of the Public Debt will be closed in the first week of the month preceding each interest payment date. Interest checks will be drawn to the order of the persons shown to be entitled on these accounts as of the date the accounts are closed.

(h) *Endorsement of checks.* Interest checks must be endorsed in accordance with the regulations governing the endorsement and payment of Government warrants and checks, which are contained in Department of the Treasury Circular No. 21, current revision (31 CFR Part 240).

(i) *Nonreceipt or loss of check.* If an interest check is not received or is lost after receipt, the Bureau of the Public Debt, Parkersburg, West Virginia 26101, should be notified and advised of the bond serial number, the inscription on the bond, including the taxpayer identifying number of the bondowner, and the interest payment date.

Subpart H—General Provisions for Payment**§ 353.35 Payment (redemption).**

(a) *General.* Payment of a savings bond will be made to the person or persons entitled under the provisions of these regulations, except that checks in payment will not be delivered to addresses in areas with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States. See Department of the Treasury Circular No. 655, current revision (31 CFR Part 211). Payment will be made without regard to any notice of adverse claims to a bond and no stoppage or caveat against payment of a bond will be entered.

(b) *Series EE.* A Series EE bond will be paid at any time after six months from issue date at the current redemption value shown in Department of the Treasury Circular, Public Debt Series No. 1-80 (31 CFR Part 351).

(c) *Series HH.* A Series HH bond will be paid at any time after six months from issue date. A Series HH bond issued in an authorized exchange or reinvestment transaction will be paid at face amount. A Series HH bond issued

for cash will be paid at the current redemption value shown in Department of the Treasury Circular, Public Debt Series No. 2-80 (31 CFR Part 352). If the bond is redeemed at less than face value, the difference represents an adjustment of interest. A Series HH bond received during the month preceding an interest payment date will not be paid until that date.

§ 353.36 Payment during life of sole owner.

A savings bond registered in single ownership form (i.e., without a coowner or beneficiary) will be paid to the owner during his or her lifetime upon surrender with an appropriate request.

§ 353.37 Payment during lives of both coowners.

A savings bond registered in coownership form will be paid to either coowner upon surrender with an appropriate request, and upon payment (as determined in § 353.43), the other coowner will cease to have any interest in the bond. If both coowners request payment, payment will be made by check drawn in the form, "John A. Jones AND Mary C. Jones".

§ 353.38 Payment during lifetime of owner of beneficiary bond.

A savings bond registered in beneficiary form will be paid to the registered owner during his or her lifetime upon surrender with an appropriate request. Upon payment (as determined in § 353.43) the beneficiary will cease to have any interest in the bond.

§ 353.39 Surrender for payment.

(a) *Procedure for bonds of Series EE, in the names of individual owners or coowners only.* An individual who is the owner or coowner of a Series EE bond may present the bond to an authorized paying agent for redemption. The presenter must be prepared to establish his or her identity in accordance with Treasury instructions and identification guidelines. The owner or coowner must sign the request for payment on the bond or, if authorized, on a separate detached request, and add his or her address. If the request for payment has been signed, or signed and certified, before presentation of the bond, the paying agent must be satisfied that the person presenting the bond for payment is the owner or coowner and may require the person to sign the request for payment again. If the bond is in order for payment, the paying agent will make immediate payment at the current redemption value without charge to the presenter. Paying agents are not authorized to process any case involving

partial redemption or any case in which supporting evidence is required.

(b) *Procedure for all other cases.* In the case of bonds to which the procedure in paragraph (a) does not apply, or if otherwise preferred, the owner or coowner, or other person entitled to payment, should appear before an officer authorized to certify requests for payment, establish his or her identity, sign the request for payment, and provide information as to the address to which the check in payment is to be mailed. The bond must be forwarded to a Federal Reserve Bank or Branch or the Bureau of the Public Debt. Usually, payment will be expedited by submission to a Federal Reserve Bank or Branch. In all cases, the cost and risk of presentation of a bond will be borne by the owner. Payment will be made by check drawn to the order of the registered owner or other person entitled and will be mailed to the address requested.

(c) *Date of request.* Requests executed more than six months before the date of receipt of a bond for payment will not be accepted. Neither will a bond be accepted if payment is requested as of a date more than three months in the future.

§ 353.40 Special provisions for payment

(a) *Owner's signature not required.* A bond may be paid by a paying agent or Federal Reserve Bank without the owner's signature to the request for payment, if the bond bears the special endorsement of a paying agent specifically qualified to place such an endorsement on savings bonds.

(b) *Signature by mark.* A signature by mark (X) must be witnessed by at least one disinterested person and a certifying officer. See Subpart J. The witness must attest to the signature by mark substantially as follows: "Witness to signature by mark", followed by his or her signature and address.

(c) *Name change.* If the name of the owner, coowner, or other person entitled to payment, as it appears in the registration or in evidence on file in the Bureau of the Public Debt, has been changed in any legal manner, the signature to the request for payment must show both names and the manner in which the change was made; for example, "Mary T. Jones Smith (Mary T. J. Smith or Mary T. Smith) changed by marriage from Mary T. Jones", or "John R. Young, changed by order of court from Hans R. Jung". See § 353.50.

(d) *Attorneys-in-fact.* A request for payment signed by an attorney-in-fact will be recognized if it is accompanied by a copy of a power of attorney, executed before a certifying officer, that

authorizes the attorney-in-fact to sell or redeem the grantor's Treasury securities. See § 353.65 for separate rules relating to the use of powers of attorney for incompetent or physically disabled individuals.

§ 353.41 Partial redemption.

A bond of Series EE or HH may be redeemed in part at current redemption value, but only in amounts corresponding to authorized denominations, upon surrender of the bond to a Federal Reserve Bank or Branch or to the Bureau of the Public Debt in accordance with § 353.39(b). In any case in which partial redemption is requested, the phrase "to the extent of \$—" (face amount) and reissue of the remainder" should be added to the request. Upon partial redemption of the bond, the remainder will be reissued as of the original issue date, as provided in Subpart L.

§ 353.42 Nonreceipt or loss of check issued in payment.

If a check in payment of a bond surrendered for redemption is not received within a reasonable time or is lost after receipt, notice should be given to the same agency to which the bond was surrendered for payment. The notice should give the date the bond was surrendered for payment and describe the bond by series, denomination, serial number, and registration, including the taxpayer identifying number of the owner.

§ 353.43 Effective date of request for payment.

The Department of the Treasury will treat the receipt of a bond with an appropriate request for payment by (a) a Federal Reserve Bank or Branch, (b) the Bureau of the Public Debt, or (c) a paying agent authorized to pay that bond, as the date upon which the rights of the parties are fixed for the purpose of payment.

§ 353.44 Withdrawal of request for payment.

(a) *Withdrawal by owner or coowner.* An owner or coowner, who has surrendered a bond to a Federal Reserve Bank or Branch or to the Bureau of the Public Debt or to an authorized paying agent with an appropriate request for payment, may withdraw the request if notice of intent to withdraw is received by the same agency prior to payment either in cash or through the issuance of the redemption check.

(b) *Withdrawal on behalf of deceased owner or incompetent.*

A request for payment may be withdrawn under the same conditions as in paragraph (a) of this section by the

executor or administrator of the estate of a deceased owner or by the person or persons who could have been entitled to the bond under Subpart L, or by the legal representative of the estate of a person under legal disability, unless surrender of the bond for payment has eliminated the interest of a surviving coowner or beneficiary. See § 353.70(b) and (c).

Subpart I—Reissue and Denominational Exchange

§ 353.45 General.

Reissue of a bond may be made only under the conditions specified in these regulations, and only at (a) a Federal Reserve Bank or Branch, or (b) the Bureau of the Public Debt. Reissue will not be made if the request is received less than one full calendar month before the final maturity date of a bond. The request, however, will be effective to establish ownership as though the requested reissue had been made.

§ 353.46 Effective date of request for reissue.

The Department of the Treasury will treat the receipt by (a) a Federal Reserve Bank or Branch or (b) the Bureau of the Public Debt of a bond and an acceptable request for reissue as determining the date upon which the rights of the parties are fixed for the purpose of reissue. For example, if the owner or either coowner of a bond dies after the bond has been surrendered for reissue, the bond will be regarded as having been reissued in the decedent's lifetime.

§ 353.47 Authorized reissue—During lifetime.

A bond belonging to an individual may be reissued in any authorized form of registration upon an appropriate request for the purposes outlined below.

(a) *Single ownership.* A bond registered in single ownership form may be reissued—

(1) To add a coowner or beneficiary; or

(2) To name a new owner, with or without a coowner or beneficiary, but only if (i) the new owner is related to the previous owner by blood (including legal adoption) or marriage; (ii) the previous owner and the new owner are parties to a divorce or annulment; or (iii) the new sole owner is the trustee of a personal trust estate which was created by the previous owner or which designates as beneficiary either the previous owner or a person related to him or her by blood (including legal adoption) or marriage.

(b) *Coownership.* (1) *Reissue—to name a related individual as owner or coowner.* During the lifetime of both

coowners, a coownership bond may be reissued in the name of another individual related by blood (including legal adoption) or marriage to either coowner:

(i) As single owner,

(ii) As owner with one of the original coowners as beneficiary, or

(iii) As a new coowner with one of the original coowners.

(2) *Reissue—to name either coowner alone or with another individual as coowner or beneficiary.* During the lifetime of both coowners, a coownership bond may be reissued in the name of either coowner alone or with another individual as coowner or beneficiary if:

(i) After issue of the submitted bond, either coowner named thereon marries, or the coowners are divorced or legally separated from each other, or their marriage is annulled; or

(ii) Both coowners on the submitted bond are related by blood (including legal adoption) or marriage to each other.

(3) *Reissue—to name the trustee of a personal trust estate.* A bond registered in coownership form may be reissued to name a trustee of a personal trust estate created by either coowner or by some other person if (i) either coowner is a beneficiary of the trust, or (ii) a beneficiary of the trust is related by blood or marriage to either coowner.

(c) *Beneficiary.* A bond registered in beneficiary form may be reissued:

(1) To name the beneficiary as coowner;

(2) To substitute another individual as beneficiary; or

(3) To eliminate the beneficiary, and, if the beneficiary is eliminated, to effect any of the reissues authorized by paragraph (a) of this section.

§ 353.48 Restrictions on reissue.

(a) *Denominational exchange.* Reissue is not permitted solely to change denominations.

(b) *United States Treasury.* Reissue may not be made to eliminate the United States Treasury as coowner.

§ 353.49 Correction of errors.

A bond may be reissued to correct an error in registration upon appropriate request supported by satisfactory proof of the error.

§ 353.50 Change of name.

An owner, coowner, or beneficiary whose name is changed by marriage, divorce, annulment, order of court, or in any other legal manner after the issue of the bond should submit the bond with a request for reissue to substitute the new name for the name inscribed on the

bond. Documentary evidence may be required in any appropriate case.

§ 353.51 Requests for reissue.

A request for reissue of bonds in coownership form must be signed by both coowners, except that a request solely to eliminate the name of one coowner may be signed by that coowner only. A bond registered in beneficiary form may be reissued upon the request of the owner, without the consent of the beneficiary. Public Debt forms are available for requesting reissue.

Subpart J—Certifying Officers

§ 353.55 Individuals authorized to certify.

The following individuals are authorized to act as certifying officers for the purpose of certifying a request for payment, reissue, or a signature to a Public Debt form:

(a) *Officers generally authorized.* (1) *At banks, trust companies, and member organizations of the Federal Home Loan Bank System.*

(i) Any officer of a bank incorporated in the United States, the territories or possessions of the United States, or the Commonwealth of Puerto Rico.

(ii) Any officer of a trust company incorporated in the United States, the territories or possessions of the United States, or the Commonwealth of Puerto Rico.

(iii) Any officer of an organization that is a member of the Federal Home Loan Bank System. This includes Federal savings and loan associations.

(iv) Any officer of a foreign branch or a domestic branch of an institution indicated in (i) through (iii).

(v) Any officer of a Federal Reserve Bank, a Federal Land Bank, or a Federal Home Loan Bank.

(vi) Any employee of an institution in (i) through (v), who is expressly authorized to certify by the institution.

Certification by these officers or designated employees must be authenticated by a legible imprint of either the corporate seal of the institution or of the issuing or paying agent's stamp. The employee expressly authorized to certify by an institution must sign his or her name over the title "Designated Employee".

(2) *At issuing agents that are not banks or trust companies.* Any officer of an organization, not a bank or a trust company, that is qualified as an issuing agent for bonds of Series EE. The agent's stamp must be imprinted in the certification.

(3) *By United States officials.* Any judge, clerk, or deputy clerk of a United States court, including United States courts for the territories and possessions

of the United States and the Commonwealth of Puerto Rico; any United States Commissioner, United States Attorney, or United States Collector of Customs, including their deputies; in the Internal Revenue Service, any Regional Commissioner, District Director, Service Center Director, or Internal Revenue agent.

(b) *Officers with limited authority.* (1) *In the Armed Forces.* Any commissioned officer or warrant officer of the Armed Forces of the United States, but only for members of the respective services, their families, and civilian employees at posts, bases, or stations. The certifying officer must indicate his or her rank and state that the individual signing the request is one of the class whose request the certifying officer is authorized to certify.

(2) *At the Veterans Administration, Federal penal institutions, and United States Public Health Service hospitals.*

Any officer in charge of a home, hospital, or other facility of the Veterans Administration, but only for the patients, or employees of the facility; any officer of a Federal penal institution or a United States Public Health Service hospital expressly authorized to certify by the Secretary of the Treasury or his designee, but only for the inmates, patients or employees of the institution involved. Officers of Veterans Administration facilities, Federal penal institutions, and Public Health Service hospitals must use the stamp or seal of the particular institution or service.

(c) *Authorized officers in foreign countries.* Any United States diplomatic or consular representative, or the officer of a foreign branch of a bank or trust company incorporated in the United States whose signature is attested by an imprint of the corporate seal or is certified to the Department of the Treasury. If none of these individuals is available, a notary public or other officer authorized to administer oaths may certify, but his or her official character and jurisdiction must be certified by a United States diplomatic or consular officer under seal of his or her office.

(d) *Authorized officers in particular localities.* The Governor and the Treasurer of Puerto Rico; the Governor and the Commissioner of Finance of the Virgin Islands; the Governor and the Director of Finance of Guam; the Governor and the Director of Administrative Services of American Samoa; or designated officers of the Panama Canal Commission.

(e) *Special provisions.* If no certifying officer is readily accessible, the Commissioner of the Public Debt, Deputy Commissioner, any Assistant

Commissioner, or other designated official of the Bureau or of a Federal Reserve Bank or Branch is authorized to make special provision for any particular case.

§ 353.56 General instructions and liability.

(a) The certifying officer must:

(1) Require the person presenting a bond, or an appropriate Public Debt transaction form, to establish his or her identity in accordance with Department of the Treasury instructions and identification guidelines;

(2) Place a notation on the back of the bond or on the appropriate Public Debt transaction form, or in a separate record, showing exactly how identification was established; and

(3) Affix, as part of the certification, his or her official signature, title, seal or issuing or paying agent's stamp, address, and the date of execution.

(b) The certifying officer and, if such person is an officer or an employee of an organization, the organization will be held fully responsible for the adequacy of the identification.

§ 353.57 When a certifying officer may not certify.

Certifying officers may not certify the requests for payment of bonds, or appropriate Public Debt transaction forms if, in their own right or in a representative capacity, they—

(a) Have an interest in the bonds, or

(b) Will, by virtue of the requests being certified, acquire an interest in the bonds.

§ 353.58 Forms to be certified.

When required in the instructions on a Public Debt transaction form, the form must be signed before an authorized certifying officer.

Subpart K—Minors, Incompetents, Aged Persons, Absentees, et al.

§ 353.60 Payment to representative of an estate.

(a) The representative of an estate of an owner who is a minor, an aged person, incompetent, absentee, et al., may receive payment upon request:

(1) If the registration shows the name and capacity of the representative;

(2) If the registration shows the capacity but not the name of the representative and the request is accompanied by appropriate evidence; or

(3) If the registration includes neither the name of the representative nor his or her capacity but the request is accompanied by appropriate evidence.

(b) Appropriate evidence for paragraphs (a)(2) and (a)(3) of this section includes a certified copy of the

letters of appointment or, if the representative is not appointed by a court, other proof of qualification. Except in the case of corporate fiduciaries, the evidence must show that the appointment is in full force and be dated not more than one year prior to the presentation of the bond for payment. The request for payment appearing on the back of a bond must be signed by the representative as such, for example, "John S. Jones, guardian (committee) of the estate of Henry W. Smith, a minor (an incompetent)".

§ 353.61 Payment after death.

After the death of the ward, and at any time prior to the representative's discharge, the representative of the estate will be entitled to obtain payment of a bond to which the ward was solely entitled.

§ 353.62 Payment to minors.

If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of the minor's estate, payment will be made to the minor upon his or her request, provided the minor is of sufficient competency to sign the request for payment and to understand the nature of the transaction. In general, the fact that the request for payment has been signed by a minor and certified will be accepted as sufficient proof of competency and understanding.

§ 353.63 Payment to a parent or other person on behalf of a minor.

If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of his or her estate, and if the minor is not of sufficient competency to sign the request for payment and to understand the nature of the transaction, payment will be made to either parent with whom the minor resides or to whom legal custody has been granted. If the minor does not reside with either parent, payment will be made to the person who furnishes the chief support for the minor. The request must appear on the back of the bond in one of the following forms:

(a) *Request by parent.*

I certify that I am the mother of John C. Jones (with whom he resides) (to whom legal custody has been granted). He is ——— years of age and is not of sufficient understanding to make this request.

Mary Jones on behalf of John C. Jones

(b) *Request by other person.*

I certify that John C. Jones does not reside with either parent and that I furnish his chief support. He is ——— years of age and is not

of sufficient understanding to make this request.

Alice Brown, grandmother,
On behalf of John C. Jones

§ 353.64 Payment, reinvestment, or exchange—Voluntary guardian of an incompetent.

When an adult owner of bonds is incapable of requesting payment and there is no other person legally qualified to do so, the relative or other person responsible for the owner's care and support may submit an application for recognition as voluntary guardian for the purpose of redeeming the bonds in the following situations:

(a) The proceeds of the bonds are needed to pay expenses already incurred, or to be incurred during a 90-day period, for the support of the incompetent or his or her legal dependents.

(b) If the bonds have finally matured and it is desired to redeem them and reinvest the proceeds in other savings bonds, the new bonds must be registered in the name of the incompetent, followed by words showing he or she is under voluntary guardianship; for example, "John Jones 123-45-6789, under voluntary guardianship". A living coowner or beneficiary named on the matured bonds must be designated on the new bonds unless the named person furnishes a certified statement consenting to omission of his or her name. If an amount insufficient to purchase an additional bond of any authorized denomination of either series remains after the reinvestment, the voluntary guardian may furnish additional funds sufficient to purchase another bond of either series in the lowest available denomination. If additional funds are not furnished, the remaining amount will be paid to the voluntary guardian for the use and benefit of the incompetent. The provisions for reinvestment of the proceeds of matured bonds are equally applicable to any authorized exchange of bonds of one series for those of another.

§ 353.65 Payment—Attorney-in-fact of an incompetent or a physically disabled person.

A request for payment by an individual as attorney-in-fact of an incompetent or a physically disabled owner will be honored if the power of attorney grants the attorney-in-fact authority to sell or redeem the grantor's securities, sell his or her personal property, or otherwise grants similar authority. The power of attorney must provide that the grantor's subsequent

incapacity will not affect the authority granted. The request must be supported by a copy of the power of attorney and evidence of the incapacity of the grantor.

§ 353.66 Reissue.

A bond on which a minor or other person under legal disability is named as the owner or coowner, or in which he or she has an interest, may be reissued under the following conditions:

(a) A minor for whose estate no representative has been appointed may request reissue if the minor is of sufficient competency to sign his or her name to the request and to understand the nature of the transaction.

(b) A bond on which a minor is named as beneficiary or coowner may be reissued in the name of a custodian for the minor under a statute authorizing gifts to minor upon the request of the adult whose name appears on the bond as owner or coowner.

(c) A minor coowner for whose estate no representative has been appointed, may be named sole owner upon the request of the competent coowner.

(d) Reissue to eliminate the name of a minor or incompetent for whose estate a legal representative has been appointed is permitted only if supported by evidence that a court has authorized the representative of the minor's or incompetent's estate to request the reissue. See § 353.23.

Except to the extent provided in paragraphs (a) through (d), above, reissue will be restricted to a form of registration which does not adversely affect the existing ownership or interest of a minor who is not of sufficient understanding to make a request, or other person under legal disability. Requests for reissue should be executed by the person authorized to request payment under §§ 353.60 and 353.63, or the person who may request recognition as voluntary guardian under § 353.64.

Subpart L—Deceased Owner, Coowner or Beneficiary

§ 353.70 General rules governing entitlement.

The following rules govern ownership or entitlement where one or both of the persons named on a bond have died without the bond having been surrendered for payment or reissue:

(a) *Single owner bond.* If the owner of a bond registered in single ownership form has died, the bond becomes the property of that decedent's estate, and payment or reissue will be made as provided in this Subpart.

(b) *Coowner bond.* (1) *One coowner deceased.* If one of the coowners named on a bond has died, the surviving coowner will be recognized as the sole and absolute owner, and payment or reissue will be made as though the bond were registered in the name of the survivor alone. Any request for reissue by the surviving coowner must be supported by proof of death of the other coowner.

(2) *Both coowners deceased.* If both coowners named on a bond have died, the bond becomes the property of the estate of the coowner who died last, and payment or reissue will be made as if the bond were registered in the name of the last deceased coowner alone. Proof of death of both coowners will be required to establish the order of death.

(3) *Simultaneously death of both coowners.* If both coowners die under conditions where it cannot be established, either by presumption of law or otherwise, which coowner died first, the bond becomes the property of both equally, and payment or reissue will be made accordingly.

(c) *Beneficiary bond.* (1) *Owner deceased.* If the owner of a bond registered in beneficiary form has died and is survived by the beneficiary, upon proof of death of the owner, the beneficiary will be recognized as the sole and absolute owner of the bond. Payment or reissue will be made as though the bond were registered in the survivor's name alone. A request for payment or reissue by the beneficiary must be supported by proof of death of the owner.

(2) *Beneficiary deceased.* If the beneficiary's death occurs before, or simultaneously with, that of the registered owner, payment or reissue will be made as though the bond were registered in the owner's name alone. Proof of death of the owner and beneficiary is required to establish the order of death.

(d) *Nonresident aliens.* If the person who becomes entitled to a bond because of the death of an owner is an alien who is a resident of an area with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States or its agencies or instrumentalities, delivery of the redemption check will not be made so long as the restriction applies. See Department of the Treasury Circular No. 655, current revision (31 CFR Part 211).

§ 353.71 Estate administered.

(a) *During administration.* The legal representative of an estate may request payment of bonds, including interest or redemption checks, belonging to the

estate or may have the bonds reissued in the names of the persons entitled to share in the estate under the following conditions:

(1) When there is more than one legal representative, all must join in the request for payment or reissue, unless § 353.75(a)(1) or (b) applies.

(2) The request for payment or reissue must be signed in the form: "John A. Jones, administrator of the estate (or executor of the will) of Henry M. Jones, deceased". The request must be supported by evidence of the legal representative's authority in the form of a court certificate or a certified copy of the legal representative's letters of appointment which must be dated within six months of the date of presentation of the bond, unless the evidence shows that the appointment was made within one year prior to the presentation of the bond.

(3) For reissue, the legal representative must certify that each person in whose name reissue is requested is entitled to the extent specified and must certify that each person has consented to the reissue. If a person in whose name reissue is requested desires to name a coowner or beneficiary, the person must execute an additional request for reissue on the appropriate form.

(b) *After administration.* If the estate of the decedent has been settled through judicial proceedings, the bond and interest and redemption checks will be paid, or the bond will be reissued, upon the request of the person shown to be entitled by the court order. The request must be supported by a certified copy of the legal representative's court-approved final account, the decree of distribution, or other pertinent court records. If two or more persons have an interest in the bond, they must enter into an agreement concerning the bond's disposition. If the person entitled desires to name a coowner or beneficiary, a separate request must be made on an appropriate form.

(c) *Special provisions for small amounts.* Special procedures are available for establishing entitlement to, or effecting disposition of, savings bonds and interest and redemption checks if the aggregate face amount, excluding interest checks, does not exceed \$1,000.

§ 353.72 Estate not administered.

(a) *Special State law provisions.* A request for payment or reissue of a bond by the person who has qualified under State law to receive or distribute the assets of a decedent's estate will be accepted, provided evidence of the person's authority is submitted.

(b) *Agreement of persons entitled.* If there is no legal representative for the estate of a decedent, the bonds will be paid to, or reissued in the name of, the persons entitled, pursuant to an agreement and request executed by all persons entitled to share in the decedent's personal estate. If the persons entitled to share in the decedent's personal estate include minors or incompetents, payment or reissue of the bonds must be made to them or in their names unless their interest in the bonds is otherwise protected.

(c) *Creditors.* An institutional creditor of a deceased owner's estate is entitled to payment only to the extent of its claim.

(d) *Special provisions for payment of small amounts—survivors of the decedent.* (1) If the face amount of the bond does not exceed \$500 and there is no legal representative of the deceased owner's estate, the bond will be paid upon the request of the person who paid the burial expenses and who has not been reimbursed.

(2) If there is no legal representative of the estate of a decedent who died without a will, and the total face amount of bonds in the estate does not exceed \$1,000 (face amount), the bonds may be paid to the decedent's survivors upon request in the following order of precedence:

(i) Surviving spouse;

(ii) If no surviving spouse, to the child or children of the decedent, and the descendants of deceased children by representation;

(iii) If none of the above, to the parents of the decedent, or the survivor;

(iv) If none of the above, to the brothers and sisters, and the descendants of deceased brothers or sisters by representation;

(v) If none of the above, to other next-of-kin, as determined by the laws of the owner's domicile at death;

(vi) If none of the above, to persons related to the decedent by marriage.

The payment pursuant to this subsection shall be made upon the request and agreement of the survivors to receive the redemption proceeds individually and for the account of any persons entitled. Interest checks held for the estate of a decedent will be distributed with the bonds.

Subpart M—Fiduciaries

§ 353.75 Payment or reissue during the existence of the fiduciary estate.

(a) *Payment or reissue before maturity.* (1) *Request from the fiduciary named in the registration.* A request for reissue or payment prior to maturity

must be signed by all of the fiduciaries unless by statute, decree of court, or the terms of the governing instrument, any lesser number may properly execute the request. If the fiduciaries named in the registration are still acting, no further evidence will be required. In other cases, evidence to support the request will be required, as specified:

(i) *Fiduciaries by title only.* If the bond is registered only in the titles, without the names, of fiduciaries not acting as a board, satisfactory evidence of their incumbency must be furnished, except in the case of bonds registered in the title of public officers as trustees.

(ii) *Boards, committees, commission, etc.* If a bond is registered in the name of a governing body which is empowered to act as a unit, and which holds title to the property of a religious, educational, charitable or nonprofit organization or a public corporation, the request should be signed in the name of the body by an authorized person. Ordinarily, a signed and certified request will be accepted without further evidence.

(iii) *Corporate fiduciaries.* If a bond is registered in the name of a public or private corporation or a governmental body as fiduciary, the request must be signed by an authorized officer in the name of the organization as fiduciary. Ordinarily, a signed and certified request will be accepted without further evidence.

(2) *Trustee of a common trust fund.* A bond held by a financial institution in a fiduciary capacity may be reissued in the name of the institution as trustee of its common trust fund to the extent that participation in the common trust fund is authorized by law or regulation. The request for reissue should be executed by the institution and any cofiduciary.

(3) *Successor fiduciary.* If the fiduciary in whose name the bond is registered has been replaced by another fiduciary, satisfactory evidence of successorship must be furnished.

(b) *Payment at or after final maturity.* At or after final maturity, a request for payment signed by any one or more of the fiduciaries will be accepted. Payment will be made by check drawn as the bond is registered.

§ 353.76 Payment or reissue after termination of the fiduciary estate.

A bond registered in the name or title of a fiduciary may be paid or reissued to the person who has become entitled by reason of the termination of a fiduciary estate. Requests for reissue made by a fiduciary pursuant to the termination of a fiduciary estate should be made on the appropriate form. Requests for payment or reissue by other than the fiduciary must be accompanied by evidence to

show that the person has become entitled in accordance with applicable State law or otherwise. When two or more persons have become entitled, the request for payment or reissue must be signed by each of them.

§ 353.77 Exchanges by fiduciaries.

Fiduciaries are authorized to request an exchange of bonds of one series for those of another, pursuant to any applicable Department of the Treasury offering. A living coowner of beneficiary named on the bonds submitted in exchange may be retained in the same capacity on the new bonds.

Subpart N—Private Organizations (Corporations, Associations, Partnerships, et cetera) and Governmental Agencies, Units and Officers

§ 353.80 Payment to corporations or unincorporated associations.

A bond registered in the name of a private corporation or an unincorporated association will be paid to the corporation or unincorporated association upon a request for payment on its behalf by an authorized officer. The signature to the request should be in the form, for example, "The Jones Coal Company, a corporation, by John Jones, President", or "The Lotus Club, an unincorporated association, by William A. Smith, Treasurer". A request for payment so signed and certified will ordinarily be accepted without further evidence of the officer's authority.

§ 353.81 Payment to partnerships.

A bond registered in the name of an existing partnership will be paid upon a request for payment signed by a general partner. The signature to the request should be in the form, for example, "Smith and Jones, a partnership, by John Jones, a general partner". A request for payment so signed and certified will ordinarily be accepted as sufficient evidence that the partnership is still in existence and that the person signing the request is authorized.

§ 353.82 Reissue or payment to successors of corporations, unincorporated associations, or partnerships.

A bond registered in the name of a private corporation, an unincorporated association, or a partnership which has been succeeded by another corporation, unincorporated association, or partnership by operation of law or otherwise, in any manner whereby the business or activities of the original organization are continued without substantial change, will be paid to or reissued in the name of the succeeding

organization upon appropriate request on its behalf, supported by satisfactory evidence of successorship. The appropriate form should be used.

§ 353.83 Reissue or payment on dissolution of corporation or partnership.

(a) *Corporations.* A bond registered in the name of a private corporation which is in the process of dissolution will be paid to the authorized representative of the corporation upon a request for payment, supported by satisfactory evidence of the representative's authority. At the termination of dissolution proceedings, the bond may be reissued upon the request of the authorized representative in the names of those persons, other than creditors, entitled to the assets of the corporation, to the extent of their respective interests. Proof will be required that all statutory provisions governing the dissolution of the corporation have been complied with and that the persons in whose names reissue is requested are entitled and have agreed to the reissue. If the dissolution proceedings are under the direction of a court, a certified copy of an order of the court, showing the authority of the representative to make the distribution requested must be furnished.

(b) *Partnerships.* A bond registered in the name of a partnership which has been dissolved by death or withdrawal of a partner, or in any other manner:

- (1) Will be paid upon a request for payment by any partner or partners authorized by law to act on behalf of the dissolved partnership, or
- (2) Will be paid to or reissued in the names of the persons entitled as the result of such dissolution to the extent of their respective interests, except that reissue will not be made in the names of creditors. The request must be supported by satisfactory evidence of entitlement, including proof that the debts of the partnership have been paid or properly provided for. The appropriate form should be used.

§ 353.84 Payment to certain institutions.

A bond registered in the name of a church, hospital, home, school, or similar institution, without reference in the registration to the manner in which it is organized or governed or to the manner in which title to its property is held, will be paid upon a request for payment signed on behalf of such institution by an authorized representative. A request for payment signed by a pastor of a church, superintendent of a hospital, president of a college, or by any official generally recognized as having authority to conduct the financial affairs of the

particular institution will ordinarily be accepted without further proof of authority. The signature to the request should be in the form, for example, "Shriners' Hospital for Crippled Children, St. Louis, Missouri, by William A. Smith, Superintendent", or "St. Mary's Roman Catholic Church, Albany, New York, by the Rev. John Smyth, Pastor".

§ 353.85 Reissue in name of trustee or agent for reinvestment purposes.

A bond registered in the name of a religious, educational, charitable or nonprofit organization, whether or not incorporated, may be reissued in the name of a financial institution, or an individual, as trustee or agent. There must be an agreement between the organization and the trustee or agent holding funds of the organization, in whole or in part, for the purpose of investing and reinvesting the principal and paying the income to the organization. Reissue should be requested on behalf of the organization by an authorized officer using the appropriate form.

§ 353.86 Reissue upon termination of investment agency.

A bond registered in the name of a financial institution, or individual, as agent for investment purposes only, under an agreement with a religious, an educational, a charitable, or a nonprofit organization, may be reissued in the name of the organization upon termination of the agency. The former agent should request such reissue and should certify that the organization is entitled by reason of the termination of the agency. If such request and certification are not obtainable, the bond will be reissued in the name of the organization upon its own request, supported by satisfactory evidence of the termination of the agency. The appropriate form should be used.

§ 353.87 Payment to governmental agencies, units, or their officers.

(a) *Agencies and units.* A bond registered in the name of a State, county, city, town, village, or in the name of a Federal, State, or local governmental agency, such as a board, commission, or corporation, will be paid upon a request signed in the name of the governmental agency or unit or by an authorized officer. A request for payment so signed and certified will ordinarily be accepted without further proof of the officer's authority.

(b) *Officers.* A bond registered in the official title of an officer of a governmental agency or unit will be paid upon a request for payment signed

by the officer. The request for payment so signed and certified will ordinarily be accepted as proof that the person signing is the incumbent of the office.

Subpart O—Miscellaneous Provisions

§ 353.90 Waiver of regulations.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may waive or modify any provision or provisions of these regulations. He may do so in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship, (a) if such action would not be inconsistent with law or equity, (b) if it does not impair any existing rights, and (c) if he is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 353.91 Additional requirements; bond of indemnity.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may require (a) such additional evidence as he may consider necessary or advisable, or (b) a bond of indemnity, with or without surety, in any case in which he may consider such a bond necessary for the protection of the interests of the United States.

§ 353.92 Supplements, amendments, or revisions.

The Secretary of the Treasury may at any time, or from time to time, prescribe additional, supplemental, amendatory, or revised rules and regulations governing United States Savings Bonds of Series EE and HH.

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Wednesday
December 26, 1979

Part III

**International Trade
Commission**

Procedures for Conduct of Investigations
of Whether Injury to Domestic Industries
Results From Imports Sold at Less Than
Fair Value or From Subsidized Exports to
the United States

federal register

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INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201 and 207

Procedures for the Conduct of Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States

AGENCY: United States International Trade Commission.

ACTION: Final rules.

SUMMARY: The Trade Agreements Act of 1979 approves and implements trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. It will bring about extensive changes in the U.S. countervailing duty and antidumping duty laws, primarily through amendment of the Tariff Act of 1930. These rules amend Part 201, repeal existing Part 207, and establish a new part 207 of the Commission rules to provide procedures for the conduct of Commission antidumping and countervailing duty investigations under the changes required by the Trade Agreements Act of 1979. These rules set forth procedures for the conduct of Commission investigations under section 303 and title VII of the Tariff Act of 1930 (19 U.S.C. 1303 and 1671-1677), section 516A of the Tariff Act of 1930 (19 U.S.C. 1516A), and sections 102-107 of the Trade Agreements Act of 1979, Pub. L. No. 96-39, 93 Stat. 144.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Edward M. Lebow, Esq., or Edward Easton, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C., telephone (202) 523-0486 or 523-0379, respectively.

SUPPLEMENTARY INFORMATION: An analysis of public comments on the proposed rules follows.

Introduction

On October 15, 1979, a Notice of Proposed Rulemaking was published in the Federal Register (44 FR 59392) proposing to add a new Part 207 to title 19, chapter II, of the Code of Federal Regulations and to delete the present part 207. Notice was given that comments concerning the proposed rulemaking were to be submitted on or before November 29, 1979. Submissions from approximately 20 interested persons and organizations were received by December 3, 1979. The submissions covered all of the areas

addressed in the proposed rules, with the exception of judicial review. Many of the ideas contained in the comments have been accepted by the Commission and incorporated in its final rules; other suggestions were not adopted. The following is a summary of the proposals made in the comments received by the Commission with an explanation of why certain proposed amendments were or were not adopted. This summary has been organized in accordance with the principal subparts of the proposed rules.

Subpart A

Two comments were directed at the failure of the proposed rules to explain clearly that an injury determination will not be required in countervailing duty cases with respect to dutiable merchandise imported from a nation which is not a "country under the Agreement." The explanatory materials on § 207.1 have been clarified to make it explicit that a determination of injury pursuant to title VII of the Act is not required with respect to dutiable merchandise imported from a nation which is not a "country under the Agreement."

One comment noted that the definition of "ex parte meeting" § 207.2(f) was limited to communications of factual information between parties and Commissioners and certain staff, whereas section 777(3) of the Act covers "interested parties or other persons." We agree that the proposed rule was narrower than the law required and have made an appropriate change in the final rule. The same comment also suggested that "arguments," in addition to "factual information," be made subject to the ex parte rule. This change, however, is not required by the statute and has not been incorporated in the final rule.

Another major area of comments in this subpart concerned protective orders for the release of confidential information to attorneys or other representatives of interested parties in countervailing duty and antidumping investigations. Several comments suggested that the access to confidential information by representatives other than attorneys will not be adequately administrable by the Commission because strong sanctions are not available in the event of a breach of the protective order by representatives other than attorneys. It was also suggested that in-house counsel be excepted from the terms of the protective order, since access by in-house counsel to confidential information would have a chilling effect on submitters of sensitive information. The proposed rules have been amended

accordingly so that only independent attorneys, and not in-house counsel, economists, or other professionals, will have access to confidential information under protective order. The only exception to this rule is that independent, nonlegal professionals who have signed a protective order will have access to such information if they are working for an attorney who has also signed a protective order. Thus, the attorney will also be responsible for any breach by the professionals working for him.

Other comments on the protective order provision were directed at the Commission's proposal for the automatic release under protective order upon application by interested parties who are parties to the proceeding of domestic price and cost of production information submitted by the petitioner or an interested party in support of the petitioner. Some comments stated that this release was too automatic and that the Commission should incorporate a standard of need for the information to be satisfied by the requesting interested party. On the other hand, some comments suggested that the proposed protective order provision was too narrow and did not take full advantage of the statutory authorization for the Commission to release all confidential information under protective order. In responding to these comments, the Commission has decided to add a standard of need similar to that incorporated in rule 26 of the Federal Rules of Civil Procedure. Before the Secretary releases domestic price and cost of production information to an interested party, an interested party must demonstrate a substantial need for the information in the prosecution of his case and that he is unable without undue hardship to obtain the substantial equivalent of the information by other means.

In the past, the Commission has not released any confidential information under protective order in antidumping and countervailing duty investigations and has found this practice to be very helpful in obtaining sensitive data quickly in order to fulfill its statutory mandate of determining within a short time whether there is injury to U.S. industries. Accordingly, the final rule has been amended to permit the disclosure to interested parties who are parties to the proceeding of confidential information other than domestic price and cost of production only when all such interested parties agree to such disclosure. This does not exercise the full range of the Commission's authority to release confidential information

dealing with data other than domestic price or cost of production. It is conceivable, however, that, after the Commission has accumulated administrative experience with these protective order requests, it may modify its rules to allow greater access to such information. It would be unwise for the Commission, in the absence of such experience, to reverse its long-standing practice.

A final comment on subpart A contended that the Commission erred in proposing language in § 207.9 which requires a tie vote to be construed as affirmative in every determination under title VII of the Tariff Act. This comment also criticized the second sentence in § 207.9, which requires an affirmative vote on any theory of injury to be construed as affirmative when tallying the votes of Commissioners. The Commission believes that § 207.9 correctly reflects section 771(11) of the Act; thus, no changes have been made.

Subpart B

Several comments were received concerning the timing of notices and submissions in preliminary determination investigations. The proposed rules envisaged a 20-day period between the filing of a petition and the date on which the Commission would institute a formal investigation during which the Director of Operations would conduct informal investigative activities. It was proposed that the Commission would institute a formal investigation only after an affirmative petition determination had been made by the administering authority. Several comments pointed out that the effect of this proposed procedure would be to allow for exceedingly short periods within which parties would have had to make written submissions to the Commission. The Commission had made this proposal with the view of not instituting investigations contemporaneously with the administering authority so that private industry would not be burdened by requests for information from the Commission in cases which were eventually to be rejected by the administering authority as being based on insufficient petitions. The comments received by the Commission, however, suggest that private industry is more concerned with difficulties in preparing submissions within exceedingly brief periods than with the possibility of unnecessary work being required for questionnaires. The Commission's final rule attempts to balance these concerns by providing for a notice of investigation issued by the Commission upon filing of a petition, or soon thereafter, and for the

termination of such an investigation in the event that the administering authority determines that the petition is insufficient. The Director is expected to consult with the administering authority concerning the sufficiency of a petition; thus, a notice of investigation may not be issued immediately. It is anticipated that the Commission staff will limit its requests for information during this first 20-day period and also will notify all persons to whom such requests for information had been made in the event that the administering authority makes a negative petition determination. Another effect of instituting a formal investigation by the Commission upon or soon after the filing of a petition is to extend notice for the filing of written statements with the Commission in preliminary investigations from the period of 4 days (which received much adverse comment) to a period of approximately 21 days.

Other comments with respect to subpart B dealt with the Commission proposal that the Director of Operations conduct a conference in lieu of a full Commission hearing in preliminary investigations. Several comments suggested that this procedure would deprive interested parties of an opportunity to argue fully their positions before the Commission. It was also suggested that in the event a conference and not a full Commission hearing were held, the Commission would rely excessively on its staff instead of exercising its statutorily required independent judgment in reaching its determination. These comments, however, ignore the provision of the Trade Agreements Act which very clearly do not require any form of Commission hearing or conference in a preliminary investigation. The Commission, by allowing a conference with the staff, has struck an appropriate balance between the exigency of reaching determinations of reasonable indication of injury in every antidumping and countervailing duty case (as opposed to only a limited number of special cases in the past) against providing an opportunity to interested parties to have a hearing in every case. The Commission is also aware that the procedures required by the Trade Agreements Act have made antidumping and countervailing duty investigations more litigious and hence expensive for all concerned, and therefore chooses, when it is able, to avoid unnecessary formalization of presentations before the agency. The Commission has, nevertheless, decided to reserve to itself the authority in

special circumstances to order a full hearing in preliminary investigations.

A final category of comments on subpart B was directed at the concept of delegation by the Commission to the Director of Operations for the conduct of preliminary investigations. At the outset, it should be emphasized that even though the Director of Operations and his staff are authorized by subpart B to conduct investigative activities on behalf of the Commission, and even to file recommended findings of fact with the Commission, it is still the function of the Commission itself to make the determination of reasonable indication of injury based on the material provided by the staff. The Commission has successfully followed a similar procedure for several years in unfair trade practice investigations under section 337 of the Tariff Act of 1930.

Subpart C

A large number of comments were directed at what was perceived to be an excessive limitation on the submission by parties of information to the Commission subsequent to the filing of prehearing statements. The Commission has made two significant changes in its rules to respond to these comments. First, argument will be permitted at the hearing not only on points raised in the prehearing statements, but also with respect to information not available at the time the prehearing statement was filed. Second, the Commission has decided to allow posthearing briefs of a limited length within a time to be fixed at the hearing. In this way, parties will be able to respond to new controversies and information raised at the hearing.

The Commission also received comments to the effect that limiting a nonparty participant at the hearing to a "brief statement of its position with respect to the subject matter of the investigation" was overly narrow. It is the position of the Commission that such a standard is, on the contrary, extremely broad and will allow persons appearing before the Commission to bring their expertise to bear on the issues at hand.

A final comment submitted in this area concerned the unavailability of cross-examination of witnesses at the hearing. The hearing conducted by the Commission in antidumping and countervailing duty investigations is not a hearing governed by the adjudicative provisions of the Administrative Procedure Act. It is, therefore, not the intention of the Commission to change its current practice set forth in § 201.12(c), which limits questioning of witnesses to the purpose of assisting the Commission to obtain relevant and

material facts with respect to the subject matter of the investigation.

Other significant comment concerned proposed §§ 207.26 and 207.27, which inform parties what the statute directs the Commission to consider in making its determinations of material injury. One group of comments suggested that because § 207.26 sets forth what constitutes material injury, a complete and balanced treatment would require the Commission to enumerate also the elements of "threat of material injury." These standards are not in the statute itself but are in the legislative history. The Commission has adopted this suggestion and amended paragraph (d) of § 207.26 to reflect the pertinent legislative history.

Other comments expressed concern that the Commission, by enumerating factors which indicate the presence of injury, might have intended to change its current practice of satisfying itself that there exists a causal relationship between subsidized or dumped imports and injury to domestic industries. These comments also suggested that the Commission make clear that the examination of such a causal relationship does not mean that the Commission will expect petitioners to assume the burden of demonstrating that their injury is not a result of factors other than the dumped or subsidized imports. Accordingly, the Commission has changed the language in its final rules to show that the Commission will continue its practice of requiring a causal relationship without weighing the causes.

Subpart D

In spite of a comment to the effect that the failure of the Secretary of the Treasury to find "substantial doubt" as to the injury of a U.S. industry and to refer an investigation to the Commission under section 201(c)(2) of the Antidumping Act, 1921, constitutes a determination by the Secretary of the Treasury that there is a reasonable indication of material injury to a domestic industry within the meaning of section 701 or 731 of the Act, the Commission understands section 102(b) of the Act to require it to make an independent preliminary determination of reasonable indication of injury in circumstances where the Secretary has not yet made a tentative determination under the Antidumping Act before the effective date of the Trade Agreements Act.

Comments from several sources, including the Executive Branch, suggested that § 207.31 be amended to allow greater flexibility for the Commission in choosing the priority of

injury determinations with respect to outstanding countervailing duty orders requiring such determinations. Accordingly, this rule was amended also to allow consideration of the trade interests of the United States and the volume of trade concerned.

Subpart E

One comment read sections 704(a) and 734(a) of the Act and § 207.40(a) as literally prohibiting the Commission from terminating an investigation until the administering authority has issued a preliminary determination and suggested that this could cause the Commission to wait for an event which will never occur. The Commission, however, interprets the Act to mean that termination of an investigation by the administering authority also terminates the Commission's investigation. Any other reading of the statute would leave the Commission with no statutory basis for terminating investigations which are terminated by the administering authority prior to its preliminary determination. This clearly was not the intent of the Congress.

A comment was received to the effect that the Commission's intention to use section 603 of the Trade Act of 1974 for factfinding during investigations which are suspended as a result of agreements to eliminate injury completely is inappropriate and may cause conflict with foreign interests who believe the suspension process will remove from them all obligations to supply information to the United States Government. The Commission intends to leave its proposed rule unchanged. Commission factfinding is directed primarily at domestic markets and industries. In addition, the Commission will use its discretion where appropriate to avoid unnecessary conflict with our trading partners. However, it is necessary for the Commission to retain authority to keep its information up to date during the suspension of an investigation in the event that the suspension is ended and the Commission must go forward to make a determination of injury within a brief period. Another comment argued that section 603 authority is limited to matters encompassed completely within the Trade Act of 1974. The Commission disagrees and reads section 603 more broadly. Section 332 of the Tariff Act of 1930 also grants broad investigative powers to the Commission.

As proposed, § 207.41 sets forth the scope of investigations to review agreements to eliminate completely injury caused by subsidized or less-than-fair-value imports. Proposed § 207.43 provided that the Commission,

in making determinations in such investigations, would consider all of the merchandise subject to investigation without regard to the agreement. Because complete elimination of injurious effects suggests that all of the merchandise subject to the investigation must be covered by the agreement, a review "without regard to the agreement" would appear to be impossible; thus, §§ 207.41 and 207.43, literally read, were contradictory. The Commission intended the two rules to provide for a scope of review covering all imports which were the subject of the suspended investigation, regardless of whether the agreement applied to less than all imports (as, for example, where most—but not all—of the foreign exporters accede to the agreement). The Commission, therefore, has changed § 207.43 to provide merely that the Commission will consider all of the merchandise subject to the investigation.

Another comment indicated a technical error in § 207.45(a)(2), namely, that the word "not" was omitted in two places which resulted in an improper statement of the subject of the Commission's review. The Commission has revised the language to read "whether changed circumstances exist which indicate that an industry in the United States would *not* be threatened with material injury or the establishment of such an industry would *not* be materially retarded if the countervailing duty order or antidumping order were modified or revoked." (Emphasis supplied here only.)

Finally, several comments on § 207.45 stated that the Commission should provide explicitly for requests for review of dumping findings issued under the Antidumping Act, 1921. The Commission has added language to the final rule to provide for review of both dumping findings issued under the Antidumping Act, 1921, and countervailing duty orders issued under the duty-free merchandise provisions of section 303(b) of the Tariff Act.

A section-by-section analysis of the final rules follows.

§ 207.1 Applicability of part.

This introductory rule makes the procedures set forth in part 207 applicable to all investigations conducted by the Commission under section 303 or title VII of the Tariff Act of 1930 (the Act). The inclusion of section 303 investigations is required by section 103 of the Trade Agreements Act of 1979, which makes the procedures and findings with respect to countervailing duty investigations set

forth in title VII of the Act applicable to merchandise imported from any nation which is not a "country under the Agreement" (defined in section 701(b) of the Act) and which is free of duty. A determination of injury pursuant to title VII of the Act is not required with respect to dutiable merchandise imported from a nation which is not a "country under the Agreement."

Subpart A—General Provisions

Subpart A contains rules applicable to all Commission investigations under section 303 and title VII of the Act and sections 102–107 and title X of the Trade Agreements Act.

§ 207.2 Definitions applicable in Part 207

This rule defines certain terms used repeatedly in Part 207.

(a) The term "the Act" is defined to mean the Tariff Act of 1930.

(b) The definition of "administering authority" is taken directly from section 777(1) of the Act. Section 103 of the Trade Agreements Act, amending section 303(b) of the Act, provides that the duty imposed by section 303(a) is to be administered in accordance with title VII (section 771(1)).

(c) The definition of "country under the Agreement" is taken directly from section 701(b) of the Act.

(d) The term "Director" is defined to mean the Commission's Director of Operations or someone appointed to act in that capacity, or, if there is neither, a person designated by the Chairman to fulfill the responsibilities of the Director with respect to investigations under this part.

(e) The definition of "effective date" reflects the provisions of section 107 of the Trade Agreements Act of 1979.

(f) The definition of "ex parte meeting" is derived from section 777(a)(3) of the Act. The Commission intends that only the Director of Operations will make a "final recommendation" to the Commission within the meaning of section 777(a)(3)(B) of the Act. The term "other person" as used in this rule does not refer to Commission staff.

(g) The term "injury" is defined to mean material injury or threat of material injury to an industry in the United States, or material retardation of the establishment of an industry in the United States. The definition is intended to allow shorthand reference throughout part 207 to the three types of harm at which section 303 and title VII of the Act are directed.

(h) The definition of "interested party" is taken directly from section 771(9) of the Act.

(i) The term "party" is defined to include two classes of persons: (1) interested parties who have filed an appearance with the Commission under § 201.13, and (2) any other person who, after manifesting a proper interest in the subject matter of the Commission investigation, has filed such an appearance. A person who is not an interested party and who chooses to become a party to an investigation will receive copies of all documents served pursuant to § 207.3. However, such a person will also be required to comply with the obligations of a party, including service of documents under § 207.3 and submission of a prehearing statement under § 207.22.

(j) The definition of "record" reflects the definition of the record for purposes of judicial review contained in section 516A(b)(2)(A) of the Act. The Commission is of the view that the term "information" in section 516A(b)(2)(A)(i) includes only information that goes to the facts under investigation, and not to staff documents relating to administrative deadlines, travel arrangements, guidelines for conducting investigations and similar matters. The Commission intends, therefore, that such documents not be made a part of the record.

§ 207.3 Service of documents.

This rule establishes requirements for the service of documents on parties to an investigation. Any party submitting a document for inclusion in the record is required to serve a copy of each such document on all other parties to the investigation. Persons not complying with these obligations may be removed from party status. This rule also provides that all documents, except transcripts, placed on the public record by the Commission staff must be made available to each party to the investigation.

§ 207.4 The record.

This rule establishes requirements for the maintenance of the record of Commission proceedings. The record will be divided into a public portion and a nonpublic portion consisting of documents which contain business confidential or other privileged information.

The Director is authorized by this rule to conduct such audits as he deems necessary. The absence of an audit will be presumed to indicate that the Director decided that no audit was necessary or desirable.

Materials received from the administering authority will be placed on the record and designated public or nonpublic in conformity with the

designation assigned to them by the administering authority. Requests for access to or release of materials originating with the administering authority will be referred to that agency for its advice. Although the Secretary will make the final decision as to whether the material in question will be released, he will give serious consideration to the advice of the administering authority.

§ 207.5 Ex parte meetings.

This rule establishes requirements for the maintenance and content of ex parte meeting records as required by section 777(a)(3) of the Act. The rule provides that a record of each such meeting, as defined in § 207.2(f), shall be placed in the record, and that each meeting record shall include the identity of the persons present, the date, time and place of the meeting, and a summary of the matters discussed or submitted.

§ 207.6 Reports of progress of investigation.

This rule establishes requirements for the Commission Secretary to inform the parties to an investigation of the progress of that investigation. Such reports are required "from time to time upon request" by section 777(a)(2) of the Act. To prevent an undue burden on the Commission staff, the section provides that no progress report will be furnished (1) less than 30 days after notice of an investigation appears in the Federal Register, or (2) less than 30 days after issuance of the previous report on the progress of the same investigation. Reports will be limited to a statement of the official actions, if any, taken by the Commission since the last such report. It is contemplated that the Secretary on his own initiative will issue monthly reports updating the progress of all investigations over 30 days old.

§ 207.7 Limited disclosure of certain confidential information under a protective order.

(a) *In general.* This subsection establishes procedures for the disclosure of domestic price and cost information under protective order to attorneys, except in-house counsel, of interested parties who are parties to the investigation. Disclosure of any business information under protective order is authorized by section 777(c)(1) of the Act, but disclosure of domestic price or cost of production information submitted by the petitioner or an interested party in support of the petitioner may be required under court order pursuant to section 777(c)(2) of the Act. In fact, the Commission rarely, if ever, collects domestic cost of

production information, and it only collects price information relevant to the products in question. The term "domestic price" as used in this rule does not mean the price of an imported product in the United States. The Secretary will release such domestic price and cost information under a protective order if the interested party applying for such information demonstrates to the satisfaction of the Secretary a substantial need for the information in the prosecution of his case and that he is unable without undue hardship to obtain the substantial equivalent of the information by other means. Decisions of the Secretary denying requests for release of such information will be directly appealable to the Customs Court. Requests for release under protective order of confidential information other than such domestic price or cost of production data may be granted by the Secretary only where all the interested parties who are parties to the proceeding agree to the terms of the request. Although the Commission is authorized by section 777(c)(1) of the Act to release additional confidential information under protective order to any party to the investigation, this rule limits disclosure of such additional information to interested parties who are parties to the proceeding and only when all such interested parties agree to this disclosure. Given the Commission's lack of experience with protective orders in antidumping and countervailing duty investigations and the fact that the Customs Court will not be exercising the direction provided in the Act for requests for domestic price and cost of production information, the Commission is not going to exercise the full range of its authority to release confidential information dealing with data other than domestic prices or cost of production until it has accumulated administrative experience with these protective order requests.

(b) *Protective order.* This subsection establishes the conditions for the release to attorneys (except in-house counsel) of confidential information under a protective order.

(c) *Final disposition of material released under protective order.* This subsection establishes procedures and requirements for the final disposition of material released under protective order. At the completion of an investigation (or at such earlier date as the Secretary deems appropriate), all copies of the released material and all other materials containing the confidential information must be returned to the Secretary. Returned

materials must be accompanied by a certificate from the person to whom the release was made attesting to his good faith effort to ascertain that no additional copies have been made available to any person to whom disclosure was not specifically authorized.

(d) *Sanctions.* This subsection establishes sanctions for breach of a Commission protective order. Section 777(c)(1)(B) of the Act authorizes the Commission to establish such sanctions for breach of protective order as it determines to be appropriate. The sanctions contained in this subsection include being barred from practice before the Commission, referral of any breach to the U.S. Attorney and to the ethics panel of the appropriate professional association, and striking from the record any information or briefs submitted by the offender.

(e) *Sanction procedures.* This subsection establishes the right of any person accused of breaching a protective order to be heard by the Commission before a determination regarding sanctions is made.

§ 207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.

This rule provides that Commission questionnaires have the force of a subpoena, provided they are labeled as subpoenas and signed by a Commissioner. In the event any person refuses or is unable to produce the information requested in such a questionnaire in a timely fashion, the Commission may (1) in accordance with section 776(b) of the Act use the best information otherwise available in making its determination, (2) seek judicial enforcement of its subpoena under 19 U.S.C. 1333, or (3) take any other actions it deems necessary and appropriate, including waiver of any time limits set forth in part 207. See *Usery v. Whitten Machine Works, Inc.*, 554 F. 2d 498 (5th Cir. 1977).

§ 207.9 Affirmative determinations by divided Commission.

This rule establishes a voting rule for investigations under part 207 to apply in instances where the Commissioners voting are evenly divided regarding whether any determination should be affirmative or negative. The rule is intended to implement and clarify section 771(11) of the Act.

The rule provides that, if the Commissioners voting on a determination required under section 303 or title VII of the Act are evenly divided regarding whether the determination should be affirmative or

negative, the Commission will be deemed to have made an affirmative determination. In order to conform to what the Commission believes to have been the intent of Congress, this section has been drafted to cover all Commission determinations under Part 207 wherein a Commissioner may vote affirmatively in more than one way. Thus, when the issue before the Commission is to determine whether there is (sections 705 and 735 of the Act), whether there would be (section 104(b) of the Trade Agreements Act), or whether there is a reasonable indication of (sections 702 and 732 of the Act) either (1) material injury, (2) threat of material injury, or (3) material retardation, an affirmative vote on any of the issues will be treated as a vote that the Commission's determination should be affirmative.

Subpart B—Preliminary Determinations

Subpart B provides a procedural framework for preliminary investigations under section 303 and title VII of the Tariff Act of 1930, as amended, viz., the filing of petitions, the amendment of petitions, the conduct of preliminary investigations by the Commission's Director of Operations, the submission of written comments by persons interested in the subject matter of investigations, the conduct of conferences among interested parties and the staff of the Director of Operations or hearings before the Commission, the submission of the recommendation of the Director to the Commission, the preliminary determination by the Commission as to whether there is a reasonable indication of injury, and the issuance of appropriate notification to interested parties and to the public through the Federal Register of Commission actions.

§ 207.10 Filing of petition with Commission.

Section 207.10 implements the requirement in sections 702(b) and 732(b) of the Act for simultaneous filings of countervailing duty and antidumping investigation petitions with the administering authority and the Commission.

§ 207.11 Contents of petition.

This rule restates the requirements for a petition set forth in sections 702(b) and 732(b) of the Act. Reference is made to the factors relating to injury which will be considered by the Commission pursuant to section 771(7) of the Act and § 207.26 with the expectation that the petitioner will include information relevant to these issues. The rule also requires a petitioner alleging critical

circumstances to provide reasonably available information relevant to the additional findings which the Commission must make pursuant to sections 705(b)(4)(A) and 735(b)(4)(A) of the Act in the event critical circumstances are found by the administering authority. Petitioners are advised to consult the applicable regulations of the administering authority for the required contents of a petition.

§ 207.12 Notice of investigation of reasonable indication of injury.

Upon receipt of a petition or of notice that the administering authority has initiated an investigation based on information available to it, the Director will consult with the administering authority and, as soon as practicable, institute a formal investigation to determine whether there is reasonable indication of injury under section 703(a) or 733(a) of the Act and publish a notice to that effect in the Federal Register.

§ 207.13 Cooperation with administering authority; preliminary investigation.

This rule provides that the authority to conduct investigations of reasonable indication of material injury is delegated from the Commission to the Director of Operations. The delegation includes the exercise of the Director's discretion as to how best to conduct each such investigation. Information adduced through the investigative activities of the Director will be placed on the record.

The decision to delegate the conduct of such investigations from the Commission to the Director is based upon the Commission's administrative experience. Currently, the Commission administers 30-day investigations in a limited number of investigations under section 201(c)(2) of the Antidumping Act, 1921. The use of questionnaires and public hearings presided over by the full Commission in these investigations has been extremely taxing on the resources of the agency. The agency's resources are not great enough to conduct such proceedings in both preliminary and final investigations especially in view of the anticipated caseload of new and transitional investigations.

This rule also authorizes the Director to cooperate with the administering authority after a petition is filed to assist the administering authority with its determination under section 702(c) or 732(c) of the Act regarding whether a petition alleges the elements necessary for the imposition of a duty under section 701(a) or 731(a) of the Act. The Director will also cooperate with the administering authority with respect to

proposed amendments to petitions. It is the intention of the Commission that this rule satisfy its statutory obligation under sections 702(b) and 732(b) of the Act concerning amendments to petitions. Notwithstanding any assistance provided by the Director to the administering authority under this rule, all determinations under sections 702(c) and 732(c) are ultimately to be made by the administering authority.

§ 207.14 Negative petition determination.

This rule implements sections 702(c) and 732(c) of the Act, which provide that in those cases in which the administering authority determines that the petition does not allege the elements necessary for the imposition of a countervailing or antidumping duty, as the case may be, and accordingly, the petitioned-for investigation is dismissed, the Commission shall terminate its contemporaneous investigation. Because notice will have been provided by the administering authority, no additional notice of termination will be issued by the Commission.

§ 207.15 Written statements and conference.

Section 207.15 provides that any person may submit to the Commission on or before a date specified in the Commission's notice of investigation a written statement of information pertinent to the subject matter of the investigation. Joint conferences may be scheduled for parties if the Director deems them appropriate. Conferences will be held after public notice and in accordance with § 201.12(a). The transcripts of such conferences will be placed on the administrative record of the investigation. Although it does not appear to be feasible generally to schedule formal hearings before the Commission within the available time, the Commission is authorized to hold a hearing in lieu of the Director's holding a conference.

§ 207.16 Recommendation of Director.

This rule requires the Director of Operations to prepare a recommendation to the Commission based upon the record of the investigation of reasonable indication of injury. The Commission may choose to accept or reject this recommendation in whole or in part.

§ 207.17 Determination by Commission of reasonable indication of injury.

This rule provides that, in all cases other than those in which the administering authority dismisses the petition, the Commission shall make a

determination, based upon the best information before it at the time, of whether there is reasonable indication of injury by reason of imports of merchandise which is the subject of the investigation. It is anticipated that the large number of investigations and the short time available in which to conduct them may necessitate preliminary determinations frequently to be made by internal Commission consecutive voting procedures rather than at scheduled public meetings.

§ 207.18 Notice of preliminary determination.

This rule provides that the Commission shall notify all parties to its preliminary investigation of its determination and publish a notice of its determination in the Federal Register. In cases where the Commission's preliminary determination is affirmative, the Director of Operations may continue such investigative activities as he deems appropriate pending notice of an affirmative preliminary determination or a final determination from the administering authority.

Subpart C—Final Determinations

Subpart C contains the procedures specifically applicable to final determinations.

§ 207.20 Notice of investigation.

Although it is not required by the statute, by this rule the Commission intends to give to the public notice of its commencement of an investigation to reach a final determination under section 705(b) or 735(b) of the Act. In the event of a negative final determination by the administering authority subsequent to an affirmative preliminary determination, the Commission's investigation shall terminate. Because notice will have been provided by the administering authority, no additional notice will be issued by the Commission.

§ 207.21 Staff report.

This rule requires the Commission to place on the record a staff report containing preliminary findings of fact. It is intended that portions of the staff report containing confidential or privileged information be placed on the nonpublic record and the remainder of the staff report, including a nonconfidential summary of the confidential or privilege portions be placed on the public record. Section 207.04 provides for the maintenance of the record in two portions, the public portion containing nonconfidential material and the nonpublic portion containing privileged and confidential

material. This rule sets anticipated time limits for submission of the staff report. In 75-day investigations it will generally be filed on or before the 45th day after the date of the corresponding Commission notice of investigation. In 120-day investigations or extended investigations under section 735(a)(2) of the Act the staff report will generally be placed on the record on the third day after the date of issue by the administering authority of its final determination. In 180-day investigations the staff report will generally be placed on the record on or before the 130th day after the date of the corresponding Commission notice.

The purpose of this procedure is to provide to the parties a preliminary indication of the Commission staff's view of the affected industry. Parties will be able to prepare their prehearing statements in such a way as to address one common body of information describing the allegedly injured United States industry. The intention of this is to make for a more cogent and pointed briefing of the issues.

§ 207.22 Prehearing statement.

This rule requires each party to submit to the Commission a prehearing statement within 15 days after the date of service by the Commission to the parties of the public portion of the staff report discussed in the preceding rule. The preparation of prehearing statements following receipt of the staff report will allow the parties to address the disputed issues directly and will enable the Commission to conduct a concise and penetrating hearing. It should be noted that the prehearing statements called for by this rule should not be confused with the submission of copies of witnesses' prepared testimony required by § 201.12(d).

§ 207.23 Hearing.

Section 774 of the Act requires the Commission to hold a hearing at least once prior to making a final determination under section 705(b) or 735(b) of the Act, if any party to the investigation submits a timely written request. Section 207.23 sets forth the procedures for conducting such a hearing. The rule requires a person desiring to appear at a hearing to notify the Secretary of the Commission no later than 5 days prior to the date of the hearing. Each party appearing at the hearing must limit its arguments to a nonconfidential summary of the information and arguments contained in its prehearing statement, to a nonconfidential rebuttal of the information and arguments contained in the prehearing statements of other

parties, and to information not available at the time its prehearing statement was filed. Each other person, i.e., not a party, shall limit its presentation at the hearing to a brief statement of its position with respect to the subject matter of the investigation.

The purpose of this rule is to focus and direct the hearing to the issues briefed in the prehearing statements. By generally limiting the arguments presented at the hearing to issues raised in the prehearing statements, the rule ensures that other parties will be advised of all adversary positions. Nevertheless, because all information pertinent to the proceeding may be unavailable at the time prehearing statements are prepared, the rule also allows arguments at the hearing with respect to subsequently available information. Persons appearing at the hearing who are not parties, namely, consumer or other groups with no direct economic interest in the outcome of the proceeding, may appear and make a statement at the hearing.

It is anticipated that parties will make copies of witnesses' formal testimony available before the beginning of the hearing in accordance with § 201.12(d), and that hearing presentations will be brief, to the point, and will, to the greatest extent possible, summarize the arguments set forth in the prehearing statement and in the witnesses' prepared written testimony.

A verbatim transcript will be made of the hearing and will be subject to nonsubstantive revision in accordance with paragraph (c)(2) of this rule. The transcript will be placed on the public record.

§ 207.24 Posthearing submissions.

This rule supersedes § 201.12(g). The Commission may order interested parties to submit within a specified time posthearing statements responsive to questions or requests of Commissioners made at the hearing. The short time between the hearing and the promulgation of the Commission's opinion in these investigations will make it impossible for the Commission to give careful analysis to extensive posthearing briefs. Accordingly, the rule limits posthearing briefs to ten double-spaced pages. Any other posthearing submissions must be responsive to Commission requests or questions.

§ 207.25 Final determination by the Commission.

This rule restates sections 705(A)(1) and 735(A)(1) of the Act, which require the Commission to make a final determination of injury. Paragraph (b) of this rule restates the provisions of the

Act which allow the Commission 120 days from the time the administering authority makes its affirmative preliminary determinations to make a final determination under section 705 or 735 of the Act. However, if the administering authority takes more than 75 days to make its final determination, then the Commission is guaranteed by the Act and by this rule at least 45 days after the final determination of the administering authority to make its final determination. Thus, if the administering authority takes more than 75 days to make its final determination, the total elapsed time from the administering authority's preliminary determination to the Commission's final determination will be more than 120 days.

Paragraph (c) of this rule, again tracking the Act, provides that, if the administering authority makes an affirmative final determination following a negative preliminary determination, then the Commission will have 75 days after the date of that affirmative final determination to make its final determination.

Paragraph (d) of this rule sets forth the additional findings required by the Act in special situations. If the finding of the administering authority as to critical circumstances under section 705(a)(2) of the Act is affirmative, then the Commission must make a finding that there is material injury which will be difficult to repair and that the material injury is by reason of massive imports of the subsidized merchandise over a relatively short period of time. The corresponding provision in the antidumping area found in section 735(a)(3) of the Act requires the Commission to make a determination as to whether the material injury in critical circumstances is by reason of massive imports to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty provided for in section 731 of the Act retroactively on those imports.

The final subsection of this rule is based on sections 705(b)(4)(B) and 735(b)(4)(B) of the Act, which require the Commission, when it makes a final determination that there is no material injury, but that there is a threat of material injury, to determine whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under section 705(a) and 735(a) of the Act would have been found but for any suspension of liquidation of entries of the merchandise.

§ 207.26 Factors considered in determination of material injury.

This rule incorporates the factors set forth in section 771(7) of the Act to be considered by the Commission in making its determinations of injury under the Act. The illustrative factors which the Commission may consider in making its determination of threat of injury, derived from the report of the Committee on Ways and Means (H.R. Rep. No. 96-317, 96th Cong., 1st Sess. 47 (1979)), is also incorporated in this rule. The factors listed in this rule are not exclusive. Commission determinations of injury are governed ultimately by the standards in the following rule and by the judgment and discretion of the Commission.

§ 207.27 Standard for determination.

This rule reiterates that the presence or absence of any factor which the Commission is required to consider under the preceding rule shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury. The term "material injury" means harm which is not inconsequential, immaterial, or unimportant.

The enumeration in § 207.26 of the factors which must be considered in making countervailing and antidumping injury determinations—i.e., factors which for the first time are specified in the statutory text and consist of various factors, some of which singly or in combination have been considered relevant and determinative by the Commission under current law—provides no basis for changing the causality relationships which must be found to exist under existing law. It has been the long and uniform interpretation of existing law that an affirmative injury determination by the Commission requires the existence of a causal relationship between the subsidized or dumped U.S. imports and injury to a U.S. industry. This causation linkage between the offending imports and injury is based in existing law on the language in section 201(a) of the Antidumping Act and in section 303(b) of the Tariff Act that such injury is "by reason of the importation of such merchandise." Both section 701(a) and 731 of the new provisions for antidumping and countervailing duties also require the same linkage test, viz, that the injury is "by reason of imports of that merchandise." The Commission will consider factors other than subsidization or dumping which contribute to injury. However, the law does not require the Commission to determine that imports subsidized or

sold at less than fair value are injuring an industry in the United States to a degree greater than any one or a combination of other factors as a condition necessary for an affirmative determination.

§ 207.28 Publication of notice of determination.

This rule incorporates the standards of section 705(d) and 735(d) of the Act, which require the Commission to notify the petitioner, other parties to the investigation, and the administering authority of the Commission's determination and of the facts and conclusions of law upon which the determination is based. Notice of such determination will be published by the Commission in the Federal Register.

Subpart D—Transition

This subpart sets forth rules implementing for the Commission sections 102, 103, and 104 of the Trade Agreements Act of 1979 with respect to investigations under section 303 of the Tariff Act of 1930 and the Antidumping Act, 1921, that are pending as of the effective date of title VII of the Tariff Act of 1930, which the Commission now expects to be January 1, 1980. These rules also prescribe the priorities the Commission will use in scheduling investigation and consideration of certain classes of cases arising under this subpart.

§ 207.30 Pending investigations and preexisting countervailing duty orders.

This rule implements sections 102 and 103 of the Trade Agreements Act of 1979 by setting forth the principles for instituting, and the procedures applicable to, investigations under title VII of the Tariff Act of 1930, as amended by the Trade Agreements Act, which were the subject of investigations pending before the effective date. Under section 103 of the Trade Agreements Act, investigations pursuant to section 303 of the Tariff Act of 1930 are subject to the procedural rules of title VII of the new law except to the extent that those rules would not be applicable to such proceedings. These rules may not be applicable because the product concerned is not a product of a country under the agreement, is not a duty free article, or is a duty-free article from a country as to which the international obligations of the United States do not require an injury determination. As to section 303 cases that are subject to title VII, and cases that concern products that were the subject of pending investigations under the Antidumping Act, 1921, section 102 generally provides that the investigation of the same matter

would continue after the effective date of the new law so as to begin the proceeding under the new law as if the determination under the new law that is most closely analogous to the latest determination actually made under the old law had been made on the effective date. Finally, § 207.30 implements section 104 of the Trade Agreements Act concerning countervailing duty orders in effect pursuant to the provisions of existing law which require some further action by the Commission. As to these various classes of cases, the following rules apply.

Under paragraph (a)(1), if the Secretary has not made a preliminary determination, including either a preliminary determination under section 303(a)(4) of the Tariff Act of 1930 or section 201(b)(1) of the Antidumping Act, 1921, then the Commission will institute an investigation to determine whether there is a reasonable indication of injury in accordance with title VII of the Tariff Act of 1930 as enacted by the new law. Since the new law clearly intends that the Commission have the full 45 days that would normally be allocated to it for such a preliminary determination, this rule interprets section 102(a)(1) and section 102(b)(1) as providing the Commission with the full 45 days normally available for a reasonable indication determination under the new law, even though with respect to petition-initiated investigations, section 102 provides that these investigations are to begin "as if" an affirmative decision on institution had been made on the effective date. This interpretation is based upon the fact that under the new law, no time periods are calculated from the institution decision under title VII, and therefore the statute can only be read to allow a full 45-day period.

Under paragraph (a)(2), if the administering authority has made a preliminary but not a final determination as of the effective date, then the Commission proceeds with respect to the same subject matter under rules applicable to Commission investigations following a preliminary determination of the administering authority under the new law (see subpart C). These rules provide that if the administering authority's preliminary determination is affirmative, then the commission institutes an investigation leading to a final determination subject to certain counting rules provided for in the law; and if the administering authority's preliminary determination is negative, then the Commission does not institute a formal investigation unless and until the

administering authority makes a final affirmative determination. Consistent with § 207.18 concerning negative preliminary determinations by the administering authority, § 207.30(a)(2) provides that the Director will continue his investigative activities as appropriate pending the administering authority's final determination.

Under paragraph (b) of this rule, if the Commission is conducting an injury investigation under existing law as of the effective date of the new law, then on the effective date it shall institute a 75-day injury investigation subject to certain rules for the treatment of preexisting determinations of the Secretary of Treasury provided for in section 102 of the Act.

Paragraph (c) of this rule implements section 104(a)(2) of the Trade Agreements Act, which requires the Commission to make 180-day injury investigations with respect to certain countervailing duty orders of which the administering authority is required to notify the Commission by January 7, 1980. When this notice, together with the most current information the administering authority has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order is received by the Commission, this rule would provide that these investigations begin. The investigations which are subject to this provision concern countervailing duty orders issued under section 303(d) of the Tariff Act of 1930 by the Secretary of the Treasury with respect to products of a country under the Agreement that were either waived or that, waived or not, were issued after July 26, 1979, and before the effective date, or fell in certain other categories set forth in the regulation.

Under paragraph (d) of this rule, other countervailing duty orders are made subject to the petition process provided for in section 104(b) of the Trade Agreements Act. These requests may be made in a simple manner, but provision is also made for the Director to require requesters to make their request by filing a form he prescribes that would require information he considers necessary to conduct the investigation.

§ 207.31 Scheduling the institution of investigation of certain unwaived investigations.

This rule sets forth the principles upon which the Commission may delay institution of investigations arising under section 104(b) of the Trade Agreements Act, relating to unwaived, preexisting countervailing duty orders issued before the date of enactment of the Trade Agreements Act, which are

provided for in § 207.30(d). The Commission at present expects, based upon the official record of outstanding countervailing duty orders set forth at 19 CFR 159.47(f) and upon other information available to it at the time of this notice, to have before it approximately 30 investigations upon which action is required earlier than action would be required in cases arising under section 104(b). The Commission has therefore tentatively determined to assign to these other cases a higher priority than it would assign to cases arising under section 104(b). This higher priority will result in a conservation of administrative resources and, ultimately, public funds. The delay in investigation of cases arising under section 104(b) is justified by the Congressional determination to permit these cases to be decided in a much longer period of time than any other class of cases arising under the new law. The classes of cases which, because of the shorter time limits that are applicable to them, have higher priority than cases arising under section 104(b) are (1) new petitions filed under title VII of the Act (requiring preliminary Commission determinations in 45 days); (2) pending investigations requiring Commission preliminary or final determinations (45-day to 120-day determinations); and (3) cases requiring—rather than requiring only on request—Commission investigations of certain countervailing duty orders under section 104(a) of the Trade Agreements Act (180 days).

The priorities the Commission has established would allow commencement of section 104(b) investigations at any time after they are filed, so long as within 10 days after the filing of a request for such an investigation, the Secretary would inform the administering authority of the filing of the request. This notice has the effect of requiring the administering authority to suspend liquidation of entries as to the affected merchandise. This effect does not, however, depend on commencement of an active Commission investigation. Subsequently, the rule would permit the Commission to commence a section 104(b) investigation at any time so long as it completes the investigation within 3 years after the request is filed in accordance with the law. If a number of such petitions is filed, as are presently expected, then priorities among various investigations may be set pursuant to the rule. One of the bases of these priorities would be consolidating cases relating to like products, which would be done pursuant to the Commission's

authority under section 603 of the Trade Act of 1974 to consolidate its investigations.

§ 207.32 Procedures for pending investigations.

The purpose of this subsection is to make clear that the procedural rules applicable to investigations conducted under subparts B and C would apply to investigations arising under subpart D. Thus, the time limitations applicable under those subparts to the filing of staff reports, and the definitions and rules concerning hearings, the record, ex parte contacts, and so on, would all apply with full force with respect to Commission investigations in pending investigations and investigations of outstanding countervailing duty orders.

Subpart E—Investigations To Review Negotiated Agreements, and Investigations To Review Outstanding Determinations

This subpart describes procedures that implement portions of title VII of the Act, as amended by the Trade Agreements Act, which provide for special determinations in antidumping and countervailing duty investigations by the Commission. These determinations are principally found in sections 704, 734, and 751 of title VII. Subpart E concerns the termination of Commission investigations, completion and reinstitution of suspended investigations, and investigations to review both the suspension agreements of the administering authority and the determinations of the Commission when circumstances appear to have changed from those prevailing at the time of the determination.

§ 207.40 Termination and suspension of investigation.

Section 207.40 concerns the termination and suspension of Commission investigations. Paragraph (a) implements section 704(a) and 734(a) of the Act which permit the Commission to terminate an investigation after the administering authority has made a preliminary determination only upon the withdrawal of the petition by the petitioner and after notice to all parties to the investigation. The Act does not require the Commission to terminate an investigation where it has a reason for not terminating notwithstanding the withdrawal of the petition.

Paragraph (b) provides that, upon receipt of a notice that the administering authority has suspended an investigation under section 704(b) or 734(b) of the Act, the Secretary shall issue a notice suspending the Commission's investigation. This

provision is set forth in sections 704(f)(1)(B) and 734(f)(1)(B) of the Act. The notice shall not prevent the Director from conducting such investigative activities as he deems necessary, since investigative activity is authorized by section 603 of the Trade Act of 1974 and section 1332 of the Act.

Paragraph (c) provides for the resumption of suspended investigations upon notification from the administering authority that the agreements between the negotiating authority and foreign governments or foreign exporters which led to the suspension of an investigation no longer meet the requirements of the Act. Procedures and the time limits for the Commission's investigation and final determination are established.

§ 207.41 Commission review of agreements to eliminate the injurious effect of subsidized imports or imports sold at less than fair value.

This rule concerns the Commission's review of agreements negotiated by the administering authority to eliminate the injurious effect of subsidized imports or imports sold at less than fair value. The rule implements the provisions of sections 704(h) and 734(h) of the Act, which provide standing requirements for petitions for such review and a 75-day time limit for the Commission's final determination.

§ 207.42 Investigation continued upon request.

This rule concerns the provision in sections 704(g) and 734(g) of the Act for the Commission, upon request, to continue an investigation after the publication of the notice of suspension of the investigation by the administering authority.

§ 207.43 Commission determination in investigations to review agreements and in continued investigations.

This rule provides that in investigations to review agreements and in continued investigations, described in §§ 207.41 and 207.42, the Commission shall consider all of the merchandise subject to the investigation, not merely the merchandise covered by the agreements negotiated by the administering authority.

§ 207.44 Consolidation of investigations.

This rule provides that the Commission shall consolidate investigations under section 704(g) of the Act with investigations under section 704(h) of the Act whenever such consolidation is appropriate. This rule is

authorized by section 335 of the Act and by section 603 of the Trade Act of 1974.

§ 207.45 Investigation to review outstanding determinations.

This rule implements section 751 of the Act which provides for the Commission to review a determination concerning an agreement to suspend an investigation or a determination concerning injury to a domestic industry upon the receipt of information showing changed circumstances. The rule also provides for review of outstanding orders issued under the Antidumping Act and the duty-free merchandise provisions of section 303(b) of the Act. In the absence of good cause, an investigation to review a determination or suspension agreement will not be instituted until at least 24 months after the date of publication of the notice of the determination or suspension. Paragraph (b) provides that the procedures set forth in Subpart C of these rules shall apply to review investigations and that such investigations shall be completed within 120 days. This provision implements section 751 of the Act.

§ 207.46 Modification, clarification, or correction of a determination.

Section 207.46 provides that the Commission will issue any modification, clarification, or correction of a determination as may be necessary. This authority has been previously exercised. See Clarification of Determination in Investigation of Steel Wire Rope from Japan (38 FR 27560 (1973)).

Subpart F—Judicial Review

Subpart F deals with judicial review of Commission determinations under section 303 and title VII of the Act.

§ 207.50 Judicial Review.

This rule establishes procedures to facilitate judicial review of Commission determinations in the U.S. Customs Court under section 516A of the Act. The rule provides that a copy of the record (as defined in § 207.2(j)) in the Commission proceeding, or a certified list of the items therein, will be transmitted to the Court by the Commission's Secretary in accordance with the rules of the Court. The Commission's General Counsel is appointed the Commission's agent for service of process in cases arising under section 516A.

§ 207.51 Judicial review of denial of applications for disclosure of certain confidential information under protective order.

This rule establishes procedures to facilitate judicial review in the U.S. Customs Court under section 777(c)(2) of the Act of Commission determinations not to disclose under protective order confidential information concerning domestic price or cost of production.

Paragraph (a) of the rule deals with transmittal of the record and reflects section 2633(c) of the proposed Customs Courts Act of 1979. S. 1654, 96th Cong., 1st Sess. sec. 2633(c) (1979). Paragraph (a) provides that, when a court order is sought under section 777(c)(2), the Secretary shall within 5 days after service of a summons and complaint upon the Commission transmit to the Court under seal the confidential information involved along with "pertinent parts of the record." Pertinent parts of the record is defined in subsection (c) to consist of (1) the application for Commission disclosure, together with any documents filed in support thereof or in opposition thereto, (2) any governmental memoranda relating to the Commission's denial, and (3) the Commission's denial of the application. Subsection (d) provides that the Commission's General Counsel is appointed the Commission's agent for service of process in cases arising under section 777(c)(2).

Conforming Amendments

The Trade Agreements Act requires several changes in existing Commission rules for conducting subsidy and antidumping investigations. These necessary conforming amendments are primarily technical in nature, and are confined to part 201 of title 19 of the Code of Federal Regulations (19 CFR 201.00–41). The amendments are as follows.

§ 201.1 Applicability of part.

There presently exists a grammatical error in the second sentence of this section. By substituting "through" for "and" in the phrase "parts 202 and 207, inclusive," it is intended to make clear that rules of special application may appear in all of Parts 202, 204, 205, and 207 which in case of conflict will take precedence over the rules of general application set forth in Part 201.

§ 201.2 Definitions.

The conforming amendments propose three additional definitions for terms used extensively in Part 207, but which are found in other parts as well. The new definitions—"Trade Agreements

Act," "rule," and "Secretary"—and self-explanatory.

§ 201.7 Investigative authority and initiation of investigations.

Present rule 201.7 provides the means by which investigations may be initiated by the Commission. The methods outlined in the rule remain applicable under the new law, and are retained in a new paragraph (b). Paragraph (a) is added to make clear the Commission's prerogative to take those steps necessary for the expeditious and economical conduct of its proceedings. For example, separate investigations conducted under part 207 relating to like products may be combined if the circumstances warrant. Similarly, adjudicative investigations conducted under part 210 involving complaints and countercomplaints of unfair trade practices may be consolidated into a single proceeding.

§ 201.9 Methods employed in obtaining information; § 201.11 Public hearings.

In several sentences in these rules the word "evidence" is used in describing the information gathered in the course of Commission nonadjudicative proceedings. To make clear that the information upon which the Commission rests its determination in these proceedings is not evidence in the sense that it has been tested in an adjudicative forum, the word "information" is substituted for "evidence" where it now appears—in § 201.9, § 201.11(c), § 201.12(e), and § 201.12(g).

§ 201.12 Conduct of nonadjudicative hearings or conferences.

Besides the changes of the word "evidence" to "information" described above, the following amendments are proposed for § 201.12:

(a) Section 201.12(a) is amended by the addition of the words "or conferences" after the term "hearings" in each place such term is used, including the title of the rule. This amendment establishes procedures for the conduct of conferences which may be held pursuant to subpart B of Part 207 of these rules.

(d) Submission of prepared statements.

Section 201.12(d) is amended to require that witnesses' prepared statements shall be submitted not less than 3 business days prior to a hearing. Distribution of such statements for the first time at the hearing will no longer be allowed. The strict time requirement is necessary in view of the expedited conduct of investigations set forth in new Part 207.

(f) Hearing transcripts.

"(f)" is a typographical error denoting this subsection. The amendment will correctly number the paragraph as § 201.12(h).

(i) Requests.

New paragraph (i) will allow parties to request the Commission (or its delegate) to take specific action thought to be necessary by the requester to facilitate the proceeding in which he is involved. It is contemplated that such requests will involve the timing or conduct of specific proceedings and similar matters. By requiring service of such requests on all parties, the rule provides an opportunity for comment or objection; however, it is not intended that a motions practice will evolve in Commission nonadjudicative investigations. The Commission will make an appropriate response to a request, but that may include taking no action.

§ 201.13 Who may enter an appearance.

Section 201.13(a) is amended to delete the requirement that an appearance be entered "for the purpose of appearing at a public hearing." Because parties may enter an appearance without participating in any hearing, the requirement is unnecessarily restrictive.

By order of the Commission.

Issued: December 19, 1979.

Kenneth R. Mason,
Secretary.

Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207) is hereby repealed. A new Part 207 is established as follows:

PART 207—INVESTIGATIONS OF WHETHER INJURY TO DOMESTIC INDUSTRIES RESULTS FROM IMPORTS SOLD AT LESS THAN FAIR VALUE OR FROM SUBSIDIZED EXPORTS TO THE UNITED STATES

Sec.

207.1 Applicability of part.

Subpart A—General Provisions

207.2 Definitions applicable in part 207.

207.3 Service of documents.

207.4 The record.

207.5 Ex parte meetings.

207.6 Reports of progress of investigation.

207.7 Limited disclosure of certain confidential information under a protective order.

207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.

207.9 Affirmative determinations by divided Commission.

Subpart B—Preliminary Determinations

207.10 Filing of petition with Commission.

207.11 Contents of petition.

207.12 Notice of investigation of reasonable indication of injury.

Sec.

207.13 Cooperation with administering authority; preliminary investigation.

207.14 Negative petition determination.

207.15 Written statements and conference.

207.16 Recommendation of Director.

207.17 Determination by Commission of reasonable indication of injury.

207.18 Notice of preliminary determination.

Subpart C—Final Determinations

207.20 Notice of investigation.

207.21 Staff report.

207.22 Prehearing statement.

207.23 Hearing.

207.24 Posthearing submissions.

207.25 Final determination by the Commission.

207.26 Factors considered in determination of material injury.

207.27 Standard for determination.

207.28 Publication of notice of determination.

Subpart D—Transition

207.30 Pending investigations and existing countervailing duty orders.

207.31 Scheduling the institution of investigation of certain unwaived investigations.

207.32 Procedures for pending investigations.

Subpart E—Terminated, Suspended and Continued Investigations, Investigations to Review Negotiated Agreements, and Investigations to Review Outstanding Determinations

207.40 Termination and suspension of investigation.

207.41 Commission review of agreements to eliminate the injurious effect of subsidized imports or imports sold at less than fair value.

207.42 Investigation continued upon request.

207.43 Commission determination in investigations to review agreements and in continued investigations.

207.44 Consolidation of investigations.

207.45 Investigation to review outstanding determinations.

207.46 Modification, clarification, or correction of a determination.

Subpart F—Judicial Review

207.50 Judicial review.

207.51 Judicial review of denial of application for disclosure of certain confidential information under protective order.

Authority: Sections 303, 332, 335, and 701–778 of the Tariff Act of 1930 (19 U.S.C. 1303, 1332, 1335, 1671–1677); sec. 603 of the Trade Act of 1974 (19 U.S.C. 2582); secs. 3, 102–107, 1001, and 1002 of the Trade Agreements Act of 1979.

Authority: Sections 303, 332, 335, and 701–778 of the Tariff Act of 1930 (19 U.S.C. 1303, 1332, 1335, 1671–1677); sec. 603 of the Trade Act of 1974 (19 U.S.C. 2582); secs. 3, 102–107, 1001, and 1002 of the Trade Agreements Act of 1979.

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verify information received in the course of a proceeding. To the extent an audit or verification results in new or different information, the Director shall place such information on the record.

(c) *Materials provided by the administering authority.* Materials received by the Commission from the administering authority shall be placed on the Commission's record and shall be designated by the Commission as public or nonpublic in conformity with the applicable designation of the administering authority. Any requests to the Commission either to permit access to such materials or to release such materials shall be referred to the administering authority for its advice.

§ 207.5 Ex parte meetings.

There shall be included in the record of each proceeding a record of ex parte meetings as required by section 777(a)(3) of the Act. The record of each ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted.

§ 207.6 Reports of progress of investigation.

The Secretary shall upon the request of a party inform the parties to an investigation of the progress of that investigation. No such progress report, however, shall be issued by the Secretary less than 30 days after the date of publication of commencement of an investigation by notice in the Federal Register, nor will the Secretary be required to issue a report on the progress of any investigation less than 30 days after the date of issuance of the previous such report with respect to the same investigation. A report shall be limited to a statement of what official actions the Commission has taken since the previous such report, if any.

§ 207.7 Limited disclosure of certain confidential information under a protective order.

(a) *In general.* Upon request of an attorney of a party to the investigation, excepting in-house counsel, which describes with particularity the information requested, sets forth the reasons for the request, and demonstrates a substantial need for the information in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the information by other means, the Secretary will make available confidential information concerning the domestic price and cost of production of the like product submitted by the petitioner or an

interested party in support of the petitioner to such attorney under a protective order described in paragraph (b). Upon filing with the Secretary of an agreement among all interested parties who are parties to the proceeding requesting the release under protective order of confidential information submitted by such interested parties, other than domestic price and cost of production data, the Secretary may make such confidential information available to an attorney of such an interested party, excepting in-house counsel, under a protective order described in paragraph (b). The Secretary may adopt, from time to time, forms for submitting requests for disclosure pursuant to a protective order incorporating the terms of this rule. The Secretary shall determine whether the requirements for release of information under this rule have been satisfied. The Secretary's determination shall be final for purposes of review by the Customs Court under section 777(c)(2) of the Act.

(b) *Protective order.* The protective order under which information is made available to the attorney of a party shall require him to submit to the Secretary in a form prescribed by the Secretary a personal sworn statement that, in addition to such other conditions as the Secretary may require, he will:

(1) Not divulge any of the information so obtained and not otherwise available to him, to any person other than

(i) Personnel of the Commission concerned with the proceeding,

(ii) The person or agency from whom the information was obtained,

(iii) An attorney, excepting in-house counsel, employed on behalf of the party requesting the disclosure, and who has furnished a similar statement, or

(iv) Those persons independently contracted with, or employed or supervised by, the attorney having a need thereof in connection with the proceeding and who have furnished a similar statement;

(2) Use such information solely for the purposes of the Commission proceeding then in progress or for judicial or Commission review thereof;

(3) Not consult with any person not described in paragraph (b)(1) (iii) or (iv) concerning such confidential information without first having received the written consent of the Secretary and the attorney of the party from whom such confidential information was obtained;

(4) Not copy or otherwise reproduce any confidential material obtained under protective order except in accordance with procedures to be established by the Secretary; and

(5) Report promptly to the Secretary any breach of the protective order.

(c) *Final disposition of material released under protective order.* Upon completion of a proceeding, or at such earlier date as the Secretary may determine appropriate for particular data, the security of confidential information shall be protected by the return of all copies of materials released to attorneys of parties pursuant to this section and all other materials containing the confidential information, such as charts or notes based on any such information received under protective order, accompanied by a certificate from the attorney to whom the material was disclosed attesting to his personal, good faith belief that no other copies of such materials have been made available to the party he represents or any other person to whom disclosure was not specifically authorized.

(d) *Sanctions for breach of protective order.* The sworn statement referred to in paragraph (b) shall include an acknowledgment by the person providing it that breach thereof may, for up to seven years following publication of a determination that the order has been breached, subject to being barred from practice in any capacity before the Commission—

(1) The person submitting the statement, and

(2) Such person's partners, associates, employer, and employees.

Any breach of a protective order may be referred to the United States Attorney. In the case of an attorney, accountant, or other professional, such breach also may be referred to the ethics panel of the appropriate professional association, and the offender and the party he represents shall be subject to such other administrative sanctions as the Commission determines to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender.

(e) *Sanction procedures.* The Commission shall determine whether any person has violated a protective order, and may impose sanctions in accordance with paragraph (d). Any person against whom a sanction is proposed to be applied shall be afforded a reasonable opportunity to be heard before the determination is made.

§ 207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.

Any questionnaire issued by the Commission in connection with any proceeding under section 303 or title VII of the Act, may be issued as a subpoena and subscribed by a Commissioner,

after which it shall have the force and effect of a subpoena authorized by the Commission. Whenever any party or any other person fails to respond adequately to such a subpoena or whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, the Commission may (a) use the best information otherwise available in making its determination; (b) seek judicial enforcement of the subpoena pursuant to 19 U.S.C. 1333; (c) take such other actions as are necessary and appropriate, including waiver of any time limitation set forth in this part, as necessary to obtain needed information; or (d) any combination of the above.

§ 207.9 Affirmative determinations by divided Commission.

If the Commissioners voting on a determination by the Commission under section 303 or Title VII of the Act are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination. For the purpose of applying this paragraph, when the issue before the Commission is to determine whether there is, whether there would be, or whether there is a reasonable indication of—

(a) Material injury to an industry in the United States,

(b) Threat of material injury to such an industry, or

(c) Material retardation of the establishment of an industry in the United States,

by reason of imports of the merchandise, an affirmative vote by any Commissioner on any of the issues shall be treated as a vote that the determination should be affirmative.

Subpart B—Preliminary Determinations

§ 207.10 Filing of petition with Commission.

Any interested party who files a petition with the administering authority pursuant to section 702(b)(1) or 732(b)(1) of the Act shall in accordance with section 702(b)(2) or 732(b)(2) of the Act file a copy of the petition with the Secretary of the Commission on the same day as the petition is filed with the administering authority.

§ 207.11 Contents of petition.

The petition shall allege the elements necessary for the imposition of a duty under section 701(a) or 731 of the Act and contain information reasonably

available to the petitioner supporting the allegations. See § 207.26 for a list of factors relating to injury considered by the Commission. If the petition alleges critical circumstances, it shall also contain information reasonably available to the petitioner in support of the findings required to be made by the Commission pursuant to sections 705(b)(4)(A) and 735(b)(4)(A) of the Act. Petitioners are advised to refer to the administering authority's regulations concerning the contents of petitions.

§ 207.12 Notice of investigation of reasonable indication of injury.

Upon receipt by the Commission of a petition under § 207.10 or receipt of notice that the administering authority has commenced an investigation under section 702(a) or 732(a) of the Act, the Director shall, as soon as practicable after consultation with the administering authority, institute a preliminary investigation to determine whether there is reasonable indication of injury under section 703(a) or 733(a) of the Act and shall publish a notice to that effect in the Federal Register.

§ 207.13 Cooperation with administering authority; preliminary investigation.

Subsequent to institution of an investigation pursuant to § 207.12, the Director shall conduct such investigation as he deems appropriate. Information adduced in the investigation shall be placed on the record. The Director shall cooperate with the administering authority in its determination of the sufficiency of a petition and in its decision whether to permit any proposed amendment to a petition.

§ 207.14 Negative petition determination.

Upon receipt by the Commission of notice from the administering authority under section 702(d) or 732(d) of the Act that the administering authority has made a negative petition determination under section 702(c)(3) or 732(c)(3) of the Act, the investigation begun pursuant to § 207.12 shall terminate. The Director shall notify all persons who have received requests for information from him of the termination.

§ 207.15 Written statements and conference.

Any person may submit to the Commission on or before a date specified in the notice of investigation issued pursuant to § 207.12 a written statement of information pertinent to the subject matter of the investigation. If he deems it appropriate, the Director shall hold a conference pursuant to § 201.12(a). The conference, if any, shall be held after notice thereof is served on

the parties and published in the Federal Register and shall be transcribed. Notwithstanding the foregoing, the Commission may decide to hold a hearing in lieu of the Director's holding of a conference.

§ 207.16 Recommendation of Director.

The Director shall submit to the Commission his recommendation based on the record concerning the existence of a reasonable indication of injury under section 703(a) or 733(a) of the Act.

§ 207.17 Determination by Commission of reasonable indication of injury.

Except in the case of a petition dismissed by the administering authority under section 702(c)(3) or 732(c)(3) of the Act, the Commission, within 45 days after the date on which a petition is filed under section 702(b) or 732(b) of the Act or on which it receives notice from the administering authority of an investigation commenced under section 702(a) or 732(a) of the Act, shall make a preliminary determination based upon the best information available to it at that time of whether there is reasonable indication of injury by reason of imports of the merchandise which is the subject of the investigation by the administering authority.

§ 207.18 Notice of preliminary determination.

The Commission shall notify the petitioner, other parties to the investigation, and the administering authority of its preliminary determination under section 703(a) or 733(a) of the Act and of the facts and conclusions of law upon which the determination is based, and it shall publish a notice of its determination in the Federal Register. If the Commission's preliminary determination is negative, the investigation shall be terminated. If the Commission's preliminary determination is affirmative, the Director may continue investigative activities pending notice by the administering authority of its preliminary determination under section 703(b) or 733(b) of the Act. If the administering authority's preliminary determination is affirmative, the Commission shall institute an investigation in accordance with subpart C. If the administering authority's preliminary determination is negative, the Director shall continue such investigative activities as he deems appropriate pending a final determination by the administering authority under section 705(a) or 735(a) of the Act.

Subpart C—Final Determinations**§ 207.20 Notice of investigation.**

Upon receipt of notice from the administering authority of an affirmative preliminary determination under section 703(b) or 733(b) of the Act or, if the administering authority's preliminary determination is negative, of an affirmative final determination under section 705(a) or 735(a) of the Act, the Commission shall publish in the Federal Register a notice of its investigation to reach a final determination under section 705(b) or 735(b) of the Act. Upon receipt by the Commission of notice from the administering authority of its negative final determination under section 705(a) or 735(a) of the Act, the corresponding Commission investigation shall terminate.

§ 207.21 Staff report.

(a) The Director shall prepare and place in the record a staff report containing preliminary findings of fact. Portions of the staff report containing confidential or privileged information will be placed in the nonpublic record, and the remainder of the staff report, including a nonconfidential summary of the confidential or privileged portions, will be placed in the public record.

(b) (1) *75-day investigations.*—In injury investigations that are to be completed in 75 days, namely,

(i) Injury investigations following an affirmative final determination by the administering authority after a negative preliminary determination by the administering authority (§ 207.25(c)),

(ii) Investigations to review agreements to eliminate injurious effect (§ 207.41), or

(iii) Other investigations provided for in these rules incorporating by reference timing rules of this subpart (continued investigations provided for in § 207.42 and investigations in transition under subpart D),

the staff report shall be placed on the record by the Director within approximately 45 days of the date of issue of the corresponding Commission notice of investigation.

(2) *120-day or extended investigations.*—In injury investigations that are to be completed within 120 days, namely, injury investigations following an affirmative preliminary determination by the administering authority under § 207.25(b) and other investigations provided for in these rules that incorporate by reference timing rules of this subpart (continued investigations provided for in § 207.42 and investigations in transition provided for in subpart D of this part), or in investigations extended pursuant to

section 735(a)(2) of the Act, the staff report shall normally be placed on the record by the Director on the third day after the date of issue by the administering authority of its affirmative final determination.

(3) *180-day investigations.*—In injury investigations concerning waived and certain other countervailing duty orders under § 207.30(c) of these rules, that are to be completed within 180 days, the staff report shall be placed on the record by the Director within approximately 130 days of the date of issue of the corresponding Commission notice of investigation.

§ 207.22 Prehearing statement.

Within 15 days after the date of service by the Commission to the parties of the public portion of the staff report, each party shall submit to the Commission a prehearing statement. A prehearing statement shall, to the extent possible, refer to the record and shall include:

(a) Exceptions, if any, to the preliminary findings of fact contained in the staff report;

(b) Any additional or proposed alternative findings of fact;

(c) Proposed conclusions of law; and

(d) Any other information and arguments which the party believes relevant to the subject matter of the Commission's determination under section 705(b) or 735(b) of the Act.

§ 207.23 Hearing.

(a) *In general.* The Commission shall hold a hearing in the course of an investigation upon the written request of any party to the investigation, or at its own instance, before making a final determination under section 705(b) or 735(b) of the Act. Any such request must be received by the Commission within 15 days after the date of publication in the Federal Register of the notice of investigation under this subpart.

(b) *Procedures.* Any such hearing shall be conducted after notice published in the Federal Register. The hearing shall not be subject to the provisions of Subchapter II, Chapter 5, Title 5, United States Code, or to section 702 of that title. Any person desiring to appear at a hearing shall notify the Secretary not later than five (5) days prior to the date of the hearing. Each party shall limit its presentation at the hearing to a nonconfidential summary of the information and arguments contained in its prehearing statement, to a nonconfidential analysis of the information and arguments contained in the prehearing statements required by § 207.22, and to information not available at the time its prehearing

statement was filed. Each other person appearing shall limit its presentation at the hearing to a brief statement of its position with respect to the subject matter of the investigation. Hearings shall be subject to § 201.12, with the exception of paragraph (g) thereof.

(c) *Hearing transcripts.* (1) *In general.* A verbatim transcript shall be made of all hearings or conferences held in connection with Commission investigations conducted under this part.

(2) *Revision of transcripts.* Within 10 days of the completion of a hearing, any person who testified at the hearing may submit proposed revisions to the transcript of his testimony to the Secretary. No substantive revisions will be permitted. If in the judgment of the Secretary a proposed revision does not alter the substance of the testimony in question, he will incorporate the revision into a revised transcript.

§ 207.24 Posthearing submissions.

Posthearing briefs concerning the information adduced at the hearing may be filed with the Secretary within a time specified by the official presiding at the hearing, provided that no such posthearing brief shall exceed 10 pages of textual material, double spaced, on 8½ x 11 inch stationery. In addition, the presiding official may permit persons to file within a specified time statements responsive to questions or requests made by the Commission at the hearing. Posthearing submissions which do not accord with this rule will not be accepted.

§ 207.25 Final determination by the Commission.

(a) *In general.* At the times specified below, the Commission shall make a final determination of whether—

(1) An industry in the United States—
(i) Is materially injured, or
(ii) Is threatened with material injury,

or
(2) The establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under section 705(a)(1) or 735(a)(1) of the Act.

(b) *Period for injury determination following affirmative preliminary determination by administering authority.* If the preliminary determination by the administering authority under section 703(b) or 733(b) of the Act is affirmative, then the Commission shall make the determination required by paragraph (a) of this rule before the later of—

(1) The 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 703(b) or 733(b) of the Act, or

(2) The 45th day after the day on which the administering authority makes its affirmative final determination under section 705(a)(1) or 735(a)(1) or (2) of the Act.

(c) *Period for injury determination following negative preliminary determination by administering authority.* If the preliminary determination by the administering authority under section 703(b) or 733(b) of the Act is negative, and its final determination under section 705(a)(1) or 735(a)(1) or (2) of the Act is affirmative, then the final determination by the Commission under this section shall be made within 75 days after the date of the administering authority's affirmative final determination.

(d) *Certain additional findings.* (1) If the finding of the administering authority as to critical circumstances under section 705(a)(2) of the Act is affirmative, then the final determination of the Commission shall include findings as to whether—

(i) There is material injury which will be difficult to repair, and

(ii) The material injury was by reason of such massive imports of the subsidized merchandise over a relatively short period.

(2) If the finding of the administering authority under section 735(a)(3) of the Act concerning critical circumstances is affirmative, then the final determination of the Commission shall include a finding as to whether the material injury is by reason of massive imports described in section 735(a)(3) of the Act to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty imposed by section 731 of the Act retroactively on those imports.

(3) If the final determination of the Commission is that there is no material injury but that there is threat of material injury, then its determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under sections 705(a) or 735(a) of the Act would have been found but for any suspension of liquidation of entries of the merchandise.

§ 207.26 Factors considered in determination of material injury.

(a) In making its determinations under section 703(a), 705(b), 733(a), and 735(b)

of the Act, the Commission shall consider, among other factors—

(1) The volume of imports of the merchandise which is the subject of the investigation,

(2) The effect of imports of that merchandise on prices in the United States for like products, and

(3) The impact of imports of such merchandise on domestic producers of like products.

(b) For purposes of paragraph (a)—(1) In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.

(2) In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether—

(i) There has been significant price undercutting by the imported merchandise as compared with the price of like products of the United States, and

(ii) The effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

(3) In examining the impact on the affected industry, the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to—

(i) Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(ii) Factors affecting domestic prices, and

(iii) Actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

(c) *Special rules for agricultural products.* (1) The Commission shall not determine that there is no material injury or threat of material injury to United States producers of an agricultural commodity merely because the prevailing market price is at or above the minimum support price.

(2) In the case of agricultural products, the Commission shall consider any increased burden on government income or price support programs.

(d) For purposes of this section—In determining whether there is a threat of material injury, the Commission shall consider among other factors—

(1) The rate of increase of subsidized or dumped exports to the U.S. market;

(2) Capacity in the exporting country to generate exports; and

(3) The availability of other export markets.

The Commission shall also consider such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign country and the effects likely to be caused by the subsidy.

§ 207.27 Standard for determination.

The presence or absence of any factor which the Commission is required to consider under § 207.26 shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury. The term "material injury" means harm which is not inconsequential, immaterial, or unimportant. In determining whether injury is occurring by reason of subsidized or less than fair value imports, the Commission will look at the effects of such imports on the domestic industry as set forth in § 207.26. The Commission will also take into account information presented to it or that it obtains, if any, demonstrating that the harm attributed by the petitioner to subsidized or less-than-fair-value imports is attributable to factors other than those listed in § 207.26, including volume and prices of nonsubsidized imports or imports not sold at less than fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry. The effects from the subsidized or less than fair value imports will not be weighed against the effects associated with other factors which may be contributing to overall injury to an industry. Nor will the petitioner be required to bear the burden of proving the negative, that is, that material injury is not caused by such other factors.

§ 207.28 Publication of notice of determination.

Whenever the Commission makes a final determination under section 303 or title VII of the Act, it shall notify the petitioner, other parties to the investigation, and the administering authority of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

Subpart D—Transition**§ 207.30 Pending investigations and existing countervailing duty orders.**

(a) *Investigations in progress at the administering authority as of the effective date.* If, as of the effective date, there is an investigation in progress under section 303 of the Act as to whether a bounty or grant is being paid or bestowed on either duty-free imports subject to a Commission injury investigation or imports from a country under the agreement or, under the Antidumping Act, 1921, as to whether imports from a country are being or are likely to be sold in the United States or elsewhere at less than fair value, then the following rules apply: If the administering authority as of the effective date—

(1) Has not made a preliminary countervailing duty or a tentative antidumping determination, as the case may be, then the Commission shall issue a Notice of Investigation and commence an investigation with respect to the same matter in accordance with § 207.12 to determine whether there is a reasonable indication of injury, as provided for in sections 703(a) or 733(a) of the Act, which shall be completed within 45 days after the effective date;

(2) Has made a preliminary countervailing duty or a tentative antidumping determination, but not a final determination, then the Commission shall proceed in accordance with subpart C of these rules to investigate the same matter, except that in the event of a negative preliminary or negative tentative determination by the administering authority, the Director shall continue such investigative activities as he deems appropriate pending a final determination by the administering authority.

(b) *Investigations in progress at the Commission as of the effective date.* If, as of the effective date, the Commission is conducting an investigation under section 303 of the Act or section 201(a) of the Antidumping Act, 1921, as to whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, it shall terminate any such investigation and initiate an investigation concerning the same matter under title VII of the Act, which shall be completed within 75 days after the effective date, and it shall—

(1) Treat any final determination of the administering authority under section 303 as a final determination under section 705(a) of the Act and consider the net amount of the bounty or grant estimated or determined under

section 303 as the net subsidy amount under subtitle A of title VII of the Act; and

(2) Treat any final determination of the administering authority under the Antidumping Act, 1921, as a final determination under section 735(a) of the Act.

(c) *Commission investigations of injury in cases in which countervailing duties were waived or a countervailing duty order was published after July 26, 1979.* Upon receipt by the Commission of the administering authority's most current net subsidy information pertaining to any countervailing duty order in effect on the effective date which the administering authority waived under section 303(d) of the Act or which was published after July 26, 1979, with respect to products of a country under the agreement, or the subject of which concerns frozen, boneless beef from the European Communities under Treasury Decision 76-109 (10 Cust. B. & Dec. 189 (1976)), the Commission shall commence an investigation to determine whether there is injury within the meaning of section 104(a)(2) of the Trade Agreements Act, which investigation shall be completed within 180 days after such receipt. The Secretary will transmit the Commission's determination to the administering authority and publish it in the Federal Register.

(d) *Commission investigation of injury in cases in which countervailing duty orders were published before July 26, 1979, and were not waived.* Within 3 years of the effective date, a request in writing may be filed on behalf of the government of a country under the Agreement or on behalf of exporters accounting for a significant portion of the exports to the United States of the merchandise subject to a countervailing duty order in effect on the effective date or issued pursuant to a court order in an action brought under section 516(d) of the Act, and not subject to paragraph (c) of this rule, then the Commission shall commence an investigation to determine whether there would be injury by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked. The request shall set forth the person, persons, or government making the request; the order as to which the request is made; the relief sought; the factual basis therefor; and otherwise be generally in compliance with part 201 of these rules. In addition, the Director may prescribe a form for making such requests, which shall be completed if available, and which may require information that the Director considers necessary to conduct

the investigation. The Commission determination in such investigations shall be made within 3 years of the date of the receipt of the request that caused the Commission to investigate. Within 10 days after the filing of a request under this subsection, the Secretary shall notify the administering authority of the order or orders that are the subjects of the request. The Secretary will also transmit to the administering authority the Commission determination in investigations under this section, and publish notice thereof in the Federal Register.

§ 207.31 Scheduling the institution of investigation of certain unwaived investigations.

Among the factors considered by the Commission for establishing priorities of institution among requests under § 207.30(d) when the work before the Commission is such as to make immediate investigation in such cases impractical are:

- (a) The trade interests of the United States;
- (b) The length of time a countervailing duty order has been in effect (longest first);
- (c) The volume of trade of the product in question; and
- (d) The appropriateness of consolidation of investigations relating to like products.

§ 207.32 Procedures for pending investigations.

The procedures set forth in subpart B of this part, including applicable time limitations, shall apply to all investigations requiring a preliminary determination within 45 days. All other investigations described in this Subpart D shall comply with the procedures, including applicable time limitations, set forth in subpart C of this part.

Subpart E—Terminated, Suspended, and Continued Investigations, Investigations To Review Negotiated Agreements, and Investigations To Review Outstanding Determinations**§ 207.40 Termination and suspension of investigation.**

(a) An investigation under title VII may be terminated by the Commission by giving notice in the Federal Register to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation, however, before a preliminary determination is made by the administering authority under section 703(b) or section 733(b) of the Act.

(b) Upon receipt of a notice of suspension of an investigation by the

administering authority under section 704 (b) or 734(b), the Secretary shall issue a notice of suspension of the Commission investigation. Such suspension shall not prevent the Director from conducting such other investigative activities as he deems appropriate with respect to the same matter.

(c) *Resumption of suspended investigation.* (1) *Purpose.* If the administering authority determines that an agreement described in subsection 704(b) or (c) or subsection 734 (b) or (c) of the Act is being, or has been violated, or no longer meets the requirements of section 704 or 734 of the Act (other than the requirement under subsections 704(c)(1) and 734(c)(1), of complete elimination of injury) and so notifies the Commission of its determination and, in the event that the investigation suspended by the agreement was not terminated, the Commission shall resume the investigation as if this determination of the administering authority were an affirmative preliminary determination under subsection 703(b) or 733(b) of the Act.

(2) *Period for injury determination.* The Commission shall make its final determination in conformity with the schedule established in § 207.25(b).

(3) *Procedures.* The procedures set forth in subpart C applicable to investigations requiring completion within 120 days shall apply to all investigations instituted under this § 207.40.

§ 207.41 Commission review of agreements to eliminate the injurious effect of subsidized imports or imports sold at less than fair value.

If the administering authority determines to suspend an investigation upon acceptance of an agreement to eliminate the injurious effect of subsidized imports or imports sold at less than fair value, the Commission shall, upon petition, initiate an investigation to determine whether the injurious effect of imports of the merchandise which was the subject of the suspended investigation is eliminated completely by the agreement. Petitions may be filed by a party to the investigation which is an interested party described in subparagraph (3), (4), or (5) of § 207.2(h). Investigations under this § 207.41 shall be completed within 75 days of their initiation.

§ 207.42 Investigation continued upon request.

Upon receipt of advice from the administering authority that it has received a request for the continuation of a suspended investigation pursuant to

section 704(g) or 734(g) of the Act, the Commission shall continue the investigation. The procedures set forth in subparts B and C of this part, including applicable time limitations, shall apply to all continued investigations within this rule.

§ 207.43 Commission determination in investigations to review agreements and in continued investigations.

In making a final determination in investigations to review agreements described in § 207.41 or in continued investigations described in § 207.42, the Commission shall consider all of the merchandise which is the subject of the investigation.

§ 207.44 Consolidation of investigations.

The Commission may, when appropriate, consolidate continued investigations under section 704(g) or section 734(g) of the Act with investigations to review agreements for the elimination of injury under section 704(h) or section 734(h) of the Act.

§ 207.45 Investigation to review outstanding determination.

(a) *Purpose.* Upon the receipt of information concerning, or upon a request for the review of, a determination concerning a suspension agreement accepted under section 704 or 734 of the Act or an affirmative determination made under section 704(h)(2), 705(b), 734(h)(2), or 735(b) of the Act, or under the Antidumping Act or section 303(b) of the Act, which shows changed circumstances sufficient to warrant a review of such determination, the Commission shall institute an investigation to determine, as the case may be, (1) whether, in light of the alleged changed circumstances, the agreement continues to eliminate completely the injurious effect of imports of the merchandise; or (2) whether changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury, or the establishment of such an industry would not be materially retarded, if the countervailing duty order or antidumping order were modified or revoked. In the absence of good cause shown, no investigation under this § 207.45 shall be instituted within 24 months of the date of publication of the notice of the suspension or determination.

(b) *Procedures.* The procedures set forth in subpart C applicable to investigations requiring completion within 120 days shall apply to all investigations instituted under this § 207.45.

§ 207.46 Modification, clarification, or correction of a determination.

Nothing in § 207.45 shall limit the inherent authority of the Commission to issue an appropriate modification, clarification, or correction of a determination within a reasonable time of its issuance.

Subpart F—Judicial Review**§ 207.50 Judicial review.**

(a) *In general.* Persons entitled to judicial review under section 516A of the Act may seek review in the U.S. Customs Court.

(b) *Transmittal of record.* In the event a Commission determination is appealed to the U.S. Customs Court under section 516A, a copy of the record in the proceeding before the Commission, as such record is defined in § 207.2(j), or a certified list of all items therein, will be transmitted to the Court by the Secretary in accordance with the rules of the court.

(c) *Service of process.* The Commission's General Counsel shall be the Commission's agent for service of process in cases arising under section 516A of the Act.

§ 207.51 Judicial review of denial of application for disclosure of certain confidential information under protective order.

(a) *In general.* Persons entitled to judicial review under section 777(c)(2) of a Commission determination not to disclose confidential information concerning domestic price or cost of production may apply to the U.S. Customs Court for an order directing the Commission to make the information involved available.

(b) *Transmittal of record.* In the event a court order is sought under section 777(c)(2) requiring the Commission to disclose confidential information concerning domestic price or cost of production, the Secretary shall within 5 days after service of a summons and complaint upon the Commission transmit to the court under seal the confidential information involved along with pertinent parts of the record.

(c) *Pertinent parts of the record.* The pertinent parts of the record shall consist of (1) the application for Commission disclosure together with any documents filed in support thereof or in opposition thereto, (2) any Government memoranda relating to the Commission's determination, and (3) the Commission's action on the application.

(d) *Service of process.* The Commission's General Counsel shall be the Commission's agent for service of process in cases arising under section 777(c)(2) of the Act.

Conforming Amendments

The following changes are made in Part 201 of title 19 of the Code of Federal Regulations:

§ 201.1 [Amended]

1. Substitute the words "202 through 207" for the words "202 and 207" where they appear in § 201.1.

§ 201.2 [Amended]

2. Add new paragraphs (f), (g), and (h) to § 201.2 as follows—

(f) "Trade Agreements Act" means the Trade Agreements Act of 1979, Pub. L. No. 96-39, 93 Stat. 144.

(g) "Rule" means a section of the Commission Rules of Practice and Procedure (19 CFR Chapter II).

(h) "Secretary" means the Secretary of the Commission.

3. Revise § 201.7 to read as follows:

§ 201.7 Investigative authority and initiation of investigations.

(a) *Investigative authority.* In order to expedite the performance of its functions, the Commission may engage in investigative activities preliminary to and in aid of any authorized investigation, consolidate proceedings before it, and determine the scope and manner of its proceedings;

(b) *Initiation of investigations.* Investigations may be initiated by the Commission on the Commission's own motion, upon request of the President or the Special Representative for Trade Negotiations, upon resolution of the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, upon resolution of either branch of Congress, or upon application, petition, complaint, or request of private parties, as required or provided for in the pertinent statute, Presidential proclamation, Executive order, or in this chapter.

§ 201.9, 201.11 and 201.12 [Amended]

4. Substitute the word "information" for the word "evidence" where it appears in § 201.9, § 201.11(c), § 201.12(e), and § 201.12(g);

5. Add in § 201.12(a) the words "or conferences" after the term "hearings" in each place such term is used.

6. Substitute in § 201.12(d) the words "not less than 3 business days prior to the hearing" for the words "three business days prior to the hearing or as close to actual presentation at the hearing as possible."

7. Substitute "(h) *Hearing transcripts.*" for "(f) *Hearing transcripts.*" in § 201.12.

8. Add a new paragraph (i) to § 201.12 as follows—

§ 201.12 Conduct of nonadjudicative hearings.

(i) *Requests.* Any party to a nonadjudicatory investigation may request the Commission to take particular action with respect to any aspect of an investigation. Such requests shall be by letter addressed to the Secretary, shall be placed by him in the record, and served on all other parties. The Commission shall take such action or make such response as it deems appropriate.

§ 201.13 [Amended]

9. Delete from § 201.13(a), the language "for the purpose of appearing at a public hearing."

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of

the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- COMMUNITY SERVICES CORPORATION**
67423 11-26-79 / Provision for use of Federal Register and Code of Federal Regulations as sole issuance system for regulations
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Food and Drug Administration—
37434 6-26-79 / Content and format for labeling for human prescription drugs
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
Office of the Assistant Secretary for Housing—Federal Housing Commissioner—
70362 12-6-79 / Section 8 Housing Assistance Program for the disposition of HUD-owned projects

Next Week's Deadlines for Comments on Proposed Rules

- AGRICULTURE DEPARTMENT**
Farmers Home Administration—
69130 11-30-79 / Rural rental housing loan policies, procedures, and authorizations; revision—redesignation; comments by 12-31-79
- Food and Nutrition Service—
62453 10-30-79 / National School Lunch Program; assessment, improvement and monitoring system; comments 1-2-80
62442 10-30-79 / National School Lunch Program and State Administrative Expense Funds; Assessment, improvement and monitoring system; comments by 1-2-80
62466 10-30-79 / School Nutrition Programs; State Administrative Expense Funds; interim rule; comments period extended to 1-2-80
[Originally published at 44 FR 53487, Sept. 14, 1979]
62459 10-30-79 / State Administrative Expense Funds; AIMS sanctions; comments by 1-2-80

- Food Safety and Quality Service—
62294 10-30-79 / Federal meat graders; wearing of frocks; comments by 12-31-79
- Office of the Secretary—
62292 10-30-79 / Price-undercutting of domestic cheese by quota cheese (imports); comments by 12-31-79
- COMMERCE DEPARTMENT**
Industry and Trade Administration—
69665 12-9-79 / Restrictive trade practice or boycott provisions; comments by 1-4-80
- National Oceanic and Atmospheric Administration—
69312 12-3-79 / Atlantic groundfish; permit sanctions; comments by 1-2-80
[Corrected at 44 FR 71440, Dec. 12, 1979]
62547 10-31-79 / High Seas Salmon Fishery off the Coast of Alaska east of 175° east longitude fishery management plan amendment; comments by 1-1-80
- CONSUMER PRODUCT SAFETY COMMISSION**
62526 10-31-79 / Environmental review; proposed procedures; comments by 12-31-79
- DEFENSE DEPARTMENT**
Engineers Corps—
61308 10-24-79 / Water resources policies and authorities; Establishment of wetlands; comments by 12-31-79
- ENERGY DEPARTMENT**
Conservation and Solar Energy Office—
64094 11-6-79 / Clarity of regulations; inquiry; comments 12-31-79
- Economic Regulatory Administration—
62848 10-31-79 / Crude oil reseller regulations; comments by 12-31-79
68855 11-30-79 / East coast residual fuel oil entitlements; comments by 12-31-79
69594 12-3-79 / Mandatory petroleum price regulations; unleaded gasoline production incentives; comments by 12-31-79

- 69602 12-3-79 / Resellers' and reseller-retailers' price rules for gasoline; comments by 12-31-79
- 63109 11-2-79 / Priority supply of crude oil and petroleum products under the Defense Production Act; comments by 12-31-79
- ENVIRONMENTAL PROTECTION AGENCY**
- 59287 10-15-79 / Clean Air Act; local or regional economic disruption and unemployment prevention in Ohio; repropoed determination; comments by 12-30-79
- 72615 12-14-79 / Guidelines for specification of disposal sites for dredged or fill materials; comments period extended to 1-2-80
[Originally published at 44 FR 54222, Sept. 18, 1979]
- 62545 10-31-79 / Maryland air quality attainment status designations; comments by 12-31-79
- 55856 10-2-79 / Notification of export for polychlorinated biphenyls and fully halogenated chlorofluoralkanes; comments by 12-31-79
- 68489 11-29-79 / Polychlorinated biphenyls; manufacturing, processing, distribution in commerce, and use prohibitions in hydraulic systems; clarifications; comments by 12-31-79
- 69683 12-4-79 / Proposed action on Florida SIP variance; comments by 1-3-80
- 69685 12-4-79 / Proposed delayed compliance order for General Motors Corp., GM Assembly Division, Fremont, Calif.; comments by 1-3-80
- 69116 11-30-79 / Protection of visibility; comments by 12-31-79
- 62810 10-31-79 / Timber products processing point source category; effluent limitations guidelines, pretreatment standards, and new performance standards; comments by 12-31-79
- FEDERAL COMMUNICATIONS COMMISSION**
- 37522 6-27-79 / Creation of an additional personal radio service; reply comments by 12-31-79
- 47359 8-13-79 / Financial reporting requirements for telephone companies; reply comments by 1-2-80
- 53548 9-14-79 / Uniform system of accounts and financial reporting requirements for telephone companies; reply comments by 1-2-80
- FEDERAL EMERGENCY MANAGEMENT AGENCY**
- 63058 11-1-79 / Disaster assistance provisions; reorganization and revision; comments by 12-31-79
- FEDERAL HOME LOAN BANK BOARD**
- 62519 10-31-79 / Federal Home Loan Bank System, Federal Savings and Loan System, Federal Savings and Loan Insurance Corporation; proposed amendments concerning outside borrowing; comments by 12-31-79
- FEDERAL MARITIME COMMISSION**
- 62546 10-31-79 / Security for the protection of the public; Increase in maximum amount of required evidence of financial responsibility; comments by 1-2-80
- FEDERAL RESERVE SYSTEM**
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- This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).
- H.R. 5163 / Pub. L. 96-150 To authorize the sale to certain foreign nations of certain excess naval vessels. (Dec. 20, 1979; 93 Stat. 1091) Price \$75.
- H.R. 3892 / Pub. L. 96-151 "Veterans Health Programs Extension and Improvement Act of 1979". (Dec. 20, 1979; 93 Stat. 1092) Price \$75.
- H.R. 5651 / Pub. L. 96-152 To establish by law the position of Chief of the Capitol Police, and for other purposes. (Dec. 20, 1979; 93 Stat. 1099) Price \$75.
- Documents Relating to Federal Grant Programs**
- This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.
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- 75054 12-18-79 / Commerce/NOAA—Guidelines for Sea Grant Colleges and Regional Consortia; effective 12-18-79
- 75631 12-21-79 / DOD/Sec'y—Contractors receiving negotiated contract awards of \$10 million or more; effective 9-30-79
- 75727 12-21-79 / HEW/SSA—Supplemental energy allowance program for the low-income population under Pub. L. 96-126; effective 12-21-79
- 75136 12-19-79 / HUD/CPD—Community development block grants for Indian Tribes and Alaska Natives, allocation of funds; effective 2-11-80
- 75689 12-21-79 / USDA/FNS—Donated foods to nutrition programs for the elderly; level of assistance—fiscal year 1980; effective 10-1-79
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- 75676 12-21-79 / HEW/Civil Rights Office—Equal opportunity in employment provisions applicable to the Public Broadcasting Service, National Public Radio, and Public Telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting; comments by 2-19-80
- 75648 12-21-79 / USDA/FNS—National school lunch program; elimination of certain restrictions on the use of program funds by participating schools; comments by 2-19-80
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- 75725 12-21-79 / HEW/OE—Follow through program; noncompeting continuation projects; apply by 12-29-80
- 75723 12-21-79 / HEW/OE—Follow through program; technical assistance; apply by 2-29-80

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- 75740 12-21-79 / Justice/LEAA—Competitive research grant on the relationships between crime and the abuse of drugs and alcohol; preliminary proposals by 4-1-80
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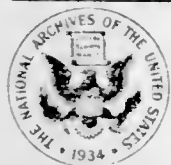
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NOTE:

Due to a shortage of newsprint, today's Federal Register is printed on a higher quality paper. As supplies become available, the Federal Register will resume the use of newsprint.

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- 76477 **Decontrol of Heavy Oil** Executive order
- 76589 **Training in Emergency Medical Services** HEW/
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- 76597 **Community Development Block Grant Programs**
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- 76604 **Prison Environments** Justice/LEAA announces
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- 76660, **Privacy Act** Commerce/Sec'y revises request and
76662 appeals addresses in Appendices A and B, and
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- 76484, **Tax on Gasoline and Special Fuels for Farming**
76563 **Purposes** Treasury/IRS issues temporary rules
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hearing by 2-25-80 (2 documents)
- 76482 **Production—Related Costs Incurred in First Sales
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- 76565 Radio Frequency Radiation** FCC extends time to file comments on the biological effects when authorizing use of radio frequency devices; response comments by 1-2-80
- 76700 Central Air Conditioners Including Heat Pumps** DOE/SOLAR issues test procedures; effective 1-28-80 (Part III of this issue)
- 76726, 76727 Control, Custody, Care, Treatment, and Instruction of Inmates** Justice/Prisons issues rules on complaint procedures by inmates, and proposes rules regarding management of inmates; effective 12-5-79, comments by 2-25-80 (2 documents) (Part IV of this issue)
- 76479 Anti-Inflationary Pay and Price Standards** CWPS amends percentage gross margin standard and questions and answers; effective 12-27-79
- 76731 Multi-Candidate Political Committees** FEC publishes comprehensive index (Part V of this issue)
- 76483 Income Tax** Treasury/IRS issues rules regarding extensions of temporary reduction of withholding of income tax at source; effective for wages paid after 12-31-75
- 76734 Federal Candidate Debates** FEC transmits regulations regarding funding and sponsorship (Part VI of this issue)
- 76525 Federal Motor Carrier Safety** DOT/FHWA issues a stay to effective date for rules regarding inspection, repair, and maintenance; effective 4-1-80
- 76527 Anthropomorphic Test Dummies** DOT/NHTSA issues rules on standards for dummies representing six-month-old and three-year-old children; effective 12-27-79
- 76536 Whaling** Commerce/NOAA issues rules consisting of amendments to Schedule of the International Convention for the Regulation of Whaling; effective 12-27-79
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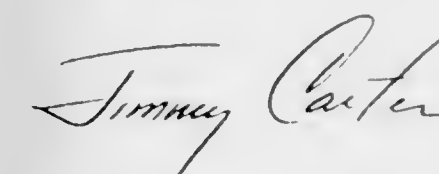
Executive Order 12186 of December 21, 1979

The President

Change in Definition of Heavy Oil

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 751 *et seq.*), Executive Order No. 12153 is hereby amended by deleting Section 1-102, renumbering Section 1-103 as 1-102, and deleting in Section 1-101 the figure "16.0° API" and inserting in lieu thereof "20.0° API."

THE WHITE HOUSE,
December 21, 1979.



[FR Doc. 79-39678
Filed 12-26-79; 10:50 am]
Billing code 3195-01-M

¹
Editorial Note: The White House statement of Dec. 21, 1979, on the decontrol of heavy oil, is printed in the Weekly Compilation of Presidential Documents (vol. 15, no. 51).

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Rules and Regulations

Federal Register

Vol. 44, No. 249

Thursday, December 27, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflationary Pay and Price Standards; Amendment of Percentage Gross Margin Standard and of Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Final Rules and Amendment of Questions and Answers.

SUMMARY: In response to public comments, the Council is amending 6 CFR § 705.42 (percentage-gross-margin standard for wholesale and retail trade) by amending the provision in paragraph (a) (2) that manufacturing and processing operations must be treated as separate compliance units if their base-year sales exceeded \$50 million. The Council is also amending related Questions and Answers to conform with the change in the standard.

EFFECTIVE DATE: December 27, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Hiemstra 456-7740.

SUPPLEMENTARY INFORMATION: The percentage-gross-margin standard, 6 CFR 705.42(a)(2), as previously drafted, (November 6, 1979; 44 FR 64276) provided that manufacturing and processing operations of a compliance unit applying the percentage-gross-margin limitation must be treated as separate compliance units under the appropriate price standard if the base-year sales of these operations exceeded \$50 million. The purpose of this provision was to close a Perceived loophole in the first-year standards: some retailers were subtracting from sales the cost of goods manufactured as

well as the cost of goods purchased for resale in calculating the overall gross margin. However, accounting records required for such disaggregation are not readily available for many companies; hence, requiring such disaggregation can impose significant accounting burdens on companies. Accordingly, the Council has decided to amend § 705.42(a) (2) to require such disaggregation only if outside sales of the company's manufacturing and processing operations exceed \$50 million (in which case the records needed for disaggregation are typically available).

This revision does not significantly relax the standard. In the case of vertically integrated companies that manufacture, wholesale, and/or retail goods, the loophole in last year's standards has been closed by the requirement that these retailers subtract only the cost of basic materials used in manufacturing (rather than the cost of goods sold) in calculating the gross margin.

Questions and Answers relating to the disaggregation of manufacturing and processing operations are also being amended to conform to the change in the standard.

Issued in Washington, D.C., December 20, 1979.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, 6 CFR Part 705 and the Questions and Answers published on November 21, 1979, (44 FR 67060) are amended as follows:

1. 6 CFR § 705.42 is revised by deleting the words "base-year sales of these operations" from paragraph (a) (2) and adding in their place "base-year wholesale sales from the Company's manufacturing and processing operations to other companies". As amended, paragraph (a) (2) reads as follows:

§ 705.42 Percentage-gross-margin standard in wholesale and retail trade.

(a) (1) * * *

(2) Notwithstanding the definition of "compliance unit" in Subpart 705D, manufacturing and processing operations of a compliance unit applying the percentage-gross-margin limitation must be treated as separate compliance

units under Subpart 705A or the appropriate modified standard in Subpart 705C if the base-year wholesale sales from the company's manufacturing and processing operations to other companies exceeded \$50 million. The transfer-price policy of vertically integrated companies must be consistent over time.

* * * * *

2. Question and Answer II.A.1 (44 FR 67065) is amended to read:

Q1. Should all manufacturing or processing operations of wholesale and/or retail companies be disaggregated for compliance purposes?

A. No. Disaggregation is necessary only if the wholesale or resale entity elects to apply the percentage-gross-margin standard for its wholesale or retail operations and the manufacturing and processing operations account for \$50 million or more of wholesale sales to other companies. If these conditions are met, a separate compliance unit should be established for the manufacturing and processing operations. The separate unit may elect to comply with the two-year price limitation standard in 705A or a modified price standard in 705C, if appropriate.

3. Q & A II A.2 (44 FR 670065) is amended to read:

Q2. Consider a company that owns and operates several manufacturing and/or processing operations, each of which accounted for less than \$50 million in outside wholesale sales during the base year, but taken together they account for \$50 million or more. Furthermore, the company owns and operates wholesaling operations that will comply with the percentage-gross-margin standard [§ 705.42]. Should any or all of the manufacturing and/or processing operations be disaggregated?

A. Yes. A compliance unit that elects to comply with the percentage-gross-margin standard should disaggregate all of its manufacturing and/or processing operations if those operations collectively account for \$50 million or more in outside wholesale sales during the base year.

[FR Doc. 79-39494 Filed 12-21-79, 9:15 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
7 CFR Part 907

(Navel Orange Regulation 473)

Navel Oranges Grown in Arizona and
Designated Part of California;
Limitation of HandlingAGENCY: Agricultural Marketing Service,
USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 28, 1979-January 3, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on December 21, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given the opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared

purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone 202-447-5975.

§ 907.773 Navel Orange Regulation 473.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 28, 1979, through January 3, 1980, are established as follows:

- (1) District 1: 584,000 cartons;
 - (2) District 2: 18,000 cartons;
 - (3) District 3: 18,000 cartons;
 - (4) District 4: 18,000 cartons.
- (b) As used in this section, "handled", "District 1", "District 2", "District 3", "District 4", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: December 26, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 39723 Filed 12-26-79; 2:14 pm]
BILLING CODE 3410-02-M

7 CFR Part 979

Melons Grown in South Texas;
Expenses and Rate of AssessmentAGENCY: Agricultural Marketing Service,
USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the South Texas Melon Committee. It will enable the committee to collect assessments from first handlers on all assessable melons grown in South Texas and to use the resulting funds for its expenses.

EFFECTIVE DATE: During fiscal period
ending September 30, 1980.

FOR FURTHER INFORMATION CONTACT: James B. Wendland (202) 447-3823.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 979 (44 FR 22038) regulating the handling of melons grown in South Texas, effective

under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the Federal Register (5 U.S.C. 553) as the order requires that the rate of assessment for a particular period shall apply to all assessable melons from the beginning of such period. Handlers and other interested persons offered no disagreement when given an opportunity to submit information and views on the expenses and assessment rate at an open public meeting of the committee held December 12, 1979, in McAllen, Texas. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

The budget and rate of assessment have not been determined significant under the USDA criteria for implementing Executive Order 12044.

Section 979.201 is deleted and a new § 979.202 is added as follows:

PART 979—MELONS GROWN IN
SOUTH TEXAS§ 979.202 Expenses and rate of
assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending September 30, 1980, by the South Texas Melon Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to \$71,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one and one-half cents (\$0.015) per carton of melons handled by him as the first handler thereof during the fiscal period.

(c) In accordance with the provisions of § 979.42, late payment changes of one and one-half percent per month shall be charged on the unpaid balance for each past-due account. An account is past-due 30 days after the billing date.

(d) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 979.44(a)(1).

(e) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 19, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 79-39455 Filed 12-26-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 208

(Docket No. R-0142; Reg. H)

Membership of State Banking
Institutions in the Federal Reserve
System; Recordkeeping and
Confirmation Requirements for Certain
Securities Transactions Effected by
State Member BanksAGENCY: Board of Governors of the
Federal Reserve System.

ACTION: Final rule.

SUMMARY: On June 20, 1979, the Board of Governors of the Federal Reserve System adopted amendments to its Regulation H (12 CFR 208) to require that State member banks that effect certain securities transactions for customers provide confirmation of and maintain records with respect to such transactions. Similar regulations have been adopted by the Comptroller of the Currency and the Federal Deposit Insurance Corporation. The three banking regulatory agencies have also requested public comment on the confirmation requirements as they apply to transactions in U.S. government, federal agency and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. government or federal agency obligations. The comment period expired September 24, 1979; ten letters of comment were received. The Board has considered the comments and has amended its regulation in certain respects as set forth below.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert A. Wallgren, Chief, Trust Activities Program, (202) 452-2717, or Walter R. McEwen, Attorney, (202) 452-2521, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The final rule as adopted today is substantially similar to that adopted on June 20, 1979.

Although comment was solicited only with respect to the confirmation requirements as they apply to transactions in U.S. government, federal agency and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. government or federal agency obligations, several commenters commented on sections of the regulation which had been adopted previously in final form. The Board found some of the comments to have merit and the Board has amended certain previously adopted sections in response to these comments. The following is a summary of the revisions which were made.

In response to a comment, subparagraph (k)(4)(iii) has been modified to state that a bank may charge accounts over which the bank exercises investment discretion in an agency capacity for confirmations made on a per transaction basis. This change merely reflects the Board's prior intent that banks could charge for furnishing individual confirmations in agency accounts where the bank exercises investment discretion.

One commenter stated its understanding that the intent of the banking agencies in drafting (k)(4)(i) was to permit a bank and a customer of a nondiscretionary agency account to agree on a suitable alternative reporting system. The commenter noted that the placement of this authority under the "Time of Notification" section, (k)(4), might be interpreted as a grant of authority for customer and bank to agree to a different time of notification, but not to a different form of notification. This was not the Board's intent when adopting the regulation; however, the Board has determined that it does not object to a different form of notification. Accordingly, subparagraph (k)(4)(i) has been amended to clarify that a bank and its agency customers may mutually agree upon alternative forms of notification. The Board advises State member banks that any such alternative form of notification for non-discretionary agency accounts must be affirmatively approved by the customer. A State member bank will not be considered to be in compliance with this paragraph (k) if it interprets a customer's non-response to a bank communication as constituting customer approval.

Several commenters suggested changes to various parts of subparagraph (k)(5)(iv), Securities Trading Policies and Procedures. Many commenters suggested that bank officers and employees who purchase U.S.

government and federal agency securities should not have to report transactions in those securities. One commenter noted that "Since the purpose of the disclosure is to detect misuse of inside information and manipulation of the market, and since such activity seems particularly unlikely in the marketplace for government securities, we feel that these securities should be excepted from the disclosure requirements." The Board has concluded that the benefit that would result from requiring disclosure of transactions in U.S. government and federal agency securities is outweighed by the increased reporting burden. The rule as adopted will exempt transactions in U.S. government and federal agency securities from the reporting requirements applicable to bank officers and employees, and will also exempt bank officers and employees whose duties do not involve knowledge of or transactions in securities other than U.S. government and federal agency obligations.

The comment letters pointed out the importance of transactions in U.S. government and federal agency securities in determining the scope of the 200 securities transactions exemption of subparagraph (k)(6) which exempts banks effecting fewer than 200 securities transactions per year from some of the recordkeeping requirements. One commenter noted that the effect of the 200 securities transactions exemption has been rendered less generous now that transactions in U.S. government and federal agency securities are subject to the confirmation requirements. The Board has concluded that the intended purpose of the 200 securities transactions exemption can best be accomplished by excluding transactions in U.S. government and federal agency securities from the securities transactions which are to be counted for purposes of the 200 securities transactions exemption. A related comment noted that the requirements of subparagraphs (k)(5)(i) through (k)(5)(iii), which require written supervisory policies and procedures relating to supervision of officers and employees, fair and equitable allocation of securities and fair and equitable crossing of orders could be triggered by performance of a single customer accommodation transaction. The 200 securities transactions exemption set forth in subparagraph (k)(6)(i) has now been modified to exempt banks coming within the exemption from the policy and procedures requirements of subparagraphs (k)(5)(i) through (k)(5)(iii).

The Board received a few adverse comments concerning the burden imposed by extension of the confirmation requirements to transactions in U.S. government and federal agency securities. After due consideration of these comments, the Board has determined that application of the confirmation requirements to transactions in U.S. government and federal agency securities is appropriate in the public interest. Accordingly, no change has been made in these requirements as adopted previously.

Finally, the question has been raised regarding the applicability of this paragraph (k) to employee benefit accounts for which a State member bank acts as Investment Manager, as defined in section 3(38) of the Employee Retirement Income Security Act of 1974, with another entity acting as trustee and/or custodian of the assets. The Investment Manager concept permits one bank to be sole trustee of a pension plan ("Master Trustee"), rendering to the plan sponsor uniform accounting reports including cash statements and valuation statements, while accepting investment direction as to specified parts of the pension plan assets from Investment Managers (another bank, an insurance company, or a registered investment advisor). In the case of a Master Trust, the Board has determined that the requirements of this paragraph will be served if either the Master Trustee or the Investment Manager maintains the specified records and gives prescribed statements and confirmations in accordance with the requirements of the regulation. Any State member bank serving either as Master Trustee or Investment Manager should insure that the requirements of the regulation are being met, either through performing the functions required by the regulation itself or contracting with another party that that party should do so.

Pursuant to sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321, 248 (a) and (1) and 3(b)(1) *et seq.*), the Board amends Regulation H (12 CFR 208) by amending paragraph (k) to § 208.8 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

§ 208.8 Banking practices.

Recordkeeping and confirmation of certain securities transactions effected by State member banks.

(4) *Time of Notification:* The time for mailing or otherwise furnishing the

written notification described in paragraph (k)(3) of this section shall be 5 business days from the date of the transaction, or if a broker/dealer is utilized, within 5 business days from the receipt by the bank of the broker/dealer's confirmation, but the bank may elect to use the following alternative procedures if the transaction is effected for:

(i) *Accounts (except periodic plans)* where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement as to the time and content of the notification; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customer;

(iii) *Accounts*, where the bank exercises investment discretion in an agency capacity, in which instance (A) the bank shall mail or otherwise furnish to each customer not less frequently than once every three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's accounts during such period, and (B) if requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the written notification described in paragraph (k)(3) of this section. The bank may charge a reasonable fee for providing the information described in paragraph (k)(3) of this section.

(5) *Securities Trading Policies and Procedures:* Every State member bank effecting securities transactions for customers shall establish written policies and procedures providing:

(iv) that bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer

or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and all transactions involving in the aggregate \$10,000 or less during the calendar quarter. For purposes of this paragraph (k)(iv) of this section, the term "securities" does not include U.S. government or federal agency obligations.

(6) *Exceptions:* The following exceptions to subparagraph (k) shall apply:

(i) The requirements of paragraph (k)(2)(ii) through (k)(2)(iv) and paragraph (k)(5)(i) through (k)(5)(iii) of this section shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three calendar year period, exclusive of transactions in U.S. government and federal agency obligations;

Board of Governors of the Federal Reserve System, December 19, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-39453 Filed 12-26-79; 8:45 am]
BILLING CODE 5210-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 271

[Docket Nos. RM79-19 and RM79-12;
Orders Nos. 45 and 31-A]

Order Granting Rehearing for the Purpose of Further Consideration and Further Staying of Order No. 45 and Order No. 31-A

December 20, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Staying Effective Dates.

SUMMARY: On August 24, 1979 the Commission issued Order No. 45 (Docket No. RM79-19) and Order No. 31-A (Docket No. RM79-12) [44 FR 51554, 41681, September 4, 1979]. By these orders the Commission amended regulations issued under the Natural Gas Policy Act and implemented a policy under the Natural Gas Act so that responsibility for production-related costs incurred in first sales of natural gas produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System could be addressed. Petitions to rehear both orders have been received and, in addition, the Secretary of Energy has requested a stay of the effective dates of

the two orders to permit time for filing by him of certain data. For these reasons the Commission stays the effective date of the two orders until further notice by the Commission.

DATE: Effective dates of Order No. 45 and Order No. 31-A stayed until further notice by the Commission.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100-K, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8150.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

In the matter of treatment of certain production-related costs of natural gas to be sold and transported through the Alaska Natural Gas Transportation System, Docket No. RM79-19; and determination of incentive rate of return, tariff and related issues, Docket No. RM78-12.

On August 24, 1979, the Commission issued Order No. 45 under Docket No. RM79-19 [44 FR 51554, September 4, 1979]. That order established regulations respecting the treatment of production-related costs under the Natural Gas Policy Act for natural gas produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System (ANGTS). At the same time, the Commission issued an order which applied the policy of Order No. 45. This latter order, Order No. 31-A, was issued under Docket No. RM78-12 [44 FR 51681, September 4, 1979]. Applications to rehear both of those orders were filed.¹ In addition, the Commission was informed by letter from the Secretary of Energy dated October 15, 1979, that a formal filing would be made by the Department of Energy under Docket No. RM79-19. That filing would reflect discussions held by the Department and North Slope producers of producer financing commitments for the ANGTS and the impact of such commitments on Order No. 45. In light of both the petitions to rehear and the offer of the Department of Energy to make a filing in this matter, the Commission granted limited

rehearing for Orders 45 and 31-A and stayed the effective date of those two orders until December 21, 1979.²

On December 5, 1979, the Commission was notified by letter from the Secretary of Energy that discussions with the North Slope producers concerning financing for the ANGTS are continuing. In that letter, the Secretary requested that, because of the complexity of the undertaking and the need for additional negotiations, the time to rehear Order No. 45 should be extended until such time as the Secretary can definitively report on the outcome of his discussions with North Slope producers. Accordingly, the Commission finds that it is appropriate to further stay the effective date of Order No. 45 and Order No. 31-A³ to permit the Secretary of Energy the opportunity to intervene in the proceedings and to make such filings as he may deem appropriate.

The Commission Orders: (A) The petitions for rehearing of Order No. 45 and Order No. 31-A, filed in this proceeding, are granted solely for the purpose of affording further time for consideration of the petitions and to afford further time for relevant filings on the part of the Department of Energy. This action does not constitute a grant of denial of the petitions on their merits in whole or in part. As provided by § 1.34(d) of the Commission's Regulations, no answer to the applications filed in this proceeding will be entertained by the Commission since this order does not grant rehearing on any substantive issues.

(B) Ordering Paragraph (1) of Order No. 45, issued August 24, 1979, under Docket No. RM79-19 and Ordering Paragraph (B) of Order No. 31-A, issued August 24, 1979, under Docket No. RM78-12 are stayed until further notice of the Commission.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39497 Filed 12-26-79; 8:43]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

26 CFR Part 31

Internal Revenue Service

[T.D. 7661]

Employment Taxes; Applicable on or after January 1, 1955; Extensions of Temporary Reduction of Withholding of Income Tax at Source

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the extensions of temporary reduction of withholding of income tax at source. Changes to the applicable tax law were made by the Revenue Adjustment Act of 1975, the Act of June 30, 1976, the Act of September 3, 1976, the Act of September 17, 1976, the Tax Reform Act of 1976, the Tax Simplification and Reduction Act of 1977, and the Revenue Act of 1978. The regulations provide employers required to withhold income tax from employees' wages with the guidance needed to comply with the changes.

DATE: The regulations are effective for wages paid after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3740).

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1979, the Federal Register published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 3402 of the Internal Revenue Code of 1954 (44 FR 32251). These amendments were proposed to conform the regulations to section 5(a) of the Revenue Adjustment Act of 1975 (89 Stat. 975), section 3(a) of the Act of June 30, 1976 (90 Stat. 782), section 2 (a)(1) and (b) of the Act of September 3, 1976 (90 Stat. 1201), section 3(a) of the Act of September 17, 1976 (90 Stat. 1273), sections 401 (d)(1) and (e) of the Tax Reform Act of 1976 (90 Stat. 1557), section 105(a) of the Tax Reduction and Simplification Act of 1977 (91 Stat. 140), and section 101(e)(1) of the Revenue Act of 1978 (92 Stat. 2770). No comments were received with respect to the proposed amendments, and no public hearing was requested or held. The proposed amendments are adopted by this Treasury decision without change.

¹ On September 21, 1979, the Atlantic Richfield Company, the Sohio Natural Resources Company, and the Phillips Petroleum Company filed separate applications for rehearing of these two orders. On September 24, 1979, the State of Alaska and the Exxon Corporation filed separate applications for rehearing of these two orders.

² Order Granting Rehearing for the Purpose of Further Consideration and Staying of Order No. 45 and Order No. 31-A, issued October 19, 1979 [44

Fed. Reg. 61327 October 25, 1979]; Order Granting Rehearing for the Purpose of Further Consideration and Further Staying of Order No. 45 and Order No. 31-A, issued November 30, 1979 [44 *Fed. Reg.* 69935, December 5, 1979].

³ As with prior stays, this order does not apply to Order No. 31 or Order No. 31-B, issued under Docket No. RM78-12. Order Nos. 31 and 31-B are final orders now in effect.

Withholding Requirements

Existing regulations provide that the tables contained in Circular E (Employer's Tax Guide) shall govern the amount of tax to be deducted and withheld under the percentage method of withholding on wages paid after April 30, 1975, and before January 1, 1976. The regulations adopted by this Treasury decision require reference to Circular E with respect to wages paid on or after January 1, 1976.

The final regulations adopted by this Treasury decision impose no new reporting or recordkeeping requirements. The principal effect of the final regulations is to conform existing regulations to various statutory changes to the income tax withholding requirements. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Drafting Information

The principal author of these proposed regulations is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, the amendments to 26 CFR Part 31 published as a notice of proposed rulemaking in the Federal Register for June 5, 1979 (44 FR 32251), are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: December 11, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

The amendments to 26 CFR Part 31 are as follows:

§ 31.3402-1 Amended;

Paragraph 1, Section 31.3402(a) is deleted.

Par. 2, Section 31.3402(a)-2 is amended to read as follows:

§ 31.3402(a)-2 Amount of tax to be withheld under percentage method of withholding.

(a) *Wages paid after April 30, 1975.* With respect to wages paid after April

30, 1975, the amount of tax to be deducted and withheld under the percentage method of withholding shall be determined under the applicable percentage method withholding table contained in Circular E (Employer's Tax Guide).

(b) *Wages paid after December 31, 1969, and on or before April 30, 1975.*

With respect to wages paid after December 31, 1969, and on or before April 30, 1975, the amount of tax to be deducted and withheld under the percentage method of withholding shall be determined in accordance with the tables set forth in section 3402(a), as in effect when such wages are paid.

Par. 3. Sections 31.3402(b), 31.3402(c), 31.3402(d), 31.3402(e), 31.3402(f)(1), 31.3402(f)(2), 31.3402(f)(3), 31.3402(f)(4), 31.3402(f)(5), 31.3402(f)(6), 31.3402(g), 31.3402(h)(1), 31.3402(h)(2), 31.3402(h)(3), 31.3402(h)(4), 31.3402(i), 31.3402(j), 31.3402(k), 31.3402(l), 31.3402(m), 31.3402(n), 31.3402(o), and 31.3402(p), are deleted.

[FR Doc. 79-39185 Filed 12-26-79; 8:45] BILLING CODE 4830-01-M

26 CFR Part 140

(T.D. 7662)

Temporary Excise Tax; Payments To Be Made to Aerial Applicators in Certain Cases

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations governing claims by aerial applicators for payment of an amount equal to the tax imposed on gasoline and special fuels used on farms for farming purposes. Changes to the applicable tax law were made by section 3 of the Act of October 14, 1978 (Pub. L. 95-458). These regulations affect all aerial applicators and all owners, tenants, and operators of farms who employ the services of aerial applicators. The regulations provide the guidance needed to comply with the law.

EFFECTIVE DATE: The regulations apply to payments for gasoline and special fuels used after March 31, 1979, on farms for farming purposes by aerial applicators.

FOR FURTHER INFORMATION CONTACT:

H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Attention: CC:LR:T, 202-566-8624, not a toll-free call.

Background

This document contains temporary regulations governing claims by aerial applicators for payment of an amount equal to the taxes imposed under sections 4081 and 4041 of the Internal Revenue Code of 1954 on gasoline and special fuels used on farms for farming purposes. Sections 6420 and 6427 of the Code authorize the payments to the user and ultimate purchaser of these fuels. The law was amended by section 3 of the Act of October 14, 1978 (Pub. L. 95-458, 92 Stat. 1257) to permit aerial applicators to receive payments as users and ultimate purchasers of fuels they use on farms for farming purposes. A new Part 140, Temporary Excise Tax Regulations under Section 3 of the Act of October 14, 1978 (Pub. L. 95-458) is added by this document to Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations.

Statutory Provisions

Sections 6420 and 6427 provide, respectively, for payment to the user and ultimate purchaser of an amount equal to the tax imposed under section 4081 on gasoline and under section 4041 on special fuels, if the gasoline or special fuel is used on a farm for farming purposes. For fuel used before April 1, 1979, only the owner, tenant, or operator of a farm is entitled to claim a payment as user and ultimate purchaser. Section 3 of the Act of October 14, 1978, amended sections 6420 and 6427 to entitle aerial applicators to receive these payments for fuels used by them after March 31, 1979. Before an aerial applicator may receive a payment, however, the owner, tenant, or operator of the farm served by the aerial applicator must waive his or her right to receive the payment in a written statement retained by the aerial applicator. The statement waiving the right of the owner, tenant, or operator to be treated as the user and ultimate purchaser of the gasoline or special fuel may be in any form that substantially meets the requirements of the regulations.

Waiver of Procedural Requirement of Treasury Directive

There is need for expeditious adoption of the regulations contained in this document because of the need for immediate guidance to owners, tenants, and operators of farms and to aerial applicators using tax-paid gasoline and special fuels on farms for farming purposes. These regulations are necessary to determine whether the

owner, tenant, or operator, or the aerial applicator will receive the payments provided in sections 6420 and 6427. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of these regulations is H. B. Hartley of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new part 140, Temporary Excise Tax Regulations under Section 3 of the Act of October 14, 1978 (Pub. L. 95-458), is added to Title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

PART 140--TEMPORARY EXCISE TAX REGULATIONS UNDER SECTION 3 OF THE ACT OF OCTOBER 14, 1978 (PUB. L. 95-458)

Sec.

140.6420-1 Payment under section 6420 to be made to aerial applicators in certain cases.

140.6427-1 Payment under section 6427 to be made to aerial applicators in certain cases.

Authority: Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; (26 U.S.C. 7805)); and sec. 3, Act of October 14, 1978 (92 Stat. 1257; (26 U.S.C. 6420, 6427)).

§ 140.6420-1 Payment under section 6420 to be made to aerial applicators in certain cases.

(a) *Effective date.* This regulation is effective for payments for gasoline used after March 31, 1979, by aerial applicators on farms for farming purposes.

(b) *General rule.* Section 6420 provides a payment to the user and ultimate purchaser of gasoline used on a farm for farming purposes of an amount equal to the tax imposed on gasoline under section 4081. The general rule of section 6420 (c)(3)(A) is that only the owner, tenant, or operator of a farm is entitled to be treated as a user and ultimate purchaser. Section 6420 (c) (4) provides that under section 6420 (c) (3) (A), an aerial applicator is entitled to be treated as the user and ultimate purchaser of gasoline used by it on a farm for farming purposes, but only if

the owner, tenant, or operator who is otherwise entitled to treatment as the user and ultimate purchaser waives his or her right to the payment.

(c) *Form and manner of waiver.* To waive the right to be treated as user and ultimate purchaser of gasoline which is used on a farm by an aerial applicator, the owner, tenant, or operator of a farm who is otherwise entitled to treatment as user and ultimate purchaser must execute an irrevocable written agreement no later than the date on which the aerial applicator claiming the credit files its return for the taxable year in which the gasoline is used. The agreement must identify the period during which the owner, tenant, or operator waives his or her right to payment. The effective period of the waiver cannot extend beyond the last day of the taxable year of the owner, tenant, or operator of the farm on which the gasoline was used. If the owner, tenant, or operator's taxable year extends beyond the taxable year of the applicator, the applicator can only claim payment for periods included in the applicator's taxable year. Periods after the last day of the applicator's taxable year which are included under the agreement must be claimed on the applicator's return for the next succeeding taxable year. The waiver may be in the form shown under paragraph (g) of this section or in any other form that meets the requirements of these regulations, but must clearly say that the owner, tenant, or operator of the farm knowingly gives up the right to receive a payment.

(d) *Agreement included on aerial applicator's invoice.* The agreement waiving a right to receive a payment under section 6420 may be a separate document or may appear on the face or the reverse side of an invoice for aerial application services or other unrelated document from the aerial applicator to the owner, tenant, or operator of the farm. If the waiver agreement appears on an invoice or other unrelated document, however, it must be printed in a section of the invoice or other document clearly set off from all other material contained in the invoice or other document, and it must be printed in type sufficiently large to put the owner, tenant, or operator of the farm on notice that he or she has waived his or her right to receive a payment under section 6420. Additionally, if the waiver agreement appears as part of any invoice or other unrelated document, it must be executed separately from any other item included in the invoice or other document which requires the owner, tenant, or operator's signature.

(e) *Copies of agreement waiving right to payment.* No copies of any agreement waiving a right to payments under section 6420 are to be submitted to the Internal Revenue Service unless a request is made by the Service to the taxpayer for the waivers. Aerial applicators must, however, retain copies of all waivers, and a copy of each waiver must be supplied by the aerial applicator to the owner, tenant, or operator of the farm who waives his or her right to receive a payment. See regulations § 48.6420(f)-1 for general requirements for records to be kept.

(f) *Waiver on behalf of owner, tenant, or operator of farm.* If any owner, tenant, or operator of a farm desires that an agent (e.g., a cooperative) act for him or her or cannot legally bind himself or herself due to infancy or other incompetency, an agent expressly authorized under local law to bind the owner, tenant, or operator in a waiver of his or her rights to a payment under section 6420 may sign the waiver on his or her behalf.

(g) *Sample form of agreement.* While no specific form is required for an effective waiver, an acceptable form waiving the right to receive a payment under section 6420 follows:

I hereby waive my right as owner/tenant/operator of a farm located at [address] to receive payment or credit from the United States for gasoline used by [aerial applicator] on the farm in connection with cultivating the soil, or the raising or harvesting of any agricultural or horticultural commodity. This waiver applies to gasoline used during the period ———, both dates inclusive.

I understand that by signing this waiver I give up my right to claim any credit or payment for gasoline used by the aerial applicator during the period indicated, and I acknowledge that I have not previously claimed any credit or payment for that gasoline.

(Sign date of Owner/Tenant/Operator)
Taxpayer Identification No.: ———

§ 140.6427-1. Payment under section 6427 to be made to aerial applicators in certain cases.

(a) *Effective date.* This regulation is effective for payments for special fuels used after March 31, 1979, by aerial applicators on farms for farming purposes.

(b) *In general.* Section 6427 provides for payment to the user and ultimate purchaser of certain fuels used on a farm for farming purposes of an amount equal to the amount of tax imposed on these fuels under section 4041. The general rule is that only an owner, tenant, or operator of a farm is entitled to be treated as a user and ultimate

purchaser. Section 6427 (c) provides that an aerial applicator is entitled to be treated as the user and ultimate purchaser of fuels which it uses on a farm for farming purposes, but only if the owner, tenant, or operator of the farm who is otherwise entitled to be treated as the ultimate purchaser, waives his or her right to receive the payment.

(c) *Rules governing waivers by owners, tenants, and operators of farms.* The rules contained in section 6420 and the regulations under that section regarding waivers by owners, tenants, and operators of farms of their rights to payments under section 6420 for gasoline which is used by aerial applicators on a farm for farming purposes to pay to waivers under this section.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (69A Stat. 917 (26 U.S.C. 7805)); sec. 3 of the Act of October 14, 1978 (Pub. L. 95-458, 92 Stat. 1237)).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: December 16, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 79-39488 Filed 12-26-79, 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 70

[DoD Directive 1332.28]

Discharge Review Board (DRB);
Procedures and Standards

AGENCY: Office of the Secretary of Defense.

ACTION: Amendment of final rule.

SUMMARY: This revision extends to April 1, 1981, the deadline in which former military personnel with undesirable discharges may apply to the DRB for a review of their discharges for the purpose of upgrading them.

EFFECTIVE DATE: This amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT: Colonel John L. Fugh, JAGC, USA Office

of the Deputy Assistant Secretary of Defense (Military Personnel Policy), OASD(MRA&L) Room 3C980, The Pentagon, Washington, D.C. 20301 Telephone: 202-697-9525.

SUPPLEMENTARY INFORMATION: In FR Doc 78-8638 appearing in the Federal Register on March 31, 1978 (43 FR 13564), the Office of the Secretary of Defense published Part 70 of this title. This amendment is effected to enable the Department of Defense to accommodate former military personnel who wish to apply for upgrading of their discharges.

Accordingly, 32 CFR Part 70 is amended by revising paragraph (a)(4) of § 70.1 and by revising paragraph (a)(2) and (b)(8)(vi) of § 70.5 to read as follows:

§ 70.1 Purpose.

(a) * * *

(4) Provides an opportunity for former members administratively discharged under other than honorable conditions to make application to the DRBs without regard to the normal 15-year period in which an application must be made, and establishes April 1, 1981, as the date by which such applications must be submitted.

* * * * *

§ 70.5 Discharge Review Procedures.

(a) Application for review. (1) * * *

(2) A motion or request for review must be made within 15 years after the date of discharge or dismissal; except that, in accordance with Pub. L. 95-126, any former member administratively discharged under other than honorable conditions, and otherwise eligible to make application for review may do so without regard to the 15 year limitation period in Title 10, U.S.C. 1553, if such application is received prior to April 1, 1981.

* * * * *

(b) *Conduct of reviews.* * * *

* * * * *

(8) *Reconsideration.* A discharge review shall not be subject to reconsideration except:

* * * * *

(vi) Where the case was not previously considered under uniform standards published pursuant to Pub. L. 95-126 and such application is made before April 1, 1981 or within 15 years after the date of discharge; or

* * * * *

(Title 10, U.S.C. 1553 and Title 38, U.S.C. 101 and 3103, as amended by Pub. L. 96-126, October 8, 1977)

H. E. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

December 20, 1979.

[FR Doc. 79-39457 Filed 12-26-79, 8:45 am]

BILLING CODE 3810-70-M

Department of the Navy

32 CFR Part 724

Revision of Naval Discharge Review
Board Regulations; Addition

AGENCY: Department of the Navy,
Department of Defense.

ACTION: Addition to the final rule.

SUMMARY: Final regulations governing the functions and procedures of the Naval Discharge Review Board were published in the Federal Register on November 21, 1979 (44 FR 66801). The appendices to the regulation were not published on November 21, 1979, and we are publishing them today. These appendices aid in the overall understanding of the regulation.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT: Rear Admiral John M. Delargy, U.S. Navy, Director, Naval Council of Personnel Boards, Room 911, 801 North Randolph Street, Arlington, Virginia 22203, (202) 696-4355.

(Section 301, Title I, Act of June 22, 1944 (10 U.S.C. 1553))

Accordingly, Appendices A, B, C, D, and E are added to Part 724 as follows:

Appendix A—Methods by Which Individuals May Be Involuntarily Separated From the Naval Service (Other Than by Reason of Being Physically Unfit)

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APPENDIX A - METHODS BY WHICH INDIVIDUALS MAY BE INVOLUNTARILY SEPARATED FROM THE NAVAL SERVICE (OTHER THAN BY REASON OF BEING PHYSICALLY UNFIT)

Category	Method	Called	Discharge Certificate/Type	Reference	Remarks
Commissioned Officer (USN/USNR)	Sentence of GCM	Dismissal	No	BUPERSMAN 3850100-10	Receives ltr from SECNAV vice discharge certificate.
USN Officer (w/less than 3 yrs)	Board of officers	Revocation of commission	Yes (Hon, Gen, OTH)	10 U.S.C. 6392 SECNAVINST 1920.6	Only applies to USN offi. with less than 3 yrs as regular. No authority to board officer with more than 3 yrs as USN officer.
USNR Officer	Board of officers	Discharge	Yes (Hon, Gen, OTH)	10 U.S.C. 1162 10 U.S.C. 1163 SECNAVINST 1920.6	Very limited exceptions permit discharge without board.
Commissioned Officer (USN/USNR)	Secretarial action (acting for President) without board	Dropping from rolls	No	10 U.S.C. 1161 (USN) 10 U.S.C. 1163 (USNR)	Receives ltr from SECNAV vice discharge certificate. Requires 3 mos UA or civilian conviction and sentence to penitentiary. In case of reservists, only requires Secretarial vice Presidential action.
Permanent Regular Warrant Officer	Board of officers	Termination of appointment	Yes (Hon, Gen, OTH)	10 U.S.C. 1165 10 U.S.C. 1166	Depending on length of service, may result in his reversion, retirement or separation with or without pay.

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Category	Method	Called	Discharge Certificate/		Reference	Remarks
			Type	No		
Temporary Warrant Officer	Secretarial action (acting for President)	Termination of appointment	No		10 U.S.C. 5596	Board generally not required, may be under limited circumstances; member reverts to permanent status and may be further processed in such status.
Warrant Officer (W-1)	Sentence of GCM	Dismissal	Yes (DD)		MCM, para 126d	
Warrant Officer (W-1)	Secretarial action (acting for President)	Dropping from rolls	No		10 U.S.C. 6403	Same remarks as for dropping from the rolls of a commissioned officer.
Warrant Officer (W-1)	Secretarial action (acting for President)	Dismissal	No		10 U.S.C. 6408	Must be in time of war.
Midshipman (USN or other MIDN on active duty)	Sentence of GCM	Dismissal	No		RUPERSMAN 3850100-10 Navy Regs Art 0801-1	Receives ltr from SECNAV vice discharge certificate.
Midshipman USN	Secretarial action	Dismissal	Yes (Hon)(DD 214 only)		10 U.S.C. 6961	Based upon recommendation of Superintendent that MIDN's continued presence is contrary to best interests of Naval Service.

Category	Method	Called	Discharge Certificate/ Type	Reference	Remarks
Midshipman USN	Secretarial action	Discharge	Yes (Hon)(DD 214 only)	10 U.S.C. 6962	Based upon recommendation of Superintendent for Inaptitude or unsatisfactory conduct. May be required to serve on active duty as enlisted reservist IAK 10 U.S.C. 6959. Whether or not required to serve will depend on circumstances, but generally not called to active duty except in last 2 yrs. If enlisted service required, DD 214 only after completed enlisted service.
Midshipman USN	Academic deficiency	Discharge	Yes (Hon)(Usually only DD 214)	10 U.S.C. 6963	Discharge from USNA and USN unless academic board recommends otherwise. Generally not called to active duty as enlisted. Prior enlisteds with no further service requirements also receive discharge certificate.
Midshipman USNR (and Advanced College Program Students)	CNP or Secretarial action	Disenrollment	Yes (Hon)(DD 214 only)	10 U.S.C. 2107 10 U.S.C. 2105	USNR Midshipmen have an underlying reserve status. Personnel being disenrolled during last two years will be called to active duty and not issued discharge until completion of enlisted service.

Category	Method	Called	Discharge Certificate/ Type	Reference	Remarks
Enlisted	Sentence of GCM	Discharge	Yes (CG, BCD)		
Enlisted	Sentence of SPCM	Discharge	Yes (BCD)		
Enlisted	Board action	Discharge	Yes (Hon, Gen, OTH)	BUPERSMAN 3420185	Misconduct.
Enlisted	Board action	Discharge	Yes (Hon, Gen)	BUPERSMAN 3420184	Unsuitability. Board only if more than 8 yrs service.
Enlisted	Command recommendation	Discharge	Yes (Hon, Gen)	BUPERSMAN 3420184	Unsuitability. No board if less than 8 yrs.
Enlisted	CNP action	Discharge	Yes (Hon, Gen)	BUPERSMAN 3850220	Convenience of the Government.
Enlisted (USNR)	Secretarial action	Dropping from rolls	No	10 U.S.C. 1163	Receives ltr from SECNAV vice discharge. This statute applies to all reserves, not just officers. Only requires Secretarial vice Presidential action.
Enlisted	Good of the Service at individual's request	Discharge	Yes (Gen, OTH)	BUPERSMAN 3420270	At individual's request to GCM authority to escape trial by court-martial.

Category	Method	Called	Discharge Certificate/ Type	Reference	Remarks
Commissioned Officer (USMC/USMCR)	Sentence of GCM	Dismissal	No	10 U.S.C. 1161(USMC) 10 U.S.C. 1163(USMCR)	Receives ltr from SECNAV vice discharge certificate.
USMC Officer (w/less than 3 yrs)	Board of officers	Revocation of commission	Yes (Hon, Gen, OTH) and letter of revoca- tion signed by SECNAV	10 U.S.C. 6392 SECNAVINST 1920.6	Only applies to USMC officer with less than 3 yrs as a regular. No authority to board officer with more than 3 yrs as USMC officer. Very limited exceptions permit revocation without board.
USMCR Officer	Board of officers	Discharge	Yes (Hon, Gen, OTH)	10 U.S.C. 1162 10 U.S.C. 1163 SECNAVINST 1920.6	Very limited exceptions permit discharge without board.
Commissioned Officer	Secretarial action (acting for President without board)	Dropping from rolls	No	10 U.S.C. 1161(USMC) 10 U.S.C. 1163(USMCR) SECNAVINST 1920.6	Receives ltr from SECNAV vice discharge certificate. Requires 3 mos UA or civilian conviction and sentence to penitentiary. In case of reservists, only requires Secretarial vice Presi- dential action.
Permanent Regular Warrant Officer	Board of officers	Termination of appointment	Yes (Hon, Gen, OTH)	10 U.S.C. 1165 10 U.S.C. 1166 MARCORSEPMAN 5008	Depending on length of service, may result in his reversion, retirement or separation with or without pay.
Temporary Warrant Officer	Secretarial action (acting for President)	Termination of appointment	No	10 U.S.C. 5596	Board generally not re- quired, may be under limited circumstances; member reverts to permanent status and may be further processed in such status.

Category	Method	Called	Discharge Certificate/ Type	Reference	Remarks
Warrant Officer (W-1)	Sentence of GCM	Dismissal	No	MCN, para 126d	Letter of dismissal issued in lieu of discharge certificate.
Warrant Officer (W-1)	Secretarial action (acting for President)	Dropping from rolls	No	10 U.S.C. 6408	Same remarks as for dropping from the rolls of a commissioned officer.
Warrant Officer (W-1)	Secretarial action (acting for President)	Dismissal	No	10 U.S.C. 6408	Must be in time of war.
Enlisted	Sentence of GCM	Discharge	Yes (DD, BCD)	JAGMAN, Ch 1 MARCORSEPMAN 6006 MARCORSEPMAN 6007	
Enlisted	Sentence of SPCM	Discharge	Yes (BCD)	JAGMAN, Ch 1 MARCORSEPMAN 6006	
Enlisted	Board action	Discharge	Yes (Hon, Gen, OTH)	MARCORSEPMAN 6017	Misconduct.
Enlisted	Board action	Discharge	Yes (Hon, Gen)	MARCORSEPMAN 6016 MARCORSEPMAN 6023	Unsuitability; board only if more than 8 yrs service.
Enlisted	Command recommendation	Discharge	Yes (Hon, Gen)	MARCORSEPMAN 6016	Unsuitability; no board if less than 8 yrs.
Enlisted	CMC action	Discharge	Yes (Hon, Gen)	MARCORSEPMAN 6012	Convenience of the Government.
Enlisted (USMC)	Secretarial action	Dropping from rolls	No	10 U.S.C. 1163	Receives ltr from SECNAV vice discharge. This statute applies to all reserves, not just officers. Only requires Secretarial vice Presidential action.

Category	Method	Called	Discharge Certificate/ Type	Reference	Remarks
Enlisted	Secretarial action and board action	Discharge	Yes (Hon, Gen)	MARCORSEPMAN 6024.9	If board recommends retention but discharge authority believes case warrants discharge, case may be forwarded to SECNAV for decision.
Enlisted	Good of the Service at individual's request	Discharge	Yes (Gen, OTH)	MARCORSEPMAN 5021	At individual's request to CCM authority to escape trial by court-martial.

BILLING CODE 38 10-71-C

Appendix B—Policy Statements by the Secretary of Defense—Addressing Certain Categories of Discharges

Secretary of Defense memorandum of August 13, 1971, to the Secretaries of the Military Departments, The Chairman, Joint Chiefs of Staff: Subject: Review of Discharges Under Other Than Honorable Conditions Issued to Drug Users:

"Consistent with Department of Defense Directive 1300.11, October 23, 1970, and my memorandum of July 7, 1971, concerning rehabilitation and treatment of drug users, administrative discharges under other than honorable conditions issued solely on the basis of personal use of drugs or possession of drugs for the purpose of such use will be reviewed for recharacterization.

"Accordingly, each Secretary of a Military Department, acting through his Discharge Review Board, will consider applications for such review from former service members. Each Secretary is authorized to issue a discharge under honorable conditions upon establishment of facts consistent with this policy. Former service members will be notified of the results of the review. The Veterans' Administration will also be notified of the names of former service members whose discharges are recharacterized.

"The statute of limitations for review of discharges within the scope of this policy will be in accordance with 10 United States Code 1553.

"This policy shall apply to those service members whose cases are finalized or in process on or before July 7, 1971."

Secretary of Defense memorandum of April 28, 1972, to Secretaries of the Military Departments, Chairman, Joint Chiefs of Staff: Subject: Review of Punitive Discharges Issued to Drug Users:

"Reference is made to Secretary Packard's memorandum of July 7, 1971, concerning rehabilitation and treatment of drug users, and my memorandum of August 13, 1971, subject: 'Review of Discharges Under Other Than Honorable Conditions Issued to Drug Users.'

"My August 13, 1971 memorandum established the current Departmental policy that administrative discharges under other than honorable conditions issued solely on the basis of personal use of drugs or possession of drugs for the purpose of such use will be reviewed for recharacterization to under honorable conditions.

"It is my desire that this policy be expanded to include punitive discharges and dismissals resulting from approved sentences of courts-martial issued solely for conviction of personal use of drugs or possession of drugs for the purpose of such use.

"Review and recharacterization are to be effected, upon the application of former service members, utilizing the procedures and authority set forth in Title 10, United States Code, Sections 874(b), 1552 and 1553.

"This policy is applicable only to discharges which have been executed on or before July 7, 1971, or issued as a result of a case in process on or before July 7, 1971.

"Former service members requesting a review will be notified of the results of the review. The Veterans' Administration will also be notified of the names of former

service members whose discharges are recharacterized."

Appendix C—Oath of Affirmation To Be Administered to Discharge Review Board Members

Prior to undertaking duties as a Board member, each person assigned to such duties in the precept of the Board shall execute the following oath or affirmation which shall continue in effect throughout service with the Board.

Oath/Affirmation

I, _____, do swear (or affirm) that I will faithfully and impartially perform all the duties incumbent upon me as a member of the Naval Discharge Review Board; that I will fully and objectively inquire into and examine all cases coming before me; that I will, without regard to the status of the individual in any case, render my individual judgment according to the facts, my conscience and the law and regulations applicable to review of naval discharges, so help me God.

Appendix D—Principal Forms Employed by the Naval Discharge Review Board

Attachment	Form	Title
1.....	DD 293.....	Application for Review of Discharge or Dismissal From the Armed Forces of the United States.
2.....	NAVSO 1900/5C.....	Part 1—Review of Discharge (Applicant's Contentions/Issues) Part 2—Review of Discharge (Summary of Evidence). Part 3—Review of Discharge (Findings/Conclusions/Reasons upon Contentions/Issues). Part 4—Review of Discharge (Findings/Conclusions/Reasons upon which Decision is based; Decision/Recommendation; Membership, Votes; Signatures). Part 5—Review of Discharge (Minority Findings/Conclusions/Reasons; Signatures). Part 6—Review of Discharge (President, NDRB Findings/Conclusions/Reasons; Signature). Part 7—Review of Discharge (Decision—Secretary of the Navy).
3.....	Letter.....	En Bloc Notification of Decision to Commandant, Marine Corps (Change).
4.....	Letter.....	En Bloc Notification of Decision to Commandant, Marine Corps (No Change).
5.....	Letter.....	En Bloc Notification of Decision to Chief of Naval Personnel (Change).
6.....	Letter.....	En Bloc Notification of Decision to Chief of Naval Personnel (No Change).

BILLING CODE 3810-71-M

APPLICATION FOR REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES		OMB APPROVED 22-R-0014
DATA REQUIRED BY THE PRIVACY ACT OF 1974		
AUTHORITY	10 U.S.C. 1553, Executive Order 9397, 22 Nov. 13 (SSN)	
PRINCIPAL PURPOSES	To apply for upgrading of type of discharge issued	
ROUTINES	Placed in applicant's file. Used in applicant's case in determining the relief sought. To compare facts presented with evidence in the record	
DISCLOSURE	Voluntary. If information is not furnished, applicant may not secure benefits from the Board	
SEE INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS FORM. TYPE OR PRINT		
BRANCH OF SERVICE		
☐ ARMY ☐ NAVY ☐ MARINE CORPS ☐ COAST GUARD ☐ AIR FORCE		
1. LAST NAME FIRST NAME MIDDLE INITIAL		2. SERVICE NO. SSN
3. SEPARATION UNIT AND LOCATION		4. NATURE OF DISMISSAL OR TYPE OF DISCHARGE RECEIVED
5. SEPARATION DATE		6. SEPARATION DATE
7. REQUEST THE FOLLOWING CORRECTIVE ACTION BE TAKEN. See instructions		
☐ UPGRADE DISCHARGE TO HONORABLE ☐ GENERAL ☐ CHANGE REENTRY STATUS CODE ☐ TO PERMIT ☐ CHANGE DISCHARGE REASON ☐ Explain ☐ OTHER Explain		
8. REASON FOR REVIEW OF DISCHARGE. State in your own words the reason you feel your discharge should be changed. Give supporting facts and evidence. (See instructions)		
9. SUPPORTING DOCUMENTS. See instructions		
10. PERSONAL APPEARANCE. I DESIRE TO APPEAR BEFORE THE BOARD AND EXPLAIN TO THE BOARD MY REASON FOR REQUESTING THIS REVIEW. See instructions		
AT WASHINGTON, D.C. BEFORE THE TRAVEL IN REGIONAL BOARD OFFICE. ☐ YES ☐ NO		
I DO NOT DESIRE TO APPEAR BEFORE THE BOARD AND HAVE LEFT NO ADDRESS OR PHONE NUMBER TO BE CONTACTED BY THE BOARD. ☐ YES ☐ NO		
11. REPRESENTATIVE. I DESIRE TO BE REPRESENTED BY AN INDIVIDUAL TO RELAY MY REQUEST TO THE BOARD. See instructions		
NAME ADDRESS		
I DO NOT DESIRE TO BE REPRESENTED AND HAVE LEFT NO ADDRESS. ☐ YES ☐ NO		
I make the foregoing statements as a part of my application with full knowledge of the penalties provided for willfully making a false statement. (U.S. Code, Title 18, Section 1001, formerly Section 34, provides a penalty of: (a) A maximum fine of \$10,000 or (b) a maximum imprisonment of 5 years, or both.)		
SIGNED DATE		
12. NATURE OF APPLICANT		
NOTE: IF VETERAN IS DECEASED OR INCAPABLE, the application may be signed by a person other than the one whose name appears on this form. Indicate status in box below. Legal proof of death or incapacity and satisfactory evidence of the relationship between the discharger (personnel) and the petitioner must accompany application.		
NAME ADDRESS		
UPON COMPLETION, MAIL THIS APPLICATION AS FOLLOWS:		
ARMY	NAVY & MARINE CORPS	AIR FORCE
CO, USARFAC 900 Page Road St. Louis, MO 63114	Navy Discharge Review Board 801 No. Randolph St. Arlington, VA 22204	Commandant, CFB U.S. Coast Guard Headquarters Washington, DC 20391
		National Personnel Review Center (NA) Military Personnel Review 9000 Page Road St. Louis, MO 63114

INSTRUCTIONS

Copy of Military Record. Should you desire to have copies of your records, you must submit a General Services Administration Standard Form 150 (GS SF 180) before you submit this form. Once this DD Form 293 is submitted, you records will be obtained by the Board. Official records and copies of records obtained by the Board will be available to applicants only at the hearing locations.

Item 1 thru 6. - Self Explanatory.

Item 7. Indicate the corrective action you are requesting. You must check at least one block and can check more blocks if desired. Due to certain limitations in the Board's authority, the Board cannot: (a) review discharges issued as a result of General Court-Martial (Use DD Form 119); (b) review discharges issued more than fifteen years prior to the application (DD Form 293) submission date; (c) review a Release from Active Duty until a final discharge is issued; (d) change a reenlistment code (except Air Force); (e) change the reason for a discharge from or to physical disability; or (f) determine eligibility for veteran's benefits.

Item 8. State here your reasons why you feel your discharge should be changed. Briefly summarize each of your contention reasons and/or issues of fact, law, or discretion that you want the Board to address and resolve. Additions or modifications may be made at any time up to the date of review of your case by the Board.

Item 9. Evidence not in your official records should be submitted to the Board before hearing date. Review Boards do not locate witnesses nor do they secure evidence for applicants. Legal facts or counsel submissions should also be submitted in advance of hearing date. Documents that may be helpful are statements, affidavits, and depositions such as: character references, police clearances, educational achievement, exemplary post service conduct, medical reports, employment record, verification of alcoholism or drug abuse award of Department of Labor Exemplary Rehabilitation Certificate, explanation of disciplinary problem or discharge problem, brief of counsel, and a letter of protest. Witnesses may appear in person at hearings to the Government.

Item 10. You may state on your appeal that you wish to appear in person before the Board and that you wish to have your personal submissions and arrangements with the Board. Such arrangements will be made and a review of appearance and hearing fee will be reviewed. The hearing fee contains in your military record.

ARMY, NAVY, AND MARINE CORPS. The Discharge Review Boards meet daily in Washington, DC, for personal appearance hearings and documentary reviews. If you request a review based on records only or a hearing in Washington, DC, your case will be scheduled there at the earliest date possible. Personal appearance hearings are also scheduled before the Traveling Boards in various cities throughout the 48 contiguous

states as the population of requests on hand requires. If you ask for a hearing before the Traveling Board, it will be scheduled after your case is prepared and when the Traveling Board is next in your area. You will ordinarily not have to travel more than 300 miles for your hearing.

ARMY: Panels of the Review Board meet daily in Washington, DC and other locations and on an irregularly scheduled basis at least once each year. You may appear before the Board in Washington, DC, or in front of a Traveling Panel elsewhere in the U.S. or you may also appear in front of a Hearing Examiner who will video tape testimony for presentation to the Board in Washington, DC. For Hearing Examiners you must be accompanied by counsel or representative. Normally ex-Army members will not have to travel in excess of 200 miles if you are heard by a Traveling Panel or Hearing Examiner. Generally speaking, scheduled cases are heard as follows: (1) Personal Appearance, Washington, DC, within six months; (2) Personal Appearance by Traveling Panel or Hearing Examiner, within twelve months; (3) Representation by counsel or other person/organization only at Washington, DC, within three months, and (4) Without personal appearance or representation, review based on military records and documents submitted by applicant, with in 30 days.

Block 11. The services do not provide counsel, representation, or evidence for applicant, nor do they defray cost of such under any circumstances. However, certain agencies recognized by the VA, some state, county, and city organizations, private organizations, and some schools of law do provide assistance in presenting your appeal. If you wish to be assisted, you are responsible for obtaining representation and may:

- a. Obtain a lawyer at your own expense.
- b. Contact an appropriate state, county, city, private or law school organization.
- c. Obtain representation from any other agency or individual who is willing to assist you.
- d. Select one of the following organizations which regularly furnish representation at no charge to you. Representatives may or may not be attorneys:
 - 1. American Red Cross
 - 2. American Legion
 - 3. Division of American Veterans
 - 4. Jewish War Veterans of the U.S.A.
 - 5. Veterans of Foreign Wars

An appearance by your representative will not be scheduled in your absence unless your representative requests it. In this event, if a properly power of attorney is mandatory.

DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD

REVIEW OF DISCHARGE
NAVS0 1900/5C (REV. 12-78)
Supersedes All Prev Editions
PART 1

DOCKET NR/DATE DOCKETED	
BRIEFER	
REVIEW OF DISCHARGE OF (Name, Rate/Rank, SSN, Comp)	CITY/STATE
TYPE AND REASON/BASIS FOR DISCHARGE	DATE OF ISSUE
DISCHARGE REGULATION	PLACE OF REVIEW
PRESENT:	
APPLICANT: ☐ YES ☐ NO REPRESENTATIVE (): ☐ YES ☐ NO	
PROCEEDINGS RECORDED: ☐ YES ☐ NO	DATE OF REVIEW
APPLICANT'S CONTENTIONS/ISSUES	

INDEX:

DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARDREVIEW OF DISCHARGE
NAVSJ 1900/5C (REV. 12-78)
Supersedes All Prev Editions
PART 2

DOCKET NR

REVIEW OF DISCHARGE OF (Name, Rate/Rank, SSN, Comp)

SUMMARY OF EVIDENCE

SUMMARY OF SERVICE:

DATE OF THIS EML	ENLISTED FOR	AGE AT THIS ENLISTMENT	CREDITABLE SERVICE THIS ENLISTMENT (Year, month, day)			
GRADES HELD THIS ENLISTMENT			WOS (USMC)	YAS CIV EDUC	GCT	AFQT
MIL BEH/CON	PROF PER/PRO	OTA (USN)	PRIOR SERV - ACTIVE (Year, month, day)		INACTIVE	
MILITARY DECORATIONS			UNIT/CAMPAIGN/SERVICE AWARDS			

DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARDREVIEW OF DISCHARGE
NAVSJ 1900/5C (REV. 12-78)
Supersedes All Prev Editions
PART 3

DOCKET NR

REVIEW OF DISCHARGE OF (Name, Rate/Rank, SSN, Comp)

FINDINGS/CONCLUSIONS/REASONS UPON CONTENTIONS/ISSUES

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DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD

REVIEW OF DISCHARGE
NAVS0 1900/5C (REV. 12-78)
Supersedes All Prev Editions
PART 4

DOCKET NR

REVIEW OF DISCHARGE OF (Name, Rate/Rank, USN, Comp)

FINDINGS/CONCLUSIONS/REASONS UPON WHICH DECISION IS BASED

DECISION COMMENTATION

NO CHANGE: The applicant's discharge should remain: CHANGE: The applicant's discharge should be changed to:

BOARD MEMBERS

PRESIDING OFFICER

NUMBER

MEMBER

MEMBER & RECORDER

MEMBER

PRESIDENT, NDRB

VOTES: (A) Agree; (D) Dissent

UNANIMOUS DECISIONS: Signed by Presiding Officer and Recorder

NON-UNANIMOUS DECISIONS: Signed by Presiding Officer and all Members

DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD

REVIEW OF DISCHARGE
NAVS0 1900/5C (REV. 12-78)
Supersedes All Prev Editions
PART 5

DOCKET NR

REVIEW OF DISCHARGE OF (Name, Rate/Rank, USN, Comp)

MINORITY FINDINGS/CONCLUSIONS/REASONS

DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD
REVIEW OF DISCHARGE
NAVSJ 1900/5C (REV. 12-78)
Supersedes All Prev Editions
PART 6

DOCKET NR

REVIEW OF DISCHARGE OF (Name, Rate/Rank, ESN, Corp)

PRESIDENT, NDRE FINDINGS/CONCLUSIONS/REASONS

DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350
REVIEW OF DISCHARGE
NAVSJ 1900/5C (REV. 12-78)
SUPERSEDES ALL PREVIOUS EDITIONS
PART 7

DOCKET NR

REVIEW OF DISCHARGE OF (Name, Rate/Rank, ESN, Corp)

DECISION

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DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD
REVIEW OF DISCHARGE
NAVSO 1900/5C (REV. 12-78)
Supersedes All Prev Editions
CONTINUATION SHEET

DOCKET NR

REVIEW OF DISCHARGE OF (Name, Rate/Rank, SSN, Comp)



DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD
SUITE 905
801 NORTH RANDOLPH STREET
ARLINGTON, VIRGINIA 22203

Serial No.
Date

From: Executive Secretary, Naval Discharge Review Board
To: Commandant, United States Marine Corps

Subj: Notification of decision in certain naval discharge review cases

Encl: (1) Records of discharge review proceedings and service records
of personnel listed below

1. Pursuant to Title 10 United States Code Section 1552, and acting under the authority of the Secretary of the Navy, the Naval Discharge Review Board has reviewed the circumstances associated with the discharge from the Naval Service of the below listed individuals.

2. The decision of the Board in each case is certified to be as it appears opposite the name of the former member.

3. The Commandant of the Marine Corps is requested to issue revised discharge certificates in accordance with the Board decision in each case. It is further requested that the accompanying copy of the record of discharge review proceedings in each case be incorporated in the appropriate service record.

DOCKET NUMBER	NAME/SOCIAL SECURITY NO.	CHARACTER OF DISCHARGE	CHANGE TO TYPE/REASON CODE
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There are ____ names in this notification.



DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD
SUITE 905
801 NORTH RANDOLPH STREET
ARLINGTON, VIRGINIA 22203

Serial No.
Date

From: Executive Secretary, Naval Discharge Review Board
To: Commandant, United States Marine Corps

Subj: Notification of decision in certain naval discharge review cases

Encl: (1) Records of discharge review proceedings and service records of personnel listed below

1. Pursuant to Title 10 United States Code Section 1553, and acting under the authority of the Secretary of the Navy, the Naval Discharge Review Board has reviewed the circumstances associated with the discharges from the Naval Service of the below listed individuals.

2. It is certified that the decision of the Board in each case is that no change of the discharge is warranted.

3. It is requested that the accompanying copy of the record of discharge review proceedings in each case be incorporated in the appropriate service record.

DOCKET NUMBER	NAME/SOCIAL SECURITY NO.	CHARACTER OF DISCHARGE	CODE
------------------	--------------------------	---------------------------	------

There are ____ names in this notification.



DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD
SUITE 905
801 NORTH RANDOLPH STREET
ARLINGTON, VIRGINIA 22203

Serial No.
Date

From: Executive Secretary, Naval Discharge Review Board
To: Chief of Naval Personnel

Subj: Notification of decision in certain naval discharge review cases

Encl: (1) Records of discharge review proceedings and service records of personnel listed below

1. Pursuant to Title 10 United States Code Section 1553, and acting under the authority of the Secretary of the Navy, the Naval Discharge Review Board has reviewed the circumstances associated with the discharges from the Naval Service of the below listed individuals.

2. The decision of the Board in each case is certified to be as it appears opposite the name of the former member.

3. The Chief of Naval Personnel is requested to issue revised discharge certificates in accordance with the Board's decision in each case. It is further requested that the accompanying copy of the record of discharge review proceedings in each case be incorporated in the appropriate service record.

DOCKET NUMBER	NAME/SOCIAL SECURITY NO.	CHARACTER OF DISCHARGE	CHANGE TO TYPE/REASON	CODE
------------------	--------------------------	---------------------------	--------------------------	------

There are ____ names in this notification.



DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD
SUITE 905
801 NORTH RANDOLPH STREET
ARLINGTON, VIRGINIA 22203

Serial No.
Date

From: Executive Secretary, Naval Discharge Review Board
To: Chief of Naval Personnel

Subj: Notification of decision in certain naval discharge review cases

1. Pursuant to Title 10 United States Code Section 1553, and acting under the authority of the Secretary of the Navy, the Naval Discharge Review Board has reviewed the circumstances associated with the discharge from the Naval Service of the below listed individuals.

2. It is certified that the decision of the Board in each case is that the discharge of the dischargee is warranted.

3. The available service records in each case have been returned to the custody of the National Personnel Records Center.

DD FORM
NUMBER

DATE SOCIAL SECURITY NO.

CHARACTER OF
DISCHARGE

COM

There are _____ copies in this notification.

Appendix E—Veterans' Benefits

91 Stat. 1106
Public Law 95-126, Oct. 8, 1977
95th Congress

An Act

To deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) section 3103 of Title 38, United States Code, is amended by—

(1) inserting "or on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence," after "deserter," in subsection (a), and by inserting a comma and "notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10" before the period at the end of such subsection; and

(2) adding at the end of such section the following new subsection:

"(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

"(2) Notwithstanding any other provision of law—

"(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by

the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

"(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person or such determination, (ii) on its own initiative within one year after the date of enactment of this paragraph in any case where a general or honorable discharge has been awarded on or prior to the date of enactment of this paragraph under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after such enactment date.

"If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of his or her right to such appearance. The Administrator shall, as soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Veterans' Administration, or the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph."

(b)(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 3103(e)(2)(B)(i) of such title and of the implications of the provisions of this Act for each such person.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review

under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 3103(a) of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Veterans' Administration only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Administrator of Veterans' Affairs under section 3103 of such title 38, and (B) of the procedures for making application to such section 1552 board for such purpose and to the Administrator of Veterans' Affairs for such purpose (including the right to proceed concurrently under such sections 3103, 1552 and 1553).

Section 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103(a) of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

Section 3. Paragraph (18) of section 101 of title 38, United States Code, is amended to read as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable."

Section 4. In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Administrator of Veterans' Affairs shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharges under revised standards for the review of discharges described in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans.

Section 5. This Act shall become effective on the date of its enactment, except that—

(1) section 2 shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

(2) the amendments made by section 1(a) shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

(A) with respect to any person who, on such enactment date is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e), (II) the day following the expiration of ninety days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of one hundred and eighty days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A) (i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date, the United States shall not make any claim to recover the value of any benefits so provided; and

(C) the amendments made by clause (1) of section 1(a) shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act, had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date) to all other persons.

Approved: October 8, 1977.

Dated: November 29, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-39426 Filed 12-26-79; 8:45 am]

BILLING CODE 3910-71-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 77-058b]

Tank Vessels of 20,000 DWT or More Carrying Oil in Bulk; Design, Equipment, Operating, and Personnel Standards

AGENCY: Coast Guard, DOT.

ACTION: Corrections to final rule.

SUMMARY: This document corrects the final rule published in the *Federal Register* on November 19, 1979 which added standards for segregated ballast tanks, dedicated clean ballast tanks, and crude oil washing systems for certain domestic and foreign tank vessels carrying oil in bulk. The rule, as published, included certain editorial, typographical, and grammatical errors which are being corrected by this document.

EFFECTIVE DATE: January 1, 1980, except that § 157.11(d), (e), and (f) are effective June 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph J. Angelo, Merchant Marine Technical Division (G-MMT-1/TP13), Room 1308, U.S. Coast Guard, 2100 2nd Street, SW., Washington, D.C., 20593, (202-426-4431).

SUPPLEMENTARY INFORMATION: In FR Doc. 79-35624 on pages 66502-66528 in the *Federal Register* of November 19, 1979, final rules were promulgated to implement the tank vessel equipment and construction standards developed at the Tanker Safety and Pollution Prevention Convention of February 1978. These rules were mandated by Subsection 7 of Section 5 of the Port and Tanker Safety Act of 1978. There were various editorial, typographical, and grammatical errors in this document. These errors should be corrected as follows:

1. Page 66502—The effective date of the entire amendment was published as January 1, 1980. This date was incorrect with regard to § 157.11(d), (e), and (f). An effective date of January 1, 1980 for these three paragraphs is not consistent with the intent of the MARPOL Protocol and does not give shipowners and operators sufficient time to comply with the requirements of these three paragraphs. The effective date of § 157.11(d), (e), and (f) is, therefore, corrected to be June 1, 1981.

2. Page 66518—The requirement in § 157.11(d) did not correctly reflect the intent of the MARPOL Protocol. The part of § 157.11(d) that precedes paragraph (d)(1) is, therefore, corrected to read as follows:

§ 157.11 Pumping, piping, and discharge arrangements.

* * * * *

(d) Each tank vessel under § 157.09 or § 157.10a that carries crude oil must have—

* * * * *

§ 157.128 [Amended]

3. Page 66522—In § 157.128(e), delete the semicolon after "displacement pump".

§ 157.138 [Amended]

4. Page 66523—§ 157.138(b)(2), change "§ 157.155(B)" to "§ 157.155(b)".

§ 157.155 [Amended]

5. Page 66524—In § 157.155(a)(12), change the numeral "1" to the letter "I" in the reference to § 157.122(l).

6. Page 66524—Correct § 157.160(a)(1) to read as follows:

§ 157.160 Tanks: ballasting and crude oil washing.

(a) * * *

(1) Ballast water is carried in a cargo tank only as allowed under § 157.35;

* * * * *

Dated: December 19, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-39396 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 9

[Docket No. FEMA Gen-9]

Floodplain Management and Protection of Wetlands

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule and request for comments.

SUMMARY: This rule implements Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. Since its formation, the Federal Emergency Management Agency (FEMA) has been complying with these two Executive Orders. However, these regulations apply specific procedures and criteria to FEMA for the Agency's actions in or affecting floodplains and wetlands.

DATES: The effective date of this rule is January 28, 1980.

Comment due date: On or before February 25, 1980.

ADDRESS: Send comments to Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Room 802, 1725 Eye Street, NW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, Federal Emergency Management Agency, 1725 Eye Street, NW., Washington, D.C. 20472. Telephone: (202) 634-1990.

SUPPLEMENTARY INFORMATION: On May 24, 1977, Executive Order 11988 was issued for the following purposes:

(a) To avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains; and

(b) To avoid direct or indirect support of floodplain development wherever there is a practicable alternative. This Executive Order applies to federal agencies for all actions involving:

(1) acquiring, managing and disposing of federal lands and facilities;

(2) providing federally undertaken, financed or assisted construction and improvements; and

(3) conducting federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. The United States Water Resources Council (WRC) published guidelines for implementing EO 11988 in the *Federal Register* on February 10, 1978 (43 FR 6930). These regulations follow closely the WRC Guidelines in setting forth policy and procedures for floodplain management relating to disaster planning, response and recovery and hazard mitigation for all actions taken by FEMA. The main emphasis of these regulations is on compliance with Executive Order 11988, Floodplain Management. However, in cases where Executive Order 11990, Protection of Wetlands, would apply, these regulations also set forth policy and procedures to implement that Executive Order.

FEMA recognizes floodplains and wetlands as unique and vital natural resources. Both ecological systems possess many natural values and carry on numerous functions that are of great benefit to all of us. Because wetlands frequently lie within floodplains, they constitute a natural and beneficial value of floodplains. Thus, where a wetland is in a floodplain, the more restrictive terms of Executive Order 11988 apply.

On June 13, 1979, the Federal Disaster Assistance Administration (DHAUD) published a proposed rule in the *Federal Register* (44 FR 34048-34056) implementing Executive Order 11988 and Executive Order 11990. The present regulation applies to the Office of Disaster Response and Recovery (formerly the Federal Disaster Assistance Administration) as well as the other elements of FEMA. Comments received in response to those proposed regulations have been considered in preparation of this rule.

The following changes have been made in response to comments received:

The section on the scope of actions covered was clarified so that actions

which are outside of the floodplain or wetland, but may affect it, are covered by the decisionmaking process.

Particular emphasis is now placed on evaluating impacts of actions which are outside of the floodplain or wetland.

Consideration of the "no action" option is now included for all actions which are subject to the decisionmaking process. For those actions where alternative sites or actions are not practicable, the "no action" option will be selected if the original site is not practicable itself.

All actions involving timber removal, under section 418 of the Disaster Relief Act of 1974, as amended (Pub. L. 93-288), are now subject to the full decisionmaking process. Also, there had been a \$25,000 threshold for application of Step 3 and Step 6 of the 8-step decisionmaking process to repairs made, under Section 402 of the Disaster Relief Act of 1974. Under this interim rule, the entire 8-step process applies to any repairs made under Section 402, the cost of which exceeds 50% of the estimated reconstruction cost, or \$100,000.

The guidance for identification of wetland locations has been expanded. Provision has also been made for State and Federal agencies with expertise in this area to be consulted in identifying wetlands.

With the exception of emergency work essential to save lives and protect property and public health and safety performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974, Executive Orders 11988 and 11990 by their terms apply to all actions in floodplains and wetlands. However, FEMA has identified two classes of actions which require modified approaches to the Orders.

Actions falling within the first category, addressed in § 9.5(c) of these regulations, offer no potential for carrying out the objectives of the Orders to minimize harm to and within floodplains and wetlands. To apply the substantive and procedural requirements of the Orders and this regulation to such actions would not further this objective. In cases such as unemployment assistance, emergency communications and emergency public transportation, the futility of applying the Orders is obvious. Other cases merit explanation.

Section 408 of the Disaster Relief Act of 1974 authorizes federal contributions to states for the purpose of making grants to individuals and families for serious needs and necessary expenses—Individual and Family Grants (IFG). Among the eligible items and services, many bear no relationship to the goals of the Orders, such as medical/dental

expenses, funeral expenses, transportation expenses, etc. Others such as housing needs, and expenses for limited home repairs provide little, if any, opportunity to effect floodplain management objectives, as the maximum FEMA contribution is \$3,750 for structure. The nature of the IFG program—in its intent to meet necessary expenses and serious needs, and to provide speedy and effective assistance to those who are unable to meet these serious needs through other means—dictates that assistance be provided quickly. For these reasons, the Director has determined that only the IFG program actions which impact either upon the floodplain or wetland or upon the safety of the individual or family will require decisionmaking under the Executive Orders.

Therefore, those IFG actions which do offer an opportunity to further the objectives of the Executive Orders will be reviewed. These concern the repair, replacement or rebuilding of certain facilities and the purchase of mobile homes. Those actions dealing with repair of existing private bridges will require application of Steps 1, 2, 4, 5 (and 8) of the 8-step decisionmaking process. (See § 9.6 below.) Certain others such as purchase of mobile homes and building of new private bridges, will require application of the full 8-step decisionmaking process. In cases such as these, there is the clear potential to impact on the safety of the human inhabitants as well as on the values of the floodplain.

When a combination of assistance programs under different legislative authorities is made available to help meet a family's total need, the Federal Coordinating Officer should ensure that coordination of the flood plain management decisions occurs. For example, a decision made under the Individual and Family Grant program should not be contradictory to a decision made by the Small Business Administration concerning repair of a family's home provided that such decision is consistent with the Orders.

The second category of actions which requires a modified approach to the Orders is found in § 9.5(d), which identifies those categories of actions the Director has determined have no practicable alternative to locating in a floodplain or wetland. The remainder of the 8-step process is applicable, except, of course, Step 7, the public notice explaining why it is necessary to locate in the floodplain or wetland. This regulation constitutes the public notice for these actions. Alternative actions and the no action alternative must still

be considered by FEMA, consistent with § 9.9.

In the restoration or repair of a private bridge under the Individual and Family Grant Program (exclusive of a pooling arrangement) alternative sites do not have to be considered. If a bridge is to be replaced, or repair, there is generally no place else to do it but in a floodplain. Bridges are considered functionally dependent uses. (See Definitions, § 9.4.)

Small project grants (Section 419 of the Disaster Relief Act of 1974) may be made without consideration of alternative sites, except for grants for new structures and facilities. Small project grants may be made for up to \$25,000 to each community. Typically, several projects will receive part of the \$25,000. Data from five of the federal regions for July 1977 to May 1978 show the average project to cost about \$3,000. About 70% of the funds under Section 419 went to roads and bridges, water control facilities and utilities. These uses are generally either functionally dependent uses or other uses for which no practicable alternative site is available. Further, it is the intent of Section 419 to give the local government flexibility in the use of funds without the onus of elaborate recordkeeping and detailed audit. Based on the limited amount of money involved in each project, the very limited opportunities for alternative siting, and the legislative intent to reduce red tape, there is no practicable alternative site outside the floodplain or wetland for small projects other than new structures or facilities. Also, there is generally no practicable non-floodplain or non-wetland site for replacement of building contents, materials and equipment under Sections 402 and 419 of the Disaster Relief Act of 1974. By their nature, such items go with the structure in which they are located.

With several qualifications, the Director finds that there is no practicable alternative outside the floodplain or wetland for repair to damaged structures or facilities under Section 402 of the Disaster Relief Act of 1974. If the structure or facility is in a high hazard area (floodway or coastal area), is itself a vulnerable (critical) action, or has suffered structural damage from a previous flood, the full 8-step process applies. The full 8-step process is also required if the cost of repair is more than 50% of the estimated reconstruction cost of the structure or facility, or is more than \$100,000.

It must be emphasized, that for these actions and indeed for all actions taken by FEMA except for those falling under exempt actions § 9.5(c), the standards set out in § 9.11 apply. No new structure or facility may be built in a floodway or

coastal high hazard area unless it is a functionally dependent use or facilitates a use consistent with maintaining an open floodplain. No substantial improvement of a structure or facility may take place in a floodway unless it is a functionally dependent use or will facilitate an open space use. Whenever a structure in a floodway or coastal high hazard area is to be substantially improved, it must be elevated on piles and columns and securely anchored. No development of any kind is allowed in a regulatory floodway that would increase water levels during the discharge of the base flood. Prior to delineation of the floodway, there can be no development which would increase the level of the 100-year discharge by more than one foot. With one qualification (§ 9.11(d)(5)(iii)), all structures must be built at or above the level of the 100-year flood. No action may be taken which is inconsistent with the criteria of the National Flood Insurance Program (44 CFR 59, *et seq.*).

These standards apply across the board. Thus, for example, no small project grant may be made if it would increase flood levels by more than one foot. Similarly, no such grant could be approved for a new structure or facility in a floodway or coastal high hazard area unless it is a functionally dependent use or facilitates an open space use.

The 8-step decisionmaking process is summarized in § 9.6. A schematic presentation of this process appears at Appendix A. This is the basic analysis required under the Orders and this regulation.

A few of the individual steps merit a brief discussion. Step 1 (§ 9.7) directs FEMA to determine whether a proposed action is in or affects a floodplain or wetland and, if the proposal is in a floodplain, to determine the flooding characteristics. The basis for determining how much data need be obtained, is that amount of information necessary to comply with the Orders and this regulation. Specifically, FEMA must know enough about the flood hazard and the floodplain and wetland values to determine (1) if the floodplain or wetland site is the only practicable location, and (2) what steps are necessary to minimize harm to and within floodplains and wetlands. Also, FEMA should know the boundaries of the floodplain and floodway.

The requirement to avoid floodplains and wetlands unless they are the only practicable location entails the balancing process set out in § 9.9. The basic issue is how essential is the floodplain or wetland site to this action. The need for locating in the floodplain

or wetland must be balanced against the requirement to minimize harm to and within floodplains and wetlands, giving the great weight which the Orders intended to the latter requirements.

Section 9.11 addresses protection of the floodplain and wetland environment. This goes beyond the procedural requirement of the environmental impact statement process. Not only must harm to the environment be considered, but the Agency must minimize such harm in carrying out actions in or affecting floodplains and wetlands.

It was felt that due to the unique nature of temporary housing, a separate section was required to address it. Section 404 of the Disaster Relief Act of 1974 authorizes temporary housing for individuals and families. The housing may be in the form of unoccupied homes or rental units, mobile homes or other readily fabricated dwellings placed on private, commercial or group sites, or expenditures for repairing or restoring owner-occupied private residences to a habitable condition with minimal repairs. The nature of the program is to provide temporary housing and to meet an emergency need while permanent accommodations are secured.

The Director has determined that, in providing such assistance, the full 8-step decisionmaking process is often not required. However, significant elements of the Orders must be applied to the temporary housing program. Specific types of temporary housing are treated separately in § 9.13. If a form of temporary housing is not included in § 9.13, it is treated as any other action and the full 8-step process applies.

FEMA may provide temporary housing in existing resources without the full 8-step process. Since such federal assistance is normally limited to 90 days, the risk to individuals is limited, and there is no additional investment or harm to floodplain or wetland values. Nevertheless, existing housing resources in floodplains can only be used if they are the only practicable alternative base on the factors set out in § 9.13. It is a modified version of the analysis required under § 9.9 of this regulation.

FEMA may provide temporary housing through assistance for minimal home repairs without a full 8-step analysis. The ceiling on the money to be provided by FEMA is the rental cost of suitable accommodations for that family for one year. Given this limit on cost, and the fact that such assistance may only be for those repairs necessary to make the structure habitable within thirty (30) days, a full 8-step analysis would not result in improved floodplain management or wetlands protection. A

modified analysis of the practicability of the floodplain site is required.

Placement of a mobile home or readily fabricated dwelling on private or commercial site also falls into this category. Such assistance is normally limited to the period in which other resources are used by the family to repair or rebuild its home. For these actions, FEMA is required to apply modified approaches to the practicability analysis (§ 9.9) and the requirement to minimize harm to and within floodplains and wetlands (§ 9.11). Elevation and anchoring of the mobile home is required. The Director recognizes that it is not always practicable to elevate mobile homes to the base flood level when they are being placed as temporary housing on a private or commercial site. Due to their structural character, it may be creating a danger to elevate mobile homes to a given level. Since mobile homes are often the last resort for temporary housing and they are being placed temporarily, it is not always practicable to elevate mobile homes to the 100 year level. However, they must be elevated to the fullest extent practicable.

Section 9.18 assigns primary responsibility for implementation of the regulation to the Regional Directors. They are responsible for seeing that the 8 step process is applied to Agency actions. In contrast, the Associate Directors are responsible for general policy applications of these regulations.

As set out in § 9.5(a), these regulations apply to all FEMA actions which have the potential to affect floodplains or wetlands or their occupants or which are subject to potential harm by location in floodplains or wetlands. This includes FEMA's implementation of the National Flood Insurance Program (NFIP). Because one of the primary purposes of the NFIP is flood hazard mitigation, application of E.O. 11988 presents some unique problems. There are several means by which the Federal Insurance Administration may bring the NFIP into compliance with E.O. 11988 and these regulations. Included among these are adjustment of its own floodplain management regulations, the terms of the Standard Flood Policy and its flood insurance rates.

Because these are agency-wide regulations and apply to a wide range of actions, most of the floodproofing standards contained herein are performance standards or otherwise of a general nature. (See § 9.11.) It is therefore FEMA's intention to specifically address in a handbook each type of action which it carries out. It is FEMA's objective to set out the

floodproofing criteria which will be applied in carrying out each type of action.

One action for which such standards will be particularly useful is the replacement of bridges and their approaches. While the standards of § 9.11 apply to bridges, more specific criteria are necessary.

Accordingly, Chapter 1 of Title 44, Code of Federal Regulations is amended by adding a new Part 9 as follows:

PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Sec.

9.1 Purpose of part.

9.2 Policy.

9.3 Authority.

9.4 Definitions.

9.5 Scope.

9.6 Decisionmaking process.

9.7 Determination of proposed action's location.

9.8 Public notice requirements.

9.9 Analysis and reevaluation of practicable alternatives.

9.10 Identify impacts of proposed actions.

9.11 Mitigation.

9.12 Final public notice.

9.13 Particular types of temporary housing.

9.14 Disposal of agency property.

9.15 Planning programs affecting land use.

9.16 Notice to private parties.

9.17 Guidance for applicants.

9.18 Instructions to applicants.

9.19 Responsibilities.

Appendix A—Decision Making Process for E.O. 11988.

Authority: Executive Order 11988, May 24, 1977; Executive Order 11990, May 24, 1977; Reorganization Plan No. 3 of 1970 (43 FR 14943); Executive Order 12127, April 1, 1979.

§ 9.1 Purpose of part.

This regulation sets forth the policy, procedure and responsibilities to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

§ 9.2 Policy.

(a) FEMA shall take no action unless and until the requirements of this regulation are complied with.

(b) It is the policy of the Agency to provide leadership in floodplain management and the protection of wetlands. Further, the Agency shall integrate the goals of the Orders to the greatest possible degree into its procedures for implementing NEPA. The Agency shall take action to:

(1) Avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains and the destruction or modification of wetlands;

(2) Avoid direct and indirect support of floodplain development and new

construction in wetlands wherever there is a practicable alternative;

(3) Reduce the risk of flood loss;

(4) Promote the use of nonstructural flood protection methods to reduce the risk of flood loss;

(5) Minimize the impact of floods on human health, safety and welfare;

(6) Minimize the destruction, loss or degradation of wetlands;

(7) Restore and preserve the natural and beneficial values served by floodplains;

(8) Preserve and enhance the natural values of wetlands;

(9) Involve the public throughout the floodplain management and wetlands protection decisionmaking process;

(10) Adhere to the objectives of the Unified National Program for Floodplain Management; and

(11) Improve and coordinate the Agency's plans, programs, functions and resources so that the Nation may attain the widest range of beneficial uses of the environment without degradation or risk to health and safety.

§ 9.3 Authority.

The authority for these regulations is (a) Executive Order 11988, May 24, 1977, which replaced Executive Order 11296, August 10, 1966; (b) Executive Order 11990, May 24, 1977; (c) Reorganization Plan No. 3 of 1970 (43 FR 14943); and (d) Executive Order 12127, April 1, 1979 (44 FR 1936). E.O. 11988 was issued in furtherance of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-486); the Flood Disaster Protection Act of 1973, as amended (Pub. L. 92-234); and the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91-190). Section 2(d) of Executive Order 11988 requires issuance of new or amended regulations and procedures to satisfy its substantive and procedural provisions. E.O. 11990 was issued in furtherance of NEPA, and at section 6 required issuance of new or amended regulations and procedures to satisfy its substantive and procedural provisions.

§ 9.4 Definitions.

The following definitions shall apply throughout this regulation.

Action means any action or activity including: (a) acquiring, managing and disposing of federal lands and facilities; (2) providing federally undertaken, financed or assisted construction and improvements; and (b) conducting federal activities and programs affecting land use, including, but not limited to, water and related land resources, planning, regulating and licensing activities.

Actions Affecting or Affected by Floodplains or Wetlands means actions

which have the potential to result in the long- or short-term adverse impacts associated with (a) the occupancy or modification of floodplains, and the direct or indirect support of floodplain development, or (b) the destruction and modification of wetlands and the direct or indirect support of new construction in wetlands.

Agency means the Federal Emergency Management Agency (FEMA).

Agency Assistance means grants for projects or planning activities, loans, and all other forms of financial or technical assistance provided by the Agency.

Associate Director means the head of any Office or Administration of the Federal Emergency Management Agency, who has programmatic responsibility for a particular action.

Base Flood means the flood which has a one percent chance of being equalled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

Base Floodplain means the 100-year floodplain (one percent chance floodplain).

Coastal High Hazard Area means the areas subject to high velocity waters including but not limited to hurricane wave wash or tsunamis. On a Flood Insurance Rate Map (FIRM), this appears as zone V1-30.

Critical Action means an action for which, even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the 500-year floodplain, i.e., critical action floodplain. Critical actions may include such actions which create or extend the useful life of structures or facilities:

(a) which produce, use or store high volatile, flammable explosive, toxic or water-reactive materials;

(b) such as hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;

(c) such as emergency operation centers, or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and

(d) such as generating plants, and other principal points of utility lines.

Direct Impacts means changes in floodplain or wetland values and functions caused or induced by an action or related activity. Impacts are assessed whenever these natural values and functions are affected as a direct

result of an action. An action which would result in the discharge of polluted storm waters into a floodplain or wetland, for example, would directly affect their natural values and functions. Construction-related activities, such as dredging and filling operations within the floodplain or a wetland would be another example of impacts caused by an action.

Director means the Director of the Federal Emergency Management Agency (FEMA).

Emergency Actions means emergency work essential to save lives and protect property and public health and safety performed under sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146).

Enhance means to increase, heighten, or improve the natural and beneficial values associated with wetlands.

Environmental Document means any document prepared under the requirements of section 102(2)(c) of the National Environmental Policy Act. Such documents include environmental assessments, environmental impact statements, findings of no significant impact and notices of intent.

Facility means any man-made or man-placed item other than a structure.

FEMA means the Federal Emergency Management Agency.

FIA means the Federal Insurance Administration.

Five Hundred Year Floodplain (the 500-year floodplain or 0.2 percent change floodplain) means that area, including the base floodplain, which is subject to inundation from flood having a 0.2 percent chance of being equalled or exceeded in any given year.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any sources.

Flood Fringe means that portion of the floodplain outside of the floodway (often referred to as "floodway fringe").

Floodplain means the lowland and relatively flat areas adjoining inland and coastal waters including, at a minimum, that area subject to a one percent or greater chance of flooding in any given year. Wherever in this regulation the term "floodplain" is used, if a critical action is involved, "floodplain" shall mean the area subject to inundation from a flood having a 0.2 percent chance of occurring in any given year (500-year floodplain).

Floodproofing means the modification of individual structures and facilities, their sites, and their contents to protect

against structural failure, to keep water out, or to reduce effects of water entry.

Floodway means that portion of the floodplain which is effective in carrying flow, within which this carrying capacity must be preserved and where the flood hazard is generally highest, i.e., where water depths and velocities are the greatest. It is that area which provides for the discharge of the base flood so the cumulative increase in water surface elevation is no more than one foot.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Director, where the boundaries of the flood, mudslide (i.e., mudflow) and related erosion areas having special hazards have been designated as Zone A, M, or E.

Flood Insurance Rate Map (FIRM) means an official map of a community on which the Director has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Functionally-Dependent Use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, (e.g., bridges, and piers).

Indirect Impacts means an indirect result of an action whenever the action induces or makes possible related activities which effect the natural values and functions of floodplains or wetlands. Such impacts occur whenever these values and functions are potentially affected, either in the short- or long-term, as a result of undertaking an action.

Minimize means to reduce to the smallest amount or degree possible.

Mitigation means all steps necessary to minimize the potentially adverse effects of the proposed action, and to restore and preserve the natural and beneficial floodplain values and to preserve and enhance natural values of wetlands.

Natural Values of Floodplains and Wetlands means the qualities of or functions served by floodplains and wetlands which include but are not limited to: (a) water resource values (natural moderation of floods, water quality maintenance, groundwater recharge); (b) living resource values (fish, wildlife, plant resources and habitats); (c) cultural resource values (open space, natural beauty, scientific

study, outdoor education, recreation); and (d) cultivated resource values (agriculture, aquaculture, forestry).

New Construction means the construction of a new structure of facility or the reconstruction of a structure of facility which has been totally destroyed.

New Construction in Wetlands includes draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective dates or Orders, May 24, 1977.

Orders means Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.

Practicable means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of all pertinent factors, such as environment, cost and technology.

Preserve means to prevent alterations to natural conditions and to maintain the values and functions which operate the floodplains or wetlands if their natural states.

Regional Director means the regional Director of the Federal Emergency Management Agency for the Region in which FEMA is acting.

Regulatory Floodway means the area regulated by federal, State or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program).

Restore means to reestablish a setting or environment in which the natural functions of the floodplain can again operate.

Structures means walled or roofed buildings, including mobile homes and gas or liquid storage tanks.

Substantial Improvement means any repair, reconstruction or other improvement of a structure or facility, the cost of which exceeds 50% of the market value of the structure or replacement cost of the facility (a) before the repair or improvement is started, or (b) if the structure or facility has been damaged and is proposed to be restored before the damage occurred. If a facility is an essential link in a larger system and without which facility the system will be operationally deficient (e.g., a road or utility line), the percentage cost of replacement is to be judged on the basis of the relationship of the damaged portion of the facility to the system as a whole.

Support means to encourage, allow, serve or otherwise facilitate floodplain or wetland development. Direct support

results from actions within a floodplain or wetland, and indirect support results from actions outside of floodplains or wetlands.

Wetlands means those areas which are inundated or saturated by surface or ground water with a frequency sufficient to support, or that under normal hydrologic conditions does or would support, a prevalence of vegetation or aquatic life typically adapted for life in saturated or seasonally saturated soil conditions. Examples of wetlands include, but are not limited to, swamps, fresh and salt water marshes, estuaries, bogs, beaches, wet meadows, sloughs, potholes, mud flats, river overflows and other similar areas. This definition includes those wetlands areas separated from their natural supply of water as a result of activities such as the construction of structural flood protection methods or solid-fill road beds and activities such as mineral extraction and navigation improvements. This definition is intended to be consistent with the definition utilized by the U.S. Fish and Wildlife Service in the publication entitled *Classification of Wetlands and Deep Water Habitats of the United States* (Cowardin, et al., 1977).

§ 2.5 Scope.

(a) **Applicability** (1) These regulations apply to all Agency actions which have the potential to affect floodplains or wetlands or their occupants, or which are subject to potential harm by location in floodplains or wetlands.

(2) The basic test of the potential of an action to affect floodplains or wetlands is the action's potential to result in the long- or short-term adverse impacts associated with:

(i) The occupancy or modification of floodplains, and the direct and indirect support of floodplain development; or

(ii) The destruction or modification of wetlands and the direct or indirect support of new construction in wetlands.

(3) This regulation applies to actions that were, on the effective date of the Orders (May 24, 1977), ongoing, in the planning and/or development stages, or undergoing implementation, and are incomplete as of the effective date of these regulations. The regulation also applied to proposed (new) actions. The Agency shall:

(i) Determine the applicable provisions of the Orders by analyzing whether the action in question has progressed beyond critical stages in the floodplain management and wetlands protection decisionmaking process, as set out below in § 9.6; and

(ii) Apply the provisions of the Orders and of this regulation to all such actions to the fullest extent practicable.

(b) **Limited exemption of ongoing actions involving wetlands located outside the floodplains.** (1) Executive Order 11990, Protection of Wetlands, contains a limited exemption not found in Executive Order 11988, Floodplain Management. Therefore, this exemption applies only to actions affecting wetlands which are located outside the floodplains, and which have no potential to result in harm to or within floodplains or to support floodplain development.

(2) The following proposed actions that impact wetlands located outside of floodplains are exempt from this regulation:

(i) Agency-assisted or permitted projects which were under construction before May 24, 1977; and (ii) projects for which the Agency has proposed a draft of final environmental impact statement (EIS) which adequately analyzes the action and which was filed before October 1, 1977. Proposes actions that impact wetlands outside of floodplains are not exempt if the EIS:

(A) Only generally covers the proposed action;

(B) Is devoted largely to related activities; or

(C) Treats the project area or program without an adequate and specific analysis of the floodplain and wetland implications of the proposed action.

(c) **Decision-making involving certain categories of actions.** The provisions set forth in this regulation are not applicable to the actions enumerated below except that the Regional Directors shall comply with the spirit of the Orders to the extent practicable. For any action which is excluded from the actions enumerated below, the full 8-step process applies (See § 9.6) except as indicated at paragraph (d) of this section. The provisions of these regulations do not apply to the following (all references are to the Disaster Relief Act of 1974, Pub. L. 93-288, as amended):

(1) Assistance provided for emergency work essential to save lives and protect property and public health and safety performed pursuant to sections 305 and 306;

(2) Emergency Support Teams (sec. 304);

(3) Unemployment Assistance (sec. 407);

(4) Emergency Communications (sec. 415);

(5) Emergency Public Transportation (sec. 416);

(6) Fire Suppression Assistance (sec. 417);

(7) Community Disaster Loans (sec. 414), except to the extent that the proceeds of the loan will be used for repair of facilities or structures or for construction of additional facilities or structures;

(8) The following Individual and Family Grant Program (sec. 408) actions:

(i) Housing needs or expenses, except for restoring, repairing or building private bridges, purchase of mobile homes and provision of structures as minimum protective measures;

(ii) Personal property needs or expenses;

(iii) Transportation expenses;

(iv) Medical/dental expenses;

(v) Funeral expenses;

(vi) Limited home repairs;

(vii) Flood insurance premium;

(viii) Cost estimates;

(ix) Food expenses; and

(x) Temporary rental accommodations.

(9) Mortgage and rental assistance under sec. 404(b).

(d) For each action enumerated below, the Regional Director shall apply steps 1, 2, 4, 5, and 8 of the decisionmaking process (§§ 9.7, 9.8, 9.10 and 9.11, see § 9.6). Steps 3 and 6 (§ 9.9) shall be carried out except that alternative sites outside the floodplain or wetland need not be considered. In assessing impacts of the proposed action on the floodplain or wetlands, and of the site on the proposed action, alternative actions to the proposed action, if any, and the "no action" alternative shall be considered. The Regional Director may also require certain other portions of the decisionmaking process to be carried out for individual actions as is deemed necessary. For any action which is excluded from the actions listed below, the full 8-step process applies (see § 9.6). The references are to the Disaster Relief Act of 1974, Pub. L. 93-288, as amended.

(1) Debris removal (sec. 403), except those grants involving non-emergency disposal of debris within the floodplain or non-emergency removal of debris from the floodway.

(2) Actions performed under the Individual and Family Grant Program (sec. 408) for restoring or repairing a private bridge, except where two or more individuals or families are authorized to pool their grants for this purpose.

(3) Small project grants (sec. 419), except to the extent that federal funding involved is used for construction of new facilities or structures.

(4) Replacement of building contents, materials and equipment, (secs. 402 and 416).

(5) Repairs under section 402 to damaged facilities or structures, except

any such action for which one or more of the following is applicable:

(i) FEMA estimated cost of repairs is more than 50% of the estimated reconstruction cost of the entire facility or structure, or is more than \$100,000, or

(ii) The action is located in a floodway or coastal high hazard area, or

(iii) The facility or structure is one which has previously sustained structural damage from flooding due to a major disaster or emergency or on which a flood insurance claim has been paid, or

(iv) The action is a critical action.

(e) *Other categories of actions.* Based upon the completion of the 2-step decisionmaking process (§ 9.6), the Director may find that a specific category of action either: Offers no potential for carrying out the purposes of the Orders and shall be treated as those actions listed in § 9.5(d). This finding will be made in consultation with the Water Resources Council, the Federal Insurance Administration and the Council on Environmental Quality as provided in section 2(d) of E.O. 11988. Public notice of each of these determinations shall include publication in the Federal Register, and a 30-day comment period.

§ 9.6 Decisionmaking process.

(a) *Purpose.* The purpose of this Section is to set out the floodplain management and wetlands protection decisionmaking process to be followed by the Agency in applying the Orders to its actions. While the decisionmaking process was initially designed to address the floodplain Order's requirements, the process will also satisfy the wetlands Order's provisions due to the close similarity of the two directives.

(b) Except as otherwise provided in § 9.5 (c), (d) and (e), when proposing an action, the Agency shall apply the 8-step decisionmaking process. FEMA shall:

Step 1. Determine whether the proposed action is located in a wetland and/or the 100-year floodplain (600-year floodplain for critical actions); or whether it has the potential to affect or be affected by a floodplain or wetland (see § 9.7);

Step 2. Notify the public at the earliest possible time of the intent to carry out an action in a floodplain or wetland, and involve the affected and interested public in the decisionmaking process (see § 9.8);

Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a floodplain or wetland (including alternative sites,

actions and the "no action" option) (see § 9.9). If a practicable alternative exists outside the floodplain or wetland FEMA must locate the action at the alternative site.

Step 4. Identify the full range of potential direct or indirect impacts associated with the occupancy or modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action (see § 9.10);

Step 5. Minimize the potential adverse impacts and support to or within floodplains and wetlands to be identified under Step 4, restore and preserve the natural and beneficial values served by floodplains, and preserve and enhance the natural and beneficial values served by wetlands (see § 9.11);

Step 6. Reevaluate the proposed action to determine first, if it is still practicable in light of its exposure to flood hazards, the extent to which it will aggravate the hazards to others, and its potential to disrupt floodplain and wetland values and second, if alternatives preliminarily rejected at Step 3 are practicable in light of the information gained in Steps 4 and 5. FEMA shall not act in a floodplains or wetland unless it is the only practicable location (see § 9.9);

Step 7. Prepare and provide the public with a finding and public explanation of any final decision that the floodplain or wetland is the only practicable alternative (see § 9.12); and

Step 8. Review the implementation and post-implementation phases of the proposed action to ensure that the requirements stated in § 9.11 are fully implemented. Oversight responsibility shall be integrated into existing processes.

§ 9.7 Determination of proposed action's location.

(a) The purpose of this section is to establish Agency procedures for determining whether any action as proposed is located in or affects (1) the base floodplain (the Agency shall substitute the 500-year floodplain for the base floodplain where the action being proposed involves a critical action), or (2) a wetland. The Agency shall obtain enough information so that it can fulfill the requirements of E.O. 11988 and E.O. 11990 to (i) avoid floodplain and wetland locations unless they are the only practicable alternatives; and (ii) minimize harm to and within floodplains and wetlands.

(b) *Floodplain determination.* (1) Within Areas of Predominantly Non-Federal and Non-State Land Ownership,

In the search for flood hazard information, FEMA shall follow the sequence below:

(i) The Regional Director shall consult the FIA Flood Insurance Rate Map (FIRM) and the Flood Insurance Study (FIS).

(ii) If a detailed map (FIRM) is not available, the Regional Director shall consult an FIA Flood Hazard Boundary Map (FHBM). If data on flood elevations, floodways, or coastal high hazard areas are needed, or if the map does not delineate the flood hazard boundaries in the vicinity of the proposed site, the Regional Director shall seek the necessary detailed information and assistance from the sources listed below.

Sources of Maps and Technical Information

Department of Agriculture: Soil Conservation Service
Department of the Army: Corps of Engineers
Department of Commerce: National Oceanic and Atmospheric Administration
Federal Insurance Administration
FEMA Regional Offices/Division of Insurance and Hazard Mitigation
Department of the Interior:
Geological Survey
Bureau of Land Management
Bureau of Reclamation
Tennessee Valley Authority
Delaware River Basin Commission
Susquehanna River Basin Commission
States

(iii) If the sources listed do not have or know of the information necessary to comply with the Orders' requirements, the Regional Director shall seek the services of a federal or other engineer experienced in this type of work to:

(A) Locate the site and the limits of the coastal high hazard area, floodway and of the applicable floodplain, and

(B) Determine base flood elevations. In the absence of a finding to the contrary, the Regional Director shall assume that any action involving a facility or structure that has been flooded by a major disaster or emergency is in the applicable floodplain for the site of the proposed action.

(2) Areas of predominantly federal and state land holdings and headwater areas not shown on a FHBM or FIRM. If a decision involves an area or location within extensive federal or state holdings or a headwater area, and an FIS, FIRM, or FHBM is not available, the Regional Director shall seek information from the land administering agency before information and/or assistance is sought from the sources listed in this section. If none of these sources has information or can provide assistance, the services of an experienced federal or

other engineer shall be sought as described above.

(3) The following additional flooding characteristics shall be identified by the Regional Director, as appropriate:

(i) Velocity of floodwater;
(ii) Rate of rise of floodwater;
(iii) Duration of flooding;
(iv) Available warning and evacuation time and routes;

(v) Special problems:

(A) Effective levees;

(B) Erosion;

(C) Subsidence;

(D) Sink holes;

(E) Ice jams;

(F) Debris load;

(G) Pollutants;

(H) Wave heights.

(c) *Wetland determination.* The following sequence shall be followed by the Agency in making the wetland determination.

(1) The agency shall consult with the U.S. Fish and Wildlife Service (FWS) for information concerning the location, scale and type of wetlands within the area which could be affected by the proposed action.

(2) If the FWS does not have adequate information upon which to base the determination, the Agency shall consult wetland inventories maintained by the Army Corps of Engineers, the Environmental Protection Agency, various states, communities and others.

(3) If state or other sources do not have adequate information upon which to base the determination, the Agency shall carry out an on-site analysis performed by a representative of the FWS or other qualified individual for wetlands characteristics based on the performance definition of what constitutes a wetland.

(4) If an action is in a wetland but not in a floodplain, and the action is new construction, the provisions of this regulation shall apply. Even if the action is not in a wetland, the Regional Director shall determine if the action has the potential to result in indirect impacts on wetlands. If so, all adverse impacts shall be minimized. For actions which are in a wetland and the floodplain also, completion of the decisionmaking process is required. (See § 9.6.) In such a case the wetland will be considered as one of the natural and beneficial values of floodplain.

§ 9.8 Public notice requirements.

(a) *Purpose.* The purpose of this section is to establish the initial notice procedures to be followed when proposing any action.

(b) *General.* The Agency shall provide adequate information to enable the public to have impact on the decision

outcome for all actions having potential to affect, adversely, or be affected by floodplains or wetlands that it proposes. To achieve this intent, the Agency shall:

(1) Provide the public with adequate information and opportunity for review and comment at the earliest possible time and throughout the decisionmaking process; and upon completion of this process, provide the public with an accounting of its final decisions (see § 9.12); and

(2) Rely on its environmental assessment and OMB Circular A-95 processes, to the extent possible, as vehicles for public notice, involvement and explanation.

(c) *Early public notice.* The Agency shall provide opportunity for public involvement in the decisionmaking process through the provision of public notice upon determining that a plan or proposed action can be expected to affect or be affected by floodplains or wetlands. Whenever possible, notice shall precede major project site identification and analysis in order to preclude the foreclosure of options consistent with the Orders.

(1) For action for which an environmental impact statement is being prepared, the Notice of Intent to File an EIS is adequate to constitute the early public notice, if it includes the information required under paragraph (c)(5) of this section.

(2) For each action having national significance for which notice is being provided, the Agency shall use the Federal Register as the minimum means for notice, and shall provide notice by mail to national organizations reasonably expected to be interested in the action. The additional notices listed in paragraph (c)(4) of this section shall be used in accordance with the determination made under paragraph (c)(3) of this section.

(3) The Agency shall base its determination of appropriate notices and adequate comment periods (paragraphs (c)(4) and (c)(6) of this section) on factors which include, but are not limited to:

(i) Scale of the action;
(ii) Potential for controversy;
(iii) Degree of public need;
(iv) Number of affected agencies and individuals; and

(v) Its anticipated potential impact.
(4) For each action having primarily local importance for which notice is being provided, notice shall be made in accordance with the criteria under paragraph (c)(3) of this section, and shall be as appropriate:

(i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).

- (ii) Notice to Indian tribes when effects may occur on reservations.
- (iii) Information required in the affected State's public notice procedures for comparable actions.
- (iv) Publication in local newspapers (in papers of general circulation rather than legal papers).
- (v) Notice through other local media.
- (vi) Notice to potentially interested community organizations.
- (vii) Publication in newsletters that may be expected to reach potentially interested persons.
- (viii) Direct mailing to owners and occupants of nearby or affected property.
- (ix) Posting of notice on and off site in the area where the action is to be located.
- (x) Holding a public hearing.
- (5) The notice shall include:
- (i) A description of the action, its purpose and a statement of the intent to carry out an action affecting or affected by a floodplain or wetland;
- (ii) Based on the factors in (c)(3), above, a map of the area or other identification of the floodplain and/or wetland areas which is of adequate scale and detail so that the location is describable;
- (iii) Based on the factors in (c)(3), above, a description of the type, extent and degree of hazard involved and the floodplain or wetland values present; and
- (iv) Identification of the responsible official or organization for implementing the proposed action, and from whom further information can be obtained.
- (6) The Agency shall provide for an adequate comment period.
- (7) In a post-disaster situation in particular, the requirement for early public notice may be met in a cumulative manner. Several actions may be addressed in one notice or series of notices. For some actions involving limited public interest a single notice in a local newspaper or letter to interested parties may suffice.
- (d) *Continuing public notice.* The Agency shall keep the public informed of the progress of the decisionmaking process through additional public notices at key points in the process. The preliminary information provided under paragraph (c)(5) of this section shall be augmented by the findings of the adverse effects of the proposed actions and steps necessary to mitigate them. This responsibility shall be performed for actions requiring the preparation of an EIS, and all other actions having the potential for major adverse impacts, or the potential for harm to the health and safety of the general public.

§ 9.9 Analysis and reevaluation of practicable alternatives.

- (a) *Purpose.* (1) The purpose of this section is to expand upon the directives set out in § 9.6, above, in order to clarify and emphasize the Orders' key requirements to avoid floodplains and wetlands wherever practicable.
- (2) Step 3 is a preliminary determination as to whether the floodplain is the only practicable alternative location for the action. It is a preliminary determination because it comes early in the decisionmaking process when the Agency has a limited amount of information. If it is clear that there is a practicable alternative, or that the floodplain or wetland is itself not a practicable location, FEMA shall then act on that basis. Provided that the location outside the floodplain or wetland does not indirectly impact floodplain or wetlands or support development therein (see § 9.10), the remaining analysis set out by this regulation is not required. If such location does indirectly impact floodplains or wetlands or support development therein, the remaining analysis set out by this regulation is required. If the preliminary determination is to act in the floodplain, FEMA shall gather the additional information required under Steps 4 and 5 and then reevaluate all the data to determine if the floodplain or wetland is the only practicable alternative.
- (b) *Analysis of practicable alternatives.* Upon completion of determination of Steps 1 and 2 (see § 9.6), the Agency shall evaluate practicable alternatives to carrying out a proposed action in floodplains or wetlands, including, at a minimum:
- (1) Alternative sites outside the floodplain or wetlands;
- (2) Alternative actions which serve essentially the same purpose as the proposed action, but which have less potential to affect or be measurably affected by the floodplain or wetlands; and
- (3) *No action.* The floodplain and wetland site itself must be a practicable location in light of the factors set out in this section.
- (c) The Agency shall analyze the following factors in determining the practicability of the alternative set out in paragraph (b), above:
- (1) Natural environment (topography, habitat, hazards, etc.);
- (2) Social concerns (aesthetics, historical and cultural values, land use patterns, etc.);
- (3) Economic aspects (costs of space, construction, services, and relocation); and

- (4) Legal constraints (deeds, leases, etc.).

(d) *Action following the analysis of practicable alternatives.*

- (1) The Agency shall not locate the proposed action in the floodplain or in a wetland if a practicable alternative exists outside the floodplain or wetland.
- (2) For critical actions, the Agency shall not locate the proposed action in the 500-year floodplain if a practicable alternative exists outside the 500-year floodplain.
- (3) Even if no practicable alternative exists outside the floodplain or wetland, in order to carry out the action the floodplain or wetland must itself be a practicable location in light of the review required in this section.
- (e) *Reevaluation of alternatives.* Upon determination of what measures are necessary to comply with the requirement to minimize harm to and within floodplain and wetlands (§ 9.11), FEMA shall:
- (1) Determine whether:
- (i) The action is still practicable at a floodplain or wetland site in light of the exposure to flood risk and the ensuing disruption of natural values;
- (ii) The floodplain or wetland site is the only practicable alternative;
- (iii) There is a potential for limiting the action to increase the practicability of previously rejected non-floodplain or wetland sites and alternative actions; and
- (iv) Minimization of harm to or within the floodplain can be achieved using all practicable means.
- (2) Take no action in a floodplain unless the importance of the floodplain site clearly outweighs the requirement of E.O. 11988 to:
- (i) Avoid direct or indirect support of floodplain development;
- (ii) Reduce the risk of flood loss;
- (iii) Minimize the impact of floods on human safety, health and welfare; and
- (iv) Restore and preserve floodplain values.
- (3) Take no action in a wetland unless the importance of the wetland site clearly outweighs the requirements of E.O. 11990 to:
- (i) Avoid the destruction or modification of the wetlands;
- (ii) Avoid direct or indirect support of new construction in wetlands;
- (iii) Minimize the destruction, loss or degradation of wetlands; and
- (iv) Preserve and enhance the natural and beneficial values of wetlands.
- (4) In carrying out this balancing process, give the factors in paragraphs (e) (2) and (3), above, the great weight intended by the Orders.
- (5) Choose the "no action" alternative where there are no practicable

alternative actions or sites and where the floodplain or wetland is not itself a practicable alternative. In making the assessment of whether a floodplain or wetland location is itself a practicable alternative, the practicability of the floodplain or wetland location shall be balanced against the practicability of not carrying out the action at all. That is, even if there is no practicable alternative outside of the floodplain or wetland, the floodplain or wetland itself must be a practicable location in order for the action to be carried out there. To be a practicable location, the importance of carrying out the action must clearly outweigh the requirements of the Orders listed in paragraphs (e) (2) and (e)(3) of this section. Unless the importance of carrying out the action clearly outweighs those requirements, the "no action" alternative shall be selected.

§ 9.10 Identify impacts of proposed actions.

- (a) *Purpose.* The purpose of this section is to ensure that the effects of proposed Agency actions are identified.
- (b) The Agency shall identify the full range of potential direct and indirect adverse impacts associated with the occupancy and modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action.
- (c) This identification shall consider whether the proposed action will result in an increase in the useful life of any structure or facility in question, maintain the investment at risk and exposure of lives to the flood hazard or forego an opportunity to restore the natural and beneficial values served by floodplains or wetlands. Regional Offices of the U.S. Fish and Wildlife Service may be contacted to aid in the identification and evaluation of potential impacts of the proposed action on natural and beneficial floodplain and wetland values.
- (d) In the review of a proposed or alternative action, the Regional Director shall specifically consider and evaluate impacts associated with modification of wetlands and floodplains regardless of its location; additional impacts which may occur when certain types of actions may support subsequent action which have additional impacts of their own; adverse impacts of the proposed actions on lives and property and on natural and beneficial floodplain and wetland values; and the three categories of factors listed below:

- (1) *Flood hazard related factors.* These include, for example, the factors listed in § 9.7(b)(5);
- (2) *Natural values-related factors.* These include, for example, the following: Water resource values (natural moderation of floods, water quality maintenance, and ground water recharge); living resource values (fish and wildlife and biological productivity); cultural resource values (archaeological and historic sites, and open space recreation and green belts); and agricultural, aquacultural and forestry resource values.
- (3) *Factors relevant to a proposed action's effects on the survival and quality of wetlands.* These include, for example, the following: Public health, safety and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion; maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

§ 9.11 Mitigation.

- (a) *Purpose.* The purpose of this Section is to expand upon the directives set out in § 9.6, above, and to set out the mitigative actions required if the preliminary determination is made to carry out an action that affects or is affected by a floodplain or wetland.
- (b) *General provisions.* (1) The Agency shall design or modify its actions so as to minimize harm to or within the floodplain;
- (2) The Agency shall minimize the destruction, loss or degradation of wetlands;
- (3) The Agency shall restore and preserve natural and beneficial floodplain values; and
- (4) The Agency shall preserve and enhance natural and beneficial wetland values.
- (c) *Minimization provisions.* The Agency shall minimize:
- (1) Potential harm to lives and the investment at risk from the base flood, or, in the case of critical actions, from the 500-year flood.
- (2) Potential adverse impacts the action may have on others; and
- (3) Potential adverse impact the action may have on floodplain and wetlands values.
- (3) *Minimization standards.* At a minimum, the Agency shall apply the following standards to its actions to

- comply with the requirements of paragraphs (b) and (c), of this section:
- (1) There shall be no construction of a new structure (including the placement of a mobile home) or facility in a floodway or coastal high hazard area unless:
- (i) It is a functionally dependent use; or
- (ii) It will facilitate an open space use.
- (2) There shall be no substantial improvement of a structure (including a mobile home) or a facility in a floodway unless:
- (i) It is a functionally dependent use; or
- (ii) It will facilitate an open space use.
- (3) There shall be no new or substantially improved structures (including a mobile home) in a floodway unless such structures are elevated on adequately anchored pilings or columns, and securely anchored to such piles on columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level (the 500-year flood level for critical actions). The structure shall be adequately anchored so as to withstand velocity flow.
- (4) There shall be no construction of a new or substantially improved structure in a coastal high hazard area unless it is elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level (the 500-year flood level for critical actions) (including wave height). The structure shall be anchored so as to withstand velocity waters and hurricane wave wash. The Regional Director shall be responsible for determining the base flood level, including the wave height, in all cases. Where there is a FIRM in effect, it shall be the basis of the Regional Director's determination. If the FIRM does not reflect wave heights, or if there is no FIRM in effect, the Regional Director is responsible for delineating the base flood level, including wave heights.
- (f) *Elevation of other structures.* (i) There shall be no non-critical structure built or substantially improved unless the lowest floor of the structure (including basement) is at or above the level of the base flood.
- (ii) There shall be no structure involving a critical action built or substantially improved unless the lowest floor of the structure (including the basement) is at or above the level of the 500-year flood.
- (iii) If the subject structure is nonresidential, FEMA may, instead of

elevating the structure to the 100-year or 500-year level, as appropriate, approve the design of the structure and its attendant utility and sanitary facilities so that below the flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iv) The provisions of paragraphs (d)(5)(i), (ii), and (iii) of this section do not apply to the extent that the Federal Insurance Administration has granted an exception under 44 CFR § 60.6(b) (formerly 24 CFR § 1910.6(h)), or the community has granted a variance which the Regional Director determines is consistent with 44 CFR § 60.6(a) (formerly 24 CFR 1910.6(a)).

(6) There shall be no encroachments, including fill, new construction, substantial improvements of structures or facilities, or other development within a designated regulatory floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge. Until a regulatory floodway is designated, no new construction, substantial improvements or other development (including fill) shall be permitted within the base floodplain unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(7) Even if an action is a functionally dependent use or facilitates open space use (under paragraphs (d) (1) or (2) of this section) and does not increase flood heights (under paragraph (d)(6) of this section), such action may only be taken in a floodway or coastal high hazard area if:

(i) Such site is the only practicable alternative; and

(ii) Harm to and within the floodplain is minimized.

(8) In addition to standards (d)(1) through (d)(6) of this section, no action shall be taken if it is inconsistent with the criteria of the National Flood Insurance Program (44 CFR 59 *et seq.*), or any more restrictive Federal State or local floodplain management standards.

(9) New structures shall be elevated on open works (walls, columns, piers, piles, etc.) rather than on fill, in all cases in floodways and coastal high hazard areas and elsewhere, where practicable.

(10) To minimize the effect of floods on human health, safety and welfare, the Agency shall:

(i) Where appropriate, integrate all of its proposed actions in floodplains into existing flood warning and preparedness plans and ensure that available flood warning time is reflected;

(ii) Provide adequate access and egress to and from the site of the proposed action; and

(iii) Give special consideration to the unique hazard potential in flash flood, rapid-rise or tsunami areas.

(11) In the replacement of building contents, materials and equipment, the Regional Director shall require as appropriate, disaster proofing of the building and/or elimination of such future losses by relocation of those building contents, materials and equipment outside or above the base floodplain or the 500-year floodplain for critical actions.

(c) *Restore and preserve.* (1) For any action taken by the Agency which affects the floodplain or wetland and which has resulted in, or will result in, harm to the floodplain or wetland, the Agency shall act to restore and preserve the natural and beneficial values served by floodplains and wetlands.

(2) Where floodplain or wetland values have been degraded by the proposed action, the Agency shall identify, evaluate and implement measures to restore the values.

(3) If an action will result in harm to or within the floodplain or wetland, the Agency shall design or modify the action to preserve as much of the natural and beneficial floodplain and wetland values as is possible.

§ 9.12 Final public notice.

The Agency shall provide the public with a statement of its final decision and shall explain the relevant factors considered by the Agency in making this determination.

(a) For its programs that are subject to OMB Circular A-95 (revised), the Agency shall send the final notice to the State and area-wide A-95 clearinghouse for the affected area. In addition, those sent notices under § 9.8 shall also be provided the final notice.

(b) For actions for which an environmental impact statement is being prepared, the FEIS is adequate to constitute final notice in all cases except where:

(1) Significant modifications are made in the FEIS after its initial publication;

(2) Significant modifications are made in the development plan for the proposed action; or

(3) Significant new information becomes available in the interim between issuance of the FEIS and implementation of the proposed action.

If any of these situations develop, the Agency shall prepare a separate final notice that contains the contents of paragraph (c) of this section and shall make it available to those who received the FEIS. A minimum of 15 days shall, without good cause shown, be allowed for comment on the final notice.

(c) For actions for which an environmental assessment was prepared, the Notice of No Significant Impact is adequate to constitute final public notice, if it includes the information required under paragraph (e)(5) of this section.

(d) For all other actions, the finding shall be made in a separate document.

(e) The final notice shall include the following:

(1) A statement of why the proposed action must be located in an area affecting or affected by a floodplain or a wetland;

(2) A description of all significant facts considered in making this determination;

(3) A list of the alternatives considered;

(4) A statement indicating whether the action conforms to applicable state and local floodplain protection standards;

(5) A statement indicating how the action affects or is affected by the floodplain and/or wetland, and how mitigation is to be achieved; and

(6) Identification of the responsible official or organization for implementation and monitoring of the proposed action, and from whom further information can be obtained; and

(7) A map of the area.

(f) After providing the final notice, the Agency shall, without good cause shown, wait at least 15 days before carrying out the action.

§ 9.13 Particular types of temporary housing.

(a) The purpose of this section is to set forth the procedures whereby the Agency will provide certain specified types of temporary housing.

(b) Prior to providing the types of temporary housing enumerated in paragraph (c) of this section, the Agency shall comply with the provisions of this section. For all temporary housing not enumerated below, the full 8-step process (see § 9.8) applies.

(c) The following temporary housing actions are subject to the provisions of this section and not the full 8-step process:

(1) Providing housing in existing resources;

(2) Providing minimal home repairs;

(3) Placing a mobile home or readily fabricated dwelling on a private or commercial site, but not a group site.

(d) The actions set out in paragraph (c) of this section are subject to the following decisionmaking process:

(1) The temporary housing action shall be evaluated in accordance with the provisions of § 9.7 to determine if it is in or affects a floodplain or wetland.

(2) No mobile home or readily fabricated dwelling will be placed on a private or commercial site in a floodway or coastal high hazard area.

(3) An individual or family shall not be housed in a floodway or wetland unless the Regional Director has complied with the provisions of § 9.9 to determine that such site is the only practicable alternative. The following factors shall be substituted for the factors in §§ 9.9(c) and 9.9(e) (2) through (4):

(i) Speedy provision of temporary housing;

(ii) Potential flood risk to the temporary housing occupant;

(iii) Cost effectiveness;

(iv) Social and neighborhood patterns;

(v) Timely availability of other housing resources; and

(vi) Potential harm to the floodplain or wetland.

(4) An individual or family shall not be housed in a floodplain or wetland (except in existing resources) unless the Regional Director has complied with the provisions of § 9.11 to minimize harm to and within floodplains and wetlands.

The following provisions shall be substituted for the provisions of § 9.11(d) for mobile homes:

(i) No mobile home or readily fabricated dwelling shall be placed on a private or commercial site unless it is elevated to the fullest extent practicable up to the base flood level.

(ii) No mobile home or readily fabricated dwelling shall be placed on a private or commercial site unless it is adequately anchored.

(iii) No mobile home or readily fabricated dwelling shall be placed if such placement is inconsistent with the criteria of the National Flood Insurance Program (44 CFR 59 *et seq.*) or any more restrictive Federal, State or local floodplain management standard.

(iv) Mobile homes shall be elevated on open works (walls, columns, piers, piles, etc.) rather than on fill where practicable.

(v) To minimize the effect of floods on human health, safety and welfare, the Agency shall:

(A) Where appropriate, integrate all of its proposed actions in placing mobile homes for temporary housing in floodplains into existing flood warning and preparedness plans and ensure that available flood warning time is reflected;

(B) Provide adequate access and egress to and from the proposed site of the mobile home; and

(C) Give special consideration to the unique hazard potential in flash flood and rapid-rise areas.

(5) FEMA shall comply with Step 2 Early Public Notice (§ 9.8(c)) and Step 7 Final Public Notice (§ 9.12). In providing these notices, the emergency nature of temporary housing shall be taken into account.

(e) FEMA shall not sell or otherwise dispose of mobile homes or other readily fabricated dwellings which would be located in floodplains or wetlands.

§ 9.14 Disposal of Agency property.

(a) The purpose of this Section is to set forth the procedures whereby the Agency shall dispose of property.

(b) Prior to its disposal by sale, lease or other means of disposal, property proposed to be disposed of by the Agency shall be reviewed according to the decisionmaking process set out in § 9.6, above, as follows:

(1) The property shall be evaluated in accordance with the provisions of § 9.7 to determine if it affects or is affected by a floodplain or wetland;

(2) The public shall be notified of the proposal and involved in the decisionmaking process in accordance with the provisions of § 9.8;

(3) Practicable alternatives to disposal shall be evaluated in accordance with the provisions of § 9.9. For disposals, this evaluation shall focus on alternative actions (conveyance for an alternative use that is more consistent with the floodplain management and wetland protection policies set out in § 9.2 than the one proposed, e.g., open space use for park or recreational purposes rather than high intensity uses), and on the "no action" option (retain the property);

(4) Identify the potential impacts and support associated with the disposal of the property in accordance with § 9.10;

(5) Identify the steps necessary to minimize, restore, preserve and enhance in accordance with § 9.11. For disposals, this analysis shall address all four of these components of mitigation where unimproved property is involved, but shall focus on minimization through floodproofing and restoration of natural values where improved property is involved;

(6) Reevaluate the proposal to dispose of the property in light of its exposure to the flood hazard and its natural values-related impacts, in accordance with § 9.9. This analysis shall focus on whether it is practicable in light of the findings from §§ 9.10 and 9.11 to dispose of the property, or whether it must be retained. If it is determined that it is

practicable to dispose of the property, this analysis shall identify the practicable alternative that best achieves all of the components of the Orders' mitigation responsibility;

(7) To the extent that it would decrease the flood hazard to lives and property, the Agency shall, wherever practicable, dispose of the properties according to the following priorities:

(i) Properties located outside the floodplain;

(ii) Properties located in the flood fringe; and

(iii) Properties located in a floodway, regulatory floodway or coastal high hazard area.

(8) Prepare and provide the public with a finding and public explanation in accordance with § 9.12.

(9) Ensure that the applicable mitigation requirements are fully implemented in accordance with § 9.11.

(c) At the time of disposal, for all disposed property, reference in the conveyance uses that are restricted under existing Federal, State and local floodplain management and wetland protection standards relating to flood hazards and floodplain and wetland values.

§ 9.15 Planning programs affecting land use.

The Agency shall take floodplain management into account when formulating or evaluating any water and land use plans. No plan may be approved unless it:

(a) reflects consideration of flood hazards and floodplain management and wetlands protection; and

(b) prescribes planning procedures to implement the policies and requirements of the Orders and this regulation.

§ 9.16 Notice to private persons.

(a) The purpose of this Section is to provide notice to private parties with whom the Agency is carrying out any financial transaction (including, but not limited to guaranteeing, regulating, approving, or insuring) which is related to an area located in a floodplain, of the hazards of locating in the floodplain.

(b) This section covers any financial transaction guaranteed, approved, regulated or insured by the Agency which is in or pertains to an area located in a floodplain.

(c) Notice shall be given in a manner which:

(1) Explains the chances of being flooded in language readily understandable to the private party;

(2) Shows if the property is in a high hazard area (floodway, regulatory floodway, or coastal high hazard area);

(3) Shows if there is a flood insurance purchase requirement; and

(4) Shows, if the transaction involves the sale of unimproved real estate, that the property may be subject to floodplain management regulations which dictate the manner, and in some cases the location, of new construction.

§ 9.17 Guidance for applicants.

(a) The Agency shall encourage and provide adequate guidance to applicants for agency assistance to evaluate the effects of their plans and proposals in or affecting floodplains and wetlands.

(b) This shall be accomplished primarily through amendment of all Agency instructions to applicants, e.g., program handbooks, contracts, application and agreement forms, etc., and also through contact made by agency staff during the normal course of their activities, to fully inform prospective applicants of:

(1) The Agency's policy on floodplain management and wetlands protection as set out in § 9.2;

(2) The decisionmaking process to be used by the Agency in making the determination of whether to provide the requested assistance as set out in § 9.6;

(3) The nature of the Orders' practicability analysis as set out in § 9.9;

(4) The nature of the Orders' mitigation responsibilities as set out in § 9.11;

(5) The nature of the Orders' public notice and involvement process as set out in §§ 9.8 and 9.12; and

(6) The supplemental requirements applicable to applications for the lease or other disposal of Agency owned properties set out in § 9.14.

(c) Guidance to applicants shall be provided where possible, prior to the time of application in order to minimize potential delays in process application due to failure of applicants to recognize and reflect the provisions of the Orders and this regulation.

§ 9.18 Instructions to applicants.

(a) *Purpose.* In accordance with Executive Orders 11988 and 11990, the federal executive agencies must respond to a number of floodplain management and wetland protection responsibilities before carrying out any of their activities, including the provision of federal financial and technical assistance. The purpose of this section is to put applicants for Agency assistance on notice concerning both the criteria that it is required to follow under the Orders, and applicants' responsibilities under this regulation.

(b) *Responsibilities of Applicants.* Based upon the guidance provided by the Agency under § 9.17, that guidance

included in the U.S. Water Resources Council's *Guidance for Implementing E.O. 11988*, and based upon the provisions of the Orders and this regulation, applicants for Agency assistance shall recognize and reflect in their application:

(1) The Agency's policy on floodplain management and wetlands protection as set out in § 9.2;

(2) The decisionmaking process to be used by the Agency in making the determination of whether to provide the requested assistance as set out in § 9.6;

(3) The nature of the Orders' practicability analysis as set out in § 9.9;

(4) The nature of the Orders' mitigation responsibilities as set out in § 9.11;

(5) The nature of the Orders' public and involvement process as set out in §§ 9.8 and 9.12; and

(6) The supplemental requirements for application for the lease or other disposal of Agency-owned properties, as set out in § 9.13;

(c) *Provision of supporting information.* Applicants for Agency assistance may be called upon to provide supporting information relative to the various responsibilities set out in paragraph (b) of this section as a prerequisite to the approval of their applications.

(d) *Approval of applications.*

Applications for Agency assistance shall be reviewed for the recognition and reflection of the provisions of this regulation in addition to the Agency's existing approval criteria.

§ 9.19 Responsibilities.

(a) *Regional Directors responsibilities.* Regional Directors shall, for all actions falling within their respective jurisdictions:

(1) Implement the requirements of the Orders and this regulation. Anywhere in §§ 9.2, 9.6 through 9.13, 9.15 and 9.16 where a direction is given to the Agency, it is the responsibility of the Regional Director.

(2) Consult with the General Counsel regarding any question of interpretation concerning this regulation or the Orders.

(b) *Associate Directors responsibilities.* Associate Directors/Administrators shall ensure that the offices/administrations under their jurisdiction:

(1) Implement the requirements of the Orders and this regulation.

(2) Identify within ninety (90) days of the effective date of this regulation:

(i) The modifications that are necessary to make their existing floodplain management and wetlands protection procedures adequate to meet the directives of the Orders;

(ii) Which of these modifications should be made a part of this regulation;

(iii) Which of these modifications are to be included in program regulations other than this one; and

(iv) The steps being taken to prepare and implement these modifications.

(3) Are in full compliance with the Orders' provisions through the modification of their processes in accordance with (b) and (c), above.

(4) Prepare and submit to the Office of Management and Budget in accordance with section 2(b) of E.O. 11988 and section 3 of E.O. 11990. If a proposed action is to be located in a floodplain or wetland, any requests to the Office of Management and Budget for new authorizations or appropriations shall be accompanied by a report indicating whether the proposed action is in accord with the Orders and these regulations.

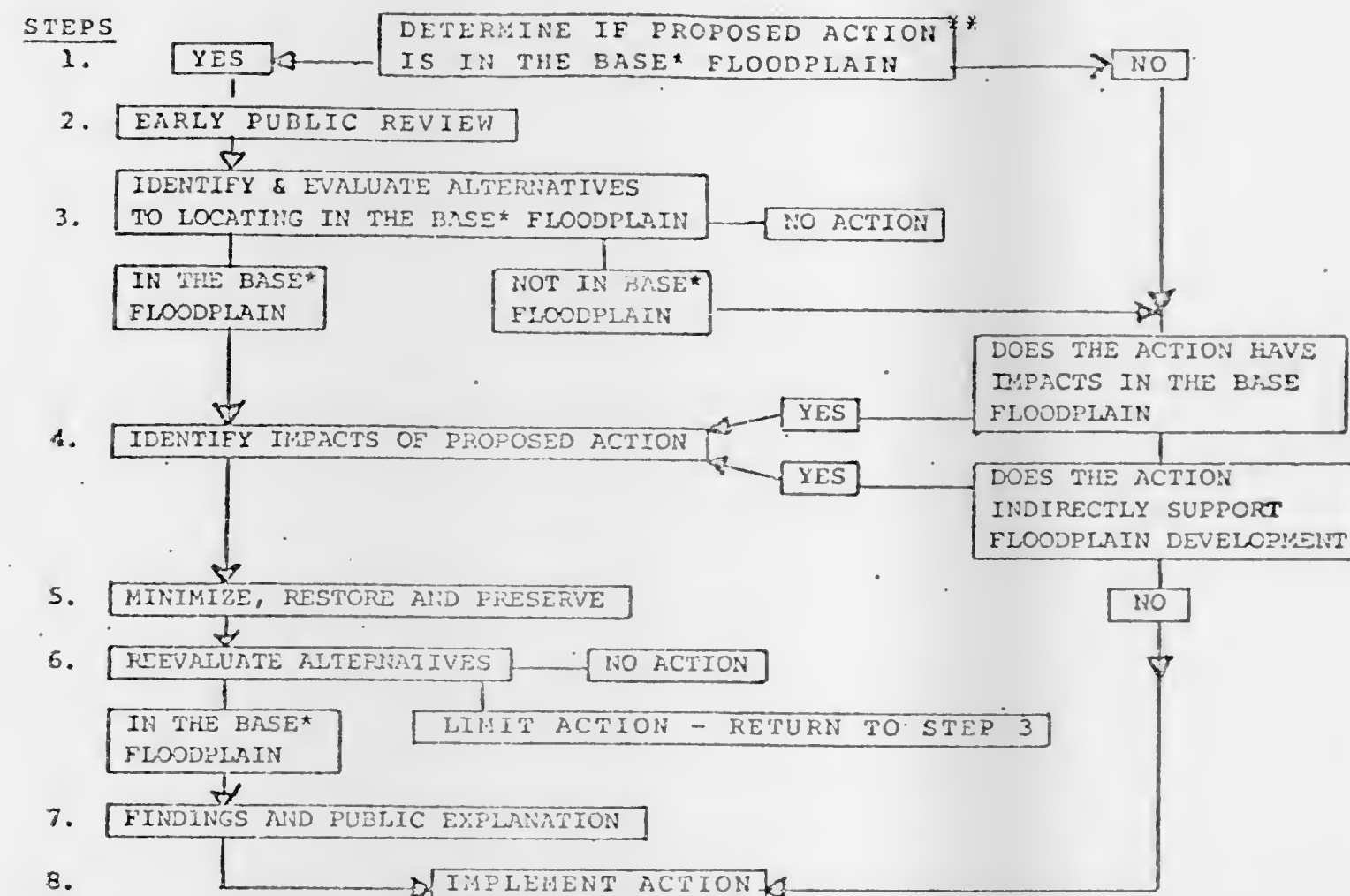
Dated: December 17, 1979.

John W. Macy, Jr.,
Director, Federal Emergency Management Agency.

BILLING CODE 6718-01-M

APPENDIX A

DECISION-MAKING PROCESS FOR E.O. 11988



*. FOR CRITICAL ACTIONS SUBSTITUTE "500 YEAR" FOR "BASE" AND FOR WETLANDS DELETE "BASE FLOODPLAIN" AND SUBSTITUTE " WETLANDS".

** FOR WETLANDS "ACTION" INCLUDES "NEW CONSTRUCTION" ONLY.

[F.R. Doc. 79-39484 Filed 12-28-79; 8:45 am.]
BILLING CODE 6718-01-C

**COMMUNITY SERVICES
ADMINISTRATION****45 CFR Part 1061****Emergency Energy Conservation
Program: Energy Crisis Assistance
Program**

Note.—This document originally appeared in the Federal Register for Friday, December 21, 1979. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Community Services Administration. (See OFR notice 41 FR 32914, August 6, 1976)

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration (CSA) is filing an amendment to the final rule on the Energy Crisis Assistance Program published in the Federal Register on Thursday, October 11, 1979 (44 FR 58976). This amendment is required to implement the fiscal year 1980 supplemental appropriation for emergency fuel assistance (Pub. Law 96-126) and to implement policy changes directed by Congress.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. Freel or Mr. Wallace Lumpkin, 2060 K Street, N.W., Suite 350, Washington, D.C. 20006, Telephone: (202) 254-9833, Teletypewriter: (202) 254-6210.

SUPPLEMENTARY INFORMATION: Public Law 96-126, signed by the President on November 27, 1979, provides \$150 Million to supplement the \$250 Million already appropriated for the Emergency Crisis Assistance Program (ECAP). In addition, states may choose to supplement ECAP with funds granted by the Department of Health, Education, and Welfare (HEW) through election of Plan "C" as set forth in HEW's supplemental energy allowance program (See FR Vol. 44, No. 232, November 30, 1979). Congress also directed CSA to make changes in the present regulation to:

- (1) Give priority to households experiencing significant increases in heating fuel costs;
- (2) Serve persons who have paid fuel bills;
- (3) Provide flexibility to Governors, with CSA approval, to set increased maximum levels of assistance;
- (4) Provide outreach services for persons receiving unemployment compensation and for American Indians; and

(5) Require a program end date of June 30, 1979.

The specific intent of Congress with regard to the FY '80 Energy Crisis Assistance Program has been set forth in its supplemental ECAP appropriation. In order to ensure that all FY'80 ECAP grants, including those made from the initial \$250 million appropriation, are administered in accordance with this Congressional intent, the amendment to the final ECAP rule of October 11, 1979, shall govern all FY'80 ECAP funds. All grants made pursuant to the supplemental appropriation will be contingent upon grantees' agreement to administer all FY'80 ECAP funds in accordance with the changes made by this amendment. The rule of October 11, 1979, (45 CFR 1061.70) as amended herein, will also govern grants made by HEW to Governors where they elect to supplement existing ECAP grants with additional HEW funds.

Grantees shall amend their policies and procedures to conform to the changes contained herein and to any subsequent changes which may be made in order that the initial \$250 million program and this supplemental program will be administered in a consistent manner.

CSA is waiving the comment period provided for in Executive Order 12044 and is making the amendment effective immediately because any further delay would be impracticable and contrary to the public interest. Additional delay would render it impossible to serve many of the poor during the onset of the cold winter months. For these same reasons, an emergency exception to the regulatory analysis provisions in Executive Order 12044 is appropriate. Further, this is not a significant rule because it only makes minor changes in the October 11, 1979 rule and does not impose significantly different burdens on grantees.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942))
Greciela (Grace) Olivarez,
Director.

45 CFR Part 1061 is amended by amending Subpart 1061.70, "Energy Crisis Assistance Program," to read as follows:

1. Section 1061.70-2 is revised to read as follows:

§ 1061.70-2 Applicability.

This Subpart is applicable to Energy Crisis Assistance Program (ECAP) grants funded under section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, if administered by the Community Services Administration and

to grants awarded by the Department of Health, Education, and Welfare to supplement ECAP grants made by the Community Services Administration.

2. Section 1061.70-7 is amended by revising paragraphs (a)(1)(ii), (a)(2) introductory text, and (a)(3); by adding paragraphs (a)(4) and (a)(5); and by revising paragraph (b) to read as follows:

§ 1061.70-7 How a local program is operated.

(a) * * *

(1) * * *

(ii) To carry out this mandate effectively, local delivery systems must notify, inform, and contact persons, including those individuals receiving unemployment compensation, potentially eligible for this program through, for example, the use of outreach workers, community groups, decentralized intake and certification systems, mass mailings, radio and T.V. spots, use of community newspapers, church bulletins, etc. In the State Funding Plan, the Governor must describe how outreach services will be provided to potential clients eligible for services. Expenses for these activities are to be included as administrative costs.

(2) *Serving the elderly.* On all grants made by CSA highest priority should be placed on serving the elderly. Therefore, local program operators should offer special services. Suggested activities include:

(3) *Serving renters.* This program is also intended to serve renters who are experiencing an energy related crisis. Renters who pay for their fuel indirectly as well as directly are eligible for assistance through ECAP. In the State Funding Plan, the Governor must indicate how renters will be served.

(4) *Heating fuel costs priority.* Priority will be given to those households experiencing significant increases in heating fuel costs over the last year. In establishing such priority grantees should take into consideration the extent to which increases in rent are caused by increases in heating fuel costs.

(5) *Serving American Indians.* This program is also intended to serve American Indians who are not provided service through the special set-aside program as provided for in § 1061.70-11(a). State Funding Plans should indicate how such services will be provided.

(b) *Limitations on payments.* The sum of all assistance under this program made to and/or on behalf of any household shall not exceed the actual

amount needed to ameliorate the household's energy related problem or \$400 whichever is less, unless a Governor elects to set assistance limits at a higher or lower level and/or provide for varying the maximum assistance level. If the Governor elects to make such a change he/she must provide in the State Funding Plan a justification including the specific criteria used as the basis for changing or varying the limits of assistance level within the state, such as climate, fuel and low-income population. Where energy allowances, such as payments to SSI or AFDC recipients under the HEW Energy Assistance Program, received by a household may not be considered as income for purposes of determining income eligibility, any allowances received shall be taken into consideration in determining the assistance to be provided. The total amount of the energy allowances and/or assistance under this program should not exceed the amount needed to ameliorate the household energy problem or the maximum level or assistance in the state, whichever is lower.

3. Paragraphs (a), (b), and (d) of § 1061.70-8 are revised to read as follows:

§ 1061.70-8 What these funds can be used for.

(a) Payments to vendors and suppliers of fuel, goods, and other services. Where an eligible household has paid its fuel bills, level of assistance equal to those bills should be provided in forms of assistance as described in (b), (c), and (d) of this section.

(b) The establishment of lines of credits with fuel/utility vendors for the benefit of eligible households. The Governors may provide limitations on the use of lines of credits such as: limiting the line of credit to the elderly and the handicapped only, establishing a specific duration on a future credit to the elderly and varying the maximum level not to exceed the state approved maximum. The Governor must describe in the State Funding Plan how future credits will be used in that particular state.

(d) Where necessary to prevent hardship or danger to health, the provision of immediate assistance in the form of goods or services such as emergency fuel deliveries, warm clothing, blankets, temporary shelter, emergency repairs to housing such as patching a roof or replacing a broken window, food, medicines or other

supportive services such as rent. Funds under this program shall not be used to weatherize homes.

4. Paragraphs (a), (b) and (c) of § 1061.70-9 are revised to read as follows:

§ 1061.70-9 Who is eligible to participate in this program.

(c) *Income eligibility.* Households with incomes at or below 125% of the CSA Poverty Guidelines and households whose heads receive SS shall be eligible for assistance under this program. No state may change these income eligibility guidelines. Receipt of energy allowances shall not preclude eligibility under the Energy Crisis Assistance Program nor shall energy allowances be considered as income in determining income eligibility.

(b) *Program eligibility.* The Governor must specify certain program eligibility criteria by defining what constitutes an energy-related crisis in that particular State. Where a Governor wants to establish such eligibility criteria, he/she must provide an explanation and justification in the State Funding Plan for the eligibility criteria selected as well as a description of the procedures to be used in determining the program eligibility. The Governor may not require proof of unpaid fuel bills or notices of termination of utility service as criteria for eligibility under this program. The Governor also has the option to use income eligibility criteria as the sole eligibility criteria. Energy allowances shall be taken into consideration in determining program eligibility as indicated in § 1061.70-7 Paragraph (b) of this subpart.

(c) *Income disregard.* Payments made under this program are not to be considered as income or resources for purposes of determining eligibility or benefits under any income maintenance program including, but not limited to public assistance, veterans benefits, food stamps, or Supplemental Security Income.

5. Section 1061.70-10 is revised to read as follows:

§ 1061.70-10 Termination of program.

No funds under this program may be obligated after June 30, 1980. For this program "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

(FR Doc. 79-29458 Filed 12-25-79, 8:45 am)
BILLING CODE 6315-01-M

**FEDERAL COMMUNICATIONS
COMMISSION****47 CFR Part 0****Editorial Amendments to the Rules
Concerning Name Changes for the
Public Information and Consumer
Assistance Divisions; Correction**

AGENCY: Federal Communications Commission.

ACTION: Errata.

SUMMARY: Part 0 of the Commission's Rules and Regulations amended to correct errors related to functions of the Office of Public Affairs published in the Federal Register on December 7, 1979 (44 FR 70471) and in addition deletes certain provisions of § 0.465(d)(1).

EFFECTIVE DATE: November 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Goodfriend, Management Systems Division, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

Released: December 18, 1979.

The Order in the above-captioned matter released December 5, 1979, and published in the Federal Register on December 7, 1979, 44 FR 70471, is corrected by changing § 0.433 (AMENDED) to § 0.433 (AMENDED) and deleting the last two sentences of § 0.465(d)(1).

Federal Communications Commission,
William J. Tricarico,
Secretary.

(FR Doc. 79-29458 Filed 12-25-79, 8:45 am)
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****49 CFR Part 395**

(SMCS Docket No. MC-48; Amendment No. 79-21)

**Federal Motor Carrier Safety
Regulations: Inspection, Repair, and
Maintenance**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule; effective date stayed.

SUMMARY: This is an emergency amendment to a final rule which was to take effect on December 31, 1979. Contrary to the intent of the FHWA, 49 CFR 395.13 has been interpreted as requiring truck drivers to certify that repairs have been made rather than to

acknowledge that there is a certification that the required repairs have been performed. This correction is being issued on an emergency basis to prevent implementation of a misleading requirement and to stay the effective date of the final rule for 90 days in order to allow regulated parties to bring their operations into conformity with the corrected requirement.

EFFECTIVE DATE: The effective date of the rule as amended is April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Chief, Regulations Development Branch, Bureau of Motor Carrier Safety (202-426-9767); Mrs. Kathleen S. Markman, Office of the Chief Counsel (202-426-0824); Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On July 2, 1979, FHWA issued amendments to 49 CFR Part 396, published at 44 FR 38253, August 31, 1979, was set as the effective date. In response to petitions for reconsideration filed by a number of parties, the effective date of the rule was delayed until December 31, 1979, by notice published at 44 FR 50941 on August 27, 1979. In addition to delaying the effective date that notice invited additional views or comments concerning the petitions for reconsideration that had been filed.

Comments received since August 27, 1979, and meetings held with representatives of the American Trucking Associations, Inc., and American Bus Association have pointed out an error in the final rule that must be corrected. The wording of the comments also indicate that the August 27 publication caused uncertainty and confusion.

The requirement in 49 CFR 391.13(3) that drivers certify that repairs have been made before driving a motor vehicle is inconsistent with the intent of this regulation, and imposes an impossible burden on the driver. This requirement would require drivers to independently examine the vehicle to determine whether repairs had been made. While many professional truck drivers do possess mechanical knowledge, they are not qualified to determine whether complicated mechanical repairs have been performed. The certification of repairs must be done by a mechanic with skill and experience in the technical areas. Requiring drivers to certify repairs would unduly delay dispatch of repaired vehicles and place an unfair burden on drivers.

One of the purposes of the new 49 CFR 396 is to insure that reported vehicle defects are repaired before the truck is placed into service. This is accomplished under the requirements of 49 CFR 396.11. That Section required motor carriers or their agents to repair defects and to certify that the defect has been corrected before the vehicle can be dispatched. This clearly places the burden of certification on those who are performing the repairs.

In order to bring 49 CFR 396.13 into conformance with the FHWA regulatory intent expressed in the Supplementary Information section of the July 2, 1979, Federal Register publication, it is necessary to publish this correction. The regulation is being changed to eliminate the requirement for the drivers' certification of repairs, and to substitute a requirement that before driving the driver sign the motor vehicle inspection report to acknowledge that the driver has reviewed it and that there is a certification that any required repairs have been performed. As a technical matter, the regulation is also being corrected to conform to proper regulatory style in referencing subparagraphs.

The confusion concerning the extension of the effective date centers on the solicitation of additional views and comments in the August 27, 1979, publication. The comments received and meetings held with representatives of the American Trucking Associations and the American Bus Association indicate that they believe that the comments were to be addressed to the rule itself rather than the petitions for reconsideration. Because of this there were questions about why the effective date of the rule and the closing dates for the comments were the same. The concern was expressed that the FHWA would not have sufficient time to review the comments before the rule went into effect.

The result of the confusion was that many carriers were unable to begin designing and printing new forms, developing procedures, and training their employees in order to conform with the new requirements. They were reluctant to take these actions because they were unsure whether it was the FHWA's intention to change the final rule on the basis of comments received.

The intention of the request for comments published on August 27, 1979, was to allow interested persons to respond to petitions for reconsideration that had been received. These petitions for reconsideration are handled pursuant to 49 CFR Part 389, and do not reopen the rulemaking docket that led to the publication of the final rule. Rather,

the petitions are requests for changes in the final rule that would have to be handled in accordance with Administrative Procedure Act requirements. All persons who submitted comments after July 2, 1979, will be notified of the FHWA's decision on the petitions by direct response.

In order to allow regulated persons to conform to 49 CFR 396 as corrected, the effective date of the rule is being stayed. The new effective date is April 1, 1980. This additional time is being provided to allow carriers to design and print forms, develop and to train employees, and to bring their operations into compliance by that date.

Because of the short time remaining before the previously announced effective date and the fact that the change is a correction, a notice and comment period is impractical. The correction merely serves to bring the final rule into conformance with the previously announced regulatory intent.

In consideration of the foregoing, 49 CFR 396.13 is amended to read as follows:

§ 396.13 Driver inspection.

Before driving a motor vehicle, the driver shall—

- Be satisfied that the motor vehicle is in safe operating condition;
- Review the last vehicle inspection report required to be carried on the power unit; and
- Sign the report to acknowledge that the driver has reviewed it and that there is a certification that the required repairs have been performed. This signature does not apply to listed defects on a towed unit which is no longer part of the vehicle combination.

Note.—The Federal Highway Administrator has determined that this document contains an emergency regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044, and that it relates to a significant regulation. An evaluation of that regulation is contained in BMCS Docket No. MC-48 and can be reviewed in Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, D.C. 20590 from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. (49 U.S.C. 304, 49 U.S.C. 1555, 49 CFR 1.48(b) and 301.60)

Issued on: December 19, 1979.

Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-39390 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 572

(Docket No. 78-02; Notice 4)

Anthropomorphic Test Dummies Representing 6-Month-Old and 3-Year-Old Children

AGENCY: National Highway Traffic Safety Administration (NHTSA).
ACTION: Final rule.

SUMMARY: This notice is issued in conjunction with new Standard No. 213, *Child Restraint Systems*, which requires child restraint systems to be dynamically tested using anthropomorphic test dummies representing 6-month-old and 3-year-old children. This notice establishes the specifications for the dummies to be used in the child restraint testing. In addition, it sets performance criteria as calibration checks to assure the repeatability of the dummy's performance.

DATES: The amendment is effective on December 27, 1979.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5102, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0364).

SUPPLEMENTARY INFORMATION: This notice amends Part 572, *Anthropomorphic Test Dummies*, to establish specifications and performance requirements for two test dummies. One representing a 6-month-old child and the other representing a 3-year-old child. This final rule is issued to supplement new Standard No. 213, *Child Restraint Systems*, published in the Federal Register for December 13, 1979 (44 FR 72101). Standard No. 213 evaluates the performance of child restraints in dynamic sled tests using the anthropomorphic test dummies whose specifications are established in this final rule. Restraints recommended for children weighing 30 pounds or less will be tested with an anthropomorphic dummy representing a 6-month-old child and restraints recommended for children weighing more than 20 pounds, but not more than 50 pounds will be tested with an anthropomorphic dummy representing a 3-year-old child.

On May 18, 1978, NHTSA published a notice of proposed rulemaking for the anthropomorphic test dummy amendment (43 FR 21490) and the child restraint standard (43 FR 21470). The comment closing date for both notices was December 1, 1978. The May 18, 1978, proposal on the anthropomorphic dummies noted that the calibration requirements proposed for the 3-year-old child test dummy were tentative. The agency said it would continue further testing on the calibrations and the results of that work would be placed in the public docket as soon as possible after the testing was completed. Based on the testing, NHTSA tentatively decided to make several minor modifications to the test dummy specifications and calibration requirements to improve the accuracy of the test dummy as a tool for measuring the performance of child restraints. A copy of the modifications was placed in the public docket on September 27, 1978, and the dummy manufacturers and child restraint testing facilities were advised of the modifications. The tentative modifications were published in the Federal Register on November 16, 1978 (43 FR 53473).

At the request of the Juvenile Products Manufacturers Association, the agency extended the comment closing date until January 5, 1979, for the portions of the child restraint and test dummy proposals dealing with testing with the anthropomorphic dummies. NHTSA granted the extension because manufacturers were reportedly having problems obtaining the proposed test dummies to conduct their own evaluations. Based on information gathered by the agency about the availability of testing facilities and dummies, the agency concluded that manufacturers could conduct the necessary testings before the extended comment closing date.

On December 21, 1978, NHTSA made available one of the agency's test dummies to General Motors Corp. (GM) for the purpose of resolving certain calibration problems GM reported it had experienced with its own test dummy. All other interested parties also were advised of the availability of the NHTSA test dummy and informed that NHTSA did not plan to issue a final rule on the test dummy proposal until at least mid-summer. The agency said it would review additional testing material submitted to the docket before issuance of the final rule. The final rule issuance date was subsequently rescheduled for October 1979 in the Department's March 1, 1979, Semi-Annual Regulations Agenda (44 FR Part II, 36) and for

November 1979 in the August 27, 1979, Agenda (44 FR 50195).

Following issuance of the May 1978 notice of proposed rulemaking, NHTSA conducted additional testing of the test dummies. This testing, completed in July 1978, further confirmed the results of the agency's prior testing which showed the anthropomorphic dummies to be objective test devices. The results of this testing were periodically placed in the public docket so that all interested parties could comment on them.

This final rule is based on the data obtained in the agency's testing, data submitted in the comments, and data obtained from other pertinent documents and test reports. Significant comments submitted to the docket are addressed below.

Infant Test Dummy

The infant test dummy is based on a simple design representing the dimensions and mass distribution characteristics of a 6-month-old child. The test dummy is used to assess the ability of infant restraints to retain their occupants and maintain their structural integrity during dynamic testing. Because of its construction, the dummy cannot be instrumented to measure the forces that would be exerted upon an infant in a crash. NHTSA's tests have shown the infant dummy will reliably and consistently represent the dynamics of an infant during simulated impact tests.

GM, the only party to comment on the specification for the infant test dummy, reported that it had "no significant problem in building or verifying the compliance of the dummy to the proposed specification." To improve the durability of the test dummy, GM recommended adding a wooden form to the head to maintain its geometry and using steel instead of lead for ballast in the test dummy. Since these recommendations should not affect the dummy's performance and should increase its durability, NHTSA has adapted a modified version of the proposed changes. The changes add a plastic form to the dummy's head, since a plastic form is easier to manufacture and duplicate than a wooden form. In addition, a portion of the ballast materials are now required to be steel and aluminum.

The revised design drawings and a construction manual for the infant dummy are available for examination in the NHTSA docket section, which is open from 7:45 a.m. to 4:15 p.m., Monday through Friday. Copies of these documents can be obtained from: Keuffel and Esser Co., 1512 North

Danville Street, Arlington, Virginia 22201.

3-Year-Old Child Test Dummy

The test dummy representing a 3-year-old child is based on the Alderson Model VIP-3C test dummy. It was chosen over the other available test dummies representing a 3-year-old child, such as the Sierra 492-03 test dummy, because it has more complete design details, can adequately withstand the test load imposed during impact testing, has more accurate anthropometry and mass distribution, can be easily instrumented for testing, more closely simulates the responses of a child during impact testing and has more consistent head and chest acceleration measurements during impact testing.

As with the infant test dummy, the final rule establishes a complete set of design specifications for the 3-year-old test dummy. For the 3-year-old test dummy, NHTSA has provided: a drawing package containing all of the technical details of the dummy parts and the stages of dummy manufacture; a set of master patterns for all molded and cast parts of the dummy; and a maintenance manual containing instructions for the assembly, disassembly, use, adjustment and maintenance of the dummy. These materials will ensure that manufacturers can accurately and consistently produce the test dummy.

The drawings and the maintenance manual for the 3-year-old test dummy are available for examination at the agency's desk set section. Copies of these drawings and the maintenance manual can be obtained from the Keuffel and Esser, Co., 1512 North Danville Street, Arlington, Va. 22201. In addition, patterns for all the cast and molded parts are available on a loan basis from the agency's Office of Vehicle Safety Standards, at the address given at the beginning of this notice.

Calibration Requirements

Unlike the infant test dummy, the 3-year-old child test dummy can be instrumented with accelerometers to measure the forces imposed on the dummy during an impact. Thus, in Standard No. 213, *Child Restraint Systems*, the 3-year-old test dummy is used to measure the amount of head and knee excursion and the magnitude of head and chest acceleration allowed by the child restraint.

Since a test dummy is a complex instrument required to measure important parameters, it is essential that the test dummy be properly calibrated to ensure accurate and repeatable results. NHTSA has developed detailed test

dummy specifications and instrumentation requirements to ensure that the test dummies are as much as possible identically constructed and identically instrumented. The agency also developed calibration performance requirements that the test dummy must meet in dynamic and static tests. The calibration tests will determine whether the test dummies are uniformly constructed and properly instrumented.

In its comments, GM reported that it was unable to calibrate its 3-year-old test dummies. As mentioned previously, NHTSA loaned GM one of the agency's test dummies for the purpose of resolving the reported calibration problem. Using the NHTSA test dummy equipped with NHTSA's accelerometers, GM was able to meet the peak resultant acceleration requirements set for the dummy's head in specified pendulum impact tests, but was not able to meet the lateral acceleration requirement. When the same dummy was tested with GM's accelerometers, the dummy did not meet any of the head acceleration performance requirements. In the case of the chest calibration performance requirements, the accelerations measured by GM test dummies and the NHTSA test dummy, using both GM's and NHTSA's accelerometers, were within the range set for peak resultant and lateral acceleration.

GM also said that because the agency did not define the term "unimodal" it was not certain that the acceleration measurements that it made complied with the requirement that the acceleration-time curves for the head and chest impacts be unimodal. To clarify the requirement, NHTSA has defined unimodal in the final rule to mean an acceleration curve that only has one prominent peak and has specified that the measured acceleration-time curve during the head and chest impact testing need only be unimodal during a short time period when the accelerations are above a specified level.

GM attributed the calibration problem to resonances in the head and chest of the test dummies. (A resonance is a vibrational state that can magnify the accelerations imposed on the test dummy and thus prevent the accurate measurement of those accelerations.) GM said that because of the possible inaccurate measurements caused by the resonances, the test dummy cannot be used as an objective tool for assessing the performance of child restraint systems.

The calibration testing done for the agency indicates that the acceleration responses for the head and chest pendulum impacts include a limited

amount of vibration. Such responses exist to some extent in any acceleration measuring device and are also found in similar pendulum impact tests of the Part 572 adult test dummy. However, dynamic sled tests of child test dummies in child restraint systems have demonstrated that the test dummies produce very repeatable results and do not show the vibrations found in the more severe pendulum impact tests. The agency's calibration tests also show that the test dummies produce very repeatable results. Even in GM tests of its three test dummies equipped with GM's instrumentation, the test dummies produced repeatable results. Such repeatability could not be obtained with resonating systems. Based on a review of GM's and the agency's test data, NHTSA concludes that the GM calibration failures are not attributable to resonances, but are very likely due to the differences, discussed below, in the mounting of the accelerometers in the GM test dummies.

NHTSA recognizes that because of different instrumentation and test procedures, different test facilities may obtain different results in what are essentially the same tests. To reduce such differences, NHTSA proposed requirements to standardize the test and instrumentation procedures. In calibration tests conducted at Calspan Corporation the measurements of the peak resultant head accelerations and the lateral head acceleration were found to be close to the upper limits of the tentative head calibration requirements (112 g peak resultant acceleration and 5 g lateral acceleration) proposed by the agency. To further accommodate expected differences between different testing facilities, NHTSA has decided to broaden the head acceleration calibration requirements for peak resultant head acceleration to 115 g's and for lateral acceleration to 7 g's.

Instrumentation

Based on a review of GM's and the agency's test data, NHTSA concludes that one of the significant differences between NHTSA's and GM's test dummy is the manner in which the accelerometer mounting plate is attached to the head of the test dummy. Finding what it thought was an incompatibility between the angle of the accelerometer mounting plate bolt and the angle of the surface of the plate that attaches to the dummy's head, GM changed the angle of the surface in its test dummies. However, NHTSA specified the difference in the two angles for an important reason. Having a difference in the angles allows for a firmer attachment of the accelerometer

mounting plate to the dummy. The difference in the firmness of the attachment of the accelerometer mounting plate may account for the additional acceleration that occurred in the head calibration tests of the GM test dummies.

GM also asked the agency to set a torque specification for the accelerometer mounting plate bolt. In response to GM's request, the agency has added a torque specification of 10 ft. lbs. to the specifications set out in the maintenance manual for the test dummy.

GM said that another possible source of the difference between the measurements it obtained with its own test dummies and the measurements it made with the NHTSA test dummies could be due to differences in the type and location of the accelerometers in the test dummies. GM noted that the specifications proposed in the rule allow the use of different types of accelerometers by allowing a number of different accelerometer placements within the test dummy.

As explained below, testing done for the agency has shown that the use of different types of accelerometers within the permissible locations does not prevent the test dummy from producing accurate and repeatable results. However, to further reduce the possibility of test differences due to accelerometer placement, the agency has more specifically defined several of the permissible accelerometer mounting locations.

Testing done for the agency at two different facilities to develop the calibration requirements used two types of accelerometers and different accelerometer locations. That testing produced no appreciable differences in test results and showed that different facilities could obtain repeatable results, when the accelerometers are properly mounted.

The agency's test experience with the adult test dummy also shows that minor differences in accelerometer mounting locations do not affect the ability of the test dummy to produce similar and repeatable results. The number of permissible accelerometer locations allowed for the adult test dummy is in some cases larger than the number permitted in the child test dummy. Yet no significant differences in test results for the adult test dummy have been encountered due to accelerometer location.

GM's own test data also indicate that use of different types of properly mounted accelerometers and different mounting locations produces only minor variations in the measurements. GM

tested NHTSA's test dummy using two types of accelerometers mounted at different locations within the prescribed tolerances. The average measured acceleration in the chest impact tests varied by only 4 percent between the two types of accelerometers. It was only when GM used the improperly installed accelerometer mounting block in the head impact tests, discussed above, that GM obtained a 14 percent difference in measured accelerations within the NHTSA dummy using two types of accelerometers.

Calibration Procedures

GM also raised questions about the procedures for conducting the chest and head calibration tests. GM said that the sequence of procedures for positioning the dummy for the chest pendulum impact test was ambiguous since it called for the test dummy to be adjusted so that the area on the chest of the dummy immediately adjacent to the impact point is vertical. However, that surface of the dummy is curved and has variable radii. GM also pointed out that when the dummy is moved to the more vertical position, the area that a pendulum strikes the dummy also moves so that the portion of the test dummy's chest which is too rigid might be impacted. NHTSA has changed the dummy's positioning procedures so that a plane tangent to the surface of the chest immediately adjacent to the designated impact area is vertical. The positioning of the pendulum is also changed to ensure that the pendulum consistently strikes the chest at the designated point on the chest.

GM also raised questions about the positioning of the pendulum for the head calibration impact tests. The proposed requirement specified that the impact point for the pendulum was to be measured relative to the top of the dummy's head. GM said that because of differences in the thickness and shape of the dummy's skin, the location of the impact point can vary. GM recommended determining the impact point relative to the head center of gravity reference pins which protrude through the test dummy's skin.

NHTSA has evaluated GM's proposed head impact positioning procedure and decided to adopt a modified version of it. A measurement made from the head center of gravity pins will be used to determine the head impact point to ensure that all test dummies will be struck in the same location during the head impact tests.

GM said that the lumbar spine calibration test was ambiguous because it did not specify either the direction in which the force was to be applied to the

lumbar spine or the location on the spine which is to be used to define the direction of force application. GM also pointed out that the procedures erroneously set requirements for femur friction plungers which are not included in the 3-year-old test dummy. NHTSA has corrected the test procedures to specify the direction of force application and deleted the reference to friction plungers.

GM also criticized ambiguities in the specification for the amount of chest deflection. NHTSA has reevaluated the need for a chest deflection specification and has decided to eliminate the requirement, since the chest acceleration test should serve as an adequate calibration test of the dummy's chest.

Repeatability

Ford, GM and the Motor Vehicle Manufacturers Association (MVMA) raised questions about the ability of the 3-year-old test dummy to give repeatable results in crash testing. MVMA proposed that the agency conduct another series of tests to determine the amounts of variances in test results between the same dummy in several tests and between different dummies in the same tests.

MVMA and Ford also recommended that the additional testing also include testing of the proposed Economic Commission for Europe (ECE) test dummy to determine if it would be an objective test device. The agency has not conducted an evaluation of the ECE test dummy since there are no calibration requirements for that test dummy. Without calibration requirements, there is no means to ensure the accuracy of the measurements obtained by the test dummy and therefore it cannot be used as an objective test device.

The agency has already conducted three separate research programs to evaluate the 3-year-old test dummy as an objective test device. As explained below, those programs have shown that the test dummy is an objective device that produces repeatable test results.

During 1977-78, the agency had simultaneous research programs conducted at the University of Michigan's Highway Safety Research Institute and NHTSA's Vehicle Research and Test Center in East Liberty, Ohio to develop and evaluate the calibration performance requirements and test procedures for the 3-year-old test dummy. Four of the 3-year-old test dummies were used in the testing program. Two of the dummies were tested by one laboratory and the other two were tested by the other laboratory.

Then the two sets of test dummies were exchanged by the laboratories and subjected to the same calibration tests. By setting up the research program in this manner, the agency was able to determine if the test procedures and calibration performance requirements were repeatable from test dummy to test dummy and from test laboratory to test laboratory. The test results from both research programs showed that the calibration test procedures and performance requirements produced repeatable results.

The repeatability of the test dummy was reaffirmed in further testing conducted between June 1978 and July 1979 at Calspan Corporation. In that research program four of the 3-year-old test dummies were used with two different types of child restraints—one shield type (Chrysler Mopar) and one plastic shell with integral harness type (GM Love Seat). Each of the four test dummies was subjected to six sled tests at 30 mph in both types of child restraints. The harness type restraint was also subjected to 3 sled tests at 20 mph with the top tether strap unattached.

To determine the repeatability of the test dummies, the head and chest accelerations and the amounts of head and knee excursion experienced by the test dummies were analyzed. That analysis showed that the amount of deviation measured by the same dummy in the different tests was small and similar in nature to the results obtained with Part 572 test dummies representing adults, which have been established as objective test devices.

In addition to examining the results obtained for the same dummy in different tests, the research program also examined the results for each of the four 3-year-old dummies in the same test. Based on previous testing of test dummies representing adults, it was determined that if the absolute deviation of the observed test results for each performance criteria, such as head acceleration, was less than six percent from the mean results, then the dummies had sufficient repeatability. In all but one of the test results, the deviation from the mean was less than six percent. The single exception involved the amount of chest acceleration measured in the test dummies in the 20 mph tests of an untethered harness-type restraint. In that instance the deviation was only 7.7 percent. The reason for the variation in that test is probably due to the increased movement of the seat because the tether strap was unattached, rather than due to any variability in the test dummy.

Costs

The agency has considered the economic and other impacts of this final rule and determined that this rule is not significant within the meaning of Executive Order 12044 and the Department of Transportation's policies and procedures for implementing that order. The agency's assessment of the benefits and economic consequences of this final rule are contained in a regulatory evaluation which has been placed in the docket. Copies of that regulatory evaluation can be obtained by writing to NHTSA's docket section at the address given in the beginning of this notice.

The cost of the infant test dummy is estimated to be approximately \$1,000. The 3-year-old test dummy should cost approximately \$4,000. The materials used in the dummies are commercially obtainable. The availability of the test dummy drawing and other specifications means that any manufacturer can produce its own test dummy and does not have to purchase the test dummy from an independent test dummy manufacturer.

Strollee, a child restraint manufacturer, and the Juvenile Products Manufacturers Association asked the agency to reconsider the calibration requirements set for the 3-year-old dummy. They argued that the cost of calibrating the test dummy is approximately \$600 to \$1,100. Combined with the cost of the sled testing, each test of a car seat could cost approximately \$2,000-\$3,500. Such costs "would certainly discourage a manufacturer from testing frequently," Strollee said.

The calibration requirements set by this final rule are essential to ensure that the test dummy is an objective test device that will produce repeatable results in dynamic sled tests. So that the requirements would be practicable, the agency established the minimum number of calibration tests possible which would still ensure that the test dummy is properly constructed and properly instrumented. Each manufacturer, in the exercise of due care, must determine how frequently it will calibrate its test dummy and how frequently it will run tests to determine its child restraint's compliance with Standard No. 213.

In its own testing, the agency has used some test dummies in as many as 15 tests over a 2-3 week period without recalibrating them and has not found any difference in their performance. With other test dummies, the agency has found it necessary to recalibrate them after several tests. However, in its

compliance testing the agency will use properly calibrated dummies.

The principal authors of this notice are Vladislav Radovich, Office of Vehicle Safety Standards, and Stephen Oesch, Office of Chief Counsel.

In consideration of the foregoing, Part 572, *Anthropomorphic Test Dummies*, of Title 49 of the Code of Federal Regulations is amended as follows:

§ 572.4 Terminology

1. A new paragraph (c) is added to Part 572, Subpart A—General, § 572.4 Terminology (49 CFR 572.4) to read as follows:

(c) The term "unimodal", when used in Subpart C, refers to an acceleration-time curve which has only one prominent peak.

2. A new Subpart C—Three Year Old Child, is added to Part 572 (49 CFR 572) to read as follows:

Subpart C—3-Year-Old Child

Sec.
572.15 General description.
572.16 Head.
572.17 Neck.
572.18 Thorax.
572.19 Lumbar, spine, abdomen and pelvis.
572.20 Limbs.
572.21 Test conditions and instrumentation.

Subpart C—3-Year-Old Child

§ 572.15 General description.

(a)(1) The dummy consists of the component assemblies specified in drawing SA 103C 001, which are described in their entirety by means of approximately 122 drawings and specifications grouped by component assemblies under the following headings:

SA 103C 010 Head Assembly
SA 103C 020 Neck Assembly
SA 103C 030 Torso Assembly
SA 103C 041 Upper Arm Assembly Left
SA 103C 042 Upper Arm Assembly Right
SA 103C 051 Forearm Hand Assembly Left
SA 103C 052 Forearm Hand Assembly Right
SA 103C 061 Upper Leg Assembly Left
SA 103C 062 Upper Leg Assembly Right
SA 103C 071 Lower Leg Assembly Left
SA 103C 072 Lower Leg Assembly Right
SA 103C 081 Foot Assembly Left
SA 103C 082 Foot Assembly Right

The drawings and specifications are incorporated in this part by reference to the thirteen headings and are available for examination in Docket 78-09, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. Copies may be obtained from Keuffel & Esser Co., 1521 North Danville Street, Arlington, Va. 22201.

(2) The patterns of all cast and molded parts for reproduction of the

molds needed in manufacturing of the dummies are incorporated in this part by reference. A set of the patterns can be obtained on a loan basis by manufacturers of the test dummies, or others if need is shown, from the Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590.

(3) An Operation and Maintenance Manual with instructions for the use and maintenance of the test dummies dated May 28, 1976, Contract No. DOT-HS-6-01294 is incorporated in the part by reference. Copies of the manual can be obtained from the Keuffel & Esser Co. All provisions of this manual are valid unless modified by this regulation. This document is available for examination in Docket 78-09.

(4) The drawings, specifications and the manual are subject to changes, but any change will be accomplished by appropriate administrative procedures and announced by publication in the Federal Register and be available for examination and copying as indicated in this paragraph.

(5) The drawings, specifications, patterns, and manual are on file in the reference library of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C.

(b) Adjacent segments are joined in a manner such that throughout the range of motion and also under simulated crash-impact conditions, there is no contact between metallic elements except for contacts that exist under static conditions.

(c) The structural properties of the dummy are such that the dummy conforms to this part in every respect both before and after being used in tests specified by Standard No. 213, Child Restraint Systems (§ 571.213).

§ 572.16 Head.

(a) The head consists of the assembly shown in drawing SA 103C 001 by number SA 103C 010, and conforms to each of the drawings listed under this number on drawing SA 103C 002, sheet 8.

(b) When the head is impacted in accordance with paragraph (c) of this section by a test probe conforming to § 572.21(a) at 7 fps., the peak resultant accelerations measured at the location of the accelerometers mounted in the headform in accordance with § 572.21(b) shall be not less than 95g, and not more than 115g. The recorded acceleration-time curve for this test shall be unimodal at, or above the 50g level and shall lie at, or above that level for an interval not less than 2.0 and not more

than 3.0 milliseconds. The lateral acceleration vector shall not exceed 7g.

(c) *Test Procedure:*
(1) Seat the dummy on a seating surface having a back support as specified in § 572.21(h) and orient the dummy in accordance with § 572.21(h) and adjust the joints of the limbs at any setting between 1g and 2g, which just supports the limbs' weight when the limbs are extended horizontally forward.

(2) Adjust the test probe so that its longitudinal centerline is at the forehead at the point of orthogonal intersection of the head midsagittal plane and the transverse plane which is perpendicular to the "Z" axis of the head (longitudinal centerline of the skull anchor) and is located 0.6 ± 1.1 inches above the centers of the head center of gravity reference pins and coincides within 2 degrees with the line made by the intersection of horizontal and midsagittal planes passing through this point.

(3) Adjust the dummy so that the surface area on the forehead immediately adjacent to the projected longitudinal centerline of the test probe is vertical.

(4) Impact the head with the test probe so that at the moment of impact the probe's longitudinal centerline falls within 2 degrees of a horizontal line in the dummy's midsagittal plane.

(5) Guide the probe during impact so that it moves with no significant lateral, vertical, or rotational movement.

(6) Allow a time period of at least 20 minutes between successive tests of the head.

§ 572.17 Neck.

(a) The neck consists of the assembly shown in drawing SA 103C 001 as number SA 103C 020, and conforms to each of the drawings listed under this number on drawing SA 103C 002, sheet 9.

(b) When the head-neck assembly is tested in accordance with paragraph (c) of this section, the head shall rotate in reference to the pendulum's longitudinal centerline a total of 84 degrees ± 18 degrees about its center of gravity, rotating to the extent specified in the following table at each indicated point in time, measured from impact, with the chordal displacement measured at its center of gravity. The chordal displacement at time T is defined as the straight line distance between (1) the position relative to the pendulum arm of the head center of gravity at time zero, and (2) the position relative to the pendulum arm of the head center of gravity at time T as illustrated by figure 3. The peak resultant acceleration

recorded at the location of the accelerometers mounted in the headform in accordance with § 572.21(b) shall not exceed 30g. The pendulum shall not reverse direction until the head's center of gravity returns to the original zero time position relative to the pendulum arm.

Rotation (degrees)	Time (ms) $\pm (2 + .08T)$	Chordal displacement (inches ± 0.8)
0.....	0	0
30.....	21	2.2
60.....	36	4.3
Maximum.....	62	5.8
60.....	91	4.3
30.....	108	2.2
0.....	123	0

(c) Test Procedure:

(1) Mount the head and neck on a rigid pendulum as specified in Figure 4, so that the head's midsagittal plane is vertical and coincides with the plane of motion of the pendulum's longitudinal centerline. Mount the neck directly to the pendulum as shown in Figure 15.

(2) Release the pendulum and allow it to fall freely from a height such that the velocity at impact is 17.00 ± 1.0 feet per second (fps), measured at the center of the accelerometer specified in figure 4.

(3) Decelerate the pendulum to a stop with an acceleration-time pulse described as follows:

(i) Establish 5g and 20g levels on the a-t curve.

(ii) Establish t_1 at the point where the a-t curve first crosses the 5g level, t_2 at the point where the rising a-t curve first crosses the 20g level, t_3 at the point where the decaying a-t curve last crosses the 20g level, and t_4 at the point where the decaying a-t curve first crosses the 5g level.

(iii) $t_2 - t_1$, shall be not more than 4 milliseconds.

(iv) $t_3 - t_2$, shall be not less than 18 and not more than 21 milliseconds.

(v) $t_4 - t_3$, shall be not more than 5 milliseconds.

(vi) The average deceleration between t_2 and t_3 shall be not less than 20g and not more than 34g.

(4) Allow the neck to flex without contact of the head or neck with any object other than the pendulum arm.

(5) Allow a time period of at least 1 hour between successive tests of the head and neck.

§ 572.18 Thorax.

(a) The thorax consists of the part of the torso shown in assembly drawing SA 103C 001 by number SA 103C 030 and conforms to each of the applicable drawings listed under this number on drawing SA 103C 002, sheets 10 and 11.

(b) When impacted by a test probe conforming to § 572.21(a) at 13 fps. in accordance with paragraph (c) of this section, the peak resultant accelerations at the location of the accelerometers mounted in the chest cavity in accordance with § 572.21(c) shall be not less than 50g and not more than 70g. The acceleration-time curve for the test shall be unimodal at or above the 30g level and shall lie at or above the 30g level for an interval not less than 2.5 milliseconds and not more than 4.0 milliseconds. The lateral acceleration shall not exceed 5g.

(c) *Test Procedure:*

(1) With the dummy seated without back support on a surface as specified in § 572.21(h) and oriented as specified in § 572.21(h), adjust the dummy arms and legs until they are extended horizontally forward parallel to the midsagittal plane. The joints of the limbs are adjusted at any setting between 1g and 2g, which just supports the limbs' weight when the limbs are extended horizontally forward.

(2) Establish the impact point at the chest midsagittal plane so that it is 1.5 inches below the longitudinal centerline of the bolt that attaches the top of the ribcage sternum to the thoracic spine box.

(3) Adjust the dummy so that the tangent plane at the surface on the thorax immediately adjacent to the designated impact point is vertical and parallel to the face of the test probe.

(4) Place the longitudinal centerline of the test probe to coincide with the designated impact point and align the test probe so that at impact its longitudinal centerline coincides within 2 degrees with the line formed by intersection of the horizontal and midsagittal planes passing through the designated impact point.

(5) Impact the thorax with the test probe so that at the moment of impact the probe's longitudinal centerline falls within 2 degrees of a horizontal line in the dummy midsagittal plane.

(6) Guide the probe during impact so that it moves with no significant lateral, vertical or rotational movement.

(7) Allow a time period of at least 20 minutes between successive tests of the chest.

§ 572.19 Lumbar spine, abdomen and pelvis.

(a) The lumbar spine, abdomen, and pelvis consist of the part of the torso assembly shown by number SA 103C 030 on drawing SA 103C 001 and conform to each of the applicable drawings listed under this number on drawing SA 103C 002, sheets 10 and 11.

(b) When subjected to continuously applied force in accordance with

paragraph (c) of this section, the lumbar spine assembly shall flex by an amount that permits the rigid thoracic spine to rotate from its initial position in accordance with Figure 18 of this subpart by 40 degrees at a force level of not less than 34 pounds and not more than 47 pounds, and straighten upon removal of the force to within 5 degrees of its initial position.

(c) *Test Procedure:* (1) The dummy with lower legs removed is positioned in an upright seated position on a seat as indicated in Figure 18, ensuring that all dummy component surfaces are clean, dry and untreated unless otherwise specified.

(2) Attach the pelvis to the seating surface by a bolt C/328, modified as shown in Figure 18, and the upper legs at the knee axial rotation joints by the attachments shown in Figure 18. Tighten the mountings so that the pelvis-lumbar joining surface is horizontal and adjust the femur ball-flange screws at each hip socket joint to 50 inch pounds torque. Remove the head and the neck and install a cylindrical aluminum adapter 2.0 inches in diameter and 2.80 inches long in place of the neck.

(3) Flex the thorax forward 50 degrees and then rearward as necessary to return to its initial position in accordance with Figure 18 unsupported by external means.

(4) Apply a forward pull force in the midsagittal plane at the top of the neck adapter, so that at 40 degrees of the lumbar spine flexion the applied force is perpendicular to the thoracic spine box. Apply the force at any torso deflection rate between 0.5 and 1.5 degrees per second up to 40 degrees of flexion but no further; continue to apply for 10 seconds the force necessary to maintain 40 degrees of flexion, and record the highest applied force at that time. Release all force as rapidly as possible and measure the return angle 3 minutes after the release.

§ 572.20 Limbs.

The limbs consist of the assemblies shown on drawing SA 103C 001 as Nos. SA 103C 041, SA 103C 042, SA 103C 051, SA 103C 052, SA 103C 061, SA 103C 062, SA 103C 071, SA 103C 072, SA 103C 081, SA 103C 082, and conform to each of the applicable drawings listed under their respective numbers of the drawing SA 103C 002, sheets 12 through 21.

§ 572.21 Test conditions and instrumentation.

(a) The test probe used for head and thoracic impact tests is a cylinder 3 inches in diameter, 13.8 inches long and weights 10 lbs., 6 ozs. Its impacting end

has a flat right face that is rigid and that has an edge radius of 0.5 inches.

(b) Accelerometers are mounted in the head on the mounting block (A/310) located on the horizontal transverse bulkhead shown in the drawings subreferenced under assembly SA 103C 010 so that their sensitive axes are orthogonal and their seismic masses are positioned relative to the axial intersection point. Except in the case of tri-axial accelerometers, the sensitive axes shall intersect at the axial intersection point located at the intersection of a line connecting the longitudinal centerlines of the transfer pins in the sides of the dummy head with the midsagittal plane of the dummy head. One accelerometer is aligned with its sensitive axis parallel to the vertical bulkhead and midsagittal plane, and with its seismic mass center at the midsagittal plane at any distance up to 0.3 inches dorsal and 0.1 inches inferior to the axial intersection point. Another accelerometer is aligned with its sensitive axis in the horizontal plane and perpendicular to the midsagittal plane, and with its seismic mass center at any distance up to 0.2 inches inferior to, 0.4 inches to the right of, and 1 inch dorsal to the axial intersection point (right side of dummy is the same as that of child). A third accelerometer is aligned with its sensitive axis parallel to the midsagittal and horizontal planes, and with its seismic mass center at any distance up to 0.2 inches inferior to, 0.6 inches dorsal to, and 0.4 inches to the right of the axial intersection point. In the case of a tri-axial accelerometer, its axes are aligned in the same way that the axes of three separate accelerometers are aligned.

(c) Accelerometers are mounted in the thorax on the mounting plate attached to the vertical transverse bulkhead shown in the drawings subreferenced under assembly No. SA 103C 030 in drawing SA 103C 001 so that their sensitive axes are orthogonal and their seismic masses are positioned relative to the axial intersection point located in the midsagittal plane 3 inches above the top surface of the lumbar spine and 0.3 inches dorsal to the accelerometer mounting plate surface. Except in the case of tri-axial accelerometers, the sensitive axes shall intersect at the axial intersection point. One accelerometer is aligned with its sensitive axis parallel to the vertical bulkhead and mid-sagittal planes, and with its seismic mass center at any distance up to 0.2 inches to the right, 0.2 inches inferior and 0.1 inches ventral of the axial intersection point. Another accelerometer is aligned with its sensitive axis in the horizontal

transverse plane and perpendicular to the mid-sagittal plane and with its seismic mass center at any distance up to 0.3 inches to the left, 0.2 inches inferior and 0.2 inches ventral to the axial intersection point. A third accelerometer is aligned with its sensitive axis parallel to the midsagittal and horizontal planes and with its seismic mass center at any distance up to 0.3 inches superior, 0.6 inches to the right and 0.1 inches ventral to the axial intersection point. In the case of a tri-axial accelerometer, its axes are aligned in the same way that the axes of three separate accelerometers are aligned.

(d) The outputs of accelerometers installed in the dummy, and of test apparatus specified by this part, are recorded in individual data channels that conform to the requirements of SAE Recommended Practice J211a, December 1971, with channel classes as follows:

- (1) Head acceleration—Class 1000.
- (2) Pendulum acceleration—Class 60.
- (3) Thorax acceleration—Class 180.

(e) The mountings for accelerometers have no resonance frequency less than cut-off 3 times the cut-off frequency of the applicable channel class.

(f) Limb joints are set at the force between 1-2g, which just supports the limbs' weight when the limbs are extended horizontally forward. The force required to move a limb segment does not exceed 2g throughout the range of limb motion.

(g) Performance tests are conducted at any temperature from 66° F to 78° F and at any relative humidity from 10 percent to 70 percent after exposure of the dummy to these conditions for a period of not less than 4 hours.

(h) For the performance tests specified in §§ 572.16, 572.18, and 572.19, the dummy is positioned in accordance with Figures 16, 17, and 18 as follows:

(1) The dummy is placed on a flat, rigid, clean, dry, horizontal surface of teflon sheeting with a smoothness of 40 microinches and whose length and width dimensions are not less than 16 inches, so that the dummy's midsagittal plane is vertical and centered on the test surface. For head tests, the seat has a vertical back support whose top is 12.4±0.2 inches above the seating surface. The rear surfaces of the dummy's shoulders and buttocks are touching the back support as shown in Figure 16. For thorax and lumbar spine tests, the seating surface is without the back support as shown in Figures 17 and 18, respectively.

(2) The shoulder yokes are adjusted so that they are at the midpoint of their anterior-posterior travel with their upper surfaces horizontal.

(3) The dummy is adjusted for head impact and lumbar flexion tests so that the rear surfaces of the shoulders and buttocks are tangent to a transverse vertical plane.

(4) The arms and legs are positioned so that their centerlines are in planes parallel to the midsagittal plane.

(i) The dummy's dimensions are specified in drawings No. SA 103C 002, sheets 22 through 26.

(j) Performance tests of the same component, segment, assembly or fully assembled dummy are separated in time by a period of not less than 20 minutes unless otherwise specified.

(k) Surfaces of the dummy components are not painted except as specified in this part or in drawings subtended by this part.

3. A new Subpart D—Six Month Old Infant is added to Part 572 (49 CFR 572) to read as follows:

Subpart D—6-Month-Old Infant

Sec.
572.25 General description.

Subpart D—6-Month-Old Infant

§ 572.25 General Description.

(a) The infant dummy is specified in its entirety by means of 5 drawings (No. SA 1001 001) and a construction manual which describe in detail the materials and the procedures involved in the manufacturing of this dummy.

The drawings and the manual are incorporated in this part by reference and are available for examination in Docket 78-09, Room 5108, 400 Seventh Street SW., Washington, D.C. Copies may be obtained from Keuffel & Esser Co., 1512 North Danville Street, Arlington, Va. 22201. The drawings and the manual are subject to changes, but any change will be accomplished by appropriate administrative procedures and announced by publication in the *Federal Register* and be available for examination and copying as indicated in this paragraph. The drawings and manual are on file in the reference library of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C.

(b) The structural properties and dimensions of the dummy are such that the dummy conforms to this part in every respect, both before and after being used in tests specified by Standard No. 213 (571.213).

BILLING CODE 4910-59-M

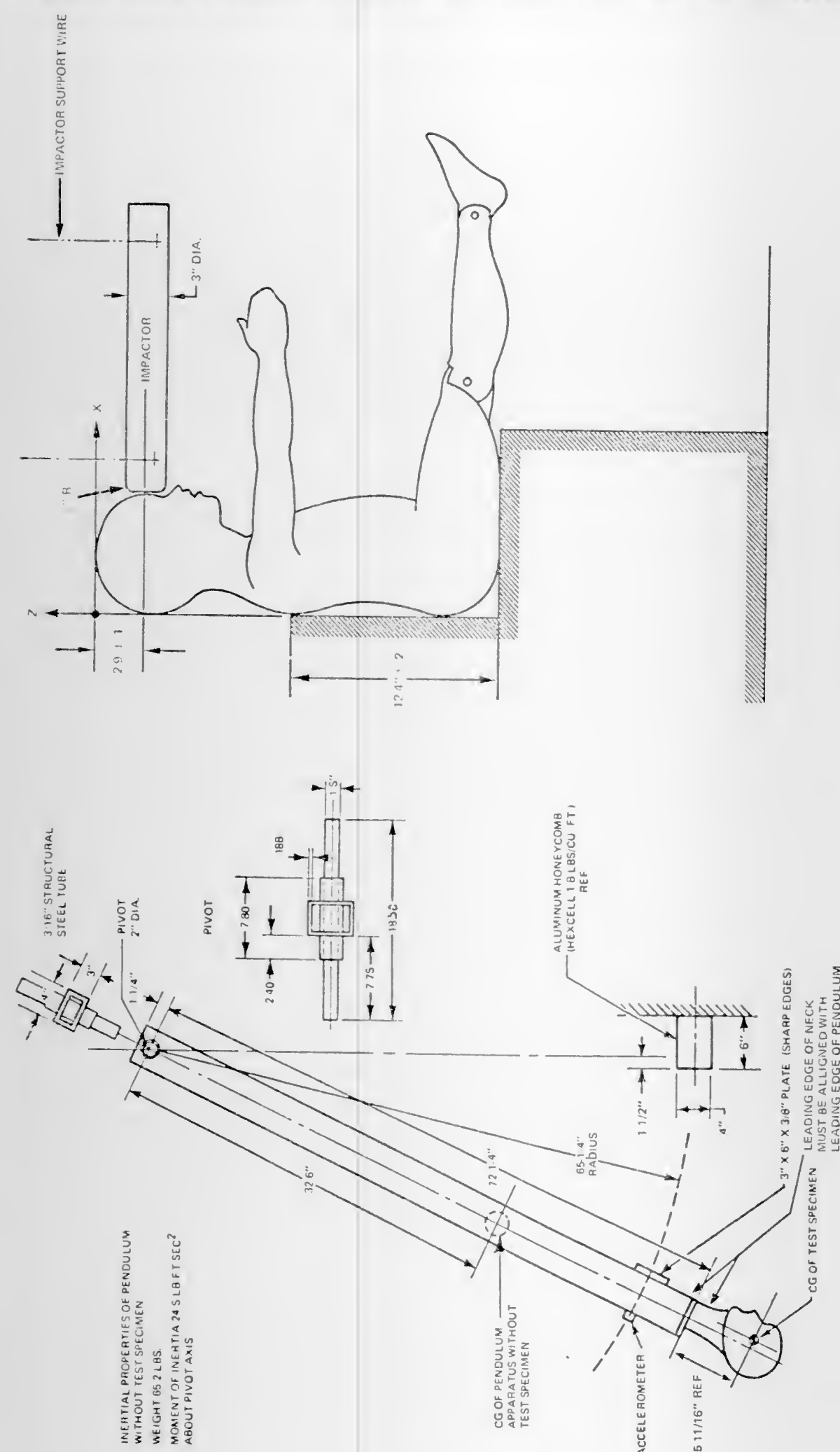


FIGURE NO. 16
HEAD IMPACT TEST

FIGURE NO. 15
NECK COMPONENT TEST

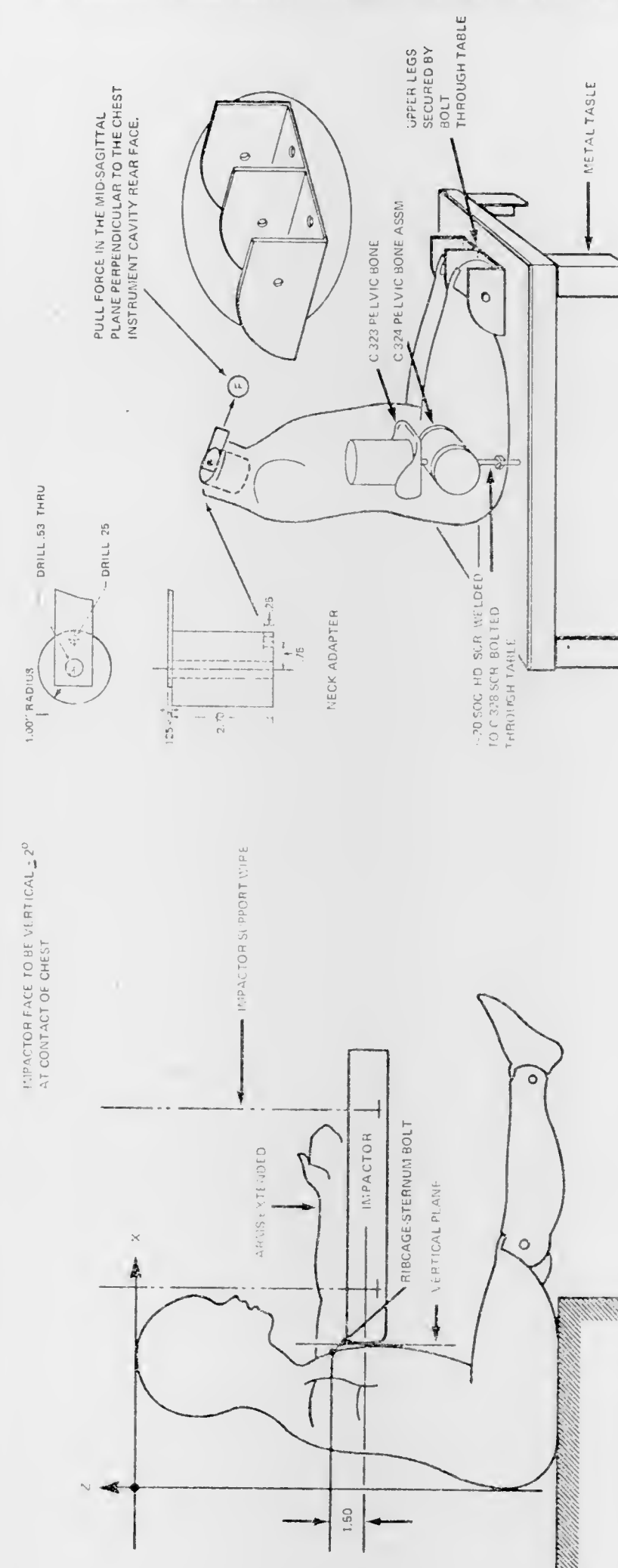


FIGURE NO. 18

FIGURE NO. 17
CHEST IMPACT TEST

BILLING CODE 4910-59-C

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 [15 U.S.C. 1392, 1407]; delegation of authority at 49 CFR 1.50)

Issued on December 20, 1979.

Joan Claybrook,
Administrator,

[FR Doc. 79-39483 Filed 12-20-79; 4:05 pm]
BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

50 CFR Part 351

Whaling

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Section 916k of the Whaling Convention Act, 16 U.S.C. 916, *et seq.*, requires that the Secretary of Commerce publish the Schedule of the International Convention for the Regulation of Whaling, 1946, in the Federal Register, in order for it to "become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations * * *." This final rule consists of the most recent amendments to the Schedule of the International Convention for the Regulation of Whaling.

EFFECTIVE DATE: The amendments to the Schedule become effective on December 27, 1979.

FOR FURTHER INFORMATION CONTACT:
Dr. William Aron, Director, Office of
Marine Mammals and Endangered
Species, National Marine Fisheries
Service, 3300 Whitehaven Street, N.W.,
Washington, D.C. 20235. Telephone: 202-
634-7287.

SUPPLEMENTARY INFORMATION: At its 31st Annual Meeting in London, held July 9-13, 1979, the International Whaling Commission agreed to amend the Schedule for the Southern Hemisphere 1979/80 pelagic season and 1980 coastal season, and for the Northern Hemisphere 1980 season. The United States received official notice of the amendments on July 25, 1979. By the terms of the Convention, these amendments became effective on October 24, 1979. This publication sets forth all amendments to the Schedule which were adopted at the 31st Annual Meeting.

Regulations under the Whaling Convention Act relating to the 1980 harvest of bowhead whales by Alaskan

Natives will be published at a later date and will appear in 50 CFR Part 230.

Dated: December 17, 1979.

Terry L. Leitzell,
Assistant Administrator for Fisheries.

50 CFR Part 351 is amended as follows:

1. Subpart C is amended by adding § 351.30 which shall read as follows:

§ 351.30 Indian Ocean sanctuary.

In accordance with Article V1(c) of the International Convention for the Regulation of Whaling, 1946, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Indian Ocean Sanctuary. This comprises the waters of the Northern Hemisphere from the coast of Africa to 100°E, including the Red and Arabian Seas and the Gulf of Oman; and the waters of the Southern Hemisphere in the sector from 20°E to 130°E, with the Southern boundary set at 55°S. This prohibition applies irrespective of the classifications of baleen or toothed whale stocks in the Sanctuary, as may from time to time be determined by the Commission. This prohibition will apply for 10 years, with the provision for a general review after five years, unless the Commission decides otherwise.

§ 351.34 [Amended]

2. Amend the first sentence of § 351.34, paragraph (a)(1)(iii) by deleting "1978/79" and inserting "1979/80" and by deleting "1979" in both places where it appears and inserting "1980."

3. Add new subparagraph (4) under paragraph (a) of § 351.34 to read as follows:

(4) Notwithstanding the other provisions of section 351.34, there shall be a moratorium on the taking, killing, or treating of whales, excluding minke whales, by factory ships or whale catchers attached to factory ships.

4. Tables one and two are revised as follows:

BILLING CODE 3510-22-M

SOUTHERN HEMISPHERE - 1970/80 pelagic season and 1980 coastal season

TABLE 1. BALDWIN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

AREA	LONGITUDES	Classi- Catch Classi- Catch Classi- Catch				RIGHT				
		fication	Unit	fication	Unit	fication	Unit	fication	Unit	
I	120°W-60°W	PS	0	1058	SMS	264	PS	0	PS	PS
II	60°W-0°	PS	0	1730	IMS	1881	PS	0	PS	PS
III	0°-70°E	PS	0	2118	IMS	0 ²	PS	0	PS	PS
IV	70°E-130°E	PS	0	3041	IMS	0 ²	PS	0	PS	PS
V	130°E-170°W	PS	0	1434	IMS	0 ²	PS	0	PS	PS
VI	170°W-120°W	PS	0	267	IMS	0 ²	PS	0	PS	PS
Total catch not to exceed				8102		264				
NORTHERN HEMISPHERE - 1980 season										
ARCTIC										
NORTH PACIFIC										
Whole region		PS	0	421 ¹			PS	0	PS	PS
Okhotsk Sea-West Pacific Stock				SMS	240 ¹					
Sea of Japan Stock				SMS	240 ¹					
Remainder				IMS	0 ²					
Eastern Stock					IMS	0 ²				
Western Stock					IMS	460				
East China Sea					SMS	12				
NORTH ATLANTIC										
Whole region					IMS	0 ²				
West Greenland Stock				SMS	285					
Newfoundland-Labrador Stock										
Canadian East Coast Stock				SMS	40					
Nova Scotia Stock										
East Greenland-Iceland Stock		PS	0	SMS	320					
East Greenland-Iceland Stock										
Iceland-Denmark Strait Stock										
Spain-Portugal-British Isles Stock		SMS	100 ²							
Swabard-Norway-British Isles Stock										
West Norway-Faroe Islands Stock				SMS	1790					
North Norway Stock										
NORTHERN INDIAN OCEAN										
Whole region					IMS	0 ²				

1. Provisionally listed as IWS for 1980.
2. Pending a satisfactory estimate of stock size.
3. The total catch of minke whales shall not exceed 1670 in the five years 1980 to 1984 inclusive.
4. The total catch of minke whales shall not exceed 3634 in the five years 1985 to 1989 inclusive.
5. Available to be taken by aborigines or a Contracting Government on behalf of aborigines pursuant to paragraph 12, but not for commercial purposes.
6. Pending analysis of available and new data.
7. Provisionally listed as SNS for 1980, pending the accumulation of sufficient information for classification.
8. The total catch of fin whales shall not exceed 1524 in the six years 1977 to 1992 inclusive.
9. The total catch of sei whales shall not exceed 504 in the six years 1980 to 1985 inclusive.
10. Provisionally listed as SNS for 1980.

TABLE 2. TOOTHED WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

Southern Hemisphere 1979/80 pelagic season and 1980 coastal season

Divisions	Longitudes	SPERM		BOTTLENOSE	
		Classi- fication	Catch limit	Classi- fication	Catch limit
1	60°W - 30°W	SMS ¹	30	-	-
2	30°W - 20°E	-	0	-	-
3	20°E - 60°E	-	0	-	-
4	60°E - 90°E	-	0	-	-
5	90°E - 130°E	-	0	-	-
6	130°E - 160°E	-	0	-	-
7	160°E - 170°W	-	0	-	-
8	170°W - 100°W	-	0	-	-
9	100°W - 60°W	SMS ¹	550 ²	-	-

Northern Hemisphere - 1980 season

NORTH PACIFIC					
Western Division	males	SMS ¹	1350 ³	-	-
	females	-	0	-	-
Eastern Division	males	-	0	-	-
	females	-	0	-	-
NORTH ATLANTIC					
		SMS ¹	273	PS ⁴	0
NORTHERN INDIAN OCEAN					
		-	0		

- 1 Provisionally listed as SMS for 1980.
- 2 The catch in 1980 shall not exceed 550 or 50% of the 1978 catch and the catch in 1981 shall not exceed 300 or 25% of the 1978 catch, whichever is the lower in each year. The catch in 1982 shall be zero.
- 3 Included within this figure there may be a by-catch of females not to exceed 11.5% and all whaling operations for this species are to cease when the by-catch is reached.
- 4 Provisionally listed as PS for 1980, pending the accumulation of sufficient information for classification.

BILLING CODE 3510-22-C

5. Section 351.35 is revised.

§ 351.35 Catch limits for Baleen Whales.

(a) The number of baleen whales taken during the open season in the Southern Hemisphere by factory ships, land stations or whale catchers attached thereto under the jurisdiction of the Contracting Governments shall not exceed 8,100 minke whales and 264 Bryde's whales in the 1979/80 pelagic season and the 1980 coastal season. The total catches taken in any of the areas I-VI shall not exceed the limits shown in Table 1. However, in no circumstances shall the sum of the Area catches exceed the total quotas for each species.

(b) The number of baleen whales taken in the North Pacific Ocean and dependent waters in 1980 and in the North Atlantic Ocean in 1980 shall not exceed the limits shown in Table 1.

6. Paragraph (a) of § 351.36 is amended by deleting subparagraph (1) and revising and renumbering subparagraphs (2) and (3).

§ 351.36 Limitations on the taking of humpback, gray, and bowhead whales.

(a) * * *

(1) In 1980, hunting shall cease when either 28 have been struck or 18 landed.

(2) It is forbidden to strike, take, or kill calves or any bowhead whale accompanied by a calf.

* * *

7. Section 351.38 is revised.

§ 351.38 Catch limits for sperm whales.

(a) The number of sperm whales taken in the Southern Hemisphere in the 1979/80 pelagic season and the 1980 coastal season shall not exceed 580. The total catch in any of the Divisions 1-9 shall not exceed the limits shown in Table 2.

(b) The number of sperm whales taken in the North Pacific Ocean and dependent waters in 1980 and in the North Atlantic in 1980 shall not exceed the limits shown in Table 2.

8. The last clause of § 351.51(a) is revised.

§ 351.51 Processing of whales.

(a) * * * in contravention of §§ 351.21, 351.22, 351.30, 351.31, 351.35, 351.38 of this Part.

§ 351.72 [Amended]

9. Section 351.72 is amended as follows: Delete the words "Bryde's and".

10. Add new § 351.75 and renumber present § 351.75 as § 351.76. New § 351.75 reads as follows:

§ 351.75 Review of scientific permits.

(a) A Contracting Government shall provide the Secretariat with proposed scientific permits before they are issued

and in sufficient time to allow the Scientific Committee to review and comment on them. The proposed permits should specify:

- (1) Objectives of the research;
- (2) Number, sex, size, and stock of the animals to be taken;
- (3) Opportunities for participation in the research by scientists of other nations; and
- (4) Possible effect on conservation of the stock.

(b) Proposed permits shall be reviewed and commented on by the Scientific Committee at annual meetings when possible. When permits will be granted prior to the next annual meeting, the Secretary shall send the proposed permits to members of the Scientific Committee by mail for their comment and review. Preliminary results of any research resulting from the permits should be made available at the next annual meeting of the Scientific Committee.

[FR Dec. 29-30384 Filed 12-20-79; 9:45 am]
BILLING CODE 3510-22-M

50 CFR Part 611

Amendments to Preliminary Fishery Management Plans and Final Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to the Preliminary Fishery Management Plans; Final Regulations.

SUMMARY: Amendments to the following preliminary fishery management plans (PMP's) are approved: (1) Hake Fisheries of the Northwestern Atlantic; (2) Foreign Trawl Fisheries of the Northwestern Atlantic; (3) Mackerel Fishery of the Northwestern Atlantic; (4) Seamount Groundfish Fishery Resources of the Western Pacific; and (5) Bering Sea Snails. The amendments and regulatory changes, though minor, are necessary to authorize fishing by vessels of foreign nations during the 1980 fishing year. They change the effective dates of the PMP's and, in some cases, modify the total allowable levels of foreign fishing (TALFF's). In addition, the vessel day limitation in the seamount groundfish PMP is eliminated.

DATES: The amendments and implementing regulations are effective January 1, 1980, and continue in effect until modified or amended. Comments are invited until January 16, 1980.

ADDRESS: Requests for further information should be addressed to: Denton R. Moore, Acting Chief, Permits

and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: 202-634-7432.

FOR FURTHER INFORMATION CONTACT: Same as above.

SUPPLEMENTARY INFORMATION: Only minor changes are required for the PMP's and implementing regulations for calendar year 1980. Those changes include revised statements of optimum yield (OY), domestic annual harvest (DAH), reserves, and total allowable level of foreign fishing (TALFF). One amendment eliminates the vessel-day limitation in the Pacific seamount groundfish fishery.

The revised statements of OY, Reserve, TALFF, and specification of joint venture processing (JVP) for all PMP's covered by this action are summarized, where available, in Appendix 1 to 50 CFR 611.20. This table will be amended from time to time during the fishing year as new species are added, or as appropriate adjustments are made to specific allocations among domestic fishermen, reserves, and foreign fishermen. To avoid confusion, all tables reflecting OY's, DAH's, and TALFF's for these five PMP's presently found in the text of Part 611 are deleted and incorporated in Appendix 1. The OY, reserve and TALFF for Tanner crab are also specified in Appendix 1 of Part 611.20, and appropriate changes are made in Part 611.

Five PMP's are involved in this action. They are (1) Hake Fisheries of the Northwestern Atlantic; (2) Foreign Trawl Fisheries of the Northwestern Atlantic; (3) Mackerel Fishery of the Northwestern Atlantic; (4) Seamount Groundfish Fishery Resources of the Western Pacific; and (5) Bering Sea Snails. Each of these PMP's is discussed in detail below.

(1) Hake Fisheries of the Northwest Atlantic.

The PMP, originally published February 18, 1977, (42 FR 10146) and amended on November 2, 1978 (43 FR 51054), established OY, DAH and TALFF for the Georges Bank and Southern New England/Mid-Atlantic stocks of silver and red hake. The 1979 amendment, as implemented through Foreign Fishing Regulations published on December 19, 1978 (43 FR 59292), provided for a 1979 TALFF for hake as follows:

Species	TALFF (metric tons)
Silver Hake	82,200
Red Hake	26,400

Changes in OY

The changes in OY's are based on the latest scientific information resulting from the February 1979 assessment of the hake stocks (Northeast Fisheries Center Laboratory Reference No. 79-41).

1. Silver Hake.

A. The spawning stock of Georges Bank silver hake has improved in recent years, but the 1979 spawning stock size of 202,000 mt is well below the 1963 high level of 595,000 mt. The production of young silver hake has declined since 1974. A reduction in the OY from 58,800 mt to 35,000 mt should help to maintain the present spawning stock.

B. The southern New England/Mid-Atlantic silver hake stock has been rebuilding since 1971 and in 1979 reached its highest level since 1966. An increase in the OY from 40,000 mt to 55,000 mt reflects an opportunity for additional harvest while continuing stock rebuilding.

2. Red Hake.

A. The Georges Bank red hake stock size is presently low, compared to past levels, and production of young fish is below average. A reduction of the OY from 16,000 mt to 6,000 mt is necessary to maintain the spawning stock.

B. The southern New England/Mid-Atlantic red hake spawning stock is low in abundance, in spite of a slight improvement during 1977 and 1978. A reduction of the OY from 15,000 mt to 11,000 mt will provide a continued opportunity for a significant harvest in 1980 without adverse effect on the stock.

Review of expected U.S. harvesting capacity.

1. Silver Hake.

The expected U.S. harvest of silver hake in the Georges Bank and southern New England/Mid-Atlantic areas was established in the 1979 PMP as 46,600 mt. The reported 1978 U.S. commercial landings of silver hake were 6,394 mt from Georges Bank and 11,405 mt from southern New England/Mid-Atlantic. During the period January through July 1979, the reported U.S. commercial landings were 509 mt from Georges Bank and 9,219 mt from southern New England/Mid-Atlantic.

After reviewing the performance of the U.S. commercial fishery and the potential for further development of that fishery, and taking U.S. recreational fishing for silver hake into account, the expected U.S. harvest is revised as follows:

Area	1979 PMP (mt)	1980 PMP (mt)
Georges Bank	26,000	9,000
Southern New England/Mid-Atlantic	20,600	20,600
Total	46,600	29,600

2. Red Hake.

The expected U.S. harvest of red hake in the Georges Bank and southern New England/Mid-Atlantic areas was established in the 1979 PMP as 8,600 mt. The reported 1978 U.S. commercial landings of red hake were 151 mt from Georges Bank and 3,326 mt from southern New England/Mid-Atlantic. During the period January through July 1979, reported U.S. commercial landings of red hake were 155 mt from Georges Bank and 5,168 mt from southern New England/Mid-Atlantic.

After reviewing the performance of the U.S. commercial fishery and the potential for further development of that fishery, and taking U.S. recreational fishing for red hake into account, the expected U.S. harvest is revised as follows:

Area	1979 PMP (mt)	1980 PMP (mt)
Georges Bank	1,000	500
Southern New England/Mid-Atlantic	7,600	8,000
Total	8,600	8,500

The above estimates of the 1980 U.S. harvest of silver and red hake do not limit the U.S. harvest, because the PMP does not govern domestic fishing for silver and red hake.

Review of TALFF.

The changes in TALFF's resulting from the changes in OY's and expected U.S. harvest are summarized as follows:

Species and Area	1979 PMP (mt)	1980 PMP (mt)
Silver Hake:		
Georges Bank	32,800	26,000
Southern New England/Mid-Atlantic	19,400	34,400
Total	52,200	60,400
Red Hake:		
Georges Bank	15,000	5,500
Southern New England/Mid-Atlantic	8,400	3,000
Total	23,400	8,500

The Assistant Administrator has determined that these changes will have no adverse impact on the U.S. hake industry or on future supplies of silver and red hake. The Assistant Administrator, under a delegation of authority from the Secretary of Commerce, has determined that amendments to the PMP changing OY's for silver and red hake, estimates of 1980 U.S. harvest, and surplus available for foreign fishing, and extending the PMP into 1980 are necessary for proper

management of Northwestern Atlantic silver and red hake.

The revision to the PMP is as follows: Delete the first paragraph of Section IV.c. and substitute the following:

"The OY's, expected domestic annual harvest, and allowable foreign surplus are as follows:

(In metric tons)				
Species and Area	MSY	OY	U.S. harvest	Foreign surplus
Silver Hake:				
Georges Bank	55,000	35,000	9,000	26,000
Southern New England/Mid-Atlantic	37,000	55,000	20,600	34,400
Red Hake:				
Georges Bank	20,000	6,000	500	5,500
Southern New England/Mid-Atlantic	40,000	11,000	8,000	3,000

(2) Foreign Trawl Fisheries of the Northwestern Atlantic.

The PMP and Final Environmental Impact Statement (FEIS/PMP) were originally published on February 17, 1977 (42 FR 9950). A supplemental EIS was issued in November 1977 and environmental assessments in October 1978 and November 1979. Amendments to the PMP and regulations were published on November 28, 1977 (42 FR 60681) and on December 19, 1978 (43 FR 59292).

This amendment extends the provisions of the 1979 PMP into 1980 without significant change. In this PMP, estimated domestic annual harvest has previously been referred to as USCAP. To make the PMP consistent with predominant usage in other fishery management plans, estimated domestic annual harvest will now be referred to as DAH. The amendment decreases the OY for butterfish from 16,000 metric tons (mt) to 11,000 mt and decreases the DAH for butterfish from 12,000 mt to 7,000 mt. The TALFF remains unchanged at 4,000 mt. These changes for butterfish are based on the Mid-Atlantic Fishery Management Council's FMP for the Butterfish Fishery which has recently been approved by the Secretary of Commerce and will be implemented in early 1980. The butterfish portion of the PMP must be continued into 1980 to allow the foreign fishery to continue until the FMP is implemented.

The OY's, DAH's and TALFF's for river herring and all other finfish addressed in the PMP are extended for 1980 without change, because no new data indicate that any change is

warranted. Because incidental catches of these species do occur in the directed fisheries for squids and hakes, this PMP is designed to allow foreign nations to harvest their directed fisheries allocations in a reasonable manner.

A summary of the recent history of the fishery, and changes for 1980, appears in Table 1.

The PMP is revised as follows: The date 1980 is substituted for 1979 wherever it appears. The OY for butterfish is decreased from 16,000 mt to 11,000 mt. The DAH for butterfish is reduced from 12,000 mt to 7,000 mt. The TALFF for butterfish, and OY's, DAH's, and TALFF's for river herring and all other finfish addressed in the PMP remain unchanged.

Table 1.—Allowable Levels of Harvest (Metric tons)

	OY	DAH	TALFF
1977:			
Butterfish	18,000	12,500	5,500
River herring	10,000	9,500	500
All other finfish	247,000	187,000	60,000
1978:			
Butterfish	18,000	14,000	4,000
River herring	10,000	9,500	500
All other finfish	247,000	200,200	46,800
1979:			
Butterfish	16,000	12,000	4,000
River herring	10,000	9,500	500
All other finfish	247,000	200,200	46,800
1980:			
Butterfish	11,000	7,000	4,000
River herring	10,000	9,500	500
All other finfish	247,000	200,200	46,800

(3) Mackerel Fishery of the Northwestern Atlantic.

The action amends the PMP for the Mackerel Fishery of the Northwestern Atlantic. The PMP and its environmental impacts have been reported in the Final Environmental Impact Statement (FEIS/PMP) of February 16, 1977 (42 FR 9552). The most recent PMP regulations were published December 19, 1978 (43 FR 59292).

The amendment extends the provisions of the PMP of 1979 into 1980 without significant change. The OY for 1980 is decreased from 15,500 mt to 15,200 mt. Expected harvest by U.S. fishermen in U.S. waters is decreased from 14,300 mt to 14,000 mt. These changes reflect what the Mid-Atlantic Fishery Management Council has adopted in the Mackerel Fishery Management Plan, which has been approved by the Secretary but not yet implemented. The total allowable level of foreign fishing for 1980 remains at 1,200 mt, the same as for 1979. The actions will result in no significant impact on the mackerel resource.

The PMP is revised as follows: The PMP is changed by substituting the date 1980 for 1979 wherever it appears. The

OY is reduced from 15,500 mt to 15,200 mt. Expected harvest by domestic fishermen in U.S. waters is reduced from 14,300 mt to 14,000 mt. TALFF remains unchanged at 1,200 mt.

(4) Seamount Groundfish Fishery Resources of the Western Pacific.

The amendment extends the PMP for the seamount groundfish fishery through the 1980 fishing season. The PMP was published in the Federal Register on February 10, 1977 (42 FR 8568). The final environmental impact statement and the PMP were filed with the Council on Environmental Quality on January 21, 1977.

In 1977, 1978, and 1979, foreign harvest of 2,000 metric tons of seamount fishery resources (primarily armorheads and alfonsons) was permitted in the seamount ground fish fishery northwest of Midway Island. The only changes suggested for 1980 are the extension of the PMP through 1980 and the removal of the vessel day limitation requirement from the PMP regulations. The vessel day limitation is considered unnecessary for effective conservation and management of the fishery. Therefore, the PMP is amended as follows: 1) Substitute "1980" for "1979", wherever it appears, and 2) delete the annual vessel day limit on total foreign fishing effort of 50 vessel days each for trawling and bottom longlining.

(5) Snail Fishery of the Eastern Bering Sea.

The action extends into the 1980 fishing season the PMP for snails which was adopted for foreign fishing in 1977. An environmental impact statement was prepared for the PMP. The PMP was published in the Federal Register on February 15, 1977 (42 FR 9334).

In 1979, a total optimum yield of 3,000 metric tons of edible meat (approximately 12,000 metric tons live weight) was allocated for foreign fishing. The same level is allocated for foreign fishing in 1980. Status of stock and maximum sustainable yield information is extremely limited inasmuch as there is no U.S. fishery. The total allowable catch for foreign fishing is in the range of historical foreign catches (3,000-3,500 mt of edible meats) since 1971. It is expected that data submitted in compliance with foreign fishing permit issuance will provide U.S. scientists with valuable information on the fishery and snail biology. It is generally accepted that overfishing has not occurred.

The PMP is amended as follows: The PMP is changed by substituting the date 1980 for 1979 wherever it appears.

The Assistant Administrator has determined that there is good cause to waive an advance notice and comment

period because the amendments are not controversial, impose no restraints on U.S. fishermen, and must be in effect by January 1 in order to allow foreign fishermen and U.S. fishermen involved in joint venture arrangements to continue orderly harvesting of available resources. Nonetheless, in order to allow such public comment as is feasible under the circumstances, another notice in this issue of the Federal Register invites public comment on these PMP amendments and implementing regulations until January 16, 1980. The Assistant Administrator has made a preliminary determination that the action to amend these PMPs is not significant under Executive Order 12044 and that it does not require preparation of a regulatory analysis under the Executive Order.

Signed at Washington, D.C., this the 20th day of December, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 et seq.
50 CFR Part 611 is amended as follows:

§ 611.20 [Amended]

- Amend § 611.20(a) by adding this sentence: "See Appendix 1 to § 611.20."
- Amend § 611.20(b) by adding this sentence: "See Appendix 1 to § 611.20."
- Delete § 611.20(c) and Table 1. Substitute the following: "(c) The following Appendix lists the TALFFs for most fisheries of interest to foreign fishermen as of January 1. Changes will occur during the ensuing year as quantities of fish are shifted and reserves are reapportioned. Those changes will not be reflected in this Appendix, and interested persons are advised that such changes will only appear in the Federal Register from time to time."

§ 611.50 [Amended]

- Amend § 611.50(b)(3) by striking it and substituting the following: "(3) TALFF. The TALFFs for the Northwest Atlantic ocean fishery are set forth in Appendix 1 to § 611.20."

§ 611.60 [Amended]

- Amend § 611.60(b)(2) by striking it and substituting the following: "(2) TALFF. The TALFFs for sharks is set forth in Appendix 1 to § 611.20."

§ 611.80 [Amended]

- Amend § 611.80(b)(1) by striking words "and vessel day limitations."
- Amend § 611.80(b)(2) by striking it and substituting the following: "(2) TALFF. The TALFFs for the seamount

groundfish fisheries are set forth in Appendix 1 to § 611.20." 8. Strike § 611.80(b)(4) and renumber the following paragraph appropriately.

§ 611.91 [Amended] 9. Amend § 611.91(b)(2) by striking the first sentence and substituting "The total allowable level of foreign fishing

(TALFF) for Tanner crab is set forth in Appendix 1 to § 611.20."

§ 611.93 [Amended] 10. Amend § 611.93(b)(2) by striking the first sentence and substituting "The total allowable levels of foreign fishing (TALFF's) for the Bering Sea and

Aleutian Islands Fishery are set forth in Appendix 1 to § 611.20."

§ 611.94 [Amended] 11. Amend § 611.94(b)(2) by striking the first sentence and substituting "The total allowable level of foreign fishing (TALFF) for snails is set forth in Appendix 1 to § 611.20."

Appendix I.—Section 611.20

	Species	Species code	Areas	OY—optimum yield (metric tons)	JVP—estimated joint venture harvest	Reserve	TALFF
1. Northwest Atlantic Ocean Fisheries:							
A. Hake Fisheries of the Northwest Atlantic:	Hake, silver.....	104	Georges Bank.....	35,000			26,000
	Hake, red.....	105	South New England, Mid-Atlantic.....	55,000			34,400
			Georges Bank.....	6,000			5,500
B. Mackerel Fisheries of the Northwest Atlantic:	Mackerel, Atlantic.....	204	South New England, Mid-Atlantic.....	11,000			3,000
C. Trawl Fisheries of the Northwest Atlantic:	Butterfish.....	212		15,200			1,200
	Herring, river.....	309		10,000			500
	Other finfish.....	499		247,000			46,800
	Squid, long-finned.....	502		44,000			30,000
	Squid, short-finned.....	504		30,000			20,000
2. Atlantic and Gulf Fisheries: Atlantic Billfish and Sharks Fishery:		469		6,150			1,150
3. Western Pacific Ocean Fisheries:							
A. Seamount Groundfish fishery:	Amoxthead, alfonsons, and other groundfish.....	200, 201, 499		2,000			2,000
B. Pacific billfish and sharks fishery:			(To be completed on implementation of the plan.)				
4. Alaska Fisheries:							
A. Bering Sea and Aleutian Islands groundfish fishery:			(To be completed on 1980 extension of the PMP.)				
B. Bering Sea and Aleutian Island herring fishery:			(To be completed on 1980 extension of the PMP.)				
C. Tanner Crab fishery.....	Crab, tanner.....	501, 610, 684	North of 58° N.....	17,266			15,000
D. Snail fishery.....	Snails (meats).....	673		3,000			3,000
5. North Pacific Ocean Fisheries: Washington, Oregon, California trawl fisheries:			(To be completed on 1990 extension of the PMP.)				

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Proposed Rules

Federal Register

Vol. 44, No. 249

Thursday, December 27, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1133

[Docket No. AO-275-A31]

Milk in the Inland Empire Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts certain changes in the order provisions pertaining to pool plant qualification standards for distributing plants, and to how much milk may be moved directly from producers' farms to nonpool plants and still be priced under the order. It also adopts certain changes in various payment and reporting dates. The decision is based on industry proposals considered at a public hearing held June 12-13, 1979. The changes are necessary to reflect current marketing conditions and to assure orderly marketing in the area. Cooperative associations will be polled to determine producer approval of the amended order.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7193.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued May 14, 1979; published May 18, 1979 (44 FR 29088).

Suspension order: Issued August 15, 1979; published August 20, 1979 (44 FR 48646).

Recommended decision: Issued October 31, 1979; published November 6, 1979 (44 FR 64087).

A public hearing was held to consider proposed amendments to the marketing agreement and the order regulating the handling of milk in the Inland Empire

marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Spokane, Washington, on June 12-13, 1979. Notice of such hearing was issued on May 14, 1979 (44 FR 29088).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on October 31, 1979 (44 FR 64087), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under Issue No. 2, *Diversification of producer milk*:

a. Paragraphs 5, 22, and 28 are revised;

b. Two new paragraphs are inserted after paragraph 23; and

c. Two new paragraphs are added at the end.

The material issues on the record of the hearing relate to:

(1) Pool plant qualification standards for a distributing plant.

(2) Diversion of producer milk.

(3) Reporting and payment dates.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualification standards for a distributing plant.* The provisions of the order that relate to a distributing plant that simultaneously qualifies as a pool plant under the Inland Empire order and another order should be revised. Specifically, a distributing plant that was regulated under the Inland Empire order in the preceding month should remain regulated under the Inland Empire order until the fourth consecutive month in which its route disposition in the marketing area of the other order is greater than in the Inland Empire marketing area.¹ Such provisions

should be revised further to provide that a distributing plant with more route disposition in the Inland Empire marketing area than in the marketing area of another order be exempt from pooling and pricing under the Inland Empire order for the months it is pooled under the other order's lock-in provision.

The present order does not contain a lock-in provision. Rather, it provides that a distributing plant that qualifies for pooling under the Inland Empire order and another order in the same month shall be pooled under the other order if the plant's route disposition in the marketing area of the other order is greater than its disposition in the Inland Empire marketing area.

Northwest Dairymen's Association (NDA) proposed adoption of a 2-month lock-in provision similar to those in the nearby Oregon-Washington and Puget Sound orders and in a number of other Federal orders. The provision adopted herein differs slightly from this proposal by providing for a total lock-in period of 3 months rather than 2 months.

The marketing agent for NDA is Consolidated Dairy Products Co. (CDP). CDP operates distributing plants at Seattle, Washington, and at Moses Lake, Washington. The Seattle plant qualifies as a pool plant under the Puget Sound order, while the Moses Lake plant, which CDP acquired in December 1978, is presently regulated under the Inland Empire order.

The Moses Lake plant distributes fluid milk products in the Inland Empire and Oregon-Washington marketing areas and at locations outside these marketing areas. Fluid milk products from CDP's Seattle plant are distributed in the Inland Empire, Oregon-Washington, and Puget Sound marketing areas and at various locations outside these marketing areas.

The lock-in provision proposal was an adjunct to another proposal of the proponent cooperative which would expend the marketing area to include a 5-county area in central Washington that is located immediately west of the present marketing area. The proponent stated that both proposals were designed to aid in insuring that the Moses Lake plant maintains continuous pool plant status under the Inland Empire order.

The area proposed by NDA to be added to the present marketing area would include the Washington counties

¹ This provision is commonly referred to as a "lock-in" provision.

of Adams, Chelan, Douglas, Grant, and Lincoln. An exhibit introduced into the record indicated that the estimated April 1, 1978, population of the proposed 5-county area was about 133,000. The principal population centers in this area are Wenatchee (Chelan County) and Moses Lake (Grant County).

The Moses Lake distributing plant is located within this 5-county area. This area, according to the NDA spokesman, contains a significant segment of the market served by the Moses Lake plant. He stated that by expanding the marketing area, as proposed, it would significantly increase the proportion of this plant's route distribution in the Inland Empire marketing area relative to such sales in the Oregon-Washington area. Adoption of this proposal and the lock-in provision, the NDA spokesman claimed, would tend to insure the plant's continuous pooling under the Inland Empire order and avoid the possibility of it becoming pooled under the Oregon-Washington order.

Proponent's spokesman stated that the primary impact of the Moses Lake plant being fully regulated under the Oregon-Washington order would be on NDA's member producers who are now, and have been regularly, pooled under the Inland Empire order. Because of the tighter diversion provisions of the Oregon-Washington order compared to the Inland Empire order, only a portion of the producers who are pooled through the Moses Lake plant could continue to be pooled if the plant were fully regulated under the Oregon-Washington order. As a result, the spokesman pointed out, substantial quantities of NDA's member milk would be unable to qualify as producer milk under either order.

Additionally, the proponent's witness testified that unlike other handlers on the market, CDP, as marketing agent for NDA, must operate its Moses Lake plant in such a way as to avoid the possibility of the plant becoming fully regulated under the Oregon-Washington order. Although conceding that currently there is no problem regarding the order under which the Moses Lake plant would be regulated, he stated that a situation could develop where the plant would switch back and forth between the 2 orders. For instance, he stated that CDP might decide to handle its Seattle plant's route distribution in the Oregon-Washington market from its Moses Lake plant to achieve greater operating efficiencies at that plant and to reduce transportation costs in serving its Oregon-Washington customers. He called attention particularly to the disruptive marketing conditions and the

confusion among producers that would result if regulation of the plant they supplied shifted back and forth between the Inland Empire and Oregon-Washington orders. Its proposals to expand the marketing area and to adopt a lock-in provision, he maintained, would prevent such a shift from occurring between the 2 orders and would provide market stability to both producers and handlers.

In further support of its proposal to expand the marketing area, the proponent cooperative asserted that the 5-county area is an integral part of the Inland Empire market since it represents a significant market outlet for the Inland Empire handlers. He concluded that the proposed marketing area expansion would be advantageous to Inland Empire producers and would promote orderly market conditions.

The proponent cooperative stated that its proposed 2-month lock-in provision was designed to give CDP the opportunity to adjust its overall route distribution in the Oregon-Washington marketing area to avoid sudden unanticipated shifts in the pool status of the Moses Lake plant and the potential depooling of some NDA producers. The spokesman for the proponent cooperative indicated that the loss or acquisition of a chain store or school milk contract by the Moses Lake plant, which usually represents a sizable volume of milk, makes the inclusion of a lock-in provision under the Inland Empire order necessary if disruptive marketing conditions are to be avoided. He added that the adoption of the lock-in provision, as proposed, will make the Inland Empire order, in this regard, comparable to the nearby Oregon-Washington and Puget Sound orders.

Two individual producer members of NDA supported the cooperative's two proposals, which they stated would continue to assure producers who have been regularly associated with this market of a stable market situation without the possibility of a large portion of the Class I sales switching back and forth between the two orders.

Mayflower Farms, a cooperative association which represents a substantial number of producers on the market and which operates a pool distributing plant at Spokane, Washington, opposed proponent's marketing area proposal but supported in principle the lock-in provision proposal. The spokesman for the cooperative questioned the need for extending regulation into the proposed 5-county area. In this connection, the spokesman stated it would add virtually no Class I sales to the pool, nor would it improve market stability, since fluid

milk distribution in the proposed area now is practically all from distributing plants that are regulated by one of the 3 orders that operate in the northwest.

The record evidence shows that although the Moses Lake plant has been qualifying each month for pooling under both the Inland Empire and Oregon-Washington orders, it has not been pooled continuously under either order. For example, during the 25-month period from May 1977 through May 1979, the plant, under its former owner and then CDP, was regulated by the Oregon-Washington order during 17 of such months and by the Inland Empire order during 8 months. In fact, when CDP acquired the Moses Lake plant in December 1978, it was regulated under the Oregon-Washington order. The plant did not become regulated under the Inland Empire order until April 1979 after the fluid milk processing operations at the recently acquired Veradale, Washington, plant of CDP were transferred to the Moses Lake plant. Before this change, the Veradale plant had been a distributing plant under the Inland Empire order for a number of years. With the shift in processing operations, the Moses Lake plant's route distribution in the Inland Empire marketing area ranged between 65 and 85 percent of the plant's total Class I sales in April and May 1979, the months just preceding the hearing.

At its present level of route distribution in the Inland Empire order marketing area, the Moses Lake plant has no problem in meeting the pooling requirements of the Inland Empire order. However, proponent contends that CDP would have a pooling problem if and when a decision is made to have its Moses Lake plant process and distribute the volume of milk that its Seattle plant now markets in the Oregon-Washington market. Testimony of the proponent's witness indicates that if this change were made, the Moses Lake plant's route distribution in the Inland Empire market would be about 51 percent of the plant's total sales based on CDP's sales data at the time of the hearing. At this projected route distribution level, any loss or acquisition of a chain store or school milk contract or the closing of schools during the summer months could result in the shifting of regulation of the Moses Lake plant from one order to another.

Ideally, a distributing plant that qualifies for pooling under more than one order during the same month should be regulated under the order in which such plant's route distribution is the largest. This assures that all handlers will have the major portion of their sales

subject to the same pricing and other regulatory requirements. However, recognition should be given to the adverse effects of shifting back and forth from month to month by a distributing plant that is usually regulated by the Inland Empire order but which also has route distribution in another order market. Such switching of the regulatory status of a distributing plant between orders creates uncertainty and abrupt changes in prices for producers and handlers alike.

It is unlikely that any distributing plant operator would intentionally operate his plant that has sales in two regulated markets in a manner which would result in shifting regulation between orders. Rather, such shifts take place unexpectedly and result from an unanticipated gain or loss of a substantial sales outlet. Since sales contracts are frequently renegotiated on a quarterly basis, such a loss of sales may only be temporary. In addition, the closing of schools during the summer months frequently results in a temporary shift of sales during June, July, and August. When such shifts take place, a distributing plant operator usually attempts to adjust the plant's pattern of distribution in its various sales areas to insure its regulation by the order under which the plant is normally regulated. In those instances, however, where a distributing plant's route distribution is nearly equal in 2 regulated markets, such adjustments often cannot be accomplished in time to prevent the plant from switching between the two orders.

These considerations demonstrate the need for a provision that will prevent the sudden, unanticipated shift in regulation of a distributing plant between orders. The lock-in provision adopted herein, which, as noted earlier, differs from the one proposed by providing for a total lock-in of 3 months instead of 2, is designed to serve this purpose.

Under this provision, the Inland Empire order would continue to regulate a plant until the fourth consecutive month in which it remained qualified but had a greater proportion of its route distribution in the marketing area of another order. During the 3-month lock-in period, the other order must have a complementary provision which will permit the plant to be pooled by the Inland Empire order even though such plant has the lesser portion of its sales there. If the other order does not have such a provision, but requires that the plant be pooled under that order, the plant should be exempt from all but the reporting provisions of the Inland

Empire order. Further, for the Inland Empire order to be complementary to orders with similar lock-in provisions, it is provided that any plant shall be exempt from full regulation under this order, even though such plant has more route distribution in this marketing area than in another order's marketing area, if the plant is subject to full regulation under the other order.

The proposal to include in the marketing area the 5 central Washington counties of Adams, Chelan, Douglas, Grant, and Lincoln should not be adopted on the basis of this record. As noted previously, the thrust of proponent's proposal to add this 5-county area to the marketing area was to insure that CDP's newly acquired Moses Lake plant would be regulated by the Inland Empire order rather than by the Oregon-Washington order through having the major portion of its distribution in the Inland Empire marketing area on a continuing basis.

It may be true, as NDA claimed, that since the order was initially issued in 1956, significant changes have occurred which have resulted in the 5-county area becoming an integral part of the Inland Empire market. The principal changes cited in this regard were the growth in population, vast improvements in the highway systems, and the expanded distribution patterns of Inland Empire handlers. It is evident from the record, however, that such handlers compete for sales in each county with either Puget Sound or Oregon-Washington handlers, or both. This raises the question of which market has the greatest sales in these counties. If the majority of sales in a county are from another order market, it would appear that that county is more closely associated with that market than with the Inland Empire market and, thus, should not be included in the Inland Empire marketing area. Information in the hearing record concerning the amount of sales from each market is limited to the names of handlers distributing fluid milk products in each of the 5 counties under consideration. There is no indication of the proportion of the total sales in each of the counties by each of these handlers or by groups of handlers regulated under each order. In view of this, it cannot be concluded on the basis of this record if each of the 5 counties is, in fact, closely associated with the Inland Empire market.

It appears that most of the fluid milk sales in the 5-county area are by handlers regulated under one of the three Northwest orders. However, the record indicates that two unregulated handlers located in Douglas County and

Okanogan County, Washington, also have route distribution in at least two (Douglas and Grant Counties) of the proposed five counties. The record does not provide any information, though, as to the extent of their fluid sales in these counties.

Without more detailed marketing information on each handler's involvement in distributing fluid milk products in the proposed area, the marketing area should not be extended to include the 5-county area. Accordingly, the proposal is denied.

2. Diversion of producer milk. The limits on diversion of producer milk from pool plants to nonpool plants should be increased. During the months of September through February, a cooperative association should be allowed to divert to nonpool plants (except producer-handler plants) a quantity of milk not in excess of 70 percent of the quantity of producer milk that the association causes to be delivered to or diverted from pool plants during the month. During the months of March through August the cooperative should be allowed to divert 80 percent of such receipts. The operator of a pool plant (other than a cooperative association) should be allowed to divert to nonpool plants any milk that is not under the control of a cooperative association that is likewise diverting milk to nonpool plants during the month. The quantity of milk that the operator of a proprietary plant may divert should not exceed 70 percent during the months of September through February and 80 percent during the months of March through August of the milk received at or diverted from such pool plant that is eligible to be diverted by the plant operator.

The order should continue to require that milk of a producer be physically received at a pool plant during each of the months of September, October, and November in order to be eligible for diversion to a nonpool plant as producer milk during each respective month. However, the requirement that 2 days' production be received should be changed to require only one day's production.

Presently, diversions to nonpool plants are limited to 50 percent of producer milk received at pool plants or diverted to nonpool plants during the months of September through March, and 70 percent of such receipts during other months of the year.

Northwest Dairywomen's Association (NDA) proposed that diversion limits be increased to 70 percent during each of the months of September-February and 80 percent during each of the months of March-August. It also proposed that the

2-day delivery requirement during September, October, and November be eliminated. A spokesman for NDA testified that his organization is the major reserve supplier for the market and that the proposed higher diversion limits are necessary to allow the cooperative to continue that function while at the same time keep its producers associated with the market. He said that during the months of September through February NDA may be required to divert between 58 and 66 percent of its member-producers' milk supplies; during March-August, he stated, its diversions may exceed 75 percent of its members' milk.

The witness testified that, due to the irregular demand for the milk of NDA by pool distributing plants, his organization may be required to divert significant quantities of milk during a certain month and yet on individual days within the month no milk may be diverted. He cited October and November 1978 as examples of this. During one day of October, 100 percent of NDA's milk picked up that day was sent to pool plants, but for the month as a whole 66 percent was diverted to nonpool plants. Similarly, during 2 days of November, all of NDA's milk pick-ups went to pool distributing plants, but 60 percent of the cooperative's milk was diverted to nonpool plants during the month.

NDA proposed that March be included with the high diversion months, i.e., April-August, because during March 1979 it had to divert 67.4 percent of its member-producer milk, and because this figure is closer to the 68.3 percent diverted during April 1979 than to the 61.0 percent diverted during February 1979.

In support of NDA's proposal to remove the 2-day delivery requirement during September, October, and November, a spokesman testified that this requirement causes unnecessary cross-hauling of milk. He stated that NDA operates a pool distributing plant at Moses Lake and a nonpool manufacturing plant in Spokane. Because of the delivery requirement, he said, NDA is forced to haul member milk in northern Idaho to the Moses Lake pool plant in Grant County, thereby displacing other members' milk in Grant County which must then be hauled to Spokane. It would be more efficient, he stated, to allow the milk of their member producers to go to the nearest plant. He stressed that NDA would continue to meet this requirement if necessary to keep the "producer" status of its members, but urged that, in the interest of energy conservation, it be eliminated.

Spokesmen for Mayflower Farms and Carnation Company testified in

opposition to NDA's proposal for higher diversion limits. The position of both of these organizations was basically that NDA's problem concerning diversions was caused by what they believed to be an unreasonable pricing policy with respect to the sale of the cooperative's member milk. Opponents claimed that NDA's pricing policy discouraged handlers such as Carnation and Mayflower from buying more milk from NDA, with the result that the cooperative had considerable amounts of surplus milk to dispose of. A witness for Mayflower testified that if NDA abandoned its over-order pricing policy, Mayflower would purchase more milk from NDA. He noted that for a while NDA did, in fact, suspend its over-order pricing and that Mayflower immediately began to utilize NDA for a reserve supply.

Another witness for Mayflower contended that "the basic problem is that the legitimate producers in the Inland Empire market wish to maintain a high enough pay-out to be able to produce milk for this market without the unnatural association of milk in the Yakima Valley with this pool, thereby diluting the price while the milk is being shipped to another market for handling." He held that since 1973 NDA has increased the amount of milk pooled in the Inland Empire market by about 30 million pounds annually, and that most of this milk was new milk to the market and was coming from Yakima County, Washington. He also indicated that since the Yakima County milk is closer to NDA's manufacturing plant at Issaquah than to its Spokane manufacturing plant, the milk should be pooled in another market (presumably Puget Sound since Issaquah is within the Puget Sound marketing area).

A third spokesman for Mayflower testified in opposition to the proposal to remove the 2-day delivery requirement during September, October and November. Removing this requirement, he stated, would open up the market to any producer even though the milk was not associated with the market for fluid use. If the proponent's proposal is accepted, he said, there would be no reasonable relationship between the producer and the order he is associated with. He said Mayflower considers this an injustice to those producers who supply the legitimate needs of the market.

A representative for the Carnation company testified that NDA's proposed diversion limitations would not result in the orderly marketing of milk in the inland Empire marketing area. He stated that NDA's diversion problems are

caused by its pricing policies, which discourage handlers from buying NDA's milk. In summary, he said, Carnation opposes changing the diversion limits because it believes a better solution would be for NDA to price its milk to pool handlers in the market at a more realistic level.

Opposition testimony by Mayflower and Carnation centered around NDA's pricing policy, which opponents believe is the cause of NDA's diversion problem. NDA objected on the record and in its brief to any consideration of its pricing policy with regard to the diversion issue. At the hearing, the Administrative Law Judge overruled the objection and allowed such testimony to be heard.

It must be recognized that there are costs in providing milk supplies to fluid milk distributors, especially when such supplies are required on an irregular basis. The record indicates that NDA is being called upon to supply milk to distributing plants on certain days during each month of the year. There are obvious costs in payrolling, market service, field work, and hauling which must be covered. Moreover, there is the cost of idle or underutilized plant facilities, equipment, and personnel when NDA is called upon to fill the needs of its Class I customers on a sporadic basis.

There is no indication that denying NDA's proposal for higher diversion limits would result in the cooperative changing its pricing policy. Instead, it is more probable that NDA would undertake additional, and more costly, hauling and handling of its reserve milk to stay within the diversion limits. This could be done by first receiving milk at its Moses Lake plant and then transferring it to one of its manufacturing plants.

Data in the record show that NDA is performing a reserve supply service for this market. During the 12 months from April 1978 through March 1979, the cooperative delivered milk to pool distributing plants on all but a few days. During the months of October and November, there were days when all of its milk normally associated with the Inland Empire market was delivered to pool distributing plants. Under these circumstances, it is reasonable that steps be taken under the order to assure the orderly disposition of milk supplies in the market that are not needed for fluid use.

As mentioned above, Mayflower objected to the pooling of NDA's Yakima County producers under the Inland Empire order. Milk of such producers accounts for a substantial

share of the milk NDA has associated with this market in recent years.

Contrary to Mayflower's position, producers should be free to market their milk wherever they can realize the greatest returns. This sometimes means that producers already on a market will experience a lower blend price as they share the market's Class I returns with new producers on the market. However, such sharing is an essential feature of the Federal order program and promotes orderly marketing. Order provisions should be such that milk supplies attracted to the regulated area can be marketed in an orderly manner.

There is a history of problems with diversion limits in this market. Diversion limits were suspended for the months of September 1977-January 1978, September-November 1978, and are now suspended based on this record from September-December 1979. During the prior two suspensions, there was no indication of any abuse of NDA in bringing additional producers onto the market. Actually, the number of NDA producers on the market has decreased from an average of 122 in 1974 to an average of 104 in 1978. Accordingly, opponent's fear that NDA is trying to "load the pool" with new milk is not supported by the historical experience in this market.

NDA's basic diversion problem stems from a change in the basis of determining its allowable diversions under the order that occurred in September 1978. Prior to that time, NDA's allowable diversions were determined under the optional method provided by the order whereby 2 or more cooperatives could have their allowable diversions computed on the basis of the combined deliveries of milk of their member producers. This option for computing allowable diversions permitted NDA to perform its reserve supply function in the market and still maintain producer status for all its dairy farmer members who were associated with the fluid milk market. Except for the fall months of 1977, NDA, which has a disproportionate share of the reserve supplies on the market, was able to stay within the order's diversion limits through this arrangement.

When this arrangement was terminated by the cooperatives involved (one of which was Mayflower Farms), NDA petitioned the Department for a hearing which was subsequently held in July 1978, requesting that diversion limits be raised to 90 percent from September through March and be unlimited from April through August. It also requested that the diversion limits be suspended for the months of September, October, and November

1978. In the fall of 1978, Consolidated Dairy Products acquired the Early Dawn distributing plant in Veradale, Washington, a suburb of Spokane. As a result of this acquisition, NDA advised the Department that the diversion limits requested at the July hearing would no longer be appropriate, whereupon the Department terminated the proceeding.

In December 1978, CDP acquired the additional fluid milk distributing plant at Moses Lake. It then closed the Veradale plant and transferred all of its sales to the Moses Lake plant.

CDP's acquisition of 2 distributing plants in the past year has lessened NDA's diversion problem by providing additional plant outlets to the cooperative. Nevertheless, the present diversion limits are still too restrictive and will cause NDA to make uneconomic milk movements between plants to keep its member milk qualified for pooling.

From the data presented at the hearing showing NDA's percent of diversions from January 1976 through April 1979, it is apparent that the cooperative would be unable to meet the order's present diversion limits. Accordingly, relaxing the limits of 70 percent during September-February and 80 percent during March-August appears to be both appropriate and necessary to allow the cooperative to keep its milk pooled in an orderly and efficient manner.

In its exceptions to the recommended decision, Mayflower reiterated its opposition to any increase in diversion limits, again stating that it is opposed to "dilution of the pool" as a result of NDA "adding increasing amounts of 'new' milk to the market pool * * * from areas not historically associated with the Inland Empire market." The cooperative again indicated that NDA's pooling problems could be corrected by reducing its over-order pricing levels. Also, while Mayflower agrees with the Department's conclusion that there are costs in providing milk supplies to fluid milk handlers, it does not believe that NDA's over-order charges are "cost-justified." Mayflower agrees that NDA is serving as a reserve supplier for the market, but it does not believe NDA is the "major" reserve supplier or the "true" major reserve supplier. Finally, Mayflower takes issue with the finding that NDA has not increased the number of producers on the market, pointing out that NDA has increased the total pounds of milk pooled by bringing on some large producers in the Yakima area.

All of these arguments were considered in reaching the initial decision to increase diversion limits.

They provide no basis for changing the conclusions reached initially.

The order should continue to require that milk of each producer on the market be delivered to a pool plant at least once during each of the months of September, October, and November. However, the requirement that 2 days' production of each producer be delivered to a pool plant during each of the months of September, October, and November should be slightly modified to require the delivery of only one day's production. This requirement will be sufficient to demonstrate that a producer has some association with the fluid market.

The present 2-day requirement can cause problems when one day's production of a large producer is picked up in the same bulk tank truck that is also picking up 2 days' production of smaller producers. In such a situation, it would be easy to assume that every producer on the truck had contributed 2 days' production and not discover the error until the end of the month when it was too late to correct it. Requiring that only one day's production be received at a pool plant during the month would eliminate this problem.

NDA's exception to the recommended decision took issue with even this one day delivery requirement during September, October, and November. The cooperative argued that the "requirement is artificial in that it poses no meaningful test of a producer's association with a pool plant, and that its real impact is to impose an additional cost and an unnecessary waste of energy."

The record lacks adequate justification for eliminating the requirement that each producer demonstrate some minimal association with the fluid market during the fall months. The removal of this requirement should be based on a further exploration of this issue at another hearing. Moreover, although opponent contends that there would be unnecessary hauling to meet this requirement, the record indicates that there were certain days during the months of October and November 1979 when all of NDA's member milk was delivered to pool distributing plants. In view of this, it does not appear that requiring each producer's milk be delivered to a pool plant at least one day during each of the months of September, October, and November places an undue burden on the cooperative. Accordingly, the arguments advanced by NDA in its testimony and exceptions for eliminating this producer delivery requirement do not provide an appropriate basis for doing so.

3. *Reporting and payment dates.* The following changes in reporting and payment dates should be made in the order:

a. In § 1133.30, the date for filing the report of receipts and utilization should be changed from the 7th to the 9th;

b. In § 1133.31, the date for filing the payroll report should be changed from the 20th to the 22nd;

c. In § 1133.32(d), the date for filing the supporting statement to producers should be changed from the 17th to the 19th;

d. In § 1133.62, the date for announcing the uniform price should be changed from the 12th to the 14th;

e. In § 1133.71, the date for making payments into the producer-settlement fund should be changed from the 14th to the 16th;

f. In § 1133.72, the date for making payments out of the producer-settlement fund should be changed from the 15th to the 18th;

g. In § 1133.73(b), the date for making final payments to producers for whom a cooperative association is not collecting payment should be changed from the 17th to the 19th;

h. In § 1133.73(c)(1) and (d), the date for making final payments to cooperative associations should be changed from the 15th to the 18th;

i. In § 1133.85, the date for paying the administrative assessment should be changed from the 14th to the 16th;

j. In § 1133.86(b), the date for transferring marketing service deductions to the market administrator should be changed from the 14th to the 16th; and

k. In § 1133.86(c), the date for transferring marketing service deductions to cooperative associations should be changed from the 16th to the 18th.

The above changes, with the exception of the changes noted in subparagraphs g and h above, were proposed at the hearing by Mayflower Farms. Although a proposal to change the dates of final payments to producers and cooperative associations was contained in Mayflower's original proposal as printed in the notice of hearing, proponent requested deletion of these changes at the hearing. The only reason given for this change was that "producers would like to be paid as soon as possible."

A spokesman for Mayflower testified that the purpose for requesting the changes in reporting and payment dates was to allow sufficient time for meeting reporting and payment deadlines under the order. Also, he said, the requested changes would provide more compatibility with comparable payment

and reporting dates under the neighboring Oregon-Washington and Puget Sound orders. He stated that because of the 350-mile distance between Mayflower's Spokane operation and its main office at Portland where all data processing occurs, and the fact that their data processing system has been set up to meet the requirements of the Oregon-Washington order, Mayflower has found it impossible to process all of the necessary information in time to file their report of receipts and utilization under the Inland Empire order by the 7th day of the month. Under the Oregon-Washington order, this report is not due until the 9th day of the month.

A spokesman for Northwest Dairyman's Association supported Mayflower's proposal, as amended at the hearing. He stated that his organization supported the changes in payment and reporting dates because they found it difficult to meet the deadlines imposed under the current provisions of the order.

The order's reporting and payment dates should be so structured that handlers can reasonably be expected to comply with them. Since the final payment dates are dependent upon several prior steps, including the filing of the report of receipts and utilization and the handler payments into and out of the producer-settlement fund, all of the dates must be coordinated to allow sufficient time for the sequence of events to occur.

As adopted herein, the report of receipts and utilization would be due by the 9th day of the month. After receiving all of the handler reports, the market administrator would compute the uniform price and the required payments into or out of the pool. The uniform price would be announced on the 14th day of the month. Handlers would be required to make payments into the producer-settlement fund on the 16th day of the month. The market administrator would make payments to handlers out of the producer-settlement fund by the 18th day of the month. Also by the 18th day of the month, handlers would be required to make final payments to cooperative associations.² On the 19th, handlers would be required to pay producers for whom payment is not made to a cooperative association.

As mentioned above, Mayflower requested that no change be made in the final payment dates to producers and

² It will probably be necessary for the market administrator to transfer funds out of the producer-settlement fund via an inter-bank transfer or hand delivery in order to insure that handlers receiving such payments have the funds on hand in time to meet the final payment deadline.

cooperative associations. It should be apparent, however, that a proprietary handler or a cooperative association with a Class I utilization below the market average should not have to pay their producers until they have received their payment from the market administrator out of the producer-settlement fund. For this reason, it is necessary to delay final payment to cooperatives until the 18th day of the month, the date that payments are due out of the producer-settlement fund. Payments to producers who are not being paid through a cooperative association should be due by the 19th day of the month. The one day delay will allow a cooperative association to receive their payment and mail their checks to producers so that their producers receive payment at about the same time as producers being paid directly by handlers.

In addition to the reporting and payment dates discussed above, certain other dates for various reports and payments should also be changed. The payroll report to the market administrator should now be due on the 22nd day of the month instead of the 20th. This 2-day delay recognizes that final payments to producers have been pushed back from the 17th to the 19th. As a corollary change in making final payment to producers, the date for submitting the supporting statement, showing weights, tests, deductions, and the rate of payment, should also be changed from the 17th to the 19th day of the month.

The date for paying the administrative assessment and marketing service deductions to the market administrator should be changed from the 14th to the 16th. This will allow a handler to transfer this money to the market administrator at the same time that any required payments are made into the producer-settlement fund. When a cooperative association performs the marketing service for a producer, the handler, instead of paying the market administrator, transfers the marketing service deduction to the cooperative association. The date for making this payment should be changed from the 16th to the 18th, when final payments are due the cooperative.

Although Mayflower originally proposed changing the date for making partial payments to producers, the cooperative withdrew this request at the hearing. In view of this, and the lack of support for such a change from any other party, no change should be made in the partial payment date.

Mayflower also proposed originally that a report from the market administrator to cooperative

associations be delayed from the 16th to the 18th. This report, which shows the class utilization of milk delivered by a cooperative association as a handler on bulk tank milk delivered from producers' farms to pool plants of other handlers, is needed by the cooperative in billing its customers. Since final payments to cooperatives will be due by the 18th day of the month, this report should continue to be due by the 16th day so that a cooperative can convey the necessary information to its customers. The other date changes that are made herein will not preclude the market administrator from reporting this information by the 16th day of the month. For these reasons, no change should be made in the date for making this report.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area. The minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of

milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Inland Empire marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered. That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

October 1979 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Inland Empire marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Note.—This decision has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this decision should not be classified "significant" under those criteria. This decision constitutes the Department's Final Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on December 20, 1979.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and Transportation Services.

Order¹ Amending the Order, Regulating the Handling of Milk in the Inland Empire Marketing Area

Findings and Determinations

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where the conflict with those set forth below.

(a) *Findings.* A public hearing was held to consider certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900). Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Inland Empire marketing area shall be in conformity to and in compliance with the terms and

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on October 31, 1979, and published in the Federal Register on November 6, 1979 (44 FR 64037) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. In § 1133.7, paragraph (d) is revised to read as follows:

§ 1133.7 Pool plant.

(d) The term pool plant shall not apply to the following plants:

- (1) A producer-handler plant;
- (2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area. However, if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the fourth consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;
- (3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such order; or
- (4) A plant pursuant to paragraph (b) of this section which also meets the pool plant requirements of another Federal order and from which greater shipments of fluid milk products, except filled milk, are made during the month to plants regulated under such other order than are made to plants regulated under this order.

§ 1133.5 [Amended]

2. In § 1133.9(f), the reference to "§ 1133.7(d)(2)" is changed to "§ 1133.7(d) (2), (3), or (4)."
3. In § 1133.13, paragraph (c) is revised to read as follows:

§ 1133.13 Producer milk.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account under paragraph (b)(1) of this section the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 70 percent in any of the months of September through February, and 80 percent in any of the months of March through August, of its total member-producer milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member-producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under paragraph (c)(1) of this section. The total quantity of milk so diverted may not exceed 70 percent in any of the months of September through February, and 80 percent in any of the months of March through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under paragraph (c)(1) of this section;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler.

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the months of September, October, or November must in addition have at least one day's production physically received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.52 and 1133.75, diverted milk shall be considered to have been received at the location of the plant to which diverted.

§ 1133.30 [Amended]

4. In the introductory paragraph of § 1133.30, the number "7th" is changed to "9th".

§ 1133.31 [Amended]

5. In the introductory paragraph of § 1133.31, the number "20th" is changed to "22nd" and the reference to "§ 1133.7(d)(2)" is changed to "§ 1133.7(d) (2), (3), or (4)."

§ 1133.32 [Amended]

6. In § 1133.32 (a) and (c), the reference to "§ 1133.7(d)(2)" is changed to "§ 1133.7(d) (2), (3), or (4)"; and in § 1133.32(d), the number "17th" is changed to "19th".

§ 1133.62 [Amended]

7. In the introductory paragraph of § 1133.62, the number "12th" is changed to "14th".

§ 1133.71 [Amended]

8. In the introductory paragraph of § 1133.71, the number "14th" is changed to "16th"; and in paragraph (c), the reference to "§ 1133.7(d)(2)" is changed to "§ 1133.7(d) (2), (3), or (4)".

§ 1133.72 [Amended]

9. In § 1133.72, the number "15th" is changed to "16th".

10. In § 1133.73, the number "17th" in paragraph (b) is changed to "19th", and paragraphs (c) and (d) are revised to read as follows:

§ 1133.73 Payments to producers and to cooperative associations.

(c) In lieu of payments to individual producers pursuant to paragraphs (a) and (b) of this section, payments shall be made to a cooperative association which requests such payment in writing and which the market administrator determines is authorized by its members to collect payments for their milk. The request for such payment and a written promise to reimburse the handler for any actual loss incurred by him because of an improper claim on the part of the cooperative association shall be sent to both the handler and the market administrator. In addition, the cooperative shall file simultaneously with the market administrator a certified list of members which shall be subject to verification at his discretion through audit of the pertinent records of the cooperative association. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination. Payments pursuant to this paragraph shall be made as follows:

(1) On or before the second day prior to the date of payment pursuant to paragraph (a) of this section, an amount equal to the sum of the individual payments otherwise payable to such

producers pursuant to such paragraph; and

(2) On or before the 18th day after the end of the month, an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to paragraph (b) of this section.

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1133.9(b)(2) and (c) shall pay such cooperative association for such milk as follows:

(1) On or before the second day prior to the date payments are due individual producers, a partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day of the month, a final payment for such milk at the applicable uniform price, less payment made pursuant to paragraph (d)(1) of this section.

§ 1133.85 [Amended]

11. In § 1133.85, the number "14th" is changed to "16th".

§ 1133.86 [Amended]

12. In § 1133.86(b), the number "14th" is changed to "16th" and in § 1133.86(c) the number "16th" is changed to "18th".

United States Department of Agriculture; Agricultural Marketing Service; Marketing Agreement Regulating the Handling of Milk in the Inland Empire Marketing Area

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ 1133.1 to 1133.86, all inclusive, of the order regulating the handling of milk in the Inland Empire marketing area which is annexed hereto; and

II. The following provisions:

§ 1133.87 Record of milk handled and authorization to correct typographical errors.

(a) *Record of milk handled.* The undersigned certifies that he handled during the month of October, 1979 hundredweight of milk covered by this marketing agreement.

(b) *Authorization to correct typographical errors.* The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ 1133.88 Effective date.

This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with § 900.14(a) of the aforesaid rules of practice and procedure.

In witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hand and seals.

(Seal)
(Signature) _____
BY: _____
(Name) _____
(Title) _____
(Address) _____
Attest _____
Date _____

[FR Doc. 79-39491 Filed 12-26-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1135

[Docket No. AO-380-RO1]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Rescheduling of Reopened Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Rescheduling of reopened hearing on proposed marketing agreement and order.

SUMMARY: This notice reschedules the date when the reopened hearing will be held to receive additional testimony on whether a new milk order should be established to regulate the handling of milk in an area tentatively designated as the Southwestern Idaho-Eastern Oregon marketing area. Several interested parties requested more time to prepare for the hearing.

DATE: February 5, 1980.

ADDRESS: Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83724.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued October 19, 1978; published October 24, 1978 (43 FR 49704).

Correction: Published October 27, 1978 (43 FR 50187).

Correction: Published November 13, 1978 (43 FR 52496).

Extension of time for filing briefs: Issued February 23, 1979; published February 28, 1979 (44 FR 11236).

Recommended decision: Issued August 13, 1979; published August 16, 1979 (44 FR 48128).

Extension of time for filing exceptions: Issued September 14, 1979; published September 19, 1979 (44 FR 54307).

Notice of reopening of hearing: Issued November 27, 1979; published November 30, 1979 (44 FR 68853).

A notice was issued on November 27, 1979 (44 FR 68853) giving notice of a public hearing to be held January 8, 1980, on a proposed marketing agreement and order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area.

Notice is hereby given, pursuant to the rules of practice applicable to these proceedings (7 CFR Part 900), that the said hearing is rescheduled to be held at the Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, Idaho, beginning at 10:00 a.m., local time, on February 5, 1980.

Signed at Washington, D.C., on December 19, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-39454 Filed 12-26-79; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 206

[Reg. F; Docket No. R-0269]

Securities of Member State Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed Rule.

SUMMARY: Pursuant to its authority under section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78(i)) ("Act"), the Board proposes to amend its Regulation F (12 CFR 206) in order that it will be substantially similar to comparable rules and regulations issued by the Securities and Exchange Commission. This proposal is intended to comply with section 12(i) of the Act, which requires that the Board either conform its Regulation F to any changes made by the Commission in its

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relevant rules and regulations, or publish reasons why the Board has determined that such changes are not necessary or appropriate. Concurrent with the conforming revisions to Regulation F required by section 12(j) of the Act, the Board proposes to simplify and thus reduce the burden of compliance by proposing to incorporate by reference instructions for the preparation of supervisory Reports of Condition and Reports of Income and thereby eliminate separate Regulation F instructions. To the extent additional financial statement data are required for disclosure purposes, supplemental instructions will be applicable and are proposed herein. The proposed conforming changes, which in all major respects are consistent with recent amendments to the rules and regulations of the Commission, concern: (A) Form and Content of Financial Statements designated Article 9 of Regulation S-X (B) Veracity of accounting records and issuer's representations in connection with preparation of required reports and documents filed under the Act and (C) editing changes and restructuring of certain financial statement regulations schedules and formats. The proposed changes do not include the net interest income format for the statement of income adopted by the Commission for two reasons: (1) the difference is considered a difference of form only, all material components needed to derive net interest income are readily available in the present statement of income format, and (2) consistency with the existing supervisory report of income format is required to achieve the concurrent simplification objective described above. There are several other minor differences in financial statement structure which do not materially affect the disclosure content of financial statement presentations.

DATES: Comments must be received by March 1, 1980.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulation to the Office of the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the docket number R-0269. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Thomas Sidman, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3503).

SUPPLEMENTARY INFORMATION: (1) The Federal Reserve Board would make the following changes:

A. Amendments To Conform with Article 9 of Regulation S-X

On September 7, 1978, the Commission amended Article 9 of Regulation S-X effective for financial statements for periods commencing after December 24, 1978. The following significant changes would conform Regulation F section 206.7—Form and Content of Financial Statements and Format F-9 Financial Statements to amended Article 9 of Regulation S-X.

1. Loans to Officers, Directors, Principal Security Holders, and Associates.

The Commission adopted a broad scope of disclosure concerning receivables of persons related to the registrant and its principal subsidiaries as directors, executive officers or principal holders of equity securities and certain of their associates. If the aggregate amount of such receivables exceeds five per cent of stockholders' equity, a statement of the amount is to be made in a note to financial statements. Amounts related to installment loans made in the ordinary course of business need not be included provided they were made on nonpreferential terms and did not involve more than normal risk of collectibility. In addition, any individual indebtedness of persons mentioned above or more than \$500,000 or two and one half per cent of stockholders' equity, whichever is less, would be required to be listed separately in a schedule to the financial statements.

On November 6, 1979, the Commission proposed to amend the individual indebtedness listing requirements of Schedule I relating to amounts due from nonofficer directors. Detailed disclosure of loans to nonofficer directors made in the ordinary course of business is proposed to be provided on an aggregate basis. The proposed amendment was prompted in part by the enactment of the Financial Institutions Regulatory and Interest Rate Control act of 1978 which was effective subsequent to the adoption of the revision of Article 9.

The Board proposes to amend its format and schedule requirements to conform with Article 9 disclosure requirements for loans to officers, directors, principal security holders and associates in accordance with the five per cent of equity capital threshold for note to financial statement rule with respect to aggregate indebtedness of such persons. With respect to the separate listing of individual indebtedness in a related schedule

requirement, the Board proposes to adopt the threshold of \$500,000 or two and one half per cent of equity capital, whichever is less, except that indebtedness of nonofficer directors may be combined in the aggregate as proposed by the Commission on November 6, 1979.

2. Statement of Income Format

The net interest income format adopted by the Commission introduced a multi-step statement of income that in substance does not affect the determination of net income nor expand the overall caption structure of the existing report of income format used for supervisory financial reports. Derivation of net interest income is readily calculable from the present supervisory report of income format. Rather than conform with the multi-step statement of income presentation, the Board concludes that the change would be a matter of form only. Further, conforming to such change would be inimical to the achievement of its objective to simplify compliance by and reduce reporting burden of registrant banks by proposing to incorporate the instructions for the preparation of supervisory reports.

It should be noted that the guidelines set forth in Format F-9 Financial Statements of Regulation F are recommended presentations, but financial statements may be filed in such form and order as will best indicate their significance and character. Such statement has been a long established provision in the regulations of the Commission and adhered to by the Board. Thus, a registrant bank may at its option and in its judgment present a statement of income that would conform to the Commission's Regulation S-X.

3. Foreign Activities

Section 206.7(c)(9) of the regulation would be added to require disclosure in a note to the financial statements of foreign activities if assets, or operating income, or income (loss) before taxes and securities gains (losses), or net income (loss) associated with foreign activities, exceeded ten percent of the corresponding amount in the related financial statements. Loan categories, balances with banks in foreign countries, deposit liabilities, other borrowings, income and expense summary and allowance for possible loan losses must be furnished. In addition, activities for each significant geographic area (defined as one in which assets, operating income, or net income exceed ten percent of the comparable amount as reported in the related financial statements) must be separately stated for such area. In connection with deposit liabilities, the

amount of interest bearing deposits in denominations of \$100,000 or more must be stated. Disclosure of such interest bearing deposits conforms to the amendment of Article 9 of Regulation S-X of the Commission proposed on November 6, 1979.

4. Investment Securities

A proposed supplemental instruction to Format F-9A, Balance Sheet would require disclosure in a note to the financial statements of concentration in the bank's investment in securities by an issuer other than U.S. Treasury and U.S. Government agency and corporation. If aggregate book value for that issuer securities exceeds ten percent of the equity capital accounts of the bank, the name of issuer, aggregate book value and aggregate amount on the basis of market quotations or fair value must be stated. Debt securities issued by a State of the United States and its political subdivisions and agencies which are payable from and secured by the same source of revenue or taxing authority shall be considered to be securities of a single issuer.

B. Falsification of Accounting Records and Issuer's Representation

Section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78(i)) ("Act") requires issuers who are registered under the Act to (1) make and keep books, records and accounts, in reasonable detail, which accurately and fairly reflect transactions and dispositions of the assets; and (2) devise and maintain a system of internal accounting controls sufficient to meet certain standards. The Commission adopted rules 13(b)2-1, and 13(b)2-2 to implement this authority. The Board proposes to adopt such rules by adding these new provisions as § 206.7 (c) and (d) of Regulation F.

C. Other Changes

Proposed § 206.7—Form and Content of Financial Statements of the regulation has been restructured as to order and content of certain provisions with minor editing changes to obtain more similarity with Commission rules and to establish identical structure among Federal bank agency disclosure regulations to the extent possible. New § 206.7(e) 7 and 8 relating to reacquired evidences of indebtedness and reacquired shares respectively have been proposed. Guideline Format F-9E Schedules has been revised by combining Schedules I and II—Investment and Other Securities into a single schedule, proposing a new Schedule II—Loans to Officers, Directors, Principal Security Holders and any Associates of the Foregoing

Persons, deleting Schedules VI—Other Liabilities for Borrowed Money and editing in certain other schedules.

D. Simplification of Financial Statement Preparation

To reduce reporting burden of registrant banks the proposal includes a procedure which will permit the assembly of financial statement data compiled for supervisory bank reports to be used for compliance with Regulation F financial statement requirements. Format F-9 Financial Statements would be patterned on the caption structure of supervisory financial reports and the related Instructions for Preparation of Reports of Condition and Income have been incorporated by reference. To the extent additional financial data are needed to meet the disclosure standards of the Commission, supplemental instructions are provided in the proposed Format F-9. Thus, registrant banks will be able to utilize identical basic financial statement data to meet both supervisory and disclosure report requirements of the Board. (2) Section 206.7 (amended).

Section 206.7 of Regulation F, 12 CFR 206.7, would be amended to read as follows:

§ 206.7 Form and content of financial statements.

(a) *Principles of financial reporting.* Financial statements filed with the Board pursuant to this part shall be prepared in accordance with generally accepted accounting principles and practices applicable to banks. The Board may from time to time issue releases on accounting principles and practices to be used with respect to specific areas.

(b) *Verification—(1) General.* (i) Every verification with respect to financial statements filed pursuant to this part shall be dated, shall be signed manually, shall indicate the city and State where issued, and shall identify without detailed enumeration the financial statements covered by the verification.

(ii) If the person or persons making a verification considers that he must take exceptions or express qualifications with respect thereto, each such exception or qualification shall be stated specifically and clearly and, to the extent practicable, shall indicate the effect of the matter on the financial statements to which it relates.

(2) *Opinions to be expressed by principal accounting officer and internal auditor.* Every verification by a bank's principal accounting officer and internal auditor shall state:

(i) The opinions of such persons with respect to the financial statements covered by the verification and the accounting principles and practices reflected therein; and

(ii) The opinions of such persons as to any material changes in accounting principles or practices or in the method of applying the accounting principles or practices, or adjustments of the accounts, required to be set forth by paragraph (c)(5) of this section.

(3) *Examination by independent public accountants.—(i) Qualifications of independent public accountants.* (A) The Board will not recognize any person as an independent public accountant who is not registered or licensed to practice as a public accountant by a regulatory authority of a State and in good standing with such authority as such an accountant.

(B) The Board will not recognize any certified public accountant or public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates (1) in which, during the period of his professional engagement to examine the financial statements being reported on or at that date of his report, he or his firm or a member thereof had, or was committed to acquire, any direct financial interest or any material indirect financial interest, or (2) with which, during the period of his professional engagement to examine the financial statements being reported on, at the date of his report or during the period covered by the financial statements, he or his firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will not be deemed not independent in regard to a particular person if a former officer or employee of such person is employed by the firm and such individual has completely disassociated himself from the person and its affiliates and does not participate in auditing financial statements of the person or its affiliates covering any period of his employment by the person. For the purposes of § 206.7 the term "member" means all partners in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit.

(C) In determining whether a public accountant is, in fact, independent with respect to a particular person, the Board will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person

or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Board.

(ii) *Representations as to the audit.* The independent public accountant's report—

(A) Shall state whether the audit was made in accordance with generally accepted auditing standards; and

(B) Shall designate any auditing procedures generally recognized as normal (or deemed necessary by the accountant under the circumstances of the particular case) that have been omitted, and the reasons for their omission. Nothing in this provision shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (b)(3)(iii) of this section.

(iii) *Opinions to be expressed.* The independent public accountant's report shall state clearly:

(A) The opinion of the accountant with respect to the financial statements covered by the report and the accounting principles and practices reflected therein; and

(B) The opinion of the accountant as to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements required to be set forth by paragraph (c)(5) of this section.

(iv) *Exceptions.* If the accountant making the report considers that he must take exceptions or express qualifications with respect thereto, each such exception or qualification shall be stated specifically and clearly and, to the extent practicable, shall indicate the effect of the matter on the financial statements to which it relates.

(v) *Association with unaudited note covering interim financial data.* If the financial statements covered by the accountant's report designate as "unaudited" the note required by § 205.7(e)(10)(vii), it shall be presumed that appropriate professional standards and procedures with respect to the data in the note have been followed by the independent accountant who is associated with the unaudited footnote by virtue of reporting on the financial statements in which the note is included.

(vi) *Examination of financial statements by more than one independent public accountant.* If, with respect to the examination of the financial statements of any bank, the principal independent public accountant relies on an audit made by another

independent public accountant of certain of the accounts of such bank or its subsidiaries, the report of such other accountant shall be filed (and the provisions of this subparagraph shall be applicable thereto); however, the report of such other accountant need not be filed (A) if no reference is made directly or indirectly to such other accountant's audit in the principal accountant's report, or (B) if, having referred to such other accountant's audit the principal accountant's report indicates an assumption of responsibility for such other accountant's audit.

(c) *Falsification of accounting records.* No person shall, directly or indirectly, falsify or cause to be falsified, any book, record or account subject to section 13(b)(2)(A) of the Securities Exchange Act.

(d) *Bank's representations in connection with the preparation of required reports and documents.* No director or officer of a bank shall directly or indirectly make or cause to be made a materially false or misleading statement, or omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to an accountant in connection with (1) any audit or examination of the financial statements of the bank required to be made pursuant to this part or (2) the preparation or filing of any document or report required to be filed with the Board pursuant to this part or otherwise.

(e) *Provisions of general application.*—(1) *Requirements as to form.* Financial statements shall be prepared in accordance with the applicable requirements of Formats 9A, B, C, D, and E. All money amounts required to be shown in financial statements may be expressed in even dollars or thousands of dollars. If shown in even thousands, an indication to that effect shall be inserted immediately beneath the caption of the statement or schedule, or at the top of each money column. The individual amounts shown need not be adjusted to the nearest dollar or thousand if the failure of the items to add to the totals shown is stated in a note as due to the dropping of amounts of less than \$1.00 or \$1,000, as appropriate.

(2) *Items not material.* If the amount that would otherwise be required to be shown with respect to any item is not material, it need not be separately set forth.

(3) *Inapplicable captions and omission of unrequired or inapplicable financial statements.* No caption need

be shown in any financial statement required by the forms set forth in this Part as to which the items and conditions are not present. Financial statements not required or inapplicable because the required matter is not present need not be filed, but the statements omitted and the reasons for their omission shall be indicated in the list of financial statements required by the applicable form.

(4) *Additional information.* In addition to the information required with respect to any financial statement, such further information shall be furnished as is necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(5) *Changes in accounting principles and practices and retroactive adjustments of accounts.* Any change in accounting principle or practice, or in the method of applying any accounting principle or practice, made during any period for which financial statements are filed that affects comparability of such financial statements with those of prior or future periods and the effect thereof upon the net income for each period for which financial statements are filed, shall be disclosed in a note to the appropriate financial statement. Any material retroactive adjustment made during any period for which financial statements are filed, and the effect thereof upon net income of prior periods, shall be disclosed in a note to the appropriate financial statement.

(6) *Summary of accounting principles and practices.* Information required in notes as to accounting principles and practices reflected in the financial statements may be presented in the form of a single statement. In such a case specific references shall be made in the appropriate financial statements to the applicable portion of such single statement.

(7) *Reacquired evidences of indebtedness.* Reacquired evidences of indebtedness shall be deducted from the appropriate liability caption.

(8) *Reacquired shares.* When authorized by statute, reacquired shares not retired shall be shown separately as a deduction from capital shares, or from the total of capital shares and other stockholders' equity, at either par or stated value, or cost, as circumstances require.

(9) *Foreign activities.* If assets, or operating income, or income (loss) before taxes and securities gains (losses), or net income (loss) associated with foreign activities, exceeded 10 percent of the corresponding amount in the related financial statements, the following disclosures concerning foreign

activities shall be furnished in a note to the financial statements.

(i) *Loans.* State separately loan categories as prescribed by Schedule A, Column C of Consolidated Report of Condition, FR 2106, as applicable. Categories of less than 10 percent of total loans related to foreign activities may be grouped with all other loans.

(ii) *Balances with banks in foreign countries.* State separately balances with foreign branches of other U.S. banks and with other banks in foreign countries. (See line 5 (a) and (b) of Schedule C, Column C of Consolidated Report of Condition, FR 2106.) Also furnish the amount of interest-bearing balances included above.

(iii) *Deposit liabilities.* Furnish deposit information as prescribed in Schedule F/F of Consolidated Report of Condition, FR 2106. State also amount of interest-bearing deposits in denominations of \$100,000 or more.

(iv) *Other borrowings.* State separately short-term borrowings, other liabilities for borrowed money, and other indebtedness related to foreign activities corresponding to the amounts reported on the Balance Sheet (Format F-9A) Items 18, 20, 21 and 25.

(v) *Income and expense summary.* For each period for which an income statement is filed, furnish information as prescribed in Part 1, Column B and Part 2 of the Statement of Income FR 2107s. State in a note the basis of pricing money transfers and the policy governing allocation of income and expenses to foreign activities.

(vi) *Allowance for possible loan losses.* For each period for which a statement of income is filed, furnish in a note a reconciliation of changes in the allowance for possible loan losses applicable to loans related to foreign activities.

(vii) If disclosure above is required, state separately in a note for each significant geographic area, and in the aggregate for all other geographic areas not deemed significant, the following:

(A) Total assets (net of valuation allowances)

(B) Total operating income

(C) Income (loss) before taxes and securities gains (losses)

(D) Net income (loss)

Note.—A "significant geographic area" is one whose assets, operating income, or net income exceed 10 percent of the comparable amount as reported in the related financial statements.

(10) *Foreign currencies.* The basis of conversion of all items in foreign currencies shall be stated, and the amount and disposition of the resulting unrealized profit or loss shown.

Disclosure should be made as to the effect, insofar as this can be reasonably determined, of foreign exchange restrictions upon the consolidated financial position and operating results of the bank and its subsidiaries.

(11) *Commitments.* If material in amount, the pertinent facts relative to firm commitments for the acquisition, directly or indirectly, of fixed assets and for the purchase, repurchase, construction, or rental of assets under long-term leases shall be stated briefly in the balance sheet or in footnotes referred to therein. Where the rentals or obligations under long-term leases are material the following shall be set forth in a note to appropriate financial statement:

(i) Total rental expense (reduced by rentals from subleases, with disclosure of such amounts) entering into the determination of results of operations for each period for which an income statement is presented shall be disclosed. Rental payments under short-term leases for a month or less which are not expected to be renewed need not be included. Contingent rentals, such as those based upon usage or sales, shall be reported separately from the basic or minimum rentals.

(ii) The minimum rental commitments under all noncancelable leases shall be disclosed, as of the date of the latest balance sheet required, in the aggregate for (A) each of the five succeeding fiscal years and (B) the remainder as a single amount. The amounts so determined should be reduced by rentals to be received from existing noncancelable subleases (with disclosure of the amounts of such rentals). For purposes of this rule, a noncancelable lease is defined as one that has an initial or remaining term of more than one year and is noncancelable, or is cancelable only upon the occurrence of some remote contingency or upon the payment of a substantial penalty.

(iii) Additional disclosures shall be made to report in general terms; (A) the basis for calculating rental payments if dependent upon factors other than the lapse of time; (B) existence and terms of renewal or purchase options, escalation clauses, etc.; (C) the nature and amount of related guarantees made or obligations assumed; (D) restrictions on paying dividends, incurring additional debt, further leasing, etc.; and (E) any other information necessary to assess the effect of lease commitments upon the financial position, results of operations, and changes in financial position of the lessee.

(12) *General notes to balance sheets.* If present with respect to the bank for which the statement is filed, the

following shall be set forth in the balance sheet or in referenced notes thereto. Information required by paragraph (e)(12) (i), (v), (vi), (vii), (viii), (ix) and (x) of this section shall be provided with the most recent fiscal year balance sheet and any interim date balance sheet being filed.

(i) *Assets subject to lien.* The amounts of assets mortgaged, pledged, or otherwise subject to a lien or security interest shall be designated and the obligation secured thereby, if any, shall be identified briefly.

(ii) *Intercompany profits and losses.* The effect upon any balance sheet item of profits or losses, resulting from transactions with affiliated companies and not eliminated shall be stated. If impracticable of accurate determination without unreasonable effort or expense, an estimate or explanation shall be given.

(iii) *Pension and retirement plans.* (A) A brief description of the essential provisions of any employee pension or retirement plan and of the accounting and funding policies relating thereto shall be given; (B) The estimated annual cost of the plan shall be stated; (C) If a plan has not been funded or otherwise provided for, the estimated amount that would be necessary to fund or otherwise provide for the past-service cost of the plan shall be disclosed; (D) The excess, if any, of the actuarially computed value of vested benefits of the total of the pension fund and any balance sheet accruals, less any pension pension prepayments or deferred charges, shall be stated as of the most recent practicable date; (E) A statement shall be given of the nature and effect of significant matters affecting comparability of pension costs for which income statements are presented.

(iv) *Capital stock optioned to officers and employees.* (A) A brief description of the terms of each option arrangement shall be given, including the title and amount of securities subject to the option, the year or years during which the options were granted, and the year or years during which the optionees became, or will become, entitled to exercise the options; (B) There shall be stated the number of shares under option at the balance sheet date, and the option price and the fair value thereof (per share and in total) at the dates the options were granted; the number of shares with respect to which options became exercisable during the period, and the option price and the fair value thereof (per share and in total) at the dates of sale or offer to sell, as appropriate. The required information may be summarized as appropriate with respect to each of the categories referred

to in this subclause (B); (C) The basis of accounting for such option arrangements and the amount of charges, if any, reflected in income with respect thereto shall be stated.

(v) Restrictions that limit the availability of surplus and/or undivided profits for dividend purposes. Describe the most restrictive of any such restriction, other than as reported pursuant to Item 26(b) of Format F-9A, indicating briefly its source, its pertinent provisions, and where appropriate and determinable, the amount of the surplus and/or undivided profits (A) so restricted or (B) free of such restrictions.

(vi) Contingent liabilities. A brief statement as to contingent liabilities not reflected in the balance sheet shall be made.

(vii) Standby letters of credit. State the amount of outstanding "standby letters of credit." For the purpose of this paragraph, "standby letters of credit" include every letter of credit (or similar arrangement however named or designated) which represents an obligation to the beneficiary on the part of the issuing bank (A) to repay money borrowed by or advanced to or for the account of the account party or (B) to make payment on account of any evidence of indebtedness undertaken by the account party, or (C) to make payment on account of any default by the account party in the performance of an obligation,¹ except that, if prior to or at the time of issuance of a standby letter of credit, the issuing bank is paid an amount equal to the bank's maximum liability under the standby letter of credit, or has set aside sufficient funds in a segregated, clearly earmarked deposit account to cover the bank's maximum liability under the standby letter of credit, then the amount of that standby letter of credit need not be stated.

(viii) Defaults. The facts and amounts concerning any default in principal, interest, sinking fund, or redemption provisions with respect to any issue of securities or credit agreements, or any breach of covenant of a stated indenture or agreement, which default or breach existed at the date of the most recent balance sheet being filed and which has not been subsequently cured, shall be stated. Notation of such default or breach of covenant shall be made in the financial statements. If a defaulter

¹ As defined, "standby letter of credit" would not include (1) commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw upon the issuer and which do not "guaranty" payment of a money obligation or (2) a guaranty or similar obligation issued by a foreign branch in accordance with and subject to the limitations of Regulation M.

breach exists, but acceleration of the obligation has been waived for a stated period of time beyond the date of the most recent balance sheet being filed, state the amount of the obligation and the period of the waiver.

(ix) Significant changes in bonds, mortgages, and similar debt. Any significant changes in the authorized or issued amounts of bonds, mortgages, and similar debt since the date of the latest balance sheet being filed for a particular person or group shall be stated.

(x) Warrants or rights outstanding. Information with respect to warrants or rights outstanding at the date of the related balance sheet shall be set forth as follows: (A) Title of issue of securities called for by warrants or rights outstanding; (B) aggregate amount of securities called for by warrants or rights outstanding; (C) date from which warrants or rights are exercisable and expiration date; (D) price at which warrant or right is exercisable.

(13) *General notes to statements of income.* If present with respect to the bank for which the statement is filed, the following shall be set forth in the statement of income or in referenced notes thereto:

(i) Intercompany profits and losses. The amount of any profits or losses resulting from transactions between unconsolidated affiliated companies shall be stated. If impracticable of determination without unreasonable effort and expense, an estimate or explanation shall be given.

(ii) Depreciation and amortization. For the period for which statements of income are filed, there shall be stated the policy followed with respect to: (A) The provision for depreciation of physical properties or valuation allowances created in lieu thereof, including the methods and, if practicable, the rates used in computing the annual amounts; (B) The provision for depreciation and amortization of intangible, or valuation allowances created in lieu thereof, including the methods and, if practicable, the rates used in computing the annual amounts; (C) The accounting treatment for maintenance, repairs, renewals, and improvements; and (D) The adjustment of the accumulated valuation allowances for depreciation and amortization at the time the properties were retired or otherwise disposed of, including the disposition made of any profit or loss on sale of such properties.

(iii) Bonus, profit sharing, and other similar plans. Describe the essential provisions of any such plans in which only directors, officers or key employees may participate, and state, for each of

the fiscal periods for which income statements are required to be filed, the aggregate amount provided for all plans by charges to expense.

(iv) Income tax expense. (A) Disclosure shall be made, in the income statement or a note thereto, of the components of income tax expense, including: (1) taxes currently payable; (2) the net tax effects, as applicable, of (i) timing differences (indicate separately the amount of the estimated tax effect of each of the various types of timing differences where the amount of each such tax effects exceeds 5 percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rates; other differences may be combined) and (ii) operating losses; and (3) the net deferred investment tax credits. Amounts applicable to United States Federal income taxes, to foreign income taxes and to other income taxes shall be stated separately for each major component, unless the amounts applicable to foreign and other income taxes do not exceed 5 percent of the total for the component. (B) If it is expected that the cash outlay for income taxes with respect to any of the succeeding three years will substantially exceed income tax expense for such year, that fact should be disclosed together with the approximate amount of the excess the year (or years) of occurrence and the reasons therefor. (C) Provide a reconciliation between the amount of reported total income tax expense and the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, showing the estimated dollar amount of each of the underlying causes for the difference. If no individual reconciling item amounts to more than 5 percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, and the total difference to be reconciled is less than 5 percent of such computed amount, no reconciliation need be provided unless it would be significant in appraising the trend of earnings. Reconciling items that are individually less than 5 percent of the computed amount may be aggregated in the reconciliation. The reconciliation may be presented in percentages rather than in dollar amounts.

(v) Interest capitalized. The amount of interest cost capitalized in each period for which an income statement is presented shall be shown within the income statement. Banks which follow a policy of capitalizing interest cost shall make the following additional disclosures: (A) The reason for the

policy of interest capitalization and the way in which the amount to be capitalized is determined. (B) The effect on net income for each period for which an income statement is presented of following a policy of capitalizing interest as compared to a policy of charging interest to expense as incurred.

(vi) Disagreements on accounting and financial disclosure matters. If, (A) within the twenty-four months prior to the date of the most recent financial statements, a Form F-3 has been filed reporting a change of accountants, (B) included in the Form F-3 there was a reported disagreement on any matter of accounting principles or practices or financial statement disclosure, (C) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the reported disagreement, and (D) such transactions or events where material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountant apparently concluded was required. The effects on the financial statements need not be disclosed if the method asserted by the former accountant ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

(vii) Disclosure of selected quarterly financial data in notes to financial statements.

Exemption. This rule shall not apply unless the bank meets the following conditions:

(A) The bank's securities registered under Section 12(g) of the Securities Exchange Act of 1934 are quoted on the National Association of Securities Dealers Automated Quotation System and (1) meet the requirements for continued inclusion on the list of OTC margin stocks set forth in section 220.8(i) of Regulation T of the Board of Governors of the Federal Reserve System or (2) the bank has securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934; and

(B) The bank and its consolidated subsidiaries (1) have had a net income after taxes but before extraordinary items and the cumulative effect of a change in accounting of at least \$250,000 for each of the last three fiscal years; or (2) had total assets of at least

\$200,000,000 as of the end of the last fiscal year.

(1) Disclosure shall be made in a note to financial statements of total operating income, income before securities gains (losses), income before extraordinary items and cumulative effect of a change in accounting, net income, and per share data based upon such income for each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented.

(2) When the data required by the preceding paragraph above vary from the amounts previously reported on the Form F-4 filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected, reconcile the amounts given with those previously reported describing the reason for the difference.

(3) Describe the effect of any unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the nature of year-end or other adjustments that are material to the results of that quarter.

(4) Where this note is part of audited financial statements, it may be designated "unaudited."

(f) *Consolidated financial statements.*

(1) Consolidated statements generally present more meaningful information to the investor than unconsolidated statements. Except where good reason exists, consolidated statements of the bank and its majority-owned significant subsidiaries should be filed.

(2) Every majority-owned bank-premises subsidiary and every majority-owned subsidiary operating under the provisions of section 25 or section 25(a) of the Federal Reserve Act ("Agreement Corporations" and "Edge Act Corporations") shall be consolidated with that of the reporting bank irrespective of whether such subsidiary is a significant subsidiary.

(3) If the financial statements of a subsidiary are as of a date or for periods different from those of the bank, such statements may be used as the basis for consolidation of the subsidiary only if the date of such statements is not more than 93 days from the date of the close of the bank's fiscal year; the closing date of the subsidiary is specified; the necessity for the use of different closing dates is explained briefly; and any changes in the respective fiscal periods of the bank and the subsidiary made during the period of report are indicated clearly.

(4) There shall be set forth in a note to each consolidated balance sheet filed a statement of any difference between the investment in subsidiaries consolidated, as shown by the bank's books, and the bank's equity in the net assets of such subsidiaries as shown by the subsidiaries' books. If any such difference exists, there shall be set forth the amount of the difference and the disposition made thereof in preparing the consolidated statements, naming the balance sheet captions, and stating the amount included in each.

(5) There may be filed financial statements in which majority-owned subsidiaries not consolidated with the parent are consolidated or combined in one or more groups, and 50 per cent or less owned persons, the investments in which are accounted for by the equity method are consolidated or combined in one or more groups, pursuant to principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations of the group or groups.

(6) A brief description of the principles followed in consolidating or combining the separate financial statements, including the principles followed in determining the inclusion or exclusion of (i) subsidiaries and (ii) companies in consolidated or combined financial statements, shall be stated in the notes to the respective financial statements.

(7) As to each consolidated financial statement and as to each combined financial statement, if there has been a change in the persons included or excluded in the corresponding statement for the preceding fiscal period filed with the Board which has a material effect on the financial statements, the persons included and the persons excluded shall be disclosed. If there have been any changes in the respective fiscal periods of the persons included made during the periods of the report which have a material effect on the financial statements, indicate clearly such changes and the manner of treatment.

(8) A statement shall be made in a note to the latest balance sheet of the amount and the accounting treatment of any difference between the investment of a bank and its consolidated subsidiaries, as shown in the consolidated balance sheet, in the unconsolidated subsidiaries and 50 per cent or less owned persons accounted for by the equity method, and their equity in the net assets of such unconsolidated subsidiaries and 50 per cent or less owned persons.

(g) *Statement of changes in equity capital.* A statement of changes in equity capital shall be filed with each

statement of income filed pursuant to this Part.

(h) *Statement of changes in financial position.* A statement of changes in financial position shall be filed with each statement of income filed pursuant to this Part.

(i) *Schedules to be filed.* (1) The following schedules shall be filed with each balance sheet filed pursuant to this part: Schedule I—U.S. Treasury Securities, Obligations of other U.S. Government Agencies and Corporations, Obligations of States and Political Subdivisions, and Other Bonds, Notes and Debentures; Schedule III—Loans; and Schedule IV—Bank Premises and Equipment.

(2) The following schedule shall be filed with each statement of income filed pursuant to this part: Schedule II—Loans to Officers, Directors, Principal Security Holders, and any Associates of the Forgoing Persons; Schedule V—Investments in, Income from Dividends, and Equity in Earnings or Losses of Subsidiaries and Associated Companies; and Schedule VI—Allowance for Possible Loan Losses.

(3) Reference to the schedules referred to in subparagraphs (1) and (2) of this paragraph shall be made against the appropriate captions of the balance sheet or statement of income.

(4) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

Format F-9, 12 CFR 206.71 [Amended]

Section 206.71 of Regulation F, Format F-9, would be amended to read as follows:

Board of Governors of the Federal Reserve System

Format F-9 Financial Statements

- A. Balance Sheet (Format F-9A)
- B. Statement of Income (Format F-9B)
- C. Statement of Changes in Equity Capital (Format F-9C)
- D. Statement of Changes in Financial Position (Format F-9D)
- E. Schedules (Format F-9E)

General Instructions

1. *Preparation of Financial Statements.* The formats are intended to serve as guides for preparation of financial statements required to be filed pursuant to this part. The formats are recommended presentations, but financial statements may be filed in such form and order as will best indicate their significance and character. Requirements for inclusion of financial statements in certain other guideline forms required by Regulation F are found in the instructions to such forms. Requirements set forth in § 206.7 of this part shall be applicable to financial statements filed pursuant to Regulation F. The term, "financial statements," as used in this instruction, includes all required notes to

financial statements and all required schedules.

2. *Accrual accounting.* Financial statements shall generally be prepared on the basis of accrual accounting whereby all revenues and all expenses shall be recognized during the period earned or incurred regardless of the time received or paid, with certain exceptions: (a) Where the results would be only insignificantly different on a cash basis, or (b) where accrual is not feasible. Statements with respect to the first fiscal year that a bank reports on the accrual basis shall indicate clearly, by footnote or otherwise, the beginning-of-year adjustments, that were necessary and their effect on prior financial statements filed under this part.

3. *Negative Amounts.* Negative amounts shall be shown in brackets or parentheses and so described in the related caption, columnar heading or a note to the statement or schedule, as appropriate.

4. *Items not Material.* If the amount that would otherwise be required to be shown with respect to any item is not material, it need not be separately set forth.

5. *Inapplicable Captions and Omission of Unrequired or Inapplicable Financial Statements and Schedules.*

No caption need be shown in any financial statement or schedule if the items and conditions are not present. Financial statements and schedules not required or inapplicable because the required matter is not present need not be filed, but the statements and schedules omitted and the reasons for their omission shall be indicated in the list of financial statements and schedules required by the applicable form.

A. Balance Sheet

The Balance Sheet shall be prepared in accordance with the *Instructions for the Preparation of the Consolidated Report of Condition* (FR 2103, FR 2105 or FR 2106, as applicable) except to the extent revised or expanded financial data presentation is necessary to meet the disclosure standards of the Securities Exchange Act of 1934, as amended.

Note.—Banks subject to this part are required to report on the accrual basis of accounting.

The following captions and added supplemental instructions shall be observed in the preparation of the Balance Sheet required under this part.

Assets

1. Cash and due from depository institutions—

(a) State separately (1) interest bearing deposits in other banks and (2) noninterest bearing deposits and cash. (See Schedule C of FR 2105 or FR 2106.)

2. U.S. Treasury Securities

3. Obligations of other U.S. Government agencies and corporations

4. Obligations of States and political subdivisions in the United States

5. Other bonds, notes and debentures

6. Federal Reserve stock and corporate stock—

(a) With respect to Items 2, 3, 4, 5 and 6, state parenthetically on the balance sheet or in a note for each category the aggregate amount on the basis of market quotations or fair value of securities at the balance sheet date.

(b) With respect to Items 2, 3, 4, 5 and 6, state in a note the basis by which book value is determined. Bond premium shall be amortized and discount shall be accreted.

(c) With respect to Items 4, 5 and 6, as applicable, state in a note the name of issuer, aggregate book value and aggregate amount on the basis of market quotations or fair value of the securities of any issuer for which the aggregate book value exceeds 10 percent of the equity capital accounts of the bank. Debt securities issued by a State of the United States and its political subdivisions and agencies which are payable from and secured by the same source of revenue or taxing authority shall be considered to be securities of a single issuer. Consideration shall be given to disclosure of risk characteristics of the securities of an issuer and of differences in risk characteristics of different issues of securities of an issuer as may be appropriate.

7. Trading account securities—

(a) State in a note whether securities in the trading account are valued at lower of cost or market. If market basis is not used, in valuing the trading account securities inventory, furnish the aggregate fair market value at each balance sheet date.

8. Federal funds sold and securities purchased under agreements to resell

9. Loans, (net of unearned income)

Less: Allowance for possible loan losses

Loans, net—

(a) If the amount exceeds 5 percent of equity capital, state in a note the aggregate amount of loans outstanding to officers, directors and principal security holders and associates. Amounts to be reported shall include loans from the bank or any subsidiary. It shall not be necessary to disclose amounts related to individuals for household, family and other personal expenditures made in the ordinary course of business that (i) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectibility or present other unfavorable features.

10. Lease financing receivables

11. Bank premises, furniture and fixtures and other assets representing bank premises

12. Real estate owned other than bank premises—

(a) State in a note (1) the basis at which carried, (2) the aggregate fair market value of all real estate owned other than bank premises with an explanation of the method of determining such fair market value, and (3) a reconciliation of any valuation allowance amount.

13. Investments in unconsolidated subsidiaries and associated companies

14. Customers' liability to this bank on acceptances outstanding

15. Other assets

16. Total Assets

Liabilities

Deposits

(a) State separately—

(1) Demand deposits in domestic bank offices

(2) Savings deposits in domestic bank offices

(3) Time deposits in domestic bank offices

(4) Deposits in foreign offices

(See Schedules F and FF of FR 2105 or FR 2106, as applicable.)

(b) State in a note the aggregate amount of (1) time certificates of deposit and (2) other time deposits in denominations of \$100,000 or more in domestic offices. (See Memoranda Items 1(b) and (c) of FR 2105 and FR 2106, as applicable.)

16. Federal funds purchased and securities sold under agreements to repurchase—

(a) If the approximate average balance outstanding during the period for any category was more than 30 percent of equity capital accounts, state in a note with respect to each activity category the following:

(1) Weighted average interest rate at balance sheet date.

(2) Maximum amount of borrowings at any month-end during each period for which an end-of-period balance sheet is required

(3) Approximate average borrowings outstanding during the period

(4) Approximate weighted average interest rate for such average borrowing outstanding during the period

19. Interest-bearing demand notes (note balance) issued to the U.S. Treasury

20. Other liabilities for borrowed money—

See supplemental instruction to Item 18.

21. Mortgage indebtedness and liability for capitalized leases—

(a) State in a note material terms and conditions of each obligation including (but not limited to) (1) the general character of the debt, (2) the rate of interest, (3) the date of maturity, or if maturing serially, a brief indication of the serial maturities, (4) if the payment of principal or interest is contingent, an appropriate indication of such contingency, (5) a brief indication of priority and (6) the amount outstanding at the balance sheet date.

(b) Furnish in tabular form the combined aggregate amount of maturities and sinking fund requirements for all obligations, each year for the five years following the date of the balance sheet.

(c) If there are any liens on bank premises or other real estate owned by the bank or its consolidated subsidiaries which have not been assumed by the bank or its consolidated subsidiaries, state in a note the amount thereof together with an appropriate explanation.

22. Bank's liability on acceptances executed and outstanding

23. Other liabilities

24. Total liabilities (excluding subordinated notes and debentures)

25. Subordinated notes and debentures—

(a) State in a note material terms and conditions of each obligation including (but not limited to) (1) the general character of the debt, (2) the rate of interest, (3) the date of maturity, or if maturing serially, an indication

of serial maturities, (4) if the payment of principal or interest is contingent, and appropriate indication of such contingency. (5) a brief indication of priority and (6) the amount outstanding at the balance sheet date.

(b) Furnish in tabular form the combined aggregate amount of maturities and sinking fund requirements for all obligations, each year for the five years following the date of the balance sheet.

Equity Capital

26. Preferred stock—

(a) State for each class of shares the title of issue, the number of shares authorized, issued and outstanding, the par or stated value per share and the capital share liability thereof, and if convertible, the basis of conversion. Show also the dollar amount, if any, of shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom.

(b) State in a note (1) if callable, the date or dates and the amount per share at which such shares are callable, (2) if convertible, the terms of the conversion, (3) any arrears in cumulative dividends per share and in total for each class of shares, and (4) the preferences on involuntary liquidation, if other than the par or stated value. When the excess involved is material, there shall be shown the difference between the aggregate preference on involuntary liquidation and the aggregate par or stated value, a statement this difference (plus any arrears in dividends) exceeds the sum of the par or stated value of the junior capital shares, surplus, and undivided profits including reserve for contingencies and other capital reserves if such is the case, and a statement as to the existence (for absence) of any restrictions upon surplus and/or undivided profits growing out of the fact that upon involuntary liquidation the preference of the preferred stock exceeds its par or stated value.

27. Common stock—

(a) State for each class of shares the title of issue, the number of shares authorized, issued and outstanding, the par or stated value per share and the capital share liability thereof. Show also the dollar amount, if any, of shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom.

28. Surplus

29. Undivided profits

30. Reserve for contingencies and other capital reserves

31. Total Equity Capital

32. Total Liabilities and Equity Capital

General Notes to the Balance Sheets

If present with respect to the bank for which the statement is filed, the following topical information shall be furnished in notes to the balance sheets:

1. Assets subject to Lien.
2. Intercompany profits and losses.
3. Pension and Retirement Plans.
4. Capital Stock Optioned to Officers and Employees.
5. Restrictions that limit the availability of surplus and/or undivided profits for dividend purposes.

6. Contingent liabilities.

7. Standby letters of credit.

8. Defaults.

9. Significant Changes in Bonds, Mortgages, and Similar Debt.

10. Warrants or rights outstanding.

For detailed instructions as to required content of above general notes to the balance sheet, refer to § 206.7(e)(12) of Regulation F.

B. Statement of Income

The Statement of Income shall conform generally to the Consolidated Report of Income (FR 2104 or FR 2107, as applicable) and related instructions thereto, except to the extent revised or expanded financial data presentation is necessary to meet the disclosure standards of the Securities and Exchange Act of 1934, as amended.

Note.—Banks subject to this Part are required to report on an accrual basis of accounting.

The following captions and added supplemental instructions shall be observed in the preparation of the Statement of Income required under this part:

1. Operating Income:

(a) Interest and fees on loans

(b) Interest on balances with depository institutions

(c) Income on Federal funds sold and securities purchased under agreements to resell in domestic offices of the bank and of its edge and Agreement subsidiaries

(d) Interest on U.S. Treasury securities

(e) Interest on obligations of other U.S. Government agencies and corporations

(f) Interest on obligations of States and other political subdivisions in the U.S.

(g) Interest on other bonds, notes and debentures

(h) Dividends on stock

(i) Income from lease financing

(j) Income from fiduciary activities

(k) Service charges on deposit accounts in domestic offices

(l) Other service charges, commissions and fees

(m) Other operating income

(n) Total Operating Income

2. Operating Expenses:

(a) Salaries and employee benefits

(b) Interest on time certificate of deposits of \$100,000 or more issued by domestic offices

(c) Interest on deposits in foreign offices

(d) Interest on other deposits

(e) Expense of Federal funds purchased and securities sold under repurchase agreements in domestic offices of the bank and of its Edge and Agreement subsidiaries

(f) (1) Interest on demand notes (note balances) issued to the U.S. Treasury

(2) Interest on other borrowed money

(g) Interest on subordinated notes and debentures

(h)(1) Occupancy expense of bank premises, Gross

(2) Less-Rental income

(3) Occupancy expense of bank premises, Net

(i) Furniture and equipment expense

(j) Provision for possible loan losses

(k) Other operating expenses

(l) Total Operating Expenses

3. *Income (Loss) Before Taxes And Securities Gains (Losses)*
4. *Applicable Income Taxes*
5. *Income (Loss) Before Securities Gains (Losses)*
6. (a) *Securities Gains (Losses), Gross*
(b) *Applicable Income Taxes*
(c) *Security Gains (Losses), Net*
7. *Income (Loss) Before Extraordinary Items And Cumulative Effects Of Changes In Accounting Principles*
8. *Extraordinary Items, Less Applicable Income Tax*
9. *Cumulative Effects Of Changes In Accounting Principles*
10. *Net Income (Loss)*
11. *Earnings (Loss) Per Common Share*¹
(a) *Income (Loss) Before Securities Gains (Losses)*
(b) *Net Income*
Earnings per common share. State the per share amounts applicable to common stock (including common stock equivalents) and per share amounts on a fully diluted basis, if applicable. The basis of computation, including the number of shares used, shall be furnished in a note to the financial statements.

General Notes to the Statement of Income
If present with respect to the bank for which the statement is filed, the following typical information shall be furnished in notes to the Statement of Income:
1. *Intercompany profits and losses*
2. *Depreciation and amortization*
3. *Bonus, profit sharing, and other similar plans*
4. *Income tax expense*
5. *Interest capitalized*
6. *Disagreements on accounting and financial matters*
7. *Disclosure of selected quarterly financial data in notes to financial statements*

For detailed instructions as to required content of above general notes to the statement of income, refer to § 266.7(e)(13) of Regulation F.

C. Statement of Changes in Equity Capital
The format and content of the Statement of Changes in Equity Capital shall conform generally to Section B of the Consolidated Report of Income (FR 2104 and FR 2107) and related instructions thereto except to the extent revised or expanded financial data presentation is necessary to meet the disclosure standards of the Securities Exchange Act of 1934, as amended.

The following supplemental instructions shall be observed in preparation of the Statement of Changes in Equity Capital required under this Part.

Reconcile the various equity capital accounts individually as follows:
1. *Balance end of previous year*
2. *Prior Period Adjustments*²
(a) Cumulative effect type changes in accounting principles shall be reported under Item 9, of the Statement of Income.

¹ If amounts are entered for Item 8 and/or 9, per share amounts shall be stated separately for Items 5, 8 and/or 9, and 10.
² State separately any material amounts, indicating clearly the nature of the transaction of which the item arose.

3. *Adjusted balance end of previous year*
4. *Net income (loss)*
5. *Sale, conversion, acquisition, or retirement of capital net:*
(a) *Transactions with own holding company or affiliates*
(b) *Other*
6. *Changes incident to mergers and absorptions, net*
7. *LESS: Cash dividends declared on common stock*
8. *LESS: Cash dividends declared on preferred stock*
9. *Stock dividend issued*
10. *Other increases (decreases)*¹
11. *Balance end of period*

D. Statement of Changes in Financial Position
Sources of Funds
Operations:
Net Income
Changes (Credits) to Income not affecting Funds:
Total Funds provided by Operations
Equity Funds—Proceeds
Subordinated Notes and Debentures—Sale
Proceeds
Increase (Decrease) in Liabilities:¹
Total
Applications of Funds
Payment of Dividends
Purchase of Property and Equipment
Increase (Decrease) in Assets:²
Total

¹ Sources and applications of funds items shall be shown separately by amounts when they exceed 5 percent of the average of total funds provided during the respective reported periods.

Schedule II.—Loans to Officers, Directors, Principal Security Holders, and Any Associates of the Foreigning Persons

Col. A	Col. B	Col. C	Col. D	Col. E
Name of borrower ¹	Balance at beginning of period	Additions	(1) Amounts collected ²	Balance at end of period

¹ Provide information if at any time during the period for which related income statements are required to be filed, loans to a specified person and associates exceeded 2 1/2% of equity capital of the bank or \$500,000, whichever is less.
It shall not be necessary to include amount of loans related to individuals for household, family and other personal expenditures made in the ordinary course of business as defined in Item 3(e) of Format F-9A, Balance Sheet.
Loans to directors (and any associates) who are neither officers nor principal security holders may be stated in the aggregate. The number of directors for whom loans are stated in the aggregate shall be indicated in Column A.
² State in a note hereto pertinent information such as the maturity date, interest rate, terms of repayment and collateral, if any, of loans made to the specified persons named in Column A as of the date of the most recent balance sheet being filed.
³ If collection was other than cash, explain.

Schedule III.—Loans

Type	Book value
Loans in domestic offices:	
Real estate loans:	
Insured or guaranteed by the U.S. Government or its agencies	\$
Other	
Loans to financial institutions	
Loans for purchasing or carrying securities (secured or unsecured)	
Loans to finance agricultural production and other loans to farmers	
Commercial and industrial loans	
Loans to individuals for household, family and other personal expenditures	
All other loans (including overdrafts)	
Loans in foreign offices	
Total loans, gross	
Less: Unearned income on loans	
Total loans (excluding unearned income)	

NOTE.—See Schedule A of FR 2103, FR 2105 or FR 2106, as applicable.

E. Schedules

(Schedule I—U.S. Treasury Securities, Obligations of Other U.S. Government Agencies and Corporations, Obligations of States and Political Subdivisions, and Other Bonds, Notes and Debentures)

Type and maturity grouping	Book value ¹	Market value
U.S. Treasury securities:		
Within 1 year		
After 1 but within 5 years		
After 5 but within 10 years		
After 10 years		
Total U.S. Treasury securities		
Obligations of other U.S. Government agencies and corporations:		
Within 1 year		
After 1 but within 5 years		
After 5 but within 10 years		
After 10 years		
Total U.S. Treasury securities		
Obligations of States and political subdivisions: ^{2,3}		
Within 1 year		
After 1 but within 5 years		
After 5 but within 10 years		
After 10 years		
Total obligations of States and political subdivisions		
Other bonds, notes and debentures ⁴		

¹ State briefly in a footnote the basis for determining the amounts in this column.
² Include obligations of the States of the United States and their political subdivisions, agencies, and instrumentalities; also obligations of territorial and insular possessions of the United States. Do not include obligations of foreign states.
³ State in a footnote the aggregate (a) book value and (b) market value of securities that are less than "investment grade". If market value is determined on any basis other than market quotations at balance sheet date, explain.
⁴ Note: See Schedule B of FR 2108, FR 2105 or FR 2106, as applicable.

Schedule IV.—Bank Premises and Equipment

Classification	Col. A Gross book value ¹	Col. B Accumulated depreciation and amortization ²	Col. C Amount at which carried on balance sheet
Bank premises (including land dollars)	\$	\$	\$
Equipment			
Leasehold improvements			
Totals			

¹ State the basis of determining the amounts in column A.
² The nature and amount of significant additions (other than provisions for depreciation and amortization) and deductions from depreciation accounts shall be stated in an explanatory footnote.

Schedule V.—Investments in Income From Dividends, and Equity in Earnings or Losses of Subsidiaries and Associated Companies

Name of issuer ¹	Col. A Percent of voting stock owned	Col. B Total investment	Col. C Equity in underlying net assets at balance sheet date ²	Col. D Amount of dividends ³	Col. E Bank's proportionate part of earnings or loss for the period
Totals	\$	\$	\$	\$	\$

¹ Group separately securities of (a) subsidiaries consolidated, (c) subsidiaries not consolidated, and (c) associated companies. Show shares, bonds, notes and advances separately in each case.
² Equity shall include advances and other obligations reported in column B to the extent recoverable.
³ State as to any dividends other than cash the basis on which they have been reported as income. If any such dividend received has been credited to income in an amount differing from that charged to surplus and/or undivided profits by the disbursing subsidiary, state the amount of such difference and explain.

Schedule VI.—Allowance for Possible Loan Losses

	Amount
Balance end of previous period	\$
Recoveries credited to allowance	
Changes incident to mergers and absorptions	
Provision for possible loan losses	
Less: Losses charged to allowance	
Foreign currency translation adjustment	
Balance end of period	

¹ Describe briefly in a footnote any such addition.
² State in a footnote (1) the amount deducted for Federal income tax purposes, (2) the maximum amount that could have been deducted for Federal income tax purposes, and (3) the balance of the allowance at the end of the period as reported for Federal income tax purposes.
NOTE.—See Schedule C of FR 2104 or FR 2107, as applicable.

Board of Governors of the Federal Reserve System, December 19, 1979.
Theodore E. Allison,
Secretary of the Board.
[FR Doc. 79-39429 Filed 12-26-79; 8:45 am]
BILLING CODE 6210-31-M

**DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration**

14 CFR Part 39
[Docket No. 79-NW-40-AD]
Airworthiness Directives; Boeing 707-100 and 200 Series Airplanes
AGENCY: Federal Aviation Administration (FAA) DOT.
ACTION: Notice of Proposed Rulemaking (NPRM).
SUMMARY: It is proposed to adopt an Airworthiness Directive (AD) which would require a repetitive eddy current inspection of all Boeing 707-100 and 707-200 series airplanes to detect cracks in the wing upper skin splice at wing station 360. Cracks in this splice impair the structural integrity of the wing and could lead to a structural failure. AD 74-

10-09 [39 FR 16874, May 10, 1974] called for a one-time inspection of this splice by either X-ray or eddy current methods and relates to this same structural member.

DATES: Comments must be received on or before February 4, 1980.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 79-NW-40-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, P. E., Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Washington 98108, telephone (206) 767-2516.

**SUPPLEMENTARY INFORMATION:
Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communication should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 79-NW-40-AD 9010 East

Marginal Way South, Seattle, Washington 98108.

Discussion of the Proposed Rule

Cracks in the wing upper surface splice at wing station 360 impair the structural integrity of the wing and could result in a structural failure. AD 74-10-09, which applied to the 707-100 and 707-200 series airplanes, called for a one-time inspection of this splice, and was originally issued in 1974. Recently, some small cracks were found on 707-100 airplanes and, since damage tolerance evaluations indicate that cracking may be expected to continue to occur on older aircraft, it is proposed to issue another AD which will require repetitive low frequency eddy current inspections of the wing station 360 splice at intervals not to exceed 1,200 landings.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Sec. 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to all Boeing 707-100 and 707-200 series airplanes specified in Boeing Service Bulletin 3160.

A. Perform a low frequency eddy current inspection of the upper wing surface splice plate at wing station 360 in accordance with Boeing Service Bulletin 3160 Rev. 5 or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, per the following schedule.

1. On airplanes with more than 17,000 landings; within the next 600 landings after the effective date of the AD, unless accomplished within the last 600 landings, and at intervals thereafter not to exceed 1,200 landings.

2. On airplanes with less than 17,000 landings; prior to the accumulation of 17,600 landings and at intervals thereafter not to exceed 1,200 landings.

B. If cracks are found, repair prior to further flight in accordance with Boeing Service Bulletin 2576 Rev. 2, or a method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

C. For purpose of complying with this AD subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time-in-service by the operator's fleet average from takeoff to landing for the airplane type.

D. Upon request of the operator, an assigned FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region may adjust the inspection interval if the request contains substantiating data to justify the increase for that operator.

E. Modification per Boeing Service Bulletin 2576 Rev. 2 or in a manner approved by the Chief, Engineering and Manufacturing

Branch, FAA Northwest Region provides terminating action for this AD.

F. Airplanes may be flown to a maintenance base for repairs or replacements in accordance with FAR 21.197.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All person affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 20, 1979).

Issued in Seattle, Washington, on December 12, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

[FR Doc. 79-39150 Filed 12-26-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 18605/79-APC-1]

Proposed Group II Terminal Control Area, Honolulu, Hawaii

Correction

In FR Doc. 79-38551, published at page 73114, on Monday, December 17, 1979, on page 73119, in the third column, in the first paragraph, "Area F", in the sixth line "the Koko Head 291° T (380° M) radial and" should be amended to read "the Koko Head 291° T (280° M) radial and".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Office of Assistant Secretary

24 CFR Part 570

Docket No. R-79-757]

Performance Report and Related Provisions; Notice of Transmittal to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following interim rulemaking document:

This interim rule would revise requirements for entitlement and small cities recipients under the Community Development Block Grant Program as to the availability of documents for citizen review, the timing of performance hearings, the contents of the performance report and the timing of submission of such reports to HUD.

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., December 19, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-39434 Filed 12-26-79; 8:45 am]
BILLING CODE 4210-01-M

Office of the Secretary

24 CFR Part 881

[Docket No. R-79-755]

Neighborhood Strategy Areas; Notice of Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request under section 7(o)(4) of the Department of HUD Act.

SUMMARY: Recently enacted legislation enables the Congress to review proposed HUD rules. The legislation, however, permits the Secretary to

request waiver of the review procedure in appropriate instances. This notice lists and briefly summarizes for public information and interim rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the interim rule listed below. The purpose of the transmittal is to request waiver of the Congressional review procedure for the interim rule under section 7(o)(4) of the Department of HUD Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Interim Rule—24 CFR Part 881, Subpart C—Section 8 Housing Assistance Payments Program for Substantial Rehabilitation.

This interim rule would amend 24 CFR Part 881, by adding Subpart G, to set forth special procedures and new designations for Section 8 Neighborhood Strategy Areas. The Neighborhood Strategy Areas program concentrates Section 8 rehabilitation units in certain areas which also receive Community Development Block Grant funds. Subpart G of Part 881 would set forth the contract and budget authority available for use, as well as procedures, for NSA designations and requirements for submission, review, approval and relocation.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., December 17, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-39432 Filed 12-26-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Subtitles A and B

[Docket No. N-79-966]

Request for Public Comment on Existing Regulations

AGENCY: Housing and Urban Development, All Offices.

ACTION: Request for Public Comment on Existing Regulations.

SUMMARY: Pursuant to Executive Order 12044, HUD is reviewing its existing

regulations to determine to what extent they are in need of revision. This review is a major undertaking and priorities must be established so that staff resources are effectively allocated. HUD is therefore asking interested persons to recommend specific regulations for review, to discuss problems encountered in understanding and complying with the regulations and to suggest improvements or alternatives.

COMMENT DUE DATE: March 25, 1980.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: On January 5, 1978, HUD published a Final Report outlining its plans for implementing Executive Order 12044, "Improving Government Regulations". Item V of that Report sets forth six criteria for selecting existing rules that should be reviewed in order to revise or eliminate provisions that are obsolete, contradictory or ineffective in accomplishing their intended purpose.

The criteria are:

1. The burden which the rule imposes on the public, particularly in terms of general costs, record keeping and reporting requirements.

2. The extent to which the rule repeats or overlaps other regulatory provisions.

3. Whether legislative changes require revision of the rule.

4. Whether the language of the rule should be simplified or clarified.

5. Whether public complaints or petitions for rulemaking have been filed, and the nature of those complaints or petitions.

6. The age of the rule and the length of time since it was last reviewed and revised.

It is our intention to make HUD regulations clear and direct and to make compliance with them as simple as possible. In this effort, we are inviting public comments and suggestions for rules that need review. These comments will be considered along with the factors listed above in deciding which regulations should be withdrawn or redrafted.

The immediate task is to set priorities in order to allocate limited staff resources most effectively. Detailed comment on specific regulatory provisions is not being sought at this time since individual rules will be published for comment later as part of the revision process, but we do welcome examples of troublesome and confusing provisions, general recommendations for improvement and, in particular, suggestions for feasible alternatives to regulation. We are also interested in an

evaluation of the costs of complying with various regulations and their effect on the economy. When the comments have been considered, and the preliminary review completed, HUD's Semiannual Regulations Agenda will indicate which rules have been selected for redrafting or withdrawal. As soon as practical thereafter, the Department will schedule and initiate individual rulemaking proceedings, including the issuance of Advance Notices of Proposed Rulemaking and Notices of Proposed Rulemaking.

HUD reserves final decision on which rules, if any, will be redrafted or withdrawn and emphasizes that this basic review project is independent of particular changes to regulations that may otherwise be required from time to time.

Authority: Section 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

Issued at Washington, D.C., December 17, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-39133 Filed 12-26-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 48 and 140

[LR-181-79]

Payments To Be Made to Aerial Applicators in Certain Cases; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking, cross-reference to temporary regulations.

SUMMARY: This document contains proposed regulations governing claims by aerial applicators for payment of an amount equal to the tax imposed on gasoline and special fuels when the fuels are used by them on farms for farming purposes. Changes to the applicable tax law were made by section 3 of the Act of October 14, 1978 (Pub. L. 95-458). The rules relating to aerial applicators contained in these proposed regulations are identical to those contained in the temporary excise tax regulations published in the Rules and Regulations portion of this Federal Register. These proposed regulations also contain proposed procedural and technical changes to the regulations under section 6420. These procedural and technical changes reflect

amendments to section 6420 made by section 1906(a)(26) of the Tax Reform Act of 1976, section 205(b)(7) of the Airport and Airway Revenue Act of 1970, and section 809(a) of the Excise Tax Reduction Act of 1965.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 25, 1980. The regulations are proposed to be effective as of the respective effective dates of the statutes enacting the amendments.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-181-79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: H. B. Hartley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 6420 and 6427 of the Internal Revenue Code of 1954. The amendments are being proposed to conform the regulations to section 3 of the Act of October 14, 1978 (Pub. L. 95-458; 92 Stat. 1257). Sections 6420(c) and 6427(c) provide payments to aerial applicators for gasoline and special fuels used on farms for farming purposes. The proposed regulations contain identical rules to those contained in temporary regulations under sections 6420 and 6427 published in the Rules and Regulations portion of this issue of the Federal Register (FR Doc. 79-39488, T.D. 7682), except that the proposed regulations would amend 26 CFR Part 48. For an explanation of these provisions, see the preamble to the temporary regulations.

This document also contains proposed technical and procedural amendments to the regulations under section 6420 of the Code. These proposed amendments would conform the regulations under section 6420 to the provisions of section 1906(a)(26) of the Tax Reform Act of 1976 (Pub. L. 94-455; 90 Stat. 1827) section 205(b)(7) of the Airport and Airway Revenue Act of 1970 (Pub. L. 91-258; 84 Stat. 242), and section 809(a) of the Excise Tax Reduction Act of 1965 (Pub. L. 89-44; 79 Stat. 165). The principal change made by these laws was to provide a credit against income tax in lieu of a separate claim for payment in the case of most persons eligible for the payments provided for by section 6420.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is H. B. Hartley of the Legislation and Regulations Division of the Office of Chief Counsel for the Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 48 are as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

§§ 48.6420(a)-48.6420(h) [Deleted]

Paragraph 1. Sections 48.6420(a), 48.6420(b), 48.6420(c), 48.6420(d), 48.6420(e), 48.6420(f), 48.6420(g), and 48.6420(h) are deleted.

Par. 2. Sections 48.6420(a)-1 is re-titled and paragraphs (a)(1) and (b) thereof are amended to read as follows:

§ 48.6420(a)-1. Payments to user and ultimate purchaser of gasoline used on a farm for farming purposes.

(a) *In general.* (1) Section 6420 provides a payment (without interest) to the user and ultimate purchaser of gasoline used on a farm for farming purposes. The amount of the payment is determined by multiplying (i) the number of gallons of gasoline used on the farm for farming purposes by (ii) the rate of tax on gasoline under section 4081 which applied on the date the gasoline was purchased by the user and ultimate purchaser. No payment shall be made for gasoline purchased by a user and ultimate purchaser before January 1, 1958, irrespective of the use of the gasoline. For gasoline purchased after December 31, 1955, and used on a farm for farming purposes, payment is made only if the user and ultimate purchaser files a claim at the time and in the manner indicated in these regulations.

For rates of tax on gasoline under section 4081, see that section and § 48.4081-1. For the meaning of the terms "used on a farm for farming purposes", "farm", "farming purposes", and "gasoline", see § 48.6420(c)-1. For the meaning of "user and ultimate purchaser" see paragraph (b) of this section.

(b) *User and ultimate purchaser defined.* Except as otherwise provided in section 6420, the term "user and ultimate purchaser" means only an owner, tenant, or operator of a farm. In general, an owner, tenant, or operator of a farm is considered to be the user and ultimate purchaser of gasoline only if the gasoline is (1) purchased by him or her and (2) used for farming purposes on a farm of which he or she is the owner, tenant, or operator. If, however, the cost of gasoline supplied by a particular person (e.g. an owner of a farm) is by agreement borne by the tenant or operator of the farm, the tenant or operator who bore the cost of the gasoline is the user and ultimate purchaser. See paragraph (c) of this section for rules on gasoline used on farms by persons other than the owner, tenant, or operator of the farm.

Par. 3. The second sentence of § 48.6420(a)-1 (c)(1) is amended, a new third sentence is inserted therein, and a new example (3) is added to the end of § 48.6420(a)-1 (c)(2), all to read as follows:

§ 48.6420(a)-1. Payments to user and ultimate purchaser of gasoline used on a farm for farming purposes.

(c) *Exception with respect to use by custom operator, etc.—*(1) * * * In such a case, the owner, tenant, or operator of the farm on which the gasoline is used is considered to be the user and ultimate purchaser of the gasoline. See, however, section 6420(c)(4) which provides for waivers by owners, tenants, and operators of their right to be so treated when gasoline is used on the farm by an aerial applicator. * * *

(2) The application of paragraph (c)(1) of this section may be illustrated by the following examples.

Example (3). Assume the facts of example (2) except Farmer A executes a timely waiver (as provided in § 48.6420 (c)-2) of his right to be treated as user and ultimate purchaser of the fuel used by XYZ Company in dusting his crops. XYZ Company is entitled to receive the payment for the 600 gallons of gasoline actually used by it in the crop dusting operation.

§ 48.6420(b)-1 [Amended]

Par. 4. Paragraphs (d) and (e) of § 48.6420 (b)-1 are deleted and paragraphs (a), (b), and (c) of that section are amended to read as follows:

(a) *In general.* A claim in respect of gasoline used on a farm for farming purposes must cover one full taxable year. A person's taxable year means his or her taxable year for purposes of subtitle A of the Internal Revenue Code. In the case of persons included under section 6420(g), the calendar year is considered to be the person's taxable year. Gasoline on hand at the end of one taxable year (e.g. fuel in supply tanks of farm machinery or in storage tanks and drums) must be excluded from a claim filed for that year. On the other hand, gasoline used during a taxable year may be covered by a claim for the year even though the gasoline has not been paid for at the time the claim is filed. A claim for any taxable year is not allowable unless filed on or before the last date prescribed by law for filing a claim for credit or refund of overpayment of income tax for the taxable year concerned.

(b) *Limit of one claim during any one taxable year.* Not more than one claim can be filed under section 6420 by any person for gasoline used during any one taxable year.

(c) *Form and content of claim.* All persons except those identified in section 6420(g), must claim any payment allowed them under section 6420 as a credit against tax on their income tax return (or a timely amended return) for the taxable year in which the gasoline was used. For persons identified in section 6420(g), a claim for payment for gasoline used on a farm for farming purposes is made on Form 843 in accordance with the instructions prescribed for the preparation of that form. A claim for a partnership must be shown on the partnership's return.

§ 48.6420(c)-1 [Amended]

Par. 5. Paragraph (c)(2)(i) of § 48.6420 (c)-1 is amended by deleting the last sentence thereof, and paragraph (c)(5) of that section is amended by deleting the first four words of the third sentence and inserting in lieu thereof, "Since the gasoline must generally".

PART 140—TEMPORARY EXCISE TAX REGULATIONS UNDER SECTION 3 OF THE ACT OF OCTOBER 14, 1978 (PUB. L. 95-458)

§ 140.6420-1 [Redesignated as § 48.6420 (c)-1]

Par. 6. Section 140.6420-1 is redesignated as § 48.6420 (c)-2 with all references to Part 140 of Title 26

changed to Part 48 of Title 26, and is inserted immediately after § 48.6420 (c)-1.

§ 140.6427-1 [Redesignated as § 48.6427-1]

Par. 7. Section 140.6427-1 is redesignated as § 48.6427-1 with all references to Part 140 of Title 26 changed to Part 48 of Title 26 and is inserted immediately after § 48.6421(i).

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.
[FR Doc. 79-39487 Filed 12-26-79; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 158

[CGD 77-029]

Ocean Dumping Surveillance System

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects various typographical and editorial errors which were made to the Coast Guard proposed regulation concerning the installation of electronic surveillance equipment on vessels engaged in ocean dumping. That proposed regulation was published as FR Doc. 79-38294, at 44 FR 72188 on December 13, 1979. The corrections are set forth below.

DATE: These corrections become effective on December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Gregory S. Voyik, Marine Environmental Protection Division (G-WEP/TP12), Room 1609, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 755-7938.

The corrections are as follows:

1. On page 72188, the date on or before which comments must be received is changed to February 11, 1980. An error in computing a 60-day reporting period was made.

2. On page 72195, in § 158.9(a), the word "Commander" is changed to "Commandant".

3. On page 72195, in § 158.19(a), "\$ 158.85(a)" is changed to "\$ 158.69(a)".

4. On page 72196, in § 158.39(a), the word "department" is changed to "departing".

5. On page 72198, in § 158.65(a), "\$ 158.49(a)(2)" is changed to "\$ 158.49(a)(3)".

6. On page 72198, second column, the word "relative" in the fourth line is capitalized.

(Pub. L. 92-532, Title I, § 108; 86 Stat. 1059 (33 U.S.C. 1418); 49 CFR 1.46(n)(5))
Dated: December 19, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.
[FR Doc. 79-39405 Filed 12-26-79; 8:45 am]
BILLING CODE 4810-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1]

[Gen. Docket No. 79-144]

Responsibility of the FCC To Consider Biological Effects of Radio Frequency Radiation When Authorizing the Use of Radio Frequency Devices; Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of Time.

SUMMARY: An extension of time to file comments has been requested in General Docket No. 79-144, responsibility of the FCC to consider biological effects of radio frequency radiation when authorizing the use of radio frequency devices. Because of the importance of this proceeding, the Commission is granting the request. No objections have been received.

DATES: Response comments must be received by January 2, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Will McGibbon, Office of Chief Scientist, Federal Communications Commission, Washington, D.C. 20554. (202) 632-7060.

Order Extending Time for Filing Comments

Adopted: December 14, 1979.

Released: December 17, 1979.

In the matter of responsibility of the Federal Communications Commission to consider biological effects of radio frequency radiation when authorizing the use of radio frequency devices.

Potential effects of a reduction in the allowable level of radio frequency radiation on FCC authorized communications services and equipment. [44 FR 37008, June 25, 1979.]

By the Chief Scientist:

1. The American Radio Relay League, Inc., (ARRL), has requested a 2 week extension of time in which to respond to the above-captioned "Notice of Inquiry".

2. Because of the importance of this proceeding; and, the Commission's desire to have the most definitive responses possible, an extension of time

to January 2, 1980 for filing of comments is ordered pursuant to § 0.241(d) of the Commission's rules.

S. J. Lukasik,
Chief Scientist,

[FR Doc. 79-39472 Filed 12-26-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 79-142; RM-3125; FCC 79-789]

Expanding the Secondary Use of Base/Mobile Frequencies in the 450-470 MHz Band To Permit the Operation of Narrow-Band Multichannel Fixed Stations

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: The FCC adopts a Report and Order terminating, without adoption, its proposal to expand the permissible secondary fixed uses which licensees might make of the 450-470 MHz band (PR Docket No. 79-142).

The agency believes it is not in the public interest to adopt this Order at this time, since there is insufficient interest on the part of the anticipated users of multichannel fixed stations.

EFFECTIVE DATE: Nonapplicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Private Radio Bureau (202) 632-6497.

Report and Order

Adopted: December 4, 1979.

Released: December 18, 1979.

By the Commission.

In the matter of amendment of Part 90 of the Commission's rules and regulations to expand the secondary use of base/mobile frequencies in the 450-470 MHz band to permit the operation of narrow-band multichannel fixed stations: (PR Docket No. 79-142, RM 3125); [44 FR 36209].

1. On June 14, 1979, we released a Notice of Proposed Rule Making in the above-captioned matter. Comments and reply comments were received from twelve parties.¹

¹ Forest Industries Telecommunications (FIT); Farinon Electric; the Utilities Telecommunications Council (UTC); the Central Committee on Telecommunications of the American Petroleum Institute (API); the Special Industrial Radio Service Association, Inc. (SIRSA); Burlington Northern, Inc. (BN); American Telephone and Telegraph Co. (AT&T); Union Pacific Railroad Company; GTE Service Corporation; the Association of American Railroads (AAR); and the American Association of State Highway and Transportation Officials

2. In our Notice we indicated that there appeared to be a public need for narrow band, fixed point-to-point communications to serve ribbon configuration systems in rural and remote areas of the country where the sophistication of broadband microwave is not needed, but where there do exist requirements for a greater fixed capability than presently provided under the rules.

3. With the exception of the railroad industry, most who commented either indicated they did not have a need for such systems, or opposed any expansion into this band of the type of secondary fixed operation being proposed. API, for example, argued that adoption of these rules would, "severely inhibit the future growth of both (1) UHF mobile service systems in less densely populated areas, and (2) single-channel secondary operational fixed systems." Others noted existing frequency congestion, and the difficulties of coordinating such primary and secondary uses of the spectrum. The comments also noted that the additional investment entailed in the purchase, installation and operation of fixed-route, multiple channel, operational-fixed systems in the UHF mobile service band would augment the resistance of secondary users to remove their systems in response to the submission of an application by a mobile service licensee or applicant.

4. The railroad industry in general supported the proposals contained in our Notice and indicated a feeling that these fixed systems, with care, and, with the acceptance of certain conditions of licensing, could be coordinated and accommodated in this band. Farinon Electric, the original petitioner, in acknowledging the opposition generally expressed in the comments to the proposed rule changes, indicated its willingness to support the five-point compromise solution suggested by AT&T in its comments, (i.e. to require prior frequency coordination; to establish a maximum transmitter output power of 10 watts and a 75 mile distance separation requirement for all fixed operations; to provide for the immediate termination of secondary operations, if interference occurs to primary licensees; to require secondary licensees to discontinue operations, if the frequency is needed by a primary applicant; and to require a 30 day public notice period for all secondary frequency proposals).

5. We do not find, however, in view of the apparent limited interest for such narrow-band, fixed systems among

(AASHTO). Reply comments: Farinon Electric; API; and the Association of Maximum Service Telecasters, Inc. (MST).

industrial, public safety and land transportation licensees, that it would be in the public interest at this time to adopt final rules to expand the permissible secondary fixed uses allowed in the 450-470 MHz band, even along the lines which AT&T and Farinon have suggested.

6. The particular requirements of Railroad Radio Service licensees can be addressed, we believe, on a case-by-case basis and do not, in our estimation, justify a finding that the public interest will best be served by adoption of the rule changes which we had proposed in our Notice of Proposed Rule Making (44 FR 36209). We are consequently for the reasons discussed terminating our action in this Docketed proceeding without further action, and we are denying Farinon Electric's rule making petition RM-3125.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-39425 Filed 12-26-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Regulations; Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Notice of amendments to preliminary fishery management plans (PMP's) and proposed rulemaking.

SUMMARY: Amendments to five PMP's (hake, foreign trawl, and mackerel fisheries of the Northwestern Atlantic; seamount groundfish of the Western Pacific; and Bering Sea snails have been approved and implementing regulations for those fisheries are published elsewhere in this issue of the Federal Register. The implementing regulations are effective January 1 in order to authorize fishing by vessels of foreign nations during the entire 1980 fishing year. However, in order to assure interested persons an opportunity to comment, this notice invites comments on the amendments and regulations as implemented.

DATE: Comments are invited until January 16, 1980.

ADDRESS: Comments should be addressed to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service,

Washington, D.C. 20235, Telephone: 202-634-7432.

FOR FURTHER INFORMATION CONTACT: Same as above.

SUPPLEMENTARY INFORMATION: The specific proposals upon which comment is invited may be found in this issue of the Federal Register in the rules section. The amendments are minor in nature. The Assistant Administrator for Fisheries, NOAA, has determined that an environmental impact statement is not necessary, and that this action is not significant under Executive Order 12044. The amendments and implementing regulations will be reviewed at the end of the comment period on the basis of comments received.

Signed this the 20th day of December, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Services.

[FR Doc. 79-39499 Filed 12-26-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE
Forest Service

Forest Land and Resource
Management Plan; Okanogan National
Forest; Okanogan, Chelan, Skagit and
Whatcom Counties; Intent to Prepare
an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for a Land and Resource Management Plan for the Okanogan National Forest. This Forest Plan will be developed in accordance with direction for land and resource management planning in the National Forest Management Act of 1976.

The Forest Plan will replace all previous unit and resource plans and provide direction for all lands administered by the Okanogan National Forest.

The Forest Plan will be coordinated with local, county, State and other Federal Agencies and the Colville Confederated Tribes. Public involvement will be encouraged and sought throughout the planning process.

Currently, a tentative list of issues and concerns is being prepared on the Forest.

The public will then be invited, through media releases, public meetings and workshops, to comment on these issues and concerns.

Alternatives will be displayed in an environmental impact statement and will include, at the minimum: (1) A no-action alternative; (2) one or more alternatives which will result in eliminating all backlogs of needed treatment for the restoration of renewable resources; (3) an alternative which approximates the level of goods and services assigned by the Regional Plan; and (4) one or more alternatives formulated to resolve the major public issues or concerns.

R. E. Worthington, Regional Forester, Pacific Northwest Region, is the responsible official. Questions about the proposed action and environmental impact statement should be directed to Irv Smith, Recreation and Planning Staff, Officer, Okanogan National Forest (phone (509) 422-2704).

The analysis is expected to take approximately three years. The draft environmental impact statement should be available for public review by December 1982. The final environmental impact statement is scheduled to be completed in June 1983.

Comments and suggestions concerning the analysis for the Forest Plan should be sent to William McLaughlin, Forest Supervisor, Okanogan National Forest, P.O. Box 950, Okanogan, Washington 98840.

R. E. Worthington,
Regional Forester,
December 18, 1979.
[FR Doc. 79-39461 Filed 12-26-79; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD
Applications for Certificates of Public
Convenience and Necessity and
Foreign Air Carrier Permits Filed Under
Subpart Q of the Board's Procedural
Regulations

Notice is hereby given that, during the week ended December 14, 1979 CAB has

Subpart Q Applications		
Date filed	Docket No.	Description
Dec. 13, 1979	37268	USAir, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAir, Inc., pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 301 of the Economic Regulations of the Board requests an amendment of its certificate of public convenience and necessity for Route 97 so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Chicago, Illinois, on the one hand, and Phoenix, Arizona, on the other hand, by amending USAir's certificate for Route 97 to include a new segment as follows: "Between the terminal point Chicago, Illinois (O'Hare and Midway) and the terminal point Phoenix, Arizona." Answers may be filed by December 21, 1979.
Dec. 14, 1979	37279	National Airlines, Inc., P.O. Box 592055, Airport Mail Facility, Miami, Florida 33159. Application of National Airlines, Inc., under Subpart Q and pursuant to Section 401 of the Act requests a certificate of public convenience and necessity authorizing it to engage in nonstop scheduled air transportation of persons, property, and mail on a permissive basis in the following markets: "Between the terminal point Atlanta, Georgia, and the terminal points Daytona Beach, Fort Lauderdale, Fort Myers, Gainesville, Jacksonville, Melbourne, Miami, Orlando, Panama City, Pensacola, Sarasota, Tallahassee, Tampa, and West Palm Beach, Florida." "Between the terminal point New Orleans, Louisiana, and the terminal points Daytona Beach, Gainesville, and West Palm Beach, Florida." "Between the terminal point Mobile, Alabama, and the terminal points Daytona Beach, Fort Lauderdale, Fort Myers, Gainesville, Melbourne, Orlando, Sarasota, and West Palm Beach, Florida." Conforming applications and answers are due January 10, 1980.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-39467 Filed 12-26-79; 8:45 am]
BILLING CODE 6320-01-M

received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

COMMISSION ON CIVIL RIGHTS
Illinois Advisory Committee; Agenda
and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on January 21, 1980, at 230 South Dearborn Street, Conference Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is the up date on Chicago Desegregation Study; report on Special Education Project; report from Housing Subcommittee; and discussion of future projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 20, 1979.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-39397 Filed 12-26-79; 8:45 am]
BILLING CODE 6335-01-M

Maine Advisory Committee; Agenda
and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on January 10, 1980, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to include further discussion and planning of activities involving monitoring of selected proposed State legislation, sexual harassment of women in the workplace, and hiring for the 1980 census.

This meeting will be conducted pursuant to the provisions of the Rules

and Regulations of the Commission.

Dated at Washington, D.C., December 19, 1979.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-39396 Filed 12-26-79; 8:45 am]
BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda
and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 4:00 p.m., on January 17, 1980, at City Hall, 1315 S. Washington, Saginaw, Michigan.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss housing equality and affirmative action.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 20, 1979.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-39400 Filed 12-26-79; 8:45 am]
BILLING CODE 6335-01-M

Wisconsin Advisory Committee;
Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission will convene at 2:30 p.m. and will end at 4:30 p.m., on January 15, 1980, at the Milwaukee Federal Building, 517 E. Wisconsin, Room 202, Milwaukee, Wisconsin 53202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss data analysis from Vocational Education Project; decide whether or not a hearing is needed, and discuss date

and place of upcoming meetings for bilingual project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 18, 1979.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-39398 Filed 12-26-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE
Industry and Trade Administration

Duty-Free Entry of Scientific Articles; Applications

Correction
In FR Doc. 79-38967, appearing at page 75438, in the issue for Thursday, December 20, 1979, the second page of the document was inadvertently omitted. It is published here, and reads as follows:

Docket Number: 80-00048. Applicant: State of California, Department of Water Resources, P.O. Box 388, 1416 Ninth Street, Sacramento, CA 95802. Article: 4 Each Earthquake Isolators, 4 pole, six-stack GAPEC. Manufacturer: E.R.A.—Etudes Techniques, France. Intended use of article: The article is intended to be used for the study of the effectiveness of GAPEC earthquake isolators in protecting lifeline systems such as the 230 kV power circuit breakers against future earthquakes. Application received by Commissioner of Customs: November 21, 1979.

Docket Number: 80-00050. Applicant: National Institutes of Health, NICHD, LMC, Building 6, Room 403, Bethesda, Maryland 20205. Article: Electron Microscope, Model EM 400 and Accessories. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: The article is intended to be used to analyze molecular biology of cells and viruses. Specimens will include thin sections of uninfected and virus-infected cells, purified proteins, nucleic acids and modified macromolecules. Experiments will involve characterization of the high resolution ultrastructure of normal and altered states with the goal of recognizing structural features that are involved in the cellular regulation of the synthesis and functions of biological

macromolecules. Application received by Commissioner of Customs: November 29, 1979.

BILLING CODE 1505-01-M

Maritime Administration

[Docket No. S-659]

Richmond Tankers, Inc.; Application

Notice is hereby given that Richmond Tankers, Inc. (Richmond) has filed application under the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy to engage in bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on December 31, 1980, unless extended. Inasmuch as Richmond and/or related persons or firms employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if the application for operating-differential subsidy is to be approved.

Richmond requests written permission under section 85(a) to bareboat charter the TT BAY RIDGE; for East River Steamship Corporation to bareboat charter the TT BROOKLYN; for Kingsway Tankers, Inc., to bareboat charter the TT WILLIAMSBURGH; for Queensway Tankers, Inc. to bareboat charter the TT STUYVESANT; and for Bay Tankers, Inc., to operate the BAY RIDGE, BROOKLYN, WILLIAMSBURGH and STUYVESANT in worldwide trades including the domestic trade. Richmond also requests the right to move each of the above vessels from one domestic trade to another, and/or from a foreign trade to a domestic trade during the period that the above-mentioned program is in effect.

Richmond Tankers, Inc., East River Steamship Corporation, Kingsway Tankers, Inc., Queensway Tankers, Inc. and Bay Tankers, Inc. are affiliated with each other through common ownership by Tenafly Holdings, Inc., a Delaware corporation wholly owned by Albert Guetta, a U.S. citizen.

Richmond's application is made in connection with the proposed sale of the stock of Richmond to Tenafly. The statements in the application reflect the corporate organization and/or relationship of Richmond after said sale of stock. Tenafly concurs in the application.

The foregoing written permission is required notwithstanding the fact that a grain voyage would not be eligible for

subsidy if the vessel engages in the domestic trade on that voyage.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on January 4, 1980 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: December 20, 1979.

Robert J. Patton, Jr.,

Secretary

[FR Doc. 79-39106 Filed 12-26-79; 8:45 am]

BILLING CODE 3510-15-M

[Docket No. S-660]

Richmond Tankers, Inc.; Application

Notice is hereby given that Richmond Tankers, Inc., c/o Albert Guetta, 2460 Lemoine Avenue, Fort Lee, New Jersey 07024, has filed an application with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1980, unless extended, to operate the TT BAY RIDGE, a 224,428 deadweight ton vessel, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist

Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processes agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

This application is made in connection with the proposed sale of the stock of Richmond to Tenafly Holdings, Inc. (Tenafly), a corporation wholly owned by Albert Guetta. The statements in the application reflect the corporate organization and/or relationships of Richmond after said sale of stock. The application is concurred in by Tenafly.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before January 4, 1980, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition for leave to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessel to be operated in an essential service and serviced by citizens of the U.S., would be in addition to the existing service or services, and if

so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS)).

Dated: December 20, 1979.

Robert J. Patton, Jr.,

Secretary

[FR Doc. 79-39107 Filed 12-26-79; 8:45 am]

BILLING CODE 3510-15-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From the Polish People's Republic

December 20, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products imported from Poland, effective on January 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic establishes specific levels of restraint for certain cotton, wool and man-made fiber textile products, among others, in Categories 333, 335, 338, 339, 410, 433, 443/643/644, 634, 635, 645/646 and 647, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1980. The agreement also establishes consultation levels for categories, such as Categories 347, 359, 369 and 612 which are not subject to specific ceilings and which may be increased during the year upon agreement between the two governments.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from

warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month levels of restraint. The level for Category 443/643/644 had been adjusted to reflect carryforward in the amount of 765 dozen applied during the agreement year which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421) March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.
December 20, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland, in excess of the indicated levels restraint:

Category	12-mo level of restraint
333.....	68,295 dozen.
335.....	33,735 dozen.
338.....	594,531 dozen of which not more than 202,672 dozen shall be in T.S.U.S.A. number 260.0552.
339.....	215,357 dozen.
347.....	60,000 dozen.

Category	12-mo level of restraint
359.....	330,000 pounds.
369.....	217,391 pounds.
410.....	1,814,760 square yards.
433.....	7,084 dozen.
443/643/644.....	12,114 dozen.
612.....	1,000,000 square yards.
634.....	114,264 dozen.
635.....	59,853 dozen of which not more than 27,206 dozen shall be in T.S.U.S.A. numbers 382.0462, 382.0464, 382.4263, 382.8145, 382.8154, 382.8159, 382.6160, 382.8163, 382.8165 and 781.7473.
645/646.....	76,852 dozen.
647.....	113,622 dozen of which not more than 44,187 dozen shall be in T.S.U.S.A. numbers 380.0468, 380.0469, 380.5184, 380.8449, 380.8456, 380.8457, and 781.7480.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing categories, except Category 369, produced or manufactured in Poland, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

Cotton textile products in Category 369 which have been exported before January 1, 1980 shall not be subject to this directive.

Cotton textile products in Category 369 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1493(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of January 9 and 12, as amended, between the Governments of the United States and the Polish People's Republic, which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement will be made to you by letter.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for

consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton, wool and man-made fiber textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39387 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton Textile Product From Pakistan

December 20, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton textile products imported from Pakistan, effective on January 1, 1980.

SUMMARY: The Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, establishes specific levels of restraint for certain cotton textile products in Categories 313, 315, 341 and 363, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 1980. The agreement also establishes consultation levels for certain categories, such as Categories 320, 331, 336, 340, 348, 351, 359 and 369 pt., which are not subject to specific ceilings and which may be increased during the year upon agreement between the two governments. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in the foregoing categories in excess of the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2,

1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423)

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements
December 20, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption of cotton textile products in the following categories, produced or manufactured in Pakistan, in excess of the indicated twelve-month levels/level of restraint:

Category	12-mo level of restraint
313	61,384,113 square yards.
315	35,845,000 square yards.
320	1,000,000 square yards.
331	200,000 dozen pairs.
336	15,453 dozen.
340	29,167 dozen.
341	147,586 dozen.
348	39,326 dozen.
351	13,462 dozen.
359	266,739 pounds.
363	16,081,030 numbers.
369	5,217,391 pounds.

¹ In Category 369, all T.S.U.S.A. numbers except 366.1853.

In carrying out this directive, entries of cotton textile products in the foregoing categories, except Categories 331, 336, 340, and 348 produced or manufactured in Pakistan, which have been exported to the United States prior to January 1, 1980, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In

the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Cotton textile products in Categories 331, 336, 340, 348 and 351 which have been exported prior to January 1, 1980 shall not be subject to this directive.

Cotton textile products in Categories 331, 336, 340, and 348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan which provide, in part, that: (1) Within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 F.R. 864), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843))

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States.

Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97-39388 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From the Republic of Korea

December 20, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton, wool and man-made fiber textile products imported from the Republic of Korea, effective on January 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, establishes specific ceilings for cotton, wool and man-made fiber textile products in Categories 333/334/335, 340, 341, 347/348, 433/434, 440, 444, 447, 633/634/635, 638/639, 640, 641, 643, and 645/646, among others during the agreement year which begins on January 1, 1980 and extends through December 31, 1980. The agreement also provides consultation levels for certain categories of cotton, wool and man-made fiber textile products, such as Categories 314, 320, 331, 350, 410, 435, 448, 459 pt., 604, 605, 612, 614, 631 and 669, which are not subject to specific ceilings and which may be increased later upon agreement between the two governments. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period which begins on January 1, 1980 and extends through December 31, 1980, in excess of the designated levels.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade

Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day

Acting Chairman, Committee for the Implementation of Textile Agreements.
December 20, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1978, as amended, between the Governments of the United States and Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Korea, in excess of the indicated levels of restraint:

Category	12-mo. level of restraint
314	8,500,000 square yards.
320	19,000,000 square yards.
331	330,000 dozen pairs.
333/334/335	85,831 dozen of which not more than 49,407 dozen shall be in Category 333/334 and not more than 50,449 dozen shall be in Category 335.
340	153,264 dozen.
341	85,486 dozen.
347/348	228,477 dozen of which not more than 181,329 dozen shall be in Category 347 and not more than 124,259 dozen shall be in Category 348.
350	19,608 dozen.
410	2,850,000 square yards.
433/434	16,526 dozen of which not more than 12,016 dozen shall be in Category 433 and not more than 6,163 dozen shall be in Category 434.
435	2,037 dozen.
440	20,418 dozen.
444	3,868 dozen.
447	78,700 dozen.
448	7,611 dozen.
459 pt. ¹	2,850,000 pounds.
604	243,872 pounds.
605	3,428,571 pounds of which not more than 1,429,171 pounds shall be in T.S.U.S.A. 316.6020.
612	21,000,000 square yards of which not more than 4,000,000 square yards shall be in T.S.U.S.A. 308.3037 and 338.3038.
614	3,000,000 square yards.
631	516,096 dozen pairs.
633/634/635	1,297,121 dozen of which not more than 163,649 dozen shall be in Category 633; not more than 754,783 dozen shall be in Category 634; and not more than 573,069 dozen shall be in Category 635.
638/639	5,168,155 dozen.
640 pt. ¹	4,158,588 dozen.
640 pt. ¹	1,538,721 dozen.

Category	12-mo. level of restraint
641	957,434 dozen.
613	56,592 dozen.
645/646	3,009,062 dozen.
669	2,243,500 pounds of which not more than 1,558,482 pounds shall be in T.S.U.S.A. 388.6210 and not more than 320,513 pounds shall be in T.S.U.S.A. 355.4560.

¹In Category 458, only T.S.U.S.A. numbers 700.7510 through 700.7560.

²In Category 640, only T.S.U.S.A. numbers 380.0455, 330.8431 and 380.8433.

³In Category 640, all T.S.U.S.A. numbers except those listed in footnote 2.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 435, 604 and 612, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged, against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 435, 604 and 612 which have been exported prior to January 1, 1980 shall not be subject to this directive.

Textile products in Categories 435, 604 and 612 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39389 Filed 12-26-79; 8:45 am]
BILLING CODE 3510-25-M

Changes in Officials of the Government of the Republic of the Philippines Authorized To Issue Export Visas and Exempt Certifications for Certain Cotton, Wool and Man-Made Fiber Products from the Philippines

December 20, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.
ACTION: An additional official of the Government of the Republic of the Philippines has been authorized to issue export visas and certifications for exempt cotton, wool and man-made fiber textile products from the Philippines, replacing one currently so authorized.

SUMMARY: The Government of the Republic of the Philippines has notified the United States Government that, Honesto V. Bonnevie, Chairman, Garments and Textile Export Board Technical Committee, is authorized to issue export visas and certifications for exempt textile products exported to the United States, replacing Antonio T. Carpio, who will no longer issue and sign these documents.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On November 28, 1979, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the Federal Register (44 FR 58005), which established a new export visa requirement and certification for exemption of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the

United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of the Republic of the Philippines. The Government of the Republic of the Philippines has requested that Honesto V. Bonnevie be recognized as authorized to issue export visas and certifications for exemption, replacing Antonio T. Carpio.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 20, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of November 21, 1979 which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool and man-made fiber textile products in designated categories for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 8, 1977, you are directed, effective on January 1, 1980, to recognize Honesto V. Bonnevie, Chairman, Garments and Textile Export Board Technical Committee, as authorized to issue and sign export visas and exempt certifications, replacing Antonio T. Carpio, who will no longer issue these documents. A revised list of officials of the Government of the Republic of the Philippines who are authorized to issue export visas and certifications for exemption is enclosed.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5

U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,
Acting Chairman, Committee for the Implementation of Textile Agreements.

Officials Authorized by the Government of the Republic of the Philippines To Issue Visas and Certifications for Exemption for Textile and Apparel Products Exported to the United States

Luis R. Villafuerte, Chairman, Garments and Textile Export Board, Aida B. Cabardo, Officer-in-Charge, Garments and Textile Board Secretariat, Honesto V. Bonnevie, Chairman, Garments and Textile Export Board Technical Committee.

[FR Doc. 79-39512 Filed 12-26-79; 8:45 am]
BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products from Thailand

December 20, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products imported from Thailand, effective on January 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand establishes levels of restraint for certain cotton and man-made fiber textile products in Categories 319, 320, 331, 334/335, 336, 338/339, 340, 341, 347/348, 639, 641 and 645/646, produced or manufactured in Thailand and exported to the United States during the twelve-month period beginning on January 1, 1980. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption or withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 319, 320, 331, 334/335, 336, 338/339, 340, 341, 347/348, 639, 641 and 645/646 be limited to the designated twelve-month levels of restraint.

[A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)].

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the

bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: LaWonne Cunningham, Statistical Assistant, Office of Textiles, U.S. Department of Commerce 20230 (202/377-5423).

Paul T. O'Day,
Acting Chairman, Committee for the Implementation of Textile Agreements.

December 20, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done in Geneva on

December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products, exported from Thailand, in excess of the indicated twelve-month levels of restraint:

Category	Twelve-month level of restraint
319	5,000,000 square yards.
320	8,000,000 square yards.
331	359,286.
334/335	47,126 dozen.
336	20,075.
338/339	510,434 dozen.
340	90,025 dozen.
341	95,046 dozen.
347/348	160,801 dozen.
639	1,121,240 dozen.
641	142,126 dozen.
645/646	64,792 dozen.

In carrying out this directive entries of cotton and man-made fiber textile products in the foregoing categories, except Categories 319, 334/335, 347/348, produced or manufactured in Thailand which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 319, 334/335, 347/348 that have been exported to the United States before January 1, 1980 shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment according to the

provisions of the bilateral agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand which provide, in part, that: (1) Specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton and man-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39513 Filed 12-26-79; 8:45 am]
BILLING CODE 3510-25-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Meeting

Authority of Committee: The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Pay Advisory Committee will meet on January 8, 1980 at 3:00 p.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20506.

Purpose of the Meeting: The Committee will continue its discussion of the pay standard for the anti-inflation program and consideration of recommendations to the Council.

Public Participation: The meeting of the Pay Advisory Committee will be open to the public. Public attendance

will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons may file written statements with the Committee by mail or personal delivery to the Office of the General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Date: December 20, 1979.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 79-39493 Filed 12-21-79; 9:32 am]

BILLING CODE 3175-01-M

Price Advisory Committee; Meeting

Authority of Committee: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Price Advisory Committee will meet on January 8, 1980, at 10 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Purpose of the Meeting: The Committee will continue the business of its first meeting, held December 13, 1979 (see Notice at 44 FR 69408).

Public Participation: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons may file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Date: December 19, 1979.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 79-39492 Filed 12-21-79; 9:32 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., 24 January 1980 in Rm. 3D318 and from 9:30 a.m. to approximately 1:00 p.m., 25 January 1980 in Room 1E801 #3, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to follow up on priority projects; ensure a smooth transition of Committee business between the 1979 and 1980 Executive Committees; and discuss the goals, methods, and structure of the DACOWITS in 1980.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Rm. 3D322, The Pentagon, Washington, D.C. 20301, telephone 202-697-5655 no later than 11 January 1980.

H. E. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Service,
Department of Defense.
December 19, 1979.

[FR Doc. 79-39417 Filed 12-26-79; 8:45 am]
BILLING CODE 3810-70-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, February 19, 1980 at 10:00 a.m. in Room 3d-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and

recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial of financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting to be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

H. E. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.
December 19, 1979.

[FR Doc. 79-39418 Filed 12-26-79; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2974]

Bradford Dyeing Association, Inc.; Application for Preliminary Permit

December 18, 1979.

Take notice that the Bradford Dyeing Association, Inc., filed on September 28, 1979, an application for preliminary permit [pursuant to the Federal Power Act 16 U.S.C. Sections 791(a)-825(r)] for a proposed water power project to be known as the Bradford Dam Project, FERC No. 2974, located on the Pawcatuck River in Washington County, Rhode Island. Correspondence with the

Applicant should be directed to: Mr. Richard A. Grills, President, Bradford Dyeing Association, Inc., P.O. Box 539, Westerly, Rhode Island 02891.

Purpose Of Project—Project energy would be used at the project site for industrial purposes.

Proposed Scope And Cost Of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of two years, during which time it would make preliminary designs, perform market analyses and cost-benefit studies, and assess the environmental effects of the project. If the project is found to be feasible, Applicant would then prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be \$29,500.

Project Description—The proposed project would consist of: (1) An existing 100-foot-long stone masonry dam, the height of which is to be raised 2.5 feet so as to create a total head of 8 feet; (2) A new intake structure, intake flume and powerhouse; and (3) Appurtenant works. The installed capacity would be 213 kW. Applicant estimates that the average annual generation would be 689 megawatt-hours.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. If issued, a permit gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for a preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 21, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the

competing application no later than April 21, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended, 44 FR 61328, Oct. 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (as amended, 44 FR 61328, Oct. 25, 1979).

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comment does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before February 21, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-39436 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-130]

Carolina Power & Light Co.; Notice of Filing

December 18, 1979.

The filing company submits the following:

Take notice that Carolina Power & Light Company on December 12, 1979, tendered for filing changes outlined below in its agreements with certain electric membership corporations.

1. *South River EMC*—The establishment of a new point of delivery at 115 KV to be known as Wade 115 KV.
2. *Central Electric EMC*—The relocation of the Sanford 12 KV point of delivery.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's

Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-39437 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-126]

The Connecticut Light & Power Co.; Cancellation

December 18, 1979.

Take notice that on December 11, 1979, Connecticut Light and Power Company (CL&P) tendered for filing a notice of cancellation of Rate Schedule FPC No. 13, effective date January 24, 1982.

CL&P states that the proposed expiration date of the schedule was November 1, 1978.

CL&P further states that copies of the proposed cancellation were served upon The Farmington River Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-39438 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2004]

Holyoke Water Power Co.; Application for Approval of Exhibits L and M

December 18, 1979.

Take notice that the Holyoke Water Power Company (Applicant) filed an application pursuant to the Federal

Power Act, 16 U.S.C. 791(a)—825(r), on September 4, 1979, for approval of Exhibits L and M for the Hadley Falls Project No. 2004. The exhibits show the proposed installation of a new 15-W generating unit, as authorized and described by Article 2 of the project license which was issued on September 9, 1949. The Hadley Falls Project is located on the Connecticut River in the City of Holyoke, Hampden County, Massachusetts. Correspondence with the applicant concerning the application should be sent to: Mr. William G. Council, Vice President, Northeast Utilities, P.O. Box 270, Hartford, Connecticut 06101.

The extension to the powerhouse would house the Hadley Unit No. 2, and would be located immediately adjacent to the existing Hadley Unit No. 1 power plant at the south end (Holyoke, side) of the existing Holyoke Dam of the Hadley Falls Project. The Hadley Unit No. 1 is rated at 15-MW. The Hadley Unit No. 2 would use an existing penstock and make joint use, with Unit No. 1, of the existing forebay, headworks, and tailrace.

Applicant states that the new unit would have a hydraulic capacity of 4,200 cfs, and when operating at that capacity would reduce spillage over the Holyoke Dam by an equivalent amount.

The Applicant intends to use the power for public utility purposes.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedure specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 4, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the

Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39439 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-129]

Indiana & Michigan Electric Co.; Filing

December 18, 1979.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on December 12, 1979, tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company (Indiana Company), Modification No. 17 dated November 15, 1979 to the Interconnection Agreement dated November 1, 1961 between Indiana & Michigan Electric Company and Northern Indiana Public Service Company, designated I&M's Rate Schedule FERC No. 22.

Section 1 of Modification No. 17 provides for an increase in the Demand Charge for Short Term Power from \$0.70 to \$0.85 per kilowatt per week and Section 3 provides for an increase in the demand charge for Limited Term Power from \$3.75 to \$4.50 per kilowatt per month. Sections 2 and 4 of Modification No. 17 provide an increase in the transmission charge for Short Term Power and Limited Term Power from \$0.175/kW-week and \$0.75/kW-month to \$0.24/kW-week and \$1.00/kW-month respectively. The above charges are proposed to become effective on February 10, 1980.

Applicant states that since the use of Short Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from this Modification for such period. Applicant's Exhibits I and II which are included with the filing of this modification, demonstrate that the increase in revenues, which would have resulted had the modification been in effect during the twelve month period ending September 1979 for Short Term Power would have been \$60,000 (i.e., \$1,153,712.40 to \$1,213,712.40) and for Limited Term Power, \$75,000 (i.e., from \$1,095,266.80 to \$1,170,266.80).

Copies of the filing were served upon Northern Indiana Public Service Company, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39440 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2966]

James G. Katsekas and Zoes J. Dimos; Application for Preliminary Permit

December 18, 1979.

Take notice that James G. Katsekas and Zoes J. Dimos filed September 6, 1979, and revised on October 30, 1979, an application for preliminary permit [pursuant to the Federal Power Act, 16 USC, § 791(a)-825(r)] for a proposed water power project to be known as the Clement Dam Project, FERC No. 2966, on the Winnepesaukee River in Belknap and Merrimack Counties, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Zoes J. Dimos, Partner, 209 Walnut Street, Manchester, New Hampshire 03104.

Purpose of Project—Project energy would be sold to the Public Service Company of New Hampshire for distribution to its customers in the project area.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would develop preliminary designs, collect hydraulic data and perform field surveys, and prepare an application for a FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than \$40,000.

Project Description—The proposed Clement Dam Project would be located at the site of an existing breached dam and would use the cut-granite dam abutments.

The project would consist of: (1) A new concrete dam 9 feet high and approximately 80 feet long; (2) A two-acre reservoir with approximately 7 acre-feet of storage capacity at normal water surface elevation of 429.7 feet

m.s.l.; (3) A conveyance facility to consist of either a penstock or a canal; (4) A new powerhouse to be located 200 feet downstream of the dam, with an installed capacity of 500 to 1,000 kW; and (5) Appurtenant facilities. Applicant estimates that the project's average annual generation would be 2.2 million kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examination to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest, petition to intervene, agency comments or notice of intent to file a competing application must be filed on or before February 20, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 20, 1980, either the

competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 21, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, Oct. 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, Oct. 25, 1979).

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39441 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2930]

Massachusetts Bay Power Co.; Application for Preliminary Permit

December 18, 1979.

Take notice that on November 13, 1979, Massachusetts Bay Power Company, 185 High Street, Rm. 508, Boston, Massachusetts, filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for the proposed Centennial Island Project, FERC No. 2998, that would be located on the Concord River and utilize the existing Lawrence Street Dam, in the City of Lowell, Middlesex County, Massachusetts. The existing dam was constructed more than 60 years ago.

Purpose of the Project—Power generated by the project would be sold to the Stirling-Bay Company or the Prince Spaghetti Company for industrial purposes.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include preliminary designs, an economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimated that the work to be performed under this preliminary permit would cost \$24,200.

Project Description—The project would be operated run-of-the-river, depending on available river flow. The project would utilize an existing 8-foot high, 320-foot long masonry and timber dam, an existing timber canal gatehouse structure, and a 2,300-foot long diversion canal. Applicant proposes to repair the

timber canal gatehouse structure and construct a powerhouse to contain a single generating unit with a rated capacity of 450kW, on the canal, in the vicinity of Faulkner Street. The powerhouse would utilize an existing tailrace structure which would empty into the Concord River. Average annual generation would be approximately 2,914,000kwh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the Applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 21, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 21, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, Oct. 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, Oct. 25, 1979).

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for

protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before February 21, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39442 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2780]

Solano Irrigation District; Application for Major License

December 18, 1979.

Take notice that an application was filed on July 23, 1979, under the Federal Power Act, 16 U.S.C. 791a-825r, by Solano Irrigation District (Applicant) for Major License for the proposed Monticello Power Plant Project, FERC No. 2780, to be located on Putah Creek in the counties of Napa, Yolo, and Solano, California. Correspondence with the Applicant on this matter should be addressed to: Mr. W. Morris Dally, President, and Mr. Brice Bledsoe, Secretary/Manager, Solano Irrigation District, 508 Elmira Road, Vacaville, California 95688.

Applicant proposes to install a hydroelectric powerplant immediately downstream of Monticello Dam, an irrigation-storage dam owned by the U.S. Bureau of Reclamation (USBR); the USBR reservoir, created by the impoundment of Putah Creek and known as Lake Berryessa, contains 1.6 million acre-feet of gross storage capacity between the streambed and the spillway crest elevation 440. The project would use one of two existing USBR's steel penstocks (7'-6" in diameter and approximately 130' long) installed in the dam for the passage of water.

The proposed project would consist of: (1) A reinforced concrete powerhouse containing two hydroelectric generating units with a total rated capacity of 10,000 kW; (2) A substation, containing the main power transformer, located between the powerhouse and the toe of the dam; and (3) An approximately 4,000-foot-long, 115-kV transmission line connected to an existing Pacific Gas and Electric Company's transmission line.

The powerplant would operate under an effective head of 210 feet, capable of producing an annual generation of 43 million kWh. Applicant, in order to sell the project energy, proposes to enter into a power purchase agreement with an investor-owned utility or a governmental agency.

The water, discharged through the powerhouse, would continue to flow downstream on Putah Creek for about five miles into Lake Solano, created by USBR's Putah Creek diversion dam.

The estimated total cost of the project is \$10,600,000.

The project would be located within a recreational area which has been developed by USBR and State and County agencies.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comment does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before February 19, 1980.

Anyone desiring to file a competing application must submit to the Commission, on or before February 19, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 19, 1980. A notice of intent must conform, with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, Oct. 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended), 44 FR 61328, Oct. 25, 1979). The Commission's address is: 925 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39444 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EF80-3031]

Southeastern Power Administration; Notice of Filing

December 18, 1979.

The filing Company submits the following:

Take notice that on December 7, 1979, the Assistant Secretary for Resource Applications of the Department of Energy, pursuant to Delegation Order No. 0204-33, confirmed and approved, on an interim basis, Wholesale Power Rate Schedules JW-1 (Revised) and JW-2-B applicable to power from Southeastern Power Administration's Jim Woodruff Project. The rate schedules replaced rate schedules previously confirmed and approved by the Federal Power Commission, Docket No. E-6957, which approval expired on August 19, 1977.

The rate schedules are submitted for confirmation and approval on a final basis. Approval is requested for a period ending August 19, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39445 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-128]

Tucson Electric Power Co.; Notice of Cancellation

December 18, 1979.

Take notice that on December 12, 1979, Tucson Electric Power Company (Tucson) tendered for filing a notice of cancellation of Supplement No. 4 to Rate Schedule FERC No. 25, dated May 21, 1979.

Tucson states that the proposed expiration date is September 30, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39446 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2987]

Howard Wayne and Verna Jean Cornwell; Application for Short Form License (Minor)

December 18, 1979.

Take notice that on October 30, 1979, Howard Wayne and Verna Jean Cornwell filed an application for Short Form License (Minor), under the Federal Power Act, 16 U.S.C. § 791a-825r, for a proposed water power project to be known as the Cornwell Project, FERC No. 2987. The project would be located on an unnamed stream which is tributary to Merrill Creek, near Somes Bar, in Siskiyou County, California. Lands of the United States (0.18-acre) in the Klamath National Forest would be affected. Correspondence with Applicants on this matter should be addressed to: Howard Wayne and Verna Jean Cornwell, Camp Three Road, Somes Bar, California 95568.

Project Description—The project works would consist of: (1) An intake at the water source (a spring); (2) 4,000 feet of plastic pipe, with the diameter varying from 4 inches to 1½ inches, directing water to; (3) A Pelton wheel-generator unit with a rated capacity of 12 kW.

Purpose of Project—The proposed project would supply the energy requirements of the Applicants' home.

Estimated Cost—The cost of the project is estimated, by the Applicants, at \$8,000.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and

Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 21, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 21, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 23, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, Oct. 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, Oct. 25, 1979).

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39443 Filed 12-26-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Finding of No Significant Impact on Environment of Issuance of Interim Rule Implementing Executive Order 11988, Floodplain Management and Executive Order 11990, Protection of Wetlands

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508), the Federal Emergency Management Agency (FEMA) has prepared an environmental assessment of the issuance by FEMA of an interim rule implementing Executive Order 11988, Floodplain Management and Executive Order 11990, Protection and Wetlands published elsewhere in this issue. See Table of Contents under FEMA for page number.

The assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the issuance of the interim rule implementing Executive Orders 11988 and 11990. This rule will restrict FEMA actions in or affecting floodplains or wetlands. At the very least, when FEMA does act in, or affect a floodplain or wetland, it will have to minimize harm to the floodplain or wetland environment. No action may be taken by FEMA in a floodplain or wetland unless such site is the only practicable location. In short, FEMA will take no action in or affecting a floodplain or wetland which it would not have taken prior to issuance of the interim rule.

It is therefore found that there will be no significant impact on the environment caused by FEMA's issuance of the interim rule implementing Executive Order 11988 and Executive Order 11990. On this basis, an environmental impact statement will not be prepared.

Copies of the environmental assessment are available for inspection at: Federal Emergency Management Agency, Room 802, 1725 I Street, N.W., Washington, DC 20472, Telephone (202) 634-4100.

A limited number of single copies are available and may be obtained by writing the above offices.

Dated: December 17, 1979.

John W. Macy, Jr.,
Director.

[FR Doc. 79-39358 Filed 12-26-79; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Interpretation and Guidance Relating to Official Time for Negotiations and Travel Per Diem Expenses.

AGENCY: Federal Labor Relations Authority.

ACTION: Interpretation and Guidance Relating to Official Time for Negotiations and Travel Per Diem Expenses.

SUMMARY: This interpretation and guidance concerns the interpretation and application of section 7131 of the Federal Service Labor-Management Relations Statute (92 Stat. 1214) as it relates to official time for negotiations and travel and per diem expenses.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel A. Chaitovitz, Executive Director, 1900 E Street, N.W., Washington, D.C. 20424, 202-254-9555.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 FR 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

As previously announced (44 FR 42778, July 20, 1979), the Authority determined, in accordance with its regulations and the Federal Service Labor-Management Relations Statute (92 Stat. 1191), to issue an interpretation and guidance concerning section 7131 of the Statute (92 Stat. 1214) as it relates to official time for negotiations and travel and per diem expenses. Interested persons were invited to express their views in writing on the matter involved. After careful consideration of the submissions by diverse labor organizations, agencies and other persons, the Authority issued its Interpretation and Guidance, expressing the views of the Authority on the proper interpretation and application of the relevant statutory provisions.

[Case Nos. O-PS-3 and O-PS-6]

Interpretation and Guidance

As previously announced,¹ the Authority determined, in conformity with its rules and regulations and the Federal Service Labor-Management Relations Statute (92 Stat. 1191), that an

¹ Federal Labor Relations Authority, Notice Relating to Official Time, 44 FR 42788 (July 20, 1979).

interpretation of the Statute was warranted on the following:

(1) Whether employees who are on official time under section 7131 of the Statute while representing an exclusive representative in the negotiation of a collective bargaining agreement are entitled to payments from agencies for their travel and per diem expenses.

(2) Whether the official time provisions of section 7131(a) of the Statute encompass all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement.

Concurrently, the Authority invited interested persons to express their views in writing with respect to the above matters, including the impact, if any, of section 7135(a)(1) of the Statute (92 Stat. 1215) on these matters. The responses submitted to the Authority were most thorough and helpful and have been carefully considered. In view of the depth and scope of these submissions, the Authority has determined that no useful purpose would be served by providing for an oral presentation of views.

Section 7131 of the Statute

As indicated above, both matters at issue pertain to section 7131 of the Statute (92 Stat. 1214), which reads as follows:

§ 7131. Official time

(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this (Statute) shall be authorized official time for such purpose, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

(c) Except as provided in paragraph (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

(d) Except as provided in the preceding subsections of this section—

(1) Any employee representing an exclusive representative, or

(2) In connection with any other matter covered by this (Statute), any employee in an appropriate unit represented by an exclusive representative, shall be granted official time

in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

We turn to the application of the above-quoted provisions, and particularly section 7131(a), to the matters here in question. For convenience of discussion, we shall consider the questions in reverse order.

Nature of Negotiations to Which Official Time Applies

The second of the two matters at issue is the following:

Whether the official time provisions of section 7131(a) of the Statute encompass all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement.

Section 7131(a) expressly states in relevant part that "[a]ny employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this (statute) shall be authorized official time for such purposes, including attendance at impasse proceeding[s]." This section thus provides that when an exclusive representative and an agency undertake the negotiation of a "collective bargaining agreement," an employee representing the exclusive representative in that undertaking must be authorized official time for such purposes.

In this connection, the phrase "collective bargaining agreement" in section 7131(a) is defined at section 7131(a)(8) (92 Stat. 1193), as follows:

(8) "collective bargaining agreement" means an agreement entered into as a result of collective bargaining pursuant to the provisions of this (Statute).

The phrase, "collective bargaining," in turn, is defined in section 7103(a)(12) (92 Stat. 1194) as follows:

(12) "collective bargaining" means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession[.]

It is apparent from the specific language in these definitions that a "collective bargaining agreement" is any agreement that is entered into as a result of the performance of the mutual

obligation of the parties to bargain in a good-faith effort to reach agreement with respect to conditions of employment affecting employees in the appropriate unit. Consequently, the language reflects the intent of Congress that the entitlement of official time under section 7131(a) would encompass all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiations or renegotiation of a basic collective bargaining agreement.

Such conclusion as to the intent of Congress is supported by the legislative history of section 7131(a) of the Statute. More particularly, section 7131(a) is identical to section 7132(a) of the Bill (H.R. 11280) reported to the House by the House Post Office and Civil Service Committee.² In adopting the provisions in section 7132(a) of the House Bill, Congress rejected the relevant language in section 7232 of the Bill (S. 2640) reported to the Senate by the Senate Governmental Affairs Committee.³ That section of the Senate Bill had sought, in effect, to maintain the restrictions imposed upon the use of official time for negotiations by employees representing unions as established in E.O. 11491, as amended.

Significantly, as to section 7232 of the Senate Bill, the Senate Committee Report had stated that it applied "to the negotiation or renewal of a *basic* collective bargaining agreement, *as opposed to negotiations which arise out of circumstances during the term of the basic agreement*" (emphasis added).⁴ The House Bill which was adopted by Congress contains wholly different provisions on the relevant subject of official time, and there is no indication whatsoever that Congress intended to limit the use of official time to the negotiation of basic agreements as contemplated by the rejected language of the Senate Bill.

Thus, the legislative history demonstrates that Congress intended,

² See H.R. Rep. No. 95-1403, 95th Cong., 2d Sess. 200 (1978).

³ Section 7232 of the Senate Bill provided: Solicitation of membership or dues and other internal business of a labor organization shall be conducted during the nonduty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except that the negotiating parties may agree to arrangements which provide that the agency will authorize a reasonable number of such employees (not normally in excess of the number of management representatives) to negotiate on official time for up to 40 hours, or up to one-half the time spent in negotiations during regular working hours.

⁴ S. Rep. No. 95-969, 95th Cong., 2d Sess. 112 (1978).

consistent with the specific language of section 7131(a) and the related definitions in section 7103(a)(8) and (12), that the entitlement of official time under section 7131(a) would apply whenever the parties undertake the negotiation of a collective bargaining agreement.

Apart from the literal language and legislative history of section 7131(a) of the Statute, the conclusion that Congress intended that official time apply to the negotiation of any collective bargaining agreement is supported by the express findings and purpose of the Statute as stated in section 7101(a), namely, that "labor organizations and collective bargaining in the civil service are in the public interest." Certainly, it would implement the ends of collective bargaining to sanction official time for all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement. For only in such manner may effective union representation comparable to the representation of management be achieved under the Statute, and only in this manner may both parties effectively fulfill their respective obligations under section 7114(b) of the Statute (92 Stat. 1202) "to meet at reasonable times . . . as frequently as may be necessary" for good-faith negotiations on conditions of employment of the unit employees.

Accordingly, for the reasons stated above, it is concluded that the official time provisions of section 7131(a) of the Statute encompass all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement.

Entitlement of Employees on Official Time to Travel and Per Diem Expenses

As mentioned at the outset, the other matter here at issue is the following:

Whether employees who are on official time under section 7131 of the Statute while representing an exclusive representative in the negotiation of a collective bargaining agreement are entitled to payments from agencies for their travel and per diem expenses.

On this issue it is clear from the Statute that employees who are on official time under section 7131 while representing an exclusive representative in the negotiation of a collective bargaining agreement are entitled to payments from agencies for their travel and per diem expenses.

As previously set forth, section 7131(a), which is principally here involved, provides that an employee representing an exclusive representative in the negotiation of a collective bargaining agreement shall be on official time "during the time the employee otherwise would be in a duty status." As explained in the House Report, an employee serving as a union representative is authorized "paid time" while engaging in the negotiation activities provided for in section 7131(a) of the Statute.⁵ Hence, while an employee is on official time representing an exclusive representative in the negotiation of a collective bargaining agreement, that employee is on paid time entitled to his or her usual compensation and is not in leave status.

Neither the Statute, nor its legislative history, expressly adverts to the payment of travel expenses or per diem during participation in these negotiation activities.⁶ However, it is well established that such expenses are authorized when an employee "is engaged on official business for the Government" (Chapter 57, Subchapter I—*Travel and Subsistence Expenses; Mileage Allowances*, 5 U.S.C. 5701, *et seq.*). As already mentioned, Congress, in adopting the Statute, specifically found in section 7101(a) that collective bargaining "contributes to the effective conduct of public business," and that "collective bargaining in the civil service (is) in the public interest." Further, Congress expressly mandated in sections 7114 and 7116 (a)(5) and (b)(5) that such negotiations be conducted in good faith by the parties involved (92 Stat. 1202, 1204). Thus, an employee, while negotiating a collective bargaining agreement as a union representative and while on paid time entitled to his or her usual compensation and not in a leave status, is clearly engaged on "official business for the Government."

Additionally, it is not controverted that management representatives are uniformly paid travel expenses and per diem when engaged in the negotiation of a collective bargaining agreement on

⁵ H.R. Rep. No. 95-1403, 95th Cong., 2d Sess. 58 (1978).

⁶ Under section 20 of E.O. 11491, as amended, travel expenditures were not authorized for union representatives engaged in negotiation activities (*Labor-Management Relations in the Federal Service* (1975) at 58). However, as previously indicated, Congress substantially rejected section 7232 of the Senate Bill which sought in effect to maintain the language of the Order. Moreover, unlike under section 20 of the Order which strictly limited the amount of official time which might be authorized for negotiation activities by union representatives, section 7131(a) of the Statute contains no such limitation. Further, unlike under the Order, the encouragement of collective bargaining is a stated purpose of the Statute.

behalf of management, and Congress indicated its intent that similar prerogatives be accorded employees serving as union representatives likewise engaged in the negotiation of a collective bargaining agreement. In this connection, Representative Clay, in discussing the proscription of official time for employees engaged in internal union business under section 7132(b) of the House Bill (which was enacted as section 7131(b) of the Statute) stated as follows:⁷

Section 7132(b) of the Udall compromise bars the use of official time for conducting the internal business of a labor organization Activities that involved labor-management contacts are not included in this section Title VII imposes heavy responsibilities on labor organizations and on agency management. These organizations should be allowed official time to carry out their statutory representational activities just as management uses official time to carry out its responsibilities. (Emphasis added.)

The payment of travel and per diem expenses would not only more nearly equate the status of union and management negotiators as contemplated by Congress, but would also facilitate more effective union representation at the bargaining table, thereby implementing the purpose of the Statute, as reflected in section 7101(a), to encourage collective bargaining in the Federal sector.

Finally, it should be noted that section 7131(c) of the Statute, identical as here relevant to section 7131(a), provides that:

(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status. (Emphasis added.)

The Authority has previously interpreted this language of the Statute in section 2429.13 of its Interim Rules and Regulations, as entitling the employee on such official time to transportation and per diem expenses (44 FR 44771 (July 30, 1979)). No persuasive reason has been advanced for a contrary interpretation of the analogous language in section 7131(a) of the Statute, and no supported challenge has been advanced regarding the legality of the Authority's prior interpretation of the same critical language in section 7131(c).

In summary, any employee who is on official time under section 7131 of the Statute while representing an exclusive representative in the negotiation of a

⁷ 124 Cong. Rec. H8,638 (daily ed. Sept. 13, 1978).

collective bargaining agreement is entitled to payments from agencies for their duty time and travel and per diem expenses.

Impact of Savings Provisions in the Statute

Lastly, the question as to the impact, if any, of the savings provisions in section 7135(a)(1) of the Statute on the above matters must be considered.⁶ More specifically, the question is whether provisions in existing agreements which are more restrictive than section 7131(a) on the granting of official time, as well as the payment of travel and per diem expenses, for employees representing a union in the negotiation of a collective bargaining agreement, remain operative under section 7135(a)(1) of the Statute.

Section 7135(a)(1) reads in relevant part as follows:

(e) Nothing contained in this (Statute) shall preclude—

(1) the renewal or continuation of * * * a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this (Statute); (.)

By this express language of section 7135(a)(1), nothing in the Statute precludes the parties to a lawful agreement in existence on January 11, 1979, the effective date of the Statute, from mutually renewing or continuing the terms of that agreement if they so desire. Thus, for example, if the provisions of an existing agreement limit the authorization of official time to employee representatives of a union in the negotiation of a basic collective bargaining agreement, nothing in the Statute precludes the parties to such an existing agreement, if they wish, from mutually renewing or continuing the terms of that agreement.

However, where a labor organization or an agency objects to the continuation or renewal of a provision relating to official time more restrictive than section 7131(a), such objection prevents the continuation or renewal of the agreement provision under section 7135(a)(1) of the Statute. In that situation, the provisions of section 7131(a) would be immediately operative. That is, any employee representing an exclusive representative in the negotiation of a collective bargaining agreement would be entitled to official time, regardless of whether such

⁶ The savings clause in section 7135(b) of the Statute (92 Stat. 1215) is clearly without impact, since the provisions of section 7131(a), which are here involved, are completely different from the related provisions in section 20 of E.O. 11491, as amended, and section 7131(a) thereby "supersedes" the "policies, regulations, and procedures established under" the Executive Order.

negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement, and any employee on such official time under section 7131(a) of the Statute would be entitled to payments from the agency for their travel and per diem expenses.

Conclusion

It is the Authority's interpretation and guidance that:

1. The official time provisions of section 7131(e) of the Statute encompass negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement.

2. Employees who are on official time under section 7131 of the Statute while representing an exclusive representative in the negotiation of a collective bargaining agreement are entitled to payments from agencies for their duty time and travel and per diem expenses.

3. Provisions in agreements existing on January 11, 1979, the effective date of the Statute, which are more restrictive than section 7131(a) of the Statute on the granting of official time, as well as the payment of travel and per diem expenses, for employees representing a union in the negotiation of a collective bargaining agreement may be renewed or continued if the parties so desire, under section 7135(a)(1) of the Statute. However, if either party to such provisions in an existing agreement objects to the continuation or renewal thereof, such objection prevents the continuation or renewal of those agreement provisions under section 7135(a)(1) of the Statute.

Issued, Washington, D.C., December 19, 1979.

Federal Labor Relations Authority.
Ronald W. Haughton,
Chairman.

Henry B. Frazier III,
Member.

Leon B. Applewhite,
Member.

[FR Doc. 79-39365 Filed 12-27-79; 8:45 am]
BILLING CODE 6325-01-M

Interpretation and Guidance Relating to the Scope of the Negotiated Grievance Procedures in Existing Agreements

AGENCY: Federal Labor Relations Authority.

ACTION: Interpretation and Guidance Relating to the Scope of the Negotiated

Grievance Procedures in Existing Agreements.

SUMMARY: This interpretation and guidance concerns the interpretation and application of section 7121 of the Federal Service Labor-Management Relations Statute (92 Stat. 1211) as it relates to the scope of the negotiated grievance procedures in existing agreements.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel A. Chaitovitz, Executive Director, 1900 E Street NW., Washington, D.C. 20424, 202-254-9555.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 FR 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

As previously announced (44 FR 28102, May 14, 1979), the Authority determined, in accordance with its regulations and the Federal Service Labor-Management Relations Statute (92 Stat. 1191), to issue an interpretation and guidance concerning section 7121 of the Statute (92 Stat. 1211) as it relates to the scope of the negotiated grievance procedures in existing agreements. Interested persons were invited to express their views in writing on the matter involved. After careful consideration of the submissions by diverse labor organizations, agencies and individuals, the Authority issued its Interpretation and Guidance, expressing the views of the Authority on the proper interpretation and application of the relevant statutory provisions.

[Case No. O-PS-2]

Interpretation and Guidance

Introduction

As previously announced,¹ the Authority determined, in conformity with its rules and the Federal Service Labor-Management Relations Statute (92 Stat. 1191), that an interpretation of the Statute was warranted on the following question:

What is the proper interpretation and application of section 7121 of the Federal Service Labor-Management Relations Statute (92 Stat. 1211) as it relates to the impact of this section of the Statute on the scope of

¹ Federal Labor Relations Authority, *Notice Relating to the Scope of the Negotiated Grievance Procedures in Existing Agreements*, 44 FR 20102 (May 14, 1979). This Notice was issued in response to a request for a major policy determination from the National Association of Government Employees.

negotiated grievance procedures in existing agreements? In addressing themselves to this question of scope, interested persons are also invited to consider the impact, if any, of section 7135(a)(1) of the Statute (92 Stat. 1215) on such interpretation and application.

The Authority invited interested persons to express their views in writing with respect to the matter involved. The responses submitted to the Authority² were detailed and helpful and have been carefully considered. In view of the thoroughness and extent of these submissions, the Authority has determined that no useful purpose would be served by providing for an oral hearing.

Background

Prior to the Statute, the scope of negotiated grievance procedures was governed by section 13 of Executive Order 11491, as amended, which provided in relevant part as follows:

Sec. 13. *Grievance and arbitration procedures.*

(a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances. The coverage and scope of the procedure shall be negotiated by the parties to the agreement with the exception that it may not cover matters for which a statutory appeal procedure exists and so long as it does not otherwise conflict with statute or this Order * * *

On October 13, 1978, the Statute was adopted, effective January 11, 1979. Section 7121 of the Statute, relating to the settlement of grievances,³ provides in relevant part as follows:

² In addition to the National Association of Government Employees, the following labor organizations, agencies, and individuals submitted their views to the Authority: American Federation of Government Employees, AFL-CIO; National Federation of Federal Employees; National Treasury Employees Union; Professional Air Traffic Controllers Organization; ACTION; Federal Home Loan Bank Board; Georgia National Guard; Department of Housing and Urban Development; Department of the Interior; Internal Revenue Service; Office of Personnel Management; Senator Orrin G. Hatch; and Mr. Stephen B. Pacetti.

³ "Grievance" is defined by section 7103(a)(9) of the Statute as follows:

7103. *Definitions: application*

(a) For the purpose of this (Statute)—

(9) "grievance" means any complaint—

(A) by any employee concerning any matter relating to the employment of the employee;

(B) by any labor organization concerning any matter relating to the employment of any employee; or

(C) by any employee, labor organization, or agency concerning—

(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment[.]

§ 7121. *Grievance procedures*

(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. * * * [T]he procedures shall be the exclusive procedures for resolving grievances which fall within its coverage.

(2) An collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement. * * *

(c) The preceding subsections of this section shall not apply with respect to any grievance concerning—

(1) Any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

(2) Retirement, life insurance, or health insurance;

(3) A suspension or removal under section 7532 of this title;

(4) Any examination, certification, or appointment; or

(5) The classification of any position which does not result in the reduction in grade or pay of an employee.

In addition, certain "savings provisions" were enacted as integral parts of the Statute. The savings provisions relevant here, section 7135(a) and (b), read as follows:

§ 7135. *Continuation of existing laws, recognitions, agreements, and procedures.*

(a) Nothing contained in this (Statute) shall preclude—

(1) The renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this (Statute); * * *

(b) Policies, regulations, and procedures established under the decisions issued under Executive Orders, 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this (Statute), shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this (Statute) or by regulations or decisions issued pursuant to this (Statute).

After the effective date of the Statute, it appears from the record that agencies in some instances have refused union requests to renegotiate the scope of their existing negotiated grievance procedures. The agencies base such refusals to renegotiate on the above-quoted savings provisions in section 7135 of the Statute.

We shall consider whether renegotiation of the scope of grievance procedures in existing agreements may be properly refused on the basis of either section 7135(a)(1) of (b) of the Statute as claimed by the agencies. For convenience of discussion, we will consider the impact of these statutory provisions in reverse order.

Impact of Section 7135(b) on Renegotiation of Scope of Existing Negotiated Grievance Procedures

As noted above, section 7135(b) of the Statute provides that policies established under the Order shall remain in full force and effect unless superseded by specific provisions of the Statute. It is clear that the provisions of section 7121 of the Statute, as they relate to the scope of grievance procedures in collective bargaining agreements, differ materially from and thereby "supersede" the policies of section 13 of the Order.

First, in contrast to section 13 of the Order, which excluded from coverage under negotiated grievance procedures all matters for which statutory appeal procedures existed, section 7121 of the Statute includes such matters within the scope of the negotiated grievance procedures, absent agreement to the contrary, and except for certain specific exclusions enumerated in section 7121(c) itself. Second, while the scope of grievance procedures negotiated under section 13 of the Order was dependent on the parties' mutual agreement as to those matters which would be covered,⁴ grievance procedures negotiated by the parties under section 7121 of the Statute cover all matters which might lawfully be submitted to those procedures, unless the parties in their negotiations mutually agree that particular matters shall be excluded from the negotiated grievance procedures as provided in section 7121(a)(2) of the Statute. In this connection, the House-Senate Conference Committee reported with respect to section 7121 as follows:⁵

All matters that under the provisions of law could be submitted to the grievance procedures shall in fact be within the scope of any grievance procedure negotiated by the parties unless the parties agree as part of the collective bargaining process that certain matters shall not be covered by the grievance procedures.

Thus, it is clear that the policies of section 13 of the Order regarding the scope of negotiated grievance procedures have been superseded by specific provisions of section 7121 of the Statute, and therefore, pursuant to section 7135(b) of the Statute, those policies of the Order are no longer in effect.

⁴ See, e.g., *Bureau of Prisons and Federal Prison Industries, Inc.*, Washington, DC and Council of Prison Locals, AFGE, 73 FSIP 27, 3 FLRC 352 (FLRC No. 74A-24, June 10, 1975, Report No. 74).

⁵ Joint Explanatory Statement of the Committee on Conference, H.R. Rep. No. 1717, 95th Cong., 2d Sess. 157, reprinted in [1978] U.S. Code Cong. & Ad. News 2860, 2891.

Impact of Section 7135(c)(1) on Renegotiation of Scope of Grievance Procedures in Existing Agreements

As set forth previously, section 7135(a)(1) of the Statute provides that nothing in the Statute shall preclude the renewal or continuation of a lawful agreement entered into before the effective date of the Statute. Plainly, where both parties to an existing agreement containing grievance procedures negotiated under section 13 of the Order wish to maintain those negotiated grievance procedures, the literal language of section 7135(a)(1) of the Statute does not prevent the parties from renewing or continuing the terms of that agreement *if they so desire*.

However, where either party to an existing agreement objects to the continuation of provisions in that agreement establishing the scope of the negotiated grievance procedures, such objection requires the parties to comply with the mandate of section 7121 of the Statute. That is, the parties would then be required to renegotiate the scope of their negotiated grievance procedures and, in conformity with section 7121(a), the grievance procedures so renegotiated would cover all matters which might lawfully be submitted to those procedures, except for particular matters mutually agreed by the parties to be excluded.⁶

Pending such renegotiation, the current agreement would of course continue in effect and grievances would continue to be processed by the parties as provided for in that agreement.⁷

⁶ Contrary to the position of several responding organizations, mere objection by a party to the continuation of existing negotiated grievance procedures would not, *per se*, extend the scope of the existing procedures, since section 7121 concerns the scope of grievance procedures which may be negotiated by the parties.

⁷ Apart from the scope of the negotiated grievance procedures, section 7121 of the Statute mandates that such procedures *shall provide for binding arbitration* of any grievances not satisfactorily settled under those procedures. Under section 13 of Executive Order 11491, as amended, it was not mandatory to include binding arbitration as part of a negotiated grievance procedure. Thus it is clear that the policies of section 13 of the Order regarding arbitration have been superseded by specific provisions of section 7121 of the Statute, and therefore, pursuant to section 7135(h) of the Statute these policies of the Order are no longer in effect. Of course, where the parties to an agreement entered into before the effective date of the Statute have not provided for *binding arbitration* as part of the grievance procedure, they may jointly agree to renew or continue the terms of that agreement under the provisions of section 7135(a)(1) of the Statute. However, where a labor organization or an agency objects to the continuation of a negotiated grievance procedure insofar as it has no provision for binding arbitration, then such objection would prevent the continuation of that particular provision under section 7135(a)(1) of the Statute and section 7121 would apply. In such a case, then, the negotiated grievance procedure shall provide for

Conclusion

In summary, it is the Authority's interpretation and guidance that:

1. Section 7121 of the Statute, under which the scope of negotiated grievance procedures shall cover all matters which might lawfully be submitted to those procedures except for particular matters mutually agreed by the parties to be excluded, does not apply in situations where the parties to an existing agreement containing grievance procedures negotiated under section 13 of the Order wish to maintain those negotiated grievance procedures.

2. However, where either party to an existing negotiated agreement objects to the renewal or continuation of the existing negotiated grievance procedures, section 7121 of the Statute requires that the parties renegotiate the scope of their grievance procedures in compliance with the provisions of that section. Under section 7121, the grievance procedures so renegotiated would cover all matters which might lawfully be submitted to the negotiated grievance procedures, except those matters expressly excluded by agreement of the parties. Pending such renegotiation, the current agreement must remain in effect.

Issued, Washington, D.C., December 19, 1979.

Federal Labor Relations Authority.

Ronald W. Haughton,
Chairman.

Henry B. Frazier III,
Member.

Leon B. Applewhaite,
Member.

[FR Doc. 79-39386 Filed 12-26-79; 8:45 am]

BILLING CODE 6325-01-M

binding arbitration of grievances not satisfactorily settled under the negotiated procedure. See, *Interpretation and Guidance*, FLRA No. 0-PS-1, Report No. 1, (April 19, 1979). Similarly, to the extent that section 13 of the Order provided that questions of arbitrability may, or in certain cases must, be submitted to the Assistant Secretary of Labor, such policies have been specifically superseded by the Statute. Where collective bargaining agreements contain provisions conferring jurisdiction upon the Assistant Secretary to resolve questions of arbitrability, such provisions have been rendered void by the Statute. Therefore, negotiated grievance procedures may not confer jurisdiction upon the Assistant Secretary or the Federal Labor Relations Authority to resolve such questions. Section 7121 mandates that each collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability and unless the parties, consistent with law, mutually agree otherwise, such procedures must be read as providing that all questions of arbitrability not otherwise resolved shall be submitted to arbitration.

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Mover's International, Inc., 1800 Highway 99, P.O. Box 1294, Lynnwood, WA 98036.

Officers: Robert H. Johnson, President/Director; Richard Cabrera, Director; Betty A. Johnson, Secretary; Harold J. Johnson, Director.

Cody Forwarding Company (William Cody Foley, d.b.a., 2171 Richmond Avenue, Houston, TX 77098.

T-A-T Airfreight, Inc., d.b.a. Tatmar Co., 4401 N.W. 74th Avenue, Miami, FL 33166. Officers: Miguel Balsinde, President; Humberto Balsinde, Vice President; Dominick Antinoro, Treasurer; John Alexander, Secretary.

Kalhin America Corporation, 9100 So. Septulveda Blvd., Los Angeles, CA 90045. Officers: Kim McGurgan, Vice President; T. Ito, Asst. Vice President; Y. Fukukotomi, Secretary/Director; Y. Otsu, President/Director; T. Yamakawa, Treasurer/Director.

Network Express (Jose A. Torrente, d.b.a.), 11 Broadway, Suite 1604, New York, NY 10004. W. Prescott & Co. (John R. Prescott, d.b.a.), 722 West Pine Hill, P.O., Box 467, Pinehurst, TX 77362.

International Cargo Services, Inc., 1188 Central Avenue, East Point, GA 30344. Officers: Steven R. Watrous, President, Donald F. Simpson, Vice President; Sandra G. Tovar, Secretary/Treasurer.

Intermountain Brokers (Paul R. Goltz, d.b.a.), P.O. Box 10367, Albuquerque, NM 07114. Swift International, Inc., 7901 Fourth Street, North, Suite 207, St. Petersburg, FL 33734. Officers: Stanley Taylor, President; Dick DeWitt, Vice President; Kyle C. Custer, Director.

By the Federal Maritime Commission.
Dated: December 20, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-39466 Filed 12-26-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to

section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 14, 1980.

A. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045:

CITICORP, New York, New York (consumer finance and insurance activities; Utah); to engage, through its indirect subsidiary, Citicorp Person-to-Person Financial Center in operating a finance company, including making or acquiring consumer loans and other extensions of credit, secured or unsecured; making or acquiring loans and other extensions of credit to finance the purchase of mobile homes or manufactured housing, together with the real property to which such housing is or will be permanently affixed; and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. These activities would be conducted from an office in Salt Lake City, Utah, serving the entire State of Utah. This application is for an expansion of activities and service area of an existing office.

B. Federal Reserve Bank of Minneapolis, 250 Marquette Avenue, Minneapolis, Minnesota 55480:
FIRST BANK SYSTEM, INC., Minneapolis, Minnesota (trust company activities; Arizona); to engage, through its subsidiary, First Trust Company of Arizona, in performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodian nature. These activities would be conducted from an office in Phoenix, Arizona, serving primarily the Phoenix metropolitan area and secondarily, the remainder of the State of Arizona.

C. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:
IMPERIAL BANCORP, Inglewood, California (mortgage banking activities; United States); to engage, through its subsidiary, Imperial Bancorp Mortgage Company ("Company"), in originating mortgages on single- and multi-family residential and commercial nonresidential properties, selling the mortgages to permanent investors, and servicing the loans on behalf of the investors who purchase the mortgages. Company will assist developers, builders and others in obtaining construction and other types of loans. These activities will be conducted from offices in Inglewood, California, serving the United States.

D. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, December 14, 1979.
William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-39427 Filed 12-26-79; 8:45 am]
BILLING CODE 6210-01-M

Bank of Virginia Co.; Acquisition of Bank

Bank of Virginia Company, Richmond, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Virginia-Wise, St. Paul, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 14, 1980. Any comment on an application that requests a hearing must

include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 14, 1979.
William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-39421 Filed 12-26-79; 8:45 am]
BILLING CODE 6210-01-M

Commercial Bancshares, Inc.; Formation of Bank Holding Company

Commercial Bancshares, Inc., Wharton, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Wharton Bank & Trust Company, Wharton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 14, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-39477 Filed 12-26-79; 8:45 am]

BILLING CODE 6210-01-M

First National Bancshares in Newton, Inc.; Formation of Bank Holding Company

First National Bancshares in Newton, Inc., Newton, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank in Newton, Newton, Illinois. The factors that are considered in acting on the application are set forth

in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39476 Filed 12-26-79; 8:45 am]

BILLING CODE 6210-01-M

J. R. Montgomery Bancorporation; Acquisition of Bank

J. R. Montgomery Bancorporation, Lawton, Oklahoma, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 12.6 per cent or more of the voting shares of City National Bank & Trust Company, Lawton, Oklahoma, thereby increasing its ownership of shares of the bank to 49.9 per cent. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 13, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39482 Filed 12-26-79; 8:45 am]

BILLING CODE 6210-01-M

Mansura Bancshares, Inc.; Formation of Bank Holding Company

Mansura Bancshares, Inc., Mansura, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Mansura State Bank, Mansura, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39479 Filed 12-26-79; 8:45 am]

BILLING CODE 6210-01-M

McGregor Bancshares, Inc.; Formation of Bank Holding Company

McGregor Bancshares, Inc., McGregor, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.18 percent of the voting shares of State Bank of McGregor, McGregor, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39475 Filed 12-26-79; 8:45 am]

BILLING CODE 6210-01-M

The Tysan Corp.; Formation of Bank Holding Company

The Tysan Corporation, Minneapolis, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90.8 per cent or more of the voting shares of the State Bank of Long Lake, Long Lake, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39478 Filed 12-26-79; 8:45 am]

BILLING CODE 6210-01-M

Wolfe City Bancshares, Inc.; Formation of Bank Holding Company

Wolfe City Bancshares, Inc., Wolfe City, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Wolfe City National Bank, Wolfe City, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 18, 1980. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39480 Filed 12-26-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Application Announcement for Grants for Training in Emergency Medical Services; Section 789, Public Health Service Act

The Bureau of Health Manpower, Health Resources Administration, is pleased to announce the availability of fiscal year 1980 application materials for Grants for Training in Emergency Medical Services as authorized by section 789, Title VII, of the Public Health Service Act.

Section 789 authorizes grants to educational entities to assist in meeting the cost of training programs providing instruction in the techniques and methods of emergency medical services, including the skills required in connection with the provision of ambulance services. Eligible entities include schools of medicine, dentistry, osteopathic medicine and nursing, training centers for allied health professions, hospitals, and other appropriate educational and public entities. Programs covered within this authority include projects for the training of emergency medical technicians-ambulance, emergency medical technicians-paramedic, emergency nursing personnel, and projects for predoctoral, residency, and continuing education training of physicians in emergency medicine.

In determining the priority for funding of approved competitive applications, additional funding preference will be accorded projects in which the following are demonstrated.

For all projects: (1) Those applications which include satisfactory evidence of affording clinical experience in affiliated emergency medical services systems receiving assistance under Section 1203 or Section 1204 of the Public Health Service Act.

(2) Those applications providing satisfactory evidence that substantial portions of the training program will be conducted in primary medical

manpower shortage areas as defined under section 332 of the PHS Act.

For Projects in Specific Disciplines: (1) *EMT-Paramedic:* Those projects sponsored by educational entities granting a degree or diploma. (This does not apply to a degree or diploma in EMS but applies to the institution.)

(2) *Medicine:* Those projects designed to train emergency physicians in emergency medical services system concepts while developing general emergency medical training resources. As evidence that the program is so designed, the applicant must: (a) Be, or be affiliated with, a school of allopathic medicine or osteopathic medicine with an administrative unit which is responsible for educational programs in emergency medicine and involved in more than one of the following phases of emergency medical education: undergraduate, graduate, or continuing education; or

(b) Propose educational programs designed to improve the capabilities of physicians to provide emergency medical services in emergency medical service systems. Applications which do not address these preferences will be reviewed and given full consideration for funding. However, each preference which is met will enhance the competitive position of an approved applicant in determining the order of funding of approved applications.

Approximately \$1,000,000-\$1,500,000 is expected to be available for competitive grant awards in fiscal year 1980 under Section 789.

Section 789 application materials for fiscal year 1980 are based on Interim-Final Regulations published in the Federal Register on September 16, 1977 (42 FR 46523). Therefore, application materials, including the various requirements, are subject to change when final regulations are issued under Section 789.

Programs for the training of the emergency medical technician-ambulance must either: (1) Meet the guidelines prescribed by the "Basic Training Course for Emergency Medical Technicians" (Second Edition) 1977, U.S. Department of Transportation, NHTSA; or (2) demonstrate that at least 75 percent of the graduates of the program either pass the National Registry of Emergency Technicians Examination within six months after graduation or meet applicable State requirements which are determined by the Secretary of Health, Education, and Welfare to equal or exceed Department of Transportation guidelines.

Programs for the training of emergency medical technicians-

paramedic must prepare students to meet the performance standards contained in Appendix A of the "National Training Course Guide for Emergency Medical Technicians-Paramedic" developed by the Department of Transportation, NHTSA. These reference materials should be available throughout your office of the State Agency Delegated Coordinator of Emergency Medical Services or the following:

Department of Transportation, National Highway Safety Administration, NTS-13, 400 Seventh Street, SW., Washington, D.C. 20580.

The Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Programs for the training of emergency nursing personnel must prepare nurses to meet the "Standards of Emergency Nursing Practice" developed by the American Nurses' Association and the Emergency Department Nurses' Association" (ANA Publication Code MS-S) or equivalent standards as determined by the Secretary of Health, Education, and Welfare. Copies of the Standards for Emergency Nursing Practice should be available through your State Agency Delegated Coordinator of Emergency Medical Services or:

The Emergency Department Nurses' Association, 66 North Lake Shore Drive, Suite 1729, Chicago, Illinois 60611.

Programs for the residency training of emergency physicians must be a graduate medical education program in emergency medicine which is either approved or provisionally approved by the American Osteopathic Association or is endorsed or provisionally endorsed by, or has a letter granting permission to recruit residents, from the Liaison Residency Endorsement Committee in Emergency Medicine.

Programs for the continuing education of physicians may only enroll individuals who are emergency physicians or physicians actively involved in an emergency medical services system. The training must fulfill requirements for continuing medical education credit of the American Osteopathic Association or meet Category I requirements of either the Liaison Committee on Continuing Medical Education or the American Medical Association.

Section 789 was amended on August 1, 1977, by Public Law 95-83 to authorize financial assistance to residents who plan to specialize or work in the practice of emergency medicine. However, the grants awarded in fiscal year 1977 and which have continuing support

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recommended for fiscal year 1980 did not include stipend support in the approved application. Thus, stipend support is not being allowed in the continuation requests. However, applicants applying for continuing support may request stipend support for their residency programs in a competitive supplemental application. An applicant requesting stipend support to provide a portion of the salary of residents enrolled in the program must provide documentation showing that income available from alternative sources, including income derived from the services of the residents in the program, will be insufficient to pay their salaries and that grant funds will not be used to supplant other available funds.

Appended to this notice is a suggested format for notifying the Grants Management Officer, Bureau of Health Manpower, of your application plans with respect to *competitive requests* (new, competing extension and supplemental) for fiscal year 1980 Grants for Training in Emergency Medical Services. Please advise us of your intentions in writing by January 11, 1980, if at all possible. We iterate that a *competitive* application kit will be forwarded only upon request. Please note that completed applications must be received by the Grants Management Officer, BHM, by February 15, 1980, in order to be considered for funding.

Should additional programmatic information be required, please contact: Division of Medicine, Bureau of Health Manpower, HRA, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone (301) 438-7350.

Questions concerning the grants management aspects may be addressed to the Grants Management Officer, BHM, whose address is in the Appendix.

Dated: December 19, 1979.

Henry A. Foley,
Administrator.

BILLING CODE 4110-65-16

APPENDIX

HEALTH PROFESSIONS
GRANTS FOR TRAINING IN EMERGENCY MEDICAL SERVICES
REQUEST FOR FISCAL YEAR 1980 GRANT APPLICATION KIT

Name of Institution: _____
(Hosp., school, or other entity)

Address: _____

ZIP CODE _____

Individual Who May Be Contacted
for further information: _____
(Name and Title)

(Telephone Number) _____

Request a FY 1980 Grant Application Kit: ☒ Yes (If yes, kit
will be mailed as
soon as possible.)

PLEASE ADVISE US OF YOUR INTENTIONS BY JANUARY 11, 1980, IF AT ALL
POSSIBLE.

Grants Management Officer (A-18)
Bureau of Health Manpower
Health Resources Administration
Room 4-27, Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

[FR Doc. 79-39563 Filed 12-26-79; 8:45 am]
BILLING CODE 4110-83-C

Office of Education

Education Appeal Board

AGENCY: Office of Education, HEW.

ACTION: Summaries of Final Decisions of the Title I Audit Hearing Board.

SUMMARY: This notice contains summaries of the fourteen decisions of the Title I Audit Hearing Board which were adopted as the final decisions of the Office of Education, HEW, before June 29, 1979. On June 29, 1979, the Title I Audit Hearing Board became the Education Appeal Board.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W., Room 4051, Washington, D.C. 20202, Telephone (202) 245-7835.

SUPPLEMENTARY INFORMATION: In 1972, the Commissioner of Education established the Title I Audit Hearing Board through the publication of a notice in the Federal Register. The establishment of the board gave State education agencies an impartial administrative forum in which to appeal adverse audit findings made in the course of Federal audits of programs administered under Title I of the Elementary and Secondary Education Act of 1965. On June 29, 1979, the Title I Audit Hearing Board became the Education Appeal Board under interim final regulations published in the Federal Register on May 25, 1979. For more information concerning the Education Appeal Board, see the interim final regulations, 44 FR 30528 (May 25, 1979), or contact the person named above.

This notice summarizes the fourteen decisions of the Title I Audit Hearing Board which were adopted as final decisions of the Office of Education before June 29, 1979. The summaries were prepared as a convenience to the public and are intended only to highlight the holdings of the Title I Audit Hearing Board. The summaries are not official parts of the decisions and should not be relied upon as guidance from the Office of Education or legal precedent. Copies of the full decisions of the Title I Audit Hearing Board are available at the address given above upon payment of the costs of reproduction.

Decisions which become final after June 29, 1979, will be considered decisions of the Education Appeal Board. Summaries of those decisions will be published on a semi-annual basis, beginning in January 1980, in an effort to keep the public informed as to the Board's activities.

Title I Audit Hearing Board Office of Education, Department of Health, Education, and Welfare

SUMMARY OF FINAL DECISION: Appeal of Nebraska, Docket No. 8-(10)-74, December 23, 1975.

Nebraska appealed a final audit determination, made by the Deputy Commissioner for School Systems, that local education agencies within the State had misspent \$70,867 in Federal funds under Title I of the Elementary and Secondary Education Act.

The Hearing Panel sustained the Deputy Commissioner's final audit determination in part, concluding that where local education agencies conducting special education and summer school projects were entitled to reimbursement from State funds but used only Title I funds to finance the projects, Federal funds were improperly used to supplant available State funds. The Panel also concluded that where ten out of 36 children served by a special education project resided outside the project area, the decision to admit the ten additional pupils rested within the informed discretion of the local and State education agency specialists, and, in this case, did not violate Title I or the regulations.

On October 16, 1975, the Hearing Panel issued a decision requiring Nebraska to repay \$61,362 to the U.S. Office of Education. On December 23, 1975, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of California, Docket No. 5-(7)-74, June 2, 1976.

California appealed the final audit determination, made by the Acting Deputy Commissioner for School Systems, that certain payments made in connection with California's migrant program were improper under Title I of the Elementary and Secondary Education Act.

The Hearing Panel concluded that where a local education agency and the University of California School of Dentistry contracted to provide dental services for an estimated 4,000 migrant children at a cost not to exceed \$200,000 and only 3,505 migrant children were served, California had an obligation to refund to the U.S. Office of Education the unexpended Title I funds. The Panel also concluded that where administrative expenses of a jointly-funded migrant and day care services program were paid exclusively from Title I funds but only 70% of the combined program was attributable to the migrant program, the State was required to refund to the U.S. Office of

Education 30% of the administrative expenses.

The Hearing Panel issued a decision requiring California to refund \$26,250 to the U.S. Office of Education. On June 2, 1976, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of Florida, Docket No. 1-(12)-75, July 28, 1976.

Florida appealed final audit determinations, made by the Deputy Commissioner for School Systems, that \$604,406 in Federal funds had been improperly transferred into a special State project fund to pay a portion of the cost of a reading research contract.

With respect to Federal funds transferred from the Florida migrant program conducted under Title I of the Elementary and Secondary Education Act, the hearing Panel found (1) that Florida's application for the funds gave no indication of an intent to engage in a reading research contract, and (2) that the contract was designed to enhance the reading skills of State public school children in general and not a special migrant segment of the student population. The Panel therefore concluded that Florida had no authority to transfer the migrant funds for partial payment of the contract. The Panel also concluded that the transfer of Title I funds, vocational education funds, and adult basic education funds contravened the prohibitions against supplanting under Title I, the Vocational Education Act, and the Adult Basic Education Act.

On June 10, 1976, the Hearing Panel issued a decision requiring Florida to refund \$604,406 to the U.S. Office of Education. On July 28, 1976, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of Arkansas, Docket No. 8-(11)-74, October 7, 1976.

Arkansas appealed a final audit determination, made by the Deputy Commissioner for School Systems, that local education agencies within the State had misspent \$16,155 in Federal funds under Title I of the Elementary and Secondary Education Act.

The Hearing Panel sustained the Deputy Commissioner's final audit determination in part, ruling that the use of Title I funds to pay the salary of an additional classroom teacher to reduce the pupil/teacher ratio in a school after the school became ineligible for Title I funds was a clear violation of the regulations. The Panel also ruled that the use of Title I funds to pay the salary of a physical education teacher who

instructed fourth grade students in all of the schools in a local education agency violated the prohibition against use of Title I funds for general aid purposes.

However, the Panel concluded that the use of Title I funds to pay the operating costs of a school bus to transfer low-income children from rural areas to a centralized location for one year was an incidental expense essential to the initiation of a special program designed to meet the needs of educationally deprived children. The Panel ruled that the possible inclusion of some ineligible students as passengers on the bus did not invalidate the project, and that Arkansas did not have to refund the amount expended to pay the operating expenses of the bus.

On September 3, 1976, the Hearing Panel issued a decision requiring Arkansas to repay \$14,107 to the U.S. Office of Education. On October 7, 1976, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of California, Docket No. 3-(14)-75, July 6, 1977.

California appealed the final audit determinations, made by the Deputy Commissioner for School Systems, that a local education agency within the State had misspent \$292,207 in Federal funds under Title I of the Elementary and Secondary Education Act.

The Hearing Panel ruled that the cost of 14 storage cabinets purchased for Title I projects should be refunded to OE because at the time of purchase, similar Title I equipment located in the same building was being used for non-Title I purposes, and therefore the purchase of the new equipment was unnecessary. The Panel also ruled that the measure of recovery for four portable buildings no longer used for Title I projects was, in this case, the price which the local education agency paid when it purchased the four buildings.

With respect to indirect costs for administration and for plant operations and maintenance, the Panel ruled that since the local education agency was unable to document that the costs were related to specific Title I programs, the application of Title I regulations and policies revealed a clear case of improper supplanting. The use of Title I funds to pay the busing costs of Title I children while regular district funds were used to pay the busing costs of non-Title I children also, the Panel ruled, constituted improper supplanting. The Panel further found that the busing program was designed to assist in the desegregation of the entire school

system with no special concern for Title I children.

Finally, the Panel ruled that Title I funds should not have been used to pay workshop and salary costs where the funds were not utilized to meet the special educational needs of educationally deprived children but to assist in the desegregation of the entire school system. The Panel concluded that the local education agency was providing general aid.

On April 6, 1977, the Hearing Panel issued a decision requiring California to refund \$270,607 to the U.S. Office of Education. On July 6, 1977, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of California, Docket No. 4-(15)-75, July 6, 1977.

California appealed the final audit determinations, made by the Acting Deputy Commissioner for School Systems, that California had misspent \$807,400 in Federal funds under Title I of the Elementary and Secondary Education Act.

The Hearing Panel ruled that California did not improperly designate an entire school district as a target area under the "no wide variance" regulation but acted within the bounds of reasonable discretion. The Panel also ruled that California's approval of one local education agency's erroneous application and failure to require a second local education agency to submit required forms were administrative errors that did not warrant refunds.

However, the Panel ruled that California improperly expended Title I funds on a summer school field trip since the field trip was open to all students in the district and approximately half the participants were not Title I students. The Panel concluded that allowing the non-Title I students to have access to the project made the project general aid in violation of the regulations.

The Panel also ruled that California failed to keep records or produce probative data and source materials which constituted a method for calculating how much time certain personnel in a local education agency spent on Title I activities; failed to provide clear documented evidence that other individuals who were paid from Title I funds worked on Title I activities; and failed to respond on the matter of two custodial positions that were not budgeted in the district's Title I application. The Panel required full or partial refunds from California for each of these salaries.

On May 13, 1977, the Hearing Panel issued a decision requiring California to refund \$84,928 to the U.S. Office of Education. On July 2, 1977, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of Iowa, Docket No. 3-(5)-74, December 7, 1977.

Iowa appealed a final audit determination, made by the Deputy Commissioner for School Systems, that supplanting of State and local effort occurred in a local education agency within the State. The final determination requested a refund of \$137,391 from Iowa.

The Hearing Panel found no evidence to support Iowa's contention that State and local funds would not have been available to pay the salaries of teachers previously paid with State and local monies and to provide additional teachers to handle increased enrollments. The Panel concluded that the use of Title I funds for the teachers' salaries did supplant State and local effort and did not provide a supplemental benefit targeted to educationally deprived children. The Panel also found no basis upon which to grant Iowa a credit for fringe benefits paid with local funds.

The Panel further ruled that the five-year statute of limitations barred recoveries for all expenditures made prior to May 6, 1969, since May 6, 1974, was the date Iowa received the final audit determination. Finally, the Panel denied the Deputy Commissioner's motion to amend the final audit determination and the hearing record to increase the amount in controversy.

On October 17, 1977, the Hearing Panel issued a decision requiring Iowa to refund to the U.S. Office of Education an amount, to be agreed upon by counsel for the parties, which excluded all expenditures made prior to May 6, 1969. On December 7, 1977, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of Florida, Docket No. 2-(13)-75, December 10, 1977.

Florida appealed the final audit determination, made by the Acting Deputy Commissioner for the Bureau of School Systems, that \$98,475 in Federal funds had been misspent under the State's migrant education program conducted under Title I of the Elementary and Secondary Education Act.

The Hearing Panel, after first ruling that the no-supplanting regulations

which implemented Title I applied to migrant education program funding, found that two Florida schools had failed to exhaust State and local funds before using Title I migrant funds to hire additional teachers. The Panel ruled that on the basis of its documentary evidence, Florida was entitled to a credit against its refund to the U.S. Office of Education of 21% of the negotiated dollar difference between the positions of Florida and the Office of Education.

The Panel also ruled that Florida did not meet its burden of proving that four administrative persons employed by a county performed sufficient services for Florida's migrant education program to justify payment of 100% of their salaries from migrant funds. Since 66% of the Federal grants administered by Florida during the relevant period related to migrant program funds, the Panel decided to subtract 66% of the salaries of three individuals for whom affidavits had been submitted from the refund owed by Florida.

On October 28, 1977, the Hearing Panel issued a decision requiring Florida to refund \$56,429 to the U.S. Office of Education. On December 10, 1977, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of Texas, Docket No. 7-(9)-74, February 10, 1978.

Texas appealed the final audit determination, made by the Acting Deputy Commissioner for School Systems, that \$88,848 in migrant funds received under Title I of the Elementary and Secondary Education Act had been misspent by two local education agencies.

The Hearing Panel ruled that: (1) since Title I and the applicable regulations prohibited the inclusion of substantial numbers of non-migrant children in a migrant project, evidence regarding the agencies' reasons for the inclusion of such children was not relevant and was inadmissible; (2) the final audit determination from the Acting Deputy Commissioner for School Systems satisfied statutory requirements since the U.S. Commissioner of Education had delegated the authority for making the final audit determination to the Deputy Commissioner; and (3) the fact that Title I funds were unexpended and refunded to the U.S. Office of Education during the fiscal year in question failed to justify an offset. Finally, after noting that the State offered no viable alternative to the auditors' method for computing the amount of recovery, the Panel determined how many children

properly could be deemed migrant for each local education agency and used the auditors' formula to calculate the refund owed by Texas.

The Panel issued a decision requiring Texas to refund \$58,178 to the U.S. Office of Education. On February 10, 1978, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of West Virginia, Docket No. 13-(28)-76, May 5, 1978.

In this appeal, West Virginia sought review of the final and supplemental audit determinations, made by the Deputy Commissioner for the Bureau of Elementary and Secondary Education, that the Wayne County local education agency had misspent \$63,026 in Federal funds under Title I of the Elementary and Secondary Education Act. The chairman of the Wayne County citizens committee for better schools was granted permission to intervene.

In sustaining the Deputy Commissioner's final audit determinations, the Hearing Panel concluded that West Virginia either (1) had failed to present evidence or data establishing that the grant funds were obligated and expended by the end of the fiscal year succeeding the fiscal year for which the grant funds were appropriate; or (2) had not established that the funds were expended for valid Title I program purposes. The Panel also ruled that the amount questioned in the supplemental final audit determination was in dispute from the outset, but that the intervenor's questions concerning the actions and responsibility of State and local officials and recommendations for State and local accounting and program procedures were not within the jurisdiction of the Title I Audit Hearing Board.

On February 21, 1978, the Hearing Panel issued a decision requiring West Virginia to refund \$63,026 to the U.S. Office of Education. On May 5, 1978, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of Mississippi, Docket No. 1-(16)-76, July 8, 1978.

Mississippi appealed a final audit determination, made by the Deputy Commissioner for School Systems, that the expenditure of \$1,363,665 in Federal funds by 12 local education agencies for items of construction and equipment did not meet the requirements of Title I of the Elementary and Secondary Education Act.

The Hearing Panel initially ruled that certain items were properly included in

the letter of final determination because Mississippi was given notice in the final audit that the exceptions would be maintained. The Panel also ruled that the burden of proof in the appeal was on Mississippi.

Turning to the merits, the Hearing Panel sustained the exceptions to the costs of equipment and construction incurred by local education agencies in the absence of any related Title I project that the construction or equipment was designed to support, and characterized such projects as general aid. The Panel also concluded that the record failed to demonstrate that the construction of a library or the installation of air conditioning equipment was necessary to the success of a Title I reading project, and sustained the audit exceptions to these expenditures.

However, the Panel ruled that Mississippi's approval of the construction of a cafeteria and a multi-purpose building in districts where 88 to 98% of the student bodies were children eligible for Title I assistance was proper. The Panel concluded that the projects were designed to meet the special educational needs of educationally deprived children, and that the benefit to the non-Title I children was merely incidental.

On May 26, 1978, the Hearing Panel issued a decision requiring Mississippi to refund \$948,001 to the U.S. Office of Education. On July 8, 1978, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of California, Docket No. 6-(21)-76, August 21, 1978.

California appealed a final audit determination, made by the Deputy Commissioner for Elementary and Secondary Education, that a local education agency had misspent \$186,140 in Federal funds under Title I of the Elementary and Secondary Education Act.

The Hearing Panel found that the charging of administrative salaries to Title I programs was not adequately documented or justified by indirect analyses and after-the-fact allocations, and that the expenses were not shown to be supplemental to the normal expenditures of the local education agency for administrative purposes. The Panel prorated the salaries over a ten-month period to determine the amount of the refund barred by the five-year statute of limitations. With respect to auxiliary services, the Panel ruled that where librarians and nurses served the entire populations of Title I schools and there was no evidence of any special

activity or special programs designed for the needs of Title I students, the programs were general aid in violation of Title I and the regulations. The Panel again prorated the salaries to determine the amount of the refund.

However, with respect to the participation of 114 private school students who resided outside a project area in that area's Title I program, the Panel found that the participants were properly drawn from a geographic area reasonably coterminous with the designated target area, and that the numbers involved (114 out of more than 5,000 participants) did not establish a *prima facie* showing of dilution of the effectiveness of the program.

On June 22, 1978, the Hearing Panel issued a decision requiring California to refund \$108,701 to the U.S. Office of Education. On August 21, 1978, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of California, Docket No. 11-(25)-76, November 10, 1978.

California appealed a final audit determination, made by the Deputy Commissioner for the Bureau of Elementary and Secondary Education, that the California Youth Authority had misspent \$413,117 in Federal funds in connection with its administration of a program for neglected and delinquent children under Title I of the Elementary and Secondary Education Act.

The Hearing Panel found, with respect to the purchase of audio-visual films for a revised history curriculum, that the program was designed and implemented for all students in the history curriculum and was not carried out with any focus on the Title I eligible population. The Panel ruled that general aid was a proper issue under the exception, noting that the final audit determination incorporated the underlying audit report and findings.

The Panel found that community treatment centers were properly treated as institutions under the control of the California Youth Authority, and that the wards assigned to the centers remained eligible for services under the California Youth Authority's program. The Panel therefore did not require California to refund the Title I funds expended at the community treatment centers.

The Hearing Panel did require a refund of Title I fund originally earmarked for the relocation of a modular library but actually spent on educational materials and equipment, finding (1) that the funds were diverted from one purpose to another without serious attention to the requirements of the statute and regulations, and (2) that the expenditures were not made in accordance with a properly designed and implemented Title I program. The Panel also required a refund of Title I funds used to purchase 34 pieces of equipment for two administrative offices and three institutions, finding that the equipment was not purchased in accordance with required steps and was purchased for general use.

Finally, the Hearing Panel required a partial refund of Title I funds expended on the in-service training in Spanish and U.S. history of Authority personnel whose salaries were not paid with Title I funds. The Panel saw a benefit to the overall Title I program if the personnel had a greater fluency in the Spanish language, but found no showing of a direct connection between the U.S. history seminar and the special needs of the Title I eligible.

On September 12, 1978, the Hearing Panel issued a decision requiring California to refund \$62,145 to the U.S. Office of Education. On November 10, 1978, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

SUMMARY OF FINAL DECISION: Appeal of Idaho, Docket No. 2-(17)-76, June 27, 1979.

Idaho appealed a final audit determination, made by the Deputy Commissioner for School Systems, that three local education agencies within the State had misspent \$159,431 in Federal funds under Title I of the Elementary and Secondary Education Act.

The Hearing Panel dismissed three of the audit exceptions on the motion of the Deputy Commissioner, items totaling \$5,407. The Panel also decided four of the audit exceptions in favor of Idaho, ruling that the salaries of a teacher's aide employed at a private school, an in-service training coordinator who helped teachers in building student self-esteem, and a race relations counselor were properly charged to Title I funds since their services were specially designed to meet the needs of educationally

deprived children. The Panel also ruled that a reasonable reconstruction of administrative costs was permissible, and that on this basis, the prorated salaries of eight employees who spent a portion of their time on Title I activities were appropriately charged as one salary to the Title I program.

However, the Panel upheld eight of the audit exceptions taken by the Deputy Commissioner, ruling that the use of Title I funds to pay the salaries of a director of a physical education program serving all primary grade students within a school district, a counselor who worked with all students in grades K through 12, a physical education specialist who served all the children in the lower grades of three schools, and a nurse who tested all students with potential vision problems was improper general aid. The Panel found that sixteen miscellaneous expenditures were not related to a Title I program; that learning resource rooms established in four non-target area schools improperly served non-target area educationally deprived children rather than eligible students from target area schools; and that the use of Title I funds to provide testing, instructional and counseling services at two target-area elementary schools, while State funds were used to provide the services at three non-target area schools, constituted improper supplanting. Finally, the Panel ruled that where the percentages of low-income children in school attendance areas varied from 6.04% to 70.58% within a school district, the local education agency improperly designated its entire school district as a target area under the "no wide variance" rule and improperly charged salaries of teachers at ineligible schools to Title I.

On March 26, 1979, the Hearing Panel issued a decision requiring Idaho to refund \$129,572 to the U.S. Office of Education. On June 27, 1979, the Commissioner of Education adopted the Panel's decision as the final decision of the Office of Education.

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: December 12, 1979.

John Ellis,
Executive Deputy Commissioner for
Educational Programs.

[FR Doc. 79-39470 Filed 12-26-79; 8:45 am]

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Office of the Secretary

Board of Advisors to the Fund for the Improvement of Postsecondary Education; Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-483), that the next meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education will be held on January 18, 1980 at 5:00 p.m. through January 18, 1980 at 12:00 p.m., at Paschal's Motor Hotel, 830 Martin Luther King Drive, S.W., Atlanta, Georgia.

The Board of Advisors to the Fund was established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount under section 404 of the General Education Provisions Act.

The meeting will be open to the public. It will be for the sole purpose of discussing new program initiatives for 1980, and site visits to two Fund-supported projects in Atlanta.

A summary of the proceedings of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202, telephone (202) 245-8091.

Signed at Washington, D.C. on December 18, 1979.

Charles I. Rudling,

Acting Director, Fund for the Improvement of Postsecondary Education.

[FR Doc. 79-39429 Filed 12-26-79; 8:45 am]

BILLING CODE 4110-89-M

Office of the Assistant Secretary for Health

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.
ACTION: Notice, November list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and date of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs).

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as

amended, [42 CFR 110.605(b)] require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

Qualified Health Maintenance Organizations
Name, Address, Service Area, and Date of Qualification

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. Healthwise, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), Suite 313, Raleigh County Bank Building, Beckley, West Virginia 25801. Service areas: Boone, Fayette, Raleigh, Summers, and Wyoming Counties, West Virginia. Date of qualifications: November 6, 1979.

2. Monumental Health Plan, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 2300 Garrison Boulevard, Baltimore, Maryland 21216. Service area: City of Baltimore. Date of qualification: November 14, 1979.

3. Peak Health Plan, Ltd., (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 110 South Weber, Suite 101, Colorado Springs, Colorado 80903. Service area: El Paso County and the following zip code in Teller County, Colorado: 80883. Date of qualifications: November 30, 1979.

4. Family Health Services, Inc., d.b.a. General Medical Centers Health Plan, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 2121 Towne Centre Place, Anaheim, California 92806.* Service area: (See Federal Register 44 FR 25268-9 published on April 30, 1979.) Date of qualification: November 1, 1979. (Transitionally qualified: December 14, 1976.)

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: December 14, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79-39392 Filed 12-26-79; 8:45 am]

BILLING CODE 4110-85-M

*Note new address.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-79-591]

Director and Deputy Director, Office of Planning and Program Coordination; Redesignation of Authority With Respect to the Transfer of and Administration of Appalachian Regional Commission, Title V Regional Commission, and Department of Defense Funds Under the Community Development Block Grant Program and the Comprehensive Planning Assistance Program

AGENCY: Department of Housing and Urban Development, Assistant Secretary, Community Planning and Development.

ACTION: Redesignation of Authority.

SUMMARY: In order to expedite the processing of requests from the Appalachian Regional Commission, from Title V Regional Commissions, and from the Department of Defense, for the Office of Community Planning and Development, Department of Housing and Urban Development to accept the transfer and to administer those funds in conjunction with the Community Development Block Grant and Comprehensive Planning Assistance Programs, it has been determined that the Director and Deputy Director, Office of Community Planning and Program Coordination should have the authority to accept the transfer of and administration of appropriate funds.

Accordingly, the Assistant Secretary for Community Planning and Development redelegates to the Director and Deputy Director, Office of Planning and Program Coordination the authority to accept the transfer of funds from the Appalachian Regional Commission as appropriated under Section 214 of the Appalachian Regional Development Act of 1965, as amended, for administration under the provisions of the Community Development Block Grant Program authorized under Title I of the Housing and Community Development Act of 1974, as amended; the transfer of funds from Title V Regional Commissions as appropriated under Title V of the Public Works and Economic Development Act of 1965, as amended, for administration under the provisions of the Community Development Block Grant Program authorized under Title I of the Housing and Community Development Act of 1974, as amended; and the transfer of funds from the Department of Defense to

implement the Trident Community Impact Program under the authority of Section 608, Public Law 93-552 for administration through the Community Development Block Grant Program as authorized under Title I of the Housing and Community Development Act of 1974, as amended, and the Comprehensive Planning Assistance Program as authorized under Section 701 of the Housing Act of 1954, as amended.

(Sec. 7(d) Department of HUD (42 U.S.C. 3535(d)))

Effective Date: This redelegation is effective December 11, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79-39429 Filed 12-26-79; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-79-590]

Regional Administrators, et al.; Redesignation of Authority With Respect to the Community Development Block Grant Programs

AGENCY: Department of Housing and Urban Development, Assistant Secretary for Community Planning and Development.

ACTION: Redesignation of Authority.

SUMMARY: In order to insure that corrective and remedial actions are equitably and uniformly applied nationwide to all Urban Development Action Grant Programs, it has been determined that the authority to take these actions under 24 CFR 570.910 with respect to grants under Section 119 (42 U.S.C. 5318) should be centralized in the Office of the Assistant Secretary for Community Planning and Development.

Accordingly the Assistant Secretary amends the redelegations as follows:

Section B8 through B15 of the Redesignation Authority from the Assistant Secretary to Regional Administrators *et al.*, published July 27, 1978, at 43 FR 34102 are renumbered Section B9 through B16 and a new Section B8 is added to read as follows:

8. Take any of the corrective and remedial actions authorized in 24 CFR 570.910 with respect to grants under Section 119 (42 U.S.C. 5318).

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)))

Effective Date: This amendment is effective December 11, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[40 FR Doc. 79-39428 Filed 12-26-79; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-79-965]

Public Housing Program; Development Phase; Prototype Cost Limits for Low-Income Public Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of Prototype Cost Determination.

SUMMARY: On June 6, 1979, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to establish a new prototype area, and consolidate two existing prototype areas into one area in the State of Michigan.

DATES: Effective December 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director Technical Support Division, Office of Public Housing—Room 6248, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-4956 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States Housing Act of 1937 requires determination by HUD of the costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families.

The prototype costs constitute a limit on development cost for construction and equipment of new public housing projects including Indian projects. These schedules establish per unit limits on prototype costs (dwelling construction

and equipment) for the development of low-income public housing under the United States Housing Act of 1937. The Act provides (Section 6(b)) that the prototype costs shall be effective upon the date of publication in the Federal Register, and this Notice, is therefore, made effective upon publication.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, the per unit cost schedules setting Prototype Cost Limits for Low-Income Housing are amended as follows:

1. At 44 FR 32546, delete the prototype per unit cost schedules for detached and semi-detached, row, walk-up and elevator dwellings, Region V, Kalamazoo, Michigan. This area is being incorporated with the existing schedule for Battle Creek, Michigan.

2. At 44 FR 32546, add the prototype per unit cost schedule for detached and semi-detached, row, walk-up and elevator dwellings, Region V, Mount Pleasant, within the Grand Rapids, Michigan jurisdiction.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b) U.S. Housing Act of 1937, 42 U.S.C. 1437(d))

Issued at Washington, D.C. on December 11, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Region V

Michigan	Bedrooms					
	0	1	2	3	4	5
Mount Pleasant:						
Detached and semidetached	18,400	22,250	27,400	32,650	39,300	43,950
Row dwellings	17,500	21,100	26,150	31,000	37,200	41,550
Walk-up	14,950	18,900	23,800	28,050	32,600	36,000
Elevator-structure	27,000	31,500	39,600			

[40 FR Doc. 79-39431 Filed 12-26-79; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. D-79-592]

Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of Authority.

SUMMARY: The Office of the Assistant Secretary for Community Planning and Development is presently authorized three deputy assistant secretaries: a General Deputy Assistant Secretary, a Deputy Assistant Secretary for Urban Policy, and a Deputy Assistant Secretary for Inter Program and Area-wide Concerns. Previously only one Deputy Assistant Secretary was authorized. Existing delegations vest authority concurrently in the Assistant Secretary and the Deputy Assistant Secretary. It has been determined that clarification is required as to which of the three Deputy Assistant Secretaries can exercise concurrently all authority vested in the Assistant Secretary for Community Planning and Development.

Accordingly the Secretary amends the delegations as follows:

Delegations of Authority to the Assistant Secretary and Deputy Assistant Secretary for Community Planning and Development published February 5, 1975 at 40 FR 5385; June 27, 1975 at 40 FR 27268; August 25, 1975 at 40 FR 37074; and November 25, 1975 at 40 FR 54806 are amended to General Deputy Assistant Secretary, Community Planning and Development wherever the title Deputy Assistant Secretary is used.

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Effective date: This amendment is effective December 11, 1979.

Moan Leudrieu,

Secretary of Housing and Urban Development.

[FR Doc. 79-39430 Filed 12-26-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Fort Hall Irrigation Project, Idaho

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and

re delegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Fort Hall Irrigation Project for Calendar Year 1980 and subsequent years. This notice is proposed pursuant to the authority contained in the acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (66 Stat. 1026).

The purpose of this notice is to announce an increase in the Fort Hall Project assessment rates proportionate with actual operation and maintenance costs. The proposed assessment rates for 1980 will amount to an increase of approximately eight percent.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views and arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97203, no later than January 28, 1980.

Fort Hall Irrigation Project Regulations and Charges

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Fort Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water

to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery:* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditch rider who may permit such exchange, if feasible.

(b) *Preparation and Submission of a Water Schedule:* If the decision of the Officer-in-Charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water:* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Duty of Water

Dependent upon available supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

Charges

Bill covering irrigation charges will be issued to the owner of record taken from

the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

Basic and Other Water Charges

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1980 and subsequent years until further notice as follows:

- (1) Fort Hall Unit basic rate.....\$14.25 per acre
- (2) Michaud Unit basic rate.....\$18.75 per acre
- Additional rate for sprinkler irrigation when pressure is supplied by project.....\$7.60 per acre
- (3) Minor Units basic rate.....\$12.80 per acre

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian reservation is first leased to non-Indians or non-members of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or non-members of the tribe, is subject to operation and maintenance assessments the same as lands in non-Indian ownership and lands owned by non-members of the tribe within the

project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938.)

W. D. Babby,

Acting Area Director.

December 12, 1979.

[FR Doc. 79-39463 Filed 12-26-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[INT DEIS 79-62]

Proposed Grazing Management for the Shivwits Resource Area, Mohave County, Ariz.; Availability of Draft Environmental Impact Statement and Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement for the Shivwits Resource Area. The proposal involves implementing an improved range management program on public lands within the Shivwits Resource Area of the Arizona Strip District in Northwest Arizona.

The Bureau of Land Management invites written comments on the draft impact statement to be submitted within 45 days of this notice, to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

A limited number of copies are available upon request to the State Director at the above address.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240; Telephone (202) 343-5717.

Arizona State Office, Bureau of Land Management 2400 Valley Bank Center, Phoenix, Arizona 85073; Telephone (602) 261-3706.

Arizona Strip District, Bureau of Land Management, 196 E. Tabernacle, St. George, Utah 84770; Telephone (801) 673-3545.

Oral and/or written comments will also be received at the formal public hearing to be held at the following location:

Four Seasons Convention Center, 747 East St. George Boulevard, St. George, Utah.

A Hearing Officer will preside over the public hearing. Witnesses presenting oral comments should limit their testimony to ten (10) minutes. Written request to testify orally should be sent to the District Manager, Arizona Strip

District Office, 196 E. Tabernacle, St. George, Utah 84770.

Comments received on the draft environmental impact statement, whether written or oral, will be given equal consideration during preparation of the final environmental impact statement on the Proposed Livestock Grazing Program—Shivwits Resource Area.

Dated: December 19, 1979.

Ed Hastey,

Associate Director.

[FR Doc. 79-39401 Filed 12-26-79; 8:45 am]
BILLING CODE 4310-84-M

Eastern Powder River Basin Management Framework Plan

December 17, 1979.

This notice is to advise you that the Casper, Wyoming District Office of the Bureau of Land Management is reviewing and will amend portions of the Eastern Powder River Basin Management Framework Plan (MFP). The reason for the review and amendment is to make certain the MFP reflects, as completely as possible, current statutory requirements and policies, and to continue carrying out the requirements of Section 522 of the Surface Mining Control and Reclamation Act of 1977.

Background standards and procedures for this MFP review and amendment preparation are contained in the Federal Register, Vol. 44, No. 140, 42584-42652 of July 19, 1979; and Vol. 44, No. 153, 46386-46401 of August 7, 1970. The standards for this review are also discussed in a final environmental statement describing the Secretary of the Interior's preferred coal program and alternatives, released in April 1979.

The MFP amendment, planned for completion by July 1980, will identify areas acceptable for further consideration for coal leasing. The amendment will be followed by activity planning which includes the identification of tracts for lease, their ranking by economic and environmental factors, and preparation of a regional environmental impact statement for lease sales.

The review area is part of the Powder River Coal Region. Located in Campbell County, Wyoming, the area lies in a 4-to-10-mile-wide band along State Highway 59 and U.S. Highway 14/16, beginning 17 miles south of Gillette and extending about 29 miles north of Gillette. This area contains parts of the Wyodak coal seam which have high and moderate development potential, as designated by the United States Geological Survey.

Areas identified in 1979 for further consideration for coal leasing in the Highlight review area will be incorporated in this amendment. The Highlight area extends approximately 20 miles south of the southern boundary of the subject area.

A major anticipated planning issue is the ability of local communities to absorb growth associated with additional coal development. Another anticipated issue is the potential conflict between coal development and oil and gas production.

An interdisciplinary team will be formed to complete the review and amendment. Disciplines to be represented include archeology, geology, hydrology, realty, recreation, socioeconomic, soils, and wildlife.

Public participation opportunities will be provided in the following ways: (1) A public information meeting will be held in January 1980 in Gillette, Wyoming. (2) A public meeting will be held in March 1980 to discuss the results of the application of coal unsuitability criteria. (3) A draft MFP amendment will be distributed for public review in April 1980. Ninety days will be provided for public review and comment. A public meeting and hearing will be held during the 90-day review period.

Public comments will be considered in preparation for the final amendment which will be completed and available to the public in July 1980.

Definite dates and locations for public meetings and hearings will be announced through local news media and correspondence mailed to interested members of the public.

For further information contact Glenn Bessinger at the Bureau of Land Management, Casper District Office, 951 Union Boulevard, Casper, Wyoming 82501, phone (307) 265-5550, ext. 5101. Documents relevant to the planning process are also available at the above address.

Robert E. Wilber,
District Manager.

[FR Doc. 79-39471 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Royalty or Compensation for Oil and Gas Lost; Revocation of Certain Provisions Contained in Notices to Lessees and Operators (NTL-4)

Notice is hereby given that certain provisions of Notice to Lessees and Operators (NTL-4) and the supplements thereto have been revoked and will be superseded by Notice to Lessees and Operators, NTL-4A. Copies of NTL-4A,

approved effective January 1, 1980, will be distributed by the Area Oil and Gas Supervisors shortly to the lessees and operators of onshore Federal and Indian oil and gas leases under the jurisdiction of the Geological Survey.

The revocation of certain provisions of NTL-4 and its supersession by NTL-4A is necessary to accord with court decisions and the related instructions provided to the Geological Survey by the Office of the Solicitor, Department of the Interior.

The provisions of NTL-4 superseded by this action are revoked retroactive to December 1, 1974, the effective date of said Notice. Lessees and operators who submitted royalty payments under the revoked provisions of NTL-4 may apply for a refund of those payments. The addendum attached to NTL-4A specifies the requirements for these applications and the methods by which refunds will be approved and processed.

The approved Notice to Lessees and Operators (NTL-4A), is as follows:

Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases (NTL-4A)

Royalty or Compensation for Oil and Gas Lost

This Notice is issued pursuant to the authority prescribed in the Oil and Gas Operating Regulations, Title 30 CFR 221, and in accordance with the terms of the Federal and Indian oil and gas leases under the jurisdiction of the Geological Survey. This Notice supersedes certain provisions of NTL-4, issued effective December 1, 1974; Supplement No. 1 to NTL-4, issued effective December 1, 1978, to 10 lessees and operators on a nationwide basis; and Supplement No. 1 to NTL-4, issued effective December 1, 1978, to all lessees and operators in Wyoming. Lessees and operators who submitted payments for royalty on oil and gas lost under those provisions of NTL-4, which are hereby revoked, may file with the Area Oil and Gas Supervisor (Supervisor) an application for a refund of those payments in accordance with the addendum attached to this Notice.

I. General

Oil production subject to royalty shall include that which (1) is produced and sold on a lease basis or for the benefit of a lease under the terms of an approved communitization or unitization agreement and (2) the Supervisor determines to have been avoidably lost on a lease, communitized tract, or unitized area. No royalty obligation shall accrue as to that produced oil which (1) is used on the same lease, same communitized tract, or same unitized participating area for beneficial purposes or (2) the Supervisor determines to have been unavoidably lost.

Gas production (both gas well gas and oil well gas) subject to royalty shall include that which is produced and sold on a lease basis or for the benefit of a lease under the terms of

an approved communitization or unitization agreement. No royalty obligation shall accrue on any produced gas which (1) is used on the same lease, same communitized tract, or same unitized participating area for beneficial purposes, (2) is vented or flared with the Supervisor's prior authorization or approval during drilling, completing, or producing operations, (3) is vented or flared pursuant to the rules, regulations, or orders of the appropriate State regulatory agency when said rules, regulations, or orders have been ratified or accepted by the Supervisor, or (4) the Supervisor determines to have been otherwise unavoidably lost.

Where produced gas (both gas well gas and oil well gas) is (1) vented or flared during drilling, completing, or producing operations without the prior authorization, approval, ratification, or acceptance of the Supervisor or (2) otherwise avoidably lost, as determined by the Supervisor, the compensation due the United States or the Indian lessor will be computed on the basis of the full value of the gas so wasted, or the allocated portion thereof, attributable to the lease.

II. Definitions

As used in this Notice, certain terms are defined as follows:

A. "Avoidably lost" production shall mean the venting or flaring of produced gas without the prior authorization, approval, ratification, or acceptance of the Supervisor and the loss of produced oil or gas when the Supervisor determines that such loss occurred as a result of (1) negligence on the part of the lessee or operator, or (2) the failure of the lessee or operator to take all reasonable measures to prevent and/or to control the loss, or (3) the failure of the lessee or operator to comply fully with the applicable lease terms and regulations, appropriate provisions of the approved operating plan, or the prior written orders of the Supervisor, or (4) any combination of the foregoing.

B. "Beneficial purposes" shall mean that oil or gas which is produced from a lease, communitized tract, or unitized participating area and which is used on or for the benefit of that same lease, same communitized tract, or same unitized participating area for operating or producing purposes such as (1) fuel in lifting oil or gas, (2) fuel in the heating of oil or gas for the purpose of placing it in a merchantable condition, (3) fuel in compressing gas for the purpose of placing it in a marketable condition, or (4) fuel for firing steam generators for the enhanced recovery of oil. Gas used for beneficial purpose shall also include that which is produced from a lease, communitized tract, or unitized participating area and which is consumed on or for the benefit of that same lease, same communitized tract, or same unitized participating area (1) as fuel for drilling rig engines, (2) as the source of actuating automatic valves at production facilities, or (3) with the prior approval of the Supervisor, as the circulation medium during drilling operations. Where the produced gas is processed through a gasoline plant and royalty settlement is based on the residue gas and other products at the tailgate of the plant, the gas consumed as fuel in the plant

operations will be considered as being utilized for beneficial purposes. In addition, gas which is produced from a lease, communitized tract, or unitized participating area and which, in accordance with a plan approved by the Supervisor, is reinjected into wells or formations subject to that same lease, same communitized tract, or same unitized participating area for the purpose of increasing ultimate recovery shall be considered as being used for beneficial purposes; provided, however, that royalty will be charged on the gas used for this purpose at the time it is finally produced and sold.

C. "Unavoidably lost" production shall mean (1) those gas vapors which are released from storage tanks or other low-pressure production vessels unless the Supervisor determines that the recovery of such vapors would be warranted, (2) that oil or gas which is lost because of line failures, equipment malfunctions, blowouts, fires, or otherwise except where the Supervisor determines that said loss resulted from the negligence or the failure of the lessee or operator to take all reasonable measures to prevent and/or control the loss, and (3) the venting or flaring of gas in accordance with Section III hereof.

III. Authorized Venting and Flaring of Gas

Lessees or operators are hereby authorized to vent or flare gas on a short-term basis without incurring a royalty obligation in the following circumstances:

A. *Emergencies.* During temporary emergency situations, such as compressor or other equipment failures, relief of abnormal system pressures, or other conditions which result in the unavoidable short-term venting or flaring of gas. However, this authorization to vent or flare gas in such circumstances without incurring a royalty obligation is limited to 24 hours per incident and to 144 hours cumulative for the lease during any calendar month, except with the prior authorization, approval, ratification, or acceptance of the Supervisor.

B. *Well Purging and Evaluation Tests.* During the unloading or cleaning up of a well during drillstem, producing, routine purging, or evaluation tests, not exceeding a period of 24 hours.

C. *Initial Production Tests.* During initial well evaluation tests, not exceeding a period of 30 days or the production of 50 MMcf of gas, whichever occurs first, unless a longer test period has been authorized by the appropriate State regulatory agency and ratified or accepted by the Supervisor.

D. *Routine or Special Well Tests.* During routine or special well tests, other than those cited in III.B and C above, only after approval by the Supervisor.

IV. Other Venting or Flaring

A. *Gas Well Gas.* Except as provided in II. C and III above, gas well gas may not be flared or vented. For the purposes of this Notice, a gas well will be construed as a well from which the energy equivalent of the gas produced, including its entrained liquid hydrocarbons, exceeds the energy equivalent of the oil produced.

B. *Oil Well Gas.* Except as provided in II. C and III above, oil well gas may not be vented

or flared unless approved in writing by the Supervisor. The Supervisor may approve an application for the venting or flaring of oil well gas if justified either by the submittal of (1) an evaluation report supported by engineering, geologic, and economic data which demonstrates to the satisfaction of the Supervisor that the expenditures necessary to market or beneficially use such gas are not economically justified and that conservation of the gas, if required, would lead to the premature abandonment of recoverable oil reserves and ultimately to a greater loss of equivalent energy than would be recovered if the venting or flaring were permitted to continue or (2) an action plan that will eliminate venting or flaring of the gas within 1 year from the date of application.

The venting or flaring of gas from oil wells completed prior to the effective date of this Notice is authorized for an interim period. However, an application for approval to continue such practices must be submitted within 90 days from the effective date hereof, unless such venting or flaring of gas was authorized, approved, ratified, or accepted previously by the Supervisor. For oil wells completed on or after the effective date of this Notice, an application must be filed with the Supervisor, and approval received, for any venting or flaring of gas beyond the initial 30-day or other authorized test period.

C. *Content of Applications.* Applications under section B above shall include all appropriate engineering, geologic, and economic data in support of the applicant's determination that conservation of the gas is not viable from an economic standpoint and, if approval is not granted to continue the venting or flaring of the gas, that it will result in the premature abandonment of oil production and/or the curtailment of lease development. The information provided shall include the applicant's estimates of the volumes of oil and gas that would be approved and the volumes of the oil and gas that would be produced to the economic limit if the application to vent or flare were produced if the applicant was required to market or beneficially use the gas. When evaluating the feasibility of requiring conservation of the gas, the total leasehold production, including both oil and gas, as well as the economics of a fieldwide plan shall be considered by the Supervisor in determining whether the lease can be operated successfully if it is required that the gas be conserved.

V. Reporting and Measurement Responsibilities

The volume of oil or gas produced, whether sold, avoidably or unavoidably lost, vented or flared, or used for beneficial purposes (including gas that is reinjected) must be reported on Form 9-329, Monthly Report of Operation, in accordance with the requirement of this Notice and the applicable provisions of NTL-1 and NTL-1A. The volume and value of all oil and gas which is sold, vented or flared without the authorization, approval, ratification, or acceptance of the Supervisor, or which is otherwise determined by the Supervisor to be avoidably lost must be reported on Form 9-361, Monthly Report of Sales and Royalties.

Payments submitted in this respect must be accompanied by a Form 9-614-A, Rental and Royalty Remittance Advice.

In determining the volumes of oil and gas to be reported in accordance with the first and second paragraphs of this Section V, lessees and operators shall adhere to the following:

1. When the amount of oil or gas involved has been measured in accordance with Title 30 CFR 221.43 or 221.44, that measurement shall be the basis for the volume reported.
2. When the amount of oil and gas avoidably or unavoidably lost, vented or flared, or used for beneficial purposes occurs without measurement, the volume of oil or gas shall be determined utilizing the following criteria, as applicable:
 - a. Last measured throughput of the production facility.
 - b. Duration of the period of time in which no measurement was made.
 - c. Daily lease production rates.
 - d. Historic production data.
 - e. Well production rates and gas-oil ratio tests.
 - f. Productive capability of other wells in the area completed in the same formation.
 - g. Subsequent measurement or testing, as required by the Supervisor.
 - h. Such other methods as may be approved by the Supervisor.

The Supervisor may require the installation of additional measurement equipment whenever it is determined that the present methods are inadequate to meet the purposes of this Notice.

VI. Value Determinations for Royalty or Compensation Purposes

In computing the royalty or compensation due on oil or gas under the provisions of this Notice, the value shall be computed in the same manner as the Supervisor would have calculated the value of the oil or gas had it been sold from the same lease, same communitized tract, or same unitized participating area.

VII. Compliance

The failure to comply with the requirements of this Notice will result in compliance being secured by such actions as are provided by law and regulation.

Addendum to NTL-4A

Refund Applications

Certain provisions of NTL-4 have been revoked retroactive to December 1, 1974, the effective date of said Notice. Accordingly, lessees and operators who submitted royalty payments under the provisions of NTL-4 may apply for a refund of those payments made for (1) oil that was unavoidably lost or used for beneficial purposes on the lease, communitized tract, or unitized participating area from which it was produced and/or (2) gas that was vented or flared with the prior approval of the Supervisor or unavoidably lost. No refunds will be processed in the absence of such an application, and no refunds will be made of those payments submitted on the basis of a determination of waste by the Supervisor. In addition, liquidated damages assessed for the late filing of reports or the failure to report

pursuant to the provisions of NTL-4 will not be refunded.

The application shall be in the form of a letter signed by an authorized officer or agent of the lessee or operator and for each individual lease shall include:

1. The lease prefix code and lease number.
2. The month and year.
3. The product code (01, 02, 03, 04, 41, or 43) used in the reports and payments previously submitted to the Supervisor.
4. The volume of lost oil and/or gas previously reported and the amount of the refund requested.
5. The total amount of the refund requested for each lease as a subtotal.
6. The total amount of the refund requested for all leases as a grand total.

Additional instructions in regard to the filing and contents of said applications may be obtained by contacting the Supervisor having jurisdiction over the lease or leases involved.

Refund applications will be processed as promptly as possible. The Supervisor, as to Federal leases, may process a direct refund or authorize the applicant to withhold the refund amount from future royalty accruals. However, refunds authorized by the Supervisor with respect to Indian leases will be recoverable only as a credit against future rental or royalty accruals in accordance with the provisions of Section IX (Overpayments) of NTL-1A.

Don E. Kash,

Chief, Conservation Division, Geological Survey.

[FR Doc. 79-39460 12-25-79; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining and Reclamation

[Federal Lease No. W-23929]

Availability for Public Review of Mobil Oil Corp. Mining and Reclamation Plan for the Rojo Caballos Mine

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for Public Review of a Coal Mining and Reclamation Plan

SUMMARY: Pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is given that the Office of Surface Mining has received a proposed mining and reclamation plan. The proposed plan is described below:

Location of Lands To Be Affected

Applicant: Mobil Oil Corporation.
Mine Name: Rojo Caballos.
State: Wyoming.
County: Campbell.
Township, Range, Section: T. 47N, R. 71W: 13, 14, 15, R. 70W: 18.
Office of Surface Mining Reference No.: WY-0043.

Mobil Oil Corporation has applied to the Office of Surface Mining (OSM) for a

mining and reclamation plan approval and permit pursuant to the Surface Mining Control and Reclamation Act of 1977, for the proposed Rojo Caballos Mine, Campbell County, Wyoming (Federal coal lease W-23929). OSM has determined that the approval or disapproval of this proposed mine is a significant Federal action affecting the human environment, thus requiring an Environmental Impact Statement (EIS).

The proposed surface mine would be located 17 miles southeast of Gillette, Wyoming. The permit area for the proposed operation includes Federal, State, and private lands totaling about 6,000 acres.

Planned coal production would begin with 3 million tons per year (MMTPY) and increase to 9 MMTPY in years 3 and 4. Maximum planned production would be 15 MMTPY in approximately year 6, and would continue at that rate for the remainder of the 24-year life of the mine. During this period 317.5 million tons of coal are expected to be recovered.

The proposed mine would use the truck-shovel mining for overburden and coal removal. Topsoil is to be removed by rubber-tired scrapers ahead of overburden removal, and either replaced on regraded overburden or stored in stockpiles for later use. Mobil estimates that about 75 percent of the overburden and all the coal will require blasting. Coal from the mine will be crushed and either loaded directly onto coal trains or placed in barn storage for subsequent train loading. The coal will be shipped by unit train to the power generation facility where it will be used in the generation of electricity.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the proposed plan is technically adequate. It is possible that OSM will request additional information from the company during the forthcoming technical review. Any further information so obtained would also be available for public review. No action with respect to approval of the proposed coal mining and reclamation plan shall be taken by the Regional Director on or before January 28, 1980. Prior to taking any action on this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

The mine plan submitted by Mobil Oil is available for public review Region V, second floor, Brooks Towers, 1020 15th Street, Denver, Colorado. Comments on the proposed plan may be submitted on or before January 28, 1980 to the Regional Director, Office of Surface Mining, at the same address.

FOR FURTHER INFORMATION CONTACT: John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado, 80202.

Donald A. Crane,
Regional Director.

[FR Doc. 79-39414 Filed 12-25-79; 8:45 am]

BILLING CODE 4310-05-M

[Federal Coal Lease No. W-23939]

Intent to Prepare Environmental Impact Statement on Proposed Extension to Surface Coal Mine; Mobil Oil Corp.—Rojo Caballos Mine, Campbell County, Wyo.

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of intent to Prepare Environmental Impact Statement on Proposed Surface Coal Mine.

SUMMARY: The Office of Surface Mining (OSM) has determined that an environmental impact statement (EIS) is required on Mobil Oil Corporation's proposed Rojo Caballos mine in Campbell County, Wyoming. This mine is located 17 miles from Gillette, Wyoming. The permit area for the proposed operation includes Federal, State, and private lands totaling about 6,000 acres.

The permit area covers 310 acres and the proposed extension to this area involves 1,366 acres to the south and west of the permit area. Prior to taking agency action on this proposal, the Office of Surface Mining and the Geological Survey will prepare an environmental impact statement which will analyze the alternatives.

The environmental impact statement will evaluate OSM's proposed action and alternatives to that action. Alternatives will include but are not limited to disapproval of the applicant's proposal, approval of applicant's proposal with modifications (stipulations), deferring action and no action on the proposal.

A meeting will be held to discuss the significant issues related to the project. Any interested persons or agencies are invited to participate at this scoping meeting to be held at the Campbell County Recreation Center, 1000 Douglas Highway, Gillette, Wyoming, on January 10, 1980 at 7:30 p.m. In addition, personnel will be present at the Recreation Center from 1:00 pm until 4:30 p.m. to discuss the proposal and receive comments from those unable to be present in the evening.

The mining and reclamation plan is available for review at the Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado, 80202, at

the State of Wyoming, Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming, 82002, and the Campbell County courthouse. Any comments or requests for further information should be directed to: Robert Schuenseman or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, Tel: (303) 837-5656.

Donald A. Crane,
Regional Director.

[FR Doc. 79-39413 Filed 12-25-79; 8:45 am]

BILLING CODE 4310-05-M

[Federal Coal Lease No. W-0325876]

Availability of Proposed Major Modification of Coal Mining and Reclamation Plan for Public Review; Shell Oil Co.—Buckskin Mine, Campbell County, Wyo.

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability of Proposed Coal Mining and Reclamation Plan for Public Review.

SUMMARY: Pursuant to Sections 211.5 and 786, of Title 30 and Section 1500.2 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining has received a new mining and reclamation plan.

The proposed mine is described below:

Description of Mine

Type of Mine: Surface Mine.
Applicant: Shell Oil Company.
Mine Name: Buckskin Mine.
State: Wyoming.
Township, Range, Section: Lots 1, 3, and 4 of sec. 5, T. 51 N., R. 72 W., and S½ of the N½ and the S½ of sec. 32, T. 52 N., R. 72 W.
Office of Surface Mining Reference No. WY 0034.

Notice of Availability

The proposed modification will be reviewed by the Office of Surface Mining according to subchapter D (Section 740 et seq.) of Title 30, Code of Federal Regulations.

The proposed mining plan involves surface mining of Federal coal overlain by privately-owned surface coal. The mine site would be located approximately 10 miles north of Gillette, Wyoming at an elevation of 4,200 feet. Surface operations are scheduled to begin in January 1980, with actual coal extraction scheduled for late 1981. Coal would be mined until 1996 with reclamation scheduled for completion in 1999. The average annual coal production would be approximately 2.6 million tons, with projected maximum

annual production of 6 million tons. Two coal seams would be mined. Coal is to be shipped out via train. The coal lease area includes 599.44 acres. The total permit area would be larger, 1,466.7 acres, and includes a rail spur, a buffer area, temporary topsoil and spoil piles.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the proposed modification is technically adequate.

No action with respect to approval of the plan shall be taken by the Regional Director on or before January 28, 1980. Prior to making a final decision regarding this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

Notice of Availability

This plan is available for public review in the Library, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado. Any additional information obtained or prepared during the course of the review, during the preparation of the technical analysis and an environmental assessment, would be available for public review. Comments on the proposed mine plan application may be addressed to the Regional Director at the above address.

FOR FURTHER INFORMATION CONTACT: Ron Naten or John Hardaway, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Donald A. Crane,
Regional Director.

[FR Doc. 79-39410 Filed 12-25-79; 8:45 am]

BILLING CODE 4310-05-M

Fish and Wildlife Service

Availability of Environmental Assessments for Wildlife Restoration Projects

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Availability for Inspection and Public Comment.

SUMMARY: This notice provides a listing of Environmental Assessments available for public review to supplement those previously listed in the Federal Register July 20, August 3, September 6, October 5, and November 16, 1979. The Assessments and Findings of No Significant Impact were prepared on certain projects conducted by State fish and wildlife agencies under the Federal Aid in Wildlife Restoration program. The public invited to comment and

information is provided on the locations at which the documents may be reviewed.

DATE: Comments must be received at the locations indicated by January 28, 1980.

ADDRESSES: The assessments are available for inspection at the following locations:

FWS Federal Aid Office, 1000 N. Glebe Road, Arlington, Virginia 22201
Region 1, FWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232
Region 2, FWS, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103
Region 3, FWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111
Region 4, FWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303
Region 5, FWS, 1 Gateway Center, Suite 700, Newton Corners, Massachusetts 02158
Region 6, FWS, P.O. Box 25468, Denver Federal Center, Denver Colorado 80225
Alaska Area Office, FWS, 1011 E. Tudor Road, Anchorage, Alaska 99507
Central headquarters office of the State fish and wildlife agency

Interested persons are invited to submit comments to the appropriate Regional Director at the above regional addresses within 30 days. Copies of the assessment may be obtained at the Regional Offices upon payment of reasonable reproduction costs pursuant to 43 CFR, Part 2, Appendix A. Copies of any Finding of No Significant Impact will be provided free of cost.

FOR FURTHER INFORMATION CONTACT: Mr. Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-1526.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the U.S. District Court for the District of Columbia issued an order dismissing Civil Action No. 78-430 involving the Federal Aid in Wildlife Restoration program. The dismissal effected an agreement by plaintiffs and defendants which included a provision that the Fish and Wildlife Service would publish in the Federal Register a notice of availability of certain Environmental Assessments for inspection and public comment. Pursuant to the stipulated agreement, this notice lists Environmental Assessments prepared to date and will be supplemented as other assessments are prepared.

The principal author of this notice is Dr. Robert J. Sousa, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703-235-1526.

Notice is hereby given of availability for inspection and comment of environmental assessments for the following Federal Aid projects funded in

part by the U.S. Fish and Wildlife Service (FWS) under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 et seq; (Activities listed are not exclusive.)

Region 6

Colorado W-110-D

This assessment describes activities associated with operation, management and development on 13 wildlife management areas in northeast Colorado. Activities include construction of dikes and feeder canals, planting of trees, shrubs and herbaceous wildlife food and cover crops, vegetation control, erection of waterfowl nesting structures, and implementation of watershed management practices.

Addendum—Region 3

Indiana FW-22-D

This amendment provides for the construction of a 12.6-acre water impoundment on the Atterbury Fish and Wildlife Area (5,534 acres) to protect and enhance marshes and impoundments associated with the watershed of Herriott Creek.

Dated: December 20, 1979.

Robert S. Cook,
Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-39081 Filed 12-26-79, 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Competitive Research Program on the Impacts of Sentencing Alternatives on Prison Environments; Notice of Solicitation of Preliminary Proposals

The National Institute of Law Enforcement and Criminal Justice announces a competitive research program on the impacts of sentencing alternatives on prison environments. The purpose of this research is to examine the effects of various sentencing modes on the prison environment. Given the recent trend towards determinacy, the primary focus is on comparative impacts of determinate versus indeterminate sentencing strategies on such factors as inmate behavior, levels of prison tension, staff inmate relationships and prison management.

A total of \$200,000 for 18 months has been allocated for this project.

The solicitation asks for submission of preliminary proposals instead of formal applications. Proposals will reviewed by

an Institute-designated panel. Requests for formal applications will be based on the results of this peer review process in accordance with the criteria indicated in the solicitation.

Proposals must be postmarked no later than March 15, 1980. Grant award is anticipated in early fall, 1980.

Copies of the solicitation may be obtained by writing to: Program Solicitation Office, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850, Solicitation No. 80-113.

Dated: December 12, 1979.

Harry M. Bratt,
Acting Director, NILECJ.

[FR Doc. 79-39405 Filed 12-26-79, 8:45 am]

BILLING CODE 4410-15-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(Notice (79-99))

NASA Advisory Council (NAC) Space Systems and Technology Advisory Committee; Meeting

A meeting of the Informal Executive Subcommittee of the Space Systems and Technology Advisory Committee will be held January 15, 1980, from 9:30 a.m. to 3:30 p.m. in Room 647, NASA Headquarters, 600 Independence Avenue SW., Washington, DC 20546. The meeting will be open to the public up to the seating capacity of the room (about 15 persons including Subcommittee members and participants).

The Space Systems and Technology Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of space research and technology. The purpose of the Executive Subcommittee meeting is to discuss and plan activities of the committee's informal ad hoc subcommittees for fiscal year 1980. The Chairperson is Mr. Robert L. Johnson. There are seven members on the informal Executive Subcommittee.

For further information, please contact C. Robert Nysmith, Executive Secretary, (202) 755-3252, NASA Headquarters, Code RP-4, Washington, DC 20546.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

December 20, 1979.

[FR Doc. 79-39474 Filed 12-26-79, 8:45 am]

BILLING CODE 7510-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

(N-AR 79-52)

Accident Reports, Safety Recommendations and Responses; Availability

Aircraft Accident Reports in Brief Format

Issue No. 4 of U.S. Civil Aviation Accidents, 1978 (NTSB-BA-79-2).—The National Transportation Safety Board on December 12 made available copies of the fourth volume in its series of brief reports on general aviation accidents which occurred last year. The computer-printout reports document the causal factors assigned by the Safety Board in each of the 901 accidents covered. In addition to the causal factors, Issue No. 4 also provides statistical information tabulated by type of accident, phase of operation, kind of flying, injury index, aircraft damage, conditions of light, pilot certificate, and injuries.

The Safety Board, in Press Release SB 79-96 covering Issue No. 4, reminded general aviation pilots of the need to exercise caution and vigilance when taxiing aircraft at major airports because of the invisible danger of "prop/jet wash" from large multi-engine aircraft. The wind blast created by propellers or jet engines of large aircraft on the ground can result in substantial damage to light aircraft and cause injury to occupants, the Board said. Cited was a recent "prop wash" accident involving a Cessna 172 aircraft at the San Francisco International Airport.

Note.—The brief reports in Issue No. 4 contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 7 cents per page for printed matter, \$1 per page for black-and-white photographs, and \$1.50 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Copies of Issue No. 4 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Safety Recommendation Letters

Aviation

A-79-93 to the Federal Aviation Administration.—On February 10, 1978, Columbia Pacific Airlines, flight 23, a Beech 99, crashed during takeoff from the Richland (Wash.) Airport. After

liftoff, the aircraft climbed steeply to 400 feet above the ground, stalled, and crashed 2,000 feet beyond the end of the runway. The 17 persons on board were killed, and the aircraft was destroyed.

Safety Board investigation revealed that the aircraft's steep climb was caused by an extreme noseup stabilizer trim position, which the flightcrew did not detect before takeoff. Probably contributing to the crew's failure to recognize the out-of-trim condition were a faulty pitch trim indicator and an inoperative stabilizer out-of-trim warning system. The crew also was not aware that the warning system was inoperative.

On August 11, 1978, the Safety Board issued recommendation A-78-55 requesting FAA to change the Beech 99 minimum equipment list (MEL) to require a functional out-of-trim warning system for flight. FAA rejected the recommendation on the grounds that a visual check of the stabilizer trim is a sufficient safeguard. However, the July 1979 FAA-approved MEL requires the out-of-trim warning system to be operational for flight.

In April 1979, FAA, in General Aviation Airworthiness Alert No. 9, recommended to Beech 99 and 100 operators that the manufacturer's inspection program be rigidly followed to preclude operating aircraft with inoperative trim indicating/warning systems which could result in an unsafe condition.

On July 3, 1979, FAA issued Operations Bulletin No. 79-1 on the Beech 99 stabilizer trim problems and procedures. The Bulletin stressed the need for visual inspection of the stabilizer position during preflight, coordination between crewmembers regarding their respective responsibilities and duties, and increased emphasis during proficiency flight checks on pilots' knowledge of the stabilizer trim system. However, this Bulletin, Airworthiness Alert No. 9, and the FAA-approved flight manuals do not require that a crew verify the operational status of the stabilizer out-of-trim warning system. These FAA actions may not preclude a flightcrew from taking off in a hazardous out-of-trim condition.

The Board notes that whenever the stabilizer is not within the takeoff range and the left throttle is advanced past the position that corresponds to the 90 percent N1 setting, the out-of-trim warning system sounds a warning horn. To test the warning system, d.c. electrical power is required but it is not necessary to start either engine.

Further, the Board notes that the Beech 99 and 100 aircraft have almost

identical trim and warning systems, and neither of the associated FAA-approved flight manuals require the crew to perform a check of the stabilizer out-of-trim warning system. Unless the out-of-trim warning system has been previously "written up" in the aircraft's maintenance forms, the crew has no way of knowing the operational condition of the system. Since the system is required for flight by the minimum equipment list, the crew should also be required to determine the operational status of the system before flight.

Accordingly, the Safety Board on December 19 recommended that FAA:

Require that the Beech 99 and Beech 100 flight manuals include a checklist procedure that requires the crew to verify the operational status of the stabilizer out-of-trim warning system. (Class II, Priority Action) (A-79-93)

Railroad

R-79-75 through 77 to the Illinois Central Gulf Railroad Company.—On October 12, 1979, Amtrak passenger train No. 392, consisting of one locomotive unit and five coaches, approached Harvey, Ill., at a speed of 65 mph where it was diverted from track No. 4 to track No. 3 and collided with standing Illinois Central Gulf Railroad Company (ICG) freight train No. 51, consisting of three locomotive units, 40 cars, and a caboose. The super-structure of the first locomotive unit of train No. 51 was sheared from its bed when the unit was shoved under the second unit at impact. The locomotive and first car of the passenger train were turned onto their sides. The engineer and front brakeman of train No. 51 were killed; the engineer, fireman, other crewmembers, and 51 passengers on train No. 392 were injured.

The Board notes that there are four main tracks, two commuter tracks, and two secondary tracks in the area of the accident. The secondary tracks provide access to Harvey Yard located adjacent to the east side of the main tracks. The commuter and main tracks are numbered west to east, with Nos. 1 and 2 assigned to commuter operation and Nos. 3, 4, 5, and 6 assigned to main line trains. The operation of trains with the current of traffic on the main tracks is controlled by an automatic block signal system. There are 27 hand-thrown switches located on the main tracks and on tracks leading to the yard to establish the various routes. The switches are aligned by a switchtender on instructions of a train director or yardmaster. The hand-thrown switches are not interlocked with movements on the main track, but when the switches

are aligned from one track to another, this is indicated on the signal in advance of the switch.

Trains are permitted to move on the main tracks through the area at a maximum authorized speed of 65 mph if the engineer can see the switch markers and know that the switches are properly aligned. However, the hand-thrown switches on the main tracks can be operated at any time regardless of the distance of a train from the switch. This permits the switches to be operated immediately in front of an approaching train, as in this case, with no warning to the train's engineer.

Investigation showed that train No. 51 was operated south on track No. 3 and was stopped just north of a crossover leading from track No. 3 to track No. 4. The train had been instructed to wait until train No. 392 passed on track No. 4; then No. 51 was to be routed to track No. 4 to proceed south. The switchtender stated that he was instructed by the yardmaster to align the crossover for movement of train No. 51 from track 3 to track 4 after the passage of the passenger train. He said that he saw a commuter train go by and assumed that it was the designated passenger train. He immediately went to the switch on track No. 4 and aligned it for the crossover when train No. 392 was about 600 feet south of the switch and moving at a speed of about 65 mph. The passenger train entered the crossover to track No. 3 and collided with standing freight train.

At the time of the accident, the switchtender had only 2 months service with ICG and had worked as a switchtender on only 1 other day about 2 months earlier. He stated that he was not familiar with the location of the switches and tracks nor was he familiar with the operation of trains in the area. The switchtender was not trained sufficiently to be properly qualified to fulfill the position of switchtender at this location.

The Safety Board notes that if the main tracks and the switches in the Harvey vicinity were incorporated into an interlocking system or if the switches were protected by an electrical locking device with appropriate time delay, a switchtender, regardless of his experience, could not operate the switch and establish a collision route as was done in this accident. Therefore, to provide for adequate procedures for the safe operation of trains through this location, the Safety Board on December 18 issued the following "Class I, Urgent Action" recommendations to ICG:

Provide at the Harvey Yard location an interlocking or other positive means to

prevent the inadvertent misalignment of switches in advance of a train operating within the signal block. (R-79-75)

Until positive safeguards can be provided for the operation of switches, restrict speeds through the area of the Harvy crossover so that trains can be stopped short of a switch which is not properly aligned, but not exceeding 20 mph. (R-79-76)

Immediately qualify all switchmen/ brakemen who function as switchtenders by providing sufficient training in the specific rules that apply to switchtenders, in the physical layout of tracks and switches, and in train operations in the area of their responsibility. (R-79-77)

Responses to Safety Recommendations

Highway

H-79-52.—On December 7 the Federal Highway Administration further responded to recommendations issued following investigation into a cargo tank-semitrailer overturn which occurred near Beattyville, Ky., on September 24, 1977. FHWA formally responded on December 29, 1978, to recommendation H-78-52 which called for researching the feasibility of installing energy attenuating devices capable of decelerating large runaway vehicles on steep grades where the use of adjacent property prohibits the installation of truck escape routes. FHWA in its December 29 letter identified four research studies applicable to this recommendation. (See 44 FR 2442, January 11, 1979.)

FHWA's December 7 letter indicates that two of those studies are nearing completion. "Impact Attenuators for Heavy Vehicles—A Feasibility Study" investigated impact attenuator systems which might safely stop both compact cars and tractor-trailers. The initial phase, which consisted of feasibility studies, is complete, FHWA advises. The draft report indicates that it may be impractical to develop a roadside attenuator that can safely arrest heavy trucks. Since this relates directly to the concerns expressed in H-78-52, FHWA said it would be happy to discuss the study with the Safety Board in more detail. FHWA plans a briefing by the Office of Research and the contractor during January, possibly during Transportation Research Board meetings (January 21-23, 1980).

Also cited in the December 29, 1978, response was a North Carolina Department of Transportation study titled "Runaway Truck Arresting Schemes." This study, which is primarily basic research, was delayed because of staffing problems but has progressed through literature search, theoretical analysis, and some limited testing. No usable results are available at this time, FHWA reports.

FHWA also notes that a study which produced a Grade Severity Rating model is now completed and will be published in about 2 months. A follow-on study to refine and evaluate the model, titled "Evaluation of Techniques to Counteract Truck Accidents on Steep Downgrades," is scheduled for completion about a year from now.

The Safety Board on January 30 acknowledged FHWA's December 29 response and indicated that the research efforts described concerning the problem of runaway trucks are acceptable toward fulfilling the intent of the recommendation. The Board said it would keep the file open pending completion of the research efforts listed.

H-79-13.—The Recreation Vehicle Industry Association on December 10 responded to a recommendation issued last April 4 in conjunction with release of the Safety Board's special study, "Safety of Multipurpose Vans." (See 44 FR 21907, April 12, 1979.) The recommendation asked RIVA to conduct an engineering study through its membership to determine the best methods of securing appliances in recreational vehicles and amend the Standard for Recreational Vehicles (A-119.2) to specify these methods.

RIVA reports that after study by its Standards Committee and review by the Board of Directors, the opinion of the Association is that its ongoing "301" program, of which the Safety Board is aware, responds adequately to the concerns expressed through the Board's recommendations.

Intermodal

I-79-5 through 11.—The Research and Special Programs Administration on December 12 provided an interim response for the Secretary of Transportation with respect to these recommendations, issued in connection with the Safety Board's special investigation report, "Onscene Coordination Among Agencies at Hazardous Materials Transportation Accidents." (See 44 FR 58820, October 11, 1979.) The recommendations concern the development and implementation of an effective national hazardous materials emergency response system.

RSPA concurs with the Board's view that existing emergency response plans for hazardous materials transportation should be critically reviewed, and that "a comprehensive interagency effort will be needed to develop effective emergency response plans." RSPA is also in basic agreement with the thrust of the Board's recommendations I-79-5 through I-79-11, but RSPA believes that the effective implementation of some of these recommendations involve policy

issues and possibly substantial resource commitments that must be examined and resolved in terms of a coordinated interagency program. For these reasons, and in light of other recent developments (e.g., the establishment of the Federal Emergency Management Agency, the Nuclear Regulatory Commission's recent policy statement on "Planning Basis for Emergency Responses to Nuclear Power Reactor Accidents," and the draft completion of Material Transportation Bureau's new "Hazardous Materials Emergency Response Guide"), RSPA reports that a special meeting of the Department of Transportation's Standing Committee on Hazardous Materials will be called. This Committee will hear and discuss the following tentative agenda items:

1. A status report on the U.S. Coast Guard's planned and current efforts to implement a national hazardous materials emergency response center.
2. A status report on the efforts of the MTB to develop and disseminate guidelines for emergency response procedures in transportation accidents.
3. The development of a character for the establishment of an Interagency Task Force on Hazardous Materials Emergency Response to prepare a report to be published in the Federal Register for public comment, on guidance for use in State and local hazardous materials emergency plans.
4. The relationship of the Safety Board's recommendations I-79-5 through 11 to all of the above, with particular emphasis on those recommendations that can be implemented immediately, at least in a tentative manner, pending completion of the proposed task force report.

Members of the Safety Board, or appropriate staff personnel, will be invited to participate in this meeting to help provide their insights or to surface any other "facets of hazardous materials emergency response needs" that may not, to date, be identified in the Board's safety recommendations. RSPA notes that the decisions of the Committee will be summarized and forwarded to the Board as the Department's full response to the subject recommendations.

Marine

M-79-76 through 79.—On December 6 the U.S. Coast Guard responded to recommendations issued on August 9 following investigation of the collision between the Greek cargo ship M/V STAR LIGHT and the U.S. Navy amphibious assault ship USS FRANCIS MARION (LPA-249) which occurred last March 4 at the entrance of the Chesapeake Bay near Norfolk, Va. (See 44 FR 46001, August 15, 1979.)

Coast Guard states that it does not concur with recommendation M-79-76, which called for recording VHF

radiotelephone transmissions on all channels used for transmitting navigational information in the vicinity of the entrance of the Chesapeake Bay and keeping records concerning marine casualties for at least 1 year. Coast Guard says it records Channel 16 transmissions for search and rescue purposes and not as an aid to navigation safety. Although a recording system as proposed by M-79-76 would be useful in investigating marine accidents after-the-fact, such a system would not play a role in preventing accidents. Coast Guard does not have adequate facility and equipment resources to perform such a function, and insufficient benefit would be gained in recording VHF radiotelephone transmissions on all channels used for navigation information to justify the expense.

Nor does Coast Guard concur with recommendation M-79-77, which called for relocation of the demarcation line separating the inland and international rules of the road to some point away from the precautionary area at the entrance of the Chesapeake Bay. Coast Guard notes that Cape Henry Light and Cape Charles Light are fixed lighted aids to navigation, which is the primary criterion used to locate COLREGS Demarcation Lines. These lights are readily identifiable to the mariner and are positioned on points of land that form a natural boundary which is also an excellent radar target. There is no indication that the proximity of the demarcation line to the precautionary area adversely affects navigation safety. Coast Guard stated.

Coast Guard does not concur with recommendation M-79-78, which called for establishment of an additional designated pilotage area at some point east of the precautionary area at the entrance of the Chesapeake Bay where pilots would embark and disembark vessels during favorable weather conditions. Coast Guard says it does not have authority to designate pilot boarding areas, and, assuming it did, this recommendation would be unworkable for two reasons: (1) Constantly changing the boarding area would result in confusion aboard ships and generate unneeded radio traffic, and (2) abrupt weather changes are common. Also, precautionary areas such as this one are internationally accepted and commonly used on COLREGS waters. Therefore, Coast Guard states, internationally licensed masters and mates are well versed in its use and purpose and should not need local pilot knowledge when transmitting.

Recommendation M-79-79 asked Coast Guard to establish an active,

manned Vessel Traffic Service (VTS) at the entrance of the Chesapeake Bay; this VTS should not only advise vessels of traffic conditions but also exercise control over their movements, and participation in the VTS should be mandatory. In response, Coast Guard states that the Commander, Fifth Coast Guard District, is reevaluating vessel traffic service needs for Chesapeake Bay, which will encompass both active and passive services. This reevaluation will consider recent vessel casualty data, present and projected vessel density and improved technologies, and extensive input from the maritime community. The study will conclude in October 1980, and a further response to this recommendation will be made after considering the results of this study.

Pipeline

P-79-13.—Letter of December 3 from the American Gas Association (AGA) is in reference to the Gas Service Company explosion and fire at London, Ky., last January 16. Recommendation P-79-13 asked AGA to advise its member companies of the circumstances of this accident and urge them to review their actual operating practices for uprating pipelines to assure that they conform to established company procedure, related industry guidelines, and Federal regulations. (See 44 FR 36273, June 21, 1979.) AGA reports that it will advise its member companies to review their actual operating procedures, related industry guidelines, and Federal regulations.

P-79-10.—The Potomac Electric Power Company (Pepco) on December 7 responded to a recommendation developed during the investigation of a natural gas explosion which demolished a townhouse in Washington, D.C., last October 30. The recommendation, issued jointly to the Washington Gas Light Company, Pepco, and the Chesapeake & Potomac Telephone Company, called for the expansion, in cooperation with the District of Columbia Government, of the "Miss Utility" "one-call" system now serving areas of Maryland and Virginia to include the District of Columbia. (See 44 FR 67256-7, November 23, 1979.)

In response, Pepco notes that the District of Columbia has an efficient public space permitting procedure covering all public space excavations. The permit requires the permittee to notify the utilities involved. Pepco says it marks approximately 200 excavations per month and a "Miss Utility" system would add somewhere between \$250,000 and \$500,000 to Pepco expenses for extra crews and equipment with no additional benefit to D.C. residents. Pepco notes that the D.C. Department of

Transportation and the D.C. Public Service Commission are analyzing the problem of underground utilities and are considering the adoption of an "Underground Facilities Policy Statement."

Pepco concludes, "No system, 'Miss Utility' or otherwise, can be effective if the people who propose to excavate do not pick up the telephone as required by that system and notify the relevant utility or utilities."

Note.—Copies of Safety Board recommendation letters, responses, and related correspondence are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer

December 19, 1979.

[40 FR Doc. 79-39402 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

December 19, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for the one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statements, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Food and Nutrition Service

Study of Menu Choice, Food Production and Costs of School Feeding Program
Single-Time
Food Service Director and Principals in 600 Schools Nationwide, 13,080 responses; 5,437 hours
Charles A. Ellett, 395-5080.

Reinstatements

Food and Nutrition Service
Administrative Review Report—Summer Food Service Program for Children (Site)
FNS 19-1 & 10-2
On occasion
Food Service Sites, 1,602 responses; 1,970 hours
Charles A. Ellett, 395-5080.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

Revisions

Bureau of the Census,
State and Local Construction Project Report—Governments,
C-700 (SL)
Monthly
State & Local Government Agency Officials, 48,000 responses; 12,000 hours
Office of Federal Statistical Policy and Standard, 673-7974.

Bureau of the Census
Survey of Plant Capacity
MQ-C1
Annually
Manufacturing Establishments, 9,000 responses; 13,500 hours
Office of Federal Statistical Policy and Standard, 673-7974.

Economic Development Administration
Technical Assistance Application
ED-357A
On Occasion
State and Local Governments, 250 responses; 2,500
Richard Sheppard, 395-3211.

Economic Development Administration
Technical Assistance Application—
Nongovernment Applicants
ED-357NG
On occasion
Non-Prof, Non-Government
Organization, 250 responses; 2,500 hours
Richard Sheppard, 395-3211.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Revisions

Department of the Army
Vessel Operation Report Eng 3925, B, C, & D

Other (see SF-83)
Commercial Vessel Operators, 150,000 responses; 75,000 hours
Office of Federal Statistical Policy and Standard, 673-7974.

Department of the Army
Record of Arrivals and Departures of Vessels
Eng 3926
Monthly
Marine terminal operators, 7,200 responses; 3,600 hours
Richard Sheppard, 395-3211.

Department of the Army
Career Attitude Survey
Annually
College and ROTC students, 1,000 responses; 666 hours
Laverne V. Collins, 395-3214.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

New Forms

Center for Disease Control
Indochinese Refugees with Tuberculosis
Annually
State and local health departments, 112 responses; 335 hours
Richard Eisinger, 395-3214.

Health Care Financing Administration
Survey of Medicaid Reimbursement Policies
HCFA-167T, HCFA-L-167T
Single-time
State Medicaid Directors, 50 responses; 200 hours
Richard Eisinger, 395-3214.

National Center for Education Statistics
Study of Education and Training in Nonschools
NCES-2427
Single-time
Authors of Research Reports, 200 responses; 100 hours
Office of Federal Statistical Policy and Standard, 673-7974.

Office of Human Development
National Evaluation of National Center for Child Abuse and Neglect Service
Quarterly
Directors of Local Family Service Agencies, 116 responses; 186 hours
Barbara F. Young, 395-6132.

Social Security Administration
State Plan Preprints for Low Income Supplemental Energy¹
Allowance FY 1980
Single-time
St. Elec Method of Administration Funds Under Supplementary Energy

¹ This SSA proposal may be approved promptly to allow the distribution of funds, authorized by PL 96-126 of November 27, 1979, to aid low income persons during the winter heating season.

Allowance Program, 49 responses; 1,960 hours
Barbara F. Young, 395-6132.

Revisions

Health Care Financing Administration
Sterilizations and Hysterectomies
HCFA/OHDS-80
Quarterly
State Medicaid Title XIX Agencies, 216 responses; 2,484 hours
Richard Eisinger, 395-3214.

Office of the Secretary
Income Survey Development Program
1979 Research Panel Wave 6
OS-25-79
Quarterly
Household Members in National Probability Sample, 72,012 responses; 25,204 hours
Office of Federal Statistical Policy and Standard, 673-7974.

Extensions

Public Health Service
Public Health Service Sterilization Record
PHS-6044
Quarterly
Ambulatory Health Care Organizations, 800 responses; 800 hours
Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN ADMINISTRATION

Agency Clearance Officer—Robert G. Masarsky—755-5184

Revisions

Housing Production and Mortgage Credit
Application for Assignment of Portion of Set-Aside to Specific Project (Section 8 State Agency Program)
HUD-52516
On occasion
Approved State HSG. Finance Agencies, 342 responses; 171 hours
Arnold Strasser, 395-5080.

Housing Production and Mortgage Credit
Operation Subsidy Requisition for Partial Payments of Public Housing Urban Initiative Program (PHUIP)
HUD-53120
Quarterly
Public Housing Agencies, 268 responses; 268 hours
Arnold Strasser, 395-5080.

Housing Production and Mortgage Credit
Applications for Approval as Mortgagee
92001, A, B, C, D, E, & K
On occasion
Mortgage companies, 18,000 responses; 4,500 hours
Arnold Strasser, 395-5080

Extensions

Community Planning and Development
CDBG Housing Assistance Plan (HAP) (Entitlement and Small Cities Comprehensive Programs)
HUD-7091, 7092, 7093, 7094, & 7095
Annually
Units of general local government, 2,000 responses; 20,000 hours
Budget Review Division, 395-4773.

Housing Management
Low Income Public Housing
Modernization Program Forms
HUD-53001
On occasion
Public housing agencies, 300 responses; 300 hours
Arnold Strasser, 395-5080.

Housing Production and Mortgage Credit
Assistance Payments
Program Application for Existing Housing
HUD-52515
On occasion
PHA's desir. to admini. sec. 8 existing hsg prog., 1,000 responses; 4,000 hours
Arnold Strasser, 395-5080.

Housing Production and Mortgage Credit
Development Program of Indian Housing Authority
HUD-53045
On occasion
Official Indian Housing Authorities, 120 responses; 1,440 hours
Arnold Strasser, 395-5080.

Housing Production and Mortgage Credit
Development Program of Public Housing Agency Development
Cost Budget/Cost Statement
HUD-52483 & HUD-52484
On occasion Public Housing agencies
500 responses; 1,000 hours
Arnold Strasser, 395-5080.
Office of the Assistant Secretary for Administration
Request for Termination of Multifamily Mortgage Insurance
HUD-9807
On Occasion
Mortgagees 300 responses; 75 hours
Arnold Strasser, 395-5080.

Reinstatements

Community Planning and Development
Application for Federal Assistance, Community Development, Assurances
HUD-6757
On occasion
Federally assisted new communities 50 responses; 250 hours
Budget Review Division, 395-4773.
Community Planning and Development

Section 8 Housing Assistance Payments Program—Application for Moderate Rehabilitation
HUD-52515A
On Occasion
PHA's who want to Admin. The Mod Rehab Program 900 responses; 7,200 hours
Arnold Strasser, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

Revisions

Employment and Training
Administration
Continuous Wage and Benefit History
ETA-10
On occasion
Unemployment Insurance Claimants
84,000 responses; 10,080 hours
Arnold Strasser, 395-5080.

Employment and Training
Administration
Win Reporting System
ETA-595, 596, & MA 5-97
On Occasion
Win Offices 3,838,000 responses; 283,030 hours
Arnold Strasser, 395-5080.

Employment and Training
Administration
Job Specification Form
ES-541
On occasion
Employers who use or plan to use the employment service 6,000 responses; 15,000 hours
Arnold Strasser, 395-5080.

Labor-Management Service
Administration
Annual Report (Dol, PBGC, IRS 5500 Series)²
Treasury-Labor 5500, C & K
Annually
All pension plans and selected welfare plans, 600,000 responses; 3,900,000 hours
Arnold Strasser, 395-5080

ACTION

Agency Clearance Officer—William D. Baldrige—254-7845

Reinstatements

Action Request for Information (Recruitment)
A-33S/A-16
On occasion
Students and General Public 105,000 responses; 840 hours

² The normal 10-day comment period has been waived for these forms and they have been approved in order to ensure their availability to the public in January 1980. Without such a waiver, DOL could not get the forms printed in time.

Barbara F. Young, 395-6132

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—615/755-2915

New Forms

TVA Commercial and Industrial Energy Conservation Financing Plan
TVA 6294 Thru TVA 6294B
On occasion
Commercial and Indust. Establ. in TVA
Valley 1,250 responses; 937 hours
Charles A. Ellett, 395-5080.

Extensions

Heat Pump Dealer Questionnaire
TVA 6230
Heat Pump Dealerships, 30 responses; 15 hours
Charles A. Ellett, 395-5080.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—522-0267

Revisions

Nonrubber Footwear Producers' Survey Annually
Producers 200 responses; 18,000 hours
Office of Federal Statistical Policy and Standard, 673-7974.

Stanley E. Morris.

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-39473 Filed 12-26-79; 8:45 am]

BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0380]

TLC Funding Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of TLC Funding Corp. (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York, and it will commence operations with a capitalization of \$700,000.

The Applicant will have its place of business at 200 East 42nd Street, New York, New York 10017, and it intends to conduct operations primarily in the State of New York.

The officers, directors and stockholders of the Applicant will be:

- (1) Philip Gordon Kass, President, Director, 12 Parkfield Road, Scarsdale, New York 10583.
- (2) Howard Abram Schulder, Vice President, Director, 70 East 10th Street, New York, New York 10003.
- (3) Albert David Sutton, Vice President, Director, 18 Jerome Avenue, Deal, New Jersey 07723.
- (4) Elias Henry Debbas, Vice President, Secretary, Director, 300 East 40th Street, New York, New York 10017.
- (5) Stewart Eisler, Vice President, Director, 300 East 72nd Street, New York, New York 10021.

Five (5) corporations are contemplated as the shareholders of the Applicant. They are as follows:

- (1) EOI Services, Inc. (will own 7.29% of applicant) Mr. Kass is a 15% beneficial owner of EOI Services, Inc.
- (2) Summa Capital Corp. (will own 14.28% of applicant) Mr. Schulder is the 100% beneficial owner of Summa Capital Corp.
- (3) A. D. Sutton & Sons, Inc. (will own 20.00% of applicant) Mr. Albert D. Sutton is a 70% beneficial owner of A. D. Sutton & Sons, Inc.
- (4) All State Credit Corp. (will own 21.43% of applicant) Mr. Debbas is the 100% beneficial owner of All State Credit Corp.
- (5) S. L. Trading Co., Inc. (will own 14.28% of applicant) Mr. Eisler is the 100% beneficial owner of S. L. Trading Co., Inc.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person, may not later than January 11, 1980 submit comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalogue of Federal Domestic Assistance Programs, No. 59.011 Small Business Investment Companies).

Dated: December 18, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-39499 Filed 12-26-79; 8:45 am]

BILLING CODE 8025-01-M

SMALL BUSINESS CONFERENCE COMMISSION

White House Conference on Small Business

Small Business Conference Public Forum.—January 14, 1980—2:00 p.m.—5:00 p.m., Sheraton Washington Hotel, 2650 Woodley Road, N.W., Washington, D.C.

Public Forum

Views on the future of small business in the national economy will be aired at public hearings scheduled by the White House Conference on Small Business on Monday, January 14, 1980 from 2:00 p.m.—5:00 p.m. at the Sheraton Washington Hotel.

The hearing, a part of the White House Conference's week-long activities, are intended to elicit positions and opinions relative to this broad subject area from organizations and the public. The White House Conference on Small Business was established in May 1978 by executive order of President Carter. Recommendations emanating from the Conference will be presented to the President within 60 days of these hearings.

The Conference program is organized around 12 major issue areas: Capital Formation and Retention, Minority Business Development, Economic Policy and Government Programs, Women in Business, Government Regulations and Paperwork, Inflation, International Trade, Federal Procurement, Education Training/Assistance, Innovation and Technology, Energy and Veterans in Business. Witnesses should focus their remarks within these issue areas.

The Conference is an important opportunity for citizens' organizations, public interest groups, labor and business representatives and state and local officials to recommend ways in which the private sector and government at all levels can work toward a better future for small business.

Those interested in testifying personally or in submitting written statements should communicate in writing no later than December 28, 1979 at 5:00 p.m. EST to: Ms. Elise Knapp, White House Conference on Small Business, 730 Jackson Place, N.W., Washington, D.C. 20006.

Dated: December 19, 1979.

Michael B. Kraft,

Deputy Advocate for Advisory Councils, U.S. Small Business Administration.

[FR Doc. 79-39408 Filed 12-26-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/253]

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 18, 1980 at 10:00 a.m. in the Theater on the first floor of the Communications Satellite Corporation Building, 950 L'Enfant Plaza, S.W., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meeting is to review results of the 1979 World Administrative Radio Conference in relation to the U.S. Study Group 4 program of work in preparation for the international meeting of Study Group 4 in October 1980.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, Statement Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: December 14, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79-39394 Filed 12-26-79; 8:45 am]

BILLING CODE 4710-07-M

Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 23, 1980, in Room 226A of the National Aeronautics and Space Administration, 600 Independence Avenue, S.W., Washington, D.C. The meeting will begin at 9:00 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic) and to interference problems concerning the radio-astronomy and radar astronomy services. The purpose of the meeting will be review of draft documents being considered in preparation for the

international meeting of Study Group 2 in 1980.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: December 17, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79-39395 Filed 12-26-79; 8:45 am]

BILLING CODE 4710-07-M

TENNESSEE VALLEY AUTHORITY

Consideration of Ratemaking Standards

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of consideration of standards.

SUMMARY: The Tennessee Valley Authority is considering implementing for itself and the distributors of TVA power certain ratemaking standards. The standards being considered include those listed in section 111 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) and one additional ratemaking standard. The standards will be considered on the basis of their effect on conservation of energy, efficient use of facilities and resources, equity among electric consumers, and the objectives of the Tennessee Valley Authority Act. Comments are requested from the public on whether TVA should implement these standards or any variations on them.

DATES: Written comments must be received by March 7, 1980, to be assured of being considered. Hearings will be held on February 5, 7, 12, and 19, 1980.

ADDRESS: Written comments should be sent to Presiding Officer, Ratemaking Standards Hearings, Tennessee Valley Authority, 540 Market Street, Chattanooga, Tennessee 37402.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, (615) 632-4402.

SUPPLEMENTARY INFORMATION: Of the standards being considered, the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) requires that TVA consider standards 1-6. Standard 7 is an additional standard being considered. Data, views, and comments are requested from the public on each of the seven standards. Comments on

variations in any of the standards, as well as views for or against their adoption, are welcomed. The seven standards are being presented in order to initiate consideration and obtain the public's views on the need and desirability of such standards in the development of electric rates by TVA. Determinations on the appropriateness of the standards will be made by the TVA Board of Directors. The TVA Board will also determine which, if any, standards included in this notice will be implemented by TVA for itself and the distributors of TVA power.

STANDARDS: The standards about which determinations will be made are:

(1) *Cost of service.*—Rates charged for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class.

(2) *Declining block rates.*—The energy component of a rate, or the amount attributable to the energy component in a rate, charged for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that the costs to the TVA system of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) *Time-of-day rates.*—The rates charged for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost effective with respect to such class.

(4) *Seasonal rates.*—The rates charged for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for the TVA system.

(5) *Interruptible rates.*—Each industrial and commercial electric consumer receiving TVA power will be offered an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

(6) *Load management techniques.*—Each electric consumer receiving TVA power will be offered such load management techniques as TVA has determined will—

(A) be practicable and cost effective, (B) be reliable, and

(C) provide useful energy or capacity management advantages to the TVA system.

(7) *Special additional charge for new, electrically heated or cooled, energy inefficient homes.*—Effective six months after the commencement of TVA's forthcoming New Home Conservation Program, a special additional charge will be applied each month to the electric bill rendered for service to each new detached, single-family, electrically heated or cooled dwelling first connected to a system of a distributor of TVA power after the effective date, unless the residence has been surveyed under the New Home Conservation Program and been determined to qualify for either a TVA Energy Conservation Award or a TVA Solar Award under the objective standards established by that Program. The level of the additional charge will be designed to recover from consumers who occupy such energy inefficient residences the additional cost imposed upon the TVA system by reason of failure to adequately weatherize those residences, but the additional charge will be removed upon the implementation of all the cost-effective weatherization measures recommended pursuant to a survey conducted under TVA's Home Insulation Program.

PROCEDURES: Public hearings respecting the above standards will be conducted at the following times and places:

Sheffield, Alabama—February 5, 1980, 10 a.m. and 7 p.m., Sheffield Recreation Center, 2901 19th Avenue;
Memphis, Tennessee—February 7, 1980, 10 a.m. and 7 p.m., Frayser Community Center, 2893 North Watkins;
Nashville, Tennessee—February 12, 1980, 10 a.m. and 7 p.m., Vanderbilt Law School, Underwood Auditorium, 21st Avenue; and
Knoxville, Tennessee—February 19, 1980, 10 a.m. and 7 p.m., TVA Auditorium, West Tower, Plaza Level, 400 Commerce Avenue.

Anyone wishing to make an oral presentation at any of the hearings is requested to notify Dawn S. Ford at Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, (615) 632-4402 at least five days before the hearing. The request should include the amount of time and the session (morning or evening) desired. The hearings will be conducted by a presiding officer and testimony will be heard by a panel of designees of the TVA Board of Directors. Persons making presentations may be questioned by the hearing panel, but will not be subject to questioning by the public. The presiding officer will insure that the hearing is conducted in an orderly manner and in accordance with these procedures. In so doing, the

presiding officer shall make any such parliamentary rulings and establish such supplemental procedures, including setting time limits, as may be appropriate in the presiding officer's discretion to afford all interested parties a reasonable opportunity to be heard. A verbatim transcript will be made of each hearing.

Written data, views, and comments on the standards are also requested from the public. All written material received by TVA before 5 p.m. EST on March 7, 1980, will be part of the official record and will be considered by the Tennessee Valley Authority. Written statements of the TVA Office of Power staff concerning the standards will be made part of the official record on or about December 14, 1979, at which time they will be available to the public on request. The statements will include information on rates presently applicable for TVA and the distributors of TVA power and other available information that might be helpful to the public in developing its views and recommendations for the TVA Board's consideration.

The official record will consist of the verbatim transcript of the hearings and copies of all written materials submitted within the time set forth above. A summary of the record will be prepared by the hearing panel and will be transmitted to the TVA Board of Directors along with the complete record. The record will be used by the Board in making the determinations required by section 111 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) and in fulfilling its obligations under the Tennessee Valley Authority Act.

Individual copies of the record will be available to the public at cost of reproduction. Copies will also be kept on file for public inspection at selected public libraries to be announced at each hearing and at the following TVA offices:

Eastern District Office, Tennessee Valley Authority, 900 Walnut Street, Knoxville, Tennessee 37902.
Central District Office, Tennessee Valley Authority, 1719 West End Building, Nashville, Tennessee 37203.
Tennessee Valley Authority, 1878 Southern Avenue, Memphis, Tennessee 38109.
Western District Office, Tennessee Valley Authority, First Tennessee Bank Building, North Branch, 4th Floor, 620 Old Hickory Boulevard, Jackson, Tennessee 38301.
Mississippi District Office, Tennessee Valley Authority, 1014 North Gloster Street, Tupelo, Mississippi 38802.
Alabama District Office, Tennessee Valley Authority, 501 First Federal Building, Muscle Shoals, Alabama 35660.

Tennessee Valley Authority, 179 Charlotte Street, Asheville, North Carolina 28801.
Tennessee Valley Authority, Chamber of Commerce Building, 524 Holiday Avenue, Dalton, Georgia 30720.

TVA is developing arrangements for engaging independent specialists in economics, statistics, and other disciplines relevant to ratemaking in order to assist consumers in effectively participating in the hearings. Their services will include assisting consumers in preparing information for inclusion in the record. Inquiries concerning the availability and scope of such assistance should be directed to Dawn S. Ford at the above address and telephone.

In addition, in order to assist interested consumers in preparing for participation in the hearings, TVA will sponsor a series of rate workshops which will include discussion of the ratemaking standards set out in this notice. The workshops will be conducted at four locations according to the following schedule:

Sheffield, Alabama, January 15, 1980, 3:30 p.m.—10 p.m., Sheffield Recreation Center, 2901 19th Avenue;
Memphis, Tennessee—January 21, 1980, 3:30 p.m.—10 p.m., Memphis State University, Richardson Towers, Assembly Room, Corner Central & Patterson;
Nashville, Tennessee—January 24, 1980, 3:30 p.m.—10 p.m., Civic Center, Civic Hall Ground Floor, 4th & Deadrick; and
Knoxville, Tennessee—January 29, 1980, 3:30 p.m.—10 p.m., Hyatt Regency, William Blount Room, 500 Hill Avenue, Southeast.

The workshops will not constitute part of the official record upon which determinations will be made. In order to enable the TVA staff to provide sufficient handout material and suitable meeting facilities, it is necessary for any consumer planning to attend one of the workshops to notify Dawn S. Ford at Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, (615) 632-4402 stating which workshop (time and place) that the consumer will attend. This notification must be received five days prior to the date of the workshop in order for TVA to reserve a set of the printed material for the attending consumer.

Dated: December 13, 1979.

W. F. Willis,

General Manager.

[FR Doc. 79-39495 Filed 12-26-79; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from January 14, 1980, at 1 p.m. through January 18 at 12 Noon in the Executive Conference Room, Federal Aviation Administration Western Regional Office, 15000 Aviation Boulevard, Hawthorne, California.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. Frank L. Cunningham, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Ave., S.W., Washington, D.C. 20591, telephone (202) 426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on December 13, 1979.

F. L. Cunningham,
Executive Director, ATPAC.

[FR Doc. 79-39419 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on January 25, 1980 in Conference Room 625, National Aeronautics and Space Administration Building, 600 Independence Avenue S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meetings held on November 2 and

November 14, 1979; (2) Special Activities Report for November-December, 1979; (3) Chairman's Report on RTCA Administration and Activities; (4) Approval of Special Committee 132 Report on Audio Systems Characteristics and Minimum Performance Standards—Aircraft Microphones (Except Carbon), Aircraft Headsets and Speakers, Aircraft Audio Selection Panels and Amplifiers; (5) Approval of Special Committee 134 Report on Recommendations on Policies and Procedures for Off-the-Shelf Electronic Test Equipment Acquisition and Support; (6) Approval of Special Committee 135 Report on Environmental Conditions and Test Procedures for Airborne Equipment; (7) Report of Ad Hoc Committee on Financial Posture and Strategic Planning; (8) Consideration of Establishing New Special Committees; (9) Report of Ad Hoc Committee on Digital Equipment; (10) Report of Ad Hoc Committee on Radio Frequency Spectrum Profiles; (11) Briefing on Effects of General World Administrative Radio Conference (CWARC) on Aviation and Meteorological Systems; and (12) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484.

Issued in Washington, D.C. on December 17, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 79-39419 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 144—Airborne Low-Range Radio (RADAR) Altimeter Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 144 on Airborne Low-Range Radio (RADAR) Altimeter Equipment to be held on January 17-18, 1980, in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory

Remarks; (2) Review Committee Terms of Reference; (3) Compare RTCA Document DO-155 on Minimum Performance Standards for Airborne Low-Range Radio Altimeters with the European Organization for Civil Aviation Electronics (EUROCAE) Draft ED-30 Report; (4) Establish Committee Work Program and Assignment of Tasks; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 14, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 79-39421 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 143—Ground Based Automated Weather Observation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 143 on Ground Based Automated Weather Observation Equipment to be held on January 31 and February 1, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Third Meeting held November 30, 1979; (3) Review First Draft of Committee Report on Requirements for Ground Based Automated Weather Observation Equipment; (4) Assignment of Tasks; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 17, 1979.

Karl F. Bierach,

Designated Officer.

[FR Doc. 79-39422 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 142—Air Traffic Control Radar Beacon System/Discrete Address Beacon System (ATCRBS/DABS) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Beacon System/Discrete Address Beacon System (ATCRBS/DABS) Airborne Equipment to be held on January 22-23, 1980 in Conference Room A, Fifth Floor, Air Transport Association of America, 1709 New York Avenue N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Second Meeting held October 23-24, 1979; (3) Report of Working Group Preparing Transponder Characteristics; (4) Review of Draft Section 1 to the DABS Minimum Operational Performance Standards (5) Review of Committee Comments on the U.S. National Aviation Standard for DABS; (6) Assignment of Tasks; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 17, 1979.

Karl F. Bierach,

Designated Officer.

[FR Doc. 79-39423 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 133—Airborne Weather and Ground Mapping Pulsed Radar; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is

hereby given of a meeting of RTCA Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radar to be held on January 15-16, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows. (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Ninth Meeting held September 11-13, 1979; (3) Review Comments Received on Final Draft of Airborne Radar Approach Minimum Operational Performance Standards; (4) Review Comments Received on Second Draft of Weather Radar Minimum Operational Performance Standards; (5) Review Requirements for Radar Color Displays; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 14, 1979.

Karl F. Bierach,

Designated Officer.

[FR Doc. 79-39423 Filed 12-26-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 30-79]

Series AB-1981 Treasury Notes; Interest Rate

December 20, 1979.

The Secretary announced on December 19, 1979, that the interest rate on the notes designated Series AB-1981, described in Department Circular—Public Debt Series—No. 30-79, dated December 13, 1979, will be 11% percent. Interest on the notes will be payable at the rate of 11% percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental

procedures applicable to such regulations.

[FR Doc. 79-39424 Filed 12-26-79; 8:45 am]

BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[No. 37310]

Montana Intrastate Freight Rates and Charges—1979

Decided: December 11, 1979.

By joint petition filed November 2, 1979, the Chicago, Milwaukee, St. Paul & Pacific Railroad Company and Burlington Northern Inc., railroads operating in intrastate commerce in Montana, request that this Commission institute an investigation of Montana intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502. Petitioners seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 357. Petitioners have stated grounds sufficient to warrant instituting an investigation.

Petitioners filed tariff supplements to apply the rate increases authorized in Ex Parte No. 357 to the Montana intrastate rates. The Montana Public Service Commission ordered these tariff supplements cancelled.

It is ordered:

The petition for investigation is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Montana intrastate rail freight rates and charges in any respect cause any unjust discrimination against or an undue burden on their interstate or foreign commerce operations, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 357. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, maintained by petitioners should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington,

D.C. 20423, on or before January 11, 1980. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served upon petitioners, and copies shall be sent by certified mail to the Montana Public Service Commission, and the Governor of Montana. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Alan Fitzwater,
Director, Office of Proceedings.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39437 Filed 12-26-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29202]

St. Louis Southwestern Railway Co.—Temporary Authority—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee), Between Memphis, TN, and Fordyce, AR; Show Cause Order

Decided: December 14, 1979

Background

The Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("Rock Island" or "RI") is currently being operated by the Kansas City Terminal Railway Company (KCT) under federally subsidized directed service pursuant to 49 U.S.C. Section 11125. See Directed Service Orders Nos. 1398 and 1398 (Sub-No. 1).¹

¹DSO No. 1398, Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P., 350 I.C.C. 289 (decided September 26, 1979) and 44 FR 56343 (October 1,

In both directed service orders, we invited interested parties to seek temporary authority from us or the RI bankruptcy court to operate portions of the RI system on an unsubsidized basis.² Further, in accordance with out dual mandate to continue service over essential RI lines while minizing the cost of directed service to the taxpayers, we recently granted the petition of St. Louis Southwestern Railway Company (SSW)—and its corporate parent Southern Pacific Transportation Company (SPT)—for emergency temporary authority to operate RI's 965-mile "Tucumcari line" without government subsidization. See Finance Docket No. 29144 [and Service Order No. 1411], *St. Louis Southwestern Railway Company—Temporary Authority—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) between Santa Rosa, NM, and St. Louis, MO*, —I.C.C. — (decided December 6, 1979) and 44 FR 72261 (Dec. 13, 1979).

We are now considering a request by SPT-SSW to operate another portion of the RI rail system without government subsidization, thereby allowing for a possible further reduction in the cost to the Federal government of operating the remaining RI system under subsidized directed service. For the reasons described below, we believe it best to proceed in this matter by issuing an appropriate "show cause" order before disposing of SPT-SSW's request on its merits.

Requested Relief

As part of our efforts to determine which RI lines could be operated by interested carriers without government subsidization, we have had a series of telegrams sent to affected carriers.³ In SPT-SSW's reply telegrams (dated November 9 and 21, 1979), SPT-SSW expressed a willingness to operate RI's line between Memphis, TN, and Fordyce, AR (via Little Rock, AR) "without government compensation under either 49 U.S.C. Sections 11123 or 11125." See attached RI map (Appendix A). It should be noted that no other

1979); accord, DSO No. 1398 (Sub-No. 1), KCT—Directed to Operate Over—Rock Island. —I.C.C. — (decided November 30, 1979) and 44 FR 70733 (December 10, 1979).

²We have authority to consider such applications for operating authority under 49 U.S.C. Sections 11123 and 11125. The RI bankruptcy court may authorize prospective purchasers of RI lines temporarily to operate such lines under section 17(b)(3) of the newly enacted "Milwaukee Railroad Restructuring Act" (MRR Act), Pub. L. No. 96-101, section 17(b)(3), 93 Stat. 736 (November 4, 1979).

³The pertinent Commission telegrams were sent to Deputy Director Richard J. Schiefelbein, Section of Rail Services Planning, Office of Policy and Analysis (OPA), on November 6 and 19, 1979.

parties responding to our telegrams expressed a willingness to operate RI's Memphis/Fordyce line or any other substantial section of the RI system on a wholly unsubsidized basis employing RI employees assigned to the line.

While we have authority under 49 U.S.C. Sections 11123(b)(1), 11124(b)(1), and 11125(a) to grant SPT-SSW's request without advance public notice and hearings, we believe some form of public comment to be conducive to our deliberative process and advisable in the interest of basic fairness.

Accordingly, we shall order SPT-SSW and any other interested parties show cause why we should grant, conditionally grant, or deny SPT-SSW's requests to operate RI's Memphis/Fordyce line. We will also consider competing applications to operate this section of RI if any should be forthcoming.

The Show Cause Order

In responding to our show-cause order, the parties may wish to address the following issues, in addition to any others deemed pertinent by them:

(1) If the SPT-SSW's application is granted, which carrier should operate the following segments of the Memphis/Fordyce line that SPT-SSW has not requested to operate:

- The RI line south of Fordyce, AR (toward Alexandria, LA)?
- The RI branch lines between Mesa and Des Arc, AR, and between Mesa and Stuttgart, AR?
- The RI branch lines between Haskell and Hot Springs, AR, and between Haskell and Sparkman, AR?

(a) Should KCT—the "directed rail carrier" (DRC) under DSO Nos. 1398 and 1398 (Sub-No. 1)—be granted trackage rights over the Memphis/Fordyce line to serve the above line segments, if SPT-SSW is authorized to serve the Memphis/Fordyce line?

(b) Should SPT-SSW be required to serve the above line segments as a condition to its serving the rest of the Memphis/Fordyce line, in order to avoid car distribution and revenue division problems which might be created by isolating KCT on part of the RI system.

(2) Are any other carriers interested in providing unsubsidized directed service over RI's Memphis/Fordyce line or other sizeable RI line segments on the Sunbelt Route?

(3) Would SPT-SSW or any other carriers be willing to provide directed service over greater portions of RI's Sunbelt Route or Memphis/Fordyce line under a subsidization plan whereby they would receive reimbursement for any operation expenses under 49 U.S.C. Section 11125(b)(5) but would waive the

6 percent profit provisions of 49 CFR Part 1126?

It is ordered:

1. SPT-SSW and any other interested parties shall inform the Commission whether good cause exists to grant, conditionally grant, or deny SPT-SSW's request to operate RI's Memphis/Fordyce line or other RI lines along the Sunbelt Route within 10 days of this decision's service date.

2. Within 10 days of this decision's service date, any other carriers interested in providing totally or partially unsubsidized directed-service operations over RI's Memphis/Fordyce line or other lines along the sunbelt Route shall show cause why we should grant such competing requests for authority.

3. All submissions filed in response to this decision shall be: (a) verified under Rule 15 of our *General Rules of Practice* (49 CFR Section 1100.15); and (b) submitted in writing to the Commission offices listed below* and to all parties in these proceedings.

4. This decision shall be served on all the parties to Directed Service Order No. 1398 and Finance Docket No. 29144, who are hereby made parties to this proceeding.

5. This decision shall be effective on its service date.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Vice Chairman Stafford dissenting in part, feel protestants and applicants should have an opportunity to reply and would provide for a reply period. Commissioner Clapp believes that 10 days is not enough time for all parties to file comments and favors an approach which provides 10 days for supporting comments and 10 additional days for replies. Commissioner Christian did not participate in the disposition of this proceeding.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39449 Filed 12-26-79; 8:45 am]
BILLING CODE 7035-01-M

*All documents filed in this proceeding should refer to the above docket number and be sent to the following Commission offices in the Commission's headquarters building at 12th and Constitution Avenue, N.W., Washington, DC 20423:

Office of the Secretary (Room 2215) (Original)
Section of Finance (Room 5417) (Office of Proceedings (20 copies))

Section of Rail Services Planning (Room 7375)
Office of Policy and Analysis (3 copies)
Railroad Service Board (Room 7115) Bureau of Operations (3 copies)

Bureau of Accounts (Room 6133) (3 copies)

Rescission of Prior Notice Eliminating Notification Procedure in the Processing of Emergency Temporary Authority Applications Under 49 U.S.C. 10928

AGENCY: Interstate Commerce Commission.

ACTION: Notice of rescission of earlier procedural change.

SUMMARY: On December 15, 1978, the Commission published in the Federal Register a notice eliminating the Commission's previous informal practice of notifying competing carriers of applications for emergency temporary authority, 43 FR 58701. On November 30, 1979, the United States Court of Appeals for the Fifth Circuit held that the notice was improperly adopted and ordered it vacated. To comply with the Court's decision, the Commission is rescinding its earlier notice and instructing field staff accordingly.

EFFECTIVE DATE: December 27, 1979.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7292.

SUPPLEMENTARY INFORMATION: On December 15, the Commission published in the Federal Register a notice captioned as *Elimination of Notification Procedure in the Processing of Emergency Temporary Authority Applications under 49 U.S.C. 10928*, 43 FR 58701. The Notice, which was effective on January 2, 1979, eliminated the previous informal practice of giving telephone notice to competing carriers and other interested parties when a motor carrier files an application for Emergency Temporary Authority.

The United States Court of Appeals for the Fifth Circuit on November 30, 1979, held that the *Notice of Elimination* was improperly adopted, because the Commission did not follow the notice and comment procedures of the Administrative Procedure Act, 5 U.S.C. 553, and ordered the Notice vacated. *Brown Express, Inc. v. United States*, Civil No. 79-1457 — F. 2d — (5th Cir. 1979). The Court also stated that should the Commission choose to institute the same or similar procedural change in the future, notice and an opportunity for comments would be necessary.

To comply with the Court's decision, the Commission is rescinding its earlier notice of *Elimination of Notification Procedure* pending further appeal of the Court's decision or the completion of an appropriate rulemaking proceeding. The Commission will instruct the field staff accordingly.

Dated: December 18, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39448 Filed 12-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 246]

Permanent Authority Decisions; Decision-Notice

Decided: December 13, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, January 28, 1980, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an

application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before January 28, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except

those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.
Agatha L. Mergenovich,
Secretary.

MC 116947 (Sub-66F), filed February 26, 1979, and previously noticed in the Federal Register issue of June 22, 1979. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St., SW., Atlanta, GA 30310. Representative: Wm. Addams, P.O. Box 720434, Atlanta, GA 30328. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *canned goods*, from the facilities of Woldert Canning Co., Inc., at or near Lindale, TX, to points in AL, SC, NC, GA, TN, LA, and MS, and (2) *metal containers*, and *parts* for metal containers, from points in Fulton County, GA, to the facilities of Woldert Canning Co., Inc., at or near Lindale, TX, under continuing contracts with Woldert Canning Co., Inc. of Tyler, TX. (Hearing site: Atlanta, GA.)

Note.—This republication is to correctly reflect the territorial description. Dual operations may be involved.

MC 60186 (Sub-56F), filed October 12, 1978, and previously noticed in the Federal Register issue of February 20, 1979. Applicant: NELSON FREIGHTWAYS, INC., P.O. Box 356, 47 East St., Rockville, CT 06066. Representative: Edward G. Villalon, 1032 PA Bldg., PA Ave & 13th St., NW., Washington, DC 20004. Transporting (1) *frozen foodstuffs*, and (2) *commodities*, the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities in (1) above, between the facilities of Empire Freezers of Syracuse, Inc., at Syracuse, NY, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, OH, PA, VT, and DC. (Hearing site: Washington, DC.)

Note.—This republication is to correctly reflect the territorial description. Applicant proposes to join the above authority with

existing regular route authority between points in MA and RI. Applicant also proposes to join that regular route authority at points in MA with existing authorized irregular route service between Boston, MA, and 15 miles of Boston, on the one hand, and, on the other, points in ME and NH, in order to provide a through service between Syracuse, NY, and points in ME and NH.

MC 60186 (Sub-58F), filed November 2, 1978. Applicant: NELSON FREIGHTWAYS, INC., P.O. Box 1358, 47 East Street, Rockville, CT 06066. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave & 13th St., NW., Washington, DC 20004. Transporting *construction materials*, *construction supplies and fixtures*, *pipe*, *lumber*, and *wood products*, between points in NJ, NY, PA, DE, MD, OH, VA, WV, VT, and DC, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, VA, WV, OH, and DC. (Hearing site: Boston, MA)

Note.—The stated purpose of this application in part is to eliminate various gateways in CT, DE, MD, NJ, NY, MD, PA, VA, and DC.

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Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular

facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant

is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before January 28, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 225

Decided: Nov. 26, 1979

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 200 (Sub-355F), filed June 1, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *welding wire, steel, and chemicals*, serving Chester, WV, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Kansas City, MO.)

MC 2860 (Sub-179F), filed June 11, 1979. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: W. Randall Tye, 1400 Candler Building, Atlanta, GA 30303. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between points in AL, CT, DE, FL, GA, KY, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of The Procter & Gamble Company. (Hearing Site: Cincinnati, OH, or Washington, DC.)

MC 2900 (Sub-379F), filed June 4, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). Transporting (1) *wood fibreboard*; and (2) *accessories and supplies* used in the installation of the commodities named in (1) above, from Laurel, MS, to points in AL, AR, FL, GA, KY, MO, NC, OK, SC, TN, TX, and VA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: New Orleans, LA.)

MC 2900 (Sub-380F), filed June 11, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of E.I. DuPont de Nemours Company, Inc., at or near DeLisle, MS, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: New Orleans, LA.)

MC 2900 (Sub-385F), filed June 4, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). Transporting (1) *structural steel*, from Chattanooga, TN, to Seabee, KY; (2) *aluminum articles*, from Lancaster, PA, to Clarksville, Erwin, LaVergne, and Lobelville, TN; and (3) *iron and steel articles and metal hubcaps*, from Duffield, VA, to Nicholasville, KY, Ypsilanti, MI, Pineola, NC, and Spencer, WV, restricted in (1), (2), and (3) above

to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing Site: Chattanooga, TN, or Washington, DC.)

MC 11220 (Sub-169F), filed June 4, 1979. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO, and St. Louis, MO, over Interstate Hwy 70, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Washington, DC.)

MC 17000 (Sub-20F), filed June 5, 1979. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *rubber hose and commodities* used in the manufacture and distribution of rubber hose, between Hohenwald, TN, on the one hand, and, on the other, points in IL, IN, MI, OH, TX, and WI. (Hearing Site: Washington, DC, or Nashville, TN.)

MC 35320 (Sub-352F), filed May 11, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, 2598 74th St., Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Samsonite Corporation, at or near Nogales, AZ, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Phoenix, AZ, or Albuquerque, NM.)

MC 35831 (Sub-19F), filed June 6, 1979. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *iron and steel articles, and materials, equipment* used in connection with the production and manufacture of iron and

steel articles; (1) from points in AR, CO, KS, LA, MS, NM, OK, TN, and TX, to the facilities of Chaparral Steel Company, at or near Midlothian, TX, and (2) from the facilities of Chaparral Steel Company, at or near Midlothian, TX, to points in TX. (Hearing Site: Dallas or Fort Worth, TX.)

MC 53841 (Sub-3F), filed June 8, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State St., Knoxville, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting (1) *petroleum and petroleum products* (except commodities in bulk), from the facilities of Witco Chemical Corporation, at or near Petrolia, Bradford, and New Kensington, PA, to points in NY, NJ, DE, and MD; and (2) *commodities* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from points in NY, NJ, DE, and MD, to the facilities of Witco Chemical Corporation, at Petrolia, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 59150 (Sub-157F), filed June 4, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *lumber, plywood, and composition board*, from New Orleans, LA, to points in MS, TN, AL, GA, FL, NC, SC, VA, and LA. (Hearing site: New Orleans, LA.)

MC 59150 (Sub-158F), filed June 8, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting (1) *wood fibreboard*; and (2) *accessories and supplies* used in the installation of wood fibreboard, from Laurel, MS, to points in AL, FL, GA, LA, NC, SC, TN, and VA. (Hearing site: New Orleans, LA, or Jacksonville, FL.)

MC 59680 (Sub-228F), filed May 24, 1979. Applicant: STRICKLAND TRANSPORTATION COMPANY, INC., 11353 Reed Hartman Hwy., Cincinnati, OH 45241. Representative: Milton H. Bortz (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), serving Longview and Marshall, TX, as off-route points in connection with carrier's otherwise authorized regular route operations. (Hearing site: Shreveport, LA, or Dallas, TX.)

Note.—Applicant intends to interline with carriers at selected points common to applicant and connecting carriers, and intends to tack the authority sought herein with other authority held by applicant.

MC 61231 (Sub-153F), filed June 11, 1979. Applicant: EASTER ENTERPRISES, INC., doing business as ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *log homes*; and (2) *materials* used in the construction of log homes, from points in Sheboygan County, WI, to points in AR, AZ, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WA, and WY. (Hearing site: Milwaukee, WI.)

MC 67450 (Sub-69F), filed June 11, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9851 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *foodstuffs* (except in bulk), from the facilities of Joan of Arc Company, at or near St. Francisville and Belledeau, LA, to points in CT, IL, IN, IA, KS, MA, MD, MI, MN, MO, NH, NJ, NY, OH, PA, VT, and WI. (Hearing site: Chicago, IL.)

MC 70151 (Sub-55F), filed June 8, 1979. Applicant: UNITED TRUCKING SERVICE, INC., 8505 West Warren Ave., Dearborn, MI 48126. Representative: LaVergne L. Adsit (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), serving the facilities of The RCA Corporation, at or near Circleville, OH, as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Columbus, OH. (Hearing site: Columbus, OH.)

MC 75830 (Sub-17F), filed June 11, 1979. Applicant: INTER-CITY TRANSPORT & MOTOR COMPANY, INC., Liggett Addition, P.O. Box 88, Buckhannon, WV 26201. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, and (2) *materials* used in the manufacture and sale of foodstuffs (except commodities in bulk), between points in IL, IA, MI, MN, MO, SD, and WI, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA,

RI, VA, OH, and DC, under continuing contract(s) with Keebler Company, of Elmhurst, IL. (Hearing site: Pittsburgh, PA.)

MC 75840 (Sub-125F), filed June 1, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, N.E., Atlanta, GA 30326. Transporting *composition board and plywood*, from the facilities of Abitibi Corporation, at or near Toledo, OH, to points in AL, DE, GA, KY, MD, MS, NJ, NY, NC, PA, OH, SC, TN, VA, WV, and DC. (Hearing site: Birmingham, AL.)

MC 75840 (Sub-126F), filed June 1, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting (1) *paper and paper products*, from the facilities of Champion International Corporation, at or near Houston, TX, to points in CT, MA, MD, NJ, NY, PA, and VA; and (2) *commodities* used in the manufacture of paper and paper products (except commodities in bulk), in the reverse direction. (Hearing site: Birmingham, AL.)

MC 80430 (Sub-176F), filed June 1, 1979. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith (same address as applicant). Transporting *iron and steel articles, materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, *plant material and supplies* (except commodities in bulk), between the facilities of North Star Steel Company, at Newport, MN, on the one hand, and, on the other, points in IL, IN, IA, OH, WI, and MI. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 82841 (Sub-263F), filed June 5, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Building, 7171 Mercy Road, Omaha, NE 68106. Transporting *steel pipe and tubing, steel channels, and perceptors*, from Warren, OH, to points in CO, IA, IL, KS, MO, NE, OK, and TX. (Hearing site: Cleveland or Columbus, OH.)

Note.—Dual operations may be involved.

MC 99961 (Sub-4F), filed June 6, 1979. Applicant: BIG CHIEF TRUCK LINES, INC., Route 1, Box 321-B, Lafayette, LA 70505. Representative: Nolan Edwards, 125 East Hutchinson, P.O. Box Drawer 730, Crowley, LA 70526. Transporting

oilfield drilling rigs, between points in LA and TX. (Hearing site: New Orleans or Baton Rouge, LA.)

MC 106920 (Sub-83F), filed June 11, 1979. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *frozen foodstuffs*, between Indianapolis, IN, on the one hand, and, on the other, points in IL, KY, MI, MO, OH, and PA, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc., of Indianapolis, IN. (Hearing site: Washington, DC.)

MC 108341 (Sub-159F), filed June 7, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon Street, P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting (1) *iron and steel articles, weldments, towers, and fabrications*; and (2) *parts and accessories* for the commodities named in (1) above (except commodities in bulk), from the facilities of Stainless, Inc., at or near Pine Forge, PA, and Southern Galvanizing Company, at or near Baltimore, MD, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 111231 (Sub-269F), filed May 29, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Springfield, MO, and Conway, AR, over U.S. Hwy 65, serving Harrison, AR, as an intermediate point, (2) between Gateway and Hoxie, AR, from Gateway over U.S. Hwy 62 to Hardy, AR, then over U.S. Hwy 63 to Hoxie, and return over the same route, serving Harrison and Yellville, AR, as intermediate points, and serving junction AR State Hwy 68 and U.S. Hwy 62, and junction U.S. Hwy 167 and U.S. Hwy 62 for the purpose of joinder only, (3) between Springdale, AR, and junction U.S. Hwy 62 and AR State Hwy 68 at or near Alpena, AR, over AR State Hwy 68, serving no intermediate points and serving junction U.S. Hwy 62 and AR

State Hwy 68 for the purpose of joinder only, (4) between South Haven, MS and junction U.S. Hwy 167 and U.S. Hwy 62, from South Haven over Interstate Hwy 55 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction U.S. Hwy 167, then over U.S. Hwy 167 to junction U.S. Hwy 62, and return over the same route, serving no intermediate points, (5) between Texarkana, TX, and Conway, AR, from Texarkana over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Conway, and return over the same route, serving Little Rock, AR, as an intermediate point. (Hearing site: Little Rock, AR.)

Note.—Applicant indicates intention to tack with existing authority.

MC 111231 (Sub-271F), filed June 7, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springfield, AR 72764. Representative: John C. Everett, 140 East Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting (1) *wood fibreboard*; and (2) *accessories and supplies* used in the installation of wood fibreboard, from Laurel, MS, to points in AL, AR, GA, IL, IN, IA, KS, LA, MO, OH, OK, TN, and TX. (Hearing site: Laurel or Jackson, MS.)

MC 113271 (Sub-59F), filed June 11, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting (1) *lumber and lumber products*, and (2) *commodities* used or useful in the manufacture of lumber and lumber products, from the facilities of Champion International Corporation, at or near Bonner, Darby, Missoula, and Silver City, MT, to points in CO, ID, KS, ND, NE, SD, UT, and WY. (Hearing site: Great Falls, MT.)

MC 115331 (Sub-507F), filed June 8, 1979. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Transporting (1) *motor vehicle parts, motor vehicle accessories, motor vehicle components, and motor vehicle equipment*; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), between points in IL, IA, IN, KY, MI, MO, TN, MN, OH, WI, NE, KS, AR, and OK, restricted to the transportation of traffic originating at or destined to Ford Motor Co. (Hearing site: St. Louis, MO, or Detroit, MI.)

MC 115841 (Sub-721F), filed June 6, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919.

Representative: D. R. Beeler (same address as applicant). Transporting *new furniture, furnishings, accessories, and fixtures*, from points in NC and VA, to points in IL, MN, MO, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115931 (Sub-92F), filed June 11, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting (1) *prefabricated metal buildings*, knocked down or in sections; and (2) *parts and accessories* used in the installation of the commodities in (1) above, from Madison, WI, to points in the United States (except AK and HI). (Hearing site: Milwaukee, WI.)

MC 117940 (Sub-347F), filed June 8, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *such commodities* as are dealt in by retail department stores (except foodstuffs, commodities in bulk, household goods as defined by the Commission, articles of unusual value, classes A and B explosives, and those requiring the use of special equipment), from the facilities of the New Mexico Shippers Association, at points in AL, AR, CA, CT, FL, GA, IL, IN, IA, KY, KS, LA, MA, MI, MN, MS, MO, NV, NJ, NY, NC, OH, OK, PA, SC, TN, TX, UT, VA, and WI, to points in NM, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Albuquerque, NM.)

MC 119531 (Sub-173F), filed May 9, 1979. Applicant: SUN EXPRESS, INC., P.O. Box 1031, Warren, OH 44462. Representative: Andrew Jay Burkholder, 275 East State Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in by manufacturers of plastic products (except commodities in bulk), between points in IL, MO, WI, IN, MI, NY, NJ, MD, and PA, restricted to the transportation of traffic originating at or destined to the facilities of Sajar Plastics. (Hearing site: Columbus, OH.)

MC 124071 (Sub-18F), filed June 1, 1979. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55116. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in

Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from St. Cloud, MN, to points in the United States (except AK and HI). (Hearing site: St. Paul, MN.)

MC 124141 (Sub-19F), filed May 18, 1979. Applicant: JULIAN MARTIN, INC., Highway 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suit 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting (1) *glues, adhesives, caulks, specialty chemicals, and empty plastic caps and containers*, in vehicles equipped with mechanical refrigeration, from the facilities of Franklin Chemical Industries, Inc., at or near Columbus, OH, to points in the United States, and (2) *materials, equipment, and supplies* used in the Manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 126661 (Sub-2F), filed June 8, 1979. Applicant: FREHNER TRUCKING SERVICE, INC., 124 West Brooks, North Las Vegas, NV 89030. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Transporting (1) *mining, logging and construction machinery and equipment*, between points in CA, AZ, UT, WY, and ID, on the one hand, and on the other, points in Clark and Lincoln Counties, NV; and (2) *aircraft parts and accessories*, between points in Clark County, NV, on the one hand and, on the other, points in CA. (Hearing site: Las Vegas, NV.)

MC 127090 (Sub-5F), filed May 29, 1979. Applicant: PACIFIC STORAGE, INC., 440 E. 19th Street, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Transporting *general commodities* (except classes A and B explosives), between points in the commercial zones of Seattle and Tacoma, WA, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Seattle, WA.)

Note.—Dual operations may be involved.

MC 135231 (Sub-35F), filed May 14, 1979. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55116. Transporting (1) *such commodities* as are dealt in or used by manufacturers and dealers of agricultural equipment and machinery, industrial equipment and machinery, and lawn and leisure products (except commodities in bulk); and (2) *materials, equipment, and*

supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), (a) between the facilities of Deere & Company, at Dodge County, WI, on the one hand, and, on the other, points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Deere & Company, at Dodge County, WI, and (b) between points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Deere & Company dealers. (Hearing site: Chicago, IL, or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 138941 (Sub-35F), filed June 8, 1979. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, CA 91766. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hair care toiletries* and (2) *materials, equipment, and supplies* used in the packaging, manufacture, and distribution of toiletries and toiletry equipment (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) from Stamford, CT, Garden City, Long Island, NY, and Saddlebrook and Lakewood, NJ, to Dallas, TX, Chicago, IL, Atlanta, GA, and La Mirada and Camarillo, CA, and (2) from Camarillo and La Mirada, CA, to Dallas, TX, Atlanta, GA, Chicago, IL, and Stamford, CT, under continuing contract(s) with Clairol, Inc., of Stamford, CT. (Hearing site: New York, NY, or Washington, DC.)

MC 141921 (Sub-57F), filed June 4, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). Transporting *malt beverages and materials and supplies* used in the manufacture and distribution of malt beverages, from St. Louis, MO, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Concord, NH, or Boston, MA.)

Note.—Dual operations may be involved.

MC 143311 (Sub-7F), filed April 24, 1979. Applicant: FAMCO TRANSPORT, INC., P.O. Box 80007, Seattle, WA 98108. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *materials, equipment, and supplies* used by medical laboratories and hospitals, from Edison, NJ, and Chicago and Gurnee, IL, to the facilities used by American Hospital Supply Corporation, at Redman, WA, and Portland, OR, under continuing contract(s) with American Hospital Supply Corporation, of McGaw Park, IL. (Hearing site: Seattle, WA.)

MC 144370 (Sub-7F), filed June 11, 1979. Applicant: DON NASS TRUCKING, INC., 210 Front St., Clinton, WI 53525. Representative: Nancy J. Johnson, 103 East Washington St., Crandon, WI 54520. Transporting *malt beverages*, from St. Louis, MO, to Freeport, Dixon, and Rockford, IL. (Hearing site: Milwaukee or Madison, WI.)

MC 144730 (Sub-2F), filed June 22, 1978. Applicant: VERLE BRUBAKER, South English, IA 52335. Representative: Ron Brubaker, South English 52335. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural machinery*, from Keota, IA, to points in the United States (except AK and HI), under continuing contract(s) with Ray-Man, Inc., of Keota, IA. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 144811 (Sub-1F), filed December 19, 1978. Applicant: STEVE ELLIS, d.b.a. STEVE'S BODY SHOP & TOWING, East Highway 50, Box 203, Yankton, SD 57078. Representative: William T. Kafka, 2110 Broadway, Yankton, SD 57078. Transporting *wrecked, disabled motor vehicles, replacement vehicles* for such commodities, and *stolen and repossessed motor vehicles*, by use of wrecker equipment only, between Yankton, SD, on the one hand, and, on the other, points in SD, ND, NE, KS, OK, TX, MT, WY, CO, MN, IA, MO, IL, and OH. (Hearing site: Sioux Falls or Pierre, SD.)

MC 146041 (Sub-5F), filed May 30, 1979. Applicant: CAL-TEX, INC., Box 1078, Costa Mesa, CA 92626. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Transporting (1) *chemicals, esters, fatty alcohol, coconut oil, textile softeners, liquid cleaning and washing compounds, lubricating oils, and wax and fibroproofing compounds* (except in bulk); and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), between Greenville, SC, Lock Haven, PA, Linden, NJ, and Santa Fe Springs, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 146351 (Sub-1F), filed June 5, 1979. Applicant: CARROLL'S TRANSFER, INC., P.O. Box 265, Hwy #87 South, Dublin, NC 28332. Representative: Ralph McDonald, P.O. Box 2246, 336 Fayetteville Street Mall, Raleigh, NC 27602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron, steel and brass rods and coil stock*, from points in CT, to the facilities of Veeder-Root Company, at Elizabethtown, NC, under continuing contract(s) with Veeder-Root Company, of Hartford, CT. (Hearing site: Raleigh, NC.)

Note.—Dual operations may be involved.

MC 146760 (Sub-2F), filed June 7, 1979. Applicant: GARY V. MONDUS and GARY E. HAGER, d.b.a. G & G EXPRESS, 318 Brunswick Ct., Streamwood, IL 60103. Representative: Philip A. Lee, 120 W. Madison, Chicago, IL 60602. Transporting *supplies for medical diagnostic machines and medical laboratory supplies*, from Elk Grove IL, to those points in WI on, south, and east of a line beginning at WI Hwy 29, including Green Bay, WI, to junction U.S. Hwy 51, then along U.S. Hwy 51 to Porgage, WI, to junction WI Hwy 78, then along WI Hwy 78 to the IL-WI State line. (Hearing site: Chicago, IL.)

MC 146631 (Sub-2F), filed June 7, 1979. Applicant: MID-CONTINENT L. P. SERVICE, INC., 3711 North Main, Great Bend, KS 67530. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Transporting *anhydrous ammonia, nitrogen fertilizer solutions, and urea liquor*, in bulk, from points in OK, to points in AR, CO, IA, KS, LA, MO, NE, NM, SD, TX, and WY. (Hearing site: Memphis, TN, or Oklahoma City, OK.)

MC 146981 (Sub-2F), filed May 18, 1979. Applicant: M. KYLE BOWMAN, d.b.a. BOWMAN FERTILIZER SERVICE, Route 4, Rocky Mount, VA 24151. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *fertilizer and fertilizer ingredients*, from Dunn, Fayetteville, Wilmington, Wilson, and Winston Salem, NC, to points in VA, and WV, (2) *feed and flour*, from Roanoke, VA, to points in NC and WV, (3) *feed and feed ingredients*, from points in NC to Roanoke, VA, (4) *lumber*, from points in Franklin County, VA, to points in DE, KY, MD, NC, NJ, NY, OH, PA, SC, TN, WV, and DC, (5) *lumber*, from points in NC and SC, to points in Franklin County, VA, and (6) *molasses*, in bulk, in tank vehicles, from Wilmington, NC,

to points in VA. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 147050 (Sub-1F), filed June 5, 1979. Applicant: PETER HOLMAN TRUCKING, INC., 3504 S. Federal Highway, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh St., NW, Washington, DC 20001. Transporting (1) *bananas*, and (2) *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under Section 10526(a)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, from Norfolk, VA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 147290 (Sub-2F), filed May 30, 1979. Applicant: BIG FOOT TRUCKING COMPANY, INC., P.O. Box 212, Cleveland, MS 38732. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Avenue, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *agricultural implements, machinery, and parts; and such articles* as are dealt in by agricultural machinery and implement dealers (except commodities in bulk), from Memphis, TN, to Cleveland, MS, along U.S. Hwy 61, serving the intermediate points of Clarksdale and Tunica, MS. (Hearing site: Memphis, TN, or Cleveland, MS.)

Volume No. 237

Decided: November 30, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 2421 (Sub-24F), filed June 12, 1979. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678, 510 Greer Circle, S.W., Lenoir, NC 28645. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., 13th St. & Pennsylvania Ave., N.W., Washington, DC 20004. Transporting *steel articles*, from the facilities of Superior Roll Forming Co., at Independence, OH, to points in NC. (Hearing site: Cleveland, OH, or Charlotte, NC.)

MC 117940 (Sub-341F), filed June 8, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those

requiring special equipment, and foodstuffs), from points in CA to those points in the United States east of MT, WY, CO, and NM, restricted to the transportation of traffic (1) moving on bills of lading of freight forwarders as defined in 49 U.S.C. 10102(8) and (2) originating at the named origins and destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

MC 117940 (Sub-342F), filed June 8, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and foodstuffs), (1) between the facilities used by Southeastern Michigan Shipper Cooperative Association, Inc., in MI, on the one hand, and, on the other, points in MA, MD, NJ, NY, PA, and WA, and (2) from the facilities used by Southeastern Michigan Shippers Cooperative Association, Inc., in MI, to points in CA, CT, FL, GA, IL, MO, OR, RI, TN, and TX, restricted in (1) and (2) above to the transporting of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Detroit, MI.)

MC 117940 (Sub-342F), filed June 11, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *such commodities* as are dealt in or used by fabric and home sewing stores, from the facilities of Cloth World, Inc., in TX, to points in CA. (Hearing site: Amarillo, TX.)

MC 117940 (Sub-344F), filed June 11, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *petroleum and petroleum products* (except commodities in bulk), from the facilities of Quaker State Oil Refining Corporation, at or near (a) Congo and St. Marys, WV, (b) Buffalo and North Tonawanda, NY, and (c) Warren, New Kensington, Emlenton, and Farmers Valley, PA, to points in ND, SD, NE, KS, MN, IA, MO, IL, MI, IN, KY, TN, AL, and GA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA.)

MC 117940 (Sub-345F), filed June 11, 1979. Applicant: NATIONWIDE

CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *paper and paper products*, from the facilities of Boise Cascade Corporation, at Cicero, IL, to those points in the United States in and east of MI, IN, KY, TN, and MS, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Portland, OR.)

MC 124821 (Sub-48F), filed June 11, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting *starch and chemicals*, (except commodities in bulk), from the facilities of National Starch & Chemical Corp., at or near Indianapolis, IN, to points in CT, MA, ME, MD, NJ, NY, PA, RI, and VA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Harrisburg, PA.)

MC 127840 (Sub-108F), filed May 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. Transporting *petroleum and petroleum products*, in bulk, from the facilities of the Gulf Oil Company-U.S., at or near Port Arthur, TX, to points in AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, SC, SD, TN, UT, and WI. (Hearing site: Houston, TX.)

MC 135970 (Sub-73F), filed June 11, 1979. Applicant: JAY LINES, INC., P.O. Box 30183, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/MARS, at or near Cleveland, TN, to those points in the United States in and west of LA, AR, OK, KS, NE, ND, and SD (except AK and HI), restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 141441 (Sub-4F), filed June 4, 1979. Applicant: CROCKER TRUCK LINES, INC., P.O. Box 11084, Spokane, WA 99211. Representative: Donald Miles (same address as applicant). Transporting *iron and steel articles*, (1) between Seattle, Tacoma, Longview, Vancouver, and Blaine, WA, on the one

hand, and, on the other, those points in WA east of the Cascade Mountains, (2) between points in Multnomah, Washington, Clackamas, and Yamhill Counties, OR, on the one hand, and, on the other, those points in WA east of the Cascade Mountains, and (3) between points in WA, on the one hand, and, on the other, points in ID. (Hearing site: Spokane or Seattle, WA.)

MC 142040 (Sub-5F), filed June 11, 1979. Applicant: AMBER DELIVERY SERVICE, INC., 25 Franklin St., Malden, MA 02148. Representative: Joseph T. Rambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts for ammunition), between points in CT, ME, MA, NH, NY, RI, and VT, restricted against the transportation of any one shipment weighing more than 500 pounds. (Hearing site: Boston, MA.)

Agatha L. Mergenovich,
Secretary.

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 249

Thursday, December 27, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:00 a.m. on Thursday, December 20, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in open session to consider the following matters:

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger of First National Bank of Mansfield, Plymouth, Ohio, and The Buckeye State Bank, Calion, Ohio.

Memorandum and Resolution re: Conforming Amendments to Part 335 (Required by Section 12(i) of the Securities Exchange Act of 1934) and Simplification of Regulations.

Memorandum and Resolution re: Amendment of Policy Statement on Regulations: Implementing Memorandum.

Resolution re: Reimbursement to Federal Financial Institutions Examination Council for Assessments Levied on FDIC Pursuant to Budgets Approved by Members of the Council.

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of these matters on less than seven days' notice to the public and that no earlier notice of the meeting was practicable.

Dated: December 20, 1979.
Federal Deposit Insurance Corporation.

Alan J. Kaplan,
Assistant Executive Secretary.

[S-2478-79 Filed 12-21-79; 11:58 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Thursday, December 20, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Application of Alliance Bank of Culver City, a proposed new bank, to be located at 6223 Slauson Avenue, Culver City, California, for Federal deposit insurance.

Application of The Early Bank, a proposed new bank, to be located at 303 Early Boulevard, Early, Texas, for Federal deposit insurance.

Application of Bank of Baroda, Bombay, India, a United States branch of a foreign bank, located at One Park Avenue, New York, New York, for Federal deposit insurance.

Application of Israel Discount Bank Ltd., Tel Aviv, Israel, two United States branches of a foreign bank, located at 511 Fifth Avenue, New York, New York, and 1350 Broadway, New York, New York, for Federal deposit insurance.

Application of Society Bank, Columbus, Ohio, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in The American Bank of Central Ohio, Harrisburg, Ohio, and for consent to establish the three offices of The American Bank of Central Ohio as branches of Society Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,074-L—Franklin National Bank, New York, New York.

Case No. 44,144-NR—United States National Bank, San Diego, California.

Case No. 44,166-L—Franklin National Bank, New York, New York.

Case No. 44,171-L—Franklin National Bank, New York, New York.

Case No. 44,172-L—Franklin National Bank, New York, New York.

Case No. 44,176-L—Franklin National Bank, New York, New York.

Case No. 44,177-L—The Hamilton National

Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 44,184-L—Southern National Bank, Birmingham, Alabama.

Case No. 44,185-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 44,187-SR—Village Bank, Pueblo West, Colorado.

Case No. 44,191-L—Reserve for Losses and Allotments for Insurance Expenses—85 Open Liquidation Cases.

Memorandum re: Southern National Bank, Birmingham, Alabama.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-or-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of these matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: December 20, 1979.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-2479-79 Filed 12-21-79; 11:55 am]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 1 p.m., December 27, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED: Renegotiable Rate Mortgage Regulation.

No. 303, December 21, 1979.

[S-2433-79 Filed 12-21-79; 2:34 pm]

BILLING CODE 6720-01-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR Page 74973, December 18, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., December 21, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202-377-6677).

CHANGES IN THE MEETING:

The following items have been added to the agenda for the open meeting:

Merger—Provo Savings and Loan Association, Provo, Utah into Western Savings and Loan Company, Salt Lake City, Utah

Application for Insurance of Accounts—Brickell Savings and Loan Association, Miami, Florida

Regulation on Amendments Relating to Acquisition Credits Subject to Deferral Regulation on Reduction of Liquidity Deficiency Penalties

Regulation on Guidelines Concerning Director Interlocks—Disclosure Requirements No. 302, December 21, 1979.

[S-2462-79 Filed 12-21-79; 2:34 pm]

BILLING CODE 6720-01-M

5

FEDERAL RESERVE SYSTEM (Board of Governors).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR, 74973, December 18, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:

9 a.m., Friday, December 21, 1979.

CHANGES IN THE MEETING: Addition of the following open item(s) to the meeting:

Proposed modification of the Survey of Time and Savings Deposits.

CONTACT PERSON FOR MORE

INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 21, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-2480-79 Filed 12-21-79; 11:58 am]

BILLING CODE 6210-01-M

6

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., January 3, 1980.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion Open to the Public.

(1) Questionnaire on employer status of railroad contractors.

(2) Personnel matters—Bureau of Research.

Portion Closed to the Public

(3) Appeal from referee's denial of disability annuity application, Roy M. McMillan.

(4) Appeal from referee's denial of an occupational disability annuity, Thomas Vernatt, Jr.

(5) Appeal from referee's denial of disability annuity application, Leonard Lucious.

CONTACT PERSON FOR MORE

INFORMATION:

R. F. Butler, Secretary of the Board, COM No. 312-751-4920, FTS No. 387-4920.

[S-2491-79 Filed 12-21-79; 2:34 pm]

BILLING CODE 7505-01-M

Thursday
December 27, 1979

Part II

Department of
Commerce

Office of the Secretary

Privacy Act Requests and Appeals;
Address Changes; Privacy Act Systems
of Records; Annual Publication

U.S. DEPARTMENT OF COMMERCE
OFFICE OF THE SECRETARY
PRIVACY ACT REQUESTS AND APPEALS;
ADDRESS CHANGES; PRIVACY ACT SYSTEMS
OF RECORDS; ANNUAL PUBLICATION

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DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4b

Privacy Act Amendments to
Appendices A and B of Privacy Act
Rules

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce revises the appendices to the Privacy Act rules. These revisions to Appendices A and B, which are lists of Department officials to whom individuals should address Privacy Act requests and appeals, reflect organizational changes. The most significant change has been the establishment of the Office of Inspector General in accordance with the Inspector General Act of 1978 (Pub. L. 95-452).

EFFECTIVE DATE: December 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald S. Budowsky, U.S. Department of Commerce, Office of Organization and Management Systems, Washington, D.C. 20230, telephone 202-377-4217.

SUPPLEMENTARY INFORMATION:

Appendices A and B are revised to reflect organizational changes such as the position title of a Departmental official or the name of a Department component. Explanation of the revisions to the appendices follows:

Explanation of Changes to Appendices

In Appendix A, "Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment":

i. The title and address of the designated privacy officer for the Office of the Inspector General are "Assistant Inspector General for Investigations, Office of the Inspector General, 1325 G Street, N.W., Room 1060, Washington, D.C. 20006".

ii. Add "Room 3100" to the address of the Industry and Trade Administration.

iii. Change the designated privacy officer for the National Bureau of Standards from "Director of Administrative and Information Systems" to "Deputy Director for Information Systems".

iv. Change "National Fire Prevention and Control Administration" and "NFPCA" to "United States Fire Administration" and "USFA", respectively. Change the zip code from "20230" to "20472".

v. Change the designated privacy officer for the National Telecommunications and Information

Administration from "Privacy Officer" to "Director of Administration".

vi. Change the designated privacy officer for the National Technical Information Service from "Assistant Director for Administration" to "Associate Director for Financial and Administrative Management".

vii. Change "Office of Minority Business Enterprise" and "OMBE" to "Minority Business Development Agency" and "MBDA", respectively.

In Appendix B, "Officials to Receive Appeals from Adverse Determination on Correction or Amendment":

viii. The title and address of the designated privacy appeals officer for the Office of the Inspector General are "Inspector General, Main Commerce Building, Washington, D.C. 20230".

ix. Add "Room 3225" to the address of the Industry and Trade Administration.

x. Change "National Fire Prevention and Control Administration" to "United

States Fire Administration" and change the zip code from "20230" to "20472".

xi. Change the address of the designated privacy appeals officer for the National Technical Information Service from "Room 620, Pennsylvania Bldg., 425 14th St., N.W., Washington, D.C. 20004" to "Sills Building, Springfield, Va. 22161".

xii. Change "Office of Minority Business Enterprise" to "Minority Business Development Agency". Since these revisions of Appendices A and B pertain solely to internal agency management, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. This regulation is not significant under Executive Order 12044.

Accordingly, Appendices A and B to 15 CFR 4b are revised to read as follows:

APPENDIX A

OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT¹

For records in systems of records located in—²

Privacy officer

The Office of the Secretary and all Departmental staff offices	Director, Office of Organization and Management Systems, Main Commerce Building, Washington, D.C. 20230.
Office of the Inspector General	Assistant Inspector General for Investigations, Office of the Inspector General, 1325 G St., N.W., Room 1060, Washington, D.C. 20006.
Bureau of Economic Analysis	Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230.
Bureau of the Census	Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
Economic Development Administration	Director, Office of Public Affairs, EDA, Main Commerce Building, Washington, D.C. 20230.
Industry and Trade Administration	Director, Office of Management and Systems, ITA, Room 3100, Main Commerce Building, Washington, D.C. 20230.
Maritime Administration	Secretary of the Maritime Administration, Main Commerce Building, Washington, D.C. 20230.
Minority Business Development Agency	Privacy Officer, Office of Chief Counsel, MBDA, Main Commerce Bldg., Washington, D.C. 20230.
National Bureau of Standards	Deputy Director for Information Systems, NBS, Room A1105 Administration Building, Washington, D.C. 20234.
National Oceanic and Atmospheric Administration:	
Inquiries only:	
All NOAA except NOAA Corps	Assistant Administrator for Administration, NOAA, 6010 Executive Blvd., Rockville, Md. 20852.
NOAA Corps	Director, NOAA Corps, 6010 Executive Blvd., Rockville, Md. 20852.
Requests:	
All NOAA including NOAA Corps	Assistant Administrator for Administration, NOAA, 6010 Executive Blvd., Rockville, Md. 20852.
National Telecommunications and Information Administration	Director of Administration, NTIA, U.S. Department of Commerce, Washington, D.C. 20504.
National Technical Information Service	Associate Director for Financial and Administrative Management, NTIS, Sills Building, Springfield, Va. 22161.
Patent and Trademark Office	Assistant Commissioner for Administration, Patent and Trademark Office, Washington, D.C. 20231.
United States Fire Administration	Administrative Officer, USFA, Washington, D.C. 20472.
United States Travel Service	Director, Office of Administration, USTS, Main Commerce Bldg., Washington, D.C. 20230.

¹ National Oceanic and Atmospheric Administration subject to division of responsibilities noted below.

² If the location of the records within the Department is unknown, address the inquiry to the Privacy Officer for the Office of the Secretary.

APPENDIX B

OFFICIALS TO RECEIVE APPEALS FROM ADVERSE DETERMINATION ON CORRECTION OR AMENDMENT

For records in systems of records located in—

Privacy appeals officer

The Office of the Secretary and all Departmental staff offices	Assistant Secretary for Administration, Main Commerce Building, Washington, D.C. 20230.
Office of the Inspector General	Inspector General, Main Commerce Building, Washington, D.C. 20230.
Bureau of Economic Analysis	Director, Bureau of Economic Analysis, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230.
Bureau of the Census	Director, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
Economic Development Administration	Assistant Secretary for Economic Development, Main Commerce Building, Washington, D.C. 20230.
Industry and Trade Administration	Assistant Secretary for Industry and Trade, Main Commerce Building, Washington, D.C. 20230.

APPENDIX B

OFFICIALS TO RECEIVE APPEALS FROM ADVERSE DETERMINATION ON CORRECTION OR AMENDMENT

For records in systems of records located in—

Privacy appeals officer

Maritime Administration	Assistant Secretary for Maritime Affairs, Main Commerce Building, Washington, D.C. 20230.
Minority Business Development Agency	Director, Minority Business Development Agency, Main Commerce Building, Washington, D.C. 20230.
National Bureau of Standards	Director, National Bureau of Standards, Administration Building, Washington, D.C. 20234.
National Oceanic and Atmospheric Administration	Administrator, National Oceanic and Atmospheric Administration, Main Commerce Building, Washington, D.C. 20230.
National Telecommunications and Information Administration	Assistant Secretary for Communications and Information, 1800 G St., N.W., Washington, D.C. 20504.
National Technical Information Service	Director, National Technical Information Service, Sills Building, Springfield, Va. 22161.
Patent and Trademark Office	Commissioner, Patent and Trademark Office, Washington, D.C. 20231.
United States Fire Administration	Administrator, United States Fire Administration, Washington, D.C. 20472.
United States Travel Service	Assistant Secretary for Tourism, Main Commerce Building, Washington, D.C. 20230.

Dated: December 12, 1979.

Guy W. Chamberlin, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 79-38913 Filed 12-26-79; 3:45 am]

BILLING CODE 3510-17-M

U.S. DEPARTMENT OF COMMERCE
Office of the Secretary
PRIVACY ACT ISSUANCES
Annual Publication of Systems of Records

AGENCY: U.S. Department of Commerce.
ACTION: Annual notice of systems of records; proposal to establish a new system of records and to revise two existing systems.
SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The purpose of this document is to fulfill the annual notice requirement by:

- Listing all the Privacy Act systems of records maintained by the Department of Commerce;
- Publishing the full text of all Privacy Act systems of records that have been changed since the last annual notice; and
- Providing the location, including the Federal Register citation, of the full text publication of all systems unchanged since the last annual notice.

Also, this document contains a proposal to establish a new system of records and to revise two existing systems.

DATES: This document fulfills the annual notice requirements of the Privacy Act of 1974. Comments on the proposal to establish a new system or records and to revise two existing systems are due (30 days from date of publication).

FOR FURTHER INFORMATION CONTACT: Donald S. Budowsky, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

SUPPLEMENTAL INFORMATION:

EXPLANATION OF ANNUAL NOTICE DOCUMENT

To facilitate public understanding of the Commerce Department's Privacy Act implementation, set forth below are:

- An explanation of proposed changes to systems of records for which public comment is invited —, or proposed additional system (NOAA-20, Personnel, Payroll, Travel, and Attendance Records of the Regional Fishery Management Councils) and revisions of two existing systems (DEPT-16, Property Accountability Files, and DEPT-18, Employees Personnel Files Not Covered by Notices of Other Agencies). New System Reports for the proposed new system and for the revision to DEPT-16 have been sent to the Congress and Office of Management and Budget (Appendix I);
- An explanation of changes not requiring public comment (Appendix II);
- A list of changes to systems of records noticed in the Federal Register since last year's republication (Appendix III);
- Special notes regarding the systems of records of the U.S. Fire Administration and the Interagency Auditor Training Center (Appendix IV); and
- The complete text of all changed systems. The text includes a Table of Contents listing all systems of the Department and incorporates the material from items (2) and (3) above.

For the items in Appendix I, the public is invited to submit written data, views, or arguments to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5319), U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202-377-4217), any time on or before (30 days from date of publication).

The comments received will be available as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

AVAILABILITY OF SYSTEMS OF RECORDS

The Commerce Department's two previous annual notices may be found in the September 21, 1977 Federal Register at pages 47676-47807 and in the September 22, 1978 Federal Register at pages 41112-41143.

In addition, the annual notices of all agencies published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1978 Compilation." This document is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. Notices of the Commerce Department's systems of records appear in Volume I of the 1978 Compilation at pages 110-154. The 1978 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country. In addition, it is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of Volume I (Stock No. 022-002-00061-9) is

6.50. Upon request, the Information Management Division, U.S. Department of Commerce (at address shown above) will furnish a photocopy of the full text of a particular records system published in the 1978 Compilation.

LOCATION OF IMPLEMENTING RULES

The Commerce Department's Privacy Act rules appear in Volume I of the 1978 Compilation at pages 155-165.

Simultaneously with this 1979 annual notice document, a rule is being published to indicate changes in the designation of individuals authorized to act on Privacy Act requests and appeals, Appendices 1 and 2 to the Departmental rules at 15 CFR Part 4b.

Information about the systems and rules is available by writing or calling Donald S. Budowsky, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

Authority: 5 U.S.C. 552a.

Dated: December 13, 1979.

Guy W. Chamberlin, Jr.,
Deputy Assistant Secretary for Administration.

APPENDIX I

Proposed Changes to Commerce Department Systems of records for which Public Comment is Invited

Simultaneous with the republication of Commerce Department systems of records, the Department submitted to the Federal Register this date a proposed new system of records, and proposed revisions of two existing systems of records. These items are listed below to assist the reader in readily identifying the material on which public comment is invited. Because these items are in proposed form, they have — been incorporated into the text of the republished systems.

1. Add a system of records for the National Oceanic and Atmospheric Administration, COMMERCE/NOAA-20, Personnel, Payroll, Travel, and Attendance Records of the Regional Fishery Management Councils. The purpose of this proposed system is to describe the collection and maintenance of personal data in these Councils' administrative records. The eight Regional Fishery Management Councils were established effective August 11, 1976. Their principal responsibility is to provide the nucleus of a national fisheries conservation and management program through the systematic development of fishery management plans pursuant to the Fishery Conservation and Management Act of 1976 (P.L. 94-265, 16 U.S.C. 1852). Since it has been determined that Council members and staff are not Federal employees, their records are not covered by existing Office of Personnel Management and Commerce Department Privacy Act systems. However, it has been determined that the Councils' records are subject to the Federal Privacy Act.

As required by the Privacy Act, the Commerce Department has simultaneously submitted a new System Report to the Congress and to the Office of Management and Budget. This system of records will become effective 60 days from the date of the new System Report, unless the Department notices to the contrary.

The proposed system is as follows:

COMMERCE/NOAA-20

System name: Personnel, Payroll, Travel, and Attendance Records of the Regional Fishery Management Councils—COMMERCE/NOAA-20.

System location: New England Fishery Management Council

Office of the Executive Director
 Peabody Office Building
 One Newbury Street
 Peabody, Massachusetts 01960

Mid-Atlantic Fishery Management Council

Office of the Executive Director
 Federal Building, Room 2115
 North and New Streets
 Dover, Delaware 19901

South Atlantic Fishery Management Council

Office of the Executive Director
 Southpark Building, Suite 306
 1 Southpark Circle
 Charleston, South Carolina 29407

Caribbean Fishery Management Council
 Office of the Executive Director
 Suite 806
 Banco de Ponce Building
 (Postal Address)
 P. O. Box 1001
 Hato Rey, Puerto Rico

Gulf of Mexico Fishery Management Council
 Office of the Executive Director
 Lincoln Center, Suite 881
 5401 West Kennedy Boulevard
 Tampa, Florida 33609

Pacific Fishery Management Council
 Office of the Executive Director
 528 S.W. Mill Street
 Portland, Oregon 97201

North Pacific Fishery Management Council
 Office of the Executive Director
 Suite 32
 333 West Fourth Avenue
 (Postal Address)
 P. O. Box 3136DT
 Anchorage, Alaska 99501

Western Pacific Fishery Management Council
 Office of the Executive Director
 Room 1506
 1164 Bishop Street
 Honolulu, Hawaii 96813

Categories of individuals covered by the system: Members of each Regional Fishery Management Council, members of each Council's Scientific and Statistical Committee, members of each Council's Advisory Panel; each Council's staff.

Categories of records in the system:

a. Personnel information including but not limited to name, birthdate, social security number, employment history, education and training, personnel actions, and performance appraisals, records relating to life insurance, health benefits, and designation of beneficiary, medical records.

b. Payroll information including but not limited to marital status, mailing address, number of dependents, allotments and deductions for income tax withholding, savings bonds, charity contributions, and insurance premiums.

c. Travel orders and vouchers including data such as destination, itinerary, mode and purpose of travel, expense incurred.

d. Time and attendance data including number of regular, overtime, holiday, Sunday, and other hours worked; number of hours on leave (sick, annual, holiday, etc.).

Authority for maintenance of the system: Fishery Conservation and Management Act of 1976 (P.L. 94-265, 16 U.S.C. 1852).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used as indicated below:

a. See routine use paragraphs in Prefatory Statement.
 b. Information may be disclosed to the U.S. Treasury and to employee-designated financial institutions to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments and other authorized purposes. Information may also be disclosed as necessary, in the course of collecting indebtedness for overpayment of salary and unpaid internal revenue taxes; and to obtain reimbursements of travel expenses for official business.

The following data may be disclosed for reporting purposes: tax withholding to Internal Revenue Service and appropriate state and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions, charity contribution deductions to agents of charitable institutions; health and life insurance premiums to insurance carriers; wage, employment, and separation information to state unemployment agencies and the Department of Labor to determine eligibility for unemployment compensation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and magnetic storage media.

Retrievability: Alphabetically by name, or by social security number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance is restricted to authorized personnel only. All payroll personnel, computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Retained on site until after GAO audit, then either disposed of or transferred to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address: The Executive Director of each Council; address as shown under system location above.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and other identifying information pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals, those authorized by the individual to furnish information; employee's supervisor; timekeepers.

2. Revise the COMMERCE/DEPT-18 system, Employees Personnel Files Not Covered by Notices of Other Agencies. The purposes of this revision are a) to more precisely describe the locations where records may be found; and b) to clarify Privacy Act protection for necessary records kept by supervisors and managers about employees under their supervision. Not every Department component will keep records at each address shown for that component. Employees are urged to contact their immediate supervisor; their unit's Privacy Officer or Personnel Officer, or the Department's Information Management Division, OOMS, for assistance if needed.

Although no change is made in the routine use paragraph, and the proposed amendments do not require a new System Report, public comments are specifically invited. In particular, we want to know if the revised system clarifies Privacy Act coverage for records about employee performance. Special efforts are being made to encourage comments from Department employees as well.

The proposed revised system is as follows:

COMMERCE/DEPT-18

System name: Employees Personnel Files Not Covered By Notices of Other Agencies—COMMERCE/DEPT-18.

System location: a. For employees of Departmental Offices, Offices of Federal Cochairmen, RAPCs, ARC, BEA, NTIA, NTIS, MBDA, and USTS: Processing and Servicing Branch, Departmental Office of Personnel, Room 5204, U.S. Department of Commerce, Washington, D.C. 20230;

b. For employees of CENSUS: Office of Personnel, Bureau of Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

c. For employees of ITA: Office of Personnel, Industry and Trade Administration, Room 3512, U.S. Department of Commerce, Washington, D.C. 20230;

d. For employees of MARAD: Office of Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

e. For employees of NBS: Office of Personnel, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20760; and National Academy of Sciences, 2100 Pennsylvania Avenue, N.W., Room JH606, Washington, D.C. 20037;

f. For employees of NOAA: Office of Personnel, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852;

g. For employees of PAT-TM: Office of Personnel, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202;

h. For employees of EPA: Personnel Management Division, Economic Development Administration, Room 7089, U.S. Department of Commerce, Washington, D.C. 20230; and

i. For any Department employee: The immediate office of an employee's supervisor(s), for records which have been disclosed to someone else.

Categories of individuals covered by the system: Current and former employees.

Categories of records in the system: All personnel records in the Department which are subject to the Privacy Act but are not covered in the notices of systems of records published by the Office of Personnel Management, Merit Systems Protection Board, or Equal Employment Opportunity Commission. The records of this system may include, but are not limited to: Employee Development; Incen-

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tive Awards; Employee Relations; Medical; Career Management Program; Ship Personnel; Employee Overseas Assignments; Minority Group Statistics Program; Work Performance and Appraisal Records, including supervisory records which have been disclosed; Re-Employment and Priority Placement Programs; Executive Assignments and Merit Pay Actions; Merit Assignment Programs; Within-Grade Denials (Reconsideration File); and, Automated Employee Information Systems.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 5 U.S.C. 4101 ———; and Federal Personnel Manual and related directives of the agencies cited above.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information concerning current or former employees may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. See routine uses paragraphs in the Prefatory Statement, and see the routine uses set forth in the notices of systems of records published by the Office of Personnel Management, Merit Systems Protection Board, and Equal Employment Opportunity Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed by name and/or social security number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained according to Unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Chief, Processing and Servicing Branch, Office of Personnel, Room 5204, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location b.: Chief of Personnel, Bureau of the Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

For records at location c.: Director of Personnel, Industry and Trade Administration, U.S. Department of Commerce, Room 3512, Washington, D.C. 20230;

For records at location d.: Director, Office of MARAD Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location e.: Chief of Personnel, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20760;

For records at location f.: Director, Office of Personnel, National Oceanic and Atmospheric Administration, NBOC2, Rockville, Maryland 20852;

For records at location g.: Personnel Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202;

For records at location h.: Personnel Management Division, Economic Development Administration, Room 7089, U.S. Department of Commerce, Washington, D.C. 20230; and

For records at location i.: employee's supervisor(s).

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, 2400 M Street, N.W., Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For NTIS records at location a., information may be obtained from: Deputy Director, NTIS, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U. S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230.

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

For records at location c., information may be obtained from: Director, Office of Management and Systems, Industry and Trade Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location e., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For records at location f., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location g., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231;

For records at location h., information may be obtained from: Personnel Management Division, Economic Development Administration, Room 7089, U.S. Department of Commerce, Washington, D.C. 20230; and

For records at location i., information may be obtained from Privacy office for employee's unit.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information; others involved in references of the individual; physicians; employee's supervisor; and, sources in the notices published by the Office of Personnel Management.

3. Revise the COMMERCE/DEPT-16 system, Property Accountability Files. The proposed amendment reflects a change from manual to automated storage and retrieval of book borrower information at the National Bureau of Standards Library. The basic change will be in the storage medium and the speed of retrieval. There will be no change in the nature of personal data maintained or the routine uses of records. Book borrowers are primarily NBS employees and personal name information will remain accessible only to Library personnel responsible for inventory control.

Although the proposed change does not technically warrant a new system report, as defined by Office of Management and Budget Circular No. A-108, it was felt that because the change reflects increased use of automation, a report should be submitted simultaneously with the republication of Commerce Department systems of records. This revised system of records will become effective 60 days from the date of the new System Report, unless the Department notices to the contrary.

The new storage and safeguards items will read as follows: (new text in solid capitals)

STORAGE: Paper copy in file folders and trays, AND FOR SYSTEM LOCATION B. AT NBS, GAITHERSBURG, MARYLAND MACHINE READABLE DATA IN COMPUTER MEMORY HIERARCHY (MAGNETIC MEDIA, VIDEODISK, SOLID STATE, ETC.).

SAFEGUARDS: Records are located in lockable metal file cabinets, lockable desks, or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access AND FOR SYSTEM LOCATION B. AT NBS, GAITHERSBURG, MARYLAND ACCESS WILL BE LIMITED BY BAR CODE NUMBER SEARCH KEY AND/OR OTHER SYSTEM METHODS.

APPENDIX II

Changes to Commerce Department Systems of Records Not Requiring Public Comment

1. Revise the first routine use section paragraph and the authority section for the COMMERCE/DEPT-1 system, Attendance, Leave, and Payroll Records of Employees and Certain Other Persons, to make absolutely clear the fact that data, including social security numbers, is being transmitted to employee-designated financial institutions to insure proper crediting of salary checks and savings allotments to employee accounts. This type of disclosure has been made under the existing routine use and is mandated by Treasury Fiscal Requirements Manual, Transmittal No. 275 dated July 24, 1979: 'Payments of Net Pay to Financial Organizations for Credit to Accounts

of Employees', which implements 31 U.S.C. 492. The first routine use paragraph as revised would read (new text in solid capitals, deletions in double parentheses): Transmittal of data to U.S. Treasury AND EMPLOYEE-DESIGNATED FINANCIAL INSTITUTIONS to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, ((financial institutions,)) and other authorized purposes.

The authority section as revised would read: Title 5 U.S.C., Title 31 U.S.C. 66a, 492, Title 44 U.S.C. 3101, 3309.

2. The COMMERCE/DEPT-5 system, Donors of Gifts and Bequests, is deleted. The records in this system are filed by date of transaction or by serial number, not by individual identifier. Thus, the records do not meet the criteria for a system of records and the system is deleted.

3. The name of the COMMERCE/DEPT-12 system, Investigative Records-Contract and Grant Frauds, has been changed to COMMERCE/DEPT-12, Investigative and Inspection Records. The name change and other revisions reflect the establishment of the Office of Inspector General. The system has also been amended to provide a fuller explanation of why exemptions are being invoked.

4. The name of the COMMERCE/DEPT-13 system, Investigative Records- Persons Within the Investigative Jurisdiction of the Department, has been changed to COMMERCE/DEPT-13, Investigative and Security Records. The name is changed to clarify the types of records contained in the system. The system is also revised to show that Equal Employment Opportunity records are not included. Such records are covered in a government-wide system noticed by the then Civil Service Commission and now the responsibility of the Equal Employment Opportunity Commission.

5. The COMMERCE/ITA-7 system, Overseas Assignments for ITA's Bureau of Field Operations, is deleted. This system of records was previously used in the selection process for overseas assignments which have been discontinued. All information maintained under this system has been destroyed.

6. The COMMERCE/NOAA-9 system, Commissioners of International Fisheries Commissions, and the COMMERCE/NOAA-10 system, Employee Production Records, are deleted. Collection of this data has been discontinued, and all records maintained under these systems have been destroyed.

7. The COMMERCE/NTIA-1 system, Military Personnel System, is deleted. It has been determined that collection and retention of this information is no longer necessary. All information maintained under this system has been destroyed.

8. The routine use paragraph for the COMMERCE/PAT-TM-6 system, Parties Involved in Patent Interference Proceedings, has been revised solely for clarity. There is no substantive change (i.e., no new purpose, no new recipient).

9. The COMMERCE/WHC-1 system, Mailing List and Correspondence File, is discontinued as a separate system of records. The 1978 White House Conference on Balanced National Growth and Economic Development correspondence file records have been transferred to the National Archives and Records Service. The mailing list records have been merged into the COMMERCE/DEPT-19 system, Department Mailing Lists.

10. made throughout the notice of systems. These include: revision of the list of acronyms, the table of contents, position titles and office names because of reorganization, and correction of typographical errors.

APPENDIX III

Changes to Systems of Records Noticed in the Federal Register after September 22, 1978 and Prior to the Date of this Notice

1. January 16, 1979 Federal Register, pages 3308-3312: proposal to establish a new system of records COMMERCE/DEPT-22, Secretarial Correspondence Files; and miscellaneous changes to two existing systems, COMMERCE/DEPT-19 and COMMERCE/DEPT-21.

2. February 7, 1979 Federal Register, page 7791; adoption of changes to eight systems of records previously proposed:

PAT-TM-1, Attorneys and Agents Registered to Practice Before the Office;

PAT-TM-3, Employee Production Records;

PAT-TM-6, Parties Involved in Patent Interference Proceedings;

PAT-TM-7, Patent Application Files;

PAT-TM-9, Patent Assignment Records;

PAT-TM-10, Patent Deposit Accounts System;

PAT-TM-13, Petitions for License to File for Foreign Patents; and

MA-4, General Agent's Protection and Indemnity and Second Seaman's Insurance -- WSA and NSA.

These changes were described in the September 22, 1978 republication.

3. April 17, 1979 Federal Register, pages 22797-22798; proposal to establish a new system of records COMMERCE/DEPT-23, Work Schedule Study Interview Records.

4. May 7, 1979 Federal Register, pages 26780-26781; adoption of system of records previously proposed, COMMERCE/DEPT-22, Secretarial Correspondence Files; and adoption of miscellaneous changes to two existing systems, COMMERCE/DEPT-19 and COMMERCE/DEPT-21.

5. May 24, 1979 Federal Register, page 30145; adoption of previously proposed COMMERCE/DEPT-23 system, Work Schedule Study Interview Records.

APPENDIX IV

Special Notes

1. The Interagency Auditor Training Program has been transferred from the Department of Commerce to the Department of Agriculture. However, the COMMERCE/IATC-1 system, Auditor Trainee Registrants, continues to be a Privacy Act system of the Department of Commerce. The reason is that the question of who will be responsible for the existing student registration records has not yet been resolved.

2. Pursuant to Reorganization Plan No. 3 of 1978, the United States Fire Administration (USFA) was transferred from the Department of Commerce to the Federal Emergency Management Agency (FEMA), effective April 1, 1979. FEMA has not yet established Privacy Act Systems of Records. During this interim period, the Department of Commerce has agreed to republish the Privacy Act Systems of Records for USFA (formerly the National Fire Prevention and Control Administration). For further information contact, Daniel P. Cosgrove, Assistant General Counsel for Fire, FEMA, Washington, D.C. 20472, telephone 202-632-9685 or Donald S. Budowsky, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

DEPARTMENT OF COMMERCE

PRIVACY ACT

NOTICE OF SYSTEMS OF RECORDS*

*The identification of the unit or units within the Department to which the particular system of records pertains appears as "COMMERCE/" followed by a designating abbreviation. The abbreviations and their meanings are as follows:

CENSUS—Bureau of the Census
DEPT—Overall Department of Commerce (or at least multiple operating units presently, and a potential for more)
ITA—Industry and Trade Administration
IATC—Interagency Auditor Training Center
MA—Maritime Administration
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
USFA—United States Fire Administration
PAT-TM—Patent and Trademark Office
WBO—Interagency Task Force on Women Business Owners

Other abbreviations appearing in the notices are as follows:

ARC—The Appalachian Regional Commission
BEA—Bureau of Economic Analysis
EDA—Economic Development Administration
Office of Federal Cochairmen—Office(s) of Federal Cochairmen of the Regional Action Planning Commissions and The Appalachian Regional Commission
MBDA—Minority Business Development Agency
RAPCS—Regional Action Planning Commissions
USTS—United States Travel Service
WHC—White House Conference on Balanced National Growth and Economic Development

Prefatory Statement of General Routine Uses

The following routine uses apply to, and are incorporated by reference into, each system of records set forth below.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant

thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

5. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

6. A record in this system of records which contains medical information may be disclosed, as a routine use, to the medical advisor of any individual submitting a request for access to the record under the Act and 15 CFR Part 4b if, in the sole judgment of the Department, disclosure could have an adverse effect upon the individual, under the provision of 5 U.S.C. 552a(f)(3) and implementing regulations at 15 CFR 4b.6.

7. (Deleted; Reserved)

8. A record in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. A record in this system of records may be disclosed, as a routine use, to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

10. A record in this system of records may be disclosed, as a routine use, to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

11. (Deleted; Reserved)

12. A record in this system may be transferred, as a routine use, to the Civil Service Commission: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

13. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

National Defense and Foreign Policy Exemption

Some systems of records under the Act which are maintained by the Department contain, from time-to-time, material subject to the specific exemption authorized by 5 U.S.C. 552a(k)(1), relating to national defense and foreign policy materials. The systems of records noticed below, and also listed in 15 CFR 4b.14(a) of the regulations published in the FEDERAL REGISTER, which are subject to this determination of specific exemption under 5 U.S.C. 552a(k)(1) are:

COMMERCE/ITA-1
COMMERCE/ITA-2
COMMERCE/ITA-3
COMMERCE/NOAA-11
COMMERCE/PAT-TM-4

COMMERCE/PAT-TM-6
COMMERCE/PAT-TM-7
COMMERCE/PAT-TM-8
COMMERCE/PAT-TM-9
COMMERCE/DEPT-12
COMMERCE/DEPT-13
COMMERCE/DEPT-14

The Department hereby asserts a claim to exemption of such materials wherever they might appear in such systems of records, or any systems of records, at present or in the future. The materials would be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The reason therefor is to protect the material required by Executive Order to be kept secret in the interest of the national defense and foreign policy.

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USFA-2 President's and Secretary's Award Nominees

USFA-3 National Fire Academy Student Registration
USFA-4 National Fire Academy Instructor Records
WBO-1 Talent and Experience File of Women's Business Experts

COMMERCE/DEPT-1.

System name: Attendance, Leave, and Payroll Records of Employees and Certain Other Persons—COMMERCE/DEPT-1.

System location: a. For employees of Departmental Offices, BEA, ITA, EDA, USFA, MBDA, USTS, Offices of Federal Cochairmen, RAPCs, and ARC: Office of Controller, Finance Operations Division, OS, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230, and Office of Procurement and ADP Management (ADP Analysis and Programming Division), use above address.

b. For employees of MARAD: (manual) Division of Accounts, (machine-readable) Division of Data Operations, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For employees of NBS, NTIS, and NTIA: National Bureau of Standards, Office of the Comptroller, (Payroll Office), Administration Building, Washington, D.C. 20234. NTIA records dating prior to March 26, 1978, relating to employees of the former Office of Telecommunications Policy, Executive Office of the President, are located at General Services Administration Region 3 Office, 7th & D Streets, N.W., Washington, D.C. 20407.

d. For employees of NOAA: National Oceanic and Atmospheric Administration, Personal Service Accounting Division, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For employees of PAT-TM: Office of Finance (Employee Accounts Division), U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

f. For employees of CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the following Census Regional Offices: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207), Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

Categories of individuals covered by the system: All Commerce Department employees and certain other persons as categorized by organizational component in a through f. above.

Categories of records in the system: Name, date of birth, social security number and employee number, service computation date, grade, step, and salary; organization (code), retirement or FICA data as applicable, Federal, state, and local tax deductions, as appropriate; IRS tax lien data; savings bond and charity deductions; regular and optional Government life insurance deduction(s); health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, absence without leave, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

Authority for maintenance of the system: Title 5 U.S.C., Title 31 U.S.C. 66a, 492, Title 44 U.S.C. 3101, 3309.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to U.S. Treasury and employee-designated financial institutions to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, and other authorized purposes.

Reporting: tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health and life insurance to the insurance carriers and the U.S. Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual; wage, employment, and separa-

tion information to state unemployment compensation agencies, to the Department of Labor to determine eligibility for unemployment compensation, and to housing authorities for low-cost housing applications; and NOAA Corps data to U.S. Office of Personnel Management for preparation of statistical materials. Also, see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable.

Retrievability: By name and/or employee or social security number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Retained on site until after GAO audit, then disposed of, or transferred either to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address: For records at location a.: Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230;

For records at location c.: Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d.: Chief, Personal Service Accounting Division, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location e.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For EDA records at location a., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, 2400 M Street, N.W., Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230;

For NBS and NTIS records at location c., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location d., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location e., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and

For records at location f., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individuals, those authorized by the individual to furnish information, supervisors, timekeepers, official personnel records, and IRS.

COMMERCE/DEPT-2.

System name: Accounts Receivable—COMMERCE/DEPT-2.

System location: a. For Departmental offices, BEA, ITA, USFA, USTS, MBDA, Offices of Federal Cochairmen, RAPCs, and ARC; Office of Controller, Finance Operations Division, OS, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

b. For MARAD: (manual) Division of Accounts, (machine-readable) Division of Data Operations, Maritime Administration, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For NBS and NTIA: National Bureau of Standards, Office of the Comptroller, Administration Building, Washington, D.C. 20234.

d. For NOAA: National Oceanic and Atmospheric Administration, Office of Finance, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

f. For CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

g. For NTIS: Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

h. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Debtors owing money to organizational components identified in a. through h., including employees, former employees, business firms, general public, and institutions.

Categories of records in the system: Name and address; amount owed, and service, overpayment or other accounting therefor; invoice number, if any.

Authority for maintenance of the system: 5 U.S.C. 5701-09; FPMR 101-7; Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Billing debtors, reporting to Office of Personnel Management for liquidating debts from retirement and other benefits, and routine uses per Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable records.

Retrievability: By name, and invoice number as appropriate.

Safeguards: Physical security, handling by authorized personnel only.

Retention and disposal: Retained until payment is received and account is audited, then disposed of in accordance with Records Control Schedule.

System manager(s) and address: For records at location a.: Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230.

For records at location c.: Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d.: Director, Office of Finance, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g.: Chief, Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

For records at location h.: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, 2400 M Street, N.W., Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For NBS records at location c., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location d., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and

For records at location f., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Room 1014, Sills Building, Springfield, Virginia 22161.

For records at location h., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name and address, and invoice number as appropriate, pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, contracting officer as appropriate, accounting records.

COMMERCE/DEPT-3.

System name: Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT-3.

System location: Office of General Counsel, Room 5870, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals, past and present, appointed by the President to Commerce Department offices and other senior level officers of the Department.

Categories of records in the system: Statements of personal and family shareholdings and other interests in business enterprises; copies of blind trust and other agreements pertaining to such interests; correspondence as to insulation of control of such interests; opinions of counsel; and confirmation materials.

Authority for maintenance of the system: 5 U.S.C. 301, 18 U.S.C. 208, 28 U.S.C. 533-535, 44 U.S.C. 3101, E.O. 10450, and E.O. 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Disposed of 2 years after separation of employee.

System manager(s) and address: Deputy General Counsel, Room 5870, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and date of appointment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The subject individual, financial institutions involved, counsel, and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3); (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment.

COMMERCE/DEPT-6.

System name: Visitor Logs and Permits for Facilities Under Department Control—COMMERCE/DEPT-6.

System location: a. Maritime Administration: Beaumont Reserve Fleet, Beaumont, Texas; James River Reserve Fleet, Fort Eustis, Virginia; Suisun Bay Reserve Fleet, Benicia, California; and U.S. Merchant Marine Academy, Kings Point, New York.

b. National Bureau of Standards: Security Office, Administration Building, Washington, D.C. 20234; and Physical Security Office, Radio Building, NBS, Boulder, Colorado 80302.

Categories of individuals covered by the system: Non-Federal visitors, Federal personnel entering facilities after duty hours, and employees seeking parking and firearm permits.

Categories of records in the system: Name, address, place of birth, citizenship, physical characteristics, type and number of firearms and amount of ammunition, purpose of visit, affiliation, time in and time out, license numbers, and records of violations.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name, or date and time.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained on site for five years, then disposed of in accordance with unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Superintendent of respective Reserve Fleets and Chief, Fire and Security, U.S. Merchant Marine Academy, Department of Public Works, Kings Point, New York.

For records at location b.: Director, Center For Facilities Management, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: For records at location a., information may be obtained from: Secretary, Maritime Administration, Main Commerce Building, Washington, D.C. 20230.

For records at location b., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Requesters should provide name and address, date of visit or type of permit, as appropriate, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and employers.

COMMERCE/DEPT-7.

System name: Employee Accident Reports—COMMERCE/DEPT-7.

System location: a. For employees of Departmental Offices, BEA, USFA, and USTS: Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

b. For employees of ITA: Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

c. For employees of EDA: Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For employees of MARAD: Office of Domestic Shipping, Maritime Administration, Washington, D.C. 20230.

e. For employees of MBDA: Field Operations and Administration, Office of Minority Business Enterprise, Washington, D.C. 20230.

f. For employees of NBS: Occupational Health and Safety Division, Supply and Plant Building, NBS, Washington, D.C. 20234.

g. For employees of NOAA: Office of Administrative Operations, National Oceanic and Atmospheric Administration, 6010 Executive Blvd., Rockville, Md. 20852.

h. For employees of NTIS: Facilities Management Division, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

i. For employees of PAT-TM: Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

j. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Building 3, Washington, D.C. 20233.

k. For employees of NTIA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

Categories of individuals covered by the system: All Department employees as categorized by organization component in a. through k., above, who have sustained occupational injury/illness or who have been involved in a motor vehicle accident while on official Government business.

Categories of records in the system: Name; address; home telephone number; date and place of birth; sex; social security number; occupation; grade; location and description of accident or injury; driving permit or license data; physical condition at time of incident; insurance information; vehicle ownership and licensing data.

Authority for maintenance of the system: 29 U.S.C. 651-78, 28 U.S.C. 2671-2680, Executive Orders 11612 and 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Also, accident reports involving Government vehicles are disclosed to the General Service Administration, the custodian of Government vehicles; accident information may also be disclosed to insurance carriers during resolution of claims.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Disposed after 5 years.

System manager(s) and address: For records at location a.: Coordinator for Occupational Safety and Health and Motor Management, Departmental Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Director, Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

For records at location c.: Chief, Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d.: Safety Officer, Office of Domestic Shipping, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Safety Officer, Field Operations and Administration, Minority Business Development Agency, Washington, D.C. 20230.

For records at location f.: Safety and Health Manager, Supply and Plant Building, NBS, Washington, D.C. 20234.

For records at location g.: Safety Engineer, Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

For records at location h.: Chief, Facilities Management Division, Sills Building, National Technical Information Service, Springfield, Va. 22161.

For records at location i.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location j.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location k.: Safety Officer, Office of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: For Departmental office records at location a., information may be obtained from: Director, Office of Organization and Management Systems, OS, U.S. Department of Commerce, Washington, D.C. 20230;

For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, 2400 M Street N.W., Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, United States Travel Service, Washington, D.C. 20230.

For records at location b., information may be obtained from: Director, Office of Management and Systems, Industry and Trade Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location c., information may be obtained from: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location e., information may be obtained from: Privacy Officer, Office of Chief Counsel, Minority Business Development Agency, Washington, D.C. 20230;

For records at location f., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For records at location g., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, Rockville, Md. 20852;

For records at location h., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Va. 22161;

For records at location i., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231;

For Census records at location j., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

For records at location k., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Requester should provide name and approximate date of accident pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individual, those authorized by the individual to furnish information; others involved in accident; witnesses; employee's supervisor; and, the safety officer.

COMMERCE/DEPT-8.

System name: Employee Applications for Motor Vehicle Operator's Card—COMMERCE/DEPT-8.

System location: a. For employees of Departmental offices, BEA, USFA, MBDA, NTIA, Offices of Federal Cochairmen, and USTS: Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

b. For employees of ITA: Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

c. For employees of EDA: Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For employees of MARAD: Office of Administrative Service, Maritime Administration, Washington, D.C. 20230; the following MARAD regional offices: 26 Federal Plaza, New York, N.Y. 10007; No. 2 Canal St., New Orleans, La. 70130; 450 Golden Gate Ave., San Francisco, Calif. 94102; 666 Euclid Ave., Rm. 576, Cleveland,

Ohio, 44114, and the U.S. Merchant Marine Academy, Department of Public Works, Kings Point, L.I., N.Y. 11024.

e. For employees of NBS: Occupational Health and Safety Division, Supply and Plant Building, Washington, D.C. 20234; and Staff Services Office, Radio Building, NBS, Boulder, Colorado 80302.

f. For employees of NOAA: Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

g. For employees of PAT-TM: Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

h. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233; and the following Census Regional Offices: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207), Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

i. For employees of NTIS: Facilities Management Division National Technical Information Service, Sills Building, Springfield, Virginia 22161.

Categories of individuals covered by the system: All Department employees as categorized by organizational components in a. through i. above, who are seeking or holding a Federal vehicle operator permit.

Categories of records in the system: Name; position title; date and place of birth; physical characteristics; social security number, summary of driving record, including all arrests, traffic citations and accidents for the past five years; hearing and visual acuity examination report; road test results; and medical history.

Authority for maintenance of the system: 40 U.S.C. 471; E.O. 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also, information is transmitted to the Department of Transportation with request for suitability check.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Disposed of when re-issued at the end of three years or upon employee's termination of employment.

System manager(s) and address: For records at location a.: Coordinator for Occupational Safety and Health and Motor Management, Departmental Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Director, Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

For records at location c.: Chief, Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d.: Director, Office of Administrative Service, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Safety and Health Manager, Supply and Plant Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location f.: Motor Fleet Manager, Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

For records at location g.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location h.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location i.: Chief, Facilities Management Division, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, 2400 M Street N.W., Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230;

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Director, Office of Management and Systems, Industry and Trade Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230.

For records at location e., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location f., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

For records at location g., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location h., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location i., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

Requester should provide name, organizational unit, and approximate date of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, motor vehicle departments in individual's state, and National Driver Register of the Department of Transportation.

COMMERCE/DEPT-9.

System name: Travel Records (Domestic and Foreign) of Employees and Certain Other Persons—COMMERCE/DEPT-9.

System location: a. For employees of Departmental Offices, BEA, ITA, USFA, MBDA, USTS, Offices of Federal Cochairmen, and RAPCs; members of DOC Advisory Committees; employees and certain other persons associated with ARC; and private citizens invited to visit the Department:

Paper records in Office of Controller, Finance Operations Division, OS, and machine-readable records in Office of Procurement and ADP Management, ADP Analysis and Programming Division, both in Main Commerce Building, Washington, D.C. 20230.

b. For employees of MARAD in Washington, D.C.: (machine-readable) Division of Data Operations, (manual) Division of Accounts, Maritime Administration, Main Commerce Building, Washington, D.C. 20230. Regional employees: U.S. Merchant Marine Academy Travel Clerk, Kings Point, N.Y. 11024; Administrative Service Office, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Office, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service, Maritime Administration, 450 Golden Gate Ave., P.O. Box 36073, San Francisco, California 94102; Great Lakes Regional Office, Maritime Administration, Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

c. For employees of NBS, NTIS, and NTIA: Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

d. For employees of NOAA: Travel and Transportation Division, Office of Administrative Operations, National Oceanic and Atmos-

pheric Administration, Rockville, Maryland 20852 and the following Field Finance Offices: Research Building 3, 3100 Marine Street, Boulder, Colo. 80302; Room 1760, 601 E. 12th Street, Kansas City, Mo. 64106; 75 Virginia Beach Drive, Building 2, Miami, Fla. 33149; and, North Bethesda Office Center, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For employees of PAT-TM: Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

f. For employees of CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the following Regional Offices for intermittent CENSUS employees: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207), Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Street, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

g. For employees of EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Employees, Advisory Committee Members, State Representatives of ARC, and official guests of the Department.

Categories of records in the system: Name, address, social security number; destination, itinerary, mode and purpose of travel; dates; expenses including amounts advanced (if any), amounts claimed, and amounts reimbursed; travel orders, travel vouchers, receipts, and passport record card.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claim Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal to U.S. Treasury for payment, to State Department for passports, and see routine use portion of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed by name, social security number, or travel order number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained according to GSA Federal Travel Regulations, and then disposed of according to unit's Records Control Schedule.

System manager(s) and address: For records at location a., Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230; U.S. Merchant Marine Academy Travel Clerk, Kings Point, N.Y. 11024; Administrative Service Officer, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Officer, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service Officer, Maritime Administration, 450 Golden Gate Ave., P.O. Box 36073, San Francisco, California 94102; Regional Director, Maritime Administration, Great Lakes Regional Office, 666 Euclid Ave., Cleveland, Ohio 44114.

For records at location c., Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d., Chief, Travel and Transportation Division, Office of Administrative Operations, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852 and the Chief of the particular Field Finance Office listed above.

For records at location e., Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f., Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the Director of the particular Regional Office listed above.

For records at location g., Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, 2400 M Street, N.W., Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information can be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230.

For NBS and NTIS records at location c., information can be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location d., information can be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e., information can be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f., information can be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Requester should provide name, travel order number, if known, and date of travel, in accordance with the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, supervisors, and finance (or accounting) office standard references.

COMMERCE/DEPT-10.

System name: Foreign Residence Requirement Waiver Applicants—COMMERCE/DEPT-10.

System location: Office of Personnel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Applicant aliens seeking Departmental support for requests for waivers of the foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended.

Categories of records in the system: Name, alien registration number, country of current nationality, date and place of birth, education, dates and places of entry and type of visa for each entry into the U.S., location and dates of foreign residence between entries, date of acquisition of exchange-visitor status, dates and places of residence in the United States and in the country of the exchange-visitor's nationality, place of intended residence in the U.S., current residence and telephone number, prospective U.S. employer, report of sponsors of the exchange visit on the request for waiver, and reasons for request of waiver.

Authority for maintenance of the system: 8 U.S.C. 1182(e).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Requests and supporting documentation with recommendation for waiver are submitted to the International Communication Agency. Names of applicants are required to be transmitted to the applicants' Exchange Visitor Program Sponsors and the governments of their countries and nationality. Disclosed to other Federal Agencies upon their request in order to

coordinate effective implementation of the waiver request program. Also see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed alphabetically by name and calendar year of receipt of application.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained for nine years and then destroyed.

System manager(s) and address: Director, Office of Personnel, Room 5119, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Departmental Office of Organization and Management Systems, OS, Main Commerce Building, Washington, D.C. 20230. Requester should provide name, date of application, and alien registration number, in accordance with inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Applicant, those authorized by the applicant to furnish information, U.S. employer, Exchange Visitor Program sponsor, and embassy of country of nationality.

COMMERCE/DEPT-12

System name: Investigative and Inspection Records—COMMERCE/DEPT-12.

System location: Office of Inspector General, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: a. Current and former employees of the Department of Commerce and such other persons whose association with current and former employees relate to the alleged violations of the Department's rules of conduct, the Civil Service merit system, or any other criminal or civil misconduct, which affects the integrity or facilities of the Department of Commerce. The names of individuals and the files in their names may be: 1) received by referral; or 2) initiated at the discretion of the Office of the Inspector General in the conduct of assigned duties.

b. Individuals who are: witnesses; complainants; confidential or non-confidential informants; suspects; defendants; parties who have been identified by the Office of the Inspector General or by other agencies, constituent units of the Department of Commerce and members of the general public in connection with the authorized functions of the Inspector General.

c. Current and former Commerce officials who are the subject of investigations initiated and conducted by the Office of the Inspector General.

Categories of records in the system: Letters, memoranda, and other documents citing complaints of alleged criminal or administrative misconduct. Investigative files which include: reports of investigations to resolve allegations of misconduct or violations of law with related exhibits, statements, affidavits or records obtained during investigations; prior criminal or non-criminal records of individuals as they relate to the investigations; reports of actions taken by management personnel regarding misconduct; and reports from or to other law enforcement bodies.

Authority for maintenance of the system: Inspector General Act of 1978 (Public Law 95-462); Executive Orders 12065 and 10450; 44 U.S.C. 3101; 28 U.S.C. 535; 18 U.S.C. including Sections 201, 203, 205, 207, 208, 209, 210, 211, 219, 285, 287, 503, 595, 600, 602, 603, 604, 607, 608, 641, 643, 653, 654, 798, 1001, 1719, 1905, 1913, 1917, 1918, 2071, 2073; 5 U.S.C. including Sections 301, 2302, 7311, 7324, 7352; 15 U.S.C. 1512; 31 U.S.C. 638(a)(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use for law enforcement purposes will include disclosure to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility for investigating or prosecuting a violation of any law, rule, regulation or order or of enforcing or implementing any law, rule, regulation or order. Routine use for law enforcement purposes will also include disclosure to individuals or to agencies, whether Federal, State, local, foreign or international, when necessary to further the ends of an investigation. See routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; and automated storage media.

Retrievability: Indices are alphabetical, cross referenced to file number.

Safeguards: Locked cabinets in secured rooms or in guarded building, and used only by authorized screened personnel.

Retention and disposal: When cases are closed records are disposed of in accordance with the unit's Records Control Schedule.

System manager(s) and address: Assistant Inspector General for Investigations, Office of Inspector General, 1325 G St., N.W. Room 1060, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Assistant Inspector General for Investigations, Office of the Inspector General, 1325 G St., N.W., Room 1060, Washington, D.C. 20230. Requester should provide name and association with the Department, if any, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals; the Office of Personnel Management, FBI and other Federal, State, local, foreign and international agencies; individuals and organizations that have pertinent knowledge about the subject; and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, Public Law 95-452, mandates the Inspector General to recommend policies for, and to conduct, supervise and coordinate activities in the Department and between the Department and other Federal, State and local governmental agencies with respect to all matters relating to the prevention and detection of fraud in programs and operations administered or financed by the Department, and to the identification and prosecution of participants in such fraud. Under the Act, whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law the Inspector General must report the matter expeditiously to the Attorney General. In addition to these principal functions pertaining to the enforcement of criminal laws, the Inspector General may receive and investigate complaints on information from various sources concerning the possible existence of activities constituting violations of law, rules or regulations, or mismanagement, gross waste of funds, abuses of authority or substantial and specific danger to the public health and safety.

The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

- 5 U.S.C. 552a(c)(3) and (4)
- 5 U.S.C. 552a(d)
- 5 U.S.C. 552a(e)(1)(2) and (3)
- 5 U.S.C. 552a(e)(4)(G), (H), and (I)
- 5 U.S.C. 552a(e)(5) and (8)
- 5 U.S.C. 552a(f)
- 5 U.S.C. 552a(g)

To the extent that the exemption under 5 U.S.C. 552a(j)(2) is held to be invalid, then the exemptions under 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) are claimed for all material which meets the criteria of these three subsections.

Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(1), (k)(2) and (k)(5) are as follows:

- 5 U.S.C. 552a(c)(3)
- 5 U.S.C. 552a(d)
- 5 U.S.C. 552a(e)(1)
- 5 U.S.C. 552a(e)(4)(G), (H), and (I)
- 5 U.S.C. 552a(f)

Reasons for exemptions: In general, the exemption of this information and material is necessary in order to accomplish the law enforcement function of the Office of Inspector General, to prevent disclosure of classified information as required by Executive Order 12065, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel.

Detailed reasons follow.

Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2):

1) 5 U.S.C. 552a(c)(3) requires that upon request, an agency must give an individual named in a record an accounting which reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

2) 5 U.S.C. 552a(c)(4), (d), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the contest of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings, deprive co-defendants of a right to a fair trial or other impartial adjudication, constitute an unwarranted invasion of the personal privacy of others, disclose the identity of confidential sources and reveal confidential information supplied by these sources, and disclose investigative techniques and procedures.

3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

a. Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privilege under Federal programs. The application of the provision would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

a. In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

b. Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

c. The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the

subject. This would afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

d. In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

6) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

a. the authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

b. the purposes for which the information is intended to be used,

c. the routine uses which may be made of the information, and

d. the effects on the subject, if any, of not providing the requested information. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The disclosure to the subject of the investigation as stated in (b) above would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(ii) If the subject were informed of the information required by this provision, it could seriously interfere with undercover activities requiring disclosure of undercover agents' identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines 'maintain' to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

Reasons for exemptions under 5 U.S.C. 552a(k)(1):

1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation, information which if known might cause damage to national security.

2) 5 U.S.C. 552a(d), (e)(4)(G) and (H), and (f) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the contest of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigations undertaken in connection with national security; or could disclose the identity of sources kept secret to protect national security or reveal confidential information supplied by these sources.

3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose the identity of sources kept secret to protect national security.

4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed: a. Because it is not possible to detect relevance or necessity of specific information in the early stages of an investigation involving national security matters.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

Reasons for exemptions under 5 U.S.C. 552a(k)(5):

1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

2) 5 U.S.C. 552a(d), (e)(4)(G) and (H), and (f) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the contest of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; co-defendants of a right to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to make fair and objective decisions on questions of suitability for Federal employment and related issues.

4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

a. Because it is not possible to detect relevance or necessity of specific information in the early stages of an investigation.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

COMMERCE/DEPT-13.

System name: Investigative and Security Records—COMMERCE/DEPT-13.

System location: Departmental Office of Investigations and Security, OS, Main Commerce Bldg., Washington, D.C. 20230.

Categories of individuals covered by the system: Nominees, members, and former members of public advisory committees, trade missions, and export councils; employees, former employees, and prospective employees; research associates; and guest workers. Employees of contractors used, or which may be used, by the Department on national security classified projects. Principal officers of some contractors used, or which may be used by the Department. Principal officers and some employees of organizations, firms, or institutions which are recipients or beneficiaries, or prospective recipients or beneficiaries, of grants, loans, or loan guarantee programs of the Department.

Categories of records in the system: Name; address; date and place of birth; Social Security Number; citizenship; physical characteristics; employment and military service history; credit references and credit records; education; medical history; arrest records; Federal employee relatives; dates and purpose of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and security, and suitability materials. This system does not include records of EEO investigations. Such records are covered in a government-wide system noticed by the then Office of Personnel Management and now the responsibility of the Equal Employment Opportunity Commission. For assistance contact the Privacy Officer for the Office of the Secretary.

Authority for maintenance of the system: Executive Orders 10450, 11478, 12065, 5 U.S.C. 301 and 7531-332; 15 U.S.C. 1501 et seq.; 28 U.S.C. 533-535; 44 U.S.C. 3101; and Equal Employment Act of 1972.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information concerning nominees, members and former members of public advisory committees may be disclosed: (a) to OMB in connection with its committee management responsibilities; (b) to other Federal agencies which have joint responsibility for advisory committees or which receive or utilize advice of the committees; and (c) to a Federal, state or local agency, private organization or individual as necessary to obtain information in connection with a decision concerning appointment or reappointment of an individual to committee membership.

Information concerning (1) nominees, members, and former members of trade missions and export councils; (2) current employees, former employees, and prospective employees; (3) research associates; (4) guest workers; (5) employees of contractors used, or which may be used, by the Department on national security classified projects; (6) principal officers of some contractors used, or which may be used, by the Department; and (7) principal officers and some employees of organizations, firms or institutions which are recipients or beneficiaries or prospective recipients or beneficiaries of grants, loans, guarantee or other assistance programs of the Department, — may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. See routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Locked cabinets in secure rooms in guarded buildings, and used only by authorized screened personnel.

Retention and disposal: When cases are closed, records are disposed of in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Office of Investigations and Security, OS, Main Commerce Building, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and association with the Department, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals; OPM, FBI and other Federal, state, and local agencies; individuals and organizations that

have pertinent knowledge about the subject; and, those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5), all information and material in the record which meets the criteria of these subsections are exempted from the notice, access, and contest requirements under 5 U.S.C. 552a (c) (3), (d), (e) (1), (e) (4) (G), (H), and (I), and (f) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency; to prevent disclosure of classified information as required by Executive Order 12065, to assure the protection of the President, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of information, and to avoid endangering these sources and law enforcement personnel.

COMMERCE/DEPT-14.

System name: Litigation, Claims, and Administrative Proceeding Records—COMMERCE/DEPT-14.

System location: a. For matters involving CENSUS: Office of the Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233. Some records may be duplicated in the offices of Census Bureau division chiefs. A complete address list of division chiefs is available upon request from the individual designated in the Notification section below.

b. For matters involving ITA tort and personal property claims: Office of Administrative Support, Industry and Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For matters involving EDA: Office of Chief Counsel, EDA, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For matters involving MARAD: Maritime Administration, Office of General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

e. For matters involving NBS other than violations of traffic and grounds regulations: National Bureau of Standards, Office of the Legal Adviser, Administration Building, Washington, D.C. 20234. For matters involving violations of traffic and grounds regulations at Gaithersburg, Maryland, Security Office, Administration Building, Washington, D.C. 20234 and for violations of those regulations at Boulder or Fort Collins, Colorado, Physical Security Office, NBS, Radio Building, Boulder, Colorado, 80302.

f. For matters involving USFA: Office of the Chief Counsel, United States Fire Administration, 2400 M Street, N.W., Washington, D.C. 20037.

g. For matters involving NOAA: Office of General Counsel, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Records in this system may also be located at other NOAA offices in the Washington, D.C. metropolitan area and in the field. A complete list of addresses is available upon request from the individual designated in the Notification section below.

h. For matters involving NTIS: Facilities Management Division, or Office of the Associate Director for Financial and Administrative Management, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

i. For matters involving NTIA: Office of the Chief Counsel, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504; or Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

j. For matters involving PAT-TM: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

k. For all other matters: Office of the General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Some of the records at locations a. through j. may be duplicated at location k. Also, the records at locations a. through k. may be duplicated in part or in whole in other Department of Commerce systems of records, or in Government-wide systems, at other locations. For assistance in this regard, information may be obtained from the individual identified in the appropriate Notification procedure section below.

Categories of individuals covered by the system: Individuals the subject of any litigation in which the Department is involved; individuals who make administrative claims or appeals against the Department; individuals the subject of claims and administrative actions brought by the Department. Individuals cited for violation of traffic and grounds regulations. Individuals who may have provided statements or other evidence with respect to any of the above. "Depart-

ment" means the U.S. Department of Commerce or any component thereof, or any officer or employee thereof.

Categories of records in the system: Names, addresses, Social Security Account Numbers, statements of claims and analyses thereof, investigatory reports, opinions of law, and pleadings, motions, depositions, rulings, opinions, citation particulars (description of vehicle, date of birth, physical characteristics, driving permit or license data, vehicle license data, etc.), and other litigation and claims documentation.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. Section 3101; 42 U.S.C. 3211; 31 U.S.C. 240; 28 U.S.C. 533-535 and 1346(b); 15 U.S.C. 277 and 278e(b); E.O. 10450; and all other authorities of the Department.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are disposed of according to unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Director, Office of Administrative Support, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c.: Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d.: General Counsel, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Legal Adviser, National Bureau of Standards, Washington, D.C. 20234.

For records at location f.: Chief Counsel, United States Fire Administration, P.O. Box 19518, Washington, D.C. 20036.

For records at location g.: General Counsel, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location h.: Associate Director for Financial and Administrative Management, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

For records at location i.: Chief Counsel and Director of Administration (for their respective portions), National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location j.: Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location k.: General Counsel, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: For records at location a., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b., information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location e., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location f., information may be obtained from: Administrative Officer, United States Fire Administration, P.O. Box 19518, Washington, D.C. 20036.

For records at location g., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location h., information may be obtained from: Associate Director for Financial and Administrative Management,

National Technical Information Service, Sills Bldg., Springfield, Va. 22161.

For records at location i., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location j., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location k., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, address, social security number, case number, date of claim, organization unit in which employed, as appropriate, pursuant to the inquiry provisions which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject claimant or plaintiff; those authorized by the foregoing to furnish information; and, whatever sources pertinent to the nature of the case.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5), all investigatory material and material subject to the provisions of 5 U.S.C. 552(b)(1) in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the agency regulations because of the necessity to exempt this information and material in order to prevent disclosure of classified information as required by Executive Order 12065 in the interest of the national defense and foreign policy and in order for the Department's legal staff to properly perform its functions.

COMMERCE/DEPT-16.

System name: Property Accountability Files—COMMERCE/DEPT-16.

System location: a. For MARAD: Supply Management Division, Maritime Administration, Washington, D.C. 20230; Department of Administrative Service, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024; Administrative Service Office, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Office, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service, Maritime Administration, 450 Golden Gate Avenue, P.O. Box 36073, San Francisco, California 94102; Great Lakes Regional Office, Maritime Administration, Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

b. For all libraries of the Department. For listing, see Directory of Libraries in the United States Department of Commerce, 1972, Department of Commerce, Washington, D.C.; or American Library Directory, biennial, R.R. Bowker Company, New York City.

c. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the following Census Regional Offices: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207), Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

d. For employees of NBS: Security Office, National Bureau of Standards, Administration Building, Washington, D.C. 20234. Instrument Shops Division, Shops Building, NBS, Washington, D.C. 20234; and Security Office, Radio Building, NBS, Boulder, Colorado 80302.

e. For employees of PAT-TM: Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

f. For NTIA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

Categories of individuals covered by the system: Employees, general public, institutions, and anyone who charges out or signs for books or other materials.

Categories of records in the system: Name; telephone number; title of book; identification of property or equipment; home and business address; employee I.D. number; position; job title; grade; organiza-

tion; explanations for items not accounted for, correspondence; clearances; and, key number.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 40 U.S.C. 481-92; 15 U.S.C. 1518.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders and trays.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets, or lockable desks, or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained until property is accounted for, then disposed of in accordance with unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Chief, Supply Management Division, Maritime Administration, Washington, D.C. 20230; Administrative Service Officer, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024; Administrative Service Officer, Maritime Administration, 26 Federal Plaza, New York, N.Y., 10007; Administrative Service Officer, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Property Accountability Officer, Regional Office Service, Maritime Administration, 450 Golden Gate Avenue, P.O. Box 36073, San Francisco, California 94102; Regional Director, Great Lakes Regional Office, Maritime Administration, 666 Euclid Avenue, Cleveland, Ohio 44114.

For records at location b.: The head of the respective library.

For records at location c.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

For records at location d.: Security Officer, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location e.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f.: Director of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: For records at location a.: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Address communication to the library's parent organization (e.g., National Bureau of Standards) Attention: Privacy Officer, or use the Privacy Officer's Official position title and address as listed in Appendix B to the Department's rules which appear in 15 CFR Part 4b.

For records at location c.: Information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location d.: Information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location e.: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231.

For records at location f.: Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Requester should provide name and address pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, book cards, and supply person providing the equipment.

COMMERCE/DEPT-17.

System name: Records of Cash Receipts—COMMERCE/DEPT-17.

System location: a. For Departmental offices, BEA, ITA, USFA, MBDA, USTS, Offices of Federal Chairman, RAPCs, and ARC: Office of Controller, Finance Operations Division (Receipts and Dis-

tribution Section), OS, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, D.C. 20230 and Office of Procurement and ADP Management, (ADP Analysis and Programming Division), use same address.

b. For MARAD: Division of Accounts, Maritime Administration, 14th and Constitution Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

c. For NTIS: Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

d. For PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For Census: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

f. For NTIA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

g. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals paying for goods or services, reimbursing overpayments, or otherwise delivering cash to the Department.

Categories of records in the system: Individual's name, the goods or service purchased, amount, date, check number, division or office, bank deposit, treasury deposit number.

Authority for maintenance of the system: 31 U.S.C. 66(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Name and/or account or case number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Permanently maintained.

System manager(s) and address: For records at location a.: Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230.

For records at location c.: Chief, Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

For records at location d.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f.: Director of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

For records at location g.: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location c., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Room 1014, Sills Building, Springfield, Virginia 22161.

For records at location d., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e., information may be obtained from: Assistant Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location g., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, address, date of receipt, and check number or case number pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/DEPT-18.

System name: Employees Personnel Files Not Covered By Notices of Other Agencies—COMMERCE/DEPT-18.

System location: a. For employees of Departmental Offices, Offices of Federal Cochairmen, RAPCS, ARC, BEA, EDA, USFA, NTIA, NTIS, MBDA, and USTS: Processing and Servicing Branch, Departmental Office of Personnel, Room 5014, U.S. Department of Commerce, Washington, D.C. 20230;

b. For employees of CENSUS: Office of Personnel, Bureau of Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

c. For employees of ITA: Office of Personnel, Industry and Trade Administration, Room 3512, U.S. Department of Commerce, Washington, D.C. 20230;

d. For employees of MARAD: Office of Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

e. For employees of NBS: Office of Personnel, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20760; and National Academy of Sciences, 2100 Pennsylvania Avenue, N.W., Room JH606, Washington, D.C. 20037;

f. For employees of NOAA: Office of Personnel, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852; and

g. For employees of PAT-TM: Office of Personnel, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202.

Categories of individuals covered by the system: Current and former employees.

Categories of records in the system: All personnel records in the Department which are subject to the Privacy Act but are not covered in the notices of systems of records published by the U.S. Office of Personnel Management. The records of this system may include, but are not limited to: Employee Development, Incentive Awards; International Women's Year; Medical; Career Management Program; Ship Personnel; Employee Overseas Assignment, and Relations; Minority Group Statistics; Personnel Uniform ADP System; Experts and Consultants Quarterly Review; Re-Employment Priority; Re-promotion Priority; Merit Promotion Programs; Within-Grade Denials (Reconsideration File); and, Employee Information System.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 5 U.S.C. 4101 ———; and Federal Personnel Manual and related directives of the U.S. Office of Personnel Management.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information concerning current or former employees may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. See routine uses paragraphs in the Prefatory Statement and routine uses paragraphs of U.S. Office of Personnel Management, of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed by name and/or social security number.

COMMERCE/DEPT-19

System name: Department Mailing Lists—COMMERCE/DEPT-19.
System location: a. Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

b. United States Fire Administration, Washington, D.C. 20230.

c. Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230.

d. Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For carpool locator records of NBS: Facilities Services Division, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

f. Office of Administrative Services, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: At location a.: 1. Persons employed in the Suitland Federal Center who have voluntarily submitted an application to be included in the carpool locator system and be listed as a possible carpool member, and 2. Subscribers to Bureau of the Census publications.

At location b.: All regular publication recipients, all individuals who have requested that they be placed on a mailing list or requested information about USFA, and individuals attending USFA-sponsored conferences.

At location c.: Subscribers to MBDA publications and/or representatives of the media who receive MBDA material at their home addresses.

At location d.: Former employees of the Patent and Trademark Office who have requested that their names be included on a newsletter mailing list.

At location e.: Individuals who have voluntarily submitted an application to be included in the carpool locator system and to be listed as a potential carpool member.

At location f.: Individuals who communicated with the 1978 White House Conference on Balanced National Growth and Economic Development, including individuals who received Conference literature.

Categories of records in the system: At location a.: 1. Carpool records include name, address, work week, hours of work, work location, work phone number, willingness to join in a carpool, willingness to participate as a driver or rider in a carpool, zip code. 2. Subscriber lists include name and home address.

At location b.: Name, title, affiliation, address and telephone number.

At location c.: Name and home address.

At location d.: Name and home address.

At location e.: Carpool locator records include applicant's name, home address, zip code, work week, work hours, work location, office telephone number, willingness to participate as a driver or rider in a carpool.

At location f.: Name, home and/or business address; home and/or business telephone number; place of employment or interest group; type of organization; nature of relationship to the Conference (participant, guest, observer, etc.); source of name; and subject area(s) of interest.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512, 2205, 2208, and 44 U.S.C. 3101.

For records at location f.: Public Works and Economic Development Act of 1976, P.L. 94-487, Title II, 90 Stat. 2339, 42 U.S.C. 3121 note.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For all locations, see general routine uses of Prefatory Statement.

For records at location a.: Carpool records are disseminated to other persons working at the Suitland Federal Center who have voluntarily listed themselves to form carpools; home address is suppressed.

For records at location b.: Information is provided Federal, state, local or international agencies in response to a written request indicating a likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency.

For records at location e.: Carpool locator records are disseminated to individuals working at or near the NBS site, who request information on carpools. (Home addresses are withheld.)

For records at location f.: Information may be provided Federal, State, local or international agencies in response to a written request indicating likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders, computer tape, mailing labels.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained according to Unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Chief, Processing and Servicing Branch, Office of Personnel, Room 5014, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location b.: Chief of Personnel, Bureau of the Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

For records at location c.: Director of Personnel, Industry and Trade Administration, U.S. Department of Commerce, Room 3512, Washington, D.C. 20230;

For records at location d.: Director, Office of MARAD Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location e.: Chief of Personnel, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20760;

For records at location f.: Director, Office of Personnel, National Oceanic and Atmospheric Administration, NBOC2, Rockville, Maryland 20852; and

For records at location g.: Personnel Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For EDA records at location a., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USFA records at location a., information may be obtained from: Administrative Officer, USFA, 2400 M Street, N.W., Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For NTIS records at location a., information may be obtained from: Deputy Director, NTIS, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230.

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

For records at location c., information may be obtained from: Director, Office of Management and Systems, Industry and Trade Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location e., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For records at location f., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852; and

For records at location g., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information; others involved in references of the individual; physicians; employee's supervisor; and, sources in the U.S. Office of Personnel Management notices.

For records at location f.: Index cards and computer print-outs.
Retrievability: Alphabetically by name, and for records at location a., by zip code.

For records at location f.: Alphabetically, by name, by geographical area, (state, city), by type of organization with which affiliated if any, by nature of relationship to the Conference, by source of name, and by subject area(s) of interest.

Safeguards: Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained in accordance with each unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Associate Administrator, National Fire Data Center, USFA, U.S. Department of Commerce, P. O. Box 19518, Washington, D.C. 20036.

For records at location c.: Chief of Information, Office of Public Affairs, MBDA, Washington, D.C. 20230.

For records at location d.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Deputy Director for Information Systems, National Bureau of Standards, Administration Building, Room A1105, Washington, D.C. 20234.

For records at location f.: Director, Office of Administrative Services, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For records at location a.: Information may be obtained from: Associate Director for Administration, Federal Building 3, Bureau of the Census, Washington, D.C. 20233.

For records at location b.: Information may be obtained from: Administrative Officer, USFA, Washington, D.C. 20230.

For records at location c.: Privacy Officer, Office of Chief Counsel, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d.: Information may be obtained from: Assistant Commissioner for Administration, U. S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Information may be obtained from system manager at the same address shown above. Requests should provide applicant's name and address in accord with the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

For records at location f.: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Record access procedures: Requests from individuals should be addressed to: Same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individuals, and those authorized by subject individual.

For records at location f.: Subject individual; those authorized by the individual to furnish information; public reference sources (press articles, Who's Who, etc.); government, private and public interest organizations.

COMMERCE/DEPT-20.

System name: Biographical Files—COMMERCE/DEPT-20.

System location: a. For Secretarial Officers, senior-level officials, and employees of the Office of the Secretary: Office of Public Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

b. For Secretarial Officers and senior-level officials included in Biographical Resumes of Key Officials: Offices of the Director of Personnel, Executive Secretariat, and Assistant Secretary for Administration; all Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

c. For employees of CENSUS: Public Information Office, Federal Building #3, Bureau of the Census, Washington, D.C. 20230.

d. For employees of ITA: Office of Public Affairs, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

e. For employees of EDA: Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

f. For members of the National Public Advisory Committee on Regional Economic Development: Office of Economic Research, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

g. For employees of MARAD: Office of Public Affairs, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

h. For members of the Advisory Board to the U.S. Merchant Marine Academy: Office of Assistant Secretary for Maritime Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

i. For employees of NBS: Public Information Division, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

j. For employees of NBS' Boulder Laboratories: Program Information Office, National Bureau of Standards, Radio Building, Boulder, Colorado 80302.

k. For employees of USFA: Office of Information Services, United States Fire Administration, U.S. Department of Commerce, Washington, D.C. 20230.

l. For members of the National Advisory Committee on Oceans and Atmosphere: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, N.W. (PG #1, Room 434), Washington, D.C. 20235.

m. For employees of NOAA: NOAA headquarters locations: Office of Public Affairs, National Oceanic and Atmospheric Administration, 11420 Rockville Pike, Rockville, Maryland 20852, and/or NOAA field installations, the principal addresses of which are:

NOAA's National Ocean Survey, 6001 Executive Boulevard, Rockville, Maryland 20850.

NOAA's National Weather Service, 8060 13th Street, Silver Spring, Maryland 20910.

NOAA's Office of Coastal Zone Management, 2601 Wisconsin Avenue, N.W., Washington, D.C. 20235.

NOAA's Office of Sea Grant, 6010 Executive Boulevard, Rockville, Maryland 20852.

NOAA's Environmental Research Laboratories, 3100 Marine Street, RB3, Boulder, Colorado 80302, and Environmental Research Laboratories at 9 locations in the United States.

NOAA's National Marine Fisheries Service, 3300 Whitehaven Street, Washington, D.C. 20235.

A complete list of all field installations is available upon request from individual designated in Notification section below.

n. For employees of MBDA: Public and Congressional Affairs Office, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230.

o. For employees of PAT-TM: Office of Information Services, Patent and Trademark Office, Washington, D.C. 20231.

p. For employees of the Office of Science and Technology and organizational components reporting to the Assistant Secretary; for members of the Commerce Technical Advisory Board and its subcommittees; and for participants in the Commerce Science and Technology Fellowship Program: Office of Science and Technology, U.S. Department of Commerce, Washington, D.C. 20230.

q. For employees of NTIA's Institute for Telecommunication Sciences: Institute for Telecommunication Sciences, NTIA, Boulder, Colorado 80302. For other NTIA employees: Office of the Director of Congressional and Public Affairs, NTIA, 1800 G Street, N.W., Washington, D.C. 20504.

The information in this system may be duplicated in other Privacy Act systems of the Commerce Department, in the systems maintained by the Office of Personnel Management, or in the immediate office of the individual to whom the biographical record pertains. For assistance in this regard, contact the Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Present and former Department personnel, and members of advisory committees.

Categories of records in the system: Biographical information which typically includes date and place of birth; education; military service; present position; employment history; field of research; publications; inventions and patents; awards and honors; memberships and affiliations; present and past residences; telephone number; names, ages, and addresses of family members; hobbies and outside interests; and photograph of individual.

Authority for maintenance of the system: 5 U.S.C. 301, 15 U.S.C. 1512, 44 U.S.C. 3101 and Reorganization Plan No. 5 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Distributed to the press, other government agencies, and the general public for use in connection with written articles, oral interviews, speaking engagements,

retirement and obituary notices, and other purposes of public information. Also, general routine uses of Prefatory Statement apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders or notebooks.

Retrievability: By name alphabetically or by position or work unit.

Safeguards: Records are located in locked metal file cabinets or locked rooms during non-business hours.

Retention and disposal: Records retention and disposal is in accord with each operating unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Information Assistant, Office of Communications.

For records at location b.: Director of Personnel, U.S. Department of Commerce.

For records at location c.: Director, Bureau of the Census.

For records at location d.: Director of Public Affairs, Industry and Trade Administration.

For records at location e.: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location f.: Director, Office of Economic Research, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location g.: Public Affairs Officer, Maritime Administration.

For records at location h.: Special Assistant to the Assistant Secretary for Maritime Affairs, U.S. Department of Commerce.

For records at location i.: Chief, Public Information Division, National Bureau of Standards.

For records at location j.: Chief, Program Information Office, National Bureau of Standards.

For records at location k.: Director of Information Services, United States Fire Administration.

For records at location l.: Executive Director, National Advisory Committee on Oceans and Atmosphere.

For records at location m.: Director of Office of Public Affairs, National Oceanic and Atmospheric Administration.

For records at location n.: Information Officer, Office of Minority Business Enterprise.

For records at location o.: Director, Office of Information Services, Patent and Trademark Office.

For records at location p.: Special Assistant to the Assistant Secretary for Science and Technology, Office of Science and Technology, U.S. Department of Commerce.

For records at location q.: Director of Congressional and Public Affairs, National Telecommunications and Information Administration.

For each system manager, use same address as shown in applicable System Location section above.

Notification procedure: For records at locations a., b., l., and for Office of the Secretary records at location p.: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at the locations listed below, information may be obtained from the individual designated. Use same address for each as shown in appropriate System Location section above.

c.: Associate Director for Administration, Bureau of the Census.

d.: Director, Office of Management and Systems, Industry and Trade Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

e. and f.: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

g. and h.: Secretary of the Maritime Administration.

i. and j., and NBS records at location p.: Deputy Director for Information Systems, National Bureau of Standards.

k.: Administrative Officer, United States Fire Administration.

m.: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

n.: Privacy Officer, Office of Chief Counsel, Office of Minority Business Enterprise.

o. and PAT-TM records at location p.: Assistant Commissioner for Administration, Patent and Trademark Office.

q.: Privacy Officer, National Telecommunications and Information Administration.

For NTIS records at location p.: Assistant Director for Administration, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

BEA records are included in locations a and b above.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: All locations, subject individuals. Also, for records at locations b. and g., the individual's Official Personnel File; for records at location m., supervisors of subject individuals; for records at locations l., and m., personnel offices; and for records at locations i., j., and p., other sources such as news releases, articles and publications relating to the subject individual.

COMMERCE/DEPT-21

System name: Freedom of Information and Privacy Request Records—COMMERCE/DEPT-21.

System location: a. For FOIA request records of CENSUS: Freedom of Information Request Control Desk, Bureau of the Census, Federal Building 3, Suitland, Md. 20233.

b. For FOIA and PA request records of ITA: Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

c. For PA request records of MARAD: Office of the Secretary of the Maritime Administration, and offices of MARAD Privacy Act system managers, U.S. Department of Commerce, Washington, D.C. 20230. A complete address list of system managers is available upon request.

d. For FOIA and PA request records of USFA: Freedom of Information Request Control Desk and Administrative Office, respectively, United States Fire Administration, 2400 M Street, N.W., Washington, D.C. 20037.

e. For FOIA request records of NOAA: Freedom of Information Request Control Desk, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Md. 20852.

f. For FOIA request records of NTIA: Freedom of Information Request Control Desk, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

g. For PA request records of the Office of the Secretary: Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals who have requested records under the Freedom of Information and/or Privacy Acts contained in files maintained by the organizational units shown in the System Location paragraph above.

Categories of records in the system: Incoming requests; correspondence developed during processing of requests; initial and final determination letters; records summarizing pertinent facts about requests and action taken; copy or description of records released; description of records denied (copies of records denied are not kept with these files).

Authority for maintenance of the system: 5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 552a and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Department management and legal personnel to assure that each request receives an appropriate reply and to compile data for the required annual reports on activities under the Acts. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: At all locations: Paper records in file folders or loose-leaf binders.

Retrievability: At location b.: By control number assigned to each request based on date of receipt.

At all other locations: Alphabetically by name of requester.

Safeguards: At all locations: Privacy Act request records are stored in file cabinets in secured premises with access limited to those whose official duties require access. Freedom of Information request records are generally available to the public.

Retention and disposal: Records are disposed of in accordance with the appropriate records disposition authorization approved by the Archivist of the United States.

System manager(s) and address: For records at location c.: Associate Director for Administration and Field Operations, Bureau of the Census.

For FOIA records at location b.: Freedom of Information Officer, ITA.

For PA records at location b.: Director, Office of Management and Systems, ITA.

For records at location c.: Secretary of the Maritime Administration.

For FOIA records at location d.: Chief Counsel, USFA.

For PA records at location d.: Administrative Officer, USFA.

For records at location e.: Assistant Administrator for Administration, NOAA.

For records at location f.: Director of Congressional and Public Affairs, NTIA.

For records at location g.: Director, Office of Organization and Management Systems, U.S. Department of Commerce.

For each system manager, use the same address as shown for that unit in the System Location section above.

Notification procedure: For records at locations a., c., e., and g.: Same individual and address for each as shown in System Manager section above.

For records at locations b. and d.: Same individual and address for each as shown for Privacy Act records in System Manager section above.

For records at location f.: Privacy Officer, NTIA, same address as shown in System Manager section above.

Requestor should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The individual making the request, and records derived from the processing of Freedom of Information and Privacy Act requests.

COMMERCE/DEPT-22

System name: Secretarial Correspondence Files—COMMERCE/DEPT-22.

System location: Executive Secretariat for the Office of the Secretary, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230. Records at this location may be duplicated in part or in whole in other Department of Commerce systems of records, or in Government-wide systems, at other locations. For assistance in this regard, information may be obtained from the system manager identified below. Records may also be temporarily located at a contractor's installation: Dialcom Inc., 1104 Spring Street, Silver Spring, Md. 20910.

Categories of individuals covered by the system: (a) Individuals who correspond with the Secretary of Commerce, Under Secretary, or Assistant Secretary for Congressional Affairs. (b) Individuals whose correspondence has been referred by the White House, other Executive agencies or Members of Congress to the Secretary or Under Secretary for response. In these two categories, the individuals include only those who express views or seek information or assistance. Freedom of Information Act or Privacy Act requests are not indexed in this system (See Freedom of Information and Privacy Request Records—COMMERCE/DEPT-21).

Categories of records in the system: The system may include the name and address of correspondent, summary of subject matter, original correspondence, Department's response, referral letters, memoranda or notes concerning the subject of the correspondence, or copies of any enclosures. The records in the system are arranged numerically by control number assigned to each item of correspondence.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by personnel in the Executive Secretariat of the Department and in administrative offices of each operating unit of the Department to assure that each request receives an appropriate and timely reply and to prepare statistical reports for management on correspondence volume or topics of public interest.

Information from or copies of the records may be provided to the original addressee of the original correspondence. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in paper form by the Executive Secretariat and on magnetic tape by the contractor (temporarily).

Retrievability: By control number, by correspondent's name, by subject, by addressee, by category of writer (e.g., Congressman, White House staff, Cabinet member, mayor, citizen) by category of correspondence, by Executive Secretariat analysts' identification code, by type of priority for response time, or possibly by city and state of correspondent's address.

Safeguards: Paper records and magnetic tape are stored in file cabinets on secured premises with access limited to personnel whose official duties require access.

Retention and disposal: Records are disposed in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

System manager(s) and address: Director, Executive Secretariat, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Requests for information should be addressed to the system manager and should provide the correspondent's name as included in original correspondence, or provide any items listed under the retrievability section above pursuant to the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

Record access procedures: Request for access and disclosures should be addressed to the system manager as shown above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determination by the individual concerned appear in 15 CFR Part 4b. Requests for correction should be addressed to manager as shown above.

Record source categories: The correspondent, referral source, Department employees involved in processing the correspondence, and other individuals, as required to prepare an appropriate response.

COMMERCE/DEPT-23

System name: Work Schedule Study Interview Records—COMMERCE/DEPT-23.

System location: George Washington University Family Impact Seminar, 1001 Connecticut Avenue, Suite 838, Washington, D.C. 20036.

Categories of individuals covered by the system: MARAD and EDA employees, their spouses, and other family members, interviewed on a voluntary basis as part of the work schedule study.

Categories of records in the system: Age, sex, marital status, ages and number of children, educational background, ethnic heritage, degree of job satisfaction, attitudes and feelings toward work and work schedules, leisure activities, portion of family income derived from employee's income; information on the handling of household chores, time spent taking care of or doing things with the children, information pertaining to flexitime schedule, and notes and videotapes of interviews pertaining to the effect of employment on family life.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: George Washington University's Family Impact Seminar employees will use this information to prepare the report of the study entitled, "The Effects of Work Schedules on Families."

Storage: Paper copy in file folders, magnetic tape, and videotape.

Retrievability: By identification number cross-referenced with employees' names on master list until December 1981.

Safeguards: Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access. Only 2 George Washington University employees will have access.

Retention and disposal: Identifying information will be destroyed on or before December 1981.

System manager(s) and address: Director, Work Schedules Study, Family Impact Seminar, George Washington University, 1001 Connecticut Avenue, Suite 838, Washington, D.C. 20036.

Notification procedure: For MARAD records, information may be obtained from Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For EDA records, information may be obtained from Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Record access procedures: Requests from individuals should be addressed to same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/CENSUS-1.

System name: Agriculture Census Records for 1969 (partial), 1974 and 1978—COMMERCE/CENSUS-1.

System location: Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47103.

Categories of individuals covered by the system: Farm operators and family members.

Categories of records in the system: Age, race, residence, ethnic groups, off-farm employment, income.

Authority for maintenance of the system: 13 U.S.C. 142.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These data maintained by the Bureau of the Census are used solely for statistical purposes and are confidential under 13 U.S.C. 8 and 9. Publications of the Bureau do not contain data that could identify any particular establishment or individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, microform, punch card, paper hard copy.

Retrievability: Retrieved by unique serial identification numbers internal to the Bureau.

Safeguards: All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, governing the confidentiality of the data.

Retention and disposal: Retention and disposal practices are in accordance with approved General Services Administration schedules. Generally, records are retained for periods of 5 to 11 years, unless a longer period is necessary for statistical purposes or for permanent archival retention.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C., 552 a(k)(4), this record is exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance with agency rules published in 15 CFR Part 4b.

COMMERCE/CENSUS-2.

System name: Employee Productivity Measurement Records—COMMERCE/CENSUS-2.

System location: Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47103 and Bureau of the Census, Personal Census Service Branch, Pittsburg, Kansas 66762. Also at the following Census Regional Offices: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 S. Tryon Street, Charlotte, North Carolina 28202; 55 E. Jackson Boulevard, Suite 1304, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75202; 575 Union Boulevard, P.O. Box 25207, Denver, Colorado 80225; 231 W. Lafayette, RM 565, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; 1700 Westlake Avenue, Seattle, Washington, 98109. Also at the following processing offices: Bureau of the Census, Laguna Niguel Processing Office, Chet Holifield Building, 24000 Avila Road, Laguna Niguel, California 92677 and Bureau of the Census, New Orleans Processing Office, Michoud Assembly Facility, Building 350-2W, 13800 Old Gentilly Road, New Orleans, Louisiana 70129.

Categories of individuals covered by the system: Census employees.

Categories of records in the system: Name, employee number, rate of pay, supervisor, organization unit, location, type of work performed, time work accomplished, work units processed, production standard and percent performance, number and types of errors and

error rates, work units accepted and rejected, and similar information on employee and work group productivity.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraph in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, paper copy, microform.

Retrievability: Retrieved by name or employee number and/or program or interviewer code.

Safeguards: Tape under ADP security, sensitive material is held in locked file cabinets.

Retention and disposal: Records retained for 5 years.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Notification procedure: Information may be obtained from: same address as stated in the system manager section above. Requester should provide name, employee number and/or program or interviewer code, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals, timekeepers, supervisors, managers, and those authorized by the individuals to furnish information.

COMMERCE/ITA-1.

System name: Individuals Identified in Export Administration Compliance Proceedings or Investigations—COMMERCE/ITA-1.

System location: a. Office of Export Administration, ITA, 14th Street and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230. b. Appeals Board for the Department, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals identified in an export administration compliance proceeding or investigation. Individuals alleged to have violated the Export Administration regulations; established violators of the regulations; certain other individuals identified by the FBI or other investigating agency or individual in the investigative process such as those involved in organized crime; and individuals who have received warning letters.

Categories of records in the system: Reports from F.B.I., other law enforcement or investigative agencies, investigators, or informants; investigative and intelligence data; documented violations; warning letters. Includes any information on alleged or proven violators of the Export Administration Act.

Authority for maintenance of the system: Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.), as amended, 5 U.S.C. 301, 28 U.S.C. 533-535, 44 U.S.C. 3101, and E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in paper form.

Retrievability: Information filed by case or subject file. All names are cross-referenced by name card file.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained for a reasonable period of time. Disposition is recorded.

System manager(s) and address: Director, Compliance Division, Office of Export Administration, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, address, and case or subject, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Individual exporters, those authorized by the individual to furnish information, trade sources, investigative agencies, intelligence or investigative personnel of the Office of Export Administration, and informants.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(1) and (k)(2) on condition that the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meets the criteria stated in 5 U.S.C. 552a(k)(1) and (k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. Section 7(c) of the Export Administration Act of 1969, as amended, also protects this information and material from disclosure.

COMMERCE/ITA-2.

System name: Individuals Involved in Export Transactions—COMMERCE/ITA-2.

System location: Office of Export Administration, ITA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals involved in export transactions. Information primarily is maintained on foreign companies and business officials, but includes U.S. citizens involved with or working for firms abroad.

Categories of records in the system: Reports and cables from U.S. foreign service posts and reports from investigative agencies.

Authority for maintenance of the system: 50 U.S.C. App. 2401 et seq. (Export Administration Act of 1969 as amended), 5 U.S.C. 301, 23 U.S.C. 533-535, 44 U.S.C. 3101, and E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by individual's name.

Safeguards: Barlocked metal cabinets with combination. Some material is maintained in safes.

Retention and disposal: Disposed of after 5 years.

System manager(s) and address: Director, Compliance Division, Office of Export Administration ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and date of involvement in export transactions pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: U.S. Foreign Service Posts, CIA, Compliance Division, OEA, Post Office Fraud Section, FBI, and Defense Intelligence Agency.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2), law enforcement investigatory material is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), to the extent the disclosure of such material would reveal the identity of a confidential source of information, in order to maintain the ability to obtain necessary information and to fulfill commitments made to sources that their identities would be kept confidential.

Pursuant to 5 U.S.C. 552a(k)(1), material which is classified is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) to prevent disclosures detrimental to national defense or foreign policy.

COMMERCE/ITA-3.

System name: Individuals Involved in International Business Trade Complaints—COMMERCE/ITA-3.

System location: Office of Export Marketing Assistance, ITA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals filing trade complaints (business disputes) against foreign firms, or against whom foreign firms file complaints through U.S. Embassies.

Categories of records in the system: Complaint and supporting documentation, record of the handling and disposition of the complaint, and third party information (bank references, information obtained from other parties to the transaction, and commercial contacts of the individual).

Authority for maintenance of the system: 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Also foreign governments obtain information on the disputants in order to check reliability of the firms involved, and foreign firms involved in the dispute obtain information. This information is supplied to the foreign governments and foreign firms through the Department of State. The Department of State also uses information to check the credibility of the foreign firms involved in a dispute. Information is released to other executive branch agencies, e.g., SBA, USDA, when a party to the dispute falls within their area of jurisdiction in an attempt to solve the dispute.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Name of American party to the dispute.

Safeguards: Metal cabinets with bar and combination lock.

Retention and disposal: Permanent.

System manager(s) and address: Director, Office of Export Marketing Assistance, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual and name of American party to the dispute pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, the complainant, banks, commercial contracts, and other parties to the transaction.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), material which is classified is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to prevent disclosures detrimental to national defense or foreign policy.

COMMERCE/ITA-4.

System name: Mission Directors/Seminar Chairmen/Industry Technical Representatives—COMMERCE/ITA-4.

System location: Office of International Marketing, ITA, 14th St. and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals who are Directors of U.S. Trade Missions, Chairmen of U.S. Government Seminar Missions, and Technical Representatives of Catalog Exhibits sponsored by the Department.

Categories of records in the system: Home address, date and place of birth, photographs, brief career history, citizenship, and passport numbers.

Authority for maintenance of the system: Delegation of Authority, dated June 25, 1962 from United States Information Agency under Section 5 (e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad

COMMERCE/ITA-6.

System name: National Defense Executive Reserve Personnel Folders—COMMERCE/ITA-6.

System location: Office of Industrial Mobilization, and Office of Export Administration, Bureau of Trade Regulation, ITA, 14th and Constitution Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals from the business community selected to assume responsibility for industrial production, construction, and distribution in the event of national emergencies.

Categories of records in the system: Name; home address; photograph; brief career history; names of close relatives; marital status; previous government experience; previous residences; current and recent past employment and approximate earnings; citizenship; social security number; business and residence telephone numbers; security clearance; statement of understanding; request for appointment; appointment affidavits; secrecy agreement; sex; date and place of birth; military and civil defense obligations; education; and professional and other memberships.

Authority for maintenance of the system: 50 U.S.C. 2153 and E.O. 11179 of September 22, 1964.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Transferring data to the Federal Preparedness Agency pursuant to E.O. 11179.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper forms, index cards, and magnetic tape.

Retrievability: Paper cards and index cards are filed alphabetically by individual's name. Data on magnetic tape is retrieved by serial number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Retained until two years after individual's resignation or death and then discarded.

System manager(s) and address: Director, Office of Industrial Mobilization, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Emergency Planning Officer, Office of Export Administration, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/ITA-8.

System name: Foreign Service Officer Evaluations—COMMERCE/ITA-8.

System location: Office of International Commercial Representation, ITA, U.S. Department of Commerce, 14th & E St. and Constitution Ave., N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Members of the Foreign Service of the United States serving abroad or on detail to the Department of Commerce in economic/commercial positions.

Categories of records in the system: (1) End User and Field Observation Reports; (2) memorandums, cables, letters and other documents used in the preparation of End User and Field Observation Reports, and of Foreign Service Officer Evaluation Reports; and (3) other documents relating to officer performance.

Authority for maintenance of the system: Foreign Service Act of 1946, as amended; 22 U.S.C. 801 et seq., 986; and 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed, as a routine use, to the Department of State in connection with the evaluation of the performance of Foreign Service Officers. (See also general routine use paragraphs.)

under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By promotion theme of trade mission, location of trade mission and individual's name.

Safeguards: Records are locked in lockable metal file cabinets or in metal file cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: File is retained for three years and then destroyed.

System manager(s) and address: Director, Special Promotions Division, Office of Export Promotion, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and location of trade mission and individual's name pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, and individual's company, and those authorized by the individual to furnish information.

COMMERCE/ITA-5.

System name: Membership Information: District Export Councils—COMMERCE/ITA-5.

System location: Bureau of Field Operations, ITA, President's Export Council Staff, 14th St. and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Present, former and potential members of the District Export Councils.

Categories of records in the system: Address, date and place of birth, Social Security account numbers, brief career history, education, special qualifications for appointment, and record of appointment. Miscellaneous material such as photographs, press releases and resumes are maintained on some members.

Authority for maintenance of the system: 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name of council or may be filed by name of individual.

Safeguards: Records are located in lockable metal file cabinets or in metal cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Retained for active councils. Retired when councils terminate or when individuals leave councils.

System manager(s) and address: Deputy Assistant Secretary for Field Operations, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual and council pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, individual's company, and persons nominating the individual for council membership.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by individual FSO's name.

Safeguards: Records are located in lockable metal file cabinets in premises with access limited to those whose official duties require access.

Retention and disposal: End User Reports and Field Observation Reports are transmitted to the Department of State by July 15 of each year. Other documents relating to officer performance are retained until the retirement, resignation or death of the individual and then retired or destroyed, as appropriate.

System manager(s) and address: Director, Office of International Commercial Representation, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide his name pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, and supervisors of those individuals.

COMMERCE/MA-2.

System name: Cadet Files, State Maritime Academies—COMMERCE/MA-2.

System location: Office of Maritime Labor and Training, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Current and former cadets enrolled in the State Maritime Academies.

Categories of records in the system: Name; date of birth; number of dependents; military service; date of change in pay; reenrollment or reinstatement; disenrollment; no-strike statement; and date of graduation. (Forms: MA-1005 and 1006A).

Authority for maintenance of the system: 46 U.S.C. 1383, 1387.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Records are located in lockable file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are retained until one year after graduation and then destroyed.

System manager(s) and address: Director, Office of Maritime Labor and Training, see address above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C., 20230. Requester should provide Cadet's name and State School attended, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The subject student, State Merchant Marine Academies, and those authorized by the student to furnish information.

COMMERCE/MA-7.

System name: National Defense Executive Reserve—COMMERCE/MA-7.

System location: Division of National Security Plans, MA, Room 3716, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Nominees and members of the National Defense Executive Reserve.

Categories of records in the system: Name; home address; photograph; brief career history; names of close relatives; marital status; previous Government experience; previous residences; current and recent employment; citizenship; social security number; business and residence telephone numbers; security clearance; statement of understanding; request for appointment; appointment affidavits; secrecy agreement; sex; date and place of birth; education; and professional and other memberships.

Authority for maintenance of the system: 50 U.S.C. 2153; and E.O. 11179 of September 22, 1964.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Transferring data to the Federal Preparedness Agency pursuant to E.O. 11179.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained until one year after individual's resignation or until death and then discarded.

System manager(s) and address: Chief, Division of National Security Plans, MA, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The individual, those authorized by the individual to furnish information, the investigator performing personal and security investigation and sources contacted by the investigator.

COMMERCE/MA-9.

System name: Seamen's Awards for Service, Valor, etc.—COMMERCE/MA-9.

System location: Office of Maritime Labor and Training, Room 3069A, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Seamen given awards for service, valor, etc.

Categories of records in the system: Name; address; mariner's document number; social security number; names of ships and dates of service.

Authority for maintenance of the system: Merchant Marine Medals Act; 46 U.S.C. 249.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in paper copy in file folders and on magnetic tape.

Retrievability: Files are maintained alphabetically by name of seaman.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Paper records containing letters of commendation, name of seamen, address, name of vessel and mariner's document number are transferred to the Federal Records Center immediately, where they are retained for 75 years.

System manager(s) and address: Director, Office of Maritime Labor and Training, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide seaman's name and name of vessel, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, the individual's co-workers, witnesses to incidents, and those authorized by the individual to furnish information.

COMMERCE/MA-10.

System name: Seamen's Employment Analysis Records—COMMERCE/MA-10.

System location: Division of Computer Operations, MA Room SB-701, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Current and recent merchant seamen.

Categories of records in the system: Social security number; date of birth; records of U.S. Coast Guard issued documents; voyage employment information (e.g., ship and date signed on); and maritime schools attended.

Authority for maintenance of the system: 46 U.S.C. 1122(a) and 1126.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Filed by social security number.

Safeguards: In addition to technical securities, the records are located in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Basic biographical data are retained indefinitely.

System manager(s) and address: Director, Office of Maritime Labor and Training, Room 4099, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and social security number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Magnetic tape is produced from information received from the U.S. Coast Guard.

COMMERCE/MA-19.

System name: USMMA Non-Appropriated Fund Employees—COMMERCE/MA-19.

System location: a. Office of the Commandant of Midshipmen; b. Office of the Director of Athletics; c. Office of the General Manager, Ship's Service; d. Officer's Club; e. Junior Officer's Mess; f. Petty Officers Club; g. Fiscal Control Office; and h. Department of Administrative Services and Procurement, (address for a. through h. above) U.S. Merchant Marine Academy, Kings Point, N.Y. 11024.

Categories of individuals covered by the system: All current and former employees of non-appropriated fund activities since 1970.

Categories of records in the system: Name; telephone number; social security number; address; date of birth; height; weight; birthplace; employment history; special qualifications; education summary; references; personnel actions showing positions held and salary paid; insurance coverage; and letters of commendation or reprimand.

Authority for maintenance of the system: The Merchant Marine Act of 1936; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; 46 U.S.C. 216(b); and E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by employee's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: a. Commandant of Midshipmen; USMMA; b. Director of Athletics, USMMA; c. General Manager, Ship's Service; d. President, Officers Club; e. Manager, Junior Officers Mess; f. President, Petty Officers Club; g. Head, Department of Budget and Accounts; and h. Head, Department of Administrative Services and Procurement, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of employee and date of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject employee and those authorized by the employee to furnish information; past employers and references; and the employee's supervisor.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment.

COMMERCE/NBS-1.

System name: NBS Guest Workers—COMMERCE/NBS-1.

System location: Personnel Division, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Categories of individuals covered by the system: Guest workers pursuing individual scientific or technical projects.

Categories of records in the system: Agreement between NBS and guest worker; name; citizenship; social security number; supervisor; arrival and departure dates; date of security assurance; conditions; and facilities to be made available.

Authority for maintenance of the system: 27 Stat. 395 and 31 Stat. 1039.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: The records are disposed 5 years after guest worker terminates.

System manager(s) and address: Personnel Officer, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and approximate date of affiliation, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and operating officials making the facilities available.

COMMERCE/NBS-2.

System name: Inventors of Energy-Related Processes and Devices—COMMERCE/NBS-2.

System location: Office of Energy-Related Inventions, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Inventors submitting ideas for evaluation by NBS.

Categories of records in the system: Name, address, and telephone number of the persons submitting ideas or inventions for evaluation.

Authority for maintenance of the system: 88 Stat. 1894.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to the routine uses referenced in the Prefatory Statement, the information is used in correspondence with the inventor or person submitting the invention for evaluation and submittal-designated interested third parties, in the evaluation of technical and commercial feasibility, in reports to the Department of Energy, and in development of statistical and analytical data.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets; access to all files is restricted to those persons requiring access for evaluation or administrative purposes and who have permission pursuant to a written contract or agreement with NBS, or have written authorization of the legal advisor; an exception to this would be a valid request made under the Freedom of Information Act for information that is not 1) a trade secret or 2) commercial or financial information that is privileged or confidential and therefore falling within the exemption set out in the Act, 5 U.S.C. 552 (b)(4).

Retention and disposal: Currently all records are retained indefinitely.

System manager(s) and address: Chief, Office of Energy-Related Inventions, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and additional factual data as appropriate, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NBS-3.

System name: Research Associates—COMMERCE/NBS-3.

System location: Office of the Director, Administration Building, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Categories of individuals covered by the system: Research Associates.

Categories of records in the system: Personal history statement, conflict of interest statement.

Authority for maintenance of the system: 27 Stat. 395 and 31 Stat. 1039.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Records are transferred from an active to terminated section of the files at conclusion of individual's service as a research associate and are retained in accordance with the unit's Records Control Schedule.

System manager(s) and address: Industrial Liaison Officer, Office of the Director, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and approximate date of affiliation, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/NBS-7.

System name: Employees External Radiation Exposure Records—COMMERCE/NBS-7.

System location: Health Physics, Occupational Health and Safety Division, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Individuals working with radioactive materials and machines who may be exposed to ionizing radiation.

Categories of records in the system: Name, social security number, date of birth, organizational unit, and amount of radiation received.

Authority for maintenance of the system: 42 U.S.C. 2201 and 68 Stat. 950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also, film from badges is sent monthly to the U.S. Army for determination of amount of radiation exposure.

Information involving exposure levels, incidents, and amounts of overexposure is required to be submitted to the Nuclear Regulatory Commission. In the event of serious overexposure, information would be disclosed to the Bethesda (Maryland) Naval Medical Center, employee's family physician, and other appropriate medical authorities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and film.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Currently, records are retained indefinitely. System manager(s) and address: Chief, Health Physics, Occupational Health and Safety Division, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, social security number, and date of employment, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and U.S. Army.

COMMERCE/NBS-8.

System name: Nuclear Reactor Operator Licensees File—COMMERCE/NBS-8.

System location: Reactor Radiation Division, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: NBS employees who are licensed as Nuclear Reactor Operators, those whose applications for licenses are being processed, and those whose licenses have expired.

Categories of records in the system: These records contain information relating to the application for a Nuclear Reactor Operator's license, certification of competency, certification of medical history, results of medical examination and related correspondence, reactor operator examination and examination results, records of training, and license or denial letter.

Authority for maintenance of the system: Sections 107, 161(i), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2137, and 2021(i), 15 U.S.C. 272.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be disclosed: To the Nuclear Regulatory Commission for the purpose of conducting audits of the qualifications of reactor operators. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are maintained in a locked filing cabinet in a limited access building.

Retention and disposal: All records relating to an individual's license and documentation for license including requalification requirements will be retained as long as is required by the Reactor License and will thereafter either be turned over to the individual concerned or destroyed.

System manager(s) and address: Chief, Reactor Radiation Division, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and additional factual data as appropriate, pursuant to the inquiry provisions of the Department's rules, which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, licensed physician, employees of the Reactor Radiation Division, and those authorized by the subject individual to supply information.

COMMERCE/NBS-9.

System name: Participants in Experiments, Studies, and Surveys—COMMERCE/NBS-9.

System location: Portions of the system may be located with contractors involved in the experiments, studies, or surveys, or in any one of the following locations:

National Measurement Laboratory, Room B364, Materials Bldg., NBS, Washington, D.C. 20234; Room R4011 NBS, Boulder, CO 80302;

National Engineering Laboratory, Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Institute for Computer Sciences and Technology, Room A200, Administration Bldg., NBS, Washington, D.C. 20234.

For those portions located with contractors, a complete list of contractors and addresses is available from the Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Individuals who have voluntarily applied to serve or who have served as participants in socio-economic, technical, or psychological experiments, studies and surveys undertaken in furtherance of authorized research activities.

Categories of records in the system: Name, age, birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, drug sensitivity data, medical, dental and physical history information, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

Authority for maintenance of the system: 15 U.S.C. 271 et. seq.; 29 U.S.C. 651 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in the system may, on occasion, be disclosed to Federal agencies and other outside organizations which have sponsored the research in connection with which the data were obtained. General routine uses in the Prefatory Statement also apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, electromagnetic storage material and microform.

Retrievability: Filed alphabetically by name, or control number or other code identifier.

Safeguards: During business hours the records at NBS sites are maintained in a secured building with access limited to those whose official duties require access; during non-business hours, the records are in secured rooms with access controlled by security guards. Any

records maintained by contractors will be maintained in similar fashion in accordance with contractual specifications.

Retention and disposal: Retained in accord with NBS's records control schedule.

System manager(s) and address: Director, National Engineering Laboratory, Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, approximate date, and title of experiment, study or survey pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NOAA-11.

System name: Fisheries Law Enforcement Case Files—COMMERCE/NOAA-11.

System location: Enforcement Division, NMFS, 3300 Whitehaven Street, NW., National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Categories of individuals covered by the system: Violators and alleged violators of the criminal and/or civil provisions of certain laws (listed in the Authority section of this notice) and the regulations issued thereunder, within the responsibility of the Secretary of Commerce.

Categories of records in the system: 1. Information compiled for the purpose of identifying individual criminal and/or civil offenders and alleged offenders and consisting of identifying data and notations of arrests, the nature and disposition of criminal or civil charges, sentencing, confinement, release, parole and probation status, and fines and penalties assessed;

2. Information compiled for the purpose of a criminal or civil investigation, including reports of informants and investigators, and associated with an identifiable individual;

3. Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal and civil laws from arrest or indictment through release from supervision, and the imposition of civil sanctions through administrative and/or judicial process; and

4. Investigatory material compiled for law enforcement purposes other than the material covered above.

Authority for maintenance of the system: Reorganization Plan No. 4 of 1970; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; E.O. 10450; Certain sections of Titles 15, 16, 18, and 22 of the United States Code; and, relevant treaty, international convention, and/or agreements of which there are approximately 20. (Example: International Convention for the Regulation of Whaling (TIAS 1849) cf. 16 U.S.C. 916).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in Prefatory Statement. Also, information is given to the Marine Mammal Commission for their use in making recommendations on the issuance of permits and the award of grants under the Marine Mammal Protection Act of 1972.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable, and computer output records in file folders.

Retrievability: Filed alphabetically by individual's name and is also given an identifying case number at its initiation.

Safeguards: Employees are informed of the Departmental rule of conduct regarding unauthorized disclosure of information contained in official records. All Special Agents receive a security clearance, granted by the Department of Commerce, after an investigation. The files of the Law Enforcement Division which relate to information concerning an identifiable individual are maintained in locked, metal file cabinets. Automated records are maintained in premises with access limited to those whose official duties require access.

Retention and disposal: All records of this Division are subject to the retention and disposal procedures set forth in NOAA Directives Manual 62-10, et seq.

System manager(s) and address: Chief, Enforcement Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 3300 Whitehaven Street, N.W., Page Building 2, Suite 426, Washington, D.C. 20235.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, and case number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information; NMFS investigators; Federal and state law enforcement personnel; foreign governments; special interest organizations, members of the general public, and all information sources that are open to the public-at-large.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(2), on condition that the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meet the criteria stated in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. In addition, pursuant to 5 U.S.C. 552a(k)(1), all materials qualifying for this exemption are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) in order to prevent disclosure of classified information as required by Executive Order 12065 in the interest of the national defense and foreign policy.

COMMERCE/NOAA-12.

System name: Marine Recreational Fishermen's Catch Statistics—COMMERCE/NOAA-12.

System location: Data Management and Information Systems Division, NMFS, NOAA, U.S. Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C. 20235; and the following field locations of the National Marine Fisheries Service:

Northeast Fisheries Center
Woods Hole, Massachusetts 02543

Southeast Fisheries Center
75 Virginia Beach Drive
Miami, Florida 33149

Southwest Fisheries Center
P.O. Box 271
LaJolla, California 92038

Northwest and Alaska Fisheries Center
2725 Montlake Boulevard, East
Seattle, Washington 98112

Northeast Regional Office
14 Elm Street, Federal Building
Gloucester, Massachusetts 01930

Southeast Regional Office 9450 Gandy Boulevard
St Petersburg, Florida 33702

Southwest Regional Office
300 South Ferry Street
Terminal Island, California 90731

Northwest Regional Office
1700 Westlake Avenue, North
Seattle, Washington 98105

Alaska Regional Office
P. O. Box 1668
Juneau, Alaska 99802

Categories of individuals covered by the system: Marine recreational fishermen.

Categories of records in the system: Marine recreational fishermen catches by species, length, weight, area of capture, disposition of catch, and expenses and other trip records.

Authority for maintenance of the system: Fish and Wildlife Act as amended (16 U.S.C. 742 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy, punch cards, mag-tape, and disc files.

Retrievability: Filed alphabetically by name.

Safeguards: Personnel indoctrination and screening; secured offices; and entrance into the computer system to obtain individual records would require detailed knowledge of in-house ADP procedures by a skilled computer programmer.

Retention and disposal: Records are permanently maintained.

System manager(s) and address: Chief, Data Management and Information Systems Division, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Individual recreational fishermen.

COMMERCE/NOAA-14.

System name: Individuals Engaged in Weather Modification Activities—COMMERCE/NOAA-14.

System location: Assistant Administrator for Research and Development, NOAA, U.S. Department of Commerce, 6010 Executive Blvd., Rockville, Md. 20852.

Categories of individuals covered by the system: Individuals and associations involved in weather modification operations.

Categories of records in the system: Individual's name and address; type of weather modification activity; location and duration of project; and equipment used.

Authority for maintenance of the system: P.L. 92-205; 15 CFR Part 908.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also information is made available to anyone who so requests.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folder.

Retrievability: Filed sequentially by chronology.

Safeguards: Records are located in cabinets with full public access upon request.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Office of the Director, Office of Weather Modification, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, date(s) of project etc., pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual or association involved and those authorized by the foregoing to furnish information.

COMMERCE/NOAA-16.

System name: Scientist-Researchers in GATE (Global Atmospheric Research Program Atlantic Tropical Experiment)—COMMERCE/NOAA-16.

System location: Assistant Administrator for Research and Development, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.

Categories of individuals covered by the system: Research meteorologists and ocean scientists participating in the Global Atmospheric Research Program Atlantic Tropical Experiment (GATE).

Categories of records in the system: Names of individual scientists; their research institutions and research programs; and their addresses.

Authority for maintenance of the system: Ministerial requirement necessitated by NOAA's appointment, as lead agency for the U.S. participation in "GATE"; Presidential memorandum dated July 5, 1968 to DOC; 5 U.S.C. 301; and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Data is also used to summarize and evaluate the U.S. GATE Research Program for the World Meteorological Organization incorporation into the International summary.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by name of principal scientist.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secure premises with access limited to those whose official duties require access.

Retention and disposal: Records maintained indefinitely.

System manager(s) and address: Director, GATE Project Office, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Blvd., Rockville, Maryland 20852. Requester should provide name and address etc., pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/NOAA-17.

System name: NOAA Diving Program File—COMMERCE/NOAA-17.

System location: a. NOAA Diving Office, 11400 Rockville Pike, Rockville, Maryland 20852.

b. For Pacific Marine Center personnel, duplicate records are maintained at the Pacific Marine Center, 1801 Fairview Avenue, East, Seattle, Washington 98102.

Categories of individuals covered by the system: Applicants for the diving program and NOAA employees who are NOAA certified Divers.

Categories of records in the system: Diving physical examinations, verification of completed scuba instruction, NOAA scuba diving written examination, diver resume, diver evaluations, letters of certification and/or appointment, monthly diving logs, individual correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 16 U.S.C. 1432; 33 U.S.C. 1441, 1442.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See general routine use paragraphs numbered 1 through 6, 8 through 10, and 12 of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine readable.

Retrievability: Alphabetically by surname.

Safeguards: Records are located in locked metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Five years after termination of diver.

System manager(s) and address: For records at location a.: NOAA Diving Coordinator, 11400 Rockville Pike, Rockville, Maryland 20852.

For records at location b.: Budget and Finance Officer, Pacific Marine Center, 1801 Fairview Avenue, East, Seattle, Washington 98102.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, the Unit Diving Officer, training officers and NOAA Diving Medical Review Board.

COMMERCE/NOAA-18.

System name: NOAA Mailing Lists—COMMERCE/NOAA-18.

System location: Mailing lists are maintained at numerous NOAA installations throughout the United States. Addresses of major installations where there are mailing lists are:

Office of Publications
Main Commerce Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Headquarters:

Assistant Administrator for Administration
6010 Executive Boulevard
Rockville, Maryland 20852

Director, Office of Finance
North Bethesda Office Center
11420 Rockville Pike
Rockville, Maryland 20852

National Marine Fisheries Service:

Director, National Marine Fisheries Service
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Director, Northwest Region
National Marine Fisheries Service, NOAA
1700 Westlake Avenue North
Seattle, Washington, 98109

Director, Southeast Region
National Marine Fisheries Service, NOAA
9450 Koger Boulevard
St. Petersburg, Florida 33702

Director, Northeast Region
National Marine Fisheries Service, NOAA
14 Elm Street
Federal Building
Gloucester, Massachusetts 01930

Director, Southwest Region
National Marine Fisheries Service, NOAA
300 South Ferry Street
Terminal Island, California 90731

Director, Alaska Region
National Marine Fisheries Service, NOAA
P.O. Box 1668
Juneau, Alaska 99802

Chief, Resource Statistics Division
National Marine Fisheries Service, NOAA
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Scientific Publications Office
National Marine Fisheries Service, NOAA

1107 Northeast 45th Street
Seattle, Washington 98105

Director, Northeast Fisheries Center, NOAA
Woods Hole, Massachusetts 02543

Director, Southwest Fisheries Center, NOAA
P.O. Box 271
LaJolla, California 92038

Director, Charleston Laboratory, NOAA
P.O. Box 12607
Charleston, S.C. 29412

Director, Southeast Fisheries Center, NOAA
75 Virginia Beach Drive
Miami, Florida 33149

Director, Beaufort Laboratory, NOAA
P.O. Box 570
Beaufort, North Carolina 28516

National Ocean Survey:

Director, National Ocean Survey
6301 Executive Boulevard
Rockville, Maryland 20852

Chief, Distribution Division, NOAA
Riverdale Building
6501 Lafayette Avenue
Riverdale, Maryland 20840

Environmental Data and Information Service:

Director, Environmental Data and Information Service
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Director, National Climatic Center
Environmental Data and Information Service
Federal Building
Asheville, North Carolina 28801

Director, National Geophysical and Solar Terrestrial Center
Research Building 3, NOAA
3100 Marine Street
Boulder, Colorado 80302

A roster of each mailing list covered by the Privacy Act and its specific location is maintained by the system manager, address below.

Categories of individuals covered by the system: Recipients of NOAA publications and/or other publicly available programmatic information.

Categories of records in the system: All of the lists contain names and addresses. Some of the lists contain telephone numbers, subscription information, addressee's product and its country of origin.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See general routine use paragraphs numbered 1 through 6, 8 through 10, and 12 in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine readable.

Retrievability: Alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained indefinitely; however, individuals are advised of the existence of the mailing list annually and at their request, names will be deleted or addresses corrected.

System manager(s) and address: Assistant Administrator for Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and address pursuant to

the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual.

COMMERCE/NOAA-19

System name: Marine Mammals, Endangered and Threatened Species, Permits and Exemptions Applicants—COMMERCE/NOAA-19

System location: Office of Marine Mammal and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Duplicate portions of the system may be located in the Regional Offices of the National Marine Fisheries Service at:

Federal Building
14 Elm Street
Gloucester, Massachusetts 01930
Duval Building
9450 Gandy Boulevard
St. Petersburg, Florida 33702
300 South Ferry Street
Terminal Island, California 90731
Lake Union Building
1700 Westlake Avenue North
Seattle, Washington 98109
P.O. Box 1668
Juneau, Alaska 99801

Categories of individuals covered by the system: Applicants for permits to take, import, transport or sell in interstate or foreign commerce endangered species or marine mammals either for scientific research or public display purposes; for enhancement of propagation or enhancement of survival; or to minimize undue economic hardship. Applicants for exemptions from the provisions of the Marine Mammal Protection Act of 1972, on the basis of undue economic hardship. Applicants for permits to engage in activities involving threatened species or marine mammals which are otherwise prohibited by protective regulations.

Categories of records in the system: Name and address; professional or business affiliation; educational and professional background; other qualifications of the individuals; the activities conducted by an individual as authorized by exemption or by permit; and economic and financial information indicating the degree of anticipated economic hardship.

Authority for maintenance of the system: Endangered Species Act of 1973; 16 U.S.C. 1531-1543 10(a), 10(b), 11(f); Marine Mammal Protection Act of 1972; 16 U.S.C. 1361-1407, and regulations (50 CFR 216.31) promulgated thereunder.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Information from the applications is published in the Federal Register and made available to the public to comply with the statutes under which the application is made.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable, and computer output records in file folders.

Retrievability: Filed by file number and cross-referenced alphabetically by applicant names.

Safeguards: Records are located in cabinets with full public access upon request.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235

Notification procedure: Information may be obtained from the Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification procedure section above.

Contesting record procedures: The rules for access, for contesting contents and appealing initial determinations by the individuals concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual applicants; public comments on an application; reviews by NMFS Offices and, in the case of marine mammals, the Marine Mammal Commission; reports from Federal agents and observers on activities conducted under permit authority; and those authorized by the individual to the information.

COMMERCE/NTIS-1.

System name: Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscriber Files—COMMERCE/NTIS-1.

System location: Automated Data Processing Division & Document Distribution and Reproduction Division, Rooms 1312 and 2030, Sills Building, NTIS, Springfield, Va. 22161.

Categories of individuals covered by the system: All individuals who order and/or purchase products and services from NTIS and all individuals who have requested that they be placed on the NTIS promotional mailing list.

Categories of records in the system: Name; address; items ordered; items sent; amount of purchases, date order received; date order mailed; NTIS deposit account or customer code number; total charge to date; whether account collectible or not; categories of publications ordered by each purchaser; when subscription expires; amount on deposit.

Authority for maintenance of the system: 15 U.S.C. 1151-57; 41 U.S.C. 104, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records maintained in the system are disclosed to NTIS sales agents; and to individuals, organizations, Federal agencies, and State and local governments contributing publications to NTIS for their market research and sales accounting purposes, through the mechanism of providing them the names and addresses of individuals (and others) who have purchased their publications. Also see general routine uses #1 through 6, #8 through 10, and #12 of Prefatory Statement noticed in the Federal Register on October 2, 1975, (40 FR 45635), and amended on Nov. 7, 1975 (40 FR 52074) and August 17, 1976 (41 FR 34805).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, film files, magnetic tape and disc files.

Retrievability: Filed by individual identifier such as deposit account number or credit card account number.

Safeguards: Records are located in lockable metal file cabinets or in metal tape vaults in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are updated regularly and maintained indefinitely.

System manager(s) and address: Chief, Automated Data Processing Division, NTIS, Room 2030, Sills Building, Springfield, Va. 22161.

Notification procedure: Information may be obtained from: Associate Director for Financial and Administrative Management, NTIS, Sills Building, Springfield, Virginia 22161. Requester should provide name and address in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and NTIS transaction files.

COMMERCE/NTIS-2.

System name: Employee Daily Time and Productivity Records—COMMERCE/NTIS-2.

System location: Accounting Division, NTIS, Room 208, Yorktowne Building, Springfield, Virginia 22161.

Categories of individuals covered by the system: Current and former NTIS employees.

Categories of records in the system: Name; social security number; organization unit; duty hours and work units processed by day and accounting project; time in duty status; time on leave; work volumes completed by individuals and by work unit and comparative data on current production compared with earlier periods.

Authority for maintenance of the system: 15 U.S.C. 1151-57, 1525-27; 31 U.S.C. 66a; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See general routine use paragraphs numbered 1 through 6, 8 through 10, and 12 of Prefatory Statement noticed in the Federal Register on October 2, 1975 (40 FR 45635), and amended on November 7, 1975 (40 FR 52074) and August 17, 1976 (41 FR 34805).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records.

Retrievability: By name and/or employee social security number.

Safeguards: Records are located in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. During non-business hours the file cabinets are locked.

Retention and disposal: Retained until after GAO audit, or not longer than 3 years. Transferred to GSA for disposal.

System manager(s) and address: Chief, Accounting Division, NTIS, Room 208, Yorktowne Building, Springfield, Virginia 22161.

Notification procedure: Information may be obtained from Associate Director for Financial and Administrative Management, NTIS, Room 1014, Sills Building, Springfield, Virginia 22161. Requester should provide name, social security number and time of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals; NTIS timekeepers, supervisors and managers.

COMMERCE/PAT-TM-4.

System name: Government Employee Invention Rights—COMMERCE/PAT-TM-4.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Government employees who are inventors or nongovernment employees who are joint inventors together with a government employee inventor.

Categories of records in the system: Invention rights questionnaires including information as to the inventor's employment status and his official duties and responsibilities at the time the invention was made, title determinations, appeals to the Commissioner, and petitions for reconsideration.

Authority for maintenance of the system: 35 U.S.C. 1 and 6, and E.O. 10096, dated January 23, 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See paragraphs on routine uses in the Prefatory Statement to these notices. Also, information is transferred to various Government departments and agencies in connection with determinations made as to respective property rights (or the methods of protection thereof) of Government employees and such departments and agencies in and to inventions made by such employees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name and case number.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Head, Office of Government Employee Inventions, Office of the Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name (and case number, if known) pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

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Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and their employees, and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Government Employee Invention Rights records which relate to applications or inventions subject to a secrecy order pursuant to 35 U.S.C. 181 or are otherwise subject to security classification pursuant to E.O. 12065 or the Atomic Energy Act of 1954, are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules, which are published in the Rules Section of this Federal Register.

COMMERCE/PAT-TM-6.

System name: Parties Involved in Patent Interference Proceedings—COMMERCE/PAT-TM-6.

System location: Board of Patent Interferences, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Applicants for patent and patentees who become involved in a conflict involving the question of priority of invention.

Categories of records in the system: All records relating to the declaration, conduct, and termination of interference proceedings, including, but not limited to: preliminary statements, motions, testimony, and settlement agreements. The data contained in the records may include information relating to the applicant's or patentee's name, age, citizenship, residence, educational and work background, physical and mental health, activities relating to conception and reduction to practice of the contested subject matter, and other matters which may arise during the conduct of the interference proceeding or in connection with any agreements made by the parties relative to the interference proceeding.

Authority for maintenance of the system: 35 U.S.C. 1, 6, 23, 24, and 135.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Prior to termination of the interference proceedings, and thereafter until a patent has issued (except in cases involving a patent), information concerning these records is provided outside the Office only upon authorization of the applicants or owners of the applications involved or when necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner. Subsequent to such termination or an award of priority by the Board of Patent Interferences as to all parties, whichever is earlier in cases involving a patent or after issuance of a patent, the records are open to public inspection. Settlement agreements filed pursuant to 35 U.S.C. 135(c) are kept separate from other interference records, upon request of the party filing them, and made available, as provided in that statute, to government agencies upon written request, or to any person on a showing of good cause. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by Interference Number, cross-indexed to the names of the parties.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Chairman, Board of Patent Interferences, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and address, and Interference Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Applicants for patent and patentees, the patent attorneys or agents authorized by such persons to represent them, those authorized by the applicant to furnish information, and witnesses and other parties involved in the taking of testimony.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Patent Interference Proceedings records which relate to applications subject to a secrecy order pursuant to 35 U.S.C. 181 or are otherwise subject to security classification pursuant to E.O. 12065 or the Atomic Energy Act of 1954, are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules, which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-7.

System name: Patent Application Files—COMMERCE/PAT-TM-7 (Note: This notice is broken down, where indicated, into three subsystems relating to the status of the files: a. Pending; b. Abandoned; and c. Patented.)

System location: a. U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; National Underground Storage, Boyers, Pa. 16020; Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Customer Services Division, U.S. Department of Commerce, Washington, D.C. 20230; b. Abandoned Files Unit, Office Services Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; National Underground Storage, Boyers, Pa. 16020; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; c. Record Branch, Patent Search Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; National Underground Storage, Boyers, Pa. 16020; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of Automatic Data Processing Management, Computer Center, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Applicants for patent, including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

Categories of records in the system: Oath or declaration of applicant including name, citizenship, residence, post office address and other information pertaining to the applicant's activities in connection with the invention for which a patent is sought. Statements containing various kinds of information with respect to inventors who are deceased or incapacitated, or who are unavailable or unwilling to make application for patent.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 115; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Information concerning these records is provided outside the Office only upon authorization of the applicant or owner of the application or when necessary to carry out the provisions of any act of Congress or in such special circumstances as may be determined by the Commissioner, e.g., secrecy order files under 35 U.S.C. 181. b. Same as a., except where application is referred to in a U.S. Patent, in which case the record is open to public inspection. c. Records are open to public inspection.

All three subsystems are also subject to the routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, microfilm and magnetic storage media.

Retrievability: Subsystems a. and b. filed by serial number, cross-indexed to name of applicant. Subsystem c. filed by serial number and patent number, cross-indexed to name of applicant.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: a. Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231; b. Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231; c. Director, Office of Patent and

Trademark Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name of applicant or patentee and Serial Number or Patent Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The inventors or other persons who submit applications for patent and the patent attorneys or agents authorized by such inventor or other persons to represent them.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Patent Applications, to the extent that they are subject to a secrecy order pursuant to 35 U.S.C. section 181 or are otherwise subject to security classification pursuant to E.O. 12065 or the Atomic Energy Act of 1954 are exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-8.

System name: Patent Application Secrecy Order Files—COMMERCE/PAT-TM-8.

System location: Patent Examining Operation, Group 220, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Applicants including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

Categories of records in the system: Identification of patent application and applicant including application serial number, filing date, title of invention, applicant's or inventor's address and addresses of applicant's duly appointed representatives.

Authority for maintenance of the system: 35 U.S.C., 1, 6, and 181 through 183.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to authorized Government agencies under 35 U.S.C. 181 for determination of the requirement for a secrecy order, and notification of the applicant or his duly appointed representative of such secrecy order. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by application serial number, cross-indexed to name of applicant.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained, and stored in a locked vault.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Patent Examining Group 220, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and social security or Patent Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject applicants or their representatives and authorized representatives of the Department of Energy, the Secretary of Defense, and the Chief Officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), these records, since they relate to determinations pertinent to secrecy orders pursuant to 35 U.S.C. 181 or to security classification pursuant to E.O. 12065 or the Atomic Energy Act of 1954 are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/USFA-1.

System name: Federal Employees with Fire Related Expertise—COMMERCE/USFA-1.

System location: United States Fire Administration, 2400 M Street, N.W., Washington, D.C. 20037.

Categories of individuals covered by the system: Federal employees with expertise in fire prevention and control and associated fields. 6 Name, address, agency, area of expertise.

Authority for maintenance of the system: Section 8(e) and 21(b)(1), and (e) Federal Fire Prevention and Control Act of 1974, P.L. 93-498, 88 Stat. 1535 (15 U.S.C. 2207, 2218).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to the routine uses referenced in the Prefatory Statement, information about individuals is provided to federal, state, local or international agencies and members of the fire service community, including, but not limited to, fire safety and protection organizations, state fire marshals, and firemen, in response to requests indicating that the individual or organization making the request would benefit from the expertise of individuals in the system. Such disclosures are made only if the subject individual has given prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, bound paper directory, and magnetic tape.

Retrievability: By individual's name, expertise, agency, and geographic location.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are updated biennially and retained indefinitely.

System manager(s) and address: Associate Administrator for Fire Safety and Research, United States Fire Administration, U.S. Department of Commerce, P.O. Box 19518, Washington, D.C. 20036.

Notification procedure: Information may be obtained from: Administrative Officer, United States Fire Administration, P.O. Box 19518 Washington, D.C. 20036. Requester should provide name and address in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR 4b. Use above address.

Record source categories: Subject individuals.

COMMERCE/USFA-2.

System name: President's and Secretary's Award Nominees—COMMERCE/USFA-2.

System location: United States Fire Administration, U.S. Department of Commerce, 2400 M Street, N.W., Washington, D.C. 20037.

Categories of individuals covered by the system: Individuals nominated to receive the President's Award for Outstanding Public Safety Service and individuals nominated to receive the Secretary's Award for Distinguished Public Safety Service.

Categories of records in the system: Name and address of the candidate, his or her position or title, whether the nomination is for the President's or Secretary's Award, the public agency served, the locale where the candidate performs his or her duties, the name of the nominating official, a summary description of the outstanding contribution, distinguished service or extraordinary valor of the nominee, and the relevant duties relating thereto, and copies of any published factual accounts of the nominee's accomplishments.

Authority for maintenance of the system: 15 U.S.C. 2214.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. President's Award

Nominees - Information about individuals nominated for the President's Award is provided to selected members of the public safety community, including but not limited to, fire safety and protection organizations, state fire marshals and firemen, civil defense officers, and law enforcement, corrections or court officers in connection with the evaluation and selection of recipients. Information is also provided to the Department of Defense, the Department of Justice, and the Executive Office of the President. General routine uses in the Prefatory Statement also apply.

b. Secretary's Award Nominees - Information about individuals nominated for the Secretary's Award is provided to selected members of the fire service community, including but not limited to, fire safety and protection organizations, state fire marshals and firemen in connection with the evaluation and selection of recipients. When it appears that a nominee's accomplishments are in the areas of civil defense or law enforcement, nominations will be sent to the Department of Defense and/or the Department of Justice. General routine uses in the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by file number and cross-referenced alphabetically by nominee names.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Retention and disposal is in accord with applicable Records Control Schedule, at present awaiting approval from the Archivist of the United States.

System manager(s) and address: Executive Secretary, Joint Public Safety Awards Board, United States Fire Administration, U.S. Department of Commerce, P.O. Box 19518, Washington, D.C. 20036.

Notification procedure: Information may be obtained from: Administrative Officer, United States Fire Administration, P.O. Box 19518, Washington, D.C. 20036. Requester should provide name and address in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Heads of Federal government departments or agencies, governors of states or territories, or chief executives of any general governmental unit within any state or territory.

COMMERCE/USFA-3.

System name: National Fire Academy Student Registration—COMMERCE/USFA-3.

System location: National Fire Academy, United States Fire Administration, 2400 M Street, N.W., Washington, D.C. 20036.

Categories of individuals covered by the system: Students registered for Academy courses.

Categories of records in the system: Student's name, home and/or business addresses and telephone numbers; next of kin (in case of emergency); name of course; number of course credits; and grade, if any.

Authority for maintenance of the system: Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2206, and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Supplying students with information on courses, credits and grades; supplying Academy Superintendent with record of student enrollment in Academy courses by geographic location; assessing use of course material in the field; and assessing the impact of course material on the community. Also, general routine uses of Prefatory Statement apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic storage media; and temporary paper records, which exist only until data is automated.

Retrievability: Student records will be filed according to an alphanumeric code consisting of the student's birth date and first four letters of surname.

Safeguards: Buildings employ security guards. Records are maintained in areas that are accessible only to authorized personnel who are properly screened, cleared and trained. Where information is retrievable by terminals, all safeguards appropriate to secure automated data (hardware and software) are utilized.

Retention and disposal: Records are retained and disposed of in accordance with the Records Control Schedule.

System manager(s) and address: Associate Superintendent for Operations, Planning and Education, National Academy for Fire Prevention and Control, United States Fire Administration, P.O. Box 19518, Washington, D.C. 20036.

Notification procedure: Information may be requested from: Director, Office of Administration, United States Fire Administration, P.O. Box 19518, Washington, D.C. 20036. Requester should provide name and address, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Requests from individuals should be addressed as stated in the Notification section above.

Record source categories: Subject individuals and instructors.

COMMERCE/USFA-4.

System name: National Fire Academy Instructor Records—COMMERCE/USFA-4.

System location: National Fire Academy, United States Fire Administration, 2400 M Street, N.W., Washington, D.C. 20036.

Categories of individuals covered by the system: Individuals teaching Academy courses.

Categories of records in the system: Instructors' names, home, and/or business addresses and telephone numbers; titles of courses taught; dates and locations of courses; and evaluations of courses and instructors.

Authority for maintenance of the system: Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201 ———, 2206(c) and 5 U.S.C. 301 and 3109.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintaining a list of instructors; selecting emergency replacement instructors; providing instructors with lists of courses and students taught. USFA will also use student evaluations of instructors to help determine effectiveness of courses taught. These evaluations will not be anonymous. Student evaluations will be a consideration in the rehiring of an instructor. Also, general routine uses of Prefatory Statement apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic storage media; and temporary paper records, which exist only until data is automated.

Retrievability: Instructor records will be filed according to the surname of the instructor.

Safeguards: Buildings employ security guards. Records are maintained in areas that are accessible only to authorized personnel who are properly screened, cleared and trained. Where information is retrievable by terminals, all safeguards appropriate to secure automated data (hardware and software) are utilized.

Retention and disposal: Records are retained and disposed of in accordance with the Records Control Schedule.

System manager(s) and address: Associate Superintendent for Operations, Planning and Education, National Academy for Fire Prevention and Control, United States Fire Administration, P.O. Box 19518, Washington, D.C. 20036.

Notification procedure: Information may be requested from: Director, Office of Administration, United States Fire Administration, P.O. Box 19518, Washington, D.C. 20036. Requester should provide name and address, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Requests from individuals should be addressed as stated in the Notification section above.

Record source categories: Instructors and students.

COMMERCE/WBO-1.

System name: Talent and Experience File of Women's Business Experts—COMMERCE/WBO-1.

System location: Office of Administrative Services, U.S. Department of Commerce, 14th & E Streets and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals: with whom the Task Force communicated; having knowledge of women's business operations, problems and discriminations; or having special skills which would be of assistance to the Task Force.

Categories of records in the system: Personal background data normally including name, age, address, telephone numbers, Social Security number, business and work experience, educational background, professional association memberships, publications and information on areas of expertise.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is disclosed to other Federal agencies upon their request to provide names and addresses of individuals who possess special skills or expertise related to the problems of women business owners. General routine uses in the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by individual's name.

Safeguards: Records are on premises with access limited to individuals whose official duties require access.

Retention and disposal: Retained on site for five (5) years and then disposed of in accordance with the Office of the Secretary Records Control Schedule.

System manager(s) and address: Deputy Under Secretary for Regional Affairs, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Requests from individuals should be addressed as stated in the notification section above.

Record source categories: Subject individual, those authorized by the individual to furnish information, public reference sources; government, private and public interest organizations.

[FR Doc. 79-38714 Filed 12-26-79; 8:45 am]
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Test Procedures for
Central Air
Conditioners

Thursday
December 27, 1979

Part III
**Department of
Energy**

Office of Conservation and Solar Energy

Test Procedures for Central Air
Conditioners, Including Heat Pumps

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Test Procedures for Central Air Conditioners, Including Heat Pumps

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy amends its test procedures for central air conditioners to include test procedures for heat pumps, and to modify the existing test procedures for other kinds of central air conditioners. These test procedures are part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act. Among other program elements, the legislation requires that standard methods of testing be prescribed for covered products.

EFFECTIVE DATE: January 17, 1980.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Energy, Mail Station 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, 202-376-4814.

William J. Dennison, U.S. Department of Energy, Office of General Counsel, Mail Station 3224, 20 Massachusetts Avenue, N.W., Washington, D.C. 20565, 202-376-4100.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, pursuant to Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91). The energy conservation program for consumer products was established by FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163).¹ Section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing be prescribed for covered products. Test procedures appear at 10 CFR Part 430, Subpart B.

Test procedures for central air conditioners were originally proposed

by notice issued June 7, 1977 (42 FR 30401, June 14, 1977) and a public hearing on the proposed test procedures was held on August 4, 1977. Final test procedures for central air conditioners were prescribed on November 21, 1977 (42 FR 60150, November 25, 1977). DOE proposed to amend the test procedures on April 6, 1979 (44 FR 23468, April 19, 1979) in order to include testing procedures for heat pumps, and solicited public comments on the need to modify any provisions of the existing test procedures for other kinds of central air conditioners. A public hearing was held on June 13, 1979, at which the proposed changes were discussed.

B. Discussion of Comments

Comments were received from manufacturers, a trade association, and interested individuals. The major issues raised by the comments are discussed below.

1. *Central Air Conditioner Definition.* One commenter requested clarification of the applicability of the test procedures to packaged combination units. A packaged combination-unit is a central air conditioner and a furnace in a single cabinet. Although this type of equipment is generally used in commercial applications, either the heating capacity or the cooling capacity of a given model could fall within the capacity limits set forth in the central air conditioner or furnace definitions in 10 CFR 430.2. If both heating and cooling capacities of a packaged combination unit fall within the defined limits, the unit is accurately characterized as a residential unit and the DOE test procedures are applicable to both the heating and cooling functions. If either of the functions, however, has a capacity greater than the defined residential limits specified in section 430.2, the unit is most likely to be used in a commercial application and is not covered by the test procedures in either the heating or cooling mode. DOE has modified the definition of central air conditioner in section 430.2 to clarify the treatment of these units in today's final rule.

2. *Energy Efficiency Measures.* Several comments were concerned with the use of the measures of efficiency identified in the proposed rule. Proposed section 430.22(m)(5) identified the heating seasonal performance factor (HSPF), the cooling seasonal performance factor (CSPF), the seasonal energy efficiency ratio (SEER), and the annual performance factor (APF) as measures of efficiency. The CSPF and the SEER are essentially the same; the CSPF is derived by dividing the SEER (expressed in Btu's/watt-hour) by a

conversion factor (3.413 Btu's/watt-hour) to produce a dimensionless efficiency measure. Commenters argued against the use of the CSPF on the basis of present consumer familiarity with the SEER concept, and the limited, less comprehensible range of numerical values of the CSPF compared to the SEER. A related comment cautioned that heating efficiency and cooling efficiency should be expressed in the same units so that they can be easily compared.

The Federal Trade Commission (FTC) has requested that DOE provide the SEER as a measure of efficiency for use in the FTC appliance labeling program established by section 324 of the Act. DOE has reviewed all comments concerning energy efficiency measures and has made the following changes from the proposed rule:

1. Deletion of the CSPF from section 430.22(m) (5) and from the test methodology in Appendix M.
2. Retention of the SEER in section 430.22(m)(5) and section 5.1 of Appendix M as the only measure of cooling seasonal efficiency.
3. Alteration of the method of the calculation of the HSPF values measured in section 5.2 of Appendix M to reflect the multiplication of the conversion factor of 3.413 Btu's per watt-hour to result in the same units as the SEER.
4. Revision of the APF calculations in section 5.3 of Appendix M to replace the CSPF values with the SEER values derived in section 5.1.

Another commenter suggested that DOE prescribe only a national HSPF for comparison purposes, and delete the proposed regional HSPF values. The regional values discussed in the proposed rule are based upon climatic variations among specified geographic regions. DOE maintains that due to wide climatic variations in the United States, a single average HSPF value would not provide sufficient useful information to consumers and could be misleading when compared to other heating systems whose efficiency, unlike heat pump efficiency, is not affected by climate. Consequently, DOE has retained the regional HSPF values in section 430.22(m)(5) of today's final rule.

A final related comment pointed out potential problems concerning representations of product efficiency based upon computations identified in Appendix M but not identified as "measures of efficiency" in section 430.22(M)(5). DOE intends only those measures specifically identified in section 430.22 to be used in representations regarding the energy consumption of covered products, but regulation of such representations is a

matter relegated to the Federal Trade Commission (FTC) by sections 323(c) and 333(c) of the Act.

3. *Degradation Coefficient.* Determination of the degradation coefficient (C_D), used to quantify the cycling performance of central air conditioners and heat pumps, is necessary in order to evaluate seasonal performance. Section 2.1 of proposed Appendix M allowed manufacturers to test (by performing Tests C and D) to determine C_D for all basic models that they sell or, at manufacturers' option, to use an assigned value of C_D equal to 0.25. Many comments were received regarding the degradation coefficient. These comments pointed out two general areas of concern. The first concern was the proposed requirement that any manufacturer electing to use the assigned value to rate any model must use the assigned value to rate all models that the manufacturer produces. The second concern was the specified numerical value of the assigned degradation coefficient, 0.25.

Nearly all commenters urged that DOE allow actual testing of certain models in a product line without prohibiting the use of the assigned value on other models in that same product line. The commenters stated that the proposed requirement would be unduly burdensome since the time required to perform Tests C and D on all models would be considerable and would reduce the level of effort that a manufacturer could devote to developing and testing more efficient product designs. Commenters also stated that the testing cost for determining C_D would not be justified for low volume models and on older models which would soon be removed from production, but that sufficient marketing incentive exists to encourage such testing for newer, more efficient models with higher sales volumes. One commenter stated that his company had difficulty meeting the Tests C and D tolerances with certain units and that this difficulty, would, under the proposed rule, prevent him from advertising the higher ratings for other models which had been satisfactorily tested for C_D .

Some commenters stated that the proposed rule would favor the large manufacturers who had larger testing capabilities, but another commenter also objected to any rule which would allow manufacturers an option of testing certain models for C_D and using the assigned value on other models. This objection may have been based upon a concern that large manufacturers could test all products in their product lines

for C_D but could then calculate seasonal efficiency by using the assigned degradation factor of 0.25 for all products on which the measured C_D was greater than 0.25. DOE is aware that this situation could occur under today's final rule, as it could occur under the previous test procedures for central air conditioners which have been in effect since January 1, 1978, but DOE has found no evidence of its occurrence.

Based on its review of all comments, DOE has determined that manufacturers of central air conditioners and heat pumps should be given the option to choose which models to test for C_D , retaining the option to use the assigned C_D for all other models. In addition, in the case of heat pumps, the final rule clarifies that manufacturers will be allowed the option of testing a model for C_D on a unit in the cooling mode and then using the assigned C_D for that same unit in the heating mode, and vice versa. However, in the case of a unit with two compressor speeds, if the assigned degradation coefficient is used at one speed, it must also be used for the other speed. Sections 2.1, 2.2, and 3.1.3 of Appendix M have been rewritten to reflect these changes.

Many comments were also received expressing concern over the numerical value of the assigned degradation coefficient, 0.25. It should be noted that lower degradation coefficients indicate higher seasonal efficiency. Two commenters stated their belief that the 0.25 value accurately reflects the data presently available; two other commenters urged that the assigned C_D should be reduced to 0.15 to reflect lower cyclic losses based on data from a study conducted at Purdue University's Herrick Laboratories under the sponsorship of the Air Conditioning and Refrigeration Institute. Another commenter stated that the Herrick data presently available showed only that further investigation is necessary. Both DOE and the National Bureau of Standards (NBS) have carefully considered these comments and DOE has concluded that available data support the assigned 0.25 value for C_D , which is only slightly higher than the mean of the C_D values currently known to DOE which have been determined by actual testing. Units with good cycling performance can only be identified by testing to determine C_D . Setting the assigned value for C_D to be slightly higher than the average value will give manufacturers an incentive to test their units to show the actual cycling performance. At the same time, since the assigned value is close to the mean, manufacturers who do not test for

cycling performance are unlikely to be severely penalized when they use the assigned value. Consequently, no changes in the assigned value of C_D have been made in today's final rule.

4. *Cyclic Test Procedures.*

One commenter disagreed with the "on" and "off" times specified in Test D in section 3.1.1.2 of Appendix M for use in measuring the degradation coefficient. The commenter submitted data showing cycle times for actual field installed units in both the heating and cooling modes. The data were carefully analyzed by NBS and the results were compared with predictions made by a computerized thermostat model. NBS found that the field results provided insufficient data to conclude that heat pumps typically operate at longer on-times than was assumed in DOE cyclic test procedures. Based on a recommendation by NBS, today's final rule relating to cyclic "on" and "off" times remains the same as was originally proposed.

Another commenter suggested a new procedure termed "time constant evaluation test" to replace the cyclic tests for determination of cyclic degradation. The time constant approach is presently under study by NBS. While this method may have advantages such as simplified procedures and reduced test time, the tests which thus far have been conducted according to this method raise doubts about its ability to measure accurately the cyclic performance degradation for all the different types of air conditioners and heat pumps presently manufactured. The time constant approach to part load performance shows promise but is not yet sufficiently developed to the point where it can be utilized.

5. *Evaporator Coils.* The proposed rule required that within a family of basic models that use the same condensing unit, only the condenser-evaporator coil combination expected to have the largest volume of retail sales must be tested. Ratings for other basic models could, at manufacturers' option, be determined by computer simulation methods which would predict the performance of other basic models consisting of the same condensing unit but different evaporator coils. The proposed rule specified certain minimum criteria for these computer models and required that any manufacturer who elected to use computer simulation submit to DOE the simulation method used. DOE also solicited comments on the feasibility of DOE prescribing a computer model for use by all manufacturers who chose not to rate their products by actual testing.

¹ Subsequently, the Act was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to "the Act" or to sections of the Act refer to the Energy Policy and Conservation Act as amended by NECPA.

Comments received from manufacturers who had computer models unanimously opposed the idea of submitting these models to DOE because of their perceived proprietary character. Commenters also expressed doubt that a single DOE prescribed computer model could be specific enough to predict accurate ratings, yet flexible enough to accommodate all manufacturers' products and permit innovative designs. Many commenters requested that DOE also allow manufacturers to use graphic and manual engineering calculation procedures to predict performance of condenser-evaporator coil combinations not actually tested.

Manufacturers who produce only evaporator coils expressed concern that builders might be reluctant to install split system air conditioners consisting of a condensing unit made by one manufacturer and an evaporator coil made by a different manufacturer, unless the evaporator coil manufacturers could provide the builders with information concerning the energy characteristics of the installed systems. Because the evaporator coil manufacturers typically lack the facilities or resources for testing their coils with significant numbers of other manufacturers' condensing units, these commenters suggested that the DOE test procedure should apply to only the condensing unit of split system air conditioners, since it accounts for the largest portion of the energy used by the total system.

DOE has carefully considered all of these comments and has concluded that applying the test procedure to condensing units only would require the deletion of seasonal energy efficiency ratios from the test procedures. This would be detrimental to consumers, because seasonal energy efficiency ratios best approximate actual energy use in homes. On the other hand, DOE is also aware that any requirement that manufacturers test all condenser-evaporator coil combinations would be unduly burdensome. DOE has concluded that the use of a computer simulation technique is the most accurate method for establishing rated values for all basic models of split system central air conditioners and heat pumps which are not actually tested. Since graphic and manual engineering calculation procedures perform the same functions as do computer simulation techniques, DOE has determined that graphic and manual engineering calculation procedures are also acceptable for predicting the performance of models of split system central air conditioners which utilize different evaporator coils.

The National Bureau of Standards (NBS) is currently developing a computer simulation technique to predict the performance of any evaporator coil with any condensing unit of known performance characteristics. If this simulation method is shown to be accurate, the program will be made available to all manufacturers for use at their discretion. Although the use of analysis techniques is retained as an option available to manufacturers, whenever measures of energy consumption determined by analysis do not agree with measures of energy consumption outlined by actual testing, the test results shall prevail.

Consequently section 430.23(m) of today's final rule permits ratings of condenser-evaporator coil combinations to be based upon the results of condenser manufacturers' tests of each condensing unit with the evaporator coil likely to have the largest sales volume of all coils that the manufacturer matches with that particular condensing unit. The manufacturer may then rate all other condenser-evaporator coil combinations using that particular condensing unit with values obtained by using computer simulation or other suitable analysis which incorporates the minimum requirements outlined in section 430.23(5) to predict the performance of other evaporator coils with that condensing unit.

DOE has investigated thoroughly the provision in the proposed rule that requires manufacturers to submit copies of their computer model to DOE if they use a computer simulation technique to rate condenser-evaporator coil combinations different from those that are actually tested. DOE has concluded that it would be difficult for the Government to examine and certify the accuracy of each individual manufacturer's simulation method. The accuracy of simulation methods used by a manufacturer can only be determined by verification testing of actual condenser-evaporator coil combinations and comparison with results predicted by the simulation technique. As further explained in part C.3 of the preamble, verification of the accuracy of measures of energy efficiency reported for labeling of consumer products according to today's final rule is the responsibility of the Federal Trade Commission (FTC). The FTC may decide to determine the accuracy of these representations by testing certain condenser-evaporator coil combinations that were rated by simulation methods. In such instances the accuracy of the manufacturer's simulation methods is of critical importance since it is anticipated that

the accuracy of the representations will be judged in comparison with the actual test results.

However, DOE must retain some method of substantiating the accuracy of manufacturer's simulation methods in order to preserve the objectivity of the central air conditioner test procedure. Consequently, DOE has revised the final rule to include the requirement that manufacturers who choose to rate certain condenser-evaporator coil combinations of central air conditioners by the use of simulation methods must submit to DOE a written statement which describes the type of simulation method used. In addition, users of simulation methods must, for every family of basic models using the same condensing unit, submit to DOE the test results used to establish the rated value(s) of efficiency for the combination likely to have the highest sales volume, and a comparison of these test results with the system efficiency predicted when the simulation method is used to determine the efficiency of the system with the highest sales volume coil.

If the ongoing NBS efforts succeed in developing an accurate computer simulation method for predicting the performance of condenser-evaporator coil combinations, DOE may use this technique as an initial screening method to determine which manufacturers' simulation methods shall be more closely inspected. Section 430.23(m)(8) has been added to require any manufacturer which elects to rate its products by simulation methods to permit representatives of DOE to inspect those methods to verify their accuracy. DOE anticipates that such inspections will be performed at the manufacturer's site and will involve analytical evaluation of the simulation methods used, as well as actual performance of simulations and comparison of predicted results with actual test results. Inspections at the manufacturer's site are expected to be the most convenient and efficient means of verifying the simulation methods used. DOE will retain the option of requiring manufacturers to submit their simulation methods to DOE pursuant to the authority of section 329 of the Act if this is determined in the future to be necessary, either in the case of a particular manufacturer or for all manufacturers which use the simulation option. DOE plans to inspect and verify by actual testing a significant percentage of manufacturer's simulation methods each year.

After thorough review of the comments received from manufacturers

who produce only evaporator coils, DOE acknowledges the need to provide these manufacturers with a method by which they can make representations of the efficiency of split system central air conditioners which use their evaporator coils in combination with other manufacturers' condensing units. DOE agrees that a rule which requires builders or coil manufacturers to test their evaporator coils with the condensing units of numerous other manufacturers would be burdensome. However, it is equally important that an accurate rating procedure for these split systems be established to ensure that consumers will be able to determine the estimated cost of operation and the efficiency of these combinations. DOE has concluded that an analytical method which utilizes computer simulation or other engineering analysis to predict the performance of these combinations is the most accurate alternative to testing. The method to predict the performance of the condenser-evaporator coil combination must be based upon condensing unit performance data provided by the manufacturer of the condensing unit. Today's final rule allows the use of this technique for evaporator coil manufacturers to rate split system combinations using their evaporator coils with another manufacturer's condensing unit. This approach will provide consumers and installers with accurate energy consumption and cost of operation information for these systems and will also protect evaporator coil manufacturers, which are typically small businesses, from any competitive disadvantage. It is anticipated that regardless of the method used to rate the product (testing, computer simulation, or engineering analysis), determination of compliance by the Federal Trade Commission or DOE may require actual testing to substantiate the measures of energy consumption published.

6. *Demand Defrost.* Many comments were received concerning both the definition of "demand defrost" in proposed section 1.12 of Appendix M and the application of an enhancement factor referenced in section 5.2 of Appendix M to show improved performance for units incorporating this feature. All comments concerning the definition stated that the wording was too prescriptive and would not allow innovative methods to be incorporated into production as new technology is developed. DOE has revised the definition of "demand defrost" in section 1.12 to cover all types of demand defrost which initiate the defrost cycle only by measurement of some variable

parameter(s) in order to establish a need for defrosting, due to frost build-up on the outdoor coil.

One commenter stated that the energy consumption of demand defrost should be measured by actual testing rather than estimated by assigned factors. DOE is aware that testing is the ideal means by which to evaluate this feature; however, DOE has determined after consultation with NBS that considerably more research is needed before a methodology can be developed which adequately accounts for climatic variation. Because available information indicates that demand defrost systems do result in significant energy savings, DOE has determined for the present to evaluate demand defrost improvement by use of an enhancement factor derived from correlation to actual field test results.

Many commenters apparently attributed the proposed 5 percent enhancement factor specified in section 5.2 of Appendix M directly to seasonal performance improvement. In actuality the 5 percent factor applies to the defrost capacity (Q_{DEF}) in section 5.2 which in turn improves the heating seasonal performance factor (HSPF) by approximately 3 percent. Those comments which criticized the enhancement factor provided no data to indicate that demand defrost does not typically use less energy than time-temperature defrost over the course of a year. Some comments provided detailed analysis and field test results which agreed with the proposed approach and showed that demand defrost does improve the seasonal performance of a heat pump in the heating mode. Although this improvement does vary by region, analysis shows that in most areas a 4 percent improvement in the seasonal performance factor is the minimum which would be expected. Based on the information submitted and actual test results, DOE has adjusted the enhancement factor in section 5.2 of Appendix M to 7 percent, in order to achieve a resultant effect of 4 percent improvement in the HSPF for units which use demand defrost.

7. *Water Source Heat Pumps.* Two commenters stated that the test methodology proposed to be used for water source heat pumps was not consistent with that used for air source units. Commenters argued that these inconsistencies could give erroneous cost information and encourage sales of one product over another. After reviewing the comments associated with this issue, and considering the present low sales volume of water source heat pumps, DOE has determined not to

include a methodology for testing water source heat pumps in today's final rule. However, it is expected that after further study by DOE and NBS a test methodology for these products will be proposed as soon as practicable. In today's final rule all sections which referred in the proposed rule to water source heat pumps have been reserved.

8. *Dual Voltage Units.* In section 3 of the proposed rule, DOE required testing of central air conditioners at only one voltage (either 115V or 230V), which was determined to be the typical residential voltage for a particular basic model. Some comments specifically requested that the test procedures permit the rating of central air conditioners at voltages other than 230 or 115 volts by correlative methods or computer simulation. Because voltages other than 230 or 115 are not commonly used in residential applications, DOE foresees no need for specifying test procedures at other voltages.

9. *Hours of Operation.* One commenter remarked that the heating and cooling load hour maps referred to in sections 6.1.3 and 6.2.5 of proposed Appendix M did not correlate with the actual hours of operation which the commenter expected to find in a particular city. The values on the maps were not designed to represent any particular city, but rather an average of the cities within a region. These average values reflect national variation in climate in sufficient detail for purposes of this program. Therefore, today's final rule reflects no changes in the heating and cooling load hours.

10. *Estimated Annual Heating Costs of Heat Pumps.* Several commenters expressed concern that the estimated annual heating costs for heat pumps in proposed sections 430.22(m)(1) and 430.22(m)(3) would be overstated by the proposed test procedure. DOE is aware that the sizing calculations made for furnaces and heat pumps typically employ many conservative, "worst case" assumptions. DOE proposed a correction factor of 0.77 in the sections mentioned above. The 0.77 value has traditionally been used by industry for estimating actual heating season costs more accurately. It is significant that this same correction factor is used in DOE's furnace test procedures, and its retention here facilitates comparisons between the operating costs of heat pumps and the operating costs of furnaces. While the actual costs may differ somewhat, the relative operating cost differences between furnaces and heat pumps are accurately developed by the consistent use of the 0.77 correction factor. Until further field test data are

available which establish the need for a change, the test procedures will continue to use the 0.77 correction factor.

11. *Sampling Plan.* In addition to the one-sided sampling plan contained in proposed section 430.23(m), the notice of proposed rulemaking also solicited comments on an alternate sampling plan in which testing would have been performed on only two units of each basic model required to be tested, with the mean value of the test results forming the basis for product ratings. Comments on these two sampling plans were divided, with some commenters favoring the proposed plan because of the more reliable results it would yield, and with other commenters favoring the alternate plan because it might reduce the number of units required to be tested. One manufacturer provided data which indicated that with four of the six models it had tested, testing of two units was sufficient to satisfy the confidence levels required in the one-sided sampling plan.

The Air Conditioning and Refrigeration Institute (ARI) suggested an alternate sampling plan to be used in conjunction with a future certification/enforcement program for labeling and efficiency standards. This plan would allow manufacturers to rate their products based upon a minimum of one test. Under this plan, ARI would modify an existing industry-supported certification and enforcement program so that verification of published ratings would be done by testing models selected under the following criteria:

- (a) selection due to a "for cause" evaluation determined by trade association engineers,
- (b) selection based on shipment volume, and
- (c) arbitrary selection of existing models.

This verification plan as presently formulated does not utilize the statistical confidence levels proposed by DOE. Instead, a negative tolerance of 5 percent is allowed on capacity and SEER and if either of two units tested meets this tolerance, the product's rating is verified. If not, three additional units are tested and the product is then rated at the mean of the measured values of the last three units tested.

The alternate program offered by ARI combines testing and enforcement activities into a single program. The DOE enforcement program for use in conjunction with the forthcoming energy efficiency standards for air conditioning equipment is still under development. All comments made which pertain to enforcement and certification are being considered in the development of the

enforcement program. DOE recognizes the merits of the existing industry certification programs and will consider incorporating any appropriate portions of those programs into DOE's own enforcement plan for the standards program.

DOE has considered all comments received relating to the two sampling plans offered for comment in the proposed rule. Since the data which were received show that the proposed plan utilizing statistical confidence levels will not require significantly more testing than the two-unit plan, DOE has retained the one-sided statistical sampling plan in today's final rule because of the increased confidence attributable to values of energy consumption measured under this plan.

12. *Industry Standards.* Many of the comments received indicated that two industry standards referenced in the proposed test procedure have subsequently been revised, and consequently commenters urged that the final test procedure reference the latest version of these standards. DOE has reviewed both editions of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 37 and the Air Conditioning and Refrigeration Institute (ARI) Standard 210. No substantive changes in any sections referenced in the DOE test procedure were found. For this reason, and because the latest versions of these standards can more easily be obtained by interested persons, today's final rule references the current versions, ASHRAE 37-78 and ARI 210-79. As noted below, in part C.1. of this preamble, DOE has consulted with the Attorney General and the Chairman of the FTC regarding DOE's use of these industry standards.

13. *Test Measurements and Tolerances.* Some comments stated that the dew point measurement specified in section 4.2.2.3 of proposed Appendix M was not consistent with wet bulb measurements in other parts of the test procedure. It was not the intent to require manufacturers to measure dew point, but simply to impose a tolerance of $\pm 0.5^\circ\text{F}$ on the resultant dew point determination when wet and dry bulb temperatures were required to be measured. DOE has revised Section 4.2.2.3 of Appendix M to clarify that dew point need not be measured.

Another comment requested a relaxation of tolerances on wet bulb temperature measurements from $\pm 0.3^\circ\text{F}$ to $\pm 0.6^\circ\text{F}$. No specific reasons were given for the request nor was any substantive information provided. A careful examination revealed that $\pm 0.3^\circ\text{F}$ has been used in ASHRAE

Standards for several years and therefore any changes to the proposed rule would not be consistent with past industry practice and would result in less reliable test results. In view of these facts, DOE has made no changes in the tolerances allowed for wet bulb measurements in today's final rule.

Other commenters recommended a more exact rounding procedure for capacity values specified in section 3.1 of Appendix M. The recommended rounding was 100 Btu/hour for capacities under 20,000 Btu/hour, 200 Btu/hour for capacities between 20,000 and 37,800 Btu/hour, and 500 Btu/hour for capacities between 38,000 and 64,500 Btu/hour. DOE agrees that this recommendation promotes greater accuracy without affecting test procedure costs, and therefore DOE has prescribed requirements in Sections 3.1 and 3.2 of Appendix M which allow a similar rounding off procedure in today's final rule.

14. *Miscellaneous.* After careful consideration of all the comments and further consultation with NBS and FTC, DOE has incorporated into the final rule some editorial and minor technical changes that were not discussed above.

C. Regulations Prescribed

1. *Test Procedures.* The test procedures for central air conditioners prescribed today are included in Subpart B of Part 430 and are substantially the same as those proposed, with the exception of the changes discussed above. Appendix M of Subpart B incorporates in part the revised Air Conditioning and Refrigeration Institutes Standards 210-79, 240-77, and 320-76, and the revised American Society of Heating, Refrigeration, and Air Conditioning Engineers Standard 37-76 to measure the capacities and efficiencies of central air conditioners, including heat pumps. Any subsequent amendment of these standards by the standard-setting organizations will not affect the DOE test procedures, which can only be amended by DOE.

Under the requirements of section 32(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70), DOE is directed to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by DOE which utilize or incorporate any commercial standards.

DOE has provided copies of the proposed test procedures for central air

conditioners, which incorporated the above-mentioned commercial standards, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition. Neither official recommended against the incorporation or use of these commercial standards in the final test procedures for central air conditioners. At the request of the Attorney General, DOE will monitor manufacturers' costs of performing tests according to today's final rule.

2. *General Provisions.* Today's rulemaking contains definitions of "air-source heat pump," "central air conditioner," "condenser-evaporator coil combination," "condensing unit," "cooling only unit," "evaporator coil," "heat pump," and "water-source heat pump."

3. *Application of Test Procedures.* The test procedures prescribed today contain statistical sampling provisions for any testing required in order to comply with sections 323(c) and 324 of the Act. Section 323(c) provides that, effective 180 days after a test procedure rule applicable to a covered product is prescribed by DOE, no manufacturer, distributor, retailer, or private labeler may make any representation in writing or in any broadcast advertisement respecting the energy consumption or cost of energy consumed by that covered product, unless the product has been tested in accordance with the DOE test procedure, and the representation fairly discloses test results. Section 323(c) of the Act assigns enforcement responsibility for this provision to the Federal Trade Commission (FTC). The test procedures prescribed today are also applicable to any labeling rules which may be prescribed by the FTC pursuant to section 324 of the Act.

As required by section 325 of the Act, DOE is currently developing energy efficiency standards for the consumer products covered by the Act. An advance notice of proposed rulemaking relating to standards for nine types of consumer products, including central air conditioners other than heat pumps, was published in the Federal Register on January 2, 1979 (44 FR 49). An advance notice relating to standards for heat pumps is expected to be published in the near future, and notices of proposed rulemaking for standards will be published as soon as practicable.

The test procedure provisions prescribed today, other than the sampling provisions of section 430.23(m), are expected to be used generally for determining compliance with future standards, but the exact method of determining compliance will be decided

during the ongoing standard setting process. The sampling provisions of section 430.23 are specifically intended to apply only to testing required pursuant to sections 323(c) and 324 of the Act. Future DOE regulations relating to the selection of units for testing to insure compliance with minimum efficiency standards under section 325 may differ substantially from the approach taken in the sampling provisions of section 430.23. One of the approaches that will be considered by the standards program for split-system central air conditioners would require testing of each condensing unit with the least efficient evaporator coil that is marketed with that particular condensing unit.

4. *Unit Costs of Energy.* Under section 323(b)(2) of the Act, DOE is required to provide manufacturers with information on representative average unit costs of energy. This information was provided by notice issued June 22, 1979 (44 FR 37534, June 27, 1979), and is expected to be updated periodically.

5. *Preemption.* Today's rulemaking prescribing final test procedures for central air conditioners supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of central air conditioners, or which provide for an energy efficiency standard, or other requirement regarding the energy efficiency or energy use of central air conditioners, must now employ test procedures identical to those specified in today's final rule.

6. *Regulatory and Environmental Review.* In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 USC 4321 *et seq.*), DOE evaluated the proposed establishment of these test procedures for consumer products to determine if an environmental assessment (EA) or an environmental impact statement (EIS) was required. These test procedures will be used only to standardize the measurement of energy usage for the subject consumer products. The action of prescribing these test procedures, by itself, will not result in any environmental impact. Since it was thus clear that the proposed action was not a major Federal action significantly affecting the quality of the human environment, DOE determined that neither an EA nor an EIS was required. The potential environmental impacts that might occur from the application of the test procedures in connection with

DOE's minimum efficiency standards program will be evaluated by that program.

This rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030. It was determined that this rule was significant in nature but did not have major impacts to manufacturers and consumers (imposing annual economic costs of \$100 million or more).

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 95-619; Department of Energy Organization Act, Pub. L. 95-91)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective January 17, 1980.

Issued in Washington, D.C., December 10, 1979.

Maxine Savitz,
Acting Assistant Secretary, Conservation and Solar Energy.

1. Section 430.2 is amended by deleting the present definitions of "central air conditioner," "condenser-evaporator coil combination," "condensing unit" and adding the following new definitions in appropriate alphabetical order.

§ 430.2 Definitions.

"Air-source heat pump" means a "heat pump" which consists of one or more assemblies, which utilizes an indoor conditioning coil, compressor(s), and refrigerant-to-outdoor-air heat exchanger to provide air heating, and which may also provide air cooling, dehumidifying, circulating, and air cleaning.

"Central air conditioner" means a consumer product which is powered by single phase electric current, which is rated below 65,000 Btu/hour, which is not contained within the same cabinet as a furnace whose rated capacity is above 225,000 Btu/hour, and which is either a "heat pump" or a "cooling only unit".

"Condenser-evaporator coil combination" means a condensing unit made by one manufacturer and one of several evaporator coils, either manufactured by the same manufacturer or another manufacturer, intended to be combined with that particular condensing unit.

"Condensing unit" means a component of a central air conditioner which is designed to remove the heat absorbed by the refrigerant and to

transfer it to the outside environment, and which consists of an outdoor coil, compressor(s), and air moving device.

"Cooling only unit" means a "central air conditioner" which consists of an air cooled condensing unit and an evaporator coil, and which is designed to provide air cooling, dehumidifying, circulating, and air cleaning.

"Heat pump" means a "central air conditioner" which is either an "air-source heat pump" or a "water-source heat pump."

"Water-source heat pump" means a "heat pump" which consists of one assembly which utilizes an indoor conditioning coil with air moving means, compressor(s), and refrigerant-to-water heat exchanger(s) to provide both air heating and cooling, dehumidifying, circulating, and air cleaning.

2. Section 430.22 is amended by substituting a new paragraph (m) to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

(m) Central Air Conditioners. (1) The estimated annual operating cost for cooling only units and air-source heat pumps shall be one of the following:

(i) For cooling only units or the cooling portion of the estimated annual operating cost for air-source heat pumps which provide both heating and cooling, the product of (A) the quotient of the cooling capacity, in Btu's per hour, determined from the steady-state wet-coil test (test A) measured at the highest compressor speed, as described in Section 3.1 of Appendix M to this subpart, and the average seasonal energy efficiency ratio, in Btu's per watt-hour, determined from Section 5.1 of Appendix M to this subpart; (B) the representative average use cycle of 1000 cooling load hours per year; (C) a conversion factor of .001 kilowatts per watt; and (D) a representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to Section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year;

(ii) For heat pumps which provide only heating or the heating portion of the estimated annual operating cost for central air conditioners which provide both heating and cooling, the product of (A) the quotient of the standardized design heating requirement nearest the capacity measured in the High Temperature Test, Q_{hs} (47) in Btu's per hour, determined in Sections 5.2 and 6.2.6 of Appendix M to this subpart, and

the heating seasonal performance factor, in Btu's per watt-hour, calculated for heating region IV corresponding to the above mentioned standardized design heating requirement determined from Section 5.2 of Appendix M to this subpart; (B) the representative average use cycle of 2080 heating load hours per year; (C) 0.77, a correction factor described in section 5.2 of Appendix M to this subpart; (D) a representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to Section 323(b)(2) of the Act; and (E) a conversion factor of .001 kilowatts per watt; the resulting quotient then being rounded off to the nearest dollar per year; or

(iii) For central air conditioners which provide both heating and cooling, the quantity determined in paragraph (m)(1)(i) of this section added to the quantity determined in paragraph (m)(1)(ii) of this section.

(2) [Reserved]

(3) The estimated regional annual operating costs for cooling only units and air-source heat pumps shall be one of the following:

(i) For cooling only units or the cooling portion of the estimated annual operating cost for central air conditioners which provide both heating and cooling, the product of (A) the quotient of cooling capacity in Btu's per hour determined from the steady-state wet-coil test (test A) measured at the highest compressor speed, and the average seasonal energy efficiency ratio in Btu's per watt-hour both determined from Section 5.1 of Appendix M to this subpart; (B) the estimated number of local cooling load hours per year determined from Section 6.1.3 of Appendix M to this subpart; (C) a conversion factor of .001 kilowatts per watt; and (D) a representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to Section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(ii) For heat pumps which provide only heating or the heating portion of the estimated annual operating cost for central air conditioners which provide both heating and cooling, for each applicable standardized design heating requirement, the product of (A) the quotient of the estimated number of local heating load hours per year determined from Section 6.2.5 of Appendix M to this subpart, and the heating seasonal performance factor, in Btu's per watt hour, corresponding to the appropriate standardized design heating requirement determined from Section 5.2 of Appendix M to this subpart; (B) 0.77, a correction factor described in Section 5.2 of Appendix M

to this subpart; (C) the standardized design heating requirement in Btu's per hour determined in Sections 5.2 and 6.2.6 of Appendix M to this subpart; (D) a representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to Section 323(b)(2) of the Act; and (E) a conversion factor of .001 kilowatts per watt, the resulting quotient then being rounded off to the nearest dollar per year; or

(iii) For central air conditioners which provide both heating and cooling, the quantity determined in paragraph (m)(3)(i) of this section added to each quantity determined in paragraph (m)(3)(ii) of this section.

(4) [Reserved]

(5) The measure(s) of efficiency for cooling only units and air-source heat pumps shall be one or more of the following:

(i) The seasonal energy efficiency ratio for cooling only units and air-source heat pumps which provide cooling shall be the seasonal energy efficiency ratio, in Btu's per watt-hour, determined according to Section 5.1 of Appendix M to this Subpart, rounded off to the nearest 0.05.

(ii) The heating seasonal performance factors for air-source heat pumps shall be the heating seasonal performance factors, in Btu's per watt-hour, determined according to Section 5.2 of Appendix M to this subpart for each applicable standardized design heating requirement within each climatic region, rounded off to the nearest 0.05.

(iii) The annual performance factors for air-source heat pumps which provide heating and cooling, shall be the annual performance factors, in Btu's per watt-hour, determined according to Section 5.3 of Appendix M to this subpart for each standardized design heating requirement within each climatic region, rounded off to the nearest 0.05.

(6) [Reserved]

(7) Other useful measures of energy consumption for central air conditioners shall be those measures of energy consumption which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix M to this subpart.

3. Section 430.23 is amended by establishing a new paragraph (m) to read as follows:

§ 430.23 Units to be tested.

(m)(1) For central air conditioners, each condensing unit shall have a

condenser-evaporator coil combination selected and a sample of sufficient size tested in accordance with applicable provisions of this subpart such that—

(i) Any represented value of estimated annual operating cost, energy consumption or other measure of energy consumption of the condenser-evaporator coil combination for which consumers would favor lower values shall be no less than the higher of (A) the mean of the sample or (B) the upper 90 percent confidence limit of the true mean divided by 1.05, and

(ii) Any represented value of the energy efficiency or other measure of energy consumption of the condenser-evaporator coil combination for which consumers would favor higher values shall be no greater than the lower of (A) the mean of the sample or (B) the lower 90 percent confidence limit of the true mean divided by 0.95.

(2) The condenser-evaporator coil combination¹ selected for tests pursuant to paragraph (m)(1) shall be that combination manufactured by the condensing unit manufacturer likely to have the largest volume of retail sales.

For every other condenser-evaporator coil combination manufactured by the same manufacturer or in part by a component manufacturer using that same condensing unit, either—

(i) A sample of sufficient size shall be tested to insure that the requirements of paragraphs (m)(1)(i) and (m)(1)(ii) are met for such other condenser-evaporator coil combinations, or

(ii) Represented values of the measures of energy consumption shall be determined by the use of computer simulation or engineering analysis to determine the energy consuming characteristics of such basic model, as described in paragraph (m)(5) of this section.

(3) Whenever measures of energy consumption determined by computer simulation or by engineering analysis do not agree with measures of energy consumption determined by actual testing, the values determined by actual testing shall be used to comply with section 323(c) of the Act, or to comply with rules prescribed under section 324 of the Act.

(4) The sample selected for testing under paragraph (m)(1) of this section shall be comprised of units which are production units, or representative of production units.

¹ Components of similar design may be substituted without requiring additional testing if the represented measures of energy consumption continue to satisfy the applicable sampling provision.

(5) The basis of the computer simulation or engineering analysis method referred to in paragraph (m)(2)(ii) of this section shall be a representation of the mechanical vapor compression refrigeration cycle. The major components in the refrigeration cycle shall be modeled as "fits" to manufacturer performance data or by the use of graphic or tabular performance data. Heat transfer characteristics of coils may be modeled as a function of face area, number of rows, fins per inch, refrigerant circuiting, air flow rate and entering air enthalpy. An iterative process shall be used which varies system temperatures and flow rates until the cycle is balanced.

(6) When making representations regarding energy consumption, manufacturers must distinguish which condenser-evaporator coil combinations have been tested to fulfill the sampling requirements for labeling and representations and which units have been rated by computer simulation or engineering analysis. If after a period of time (not exceeding one year from introduction of a new product into the market) a manufacturer discovers that the condenser-evaporator coil combination tested does not have the largest volume of retail sales he must test the combination which, in fact, does have the largest sales volume and provide that information to the Federal Trade Commission (FTC).

(7) Manufacturers who choose to use computer simulation or engineering analysis for determining measures of energy consumption under paragraphs (m)(2)(ii) and (m)(5) of this section must—

(i) submit to DOE a written document which describes the method used to derive such ratings, and describes the procedure used by the manufacturer to verify the accuracy of such ratings; and

(ii) for every family of basic models using the same condensing unit, submit to DOE the results from all tests required by section 3 of Appendix M to this subpart used to establish the rated value(s) for the condenser-evaporator coil combination likely to have the highest sales volume, and a comparison of those test results with the values predicted when the simulation method used to rate other members of the family is used to rate such combination.

(8) Manufacturers who choose to use computer simulation or engineering analysis for determining measures of energy consumption under paragraphs (m)(2)(ii) and (m)(5) of this section shall permit representatives of the Department of Energy to inspect for verification purposes the simulation method or methods used. This

inspection may include conducting simulations to predict the performance of particular condenser-evaporator coil combinations specified by DOE, analysis of previous simulations conducted by a manufacturer, or both.

§ 430.24 (Revoked)

4. Section 430.24(m) is revoked.

5. Appendix M to Subpart B of Part 430 is amended to read as follows:

Appendix M to Subpart B—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners

1. Definitions

1.1 "Annual performance factor" means the total heating and cooling done by a heat pump in a particular region in one year divided by the total electric power used in one year.

1.2 "ARI" means Air-Conditioning and Refrigeration Institute.

1.3 "ARI Standard 210-79" means the test standard published in 1979 by the ARI and titled "Standard for Unitary Air-Conditioning Equipment".

1.4 "ARI Standard 240-77" means the test standard published in 1977 by the ARI and titled "Standard for Air-Source Unitary Heat Pump Equipment".

1.5 "ARI Standard 320-76" means the test standard published in 1976 by the ARI and titled "Standard for Water-Source Heat Pumps".

1.6 "ASHRAE" means the American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc.

1.7 "ASHRAE Standard 37-78" means the test standard published by ASHRAE in 1978 and titled "Methods of Testing for Rating Unitary Air-Conditioning and Heat Pump Equipment".

1.8 "Continuously recorded" means a method of recording measurements in intervals no greater than 5 seconds.

1.9 "Cooling load factor (CLF)" means the ratio of the total cooling done in a complete cycle of a specified time period, consisting of an "on" time and "off" time, to the steady-state cooling done over the same period at constant ambient conditions.

1.10 "Cyclic Test" means a test where the indoor and outdoor conditions are held constant, but the unit is manually turned "on" and "off" for specific time periods to simulate part-load operation.

1.11 "Degradation coefficient (C_D)" means the measure of the efficiency loss due to the cycling of the unit.

1.12 "Demand-defrost control system" means a system which is designed to perform the defrost function on the outdoor coil of the heat pump only when a predetermined degradation of performance is measured.

1.13 "Design heating requirement (DH_R)" is the amount of heating required to maintain a given indoor temperature at a particular outdoor design temperature.

1.14 "Dry-coil test" means a test conducted at a wet-bulb temperature and a dry-bulb temperature such that moisture will not condense on the evaporator coil of the unit.

1.15 "Heating seasonal performance factor (HSPF)" means the total heating output of a heat pump during its normal annual usage period for heating divided by the total electric power input during the same period.

1.16 "Heating load factor (HLF)" means the ratio of the total heating done in a complete cycle of a specified time period, consisting of an "on" time "off" time, to the steady state heating done over the same period at constant ambient conditions.

1.17 "Latent cooling" means the amount of cooling in Btu's necessary to remove water vapor from the air passing over the indoor coil by condensation during a period of time.

1.18 "Part-load factor (PLF)" means the ratio of the cyclic energy efficiency ratio to the steady-state energy efficiency ratio at identical ambient conditions.

1.19 "Seasonal energy efficiency ratio (SEER)" means the total cooling of a central air conditioner in Btu's during its normal annual usage period for cooling divided by the total electric power input in watt-hours during the same period.

1.20 "Sensible cooling" means the amount of cooling in Btu's performed by a unit over a period of time, excluding latent cooling.

1.21 "Single package unit" means any central air conditioner in which all the major assemblies are enclosed in one cabinet.

1.22 "Split system" means any central air conditioner in which one or more of the major assemblies are separate from the others.

1.23 "Steady-state test" means a test in which all indoor and outdoor conditions are held constant and the unit is in non-changing operating mode.

1.24 "Temperature bin" means a 5° F increment over a dry-bulb temperature range of 65° F through 104° F for the cooling cycle and -25° F through 64° F for the heating cycle.

1.25 "Time-temperature defrost control system" means a system which automatically provides the defrost function at a predetermined time interval whenever the outdoor temperature drops below a level where frosting will occur.

1.26 "Test condition tolerance" means the maximum permissible variation of the average of the test observations from the standard or desired test condition as provided in 6.1.1, 6.2.1, 6.2.2, and 6.2.3 of this Appendix.

1.27 "Test operating tolerance" means the maximum permissible difference between the maximum and the minimum instrument observation during a test as provided in 6.1.1, 6.2.1, 6.2.2, and 6.2.3 of this Appendix.

1.28 "Wet-coil test" means a test conducted at a wet-bulb temperature and a dry-bulb temperature such that moisture will condense on the test unit evaporator coil.

2. Testing Required

2.1 *Testing required for air source cooling only units with single speed compressors, two-speed compressors, two compressors, or cylinder unloading.* Two steady state wet coil tests required to be performed, test A and test B. Test A is to be conducted as an outdoor dry bulb temperature of 95° F and test B at 82° F. Test C and D are optional tests to be conducted when cyclic performance parameters are to be measured in order to

determine the degradation coefficient, C_p . Test C is a steady state dry coil test conducted at an outdoor dry bulb temperature of 82° F. Test D is a cyclic test also conducted at an outdoor dry bulb temperature of 82° F. In lieu of conducting tests C and D, an assigned value of 0.25 may be used for the degradation coefficient, C_p .

2.1.1 *Testing required for units with single speed compressors and single speed condenser fans.* Test A and test B shall be performed according to the test procedures outlined in 4.1 of this Appendix. In addition, the cyclic performance shall be evaluated by conducting test C and D according to the requirements outlined in 4.1 of this Appendix.

2.1.2 *Testing required for units with single speed compressors and multiple-speed condenser fans.* The test requirements for multiple-speed condenser fan units shall be the same as described in section 2.1.1 for single speed condenser fan units.

2.1.3 *Testing required for units with two-speed compressors, two compressors, or cylinder unloading.* The test requirements for two-speed compressor units, two compressor units, or units with cylinder unloading are the same as described in 2.1.1 of this Appendix except that test A and test B shall be performed at each compressor speed or at each compressor capacity.

2.1.4 *Testing required for units with two-speed compressors, two compressors, or cylinder unloading capable of varying the sensible to total (S/T) capacity ratio.* When a unit employing a two-speed compressor, two compressors, or cylinder unloading provides a method of varying the ratio of the sensible cooling capacity to the total cooling capacity, (S/T), the test requirements are the same as for two-speed compressor units as described in 2.1.3 of this Appendix.

2.2 *Testing required for air source heating only units with single speed compressors, two-speed compressors, two compressors, or cylinder unloading.* Four types of tests are required to be performed: High Temperature, Cyclic, Frost Accumulation, and Low Temperature. In lieu of conducting the Cyclic Test an assigned value of 0.25 may be used for the degradation coefficient, C_p .

2.2.1 *Testing required for units with single speed compressors.* Units with single speed compressors shall be subjected respectively to the High Temperature Test at 47° F described in section 3.2.1.1, the Cyclic Test as described in section 3.2.1.2, the Frost Accumulation Test as described in section 3.2.1.3, and the Low Temperature Test as described in section 3.2.1.4.

2.2.2 *Testing required for units with two-speed compressors, two compressors, or cylinder unloading.* With the unit operating: at high compressors speed (two-speed compressor), with both compressors in operation (two-compressors), or at the maximum capacity (cylinder unloading); the following tests are required to be performed on all units; the High Temperature Test at 47° F, the Frost Accumulation Test, and the Low Temperature Test. An additional test (cyclic at 47° F) is required, with the unit operating at the high compressor speed (two-speed compressor), with both compressors in operation (two-compressors), or at the maximum capacity (cylinder unloading); if

the normal mode of operation requires cycling "on" and "off" of the compressor(s) at high speed or maximum capacity.

With the unit operating: at the low compressor speed (two-speed compressor), with the single compressor which normally operates at low loads (two compressors), or at the low compressor capacity (cylinder unloading); the following tests are required to be performed on all units: the High Temperature Test at 47° F, the High Temperature Test at 62° F, and the Cyclic Test. Additional tests, (Frost Accumulation Test and Low Temperature Test) are required, with the unit operating: on low compressor speed (two-speed compressor), with the single compressor which normally operates at low loads (two compressors) or at the low compressor capacity (cylinder unloading), if the unit's low speed, one compressor or low capacity performance at and below 40° F is needed to calculate its seasonal performance.

2.3 *Testing required for air source units which provide both heating and cooling.* The requirements for units which provide both heating and cooling shall be the same as the requirements in Section 2.1. and 2.2 of this Appendix.

2.4 *Testing required for water source units which provide both heating and cooling.* (Reserved)

3. Testing conditions

3.1 *Testing conditions for air source cooling only units with single speed compressors, two-speed compressors, two compressors, or cylinder unloading.* The test room requirement and equipment installation procedures are the same as those specified in sections 11.1 and 11.2 of ASHRAE Standard 37-78. Units designed for both horizontal and vertical installation shall be tested in the orientation in which they are most frequently installed. All tests shall be performed at the normal residential voltage and frequency for which the equipment is designed (either 115 or 230 volts and 60 hertz), the test installation shall be designed such that there will be no air flow through the cooling coil due to natural or forced convection while the indoor fan is "off". This shall be accomplished by installing dampers upstream and downstream of the test unit to block the off period air flow. Values of capacity for rating purposes are to be rounded off to the nearest 100 Btu/hour for capacities less than 20,000 Btu/hour; to the nearest 200 Btu/hour for capacities between 20,000 and 37,999 Btu/hour; and to the nearest 500 Btu/hour for capacities between 38,000 and 64,999 Btu/hour.

The following conditions listed in ARI Standard 210.79 shall apply to all tests performed in Section 3.1 of this Appendix:

5.1.3.4 Cooling Coil Air Quantity.

5.1.3.6 Requirements for Separated Assemblies.

3.1.1 *Testing conditions for units with single speed compressors and single speed condenser fans.*

3.1.1.1 *Steady state wet-coil performance tests (Test A and Test B).* Test A and test B shall be performed with the air entering the indoor side of the unit having a dry-bulb temperature of 80° F and a wet-bulb temperature of 67° F. The dry-bulb

temperature of the air entering the outdoor side of the unit shall be 95° F in test A and 82° F in test B. The temperature of the air surrounding the outdoor side of the unit in each test shall be the same as the outdoor entering air temperature except for units or sections thereof intended to be installed only indoors, in which case the dry-bulb temperature surrounding that indoor side of the unit shall be 80° F. For those units which reject condensate to the condenser, located in the outdoor side of the unit, the outdoor wet-bulb temperature surrounding the outdoor side of the unit shall be 75° F in test A and 65° F in test B.

3.1.1.2 *Steady state dry coil performance test (Test C) and cyclic dry coil performance test (Test D).* Test C and test D shall be performed with the air entering the indoor side of the unit having a dry-bulb

temperature of 80° F and a wet-bulb temperature which does not result in formation of condensate on the indoor coil. (It is recommended that an indoor wet-bulb temperature of 57° F or less be used.) The dry-bulb temperature of the air entering the outdoor portion of the unit shall be 82° F. The outdoor portion of the unit shall be subject to the same conditions as the requirements for conducting test B as stated previously in section 3.1.1.1. Test C shall be conducted with the unit operating steadily. Test D shall be conducted by cycling the unit "on" and "off" by manual or automatic operation of the normal control circuit of the unit. The unit shall cycle with the compressor "on" for 6 minutes and "off" for 24 minutes. The indoor fan shall also cycle "on" and "off", the duration of the indoor fan "on" and "off" periods being governed by the automatic controls which the manufacturer normally supplies with the unit. The results of tests C and D shall be used to calculate a degradation coefficient, C_p by the procedures outlined in 5.1 of this Appendix.

3.1.2 *Testing conditions for units with single speed compressors and multiple-speed condenser fans.* The condenser fan speed to be used in test A shall be that speed which normally occurs at an outdoor dry-bulb temperature of 95° F, and for test B, the fan speed shall be that which normally occurs at an outdoor dry-bulb temperature of 82° F. If elected to be performed, tests C and D shall be conducted at the same condenser fan speed as in test B.

3.1.3 *Testing conditions for units with two-speed compressors, two compressors, or cylinder unloading.* The condenser fan speed used in conducting test A at each compressor speed shall be that which normally occurs at an outdoor dry-bulb temperature of 95° F. For test B, the condenser fan speed at each compressor speed shall be that which normally occurs at an outdoor dry-bulb temperature of 82° F. If elected to be performed, tests C and D shall be conducted at the low compressor speed with the same condenser fan speed as used in test B. For those two-speed units in which the normal mode of operation involves cycling the compressor "on" and "off" at high speed, tests C and D shall also be performed with the compressor operating at high speed and at a condenser fan speed that normally occurs at test A ambient conditions. Units

consisting of two compressors are subject to the same requirements as those units containing two-speed compressors, except that when operated at high speed, both compressors shall be operating and when operating at low speed, only the compressor which normally operates at an outdoor dry-bulb temperature of 82° F shall be operating.

In lieu of conducting tests C and D, an assigned value of 0.25 may be used for the degradation coefficient, C_p , at each compressor speed. If the assigned degradation coefficient is used for one compressor speed it must also be used for the other compressor speed.

In the case of units with cylinder unloading, the loaded and the unloaded conditions correspond to high and low compressor speed on two-speed units respectively.

3.1.4 *Testing conditions for units with two-speed compressors, two compressors, or cylinder unloading capable of varying the sensible to total (S/T) capacity ratio.* The mode of operation selected for controlling the S/T ratio in the performance of test A and test B at each compressor speed shall be such that it does not result in an operating configuration which is not typical of a normal residential installation. If elected to be performed, tests C and D shall be conducted at low compressor speed (single compressor operating) with the same S/T control mode as used in test B when performed at the low compressor speed. Likewise, tests C and D shall also be conducted at high compressor speed (two compressors operating) and with the same S/T control mode as in test A when performed at the high compressor speed.

In the case of units with cylinder unloading, the loaded and unloaded conditions correspond to high and low compressor speed on two-speed units respectively.

3.2 *Testing conditions for air source heating only units with single speed compressors, two-speed compressors, two compressors, or cylinder unloading.* The equipment under test shall be installed according to the requirements of Section 11.2 of ASHRAE Standard 37-78 and Section 5.1.4.5 of ARI Standard 240-77. Test chamber requirements are the same as given in Section 11.1 of ASHRAE Standard 37-78. Units designed for both horizontal and vertical installation shall be tested in the orientation in which they are most often installed. All tests shall be performed at the normal residential voltage and frequency for which the equipment is designed (either 115 or 230 volts and 60 hertz). Values of capacity for rating purposes are to be rounded off to the nearest 100 Btu/hour for capacities less than 20,000 Btu/hour; to the nearest 200 Btu/hour for capacities between 20,000 and 37,999 Btu/hour; and to the nearest 500 Btu/hour for capacities between 38,000 and 64,999 Btu/hour.

3.2.1 *Testing conditions for units with single speed compressors.*

3.2.1.1 *High temperature test conditions.* The High Temperature Test at 47° F shall be conducted at an outdoor dry-bulb temperature of 47° F and an outdoor wet-bulb temperature at 43° F. The High Temperature

Test at 62° F shall be conducted at an outdoor dry-bulb temperature of 62° F and an outdoor wet-bulb temperature of 56.5° F. For both tests, the dry-bulb air temperature entering and surrounding the indoor portion of the unit shall be 70° F and a maximum wet-bulb temperature of 60° F. The duration of the tests shall be for a minimum of ½ hour.

3.2.1.2 *Cycling test conditions.* The Cycling Test at 47° F shall be conducted at the same dry-bulb and wet-bulb temperature as the High Temperature Test at 47° F as described in 3.2.1.1. During the Cycling Test, the indoor fan shall cycle "on" and "off", as the compressor cycles "on" and "off", except that the indoor fan cycling times may be delayed due to controls that are normally installed with the unit. The compressor cycling times shall be 6 minutes "On" and 24 minutes "off." The test installation shall be designed such that there will be no airflow through the indoor unit due to natural or forced convection while the indoor fan is "off." This shall be accomplished by installing dampers upstream and downstream of the test unit to block the off period airflow.

3.2.1.3 *Frost accumulation test conditions.* The dry-bulb temperature and the resultant dew-point temperature of the air entering the outdoor portion of the unit shall be 35° F and 30° F respectively. The indoor dry-bulb temperature shall be 70° F and the maximum indoor wet-bulb temperature shall be 60° F. The Frost Accumulation Test requires that the unit undergo a defrost prior to the actual test. The test then begins at defrost termination and ends at the next defrost termination. Defrost termination occurs when the controls normally installed within the unit are actuated to cause it to change defrost operation to normal heating operation. During the test, auxiliary resistance heaters shall not be employed during either the heating or defrost portion of the test.

3.2.1.4 *Low temperature test conditions.*

The Low Temperature Test shall be conducted at a dry-bulb temperature entering the outdoor portion of the unit of 17° F and a wet-bulb temperature of 15° F. The air entering the indoor portion of the unit shall have a dry-bulb temperature of 70° F and a maximum wet-bulb temperature of 60° F.

3.2.1.5 *Additional testing conditions.* All tests shall be conducted at the indoor-side air quantities specified in Sections 4.1.4.3 and 5.1.4.6 and Table 2 of ARI Standard 240-77. The following conditions listed in ARI Standard 240-77 shall apply to all tests performed in Section 3.2 of this Appendix.

5.4.4.4 *Outdoor-Side Air Quantity; and*

5.1.4.5 *Requirements for Separated Assemblies.*

In all tests, the specified dry-bulb temperature entering the outdoor portion of the unit also applies to the air temperature surrounding the outdoor portion of the unit. Similarly, models where portions are intended to be installed indoors shall have the air temperature surrounding that portion of the unit the same as the indoor air temperature.

3.2.2 *Testing conditions for units with two-speed compressors, two compressors or cylinder unloading.* The testing conditions for two-speed compressors, two compressors, or cylinder unloading shall be the same as those for single speed units as described in 3.2.1.

3.3 *Testing conditions for air source units which provide both heating and cooling.* The testing conditions for units which provide both heating and cooling shall be the same as the requirements in Sections 3.1 and 3.2 of this Appendix.

3.4 *Testing conditions for water source units which provide both heating and cooling.* (Reserved)

4.0 *Testing procedures.* Measure all electrical inputs as described in the procedures below. All electrical measurements during all "on" and "off" periods shall include auxiliary power or energy (controls, transformers, crankcase heaters, etc.) delivered to the unit.

4.1 *Testing procedures for air source cooling only units with single speed compressors, two-speed compressors, two compressors, or cylinder unloading.* All steady-state wet- and dry-coil performance tests on single package units shall simultaneously employ the Air-Enthalpy Method (Section 3 of ASHRAE Standard 37-78) on the indoor side and one other method consisting of either the Air-Enthalpy Method or the Compressor Calibration Method (Section 4 of ASHRAE Standard 37-78 on the outdoor side. All steady-state wet- and dry-coil performance tests on split systems shall simultaneously employ the Air-Enthalpy Method or the Compressor Calibration Method on the indoor side and the Air-Enthalpy Method, the Compressor Calibration Method or the Volatile Refrigerant Flow Method (Section 5 of ASHRAE Standard 37-78) on the outside. All cyclic dry-coil performance tests shall employ the Air-Enthalpy Method, indoor side only. The values calculated from the two test methods must agree within 6 percent in order to constitute a valid test. Only the results from the Air-Enthalpy Method on the indoor side shall be used in the calculations in Section 5.1. Units shall be installed and tested in such a manner that when operated under steady-state conditions, the cooling coil and condenser coil air flows meet the requirements of Sections 5.1.3.4, 5.1.3.5, and 5.1.3.7 of ARI Standard 210.79.

4.1.1 *Test operating procedures.*

4.1.1.1 *Steady-state wet-coil performance tests (Test A and Test B).* Steady-state wet-coil performance tests (A and B) shall be conducted in accordance with the conditions described in sections 3.1.1.1, 3.1.2, 3.1.3, 3.1.4, and 3.1.5 of this Appendix and the procedures described for cooling tests in Section 11.3 of ASHRAE standard 37-78 and evaluated in accordance with the cooling-related requirements of Section 12 of the ASHRAE Standard 37-78. The test room reconditioning apparatus and the equipment under test shall be operated until equilibrium conditions are attained.

4.1.1.2 *Steady-state and cyclic dry-coil performance tests (Test C and Test D).* The steady-state and cyclic dry-coil tests (C and D) shall be conducted as described below in accordance with the conditions described in sections 3.1.1.2, 3.1.2, 3.1.3, 3.1.4, and 3.1.5 of this Appendix. The results shall be evaluated in accordance with the cooling related requirements of Sections 12.1.5, 12.1.6, 12.1.7, of ASHRAE Standard 37-78. The test room reconditioning apparatus and the equipment

under test shall be operated until equilibrium conditions are attained, but not for less than one hour before data for test C are recorded. For all equipment test methods including the Compressor Calibration Method, test C shall be performed with data recorded at 10-minute intervals until four consecutive sets of readings are attained with the tolerance prescribed in Section 11.6 of ASHRAE Standard 37-78. When the Air-Enthalpy Method is used on the outdoor side for test C, the requirements of this section shall apply to both the preliminary test and the regular equipment test; the requirements of Section 3.6 of ASHRAE Standard 37-78 shall also apply. Immediately after test C is completed the test unit shall be manually cycled "off" and "on" using the time periods from 3.1.1 of this Appendix until steadily repeating ambient conditions are again achieved in both the indoor and outdoor test chambers, but for not less than 2 complete "off"/"on" cycles. Without a break in the cycling pattern, the unit shall be run through an additional "off"/"on" cycle during which the test data required in 5.1 shall be recorded. During this last cycle, which is referred to as the test cycle, the indoor and outdoor test room ambient conditions shall remain within the tolerances specified in 4.1.3 of this Appendix during the cyclic dry-coil tests, all air moving equipment on the condenser side shall cycle "on" and "off" when the compressor cycles "on" and "off". The indoor air moving equipment shall also cycle "off" as governed by any automatic controls normally installed with the unit. This last requirement applies to units having an indoor fan time delay. Units not supplied with an indoor fan time delay shall have the indoor air moving equipment cycle "on" and "off" as the compressor cycles "on" and "off."

4.1.2 *Test instrumentation.* The steady-state and cyclic performance tests shall have the same requirements pertaining to instrumentation and data as those specified in Section 10 and Table II of ASHRAE Standard 37-78. For the cyclic dry-coil performance tests, the dry-bulb temperature of the air entering and leaving the cooling coil, or the difference between these two dry-bulb temperatures, shall be continuously recorded with instrumentation accurate to within $\pm 0.3^\circ\text{F}$ of indicated value and have a response time of 2.5 seconds or less. Response time in the time required for the instrumentation to obtain 63 percent of the final steady-state temperature difference when subjected to a step change in temperature difference of 15°F or more. Electrical measurement devices (watt-hour meters) used during all tests shall be accurate to within ± 0.5 percent of indicated value.

4.1.3 *Test tolerances.* All steady-state wet- and dry-coil performance tests shall be performed within the applicable operating and test condition tolerances specified in Section 11.6 and Table III of ASHRAE Standard 37-78.

4.1.3.1 The indoor and outdoor average dry-bulb temperature for the cyclic dry coil test D shall both be within 1.0°F of the indoor and outdoor average dry bulb temperature for the steady-state dry coil test C, respectively.

4.1.3.2 The test condition and test operating tolerances for conducting test D are

stated in 6.1.1 of this Appendix. Variation in the test conditions greater than the tolerances prescribed in 6.1.1 of this Appendix shall invalidate the test. It is suggested that an electric resistance heater having a heating capacity approximately equal to the sum of the cooling capacity and compressor and condenser fan power should be installed in the outdoor test room and cycled "off" and "on" as the unit cycles "on" and "off" respectively to improve control in the outdoor test room. Similarly, an electric resistance heater having a heating capacity approximately equal to the cooling capacity of the unit could be installed in the indoor test room, and cycled "on" and "off" as the test unit cycles "on" and "off" to improve indoor room control.

4.2 *Testing procedures for air source heating only units with single speed compressors, two-speed compressors, two compressors, or cylinder unloading.*

4.2.1 *Test operating procedures.* All High Temperature Tests, the Cyclic Test, the Frost Accumulation Test, and the Low Temperature test shall have the performance evaluated by the Air-Enthalpy Method on the indoor side. In addition, the High Temperature Test and the Low Temperature Test shall have a simultaneous test method (as described in 4.1) used as a check. The values calculated from the two methods must agree within 6 percent in order to constitute a valid test. Only the results from the Air-Enthalpy Method on the indoor side shall be used in the calculations in section 5.2.

4.2.1.1 *Test procedure for high temperature test.* When the outdoor Air-Enthalpy Method is used, the outdoor chamber must not interfere with the normal air circulating pattern during the preliminary test. It is necessary to determine and adjust for system resistance when the outdoor air measuring apparatus is attached to the outdoor portion of the unit. The test room apparatus and test units must be operated for at least one hour with at least $\frac{1}{2}$ hour at equilibrium and at the specified test conditions prior to starting the test. The High Temperature Test shall then be conducted for a minimum of $\frac{1}{2}$ hour with intermittent data being recorded at 10-minute intervals. For all units, especially those having controls which periodically cause the unit to operate in defrost mode, attention should be given to prevent defrost during the High Temperature Test. Units which have undergone a defrost should operate in the heating mode for at least 10-minutes after defrost termination prior to the start of the test. When the outdoor Air-Enthalpy Method is used as a second test then a preliminary test must be conducted for a minimum of 30 minutes with 4 or more sets of data recorded at 10 minute intervals, all remaining requirements of Section 3.6.1 in the ASHRAE Standard 37-78 shall then apply in conducting the preliminary test for the outdoor air enthalpy method. For some units, at the ambient condition of the test, frost may accumulate on the outdoor coil. If the supply air temperature or the difference between the supply air temperature and the indoor air entering temperature has decreased by more than 1.5°F at the end of the test, the unit shall be defrosted and the test restarted. Only the

results of this second High Temperature Test shall be used in the heating seasonal performance calculation in section 5.2. Prior to beginning the High Temperature Test, a unit shall operate in the heating mode for at least 10 minutes after defrost termination to establish equilibrium conditions for the unit and the room reconditioning apparatus. The High Temperature Test may only begin when the test unit and room conditions are within the test condition tolerances specified in Section 6.2.1 of this Appendix.

4.2.1.2 *Test procedures for the cyclic test.*

The cyclic test shall follow the High Temperature Test and by cycled "on" and "off" as specified in 3.2.1.2 until steadily repeating ambient conditions are achieved for both the indoor and outdoor test chambers, but for not less than 2 complete "off"/"on" cycles. Without a break in the cycling pattern, the unit shall be operated through an additional "off"/"on" cycle, during which the required test data shall be recorded. During the last cycle, which is referred to as the test cycle, the indoor and outdoor test room ambient conditions shall remain within the tolerance specified in section 6.2.2. of this Appendix. If, prior to the High Temperature Test, the unit underwent a defrost cycle to rid the outdoor coil of any accumulated frost, then prior to cycling the unit "off" and "on" it should be made to undergo a defrost. After defrost is completed and before starting the cycling process, the unit shall be operated continuously in the heating mode for a least 10 minutes to assure that equilibrium conditions have again been established for the unit and the room conditioning apparatus. Cycling the unit may begin when the test unit and room conditions are within the High Temperature Test condition tolerances specified in section 6.2.1 of this Appendix. Attention should be given to prevent defrost after the cycling process has begun.

4.2.1.3 *Test procedures for the frost accumulation test.* The defrost controls shall be set at the normal settings which most typify those encountered in Region IV as described in section 6.2.4 and 6.2.5 of this Appendix. The test room reconditioning equipment and the unit under test shall be operated for at least $\frac{1}{2}$ hour prior to the start of a "preliminary" test period. The preliminary test period and the test period itself are to be conducted within the test tolerances given in section 4.2.3.3 of this Appendix. In some cases, the preliminary defrost cycle may be manually induced, however, it is important that the normally operating controls govern the defrost termination in all cases. For units containing defrost controls which are likely to cause defrost at intervals less than one hour when the unit is operating at the required test conditions, the preliminary test period shall start at the termination of a defrost cycle which automatically occurs and shall end at the termination of the next automatically occurring defrost cycle. For units containing defrost controls which are likely to cause defrost at intervals exceeding one hour when operating at the required test condition, the preliminary test period consists of "heating-only" preliminary operation for at least one hour, after which a defrost may be manually

or automatically induced. The test period then begins at the termination of this defrost cycle and ends at the termination of the next automatically occurring defrost cycle. If the unit has not undergone a defrost after 12 hours, then the tests shall be concluded and the results calculated for this 12-hour period. For units which turn the indoor fan off during defrost the indoor supply duct shall be blocked during all defrost cycles to prevent natural or forced convection through the indoor unit. During defrost, resistance heaters normally installed with the unit shall be prevented from operating.

4.2.1.4 *Test procedures for the low temperature test.* Where applicable, the High Temperature Test preparation and performance requirements shall also be used in the Low Temperature Test. The test room reconditioning equipment shall first be operated in a steady-state manner for at least one-half hour at equilibrium and at the specified test conditions. The unit shall then undergo a defrost, either automatic or manually induced. It is important that the unit terminate the defrost sequence by the action of its own defrost controls. The defrost controls are to remain at the same setting as specified in 4.2.1.3. At a time no earlier than 10 minutes after defrost termination, the test shall start. Test duration is one-half hour. For all units, defrost should be prevented during the one-half hour test period.

4.2.2 *Test instrumentation.*

4.2.2.1 *Test instrumentation for the high temperature test.* The indoor air flow rate shall be determined as described in Section 7.1 through 7.4 of ASHRAE Standard 37-78. This requires the construction of an air receiving chamber and discharge chamber separated by partition in which one or more nozzles are located. The receiving chamber is connected to the indoor air discharge side of the test specimen through a short plenum. The exhaust side of the air flow rate measuring device contains an exhaust fan with some means to vary its capacity to obtain the desired external resistance to air flow rate. The exhaust side is then left open to the test room or is ducted through a conditioning apparatus and then back to the test specimen inlet. The static pressure across the nozzles, the velocity pressure, and the static pressure measurements at the nozzle throat shall be measured with manometers which will result in errors which are no greater than ± 1.0 percent of indicated value and having minimum scale divisions not exceeding 0.0 percent of the reading. Static pressure and temperature measurements must be taken at the nozzle throat in order to obtain density of the air. The areas of the nozzles shall be determined by measuring their diameter with an error no greater than ± 0.2 percent in four places approximately 45 degrees apart around the nozzle in each of two places through the nozzle throat, one at the outlets and the others in the straight section near the radius. The energy usage of the compressor, indoor and outdoor fan, and all other equipment components shall be measured with a watt-hour meter which is accurate to within ± 0.5 percent of the quantity measured. Measurements of the air temperature entering and leaving the indoor coil or the difference

between these two shall be made in accordance with the requirements of ASHRAE Standard 41 part 1. These temperatures shall be continuously recorded with instrumentation having a total system accuracy within $\pm 0.3^\circ\text{F}$ of indicated value and a response time of 2.5 seconds or less. Temperature measurements are to be made upstream of the static pressure tap on the inlet and downstream of the static pressure taps on the outlet. The indoor and outdoor dry-bulb temperatures shall be continuously recorded with instrumentation which will result in an error no greater than $\pm 0.3^\circ\text{F}$ of indicated value. The outdoor wet-bulb temperature shall be continuously recorded. Static pressure measurements in the ducts and across the unit shall be made in accordance with Section 8 of ASHRAE Standard 37-78 using equipment which will result in an error no greater than ± 0.01 inch of water. Static pressure measurements shall be made and recorded at 5 minute intervals. All other data not continuously recorded shall be recorded at 10 minute intervals.

4.2.2.2 *Test instrumentation for the cycling test.* The air flow rate during the on-period of the Cyclic Test shall be the same agreed within ± 1 percent as the air flow rate measured during the previously conducted High Temperature Test. All other instrumentation requirements are identical to 4.2.2.1 of this Appendix.

4.2.2.3 *Test instrumentation for the frost accumulation test.* The air flow rate for the Frost Accumulation Test shall be the same as described in 4.2.2.1. The indoor-side dry-bulb temperature and outdoor-side dry-bulb temperature shall be continuously recorded with instrumentation having a total system accuracy within $\pm 0.3^\circ\text{F}$ of indicated value. The outdoor dew point temperature shall be determined with an error no greater than $\pm 0.5^\circ\text{F}$ of indicated value using continuously recording instrumentation. All other data shall be recorded at 10 minute intervals during the heating cycle. Defrost initiation, termination and complete test cycle time (from defrost termination to defrost termination) shall be recorded. Defrost initiation is defined as the actuation [either automatically or manually] of the controls normally installed with the unit which cause it to alter its normal heating operation in order to eliminate possible accumulations of frost on the outdoor coil. Defrost termination occurs when the controls normally within the unit are actuated to change from defrost operation to normal heating operation. Provisions should be made so that instrumentation in capable of recording the cooling done during defrost as well as the total electrical energy usage during defrost. These data and the continuously recorded data need be the only data obtained during defrost.

4.2.2.4 *Test instrumentation for the low temperature test.* Instrumentation for the Low Temperature Test is identical to that of the High Temperature Test described in section 4.2.2.1 of this Appendix.

4.2.3 *Test tolerances.*

4.2.3.1 *Test tolerances for the high temperature test.* All tests shall be conducted within the tolerances specified in Section 6.2.1. Variation greater than those given shall

invalidate the test. The heating capacity results by the indoor Air Enthalpy Method shall agree within 6 percent of the value determined by any other simultaneously conducted capacity test in order for the test to be valid.

4.2.3.2 *Test tolerances for the cyclic test.* The test condition tolerances and test operating tolerances for the on-period portion of the test cycle are specified in Section 6.2.2. Variation exceeding any specified test tolerance shall invalidate the test results.

4.2.3.3 *Test tolerances for the frost accumulation test.* Test condition and test operating tolerances for Frost Accumulation Tests are specified in Section 6.2.3. Test operating tolerances during heating applies when the unit is in the heating mode, except for the first 5 minutes after the termination of a defrost cycle. Test operating tolerance during defrost applies during a defrost cycle and during the first 5 minutes after defrost termination when the unit is operating in the heating mode. In determining whether the test condition tolerances are met, only the heating portion of the test period shall be used in calculating the average values. Variations exceeding the tolerances presented in Section 6.2.3 shall invalidate the test.

4.2.3.4 *Test tolerances for the low temperature test.* During the test period for the Low Temperature Test, the operating conditions shall be within the tolerances specified in Section 6.2.1 of this Appendix.

4.3 *Testing procedures for air source units which provide both heating and cooling.* The testing procedures for units which provide both heating and cooling shall be the same as those specified in Sections 4.1 and 4.2 of this Appendix. Also during the off-period of the dry-coil cooling test (test D), the switch-over valve shall remain in the cooling mode, unless the controls normally supplied with the unit are designed to reverse it, in which case the controls shall operate the valve. During the off-period of the cyclic heating test at 47° F, the switch-over valve shall remain in the heating mode, unless the controls normally supplied with the unit are designed to reverse it, in which case the controls shall operate the valve.

4.4 *Testing procedures for water source units which provide both heating and cooling.* (Reserved)

5.0 *Calculations for performance factors.*

5.1 *Calculations of seasonal energy efficiency ratios (SEER) in air-source units.* The test data and results required to calculate the seasonal energy efficiency ratio (SEER) in Btu's per watt-hour shall include the following:

(i) Cooling capacities (Btu/hr) from tests A and B and, if applicable, the cooling capacity (Btu/hr) from test C and the total cooling done from test D (Btu's).

$\dot{Q}_{ss}^k$ (95F)
 $\dot{Q}_{ss}^k$ (82F)
 $\dot{Q}_{ss}$ dry
 $\dot{Q}_{ss}$ dry

(ii) Electrical power input to all components and controls (watts) from tests A, B, and if applicable the electrical power input to all components and controls (watts) from test C and the electrical usage (watt-hour) from test D.

$\dot{E}_{ss}^k$ (95F)
 $\dot{E}_{ss}^k$ (82F)
 $\dot{E}_{ss}$ dry
 $\dot{E}_{ss}$ dry

(iii) Indoor air flow rate (SCFM) and external resistance to indoor air flow (inches of water).

(iv) Air temperature (°F)
Outdoor dry bulb
Outdoor wet bulb
Indoor dry bulb
Indoor wet bulb

Where the cooling capacities $\dot{Q}_{ss}^k$ (95F), from test A, $\dot{Q}_{ss}^k$ (82F), from test B, and $\dot{Q}_{ss}$ dry, from test C, are calculated using the equations specified in section 3.7 of ASHRAE Standard 37-78. The total cooling done, $\dot{Q}_{ss}$ dry from test D, is calculated using equation (1) below.

Units which do not have indoor air circulating fans furnished as part of the model shall have their measured total cooling capacities adjusted by subtracting 1250 Btu/hr per 1,000 CFM of measured indoor air flow and adding to the total steady-state electrical power input 365 watts per 1,000 CFM of measured indoor air flow.

Energy efficiency ratios from tests A, B, and C, EER_A , EER_B , EER_C , dry respectively, are each calculated as the ratio of the total cooling capacity in Btu/hr to the total electrical power input in watts.

Units which do not have indoor air circulating fans furnished as part of the model shall adjust their total cooling done and energy used in one complete cycle for the effect of circulating indoor air equipment power. The value to be used for the circulating indoor air equipment power shall be 1250 Btu/hr per 1,000 CFM of circulating indoor air. The energy usage required in one complete cycle required for indoor air circulation is the product of the circulating indoor air equipment power and the duration of time in one cycle that the circulating indoor air equipment is on. The total cooling done shall then be the measured cooling in one complete cycle minus the energy usage required for indoor air circulation in one complete cycle. The total electrical energy usage shall be the sum of the energy usage required for indoor air circulation in one complete cycle and the energy used by the remaining equipment components (compressor(s), outdoor fan, crankcase heater, transformer(s), etc.) in one complete test cycle.

Energy efficiency ratio from tests D, EER_{ss} dry is calculated as the ratio of the total cooling done in Btu's to the total electrical energy usage in watt-hours.

The results of the cyclic and steady-state dry-coil performance tests shall be used in the following (4) equations:

$$(1) \quad Q_{cyc, dry} = \frac{60 \times \dot{V} \times C_{pa} \times \Gamma}{[V_n \times (1 + W_n)]}$$

where

$Q_{cyc, dry}$ = Total cooling over a cycle consisting of one compressor "off" period and one compressor "on" period (Btu's).
 $\dot{V}$ = Indoor air flow rate (fm) at the dry-bulb temperature, humidity ratio, and pressure existing in the region of measurement.
 C_{pa} = Specific heat at constant pressure of air-water mixture per pound of dry air, (Btu/lb-°F).
 V_n = Specific volume of air-water mixture at the same dry-bulb temperature, humidity ratio, and pressure used in the determination of the indoor air flow rate (ft³/lb).
 W_n = Humidity ratio (lb/lb).

and Γ (hr-°F), which is described by the equation:

$$(2) \quad \Gamma = \int_{\text{(time indoor fan on)}}^{\text{(time indoor fan off)}} [T_{a1}(t) - T_{a2}(t)] dt$$

where

$T_{a1}(t)$ = Dry bulb temperature of air entering the indoor coil (°F) at time t .
 $T_{a2}(t)$ = Dry bulb temperature of air leaving the indoor coil (°F) at time t .

$$(3) \quad CLF = \frac{Q_{cyc, dry}}{Q_{ss, dry} \times \tau}$$

where

CLF = cooling load factor.
 $Q_{ss, dry}$ = Total steady-state cooling capacity from test C (Btu/hr).
 τ = Duration of time (hours) for one complete cycle consisting of one compressor "on" time and one compressor "off" time.

The preceding equations are then used in the following equation to calculate a degradation coefficient C_D rounded to the nearest .01.

$$(4) \quad C_D = \frac{1 - \frac{EER_{cyc, dry}}{EER_{ss, dry}}}{1 - CLF}$$

where

$EER_{ss, dry}$ = Energy efficiency ratio from test C, (Btu/watt-hr).

5.1.1 *Method for calculating a SEER for units with single-speed compressor and single-speed condenser fans.* The seasonal energy efficiency ratio for units employing single-speed compressors and single-speed condenser fans shall be based on the performance of test B and a method outlined in 2.1.1 and 3.1.1 of this Appendix to account for the cyclic performance.

The seasonal energy efficiency ratio in Btu's/watt-hour shall be determined by the equation:

$$SEER = PLF(0.5) \times EER_B$$

where

EER_B = Energy efficiency ratio determined from test B as outlined in 2.1.1.
 $PLF(0.5)$ = Part-load performance factor when cooling load factor = 0.5 as determined from the equation:

$$PLF(0.5) = 1 - 0.5 \times C_D$$

where

C_D = Is the degradation coefficient described in 2.1.1 or as calculated in equation (4) above.

5.1.2 *Method for calculating a SEER for units with single-speed compressors and multi-speed condenser fans.* The seasonal

energy efficiency ratio (SEER) for units employing single-speed compressors and multi-speed condenser fans shall be based on the energy efficiency ratio obtained for test B and the method outlined in 2.1.2 of this Appendix to account for the performance under cyclic conditions. The energy efficiency ratio for test B is obtained with the unit operating with the condenser fan speed which normally occurs at test B ambient conditions.

The seasonal energy efficiency ratio in Btu's/watt-hour shall be determined by the equation:

$$SEER = PLF(0.5) \times EER_B$$

where

EER_B = energy efficiency ratio determined from test B in 2.8.
 $PLF(0.5)$ = Part-load performance factor as determined from the equation:

$$PLF(0.5) = 1 - 0.5 \times C_D$$

where

C_D = The degradation coefficient described in 2.1.2 or as calculated in equation (4) above.

5.1.3 *Method for calculating a SEER for units with two speed compressors or two compressors, or cylinder unloading.* The calculation procedure described in this section shall be based on the performance of test A and B at each of the compressor speeds for two-speed compressor units, subject to the conditions on condenser fan speed described in 3.1.3.

Units operating with two compressors shall have the SEER calculated in the same manner as two-speed compressor units. The superscripted index $k=1$ (and the term "low-speed") designates the compressor that normally operates at an outdoor dry-bulb temperature of 82°F and $k=2$ (and the term "high speed") denotes operation with both compressors.

In order to evaluate the steady-state capacity $\dot{Q}_{ss}^k(T_i)$, and power input, $E_{ss}^k(T_i)$, at temperature T_i for each compressor speed, $k=1$, $k=2$, the results of tests A and B from 5.1 shall be used in the following equation:

$$\dot{Q}_{ss}^k(T_i) = \dot{Q}_{ss}^k(95 F) + \frac{\dot{Q}_{ss}^k(82 F) - \dot{Q}_{ss}^k(95 F)}{95 - 82} [33 - (5 \times j)]$$

where

$\dot{Q}_{ss}^k(95 F)$ = Steady-state capacity measured from test A as outlined in 2.1.3.
 $\dot{Q}_{ss}^k(82 F)$ = Steady-state capacity measured from test B as outlined in 2.1.3.

$$E_{ss}^k(T_i) = E_{ss}^k(95 F) + \frac{E_{ss}^k(82 F) - E_{ss}^k(95 F)}{95 - 82} [33 - (5 \times j)]$$

when

$E_{ss}^k(95 F)$ = Electrical power input measured using test A as outlined in 2.1.3.

$E_{ss}^k(82 F)$ = Electrical power input measured from using test A as outlined in 2.1.3.

The building cooling load $BL(T_i)$ for the four cases described in section 5.1.3.1 through 5.1.3.4 shall be obtained from the following equation:

$$BL(T_i) = \frac{(5 \times j) - 3}{95 - 65} \times \frac{\dot{Q}_{ss}^{k=2}(95 F)}{1.1}$$

where

$\dot{Q}_{ss}^{k=2}(95 F)$ = Steady-state capacity measured from test A in 2.9 at the high compressor speed.

The value of the degradation coefficient $C_D^{k=1}$ for low compressor speed cycling and $C_D^{k=2}$ for high speed on/off compressor cycling is determined as described in section 2.1.3, or as calculated above in equation (1).

5.1.3.1 Units operating at low compressor speed ($k=1$) for which the steady-state cooling capacity, $\dot{Q}_{ss}^{k=1}(T_i)$, is greater than or equal to the building cooling load, $BL(T_i)$, evaluate the following equations:

$$(1) \quad X^{k=1} = \frac{BL(T_i)}{\dot{Q}_{ss}^{k=1}(T_i)}$$

where

$BL(T_i)$ = Building cooling load (Btu/hr) at temperature T_i from section 5.1.3.

$\dot{Q}_{ss}^{k=1}(T_i)$ = Steady-state cooling capacity (Btu/hr) at temperatures T_i from section 5.1.3.

$$(2) \quad \frac{Q(T_i)}{N} = X^{k=1} \times \dot{Q}_{ss}^{k=1}(T_i) \times \frac{n_j}{N}$$

where

$Q(T_i)$ = ratio of total cooling (Btu) in temperature bin j to the number of temperature bin hours.
 n_j is the fractional number of hours in temperature bin j from 6.1.2.

$$(3) \quad \frac{E(T_i)}{N} = \frac{X^{k=1} \times E_{ss}^{k=1}(T_i)}{PLF^{k=1}} \times \frac{n_j}{N}$$

where

$E(T_i)$ = ratio of Energy usage (watt-hr.) in temperature bin j to the number of temperature bin hours.

$$PLF^{k=1} = 1 - C_D^{k=1}(1 - X^{k=1}).$$

Where C_D the degradation coefficient is described in section 2.1.3 or as calculated above in equation (1).

5.1.3.2 When a unit must alternate between high ($k=2$) and low ($k=1$) compressor speeds to satisfy the building cooling load at a temperature T_i , evaluate the following equations:

$$(1) \quad X^{k=1} = \frac{\dot{Q}_{ss}^{k=2}(T_i) - BL(T_i)}{\dot{Q}_{ss}^{k=2}(T_i) - \dot{Q}_{ss}^{k=1}(T_i)}$$

$$(2) \quad X^{k=2} = 1 - X^{k=1}$$

$$(3) \quad \frac{Q(T_i)}{N} = [X^{k=1} \times \dot{Q}_{ss}^{k=1}(T_i) + X^{k=2} \times \dot{Q}_{ss}^{k=2}(T_i)] \times \frac{n_j}{N}$$

$$(4) \quad \frac{E(T_i)}{N} = [X^{k=1} \times E_{ss}^{k=1}(T_i) + X^{k=2} \times E_{ss}^{k=2}(T_i)] \times \frac{n_j}{N}$$

5.1.3.3 When a unit must cycle on and off at high compressor speed ($k=2$) in order to satisfy the building cooling load at a temperature T_i , evaluate the equations provided in section 5.1.3.1 replacing ($k=1$) data with the ($k=2$) data.

5.1.3.4 When a unit operates continuously at high compressor speed ($k=2$) at an outdoor temperature T_i evaluate the following equations:

$$(1) \quad \frac{Q(T_i)}{N} = \dot{Q}_{ss}^{k=2}(T_i) \times \frac{n_j}{N}$$

$$(2) \quad \frac{E(T_i)}{N} = E_{ss}^{k=2}(T_i) \times \frac{n_j}{N}$$

5.1.3.5 Calculate the SEER in Btu's/watt-hr. using the values for the terms

$$\frac{Q(T_i)}{N}$$

and

$$\frac{E(T_i)}{N}$$

as determined at each temperature bin according to the applicable conditions described in sections 5.1.3.1 through 5.1.3.4 as follows:

$$SEER = \frac{\sum_{i=1}^s \frac{Q(T_i)}{N}}{\sum_{i=1}^s \frac{E(T_i)}{N}}$$

5.1.4 Method for calculating a SEER for units with two speed compressor, two compressor or cylinder unloading capable of varying the sensible to total capacity (S/T) ratio. Multi-speed compressor and two-speed compressor units capable of varying the sensible to total capacity ratio (S/T) shall have the seasonal energy efficiency ratio determined as described in section 5.1.3. For such units, the mode of operation selected to determine the steady-state capacities $Q_{ss}(95)$, $Q_{ss}(82)$, $E_{ss}(95)$, $E_{ss}(82)$, and power inputs at each compressor speed $k=1, k=2$, for tests A and B is outlined in section 2.10.

5.2 Calculation of Heating Seasonal Performance Factors (HSPF) for Air-Source Units.

The testing data and results required to calculate the heating seasonal performance factor (HSPF), in Btu's per watt-hr, shall include the following:

- Heating capacities (Btu/hr) from the indoor air enthalpy method for the High Temperature Tests, and the total heating done (Btu's) for the cyclic and frost accumulation tests.
 $Q_{ss}(47)$ or $Q_{ss}(62)$,
 $Q_{ss}(17)$,
 $Q_{cyc}(47)$,
 $Q_{DEF}(35)$.
- Electrical power input to all components (watts) for the steady state tests, and the electrical usage (watt-hours) for the cyclic and frost accumulation tests.
 $E_{ss}(47)$ or $E_{ss}(62)$,
 $E_{ss}(17)$,
 $E_{cyc}(47)$,
 $E_{DEF}(35)$.
- Indoor air flow rate (SCFM) and external resistance to indoor air flow (inches of water).
- Air temperature ($^{\circ}$ F)
Outdoor dry bulb
Outdoor wet bulb or dew point
Indoor dry bulb and
Indoor wet bulb.
- Data as specified in Table II of ASHRAE Standard 37-78.

Where the heating capacities $Q_{ss}(47)$, $Q_{ss}(62)$ and $Q_{ss}(17)$ and the indoor air flow rate are calculated using the equations specified in section 3.8.1 and 7.4 of ASHRAE standard 37-78. The total heating done, $Q_{cyc}(47)$ and $Q_{DEF}(35)$ are calculated using the equations below.

Units not having an indoor fan as part of the model tested shall add 1250 Btu/hr per 1,000 SCFM of indoor air handled to the measured capacity to obtain the total heating capacity, $Q_{ss}(17)$, $Q_{ss}(47)$ or $Q_{ss}(62)$, and add 365 watts per 1,000 SCFM of indoor air handled to the measured power to obtain the total power input, $E_{ss}(17)$, $E_{ss}(47)$, or $E_{ss}(62)$, to the unit.

The coefficients of performance (COP) for the High Temperature Tests $COP_{ss}(62)$ or $COP_{ss}(47)$, and Low Temperature Test, $COP_{ss}(17)$, are calculated as the ratio of the heating capacity in Btu/hr to the product of 3.413 and the power inputs to the indoor fan in watts and the power inputs to the remaining equipment components (including all controls) in watts.

Units which do not have indoor air circulating fans furnished as part of the model shall have their total heating done ($Q_{cyc}(47)$) and energy used $E_{cyc}(47)$ in one complete cycle adjusted for the effect of circulating indoor air equipment power. For units tested without an indoor fan as part of the model, $Q_{cyc}(47)$ shall be increased by a quantity of heat equal to the product of 1250 Btu/hr per 1,000 SCFM, the length of the on-period of the test cycle in hours, and the flow rate of indoor air circulated in units of 1,000 SCFM. The total energy usage, $E_{cyc}(47)$, shall be the sum of the energy usage required for air circulation during the test cycle and the energy used by the remaining equipment components (including all controls) during the test cycle. Units not having an indoor fan as part of the model tested, shall set the energy required for indoor air circulation equal to the quantity given by the product of 365 watts per 1000 SCFM, the length of the on-period of the test cycle in hours, and the rate of indoor air circulated in units of 1000 SCFM.

The cyclic coefficient of performance, $COP_{cyc}(47)$ is calculated as the ratio of the total heating done ($Q_{cyc}(47)$) in Btu's to the product of 3.413 Btu/watt-hour and the total energy usage ($E_{cyc}(47)$) in watt hours.

The net heating capacity, $Q_{DEF}(35)$ (Btu/hr), is the total net heating done over the test period (including any credit for the indoor fan heat) divided by the total length of the test period, in hours. For units with "demand defrost control system", the net heating capacity, $Q_{DEF}(35)$, shall be multiplied by an enhancement factor of 1.07 to compensate for improved performance not measured in the Frost Accumulation Test. For units tested without indoor fans, the value determined for $Q_{DEF}(35)$ below shall be increased by a quantity of heat equal to the product of 1250 Btu/hr per 1000 SCFM, the length of time in hours during the Frost Accumulation Test that there was indoor air circulating, and the average flow rate of indoor air circulated in units of 1000 SCFM.

The total energy usage, $E_{DEF}(35)$ shall be the sum of the energy usage required for indoor-air circulation during the test period and the energy used by the remaining equipment components during the test period. Units not having an indoor fan as part of the model tested, shall set the energy required for indoor air circulation equal to the quantity given by the product of 365 watts per 1000 SCFM, the length of time in hours during the Frost Accumulation Test that there was indoor air circulating, and the average flow rate of indoor air circulated in units of 1000 SCFM.

The actual heating done during the Cyclic Test, $Q_{cyc}(47)$, shall be determined using the following equation:

lating, and the average flow rate of indoor air circulated in units of 1000 SCFM.

The actual heating done during the Cyclic Test, $Q_{cyc}(47)$, shall be determined using the following equation:

$$(1) \quad Q_{cyc}(47) = \frac{60 \times \bar{V} \times C_{pa} \times \Gamma}{[V_{a1} \times (1 + W_a)]}$$

where

$\bar{V}$ = the flow rate during the on-period calculated in accordance with section 7.4 of ASHRAE Standard 37-78 in CFM.

C_{pa} = Specific heat at constant pressure of air-water mixture per pound of dry air, (Btu/lb- $^{\circ}$ F).

V_{a1} = Specific volume of air-water mixture at the same dry-bulb temperature, humidity ratio, and pressure used in the determination of the indoor air flow rate (ft³/lb).

W_a = Humidity ratio (lb/lb).

and Γ (hr- $^{\circ}$ F), which is described by the equation:

$$\Gamma = \int_{\text{(time indoor fan on)}}^{\text{(time indoor fan off)}} [T_{a2}(t) - T_{a1}(t)] dt$$

where

$T_{a1}(t)$ = Dry-bulb temperature of air entering the indoor coil ($^{\circ}$ F) at time (t).

$T_{a2}(t)$ = Dry-bulb temperature of air leaving the indoor coil ($^{\circ}$ F) at time (t).

The net heating, $Q_{DEF}(35)$ in Btu's done during the test period shall be determined using the following equation:

$$(2) \quad Q_{DEF}(35) = \frac{60 \times \bar{V} \times C_{pa} \times \Gamma}{[V_{a1} \times (1 + W_a)]}$$

where

$\bar{V}$ = the average of the air flow rate calculated at four or more time intervals throughout the heating phase of the test using the equation in section 7.4 of ASHRAE Standard 37-78.

C_{pa} = Specific heat at constant pressure of air-water mixture per pound of dry air, (Btu/lb- $^{\circ}$ F).

V_{a1} = Specific volume of air-water mixture at the same dry-bulb temperature, humidity ratio, and pressure used in the determination of the indoor air flow rate (ft³/lb).

W_a = Humidity ratio (lb/lb).

and Γ (hr- $^{\circ}$ F), which is described by the equation:

$$\Gamma = \int_{\text{(time of defrost termination)}}^{\text{(time of next defrost termination)}} [T_{a2}(t) - T_{a1}(t)] dt$$

where

$T_{a1}(t)$ = Dry-bulb temperature of air entering the indoor coil ($^{\circ}$ F) at time (t).

$T_{a2}(t)$ = Dry-bulb temperature of air leaving the indoor coil ($^{\circ}$ F) at time (t).

The cyclic degradation coefficient shall be calculated as follows:

$$(3) \quad C_D = \frac{1 - \frac{COP_{cyc}(47)}{COP_{ss}(47)}}{1 - HLF}$$

where

C_D = the cyclic degradation coefficient rounded to the nearest .01

$COP_{cyc}(47)$ as defined above

$COP_{ss}(17)$ as defined above

HLF is the heating load factor calculated as follows:

$$HLF = \frac{Q_{cyc}(47)}{Q_{ss}(47) \times \tau}$$

where

$Q_{cyc}(47)$ as defined above

$Q_{ss}(47)$ as defined above

τ = Duration of time (hours) for one complete cycle consisting of one compressor "on" time and one compressor "off" time.

5.2.1 Calculation of the heating seasonal performance factor (HSPF) for air-source heat pumps with single speed compressors.

For each climatic region listed in section 6.2.4, and for design heating requirements equal to both the standardized minimum and maximum design heating requirements defined below, calculate the HSPF defined as:

HSPF

$$= \frac{\sum_{j=1}^n \frac{n_j}{N} BL(T_j)}{\left[\sum_{j=1}^n \frac{n_j}{N} \frac{X(T_j)}{PLF(X)} \delta(T_j) \dot{E}(T_j) (T_j) + \sum_{j=1}^n \frac{RH(T_j)}{N} \right]}$$

where

$j=1, 2, 3, \dots, n$ corresponds to the j th temperature bin.

n = total number of non-zero temperature bins in the climatic region.

$T_j = (0.7-5)$ is the representative temperature of the j th bin, ($^{\circ}$ F).

Σ = indicated the quantity following the symbol is to be summed over all temperature bins.

$\frac{RH(T_j)}{N}$ = supplementary resistance heat term at temperature T_j required in those cases where the heat pump automatically turns off ($T_j < T_{off}$) or when it is needed to meet the balance of the building heating requirements, (watts).

$\frac{n_j}{N}$ is the number of hours in the j th temperature bin divided by $N \equiv 24$ hours and is referred to as the "fractional hours in j th temperature bin".

3.413 = a conversion factor which converts watt hours to Btu.

$BL(T_j)$ = building load at temperature T_j , (Btu/hr).

$\delta(T_j)$ = heat pump low temperature cut-out factor.

$X(T_j)$ = heat pump heating load factor.

$PLF(X)$ = heat pump part load factor.

The quantities $BL(T_j)$, $\delta(T_j)$, $X(T_j)$, $PLF(X)$ and

$$\frac{RH(T_j)}{N}$$

are defined by the following equations:

$$BL(T_j) = \left(\frac{65 - T_j}{65 - T_{OD}} \right) (C) (DHR)$$

where

$(C) = 0.77$ is a correction factor which tends to improve the agreement between calculated and measured building loads

(DHR) = the minimum and maximum design heating requirement which the heat pump is likely to encounter when installed in a residence, rounded off to the nearest standardized DHR in section 6.2.4 in Btu/hr

where

(minimum design heating requirement)

$\dot{Q}_{ss}(47) \frac{(65 - T_{OD})}{60}$, for regions I, II, III, IV, and VI

$\dot{Q}_{ss}(47)$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{30}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

and

maximum design heating requirement

$$= \begin{cases} 2\dot{Q}_{ss}(47) \frac{(65 - T_{OD})}{60}, & \text{for regions I, II, III, IV, and VI} \\ 2.2\dot{Q}_{ss}(47), & \text{for region V} \end{cases}$$

where

$\dot{Q}_{ss}(47)$ is the heat pump capacity measured during the High Temperature Test @ 47 $^{\circ}$ F

T_{OD} is the outdoor design temperature given in section 6.2.4

$\delta(T_j) = \begin{cases} 0; & T_j \leq T_{OFF} \\ \text{or } \frac{\dot{Q}(T_j)}{(3.413)(\dot{E}(T_j))} < 1 \\ \frac{1}{2}; & T_{OFF} < T_j \leq T_{ON} \\ \text{and } \frac{\dot{Q}(T_j)}{(3.413)(\dot{E}(T_j))} \geq 1 \\ 1; & T_j > T_{ON} \\ \text{and } \frac{\dot{Q}(T_j)}{(3.413)(\dot{E}(T_j))} \geq 1 \end{cases}$

$X(T_j) = \begin{cases} \frac{BL(T_j)}{\dot{Q}(T_j)}; & \dot{Q}(T_j) \geq BL(T_j) \\ 1; & \dot{Q}(T_j) \leq BL(T_j) \end{cases}$

$PLF(X) = 1 - C_D(1 - X(T_j))$

$RH(T_j) = \frac{[BL(T_j) - \dot{Q}(T_j)X(T_j)\delta(T_j)] \frac{n_j}{N}}{3.413}$

where

T_{OFF} = the outdoor temperature that the compressor is automatically shut off at (if no such temperature exists, T_j is always greater than T_{OFF} and T_{ON}).

T_{ON} = the outdoor temperature that the compressor is automatically turned on (if applicable) if designed for low temperature automatic shut-off.

C_D = degradation factor determined described in section 5.2 and 2.2.1.

In using the above equation to calculate HSPF, the heat pump capacity in Btu/hr, $\dot{Q}$, and the power in watts, $\dot{E}$, shall be obtained as follows:

$\dot{Q}_{ss}(47)$ and $\dot{E}_{ss}(47)$ and $\dot{Q}_{DEF}(35)$ and $\dot{E}_{DEF}(35)$ are the capacities (in Btu/hr) and powers (in watts), measured during the High Temperature Test, the Frost Accumulation test, and the Low Temperature Test, respectively.

Once the maximum and minimum HSPF and operating cost values have been obtained for each region, the HSPF and operating cost shall be determined for each standardized design heating requirement (see section 6.2.6) between the maximum and minimum design heating requirements by means of interpolation.

5.2.2 Calculation of the heating seasonal performance factor (HSPF) for air source heat pumps with a two-speed compressor, two compressors, or cylinder unloading.

For each climatic region listed in section 6.2.4, and for design heating requirements equal to both the standardized minimum and maximum design heating requirements defined below, calculate the HSPF defined as:

$$HSPF = \frac{\sum_{j=1}^n \frac{n_j}{N} BL(T_j)}{\left[\sum_{j=1}^n \frac{n_j}{N} \frac{E(T_j)}{N} + \sum_{j=1}^n \frac{RH(T_j)}{N} \right]}$$

where

Σ as defined in 5.2.1

$\frac{n_j}{N}$ as defined in 5.2.1

T_j as defined in 5.2.1

and $BL(T_j)$ is the building load at temperature T_j , in Btu/hr, calculated by:

$$BL(T_j) = \left(\frac{65 - T_j}{65 - T_{OD}} \right) \times (C) \times (DHR)$$

where

$(C) = 0.77$ is a correction factor which tends to improve the agreement between calculated and measured building loads

(DHR) = the minimum and maximum design heating requirement which the heat pump is likely to encounter when installed in a residence, rounded off to the nearest standardized DHR in section 6.2.4 in Btu's per hour

where

(minimum design heating requirement)

$\dot{Q}_{ss}(47) \frac{(65 - T_{OD})}{60}$, for regions I, II, III, IV, and VI

$\dot{Q}_{ss}(47)$, for region V

and

(maximum design heating requirement)

$2\dot{Q}_{ss}(47) \frac{(65 - T_{OD})}{60}$, for regions I, II, III, IV, and VI

$2.2\dot{Q}_{ss}(47)$ for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{30}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for regions I, II, III, IV, and VI

$\dot{E}_{ss}(17) + \frac{(\dot{E}_{DEF}(35) - \dot{E}_{ss}(17)) \times (T_j - 17)}{18}$, for region V

<

NOTE: The superscript ($k=1$) and ($k=2$) refer to the heat pump operating at low speed or single compressor operation and high speed or two compressor operation respectively.

$\frac{E(T_i)}{N}$ is the heat pump electrical energy usage in the j th temperature bin divided by the total number of bin hours and is evaluated according to the four possible cases of heat pump operation denoted below in watts.

$\frac{RH(T_i)}{N}$ as defined in 5.2.1 and is evaluated according to the four possible cases of heat pump operation denoted below (in watts).

Case I.—Units operating at low compressor speed or with a single compressor, i.e., $k=1$, for which the building heating load, $BL(T_i)$ is less than or equal to the heating capacity, $\dot{Q}^{k=1}(T_i)$.

$$BL(T_i) \leq \dot{Q}^{k=1}(T_i)$$

$$\frac{E(T_i)}{N} = \frac{\dot{E}^{k=1}(T_i) X^{k=1}(T_i) \delta'(T_i)}{PLF^{k=1}} \frac{n_j}{N}$$

$$\frac{RH(T_i)}{N} = \frac{\frac{n_j}{N} BL(T_i) [1 - \delta'(T_i)]}{3.413}$$

$$X^{k=1}(T_i) = \frac{BL(T_i)}{\dot{Q}^{k=1}(T_i)}$$

$$PLF^{k=1} = 1 - C_D^{k=1} (1 - X^{k=1})$$

$$\delta'(T_i) = \begin{cases} 0; & T_i \leq T_{OFF} \\ \frac{1}{2}; & T_{OFF} < T_i \leq T_{ON} \\ 1; & T_i > T_{ON} \end{cases}$$

Case II.—Units alternating between high speed or two compressor operation ($k=2$) and low speed or single compressor operation ($k=1$) to satisfy the building heating load at temperature T_i .

$$\dot{Q}^{k=1}(T_i) < BL(T_i) < \dot{Q}^{k=2}(T_i)$$

$$\frac{E(T_i)}{N} = [\dot{E}^{k=1}(T_i) X^{k=1}(T_i) + \dot{E}^{k=2}(T_i) X^{k=2}(T_i)] \delta'(T_i) \frac{n_j}{N}$$

$$\frac{RH(T_i)}{N} = \frac{\frac{n_j}{N} BL(T_i) [1 - \delta'(T_i)]}{3.413}$$

$$X^{k=1}(T_i) = \frac{\dot{Q}^{k=2}(T_i) - BL(T_i)}{\dot{Q}^{k=2}(T_i) - \dot{Q}^{k=1}(T_i)}$$

$$X^{k=2}(T_i) = 1 - X^{k=1}(T_i)$$

$$\delta'(T_i) = \begin{cases} 0; & T_i \leq T_{OFF} \\ \frac{1}{2}; & T_{OFF} < T_i \leq T_{ON} \\ 1; & T_i > T_{ON} \end{cases}$$

Case III.—Units cycling on and off at high compressor speed or cycling both compressors on and off together ($k=2$) in order to satisfy the building heating load at temperature T_i .

$$\dot{Q}^{k=1}(T_i) < BL(T_i) < \dot{Q}^{k=2}(T_i)$$

$$\frac{E(T_i)}{N} = \frac{\dot{E}^{k=2}(T_i) X^{k=2}(T_i) \delta''(T_i)}{PLF^{k=2}} \frac{n_j}{N}$$

$$\frac{RH(T_i)}{N} = \frac{\frac{n_j}{N} BL(T_i) [1 - \delta''(T_i)]}{3.413}$$

$$X^{k=2}(T_i) = \frac{BL(T_i)}{\dot{Q}^{k=2}(T_i)}$$

$$PLF^{k=2} = 1 - C_D^{k=2} (1 - X^{k=2}(T_i))$$

$$\delta''(T_i) = \begin{cases} 0; & T_i \leq T_{OFF} \\ \frac{1}{2}; & T_{OFF} < T_i \leq T_{ON} \\ 1; & T_i > T_{ON} \end{cases}$$

Case IV.—Units operating continuously at high compressor speed or with both compressors in continuous operation ($k=2$) in order to satisfy the building heating load at temperature T_i .

$$BL(T_i) \geq \dot{Q}^{k=2}(T_i)$$

$$\frac{E(T_i)}{N} = \dot{E}^{k=2}(T_i) X^{k=2}(T_i) \delta''(T_i) \frac{n_j}{N}$$

$$\frac{RH(T_i)}{N} = \frac{[BL(T_i) - \dot{Q}^{k=2}(T_i) X^{k=2}(T_i) \delta''(T_i)] \frac{n_j}{N}}{3.413}$$

$$X^{k=2}(T_i) = 1.0$$

$$\delta''(T_i) = \begin{cases} 0; & T_i \leq T_{OFF} \\ \text{or } \frac{\dot{Q}^{k=2}(T_i)}{(3.413)(\dot{E}^{k=2}(T_i))} < 1 \\ \frac{1}{2}; & T_{OFF} < T_i \leq T_{ON} \\ \text{and } \frac{\dot{Q}^{k=2}(T_i)}{(3.413)(\dot{E}^{k=2}(T_i))} \geq 1 \\ 1; & T_i > T_{ON} \\ \text{and } \frac{\dot{Q}^{k=2}(T_i)}{(3.413)(\dot{E}^{k=2}(T_i))} \geq 1 \end{cases}$$

Where in each of the above cases

$X(T_i)$ = heat pump heating load factor.
 PLF = heat pump part load factor (not required for cases II and IV.)

$\delta''(T_i)$ = heat pump low temperature cut-out factor.
 T_{ON} as defined in 5.2.1.

$C_D^{k=2}$ = the part load degradation factor described in section 2.2.1 and 5.2 for the unit cycling at high compressor speed or with both compressors simultaneously cycling (if applicable).

$C_D^{(k=1)}$ = the part load degradation factor described in section 2.2.1 and 5.2 for the unit cycling at low compressor speed or with the single compressor that normally operates at low heating loads.

$$\dot{Q}_{ss}^{k=1}(T_i) = \begin{cases} \dot{Q}_{ss}^{k=1}(62) - \dot{Q}_{ss}^{k=1}(47) \\ + \frac{\times (T_i - 47)}{15}; & T_i \geq 40^\circ \text{ F} \end{cases}$$

$$\dot{Q}_{ss}^{k=1}(T_i) = \begin{cases} \dot{Q}_{ss}^{k=1}(35) - \dot{Q}_{ss}^{k=1}(17) \\ + \frac{\times (T_i - 17)}{18}; & 17^\circ \text{ F} \leq T_i < 40^\circ \text{ F} \end{cases}$$

$$\dot{Q}_{ss}^{k=1}(T_i) = \begin{cases} \dot{Q}_{ss}^{k=1}(47) - \dot{Q}_{ss}^{k=1}(17) \\ + \frac{\times (T_i - 17)}{30}; & T_i < 17^\circ \text{ F} \end{cases}$$

$$\dot{Q}_{ss}^{k=2}(T_i) = \begin{cases} \dot{Q}_{ss}^{k=2}(17) \\ \dot{Q}_{ss}^{k=2}(47) - \dot{Q}_{ss}^{k=2}(17) \\ + \frac{\times (T_i - 17)}{30}; & T_i \geq 45^\circ \text{ F or } T_i \leq 17^\circ \text{ F} \end{cases}$$

$$\dot{Q}_{ss}^{k=2}(T_i) = \begin{cases} \dot{Q}_{ss}^{k=2}(35) - \dot{Q}_{ss}^{k=2}(17) \\ + \frac{\times (T_i - 17)}{18}; & 17^\circ \text{ F} < T_i < 45^\circ \text{ F} \end{cases}$$

$$\dot{E}_{ss}^{k=1}(47) = \begin{cases} \dot{E}_{ss}^{k=1}(62) - \dot{E}_{ss}^{k=1}(47) \\ + \frac{\times (T_i - 47)}{15}; & T_i \geq 40^\circ \text{ F} \end{cases}$$

$$\dot{E}_{ss}^{k=1}(17) = \begin{cases} \dot{E}_{ss}^{k=1}(35) - \dot{E}_{ss}^{k=1}(17) \\ + \frac{\times (T_i - 17)}{18}; & 17^\circ \text{ F} \leq T_i < 40^\circ \text{ F} \end{cases}$$

$$\dot{E}_{ss}^{k=1}(17) = \begin{cases} \dot{E}_{ss}^{k=1}(47) - \dot{E}_{ss}^{k=1}(17) \\ + \frac{\times (T_i - 17)}{30}; & T_i < 17^\circ \text{ F} \end{cases}$$

$$\dot{E}_{ss}^{k=2}(17) = \begin{cases} \dot{E}_{ss}^{k=2}(47) - \dot{E}_{ss}^{k=2}(17) \\ + \frac{\times (T_i - 17)}{30}; & T_i \geq 45^\circ \text{ F or } T_i \leq 17^\circ \text{ F} \end{cases}$$

$$\dot{E}_{ss}^{k=2}(17) = \begin{cases} \dot{E}_{ss}^{k=2}(35) - \dot{E}_{ss}^{k=2}(17) \\ + \frac{\times (T_i - 17)}{18}; & 17^\circ \text{ F} < T_i < 45^\circ \text{ F} \end{cases}$$

For each of the six regions specified in section 6.2.5, calculate the heating seasonal performance factors and seasonal operating costs corresponding to the standardized maximum and minimum design heating requirements and for all other standardized design heating requirements (see section 6.2.6) between the maximum and the minimum.

5.3 *Calculations of the Actual Representative Regional Annual Performance Factors for Air Source Central Air Conditioners (Heat Pumps) Which Provide Both Heating and Cooling.*

5.3.1 Calculation of actual regional annual performance factors (APF_A) for a particular location and for each standardized design heating requirement.

$$(APF_A) = \frac{(CLH_A)(\dot{Q}_{ss}^{k=1}(95F)) + (HLH_A)(DHR)(C)}{(CLH_A)(\dot{Q}_{ss}^{k=1}(95F)) + (HLH_A)(DHR)(C) + (HSPF)}$$

where

(CLH_A) is the actual cooling load hours for the particular location, determined from the map in section 6.1.3.
($\dot{Q}_{ss}^{k=1}(95F)$) is defined in 5.1.
(DHR) is defined in 5.2.2.
(C) is defined in 5.2.2.
(HLH_A) is the actual heating load hours for the particular location determined from the map in section 6.2.5.
($SEER$) is the seasonal energy efficiency ratio determined in section 5.1.
($HSPF$) is the heating seasonal performance factor as determined in section 5.2 for each standardized design heating requirement within the particular location's region or for the actual design heating requirement if known.

where the particular location's region is determined from the map in section 6.2.5 and, the standardized design heating requirements within the region are determined in sections 5.2 and 6.2.6.

5.3.2 Calculation of representative regional annual performance factors (APF_R) for each region and for each standardized design heating requirement.

$$(APF_R) = \frac{(CLH_R)(\dot{Q}_{ss}^{k=1}(95F)) + (HLH_R)(DHR)(C)}{(CLH_R)(\dot{Q}_{ss}^{k=1}(95F)) + (HLH_R)(DHR)(C) + HSPF}$$

($\dot{Q}_{ss}^{k=1}(95F)$) is defined in 5.1.
(DHR) is defined in 5.2.2.
(C) is defined in 5.2.2.

where

(CLH_R) is the representative cooling load hours for each heating load hours region, as determined in section 6.3.

(HLH_R) is the representative heating load hours for each region as determined in section 6.2.5.

($SEER$) is the seasonal energy efficiency ratio as determined in section 5.1.

($HSPF$) is the heating seasonal performance factor as determined in section 5.2 for each region and for each standardized design heating requirement within each region.

where the regions are listed in section 6.2.5 and, the standardized design heating requirements within the regions are determined in sections 5.2 and 6.2.6.

5.4 *Calculations of Seasonal Energy Efficiency Ratio for Water Source Units Which Provide Both Heating and Cooling.* (Reserved)

5.5 *Calculation of Heating Seasonal Performance Factor for Water Source Units Which Provide Both Heating and Cooling.* (Reserved)

5.6 *Calculation of Annual Performance Factor for Water Source Units Which Provide Both Heating and Cooling.* (Reserved)

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6.0 Reference Material

6.1 Cooling reference material

6.1.1 -Test operating and test condition tolerance for cyclic dry-coil tests

Readings, remarks	Test operating tolerance (total observed range)	Test condition tolerance (variation of average from specified condition)
Outdoor dry-bulb air temperature, Fahrenheit:	2.0	0.5
Indoor dry-bulb air temperature, Fahrenheit:	2.0	0.5
Indoor wet-bulb air temperature, Fahrenheit:	(*)	(*)
After the 1st 30 Sec after compressor startup.		
External resistance to airflow, inches water....	0.05	0.02
Nozzle pressure drops, percent of reading.....	2.0	
Electrical voltage inputs to the test unit, percent.	2.0	

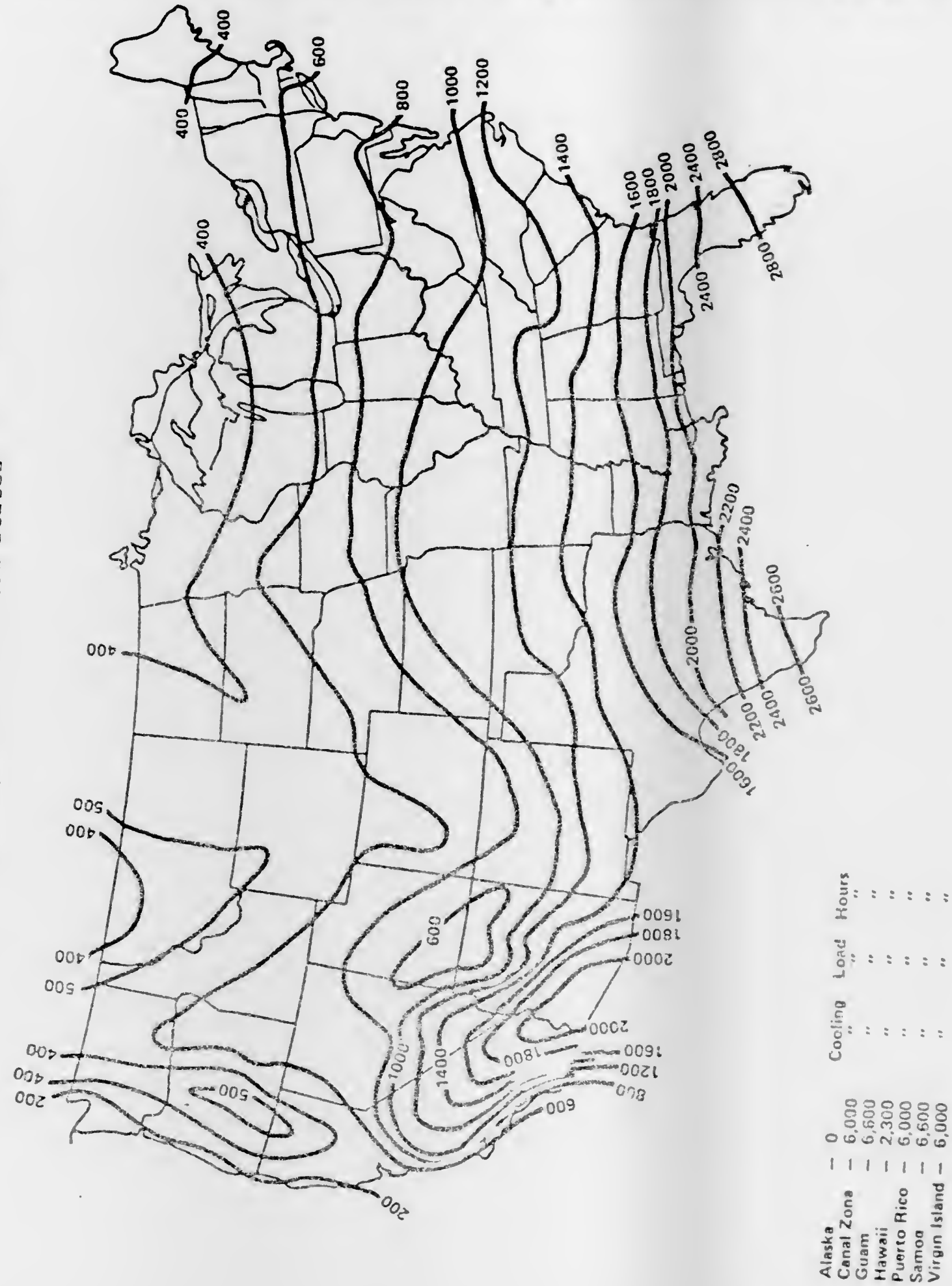
* Shall at no time exceed that value of the wet-bulb temperature which results in the production of condensate by the indoor coil at the dry-bulb temperature existing for the air entering the indoor portion of the unit.

6.1.2

-Distribution of fractional hours in temperature bins to be used for calculation of the SEER for 2-speed compressor and 2-compressor units

Bin temperature range (degrees Fahrenheit)	Representative temperature bin for (degrees Fahrenheit)	Fraction of total temperature bin hours n_i/N
Bin No., j:		
1..... 65 to 69...	67	.214
2..... 70 to 74...	72	.231
3..... 75 to 79...	77	.216
4..... 80 to 84...	82	.161
5..... 85 to 89...	87	.104
6..... 90 to 94...	92	.052
7..... 95 to 99...	97	.018
8..... 100 to 104.	102	.004

6.1.3 Distribution of Actual Cooling Load Hours (CLH_A) Throughout the United States



6.2 Heating Reference Material

6.2.1 Test operating and test condition tolerance for

Steady-State High Temperature Test: 47°F (9.3°C) or 62°F (16.7°C)
 Low Temperature Test: 17°F (-8.3°C)

6.2.2 Test operating and test condition tolerances for the on-period portion of cyclic performance tests:

	Test Operating* Tolerance	Test Condition** Tolerance	Test Operating Tolerances* (Applies after the 1st 30 sec. after compressor start-up)	Test Condition Tolerance**
Indoor dry-bulb, °F				
Entering	2.0		2.0	0.5
Leaving	2.0		---	---
Indoor wet-bulb, °F				
Entering			1.0	---
Leaving			---	---
Outdoor dry-bulb, °F				
Entering			2.0	0.5
Leaving			---	---
Outdoor wet-bulb, °F				
Entering			2.0	1.0
Leaving			---	---
External resistance to air-flow, inches of water		0.5	.05	.02
Electrical voltage, %			2.0	---

* Test Operating Tolerance is the maximum permissible variation of any measurement. When expressed as a percentage, the maximum allowable variation is the specified percentage of the average value.

** Test Condition Tolerance is the maximum permissible variation of the average value of the measurement from the standard or desired test condition.

* Test Operating Tolerance is the maximum permissible variation of any measurement. When expressed as a percentage, the maximum allowable variation is the specified percentage of the average value.

** Test Condition Tolerance is the maximum permissible variation of the average value of the measurement from the standard or desired test condition.

6.2.3 Test operating and test condition tolerances for frost accumulation tests

	Test Operating* Tolerance	Test Condition** Tolerance
Indoor dry-bulb, °F		
Entering	2.0	4.0(3)
Leaving	---	---
Indoor wet-bulb, °F		
Entering	1.0	---
Leaving	---	---
Outdoor dry-bulb, °F		
Entering	2.0	10.0
Leaving	---	---
Outdoor dew-point, °F		
Entering	1.5	---
Leaving	---	---
External resistance to air-flow, inches of water	.05	0.7
Electrical voltage, %		---

1 Test Operating Tolerance is the maximum permissible variation of any measurement. When expressed as a percentage, the maximum allowable variation is the specified percentage of the average value. Test Operating Tolerance During Heating applies when the heat pump is in the heating mode, except for the first 3 minutes after termination of a defrost cycle. Test Operating Tolerance During Defrost applies during a defrost cycle and during the first 5 minutes after the termination of a defrost cycle when the heat pump is operating in the heating mode.

2 Test Condition Tolerance is the maximum permissible variation of the average value of the measurement from the standard or desired test condition. Test Condition Tolerance applies only when the heat pump is operating in the heating mode.

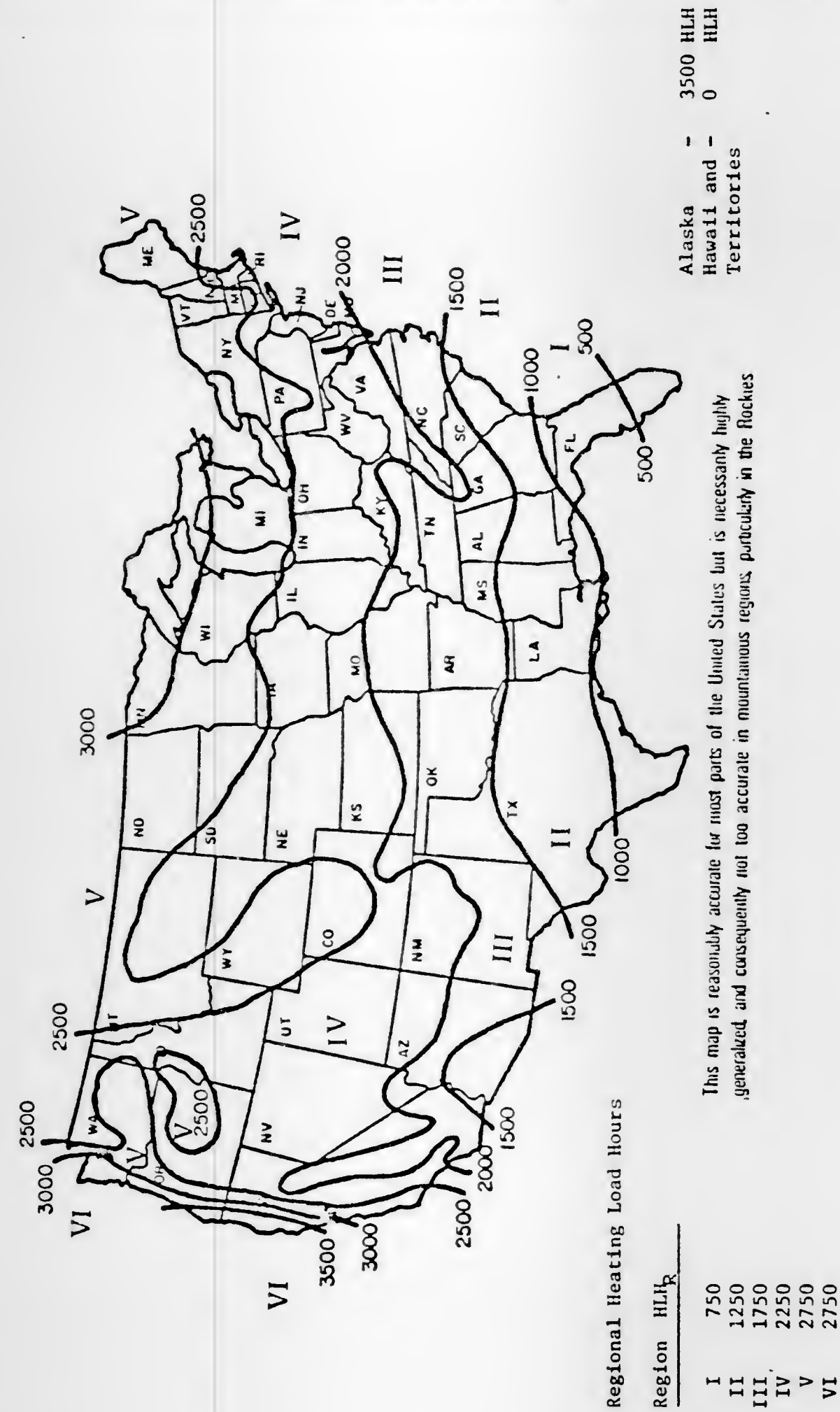
3 Not applicable during defrost if the indoor fan is off.

6.2.4 Distribution of fractional hours in temperature bins, heating load hours and outdoor design temperature for the different climatic regions

Region	I	II	III	IV	V	VI
Heating Load Hours, HLP	750	1250	1750	2250	2750	2750*
Outdoor Design Temperature, T _{op} for the region	37	27	17	5	-10	30
Fractional Hours:						
Bin #						
1	.291	.215	.153	.132	.106	.113
2	.239	.189	.142	.111	.092	.206
3	.194	.163	.138	.103	.086	.215
4	.129	.143	.137	.093	.076	.204
5	.081	.112	.135	.100	.078	.141
6	.041	.088	.118	.109	.087	.076
7	.019	.056	.092	.126	.102	.034
8	.005	.024	.047	.087	.094	.008
9	.001	.008	.021	.055	.074	.003
10	0	.002	.009	.036	.055	0
11	0	0	.005	.026	.047	0
12	0	0	.002	.013	.038	0
13	0	0	.001	.006	.029	0
14	0	0	0	.002	.018	0
15	0	0	0	.001	.010	0
16	0	0	0	0	.005	0
17	0	0	0	0	.002	0
18	0	0	0	0	.001	0

* Pacific Coast Region

6.2.5 Actual heating load hours (HLH_A) and regional heating load hours (HLH_R) for the United States



6.2.6 Standard Design Heating Requirements (Btu/hr)

5,000	25,000	50,000	90,000
10,000	30,000	60,000	100,000
15,000	35,000	70,000	110,000
20,000	40,000	80,000	130,000

6.3 Representative Cooling Load Hours (CLH_R) for Each Heating Load Hours Region

Region	CLH _R	HLH _R
I	2400	750
II	1800	1250
III	1200	1750
IV	800	2250
V	400	2750
VI	200	2750

6.4 Ground Water Temperature Map (Reserved)

[FR Doc. 79-38293 Filed 12-17-79; 8:45 am]

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Prisoners Register

Thursday
December 27, 1979

Part IV

Department of
Justice

Bureau of
Prisons

Control, Custody, Care, Treatment and
Instruction of Inmates

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 542

Control, Custody, Care, Treatment and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final Rule.

SUMMARY: This document specifies that an inmate may file a formal written complaint for Administrative Remedy within fifteen (15) calendar days of the date on which the basis of the complaint occurred. It is intended to amend the final rule on this subject as published in the Federal Register, October 29, 1979 (at 44 FR 62250).

DATES: Effective Date: December 5, 1979.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 910, 320 First Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTAL INFORMATION: On October 29, 1979 the Bureau of Prisons published its final rules (at 44 FR 62250) on the Administrative Remedy Procedure for Inmates. § 542.13(b) provided for the inmate to file a formal written complaint within ten (10) calendar days of the date on which the basis of the complaint occurred.

The Bureau of Prisons is requesting accreditation for its institutions. To obtain this accreditation, the Bureau must demonstrate that it adheres to specified standards established by the Commission on Accreditation for Corrections. One such standard requires written policy and procedure granting inmates the right to appeal disciplinary committee decisions to the Warden within 15 days after notice of the decision. To meet this standard, the Bureau is amending § 542.13(b) to provide the inmate with fifteen days in which to file a complaint.

As this amendment expands rather than restricts the time for initial filing of a complaint under the Administrative Remedy Procedure, the relevant provisions of the Administrative Procedures Act (5 USC 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau

of Prisons in 28 CFR 0.96(t), 28 CFR, Chapter V, is amended as set forth below.

Dated: December 17, 1979.

Norman A. Carlson,

Director, Bureau of Prisons.

PART 542—ADMINISTRATIVE REMEDY

By revising § 542.13(b) to read as follows:

§ 542.13 Initial filing.

* * * * *

(b) Filing. If an inmate is unable to informally resolve his complaint, he may file a formal written complaint, on the appropriate form, within fifteen (15) calendar days of the date on which the basis of the complaint occurred. Where the inmate demonstrates a valid reason for delay, an extension in filing time shall be allowed. An extension in the time for filing shall be allowed when an inmate indicates and staff verify that a response to the inmate's request for copies of dispositions requested under section 8 of this Program Statement (§ 542.16) has not been received. An inmate may obtain assistance in preparation of his complaint or appeal from other inmates or from institution staff.

[FR Doc. 79-39403 Filed 12-26-79; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 544 and 546

Control, Custody, Care, Treatment and Instruction of Inmates; Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons.

ACTION: Proposed Rules.

SUMMARY: The Bureau is proposing another set of rules for the management of inmates in Federal Correctional Institutions. This proposal is part of the Bureau's overall program to publish in the Federal Register, and subsequently in the Code of Federal Regulations, Bureau rules relating to the control, custody, care, treatment, and instruction of inmates. This installment encompasses the Bureau of Prisons' proposed rules relating to (1) Filing Claims for Inmate Accident Compensation and (2) Recreation Programs—Inmates.

DATES: Comments must be received on or before February 25, 1980.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 910, 320 1st Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTAL INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the Federal Register its proposed rules on Filing Claims for Inmate Accident Compensation and on Recreation Programs—Inmates.

Portions of the rules on recreation were proposed previously in the Federal Register. Inmate Arts and Hobbycrafts was proposed in 42 FR 64085, and Recreation/Inmate Movies was proposed in 44 FR 2984. These rules are now withdrawn.

The rules on Recreation Programs—Inmates, establish guidelines for leisure activity programs within the Bureau of Prisons. The rules are intended to provide inmates with the opportunity to make constructive use of their leisure time. The rules of Filing for Inmate Accident Compensation describes procedures to ensure that an inmate who suffers a work-related injury while confined in federal custody is advised of

the right to file a claim for Inmate Accident Compensation prior to release.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 910, 320 1st Street, N.W., Washington, D.C. 20534. Comments received before February 23, 1980, will be considered before final action is taken. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 910, 320 1st Street, N.W., Washington, D.C. 20534. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to amend Subchapter of 28 CFR, Chapter V as follows:

- (1) By adding Subpart D to part 544.
- (2) By adding Part 546.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

* * * * *

Subpart D—Recreation Programs—Inmates

Sec.
544.30 Purpose and scope.
544.31 Definitions.
544.32 Goals.
544.33 Art and hobbycraft.
544.34 Movies.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

* * * * *

Subpart D—Recreation Programs—Inmates

§ 544.30 Purpose and scope.

The Bureau of Prisons encourages an inmate to make constructive use of leisure time and offers the interested inmate opportunity to participate in a wide variety of sports and social activities, as well as arts and hobbycrafts. The Bureau of Prisons encourages the showing of movies whose chief value may be their entertainment potential. Except for such Community Treatment Centers, Detention Centers and Metropolitan Correctional Centers where full recreation programs may not be feasible, the Warden shall operate a recreation program in the institution to provide an inmate the opportunity for maximum use of leisure time.

§ 544.31 Definitions.

(a) *Leisure Activities*—describes a wide range of activities in which an inmate may engage when not performing assigned duties. Leisure activities

include organized or informal sports, table games, hobbycrafts, membership in social and cultural organizations, and attendance at movies and stage shows. Religious activities, education classes and activities conducted by Psychological Services are not included within this definition.

(b) *Organized Activities*—are activities for which there is an accounting by registration of roster of individual participation.

(c) *Art work*—includes all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoals), with the exception of printers or india ink, consistent with institution guidelines.

(d) *Hobbycraft Articles*—include leatherwork, models, clay, mosaics, crocheting, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.

§ 544.32 Goals.

(a) The Warden is to insure, to the extent possible, that:

(1) Leisure activity programs are used to meet the social, physical, and psychological needs of inmates;

(2) Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age and sex differences, and to provide positive carry-over for post-release involvement;

(3) An inmate with the need, capacity, and desire has the opportunity to complete one or more prescribed leisure activities (See 44 FR 62251);

(4) A hobbycrafts program is available in the institution;

(5) Music programs are offered in the institution to provide an inmate the opportunity to learn basic theory, and to develop appreciation, as well as musical skills; and

(6) Intramural competitive activities are organized for each appropriate season of the year.

§ 544.33 Art and hobbycraft.

(a) An inmate engaged in art or hobbycraft activities may obtain materials through:

(1) The institution art program (if one exists);

(2) The commissary sales unit;

(3) Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or

(4) Other sources approved by the Warden.

(b) Each inmate shall identify his art or hobbycraft materials by showing his name and registration number on the reverse side of the item.

(c) Completed or abandoned art or hobbycraft articles may be disposed of in the following manner:

(1) Upon approval of the Warden, by giving the item to an authorized visitor;

(2) Mailing the item to a verified relative or approved visitor; postage, unless otherwise determined by the Warden, must be paid by the inmate;

(3) Selling the item through an institution's art and hobbycraft sale program (if one exists) after sales prices have been determined by the institution's Price Committee; or

(4) Other methods approved by the Warden.

(d) Restrictions.

(1) The Warden may restrict, for reasons of security and housekeeping, the size of inmate paintings. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.

(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft material.

(3) The Warden may restrict for reasons of security, fire safety and housekeeping, the use or possession of art and hobbycraft items or materials.

(4) The Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in designated personal property containers. Exceptions may be made for such items as a painting where the size would prohibit placement in a locker. Hobbycraft items must be removed from the living area when completed.

(5) The Warden shall require completed hobbycraft articles to be mailed out of the institution, at the inmate's expense, within 30 days of completion or disposal through approved sales. However, articles offered for sale must be sold within 90 days of completion, or be mailed out of the institution at the inmate's expense.

§ 544.34 Movies.

The Warden may approve the showing of movies at the institution. A committee designated by the Warden shall select and review suggested films and submit the list to the Warden for final approval. The committee shall include staff and inmate representatives. X-rated films may not be shown.

PART 546—SAFETY

Subpart A-B [Reserved]

Subpart C—Filing Claims for Inmate Accident Compensation

Sec.

546.20 Purpose and scope.

546.21 Procedures.

Authority: 5 USC 301; 18 USC 4001, 4042, 4081, 4082, 4126, 5015, 5039; 28 USC 509, 510; 28 CFR 0.95–0.99, 301.5.

Subpart A-B [Reserved]

Subpart C—Filing Claims for Inmate Accident Compensation

§ 546.20 Purpose and scope.

The Bureau of Prisons recognizes an inmate's right to file a claim for inmate accident compensation when the claim results from a work-related injury incurred while confined in federal custody. The Warden shall ensure that an inmate who sustains a work-related injury while confined in federal custody is advised of the right to file a claim for inmate accident compensation prior to release from confinement or transfer to a Community Treatment Center. The Warden shall document this notification in the inmate's record.

§ 546.21 Procedures.

(a) As part of the institution's Admission and Orientation Program, staff shall discuss with the inmate the accident compensation procedures and shall provide each inmate with a copy of the Inmate Accident Compensation Procedures Booklet and with a copy of the Uniform Basic Safety Regulations. Staff shall obtain a signed and dated receipt from each inmate, for placement in the inmate's central file.

(b) Staff shall interview the inmate who has incurred a documented work-related injury while in custody approximately 30 days prior to the inmate's scheduled release from confinement or transfer to a Community Treatment Center. In the interview, staff shall advise the inmate of the right to file a compensation claim and of the importance of filing the claim prior to release from confinement or transfer to a Community Treatment Center. Staff shall request the inmate sign an appropriate form acknowledging advisement of the right to file a compensation claim. In the event the inmate refuses to sign, the staff member who made the advisement shall document this refusal on the form and sign the form himself. Documentation of the notification is then place in the inmate's central file.

(c) In addition to staff action as described in (b) of this section, an

inmate may elect to directly contact staff regarding filing a claim for accident compensation. Such a request should not be made until approximately 30 days prior to the inmate's scheduled release from confinement or transfer to a Community Treatment Center.

Dated: December 17, 1979.

Norman A. Carlson,
Director, Bureau of Prisons.

[FR Doc. 79-39404 Filed 12-26-79; 8:45 am]

BILLING CODE 4410-05-M

Thursday
December 27, 1979

Part V

Federal Election
Commission

Multicandidate Political Committees;
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FEDERAL ELECTION COMMISSION

[Notice 1979-23]

**Multicandidate Political Committees;
Index**

The Federal Election Commission today publishes a comprehensive Index of "Multicandidate Political Committees," which is defined by 2 U.S.C. § 441a(a)(4) of the Federal Election Campaign Act of 1971, as amended, as a political committee—

"* * * registered under Section 433 for a period not less than 6 months, which has received contributions from more than 50 persons, and except for any State political party organization, has made contributions to 5 or more candidates for Federal office."

The Multicandidate Committee Index contains two sections—Party-Related Committees and Non-Party Related Committees—and has been derived from a review of the reports and statements filed with the Commission, the General Accounting Office, the Clerk of the U.S. House of Representatives and the Secretary of the U.S. Senate since April 7, 1972. Please note that all committees which had met the qualifications for Multicandidate Committee status prior to January 1, 1975, are determined to have been qualified as of January 1, 1975, the effective date of the 1974 amendments to the Federal Election Campaign Act.

In addition, 11 CFR 100.14 states "all committees * * * established, financed, and maintained or controlled by the same corporation, labor organization, persons, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated." Therefore, committees have been included in this Index specifically identifying their connected or affiliated organization(s) as reported by each committee.

The Commission is publishing this notice of an Index as prescribed by 2 U.S.C. 438(a)(6), requiring periodic publication in the **Federal Register** of an Index of Multicandidate Committees, including the date of registration of such committees and the committees' dates of qualification under 2 U.S.C. 441a(a)(4). Updates to this index will be published quarterly. Copies of this Index are available upon written request from the Federal Election Commission's Office of Public Records, 1325 K Street, N.W., Washington, D.C. 20463 for \$4 per copy or by calling (202) 523-4181 or toll free 800-424-9530.

Any person who believes that a committee not included on this Index has, in fact, met the qualifications for

multicandidate status, should so advise the Commission in writing and provide documentation as appropriate, so that the Commission can correct or update its records.

Para Persona De Hablar Espanol

Si usted tiene dificultades en entender el indice, escriba a Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

Robert O. Tiernan,
Chairman.

December 17, 1979.

[FR Doc. 79-39486 Filed 12-26-79; 8:45 am]

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Thursday
December 27, 1979

Part VI

Federal Election Commission

Funding and Sponsorship of Federal
Candidate Debates

FEDERAL ELECTION COMMISSION

[Notice 1979-23]

11 CFR Parts 100, 110 and 114

Funding and Sponsorship of Federal Candidate Debates

AGENCY: Federal Election Commission.
ACTION: Transmittal of Regulations to Congress.

SUMMARY: The Commission has transmitted regulations to Congress to govern the funding and sponsorship of nonpartisan federal candidate debates. The regulations create an exemption from various provisions of the Federal Election Campaign Act to permit certain nonprofit organizations and news media organizations to stage nonpartisan federal candidate debates. Further information on the scope of the regulations appears below under Supplementary Information in the Explanation and Justification of the regulations.

2 U.S.C. 438(c) requires that any rule or regulations proposed by the Commission to implement Chapter 14 of Title 2, United States Code be transmitted to the Speaker of the House and the President of the Senate prior to final promulgation. If neither House of Congress disapproves the regulation within 30 legislative days after its transmittal, the Commission may finally prescribe the regulations in question. The following regulations were transmitted to Congress on December 20, 1979.

EFFECTIVE DATE: Further action, including the announcement of an effective date will be taken after the regulations have been before Congress 30 legislative days in accordance with 2 U.S.C. § 438(c).

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463 (202) 523-4143.

SUPPLEMENTARY INFORMATION: The following regulations were drafted pursuant to a Notice of Proposed Rulemaking published on October 12, 1979, at 44 FR 59152. Pursuant to that notice oral testimony was taken at hearings held on October 23 and 24, 1979, and numerous written comments were received. In response to these comments, the regulations now transmitted to Congress provide exemptions to permit not only certain nonprofit organizations, but also news media organizations, to stage nonpartisan federal candidate debates.

Previous regulations transmitted to Congress on this subject were published on July 5, 1979, at 44 FR 39348. Those regulations were disapproved by S. Res. 236 on September 18, 1979.

Explanation and Justification of Regulations on Funding of Federal Candidate Debates

The main purpose of these regulations is to create a narrow exemption from the provisions of the Federal Election Campaign Act to permit certain nonprofit organizations and news media organizations to stage nonpartisan federal candidate debates. In addition, certain of those organizations would be permitted to receive donations from other corporations and from labor organizations to stage debates. With this exemption, expenditures for staging such debates will be regarded as neither made for the purpose of influencing an election under 2 U.S.C. §§ 431(e) and 431(f), nor in connection with a federal election under 2 U.S.C. § 441b. The coverage of debates by news media organizations is already exempt from those provisions.

11 CFR 100.4(b)(16) and 11 CFR 100.7(b)(18):

Under the Act, the terms "contribution" and "expenditure" include "a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election, or the election, of any person to Federal office. . . ." 2 U.S.C. § 431(e)(1)(A). Congress has, however, recognized that certain nonpartisan activity is not undertaken for the purpose of influencing the nomination or election of any candidate and has removed that activity from the coverage of the Act. Therefore, amounts spent for "nonpartisan activity designed to encourage individuals to register to vote or to vote" are exempt from the definition of the term "expenditure," 2 U.S.C. § 431(f)(4)(B).

The educational purpose of nonpartisan public candidate debates is similar to the purpose underlying nonpartisan voter registration and get-out-the-vote campaigns. A nonpartisan candidate debate staged by a qualified nonpartisan organization or by a news media organization provides a forum for significant candidates to communicate their views to the public. Unlike single candidate appearances, nonpartisan debates are designed to educate and inform voters rather than to influence the nomination or election of a particular candidate. Hence, funds received and expended by certain nonprofit organizations to defray costs

incurred in staging nonpartisan debates are not considered contributions or expenditures under the Act. Similarly, expenditures by news media corporations to stage debates are not considered contributions or expenditures under the Act.

11 CFR 110.13:

This section sets forth the criteria for staging organizations and the structure of candidate debates which are exempt under 11 CFR 100.4(b)(16), 100.7(b)(18), and 114.4(e).

Under subsection (a)(1) two types of nonprofit organizations qualify as staging organizations: those organizations which are exempt from federal taxation under 26 U.S.C. § 501(c)(3); and those organizations which are exempt from federal taxation under 26 U.S.C. § 501(c)(4) and which do not endorse, support or oppose political candidates or political parties. Organizations which are tax-exempt under 501(c)(3) are prohibited by statute from participating in or intervening in any political campaign on behalf of any candidate for public office. Organizations which are tax-exempt under 501(c)(4) may participate in political campaigns to a limited degree. However, a 501(c)(4) organization which participates in political campaigns even to a limited degree may not stage debates under this subsection because that organization would not qualify as one which does not endorse, support or oppose political candidates or political parties. By permitting 501(c)(3) corporations and 501(c)(4) corporations which are nonpartisan to stage debates, the integrity and fairness of the debate process is insured.

Under subsection (a)(2) those organizations which are specified in 2 U.S.C. § 431(f)(4)(A), the "news story" exemption under the Act, are also permitted to stage nonpartisan candidate debates. Section 431(f)(4)(A), read in conjunction with 2 U.S.C. § 441b, exempts expenditures related to particular functions of the news media from the prohibitions of Section 441b: news stories, commentaries and editorials. The news story exemption was not intended to permit the staging of candidate debates, but rather is a limited exemption designed to insure the right of the media to cover and comment on election campaigns. H.R. Rep. No. 93-943, 93d Cong., 2d Sess. at 4 (1974). However, due to the historical role of the news media in fostering public debate on issues (*Mills v. Alabama*, 384 U.S. 214 (1966), *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964)), and in light of congressional acknowledgment of the media's role in election campaigns

as expressed in 2 U.S.C. § 431(f)(4)(A), *bona fide* news media corporations are permitted to stage nonpartisan candidate debates.

It is the Commission's belief that sufficient safeguards as to nonpartisanship of debates staged by broadcasters are set forth in the Communications Act, most particularly 47 U.S.C. § 315, and the present regulations and interpretations of the Federal Communications Commission under this section. Section 315 provides that if a broadcast licensee allows a legally qualified candidate for public office to use its broadcasting station, that licensee must afford all other candidates for the same office equal opportunities to use the station.

Further, fundamental principles of journalism, combined with the requirement that such debates be nonpartisan, provides sufficient safeguards as to nonpartisanship of debates staged by newspapers, magazines and other periodical publications.

For the purposes of this section, the term "broadcaster" is meant to include broadcasting facilities licensed by the Federal Communications Commission, as well as networks. The term "bona fide" newspaper is intended to mean a publication of general circulation produced on newsprint paper which appears at regular intervals (usually daily or weekly) and which is devoted primarily to the dissemination of news and editorial opinion to the general public. Only newspapers which ordinarily derive their revenues from subscriptions or advertising would be considered "bona fide". A "bona fide" magazine or other periodical publication is a publication in bound pamphlet form appearing at regular intervals (usually either weekly, bi-weekly, monthly or quarterly) and containing articles of news, information, opinion and entertainment, whether of general or specialized interest. Only magazines and periodicals which ordinarily derive their revenues from subscriptions and advertising would be considered "bona fide". In addition, a news gathering service that provides news coverage on a regular basis to newspapers and magazines may stage nonpartisan debates.

News media organizations which are owned or controlled by a political party, political committee or candidate may not stage debates. See 2 U.S.C. § 431(f)(4)(A). Moreover, not included within the newspaper exemption are periodical publications which are not of general distribution but serve as internal "house organs." See legislative history of Taft-Hartley Act (Labor Management

Relations Act of 1947, 61 Stat. 159), 93 Cong. Rec. 6439, 6440 (remarks of Sens. Magnuson and Taft interpreting the coverage of 18 U.S.C. § 610, the predecessor to 2 U.S.C. § 441b).

Nothing in this section limits the right of broadcasters, newspapers, magazines or other periodical publications to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act by 2 U.S.C. § 431(f)(4)(A), and in the case of broadcasters is regulated by the Federal Communications Commission.

Under subsection (b) the precise structure of candidate debates is left to the discretion of the staging organization. Such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates.

Although the section does not prescribe specific requirements for selection of candidates to participate, a general election debate may not be structured so as to promote one candidate over another. An organization staging a debate may invite candidates to participate in a debate on the basis of party affiliation. Hence, such an organization could stage a general election debate to which only major party candidates are invited.

For debates at the primary, caucus or convention level, a staging organization may restrict participation to candidates seeking the nomination of one party. Moreover, if a staging organization restricts participation to candidates seeking the nomination of one party, there would be no requirement to stage a debate for candidates seeking the nomination of any other party. However, any debate held for primary, caucus or convention candidates may not promote one candidate over another.

A debate is nonpartisan if it is for the purpose of educating and informing the voters, provides fair and impartial treatment of candidates, and does not promote or advance one candidate over another.

11 CFR 114.4(e):

Certain nonpartisan voter registration and get-out-the-vote activity is exempt from the coverage of all provisions of the Act, including the prohibition against corporate and labor union contributions and expenditures. Because nonpartisan public candidate debates are similar in nature and purpose to registration and vote activity, under subsections (e)(1) and (e)(3), corporations and labor organizations are permitted to donate funds to nonprofit

organizations qualified to stage debates under 11 CFR 110.13(a)(1).

Although 2 U.S.C. § 441b broadly prohibits corporate and labor organization political spending, Congress carved out an exemption from that prohibition for certain nonpartisan registration and get-out-the-vote activity. Corporations are thus specifically permitted under 2 U.S.C. § 441b(b)(2)(B) to use their treasury funds to conduct nonpartisan registration and get-out-the-vote campaigns aimed at their stockholders and their executive and administrative personnel. Similarly, under that section, labor organizations are permitted to use treasury funds to conduct registration and get-out-the-vote campaigns aimed at union members and their families.

Moreover, in permitting corporations and labor organizations to support registration and get-out-the-vote campaigns aimed at the public, Congress prescribed a role for nonpartisan nonprofit organizations. In addition to § 441b(b)(2)(B), 2 U.S.C. § 431(f)(4)(B) also specifically provides that the term "expenditure" does not include "nonpartisan activity designed to encourage individuals to register to vote, or to vote." In discussing the interrelationship between 2 U.S.C. § 431(f)(4)(B) and 2 U.S.C. § 441b(b)(2)(B), the 1976 conferees expressly stated that corporate and labor organization treasury funds could be used for nonpartisan registration and get-out-the-vote efforts aimed at the general public, if such efforts were jointly sponsored by a nonprofit nonpartisan organization.

. . . The conferees' intent with regard to the interrelationship between sections 301(f)(4)(B) and 321(b)(2)(B) which permit such activities as assisting eligible voters to register and to get to the polls, so long as these services are made available without regard to the voter's political preference, is the following: these provisions should be read together to permit corporations both to take part in nonpartisan registration and get-out-the-vote activities that are not restricted to stockholders and executive or administrative personnel, if such activities are jointly sponsored by the corporation and an organization that does not endorse candidates and are conducted by that organization; and to permit corporations, on their own, to engage in such activities restricted to executive or administrative personnel and stockholders and their families. The same rule, of course, applies to labor organizations. H.R. Rep. No. 1057, 94th Cong., 2d Sess. 63-64 (1976).

The conferees' intent is embodied in Commission regulations at 11 CFR 114.4(d). That section permits corporations or labor organizations to support and donate funds for nonpartisan registration and get-out-the-vote drives aimed at the public if the activities are jointly sponsored with and conducted by a nonprofit organization which does not support or endorse candidates or political parties.

In sections 431(f)(4)(B) and 441b(b)(2)(B) Congress expressly indicated an intent to permit corporations and labor organizations to participate in nonpartisan activity aimed at encouraging voter participation where that activity was undertaken in conjunction with a nonpartisan nonprofit organization. Permitting corporations and labor organizations to donate funds to nonpartisan nonprofit organizations for the purpose of staging nonpartisan candidate debates furthers that express congressional intent. Candidate debates stimulate voter interest and hence "encourage individuals to register to vote or to vote." Inasmuch as candidate debates are in the public interest and encourage educated voter involvement, permitting corporations and labor organizations to donate funds to nonprofit nonpartisan organizations for their staging is consistent with congressional intent and policy underlying sections 431(f)(4)(B) and 441b(b)(2)(B).

It is also important to note that the prohibitions of 2 U.S.C. § 441b were not specifically aimed at the donation of corporate or labor organization funds to a nonpartisan tax-exempt organization. Under 2 U.S.C. § 441b(b)(2), the terms "contribution" and "expenditure" are defined to mean "any direct or indirect payment, distribution, loan, advance, deposit or gift of money . . . to any candidate, campaign committee or political party or organization." Under 11 CFR 114.4(e), only nonprofit nonpartisan corporations which are tax-exempt under 26 U.S.C. §§ 501(c)(3) or (c)(4) may accept corporate or labor organization donations to stage debates. Such organizations would be neither a campaign committee, a political party nor a political organization referred to in 2 U.S.C. § 441b.

Finally, courts have generally construed 2 U.S.C. § 441b to prohibit only active electioneering on behalf of a candidate or a political party or conduct designed to influence the public for or against a particular candidate. See, *United States v. United Auto Workers*, 352 U.S. 567 (1957); *United States v. Pipefitters Local Union No. 562*, 434 F.2d 1116 (8th Cir. 1970), rev'd on other

grounds, 407 U.S. 385 (1972); *Miller v. American Telephone & Telegraph*, 507 F.2d 759 (3d Cir. 1974). Unlike single candidate appearances which have the effect of promoting the nomination or election of one individual, a properly structured nonpartisan debate involving two or more candidates would not be construed to be active electioneering to promote or influence the nomination or election of one particular candidate.

Subsection (e)(2) permits broadcasters, newspapers, magazines and other periodical publications to use their own funds to stage nonpartisan debates. Consistent with ordinary practice and applicable regulations of the Federal Communications Commission, a broadcaster may accept both regular commercial advertising and underwriting by corporations and labor organizations to finance the broadcast of debates staged or covered by the broadcaster. Similarly, nothing in this section prohibits a newspaper, magazine or other periodical publication from accepting regular paid advertising in an issue which covers a debate, whether staged by the newspaper or by another entity. Broadcasters, newspapers, magazines and other periodical publications may not, however, accept direct corporate or labor organization payments (other than payments for regular commercial advertising and underwriting) to finance the staging of debates.

Only nonprofit corporations may accept such payments under 11 CFR 114.4(e)(1). The reason for this distinction is that federal tax law restrictions on the activities of nonpartisan corporations provide sufficient safeguards to insure nonpartisanship. There is no comparable safeguard for broadcasters, newspapers, magazines and other periodical publications. Indeed, media corporations are specifically permitted by the Act to endorse candidates, while a nonprofit organization which endorses candidates is not permitted to stage debates under the proposed regulations.

Authority: 2 U.S.C. §§ 431(e), 431(f) and 441b.

11 CFR Chapter I is amended as follows:

1. 11 CFR 100.4(b)(16) is added to read as follows:

§ 100.4 Contribution.

(b) * * * (16) Funds provided to defray costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 CFR 110.13 and 114.4(e).

2. 11 CFR 100.7(b)(18) is added to read as follows:

§ 100.7 Expenditure.

(b) * * *

(18) Funds used to defray costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 CFR 110.13 and 114.4(e).

3. 11 CFR 110.13 is added to read as follows:

§ 110.13 Nonpartisan candidate debates.

(a) *Staging organizations.* (1) A nonprofit organization which is exempt from federal taxation under 26 U.S.C. § 501(c)(3), and a nonprofit organization which is exempt from federal taxation under 26 U.S.C. § 501(c)(4) and which does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 CFR 110.13(b) and 114.4(e).

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage nonpartisan candidate debates in accordance with 11 CFR 110.13(b) and 114.4(e).

(b) *Debate Structure.* The structure of debates staged in accordance with 11 CFR 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another.

4. 11 CFR 114.4(e) is added to read as follows:

§ 114.4 Nonpartisan communications.

(e) *Nonpartisan candidate debates.* (1) A nonprofit organization qualified under 11 CFR 110.13(a)(1) may use its own funds and may accept funds donated by corporations or labor organizations under 11 CFR 114.4(e)(3) to defray costs incurred in staging nonpartisan candidate debates held in accordance with 11 CFR 110.13.

(2) A bona fide broadcaster, newspaper, magazine and other periodical publication may use its own funds to defray costs incurred in staging nonpartisan public candidate debates held in accordance with 11 CFR 110.13.

(3) A corporation or labor organization may donate funds to nonprofit organizations qualified under 11 CFR 110.13(a)(1) to stage nonpartisan candidate debates held in accordance with 11 CFR 110.13 and 114.4(e).

Dated: December 20, 1979.

Robert O. Tiernan,
Chairman, Federal Election Commission.

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Thursday
December 27, 1979

Part VII

Environmental
Protection Agency

National Emission Standards for
Hazardous Air Pollutants; Addition of
Radionuclides to List of Hazardous Air
Pollutants

ENVIRONMENTAL PROTECTION AGENCY

(FRL 1292-8)

National Emission Standards for Hazardous Air Pollutants; Addition of Radionuclides to List of Hazardous Air Pollutants

AGENCY: Environmental Protection Agency.

ACTION: Addition to List of Hazardous Air Pollutants.

SUMMARY: This notice announces the Administrator's decision to list radionuclides as hazardous air pollutants under Section 112 of the Clean Air Act.

ADDRESSES: Docket No. A-79-11, containing material relevant to this action, is located in the U.S. Environmental Protection Agency, Central Docket Section, Room WSM-2903B, 401 M Street, SW, Washington, DC. The Docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: James M. Hardin, Office of Radiation Programs (ANR-460), U.S. Environmental Protection Agency, Washington, D.C. 20460, telephone (703) 557-8610.

SUPPLEMENTARY INFORMATION: Section 122 of the Clean Air Act as amended in 1977 directs the Administrator of the Environmental Protection Agency, after notice and opportunity for public hearing, to review all relevant information and determine whether emissions of radioactive pollutants will cause or contribute to air pollution which may endanger public health. Therefore, the Agency published a notice which called for relevant information and data on radioactive air pollutants and offered to hold a public hearing (44 FR 11707; April 11, 1979). All written comments received were considered in today's decision. Copies of these comments are to be found in the Agency's Central Docket No. A-79-11.

None of the commenters suggested that radioactive air pollutants do not endanger public health. Several commenters provided information on the release of specific radionuclides into the atmosphere. One commentator requested that the comment period remain open until completion of the third report of the National Academy of Sciences' Advisory Committee on the Biological Effects of Ionizing Radiation (BEIR). We do not believe such a delay is appropriate because the BEIR III

Report is unlikely to change substantially the conclusions of the first (1972) BEIR Report regarding the carcinogenic effects of radionuclides. We have received a summary of the BEIR III Report which supports this opinion. If the report is completed as scheduled, we will consider its findings in formulating any proposed standards. Public hearings will be held when standards are proposed and comments on the BEIR III Report, if it is used in formulating the standards, will be welcomed at that time.

One commentator requested that the Agency hold a hearing after we make a preliminary determination and decide on our legal, scientific, and economic positions so that informed public comment is possible on these issues before the final determination is made. We do not believe that such a public hearing is either required or useful. The intent of Section 122 is to insure that the Agency has an opportunity to consider any information not previously considered, or to call specific attention to particular information on the emissions of, and health effects from, air pollutants that may be hazardous. In EPA's view, Section 122 does not require what would essentially be a proposed listing notice and hearing. This view is based on the language and history of Section 122 and on the fact that a full hearing on those topics will be available after proposal of standards under Section 112.

Section 112 of the Act directs the Administrator to publish and from time-to-time to revise a list of air pollutants which, in his judgment, probably causes, or contributes to, an increase in mortality or serious illness and to which no national ambient air quality standard applies. Within 180 days after the inclusion of any air pollutant in the list, the Administrator must publish proposed regulations establishing emission standards for such a pollutant, together with a notice of a public hearing to be held within 30 days.

In accordance with the requirements of Sections 122 and 112, the Agency finds that studies of the biological effects of ionizing radiation indicate that exposure to radionuclides increases the risk of human cancer and genetic damage. Also, the Agency finds that emission data indicate that radionuclides are released into air from many different natural and man-made sources with the result that everyone is exposed to them. Further information on these findings is given in Appendix I (biological effects) and Appendix II (emission data) of this notice.

Based on this information, the Administrator has concluded that

emission of radionuclides may reasonably be anticipated to endanger public health, and that radionuclides constitute hazardous air pollutants within the meaning of the Clean Air Act. In making this determination, the Administrator has consulted with the Nuclear Regulatory Commission (NRC) as required by Section 122. Among the radionuclides included are those defined by the Atomic Energy Act as source material, special nuclear material, and byproduct material.

In accordance with Section 112(b)(1)(A) the Administrator hereby amends the list of hazardous air pollutants:

List of Hazardous Air Pollutants

6. Radionuclides

Dated: November 8, 1979.

Douglas M. Costle,
Administrator.

Appendix I—Summary of Evidence That Radionuclides are Carcinogenic and Mutagenic to Humans

A. *EPA's Current View.* An extensive body of research has demonstrated that carcinogenicity and mutagenicity are associated with ionizing radiation and, therefore, with exposure to radionuclides. Exposure to enough ionizing radiation increases the risk of most forms of cancer, including leukemia, lymphoma, and cancers of the lung, bone, thyroid, breast, skin, stomach, pancreas, esophagus, pharynx, large intestines, and others. When germ cells of the ovary or testis are exposed to enough radiation, the risk of mutagenesis is increased which, in turn, may cause increased mortality and illness in future generations. For very low doses there is no conclusive evidence of the risk involved.

The relationships between specific radiation doses and risks to health are extremely complex. They depend on physical parameters, such as the energy and type of radiation (e.g., alpha, beta, or gamma radiation), total dose, dose distribution within the body, and dose rate. In addition, many biological factors, such as the specific organ exposed, the radiosensitivity of the individual exposed, errors that occur in biological repair mechanisms, sex, race, age at time of exposure, genetic composition, and state of health, may influence the effects of radiation. These factors involve complex mechanisms of interaction among biological, chemical, and physical systems, which are further complicated because people are also exposed to other factors such as tobacco smoke and industrial chemicals, which

may change the magnitude of radiation effects.

Although there is no conclusive evidence of the effects of very low doses of radiation on human populations, the Agency assumes that the effects of low doses of radiation are proportional to the dose received in estimating the health impact of possible low-level radiation protection standards. We believe this assumption is reasonable and prudent in the light of presently available evidence (1).

The information used by the Agency in formulating these estimates of the biological effects of radiation exposure and the relationships between radiation dose and the effects on public health has been summarized in publications by the National Academy of Sciences (NAS) (2), the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) (3), and the International Commission on Radiological Protection (ICRP) (4). These bodies agree that high levels of radiation cause cancer and mutations and that a sensible regulatory approach is to consider risk to be proportional to radiation dose at all low doses.

B. *The Basis of EPA's View.* The first human cancer attributed to external ionizing radiation was reported in 1902 from X-ray exposures (5). By 1911, 94 cases of radiation-related skin cancer and five cases of leukemia in man had been reported in the literature (6). Studies from 1910 to 1912 produced the first reports of radiation induced cancers in experimental animals (7, 8). In 1921, the first association between inhaled radionuclides and carcinogenesis in humans was made by Uhlig for radon exposure and lung cancer in underground miners in the Erz Mountains of Austria, and Czechoslovakia (9). This association was reaffirmed by Ludewig and Lorenser in 1924 (10). Swallowing radium was shown to cause bone necrosis (11), and in 1929, Martland and Humphries reported the association of swallowed radium and osteosarcoma in occupationally exposed workers (12).

In more recent times, several studies of human populations have conclusively shown that sufficient exposure to radiation increases the risk of many different kinds of cancer. Among the most significant of these are the following:

a. Survivors of the atomic bomb explosions at Hiroshima and Nagasaki, Japan (13).

b. Two large groups of medical patients given X-ray therapy or injections of radium-224 for ankylosing spondylitis of the spine (3).

c. Groups of women whose breasts were exposed to X-rays during diagnostic radiation of the thorax or during radiotherapy for benign conditions (3).

d. Patients medically treated with X-rays, mostly to the head and neck, for the alleviation of otherwise benign conditions (3).

e. Underground miners exposed to elevated levels of radon (3).

f. Persons who ingested radium-226 either for medical purposes or in the course of their occupations (2,3).

g. Patients injected with thorotrast (colloidal thorium dioxide) as an x-ray contrast medium (14,15).

h. Children exposed *in utero* to diagnostic x-rays (2,3).

Extensive studies in experimental animals, especially rodents, and studies of cell cultures support the idea that ionizing radiation can cause mutations. Animal studies have shown that ionizing radiation can cause many types of mutations: lethal mutations, translocations, inversions, nondisjunction, and point mutations (2,3). Extrapolations of mutation rates calculated in these studies form the basis for estimating the genetic (hereditary) impact of ionizing radiation in humans (2,3).

Although genetic damage to the children of irradiated persons has not been identified, chromosome aberrations in somatic cells have been observed in persons exposed to ingested strontium-90 and radium-226 (16), inhaled/ingested radon-222 (17), inhaled/ingested plutonium-239 (17), inhaled radon-222 (18), and also in lymphocytes from atomic bomb survivors (19) and shipyard workers at nuclear facilities in England (20).

REFERENCES

1. United States Environmental Protection Agency. *Policy Statement on Relationship Between Radiation Dose and Effect*; March 3, 1975 (41 FR 208409, July 9, 1976).
2. Advisory Committee on the Biological Effects of Ionizing Radiations. *The Effects on Populations of Exposure to Low Levels of Ionizing Radiation*. National Academy of Sciences, Washington, D.C. (1972).
3. United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR). *Sources and Effects of Ionizing Radiation*. United Nations, New York (1977).
4. International Commission on Radiological Protection. Publication 26. Radiation Protection, Pergamon Press, New York (1977).
5. Friebe, A. *Demonstration lines caneroids des rechten Handrucksens, das sich nach langdauernder Einwirkung von Rontgenstrahlen entwickelt hatte*. Fortschr. Ceb. Rontgenstr. 6:1096 (1902) cited by Upton (6).

6. Upton, A.C. *Physical Carcinogenesis: Radiation—History and Sources*, pp. 387-403 in Cencer 1, F. F. Becker, editor, Plenum Press, New York (1975).

7. Marie, P., Clunet, J., and Raulot-Lapointe, C. *Contribution a l'etude du developpement des tumeurs malignes sur les ulcers de roentgen*. Bull. Assoc. Franc. Etude Cancer 3:404 (1910) cited by UNSCEAR (3).

8. Marie, P., Clunet, J. and Raulot-Lapointe, G. *Nouveau cas de tumeur maligne provoquee par une radiodermite experimentale chez le rat blanc*. Bull. Assoc. Franc. Etude Cancer 5:125 (1912) cited by UNSCEAR (3).

9. Uhlig, M. *Über den Schneeberger Lungenkrebs*. Virchows Arch. Pathol. Anat. 230:76 (1921).

10. Ludewig, P. and Lorenser, E. *Untersuchung der Grubenluft in den Schneeberger Gruben auf den Gehalt an Radiumemanation*. Zschr. f. Phys. 22:178 (1924).

11. Hoffman, F. L. *Radium (Mesothorium) Necrosis*. J.A.M.A. 85:961 (1925).

12. Martland, H. S. and Humphries, R. E. *Osteogenic Sarcoma in Dial Painters Using Luminous Paint*. Arch. Pathol. 7:406 (1929).

13. Beebe, G. W., Kato, H. and Land, C. E. *Mortality Experience of Atomic Bomb Survivors, 1950-1974*. Life Span Study Report 8, RERF TR 1-77. Radiation Effects Research Foundation, Japan (1977).

14. International Meeting on the Toxicity of Thorotrast and Other Alpha-Emitting Heavy Elements, Lisbon, June 1977 (to be published in Environmental Research).

15. Kaul, A. and Muth, H. *Thorotrast Kientics and Radiation Dese*. Rad. and Environm. Biophys. 15:24, 259 (1978).

16. Tuscany, R. and Klener, V. *Pokles Euploidie v Bunkoch Kastni Drene osab s Vnitni Kontaminaci Kektaryni Radioisotopy Cisk*. Fysiol. 12:391 (1963).

17. Brandom, W. F., et al. *Somatic Cell Chromosome Changes in Humans Exposed to ²³⁹Plutonium and ²²²Radon*. Contract No. E(29-2)-3639, Progress Report July 1, 1976 through September 30, 1977. Department of Energy, Washington, D.C. (1977).

18. Pohl-Ruling, J., Fischer, P., and Pohl, E. *The Low-Level Shape of Dose Response for Chromosome Aberrations*, IAEA-SM-224/403. Presented at International Symposium on the Late Biological Effects of Ionizing Radiation, IAEA, Vienna (1978).

19. Awa, A. A., et al. *Relationship Between Dose and Chromosome Aberrations in Atomic Bomb Survivors, Hiroshima and Nagasaki*, RERF TR 12-77, Radiation Effects Research Foundation, Japan (1976).

20. Evans, H. J., Buckton K. E., Hamilton, G. E., and Carothers A. *Radiation-Induced Chromosome Aberrations in Nuclear-Dockyard Workers*, Nature 227:531 (February 15, 1979).

Appendix II—Summary of Evidence of Significant Public Exposure to Radionuclides Because of Emissions Into the Atmosphere

Most of the radionuclides in the atmosphere come from natural sources (1). However, radionuclides are used or produced in thousands of locations

throughout the United States including national defense weaponry facilities, nuclear power plants, industrial plants, research and development laboratories, and medical facilities. Fossil fuel combustion processes, such as large coal-fire boilers, make some contribution to the exposure of the general public. Certain kinds of mining and milling also substantially increase the local concentration of radionuclides in the air.

Although air cleaning equipment is usually used in these facilities, some radionuclides are still released into the atmosphere and can disperse into populated areas. In most cases the greatest danger comes from breathing these radionuclides, but material which settles on soil or plants may eventually be swallowed. Settled material may also be blown back into the air. People living near some facilities may also be exposed to small levels of direct gamma radiation from airborne or settled radionuclides.

EPA has recently published a preliminary evaluation of the harm caused by emissions of radionuclides into air in the United States (2). The document contains a compilation of the amount of radionuclides released into the atmosphere from each major category of facility known to use such materials. It estimates both the radiation dose to the nearest individual and to the regional population. Using these doses, we have estimated the additional lifetime fatal cancer risk to individuals and the total number of fatal cancers induced in the surrounding population for each year of facility operation. Risk estimates are limited to fatal cancers because we have less confidence in quantitative risk estimates of genetic effects in humans. Our current practice is to assume that for whole body exposure, the number of genetic health effects, and the number of nonfatal cancers are each about the same as the number of deaths (3).

Sources can be conveniently divided into three major groups: facilities licensed by NRC and certain States which have signed an agreement with NRC; facilities operated and regulated by the Department of Energy (DOE); and facilities emitting elevated concentrations of naturally-occurring radionuclides. The kinds of radionuclide emissions, estimates of dose rates, and estimates of fatal cancer risks derived from model facilities which are representative of source categories are shown in Tables 1 and 2. Table 3 shows data derived from actual DOE facilities.

These summary tables show that significant amounts of radionuclides are being released by man into the

atmosphere. Such estimates should be used carefully and with recognition that they are highly uncertain. This uncertainty is caused by limited data on emissions and by the use of assumptions in environmental transport models and in dose models. Based on these calculations, the highest estimated doses received are to people near elemental phosphorus plants. Our preliminary dose estimates for such people give 1800 mrem/yr to the kidney, 740 mrem/yr to the lung, and 570 mrem/yr to the bone. People living near underground uranium mines may be exposed to elevated airborne concentrations of radon daughters as high as 0.006 working levels. (WL).

We estimate that even the individuals who live closest to the facilities listed in Tables 1, 2, and 3 receive doses which are less than the present applicable Federal Guidance as established by the former Federal Radiation Council (4,5). However, EPA considers the potential risk from doses as large as those received from many of these facilities to be unnecessarily high. We believe that emissions from such facilities should be reduced to as low as reasonably achievable levels. In specific cases, EPA has already promulgated standards and proposed Federal Guidance which holds the exposure of people to levels below that found around many of the listed source categories. These actions include: Drinking Water Regulations (Radionuclides) (6), Environmental Radiation Protection Standards for Nuclear Power Operations (7), and proposed Federal Guidance for Persons Exposed to Transuranium Elements in the Environment (8).

EPA considers its current estimates of risk to be sufficiently accurate to support the decision to list radionuclides as hazardous air pollutants. However, we will continue to improve our preliminary estimates of how much cancer is caused by facilities which release radionuclides into the air.

As provided in EPA's recently published proposed rules for regulating airborne carcinogens (44 F.R. 58642-58670; October 10, 1979), EPA will base all decisions on setting standards for radionuclide emissions on detailed risk assessments and complete regulatory options analyses considering the following factors: a detailed examination of sources of emissions of radionuclides into air, the risks caused by these emissions, the costs and effectiveness of emission control technologies, the benefits of the activities causing the emissions, the relationships between who is receiving the benefits versus who is required to

accept the risks, and the possibility of using substitutes to reduce emissions. EPA will request public comment before making standard-setting decisions.

REFERENCES

1. United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR). *Sources and Effects of Ionizing Radiation*. United Nations, New York (1977).
2. United States Environmental Protection Agency. *Radiological Impact Caused by Emissions of Radionuclides into Air in the United States—Preliminary Report* (EPA 520/7-79-006) Office of Radiation Programs, Washington, D.C. (1978).
3. U.S. Environmental Protection Agency. *Radiological Quality of the Environment in the United States, 1977* (EPA 520/1-77-009), Office of Radiation Programs, Washington, D.C. (1977).
4. Federal Radiation Council. *Background Material for the Development of Radiation Protection Standards* (Report No. 1). Reprinted by the U.S. Department of Health, Education, and Welfare, Public Health Service, Washington, D.C. (May 13, 1960).
5. Federal Radiation Council. *Background Material for the Development of Radiation Protection Standards* (Report No. 2). Reprinted by the U.S. Department of Health, Education, and Welfare, Public Health Service, Washington, D.C. (September 1961).
6. Federal Register, Vol. 41, No. 133, pp. 28402-09 (Friday, July 9, 1976).
7. Federal Register, Vol. 42, No. 9, pp. 2858-61 (Thursday, January 13, 1977).
8. Federal Register, Vol. 42, No. 230, pp. 60956-59 (Wednesday, November 30, 1977).

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Table 1
Summary of radiological impact caused by atmospheric emissions from licensed sources

Source category	Number of sources	Principal radionuclide emissions (Ci/yr)	Model facility		Lifetime risk to the maximum individual (x 10 ⁻⁶)	Expected fatal cancers per year of operation regional population (fatal cancers)
			Principal dose equivalent rates Maximum Individual (mrem/yr) ^a	Regional Population (Person-rem/yr) ^c		
Uranium conversion facilities	2	U-238 U-234 Th-234	0.08 0.08 0.08	120 5	300	0.007
Fuel fabrication facility	16	U-234 U-235 U-238 Th-231 Th-234	0.008 0.0003 0.0004 0.001 0.0003 0.001	5 0.5 7 0.3	20	0.0004
Light water reactors Boiling water reactors	25	Noble gases Tritium Halogens	7,000 43 1.4	19 8	20	0.001
Pressurized water reactors	44	Noble gases Tritium Halogens	13,000 1,100 0.05	7 5	9	0.001
High temperature gas cooled reactor (Fort St. Vrain)	1	Noble gases	1,100	6	6	0.001
Radiopharmaceutical Producers	34	I-125 I-131	0.9 0.9	86 0.2	200 0.7	0.0003

See footnotes at end of table.

Table 1--continued
Summary of radiological impact caused by atmospheric emissions from licensed^a sources

Source category	Number of sources	Principal radionuclide emissions (Ci/y)	Model facility			Expected fatal cancers per year of operation <u>Regional population</u> (Fatal cancers)	
			Principal dose equivalent rates Maximum Individual (mrem/y) ^b (Person-rem/y) ^c	Lifetime risk to the maximum individual (x 10 ⁻⁶)			
Test reactors	2	Ar-41 Tritium	450 150	Whole body 0.2	1	2	0.0002
Research reactors	13	Ar-41 Tritium	200 100	Whole body 0.09	0.5	1	0.00008
University reactors	54	Ar-41 Tritium	1,000 100	Whole body 0.4	2	5	0.0004
Shallow land burial Low level waste	6	Tritium	19,000	Bone 30 Whole body 20	6 5	90	0.0008
Industrial users	4,000	Mostly sealed	No data				

^aSources licensed by the Nuclear Regulatory Commission (NRC) or States which have entered into an agreement with the NRC whereby certain regulatory authority is relinquished by the NRC and assumed by the State pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

^bThe maximum dose equivalent rate an individual is likely to receive living near the facility.

^cThe maximum collective dose equivalent rate to the regional population. This is the maximum value expected to occur within 100 years following the start of facility operation.

^dThe number of fatal cancers to the worldwide population has been estimated to be 0.04 from BWRs and 0.02 from PWRs per year (2).

Table 2
Summary of radiological impact caused by atmospheric emissions of natural radioactive materials

Model facility									
Source category	Number of sources	Principal radionuclide emissions (Ci/y) ^a	Exposure levels		Principal dose equivalent rates		Lifetime risk to the maximum individual (x 10 ⁻⁶)	Expected fatal cancers per year of operation	
			Maximum Individual (mL)	Regional Population (Person-WL)	Maximum Individual (mrem/y) ^b	Regional Population (Person-rem/y) ^c		Regional	U.S. (Fatal cancers)
Uranium Mines									
Underground	251	Rn-222 6800	0.006	1.3	-	-	10,000	0.03	0.08
Open pit	36	Rn-222 2000	0.00084	0.38	-	-	1,000	0.008	0.02
Uranium Mills									
	21	Rn-222 2700 U-235+d 0.4	0.0049	0.54	Lung Bone	350 360	3.4 3.9	10,000	0.01 0.03
Phosphate Industry									
Mining and beneficiation	35	Rn-222 1300	0.00022	4.9	-	-	300	0.1	
Drying and grinding facilities	20	Rn-222 20 U-238+d 0.03	0.00005	0.084	Lung Bone	54 79	17 18	500	0.004
Phosphoric acid plant	35	Rn-222 480 U-235+d 0.1	0.00066	2.0	Lung Bone	85 110	46 45	2,000	0.05
Elemental phosphorus plant	9	Rn-222 493 U-238+d 0.07 Po-210 7.4	0.00035	2.0	Lung Bone Kidney	740 570 1800	770 440 1400	6,000	0.1
Coal-fired power stations ^d									
Urban site	395	Rn-222 1.9 U-238+d 0.25 Th-232+d 0.07	0.00001	0.024	Lung Bone	0.88 1.6	2600 1300	10	0.2
Suburban site		Rn-222 1.9 U-238+d 0.25 Th-232+d 0.07	0.00001	0.002	Lung Bone	1.1 2.1	190 160	10	0.02
Rural site		Rn-222 1.4 U-238+d 0.25 Th-232+d 0.07	0.00001	0.0005	Lung Bone	2.1 16.0	51 50	60	0.005
Remote site		Rn-222 1.9 U-238+d 0.25 Th-232+d 0.07	0.00001	0.00001	Lung Bone	0.79 2.1	0.5 1.5	10	0.00008

^aSee footnotes at end of table.

Table 2--continued
Summary of radiological impact caused by atmospheric emissions of natural radioactive materials

Source category	Number of sources	Principal radionuclide emissions (Ci/y) ^a	Exposure levels		Principal dose equivalent rates		Lifetime risk to the maximum individual (x 10 ⁻⁶)	Expected fatal cancers per year of operation	
			Maximum individual (mSv)	Regional Population (Person-WL)	Maximum individual (mrem/y) ^b	Regional Population (Person-WL)		Regional Population (Fatal cancers)	U.S. (Fatal cancers)
Metal mining and milling ^c	177	Rn-222 3000	30 to 3000	<0.00001 to 0.0005	0.0001 to 0.8	-	20 to 900	0.0001 to 0.02	
Re-metal mining and milling ^f	4,200	Rn-222 18	0.2 to 18	<0.00001 to 0.00004	0.0007 to 0.06	-	0.7 to 50	0.00002 to 0.001	
Underground drinking water treatment plants	40,000	Rn-222 3.4	<0.00001	0.06	-	-	10	0.001	

^aU-238d includes daughter products of uranium-234, thorium-230, radium-226, polonium-210, and lead-210 except for elemental phosphorus, thorium-232, and radium-224.

^bThe maximum dose equivalent rate an individual is likely to receive living near the facility. This is the maximum value expected to occur within 100 years following the start of facility operation.

^cThe maximum collective dose equivalent rate to the regional population. This is the maximum value expected to occur within 100 years following the start of facility operation.

^dThe emission rates presented for the source category are based on a model representative of new plants releasing one percent of the fly ash, includes iron, copper, zinc, and bauxite.

^eIncludes clay, limestone, fluorspar.

Table 3

Summary of radiological impact caused by atmospheric emissions from Department of Energy facilities

Facility	Number of facilities	Principal radionuclide emissions (Ci/y)	Principal dose equivalent rates		Lifetime risk to the maximum individual (x 10 ⁻⁶)	Expected fatal cancers per year of operation	
			Maximum individual (mrem/y)	Regional Population (Person-WL)		Regional Population (Fatal cancers)	U.S. (Fatal cancers)
Savannah River Plant ^b	1	Ar-41 C-14 Tritium Kr-85	65,000 63 360,000 440,000	Total body 1.1 110	Site boundary 20	0.02	
Los Alamos Scientific Laboratory	1	Ar-41 C-11 Tritium N-13 O-15	800 14,000 39,000 1,400 32,000	Total body 70 11	Site boundary Nearest resident 1,000 300	0.002	
Lawrence Livermore Laboratory	1	Ar-41 Tritium N-13 O-15	360 5,700 590 390	Total body 4.3 2.9	Site boundary Nearest resident 60 10	0.0006	
Rocky Flats Plant	1	Pu-239 & Pu-240 U-235 U-238	0.000004 0.00002 0.00002	Lung 0.03 Bone 0.035 Kidney 0.004 Liver 0.005	Site boundary 0.3	0.007	
Argonne National Laboratory	1	Ar-41 Tritium	30,000 850	Total body 5.6 180	Site boundary Nearest resident 80 40	0.04	
Brockhaven National Laboratory	1	Ar-41 Tritium O-15	360 1,200 67,000	Total body 0.16 19	Site boundary 2	0.004	

See footnotes at end of table.

Table 3--continued
Summary of radiological impact caused by atmospheric emissions from Department of Energy facilities--continued

Facility	Number of facilities	Principal radionuclide emissions (Ci/y)	Principal dose equivalent rates ^a			Lifetime risk to the maximum individual (x 10 ⁻⁶)	Expected fatal cancers per year of operation Regional population (Fatal cancers)
			Maximum Individual (mrem/y)	Regional Population (Person-rem/y)			
Oak Ridge Facilities ^c	1	U-234	0.06	Total body 4.7 Lung 4.6 Bone 5.5 Thyroid 1.5	Nearest resident	10	0.001
		I-131 Kr-85	1.0 8,600				
Portsmouth Gaseous Diffusion Plant ^c	1	Th-234	0.05	Total body 0.19 Lung 1.1 Bone 1.2 Kidney 1.1 G. I. Tract 2.2	Site boundary	10	0.00004
		U-234 Te-99	0.1 4.5				
Paducah Gaseous Diffusion Plant ^c	1	U-234 U-238	0.2 0.2	Lung 6.3 Bone 0.9	Site boundary	20	NR
Ames Laboratory	1	Ar-41 Tritium	13,000 1,000	Total body 5.5	Site boundary	80	0.05
Other sites	17	Various	Small	Total body<1	Site boundary	<10	<0.002

^aData taken directly from DOE reports. All doses are 70-year dose commitments. Call doses are 50-year dose commitments. NR Not reported.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today**AGRICULTURE DEPARTMENT**

Food Safety and Quality Service—

67626 11-27-79 / Meat denaturing standard

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

67906 11-27-79 / Procedures for protection and enhancement of environmental quality: department-wide environmental procedures

PERSONNEL MANAGEMENT OFFICE

67624 11-27-79 / Posting of OPM regulations in Federal agencies

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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(Revised as of October 1, 1979)

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[A cumulative checklist of CFR issuances for 1979 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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12-28-79
Vol. 44 No. 250
Pages 76747-77124

Friday
December 28, 1979

DECEMBER 28, 1979

Highlights

- 76783 **Iranian Assets Control** Treasury / Office of Foreign Assets Control adds interpretative provisions to the regulations; effective 12-26-79
- 77118 **Mandatory Petroleum** DOE / ERA adopts amendments to the price regulations to increase nonproduct costs permitted to be passed through by refiners, resellers and retailers in the wholesale and retail selling prices of propane; effective 1-1-80 (Part XIII of this issue)
- 77110 **Public Utilities** DOE / ERA issues a notice of voluntary guidelines on procedures for termination of electric service and gas service (Part XII of this issue)
- 76754 **Banking** FHLBB introduces as a final rule changes in the manner of calculating reduction of liquidity deficiency penalty under certain circumstances; effective 12-21-79
- 76757 **Banking** FHLBB releases a final rule relating to acquisition credits subject to deferral; effective 12-21-79
- 76756 **Banking** FHLBB publishes a final rule regarding guidelines concerning director interlocks; effective 12-21-79

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202-523-5240

- 76858 **Banking** FDIC changes its policy statement setting forth procedures for development and review of its regulations; effective date 12-20-79
- 76800 **Banking** FDIC amends its regulations pertaining to securities disclosure; comments by 2-26-80
- 76774 **Securities** SEC publishes a final rule regarding securities position listings; effective 1-28-80
- 76777 **Securities** SEC defers until 1981, the effective date of the quarterly reporting requirements for smaller life insurance companies
- 76781 **Income Tax** Treasury / IRS provides final regulations concerning the tax treatment of certain short-term corporate obligations and certificates of deposit, time deposits and bonus plans entered into by banks
- 76813 **Income Tax** Treasury / IRS proposes rules clarifying the continuity of business enterprise requirements for corporate reorganizations; comments by 2-25-80
- 76817 **Income Tax** Treasury / IRS proposes rules relating to credit for the employment of individuals qualifying as members of a targeted group; comments by 2-25-80
- 76815 **Income Tax** Treasury / IRS proposes a rule relating to the discharge of liabilities on the sale or other disposition of property; comments by 2-25-80

- 77006 **Equal Employment Opportunity** Labor / FCCPO issues a proposed rule regarding affirmative action requirements of government contractors; comments by 2-26-80 (Part VI of this issue)

- 76916 **Sunshine Act Meetings**

Separate Parts of This Issue

- 76982 Part II, Interior / BLM
- 76990 Part III, Labor / ETA
- 76997 Part IV, HEW / NIH
- 77000 Part V, Labor / FCCPO
- 77006 Part VI, Labor / FCCPO
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Rules and Regulations

Federal Register
Vol. 44, No. 250
Friday, December 28, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Chapter I

Civil Service Reform Act of 1978 and Reorganization Plan No. 2 of 1978; Nomenclature and Editorial Changes

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document transmits editorial and nomenclature changes necessary to bring Chapter I of Title 5, CFR, into conformance with changes brought about by the Civil Service Reform Act of 1978 and Reorganization Plan No. 2 of 1978.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, Issuance System Manager, 202-254-7086.

SUPPLEMENTARY INFORMATION: At 44 FR 47523 on August 14, 1979, the Office of Personnel Management published a document making general nomenclature changes to 5 CFR Chapter I, to bring the chapter into conformance with the Civil Service Reform Act (Pub. L. 95-454) and Reorganization Plan Number 2 of 1978. This document makes nomenclature and editorial changes which were inadvertently omitted from the material published that day (FR Doc. 79-24969).

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5, Code of Federal Regulations, Chapter I, as follows:

PART 177—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

§ 177.106 [Amended]

(1) In § 177.106, change "\$200" to read "\$500" in each place it appears.

PART 179—CLAIMS COLLECTION STANDARDS

§ 179.102 [Amended]

(2) In § 179.102, change "Director of the Bureau of Retirement and Insurance" to read "Associate Director for Compensation."

PART 180—EMPLOYEES' PERSONAL PROPERTY CLAIMS

§ 180.107 [Amended]

(3) In the introductory text of § 180.107(c), change "bureau" to read "associate."

§ 180.108 [Amended]

(4) In the introductory text of § 180.108(a), change "bureau" to read "associate."

PART 213—EXCEPTED SERVICE

§ 213.3190 [Redesignated as § 213.3191];
§ 213.3191 [Redesignated as § 213.3190];
§ 213.3170 (a) and (b) [Redesignated
§ 213.3191 (b) and (c)]; § 213.3290
[Redesignated § 213.3291] and § 213.3170
[Revoked]

(5) Part 213 is amended by redesignating § 213.3190 to read § 213.3191; and by redesignating § 213.3191 to read § 213.3190. § 213.3170 (a) and (b) are redesignated § 213.3191 (b) and (c) respectively. § 213.3170, "Civil Service Commission," is revoked. § 213.3290 is redesignated § 213.3291.

§ 213.3107 [Amended]

(6) In § 213.3107(c)(2), change "Board of U.S. Civil Service Examiners" to read "OPM area office."

§ 213.3112 [Amended]

(7) In § 213.3112(a)(8), change "Board of U.S. Civil Service Examiners" to read "OPM area office."

PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

§§ 511.701 and 511.702 [Amended]

(8) In §§ 511.701(b)(2) and 511.702(b), change "bureau" to read "Group."

PART 720—FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM

Appendix [Amended]

(9) In Part 720, in section II.D. of the Appendix, delete the words "(as of January, 1979, the OPM)." in the fourth sentence.

PART 831—RETIREMENT

PART 870—REGULAR LIFE INSURANCE

PART 871—OPTIONAL LIFE INSURANCE

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

(10) In Parts 831, 870, 871, and 890, make the following nomenclature changes:

Change from—	To—
Bureau of Retirement, Insurance, Associate Director for and Occupational Health, Compensation.	
Bureau of Retirement and Insurance, Associate Director for Compensation.	
Director of the Bureau, Associate Director.	
Bureau, Associate Director.	
(S/he)	He/she.

PART 891—RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS

(11) In Part 891, change "Bureau of Retirement and Insurance" to read "Associate Director for Compensation."

PART 1001—EMPLOYEE RESPONSIBILITIES AND CONDUCT

§ 1001.735-203 [Amended]

(12) In § 1001.735-203(c), change "Bureau directors" to read "Associate Directors."

(13) In the entire chapter, "Commission," when referring to any Commission other than the former Civil Service Commission, should continue to read "Commission."

(Pub. L. 95-454; Reorganization Plan No. 2 of 1978)

[FR Doc. 79-39544 Filed 12-27-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Parts 831, 870, 871, 890, 891

Retirement; Federal Employees Group Life Insurance; Federal Employees Health Benefits Program; Retired Federal Employees Health Benefits Program; Reconsideration Procedures

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: At 44 FR 37877, on June 29, 1979, the Office of Personnel Management published interim regulations on Retirement, Federal Employees Group Life Insurance, Federal Employees Health Benefits Program, Retired Employees Health Benefits Program, and Reconsideration Procedures. These interim regulations were required by the Civil Service Reform Act of 1978, Reorganization Plan No. 2 of 1978, and the final order in the case of *Shannon v. U.S.C.S.C.*, 444 F. Supp. 354, (N.C. CA 1977).

The effective date was "June 29, 1979, and thereafter for a period of 6 months—or until final regulations are issued—whichever comes first." Because development of the final regulations is requiring more time than was originally anticipated, the Office of Personnel Management is revising the effective date to read:

"**EFFECTIVE DATE:** June 29, 1979, and thereafter, until superseded by final rulemaking."

(Pub. L. 95-454; Reorganization Plan No. 2 of 1978)

Office of Personnel Management.

Roderick S. Speer,

Assistant Insurance System Manager.

December 21, 1979.

[FR Doc. 79-39614 Filed 12-27-79; 8:45 am]

BILLING CODE 5325-01-W

COUNCIL ON WAGE AND PRICE STABILITY

8 CFR Part 705

Noninflationary Pay and Price Behavior Changes and Additional Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Interim final rules, questions and answers, and a request for comments.

SUMMARY: The Council is modifying the low-wage exemption from the pay standard. These modifications implement the policies recommended by the Pay Advisory Committee and accepted by the Council.

DATES: The effective date for these changes and Questions and Answers is December 28, 1979. Written comments may be submitted by January 28, 1980.

ADDRESS: Written comments should be addressed to: Office of the General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Office of Pay Monitoring

Janice Murphy—456-7103

Lucretia Tanner—456-7180

Malcolm Liggett—456-7160

Homer Jack—456-7180

Office of the General Counsel

Daniel Duff—456-6210

Jane Campana—456-6210

SUPPLEMENTARY INFORMATION: On September 28, 1979, the President announced the creation of a Pay Council on policies that encourage anti-inflationary behavior by employers and labor, that decelerate the rate of inflation, and that provide for a fair and equitable distribution of the burden of restraint. The committee's charter provides that it will recommend new or revised interpretations of the pay standard. Until the Council acts on any recommendations, the first-year pay standards (in subpart 705B) remains in effect with the modifications that have been adopted (see the Council's questions and answers published in the Federal Register on October 12, 1979 [44 FR 56900], and November 19, 1979 [44 FR 66534]; see also Federal Register of December 17, 1979 [44 FR 73003]).

On December 18, 1979, the Committee recommended that the exemption for low-wage employees (Section 705B-8) be modified to exempt employee units with average straight-time wage rates of \$5.35 per hour or less. In addition, the Committee recommended that the \$4.00-per-hour exemption for individual employees be continued, but that employers be given the choice of including or excluding these individuals in making compliance calculations. The Council has decided to accept these recommendations, and section 705B-8 is modified accordingly. The new low-wage exemption for employee units reduces administrative burdens on companies with significant numbers of low-wage employees and helps to prevent problems associated with compression of the pay structure that can result from application of the exemption for individual low-wage workers. Allowing employers the option of including or excluding low-wage individuals is in keeping with the Council's policy of administering the

standard in a flexible manner where this is not inconsistent with the objectives of the anti-inflation program.

Explanatory questions and answers on this matter are also being published by the Council.

The Council is publishing these materials on an interim final basis since many companies that are establishing their pay plans have a need to know and must be able to rely on the Council's new treatment of low-wage employees. The Council has provided a 30-day comment period, since it is important to receive any public comments as soon as possible so that any changes may be made rapidly. However, companies may rely fully on these interim final changes to Part 705 and the questions and answers until these materials are modified.

Issued in Washington, D.C., December 21, 1979.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, in the Appendix to Part 705, section 705B-8 is revised on an interim basis to read as follows:

705B-8 Low-Wage Exemption.

(a) Employee units with an average straight-time hourly wage rate of \$5.35 or less during the third quarter of 1979 are exempt from the pay standard in the second program year.

(b) Individual employees in other employee units who were earning \$4.00 or less per hour in straight-time wages on October 1, 1978, may be either excluded from or included in all pay-rate computations for the second program year. If such employees are included, any portion of their pay-rate increases that exceeds the pay standard should be excluded in determining compliance. Employees should also be prepared to demonstrate that, if low-wage employees are included, they are being treated equitably.

In addition to amending section 705B-8, the Council is publishing the following questions and answers relating to the voluntary pay standard:

II J. Low-wage exemption.

Q1. Which individual employees are exempt under § 705B-8?

A. Employees who were earning \$4.00 per hour or less in straight-time wages on October 1, 1978, and all employees hired since that date at a straight-time wage rate of \$4.00 per hour or less.

Q2. Is there any ceiling on the pay-rate increases granted to employees

exempted under the low-wage provision?

A. No.

Q3. Should incentive pay be included in the calculation of straight-time hourly wages?

A. Yes.

[FR Doc. 79-39661 Filed 12-26-79; 9:27 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 906 and 944

[Texas Orange and Grapefruit Reg. 31, Amdt. 1; Orange Import Reg. 10, Amdt. 1]

Oranges and Grapefruit Grown in Texas; Fruits: Import Regulations; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments extend current grade and size requirements for oranges and grapefruit grown in Texas, and for oranges imported into the United States through November 9, 1980. Unless extended, these requirements would expire December 31, 1979. Extension of these requirements is necessary to assure the continued shipment of oranges and grapefruit, and importation of oranges, of acceptable grades and sizes, for the rest of the 1979-80 season, in the interest of producers and consumers.

DATES: Effective January 1, 1980, through November 9, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha (202) 447-5975.

SUPPLEMENTARY INFORMATION: Findings. The amendment to the Texas orange and grapefruit regulation currently in effect (§ 906.362 Texas Orange and Grapefruit Regulation 31; 44 FR 62475) is issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The amendment to the orange import regulation currently in effect (§ 944.309 Orange Import Regulation 10; 44 FR 62475) is issued under § 8e (7 U.S.C. 608e-1) of this act. The grade and size requirements applicable to Texas oranges and grapefruit were recommended by the Texas Valley Citrus Committee, which locally administers this marketing program. Notice of these proposed amendments

was published in the December 3, 1979, issue of the Federal Register (44 FR 69303). No comments were received during the 15 days provided in the notice.

These grade and size requirements reflect the Department's appraisal of the need for regulating oranges and grapefruit during the period January 1, 1980, through November 9, 1980, based on the available supply and demand conditions.

The Texas orange crop for the 1979-80 season is estimated at 4,000,000 boxes (85 pounds net weight), compared with 6,400,000 boxes produced in 1978-79. The Texas grapefruit crop for the 1979-80 season is estimated at 6,500,000 boxes (80 pounds net weight), compared with 9,000,000 boxes produced in 1978-79.

The committee estimates that about 55 percent of the Texas orange crop, and 60 percent of the Texas grapefruit crop will be needed to fill the demand in the regulated domestic market, Canada, and Mexico. The balance will be available for other markets such as the fresh export market, the processed products market, and the local unregulated market within the production area. Fresh shipments of Texas oranges and grapefruit meet considerable competition in major markets from citrus produced in other areas of the country. This season, 1.6 percent of the nation's orange supply and 6.7 percent of the nation's grapefruit supply is expected to be produced in Texas. More than adequate supplies of fresh oranges and grapefruit should be available to fill domestic market demands.

Under these amendments, Texas oranges and imported oranges are required to grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1), or U.S. No. 2; and be at least 2 1/16 inches in diameter (size 288's). Texas grapefruit are required to grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, or U.S. No. 2, and be at least 3 1/16 inches in diameter (size 96's) except that grapefruit which are at least 3 3/16 inches in diameter (size 112's) may be shipped if they grade at least U.S. No. 1.

The grade and size requirements for imported oranges are consistent with § 8e of the act. This section requires that when specified commodities, including oranges, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced

commodity, grown in the area in most direct competition with the imported commodity.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that amendment of the regulations, as hereinafter set forth, is necessary to establish and maintain orderly marketing conditions, and that such action is in accordance with this marketing agreement and order, and will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for making the provision hereof effective as hereinafter set forth in that (1) shipments of Texas oranges and grapefruit and imported oranges are currently regulated by grade and size through December 31, 1979, and these regulatory requirements will expire at such time unless extended; (2) the Texas orange and grapefruit and orange import regulations should be extended to cover, insofar as practicable, all of this season's shipments of Texas oranges and grapefruit, as well as all oranges imported into the United States over a corresponding period, in order to effectuate the declared policy of the act; (3) notice of the proposed extension of the current regulations for oranges and grapefruit grown in Texas and for oranges imported into the United States was published in the December 3, 1979, issue of the Federal Register (44 FR 69303), and no comments relating to the proposed amendments or their effective date were received during the 15 days provided; (4) the recommendations upon which the current regulation and this amendment for Texas oranges and grapefruit are based were developed by the committee at an open meeting on October 2, 1979, after due notice thereof, and all interested persons present were given an opportunity to express their views; (5) the regulatory requirements herein specified for Texas oranges and grapefruit and imported oranges are the same as those in the proposed amendments; (6) the requirements of the amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such import requirements mandatory; (7) such amendment to the import regulation imposes the same grade and size requirements on imports of oranges as are being made applicable

to shipments of oranges grown in Texas; (8) the Department has determined that imported oranges are in most direct competition with oranges grown in Texas under M.O. 906; (9) the effective date of the domestic and import regulation, if reasonably practicable, should be identical; and (10) three days notice thereof, the minimum prescribed by said § 8e, is given with respect to this import regulation.

This final rule has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Analysis is available from Melvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250. Telephone: (202) 447-5975.

Accordingly, it is found that § 906.362 Texas Orange and Grapefruit Regulation 31, and § 944.309 Orange Import Regulation 10, should be and are amended to read as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN TEXAS

§ 906.362 Texas Orange and Grapefruit Regulation 31.

(a) During the period January 1, 1980, through November 9, 1980, no handler shall handle any variety of oranges or grapefruit grown in the production area unless:

(1) Such oranges grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1), or U.S. No. 2;

(2) Such oranges are at least pack size 288, as such size is specified in § 2851.691(c) of the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 288 oranges in any lot shall be 2 1/4 inches;

(3) Such grapefruit grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, or U.S. No. 2;

(4) Such grapefruit are at least pack size 98, as such size is specified in § 2851.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 98 grapefruit in any lot shall be 3 1/4 inches: *Provided*, That any handler may handle grapefruit smaller than pack 98, provided such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, as such size is specified in the aforesaid U.S. Standards for Grapefruit, except that the minimum

diameter limit for pack size 112 grapefruit in any lot shall be 3 1/4 inches;

(5) An appropriate inspection certificate has been issued for such fruit within 48 hours prior to the time of shipment; and

(6) The fruit meets all the applicable container and pack requirements effective under this marketing agreement and order.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and diameter shall mean the same as in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona), (7 CFR 2851.680-2851.714) or in the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), (7 CFR 2851.620-2851.653).

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.309 Orange Import Regulation 10.

(a) *Applicability to Imports.* Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations the importation into the United States of any oranges is prohibited during the period January 1, 1980, through November 9, 1980, unless such oranges meet the minimum grade and size requirements specified in § 906.362 Texas Orange and Grapefruit Regulation 31.

(b) It is hereby determined that imported oranges are in most direct competition with oranges grown in the Lower Rio Grande Valley in Texas, and that the requirements specified in this section for imported oranges are the same as those for Texas oranges in § 906.362 Texas Orange and Grapefruit Regulation 31.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of oranges that are imported into the United States. Inspection by the Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective Service, applicable to the particular shipment of oranges, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the

Procedure for Requesting Inspection and Certification (7 CFR Part 944.400)

(d) The term "importation" means release from custody of the United States Customs Service.

(e) Any person may recondition any shipment of oranges prior to importation, to make it eligible for importation.

(f) *Minimum quantity exemption:* Any person may import up to ten 1/4 bushel cartons, or equivalent quantity, of oranges exempt from the requirements specified in this section.

(Secs. 1-19, 46 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 21, 1979, to become effective January 1, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division
Agricultural Marketing Service.

[FR Doc. 79-39729 Filed 12-27-79. 8:45 am.]
BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 232]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period Dec. 30, 1979-Jan. 5, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: December 30, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on December 18, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during

the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Melvin E. McGaha, 202-447-5975.

§ 910.532 Lemon Regulation 232.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 30, 1979, through January 5, 1980, is established at 175,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 46 Stat. 31, as amended; 7 U.S.C. 601-674)

Charles R. Brader,
Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 79-39399 Filed 12-27-79; 12:15 pm]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the counties of Chase, Hitchcock, and Sioux in Nebraska to the list of Certified Brucellosis-Free areas and delete such

counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas.

EFFECTIVE DATE: December 28, 1979

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the Federal Register (44 FR 36373-36375) effective June 22, 1979.

These amendments update the complete list. These amendments add the counties of Chase, Hitchcock, and Sioux in Nebraska to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.21(1) of the regulations.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following states, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States:* Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama: Dale, Geneva.

Arkansas: Baxter, Bradley, Carroll, Columbia, Crittenden, Dallas, Drew, Fulton, Garland, Grant, Jefferson, Marion, Monroe, Montgomery, Newton, Ouachita, Stone, Union, Woodruff.

Florida: Baker, Bay, Calhoun, Citrus, Dixie, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton.

Georgia: Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb,

Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twigg, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho: Ada, Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Elmore, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois: Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa: Adair, Alameda, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Ringgold, Sac, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas: Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Coffey, Comanche, Crawford, Decatur,

Dickinson, Doniphan, Douglas, Edwards, Elsworth, Finney, Ford, Geary, Gove, Graham, Grant, Gray, Greeley, Hamilton, Harvey, Haskell, Hodgeman, Jewell, Johnson, Kearney, Kingman, Kiowa, Labette, Lane, Leavenworth, Lincoln, Logan, Marion, Marshall, Meade, Miami, Mitchell, Ness, Norton, Osage, Osborne, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Seward, Shawnee, Sheridan, Sherman, Smith, Stanton, Stevens, Sumner, Thomas, Trego, Wabauensee, Wallace, Washington, Wichita, Woodson, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Harrison.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Burt, Chase, Cheyenne, Clay, Colfax, Cuming, Dakota, Deuel, Dodge, Douglas, Franklin, Hitchcock, Jefferson, Lancaster, Nuckolls, Perkins, Sioux, Stanton, Thayer, Thurston, Washington, Wayne.

New Mexico. Catron, Colfax, De Baca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Quay, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia.

South Dakota. Aurora, Beadle, Eennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Grants, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchison, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Fentress, Grainger, Greene, Hamblen, Hancock, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Bandera, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill,

Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Tom Green, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States:* Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Cleveland, Conway, Craighead, Crawford, Cross, Desha, Faulkner, Franklin, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie,

Pulaski, Randolph, Saline, Scott, St. Francis, Searcy, Sebastian, Sevier, Sharp, Van Buren, Washington, White, Yell.

Florida. Alachua, Bradford, Brevard, Broward, Charlotte, Clay, Collier, Columbia, Dade, De Sota, Duval, Escambia, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia, Washington.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troups, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bonneville, Cassia, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Jo Daviess.

Iowa. Adams, Guthrie.

Kansas. Allen, Atchison, Barton,

Butler, Cloud, Cowley, Elk, Ellis,

Franklin, Greenwood, Harper, Jackson,

Jefferson, Linn, Lyon, McPherson,

Montgomery, Morris, Morton, Nemaha,

Necsho, Ottawa, Reno, Rice, Russell,

Sedgwick, Stafford, Wilson.

Kentucky. Adair, Allen, Anderson,

Ballard, Barren, Bath, Boone, Bourbon,

Boyd, Boyle, Bracken, Breckinridge,

Bullitt, Butler, Caldwell, Calloway,

Carlisle, Carroll, Carter, Casey,

Christian, Clark, Clinton, Crittenden,

Cumberland, Daviess, Edmonson, Elliott,

Estill, Fayette, Fleming, Franklin, Fulton,

Gallatin, Garrard, Grant, Graves,

Grayson, Green, Greenup, Hancock,

Hardin, Harrison, Hart, Henderson,

Henry, Hickman, Hopkins, Jackson,

Jefferson, Jessamine, Larue, Laurel,

Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Twigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hancock, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchinson, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Butler, Cass, Cedar, Cherry, Custer, Dawes, Dawson, Dixon, Dundy, Fillmore, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Holt, Hooker, Howard, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance,

Nemaha, Otoe, Pawnee, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Rock, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Thomas, Valley, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves,

Curry, Eddy, Lea, Mora, Roosevelt,

South Dakota. Faulk, Jones, Stanley,

Tennessee. Bedford, Benton, Bledsoe,

Bradley, Cannon, Carroll, Cheatham,

Chester, Clay, Cocke, Coffee, Crockett,

Cumberland, Davidson, Decatur,

DeKalb, Dickson, Dyer, Fayette,

Franklin, Gibson, Giles, Grundy,

Hamilton, Hardeman, Hardin, Hawkins,

Haywood, Henderson, Henry, Hickman,

Houston, Humphreys, Jackson, Jefferson,

Lauderdale, Lawrence, Lincoln, Loudon,

Macon, Madison, Marion, Marshall,

Maury, McMinn, McNairy, Monroe,

Montgomery, Moore, Obion, Overton,

Pickett, Putnam, Rhea, Rutherford,

Shelby, Smith, Stewart, Sumner, Tipton,

Trousdale, Warren, Washington,

Wayne, Weakley, White, Williamson,

Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Kames, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Rufugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Seurry, Shackelford, Shelby, Smith,

Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder, Garfield.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States:* Yellowstone National Park.

(b) *Specific Counties Within States.* Florida, Highlands, Okeechobee.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

These amendments designating areas as Certified Brucellosis-Free Areas relieve restrictions presently imposed on cattle moved in interstate commerce. These restrictions are no longer necessary to prevent the spread of brucellosis, and these amendments must be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and

preparation of an impact analysis statement at this time.
This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 20th day of December 1979.
M. T. Goff,
Acting Deputy Administrator, Veterinary Services.
[FR Doc. 79-39490 Filed 12-27-79; 8:45 am]
BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

Securities of Insured State Nonmember Banks; Proxy Statements, Reports and Other Matters; Correction

AGENCY: Federal Deposit Insurance Corporation.
ACTION: Final rule; correction.

SUMMARY: In FR Doc. 79-36526 at page 67627 in the Federal Register of Tuesday, November 27, 1979, certain incorrect references were made and words omitted.

The errors are corrected as set forth below.

1. "Item 6(g)" is substituted for "Item 6(i)" in the second line of the DATES paragraph in the second column of page 67627 and in the last line of paragraph B in the first column of page 67628.
2. The word "Exchange" in the last line of § 335.41, Item 6(d)(2) in the first column of page 67633 is deleted.
3. The clause " * * * or in the case of a group, \$5,000 for each person in the group.", is inserted after the term "\$5,000" in § 335.51, Item 7, Instruction 2(b)(ii)(B) in the second column on page 67640.

DATE: This correction is effective on December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Gerald J. Gervino, Attorney, or Louis E. Wright, Financial Analyst, Federal Deposit Insurance Corporation, 550 Seventeenth Street, NW., Washington, DC 20429 202/389-4422 or 389-4651.

Dated: December 19, 1979.
Federal Deposit Insurance Corporation,
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 79-39575 Filed 12-27-79; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 79-680]

Members of Banks; Reduction of Liquidity Deficiency Penalties

December 21, 1979.
AGENCY: Federal Home Loan Bank Board.
ACTION: Final rule.

SUMMARY: Member institutions are required to maintain certain percentages of their funds in liquid assets. Failure to do so may result in assessment of a penalty. This rule changes the manner of calculating reduction of a liquidity deficiency penalty when the deficiency is caused by aggregate net savings withdrawals. This change is intended to liberalize liquidity deficiency penalty requirements. Institutions may use the old rule or the new rule in calculating deficiencies for the months of December 1979 through March 1980; for later months, the new rule is applicable.

EFFECTIVE DATE: December 21, 1979.
FOR FURTHER INFORMATION, PLEASE CONTACT: Dwight L. Arnall, Regional Supervisor, Office of Examinations and Supervision (202-377-6522), or Patricia C. Trask, Attorney, Office of General Counsel (202-377-6442), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Federal Home Loan Bank System member institutions (except certain mutual savings banks and insurance companies) are required by 12 CFR 523.10 to maintain liquidity levels set out in that section. If an institution has a liquidity deficiency at the end of a calendar month, a penalty may be imposed.

Existing provisions of 12 CFR 523.12 allow an institution to reduce any deficiency in the first two months of each interest distribution period (generally, a calendar quarter) by these amounts: (a) in the first month, by the amount of aggregate net withdrawals from withdrawable accounts occurring during the last 3 business days of the previous month and the first 10 calendar days of the current month; (b) in the second month, by one-half the amount used as a reduction in the first month. There is no provision for a reduction in the third month.

By Resolution No. 79-380 dated July 12, 1979, the Board proposed to amend subparagraph (a)(2) of 12 CFR 523.12 to liberalize the bases for calculating reduction of the penalty. Published at 44 FR 41827 on July 18, 1979, the proposal

was open for public comment until September 17, 1979. As proposed, the amendment would permit member institutions to reduce a liquidity deficiency caused by aggregate net withdrawals from withdrawable accounts on a monthly basis, rather than on the basis of a quarterly interest distribution period. Thus, the penalty for a liquidity deficiency could be avoided monthly when there is a net savings outflow. In the following month, even if there is a net savings gain, a liquidity deficiency penalty would still be reduced to the extent that the gain did not recoup the previous month's loss of savings. On the basis of comments received and other material available to it, the Board is adopting regulatory amendments substantially as proposed, with modifications discussed later in this section.

Discussion of comments. The Board received 27 public responses which overwhelmingly favored the changes for reasons stated in the proposal, the most important of which was recognition of the trend away from distributing interest on savings deposits on a quarterly basis due to the expanded types of accounts now offered, such as money market and other certificates, which have various terms to maturity. Since savings deposits and withdrawals are no longer concentrated in the last 3 days of the distribution period and the first 10 days of the next distribution period, the present formula is no longer appropriate.

Two respondents urged the Board to reduce the liquidity requirements because of present economic conditions. Although this request falls outside the scope of this proposal, it is noted that the Board acted on October 25 to reduce these requirements.

One respondent advocated elimination of penalties for the following reasons: (a) assessment of such penalties is inconsistent with methods of enforcing violations of other regulations; (b) it is nearly impossible to fairly administer a waiver, compromise or other provision of this section; and (c) enforcement of liquidity requirements is counter-productive to good relationships with member institutions which lead to effective supervision of other matters.

The Board does not agree with the statement that it is nearly impossible to fairly administer waivers, compromises or other provisions of this section. Liquidity deficiency penalties are expressly authorized by Section 5A(c) of the Federal Home Loan Bank Act and serve as a powerful deterrent to violation of the liquidity regulations.

One respondent noted that the proposed system may have a severe retroactive impact, and strongly urged

that some transition period be considered. For example, associations are, under the present regulations, calculating reduction of liquid deficiencies on a quarterly distribution period basis. Under this system, any reduction has already been calculated for the final distribution period of 1979, i.e., 100% of the amount of net savings withdrawals occurring during the last three business days of September and the first ten calendar days of October were already applied to reduce any liquid deficiency at the end of the month of October, and one-half of that amount used to reduce any end-of-month deficiency in November. If the proposed system were to be effective in the middle of a distribution period, an association which had a net savings gain at the end of the second month of that period would not be able to reduce any liquidity deficiency by the amount permitted under present regulations. Thus, financial planning would be disrupted, and penalties previously unanticipated would be imposed.

The Board agrees with this comment, and the regulation has been modified accordingly. An institution may elect to complete the current quarterly interest distribution period using the old method, or change to the new system, whichever is more convenient and provides greater relief. The Board intends this new method of calculating the penalty reduction to be available for the month of December so that penalties may be reduced immediately. Furthermore, in calculating deficiencies for the first 3 months of 1980, members may use the old or new system, at their option. Beginning in April, the new system is required.

It was suggested by one respondent that members with a strong reserve position should be given the choice of averaging liquid deficiencies on a quarterly or semi-annual basis so that liquidity may be used without penalty when possible. Considering the purpose of the liquidity requirements, the Board does not consider it appropriate to permit institutions to meet them by averaging on a quarterly or semi-annual basis. Such averaging could result in institutions being in an unsatisfactorily illiquid position for a substantial period of time.

Several respondents were unsure of the meaning of certain references in the proposal, and asked for these clarifications:

(a) Is the allowed reduction for any month calculated on net savings withdrawals for the current or preceding month?

(b) In the following month, is the reduction one-half of the preceding month's allowed reduction?
(c) Was subparagraph (a)(2)(iii) intended to refer to "distribution period" or "month"?

Explanation of final amendment. Since several respondents asked for revision or clarification of the proposed changes, the Board believes it will be helpful to explain by example how the new rule works, and how it differs from the old rule.

Under the old rule, an institution would determine, each quarter, whether there were aggregate net savings withdrawals during the last three business days of the previous month and

the first ten calendar days of the current month. Assuming that the institution had a liquidity deficiency, it could then be reduced by the amount of aggregate net savings withdrawals. In the second month of the quarter, one-half of that amount could be applied against any deficiency, regardless of its cause. There was, however, no relief for the third month.

The following illustration of the old rule assumes that there are three successive months of net savings withdrawals and, further, that there is a liquidity deficiency in each of those months. Under the old rule, the reduction would be as follows in each month.

	Net savings withdrawals	Net savings gains	Liquidity deficiency	Amount deficiency is reduced	Net liquidity deficiency
January	\$1,000,000		\$1,000,000	\$500,000	\$500,000
February	1,000,000		1,000,000	250,000	750,000
March	1,000,000		1,000,000		1,000,000

* Net savings withdrawals for the first 10 calendar days and the preceding 3 business days aggregated \$500,000.

Under the method adopted by the Board today, the monthly reduction would be figured as shown below, with all of each month's aggregate net savings withdrawals plus one-half of the previous month's withdrawals not recovered the following month being used to reduce the deficiency.

	Net savings withdrawals	Net savings gains	Liquidity deficiency	Amount deficiency is reduced	Net liquidity deficiency
January	\$1,000,000		\$1,000,000	\$1,000,000	
February	1,000,000		1,000,000	1,500,000	
March	1,000,000		1,000,000	1,500,000	

In a month during which there is a net savings gain, no liquidity reduction is available, except that there would be a reduction of 50% of any net savings loss for the preceding month not recovered during the current month. This is illustrated below.

	Net savings withdrawals	Net savings gains	Liquidity deficiency	Amount deficiency is reduced	Net liquidity deficiency
January		\$300,000	\$1,000,000		\$1,000,000
February	\$500,000		1,000,000	\$500,000	500,000
March		200,000	1,000,000	150,000	650,000

The Board finds that publication of this amendment for the 30-day notice period specified in 5 U.S.C § 553(d) and 12 CFR 508.14 prior to its effective date is unnecessary because immediate adoption relieves restriction and is in the public interest.

Accordingly, the Board amends paragraph (a) of 12 CFR 523.12 to read as set forth below.

1. Revise paragraph (a) of 12 CFR 523.12 to read as follows:

§ 523.12 Deficiencies and penalties.

(a) Calculation of deficiency.

(2) A member, other than an insurance company, may reduce any deficiency under subparagraph (a)(1) of this section as follows, provided that no such reduction may reduce a member's liquidity requirements below 4 percent of its liquidity base at the end of the immediately preceding month:

(i) *Old rule.* For the first month of a current distribution period, by the amount of its aggregate net withdrawals (excess of withdrawals over cash savings received) from withdrawable accounts during the last 3 business days of the immediately preceding month and the first 10 calendar days of the current month, and for the second month of the same distribution period, by one-half of such amount of aggregate net withdrawals.

(ii) *New rule.* For each month, by the amount of aggregate net withdrawals (excess of withdrawals over cash savings received) from withdrawable accounts during the month, and by one-half of the amount of the preceding month's aggregate net withdrawals not recovered.

(iii) *Effective Dates.* Reduction of any deficiency must be calculated under subdivision (a)(2)(i) for all months through November 1979. For all months beginning with December 1979 through and including March 1980, reduction may be calculated under either subdivision (a)(2)(i) or (a)(2)(ii). For all months beginning April 1980, reduction shall be calculated under subdivision (a)(2)(ii).

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437; sec. 5A, 83 Stat. 401; 12 U.S.C. 1425a. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 79-39602 Filed 12-27-79; 8:45 am]
BILLING CODE 6720-01-M

12 CFR Part 563

[No. 79-682]

Federal Savings and Loan Insurance Corporation Operations; Guidelines Concerning Director Interlocks—Disclosure Requirements

December 21, 1979

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board is currently considering the advisability of proposing to delete certain of its guidelines regarding the composition of an insured institution's board of directors because these guidelines appear to have been superseded by the Management Interlocks Act. Under the current rule, an institution not in conformity with the guidelines must come into compliance before the end of the audit period preceding its 1980 annual meeting or must file an Annual Report Form. This

amendment, which is effective immediately, is intended to preserve the section 206 Management Interlocks Act "grandfather" rights of directors currently serving on the boards of insured institutions, while allowing the Board a one year period in which to propose, if warranted, the deletion of the guidelines, and to take final action on any proposal.

EFFECTIVE DATE: December 21, 1979.
FOR FURTHER INFORMATION, CONTACT: Kathleen Topelius, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-6444).

SUPPLEMENTARY INFORMATION: The Board is currently studying the advisability of formally proposing to delete § 563.33(a)(5) of its Conflict of Interest regulations (12 CFR 563) because the prohibitions contained in the Interlocks Act (title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. 3201 *et seq.*)) appear to effectively supercede the (a)(5) guidelines which govern the composition of an insured institution's board of directors.

The Board is aware that a number of insured institutions have directors currently serving on their boards whose continued service after December 31, 1979, violates the § 563.33(a)(5) guidelines, thereby triggering disclosure under § 563.45 of the Insurance Regulations. Because the deletion of § 563.33(a)(5) is currently being studied, the Board believes that it would be inequitable and unnecessarily burdensome to require an insured institution to prepare, disseminate to its membership, and file an Annual Report Form in those cases where disclosure is triggered solely because the institution's board of directors was not in compliance with the (a)(5) guidelines at the end of the audit period immediately preceding the institution's 1980 annual meeting.

The Board has, therefore, amended § 563.45(b)(3)(i) to provide that an insured institution need not prepare an Annual Report Form for the audit period preceding its 1980 annual meeting if the sole trigger for disclosure was the institution's noncompliance with the guidelines set forth in § 563.33(a)(5). The amendment, which is effective immediately, is intended to allow an insured institution's management officials, whose service is grandfathered under section 206 of the Interlocks Act, to continue to serve the insured institution even though that continued service results in the institution's noncompliance with the (a)(5)

guidelines. The amendment to § 563.45 will avoid the application of the disclosure requirements until the Board has had sufficient time to propose, if warranted, the deletion of § 563.33(a)(5), and to take final action on any proposed amendments before the end of 1980.

The Board has determined, in accordance with section 553(b) of the Administrative Procedure Act (5 U.S.C. § 553(b)) and with § 508.11 of the Board's General Regulations (12 CFR 508.11), that notice and public procedure are impracticable. Without an immediate extension of time for compliance, many insured institutions that are not presently in conformity with § 563.33(a)(5) will be required to conform or to disclose prior to December 31, 1979, which is, for many insured institutions, the end of the annual audit period. Therefore, implementation of the amendment as a final rule is essential to avoid unnecessary disruption to the directorates of affected institutions while the advisability of a proposal to delete § 563.33(a)(5) is carefully evaluated. The Board has also determined that publication of this amendment for 30 days prior to its effective date, as specified in 5 U.S.C. section 553(d) and 12 CFR 508.14, is unnecessary for the same reason.

Accordingly, the Board hereby amends § 563.45 of the Rules and Regulations for Insurance of Accounts to read as follows:

§ 563.45 Disclosure.

(b) *Exemptions from paragraph (a).* Paragraph (a) shall not apply to an insured institution:

(3) If (i) the composition of the board of directors of such institution is in accordance with the guidelines set forth in § 563.33(a) as of the end of its audit period immediately preceding the annual meeting, except that (a) an institution whose directors are elected for three-year staggered terms need not be in compliance with the guidelines set forth in § 563.33 (a)(1), (a)(2), (a)(3), and (a)(4) until the end of the audit period immediately preceding its 1980 annual meeting; and (b) an institution need not be in compliance with the guidelines set forth in § 563.33(a)(5) until the end of the audit period immediately preceding its 1981 annual meeting;

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg.

Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 79-39603 Filed 12-27-79; 8:45 am]
BILLING CODE 6720-01-M

12 CFR Part 563

[No. 79-681]

Insurance of Accounts; Amendments Relating to Acquisition Credit Subject to Deferral

December 21, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has amended its accounting rules for institutions insured by the Federal Savings and Loan Insurance Corporation by increasing the level of loan acquisition fees that such institutions may take into current income. The Board believes this change is necessary to reflect the increased cost of mortgage loan originations since the rules were last amended in 1973. The amendments are applicable to loans closed on or after January 1, 1979.

EFFECTIVE DATE: December 21, 1979.
FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, (202-377-6445), or Thomas F. Timmins, Deputy Director, Office of Examinations and Supervision (202-377-6545), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Paragraph (d) of § 563.23-1 of the Board's Rules and Regulations for Insurance of Accounts (12 CFR 563.23-1) provides that mortgage loan acquisition credits, defined in subparagraph 563.23-1(g)(3) as any consideration other than the average interest provided by the loan contract, must be accounted for in a deferred income account and be credited to income over a period of not less than ten years unless the loan is sold earlier. Subparagraph 563.23-1(g)(4) provides a deductible in the amount of the acquisition credit subject to deferral; the present deductible is the greater of: (1) \$50, (2) two percent of the loan amount for construction loans, or (3) one percent of the loan amount for other loans, plus \$200 if the institution's employees perform appraisal, attorney, or loan closing services for which no escrow fee is charged. The Board has determined that the maximum deductible should be increased for loans closed on or after January 1, 1979. The

new deductible will be the greater of: (1) \$50, (2) two and one-half percent of the loan amount for construction loans, or (3) two percent of the loan amount for other loans, plus \$400 if the institution's employees perform appraisal, attorney, or loan closing services for which no escrow fee is charged.

The current limits, which were last revised in 1973, were intended to assure that acquisition credits are not used to distort current income figures. The Board believes, based on its experience since the limits were last revised, that the current limits are unnecessarily restrictive. In the Board's view, the revised limitations will continue to prevent overstating of current income, without unnecessarily restricting fair reflection of income earned during the loan origination process.

The change in regulations will result in larger flows of current income which should help the industry through the current and projected future period of depressed earnings. The Board's staff has projected that the change will increase net income (after taxes) from loan fees by 20%, or approximately \$200 million in the first half of 1980.

Since the amendments relieve restriction, the Board finds that notice and public procedure are unnecessary under the provisions of 5 U.S.C. § 553(b) and 12 CFR 508.11, and finds that delay of effective date for 30 days after publication pursuant to 12 U.S.C. § 553(d) and 12 CFR 528.14 is unnecessary for the same reason.

Accordingly, the Federal Home Loan Bank Board hereby amends paragraph (g)(4)(i) and the first sentence of paragraph (g)(4)(ii) of § 563.23-1 to read as follows:

Subchapter D—Rules and Regulations for Insurance of Accounts

PART 563—OPERATIONS

§ 563.23-1 Premiums, charges, and credits with respect to mortgage loans; sale of real estate owned; and related items.

(g) *Definitions.* For the purpose of this section:

(4) The term "acquisition credit subject to deferral" means for loans closed on or after January 1, 1979, the amount of an acquisition credit in excess of

(i) The greater of:
(a) Fifty dollars, or
(b) Two and one-half percent of the amount of the loan, if the loan or commitment is for the purpose of construction, or

(c) Two percent of the amount of the loan, if the loan or commitment is for any other purpose; plus

(ii) Four hundred dollars, if, with respect to the loan, the insured institution uses its own employees to perform appraisal services or to perform attorney or closing functions for which no escrow fee is received. * * *

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 79-39604 Filed 12-27-79; 8:45 am]
BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 6]

Organization and Functions

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: Due to extensive reorganization within the Small Business Administration, Part 101—Administration is revised as it pertains to organization, function, and listing of field offices.

DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Amos B. Cheeseboro, Office of Personnel Services (202-653-6630).

SUPPLEMENTARY INFORMATION: Inasmuch as this Part sets forth the Agency's organization and procedures, notice of proposed rulemaking and public procedure thereon are not required by section 553 of Title 5 of the United States Code.

Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, 13 CFR 101 is revised as set forth below.

A. Vernon Weaver,
Administrator.

Title 13, Code of Federal Regulations is amended by revising Part 101 to read as follows:

PART 101—ADMINISTRATION

Sec.

- 101.1 Purpose, function, general organization.
- 101.2 Organization and functions of the Central Office—Administrator.
- 101.2-1 Office of Equal Employment Opportunity and Compliance.
- 101.2-2 Office of Hearings and Appeals.
- 101.2-3 General Counsel.

Sec.

- 101.2-4 The Inspector General.
 101.2-5 Chief Counsel for Advocacy.
 101.2-6 National Advisory Councils (Staff).
 101.2-7 Associate Deputy Administrator for Programs.
 101.2-7a Associate Administrator for Finance and Investment.
 101.2-7b Associate Administrator for Procurement Assistance.
 101.2-7c Associate Administrator for Management Assistance.
 101.2-8 Associate Administrator for Minority Small Business and Capital Ownership Development.
 101.2-9 Associate Administrator for Policy, Planning, and Budgeting.
 101.2-10 Associate Deputy Administrator for Support Services.
 101.2-10a Assistant Administrator for Congressional and Legislative Affairs.
 101.2-10b Assistant Administrator for Personnel Management.
 101.2-10c Assistant Administrator for Data and Management Services.
 101.2-10d Assistant Administrator for Public Communications.
 101.3 Organization and Functions of Field Offices.
 101.3-1 Listing of field offices.

Authority: Secs. 4 and 5, Pub. L. 95-536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); Sec. 308, Pub. L. 95-699, 72 Stat. 694 (15 U.S.C. 637, as amended); 5(b)(11) Pub. L. 93-386 (Aug. 23, 1974); and 5 U.S.C. 552.

§ 101.1 Purpose, function, general organization.

(a) *Purpose.* To aid, counsel, assist, and protect the interests of small business concerns and to help victims of disasters.

(b) *Functions.*

(1) *Procurement and technology assistance.* To insure that a fair proportion of the total Government purchases and contracts or subcontracts for property and services for the Government be placed with small business enterprises by, among other things, certifying as to the competency of small business concerns to perform such contracts, or subletting contracts to small business concerns on which the Agency is prime contractor; to insure that a fair proportion of the total sales of Government property be made to small business enterprises; and to assure that small businesses obtain the benefit of Government sponsored research and development.

(2) *Management assistance.* To improve the management skills of owners, potential owners, and managers of small business concerns with direct action programs and through established channels of business relations; to provide technical and product assistance to small business concerns; and to inventory productive facilities of small business concerns.

(3) *Financial assistance.* To make loans to small business concerns and to

victims of floods or other catastrophes, including loans to small business concerns suffering economic injury as a result of displacement by Federal construction, inability to process products for human consumption because of undetermined disease, and need to make changes in facilities or methods of operation because of various Federal laws imposing safety and health requirements; to make direct or band participation loans on the basis of certifications made by the Secretary of Commerce to assist firms, large and small, to adjust to changed economic conditions resulting from increased competition from imported articles; and to make loans to state and local development companies for purpose of assisting small business concerns.

(4) *Guaranteeing surety bonds.* To guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment or performance bonds.

(5) *Small business investment companies.* To provide venture capital in the form of equity financing and long-term loan funds to small business concerns and provide advisory services to such concerns through small business investment companies; to license small business investment companies, regulate the operations of such companies, and purchase or guarantee the purchase of debentures from small business investment companies to supplement their capital requirements for the financing of small business concerns.

(6) *Advocacy of small business interests.* To protect the interests of small businesses as they may be adversely affected by activities of other parts of this chapter.

(7) *Further functional description.* The more detailed program functions of the Agency are set forth in other sections of this part and other parts of this chapter.

(c) *General organization.* (1) Management of the Small Business Administration is vested in an Administrator appointed by the President with the advice and consent of the Senate. The Administrator is authorized to appoint three associate administrators under the Small Business Act and one associate administrator under the Small Business Investment Act. The Administrator is authorized to appoint a Deputy Administrator who shall be Acting Administrator of the Administration during the absence or disability of the Administrator or in the event of a vacancy in the Office of the Administrator. The Administrator is authorized, subject to the Civil Service and Classification Laws, to select, employ, appoint and fix the

compensation of such officers, employees, attorneys and agents as shall be necessary to carry out the provisions of the Small Business Act and the Small Business Investment Act. Authority to the field offices flows from the Administrator to the Regional Administrators.

(2) The headquarters of the Small Business Administration is located at 1441 L Street N.W., Washington, D.C. 20416.

(d) *Applicable law.* (1) Loans made by SBA are authorized and executed pursuant to Federal programs adopted by Congress to achieve national purposes of the U.S. Government.

(2) Instruments evidencing a loan, obligation of security interest in real or personal property payable to or held by the Administration or the Administrator, such as promissory notes, bonds, guaranty agreements, mortgages, deeds of trust, and other evidences of debt or security shall be construed and enforced in accordance with applicable Federal law.

(3) In order to implement and facilitate these Federal loan programs, the application of local procedures, especially for recordation and notification purposes, may be utilized to the fullest extent feasible and practicable. However, the use of local procedures shall not be deemed or construed to be any waiver by SBA of any Federal immunity from any local control, penalty, or liability.

(4) Any person, corporation, or organization that applies for and receives any benefit or assistance from SBA, or that offers any assurance or security upon which SBA relies for the granting of such benefit or assistance, shall not be entitled to claim or assert any local immunity to defeat the obligation such party incurred in obtaining or assuring such Federal benefit or assistance.

§ 101.2 Organization and functions of the Central Office—Administrator.

(a) *National Advisory Council—Small Business Administration.* The National Advisory Council of the Small Business Administration is composed of representatives from each of the District Advisory Councils and Members-at-Large from each of the regions. These representatives are persons actively engaged in small business or finance, or in services or professions related to small business including the fields of labor, law, accounting, insurance, education, real estate, and the news media. These members, particularly qualified by their knowledge of an interest in small business, are able to contribute substantially to the Agency

and the small business community. All members are selected by the Administrator and serve at the pleasure of the Administrator without compensation. The council meets with and advises the Administrator on the development, execution, and evaluation of present or proposed SBA programs. All functions are purely advisory and all determinations of actions to be taken are made solely by the responsible SBA officials.

(b) *Offices within the Office of the Administrator include:*

- (1) Office of Equal Employment Opportunity and Compliance
- (2) Office of Hearings and Appeals
- (3) General Counsel
- (4) Inspector General
- (5) Chief Counsel for Advocacy
- (6) National Advisory Councils (Staff)

All officials heading the functions 101.2 through 101.2-10 are located in the Central Office in Washington, D.C. The Administrator is responsible to the President and Congress for exercising direction, authority and control over the Small Business Administration. The Administrator determines and approves all policies covering the programs to aid, counsel, assist and protect the interests of the Nation's small business concerns. The Administrator delegates responsibility and authority, except the authority to approve or disapprove: Pool loans; Applied research programs; and Defense production pools, as set forth in sections 7(a)(8), 9(d), and 11 of the Small Business Act, to the Deputy Administrator, associate Administrators, and other Central Office officials reporting directly. The administrator consults with Federal, State, and local agencies in behalf of small business interests in the national economy; reports to the President and Congress on Agency program accomplishments and problems; maintains as a responsibility of the office the activities related to equal employment opportunity within SBA, audits and investigations and formal review of size appeals cases; periodically evaluates the performance, accomplishments, and short-range and long-range planning goals of the Central Office officials reporting directly to him.

§ 101.2-1 Office of Equal Employment Opportunity and Compliance.

Develops and recommends policies concerning the Equal Employment Opportunity and Compliance (EEO&C) programs. Makes the final decision on discrimination complaints and orders corrective measures, except when otherwise specified by the Administrator; recommends disciplinary action when discriminatory practices

are found. Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's civil rights, equal employment opportunity, and compliance programs and activities. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Serves as principal liaison with other Federal agencies and nonfederal organizations concerned with civil rights. Also serves as the Agency's equal employment opportunity officer, civil rights coordinator, and compliance officer. Directs, coordinates, and administers compliance programs and activities executed by Central Office staff. Provides advice, assistance, and support to the Administrator in relation to the EEO&C programs.

§ 101.2-2 Office of Hearings and Appeals.

Conducts administrative hearings and other proceedings in connection with appeals, grievances, and other disputes in the Small Business Administration. Hearings and other proceedings are held to adjudicate disputes, decide appeals, or recommend decisions pertaining to such matters as: SBIC enforcement proceedings; termination of 0(a) program participation; adjudication of complaints of discrimination, where the complainant is an applicant for, or recipient of assistance from SBA, or any other complainant with a complaint of discrimination covered by Parts 112 and 113 of SBA's Rules and Regulations. Title 13 C.F.R.: revocation of applicant representative's privilege to appear before SBA; size appeals; and personnel grievances (in their formal stage). Handles other such matters as may be assigned from time to time by the Administrator. Develops and implements Agency policies and procedures to effectively strengthen and improve dispute-related decision making in SBA. Consults with program and staff offices as necessary to fulfill assigned responsibilities. May recommend changes in existing regulations and laws to improve the process of dispute-related decision making within the Agency.

§ 101.2-3 General Counsel.

Develops plans, procedures, and standards for providing legal services in support of SBA program operations, including execution of loan closing and litigation activities by Agency counsel. Develops and recommends policies governing SBA legal functions and activities. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates legal program effectiveness,

including onsite visits to evaluate field office performance. Analyzes and interprets legislation, regulations, and orders relating to the operation of the Small Business Administration. Advises the Administrator, Deputy Administrator, and all other SBA officials on the legal aspects of the development and execution of policies and programs. Negotiates with Federal agencies as to the legal aspects of matters pertaining to the responsibilities of SBA and drafts resultant agreements. Develops legal theories incorporated in requests to the Comptroller General or to other Federal agencies for decisions in matters of interest to small business. Provides legal counsel, advice, and assistance to Central Office officials in connection with financial, investment, administrative, technical, procurement and management assistance, and minority enterprise programs, and in the formation of defense production and research and development pools, in matters of Agency administration, and in connection with any other matter having legal implications for the Agency. Within approved policies, gives direct legal advice and assistance to the field offices and exercises technical supervisory responsibility with respect to legal functions in the field offices. Also, advises on eligibility of applicants for assistance from SBA. Advises with respect to servicing and liquidation of loans. Assists and participates with the Department of Justice in litigation arising from delinquent loans, and other SBA program activities. Prosecutes administrative proceedings pursuant to the Small Business Investment Act. Reviews legislative proposals affecting small business and develops recommendations for the Office of Management and Budget and congressional committees; prepares legislative proposals relating to SBA; and develops reports for congressional hearings or the Office of the President. Serves as Agency designee to the Administrative Conference of the United States. Serves as Chairperson of the Standards of Conduct Committee. Serves as legal advisor to the Size Appeals Board. Maintains liaison with the governmental and other agencies having activities related to the legal and advocacy functions of the Agency.

§ 101.2-4 The Inspector General.

To effectuate the Congressional intent underlying enactment of Public Law 95-452, which Act mandates the establishment of independent and objective offices within enumerated executive agencies to provide leadership and coordination and recommend policies designed to promote economy,

efficiency, effectiveness, and prevent and detect fraud and abuse in the administration of Agency programs and operations, the Office of the Inspector General shall: Develop and implement plans, procedures, and standards for the conduct, by that Office, of audits, investigations, and inspections relating to Agency programs, operations, personnel, and physical security; Report the findings of such audits, investigations, and inspections to appropriate Agency officials; which report shall include recommendations designed to assist in the development and implementation of measures to correct deficiencies noted in the programs and operations so reviewed; Monitor the nature, scope, and results of remedial or other action taken by Agency officials in response to such findings and recommendations and report to the Administrator and/or the Audit Committee on the status of such action and on the continuing existence of significant deficiencies requiring remedial action to ensure protection of the Agency's programs and operations; Review existing and proposed legislation and regulations relating to Agency programs and operations to determine their impact on the economy and efficiency of, or on the prevention and detection of fraud and abuse in, such programs and operations; Prepare on a semi-annual basis, and more frequently if necessary, a report for the Administrator and appropriate committees of Congress which shall include but not necessarily be limited to a description of significant deficiencies and abuses disclosed by the Inspector General's activities, the nature of the recommendations for corrective action made by that Office, the status of remedial or other action instituted by Agency officials on the basis of these findings and recommendations, and a summary of those criminal matters referred by the Inspector General directly to the Attorney General for further investigative or prosecutive action; Effect liaison with appropriate Federal, State, and local governmental agencies and non-governmental entities as may be necessary to meet office responsibilities as they relate to the economy, efficiency, integrity, and security of Agency programs and operations; and Initiate such other action as the Inspector General may deem to be reasonable and necessary in carrying out the office's responsibilities pursuant to Public Law 95-452 and regulations promulgated pursuant thereto.

§ 101.2-5 Chief Counsel for Advocacy.

Under the direction of the Administrator, directs the planning and development of government-wide public policies and administrative vehicles which enforce a nationwide program of advocacy of small business; serves as chief spokesman for such program; and carries out the mandate of Pub. L. 94-305. Responsible for ensuring that major government-wide policy directions enhance the economic viability of the largest possible number of small businesses. This includes direct management of the Women-in-Business program. Ensures that the end results of such policies and administrative procedures in furtherance of the statutory requirement include, but are not limited to the following: (a) expanding small business in such a way as to enhance equal employment opportunities; (b) working toward improving the tax structure in order to improve the viability and growth of small business; (c) addressing all major Federal functions impinging on small business with the proper guidance, direction, and instruction to assure a uniformity of purpose and approach which benefits small business and promotes or stimulates competition; and (d) developing approaches to the ways and means of educating and training existing and potential small business persons, and developing incentives for entrepreneurship which assure equality of access to such entrepreneurs. Works with all programs and all regions of SBA in assuring concerted and uniform policy interpretation and implementation. Directs the analysis of economic trends, the changing impacts of government expenditures and tax policies, and of government regulations on the growth of the small business sector in our economy; provides appropriate evaluation and assessment tools with which to measure successful implementation of the Advocacy effort. Serves on or is represented on and works with all members of the Administrator's Management Board to ensure exchange of information between the Office of Advocacy and the rest of SBA about programs and activities.

§ 101.2-6 National Advisory Councils (Staff).

Develops and recommends policy concerning the Advisory Council Program of the Agency. Implements approval Agency policy in this regard. Develops plans and procedures, including effective liaison with small business trade and professional associations, as well as those associations serving small business. Provides advice, assistance, and support

to the Associate Deputy Administrator for Programs in relation to the Regional Advisory Councils. When appropriate, works with ADA/P in the utilization of field personnel in this regard. Plans, organizes, and participates in the meetings of National Advisory Councils. Participates with and assists through ADA/P, field personnel in the meetings of Regional Advisory Councils. Coordinates all resolutions adopted by all Advisory Councils for appropriate actions and replies. When appropriate, presents resolutions adopted by Regional Councils to the National Council for their consideration. Keeps Central Office officials informed of the activities of the Councils as they relate to their functional areas of responsibility. Assists and works with the AA/F&I or that officials designee for the Administrator's determination in planning, organizing, and participating in the meeting of the National Small Business Investment Company Advisory Council.

§ 101.2-7 Associate Deputy Administrator for Programs.

Develops plans, operating procedures, and standards to effect, strengthen, and improve the Agency's programs of financial, procurement, and management assistance designed to meet the existing and potential needs of the small business community by increasing the coordination between programs in the delivery of SBA services in the field. Develops and recommends policies concerning the Agency's programs of financial, management, and procurement assistance which include all aspects of the lending programs, procurement/contracting opportunities, and consultant services to individual small businesses. Promotes the effective and efficient operations of these programs to enhance the assistance provided to the small business community by assuring that these programs work in concert. Provides direction to field offices for program implementation and field service delivery of programs. Represents the Administrator as delegated in negotiations with other Government agencies whose activities relate to these program areas. Provides direction and emphasis in the coordination of the Agency's financial, management, and procurement assistance programs to achieve the overall Agency objectives. Plans, arranges, and participates in periodic high level conferences between SBA Central and field office officials on matters involving program or policy issues. Conducts reviews and evaluations of regional and district office operations in management of all

Agency program areas. Coordinates reviews with and communicates findings to Assistant and Associate Administrators not reporting directly to ADA/P. Formulates a system of goals, policies, procedures, and regulations for regional management that reflects and implements the basic objectives and goals of the Agency. Coordinates and communicates field goals for all programs and Agency activities. Reviews priorities, objectives, and program targets established by program offices. Recommends the ordering of integrated priorities, consistent with national goals. Ensures proper coordination and liaison with members of SBA Central Office Management Board for proper development, implementation, and field delivery of specified program activities.

§ 101.2-7a Associate Administrator for Finance and Investment.

Develops plans, operating procedures, and standard to effectively strengthen and improve the Agency's finance and investment programs designed to meet the existing and potential needs of the small business community. Develops and recommends policies concerning the financial assistance programs, including related activities of liquidation and disposal. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Plans, directs, and administers the small business investment company (SBIC) and 301(d) programs, including licensing, lending, and regulations to effectively strengthen and improve the Agency's programs of venture capital assistance to small businesses. Provides technical advice, assistance, and support to the Associate Deputy Administrator for Programs relating to finance and investment program matters. Represents the Administrator as specifically delegated in negotiations with other Government agencies whose activities relate to the finance and investment program area. Plans, directs, and administers the Agency's disaster operations through contingency planning, administration during the disaster, and disaster maintenance. Recommends physical and product disaster declarations to the Administrator. Maintains liaison with other Government agencies and individual Congressmen and committee staff members relating to the disaster program. Serves as a member of the Size Appeals Board.

§ 101.2-7b Associate Administrator for Procurement Assistance.

Develops plans, operating procedures, and standards to effectively strengthen, and improve the Agency's procurement assistance programs, which includes Government property sales assistance, to meet the existing and potential needs of the small business community. Develops and recommends policies pertaining to the procurement assistance mission of the Agency. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Promotes nationwide the Agency's procurement assistance programs to increase the participation of small business concerns in Government procurement awards and sales of Government property. Provides technical advice, assistance, and support to the Associate Deputy Administrator for Programs relating to procurement assistance matters. Represents the ADA/P in negotiations with other Federal agencies whose activities relate to Procurement Assistance program areas. Serves as a member of the Size Appeals Board. Operates as Small Business conduit for technology advancement.

§ 101.2-7c Associate Administrator for Management Assistance.

Develops and recommends policies concerning the management assistance and international trade programs. Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's management information and training, management counseling, and management contracts, other than 7(j), programs to meet existing and potential needs of the small business community. Develops plans, operating procedures, standards, goals, and objectives for providing management assistance through volunteer or contract activity, including marketing analyses, feasibility and/or engineering studies to applicant-borrowers, COC, and 8(a) recipients. Develops and recommends policies concerning Agency use of volunteer management assistance groups, such as SCORE (Service Corps of Retired Executives) and ACE (Active Corps of Executives) and maintains active liaison on behalf of SBA with such groups. Administers the SCORE, ACE, and other volunteer program activities on an Agency-wide basis, with accent on recruitment and expansion of these programs in connection with borrower-related management assistance. Develops and recommends policies and procedures which emphasize the effectiveness of management assistance

to borrowers. Develops and recommends policies and procedures for the administration of the Small Business Institute Program. Develops and implements policies to carry out the Agency's International Trade Program. Develops and recommends policies and procedures to carry out the Agency's Small Business Development Center Program. Provides technical advice, assistance, guidance, and support to Central Office officials with respect to the management assistance programs. Maintains liaison with other SBA organizational components and other Federal agencies on matters relating to the management assistance program.

§ 101.2-8 Associate Administrator for Minority Small Business and Capital Ownership Development.

Develops and recommends plans and procedures for use and administration of the Agency's 7(j) program pursuant to Public Law 95-507 to foster small business ownership by individuals that own and control limited productive capital. Develops, recommends, and promotes policies for use and administration of contracts or grants providing financial assistance to public or private organizations who furnish technical and management assistance to individuals or small business concerns eligible for assistance under the small business, capital ownership development, and economic opportunity loan programs. Confers with top representatives of industry, trade associations, local government, and community action groups to enlist their substantial participation and involvement in the MSB&COD program. Promotes their cooperation in the development of minority enterprises and entrepreneurs in the disadvantaged areas. Negotiates basic agreements with industries for establishment of local outlets and franchises and for the provision of management and technical assistance and other types of support. Establishes procedures and policies for a continuing surveillance and evaluation program for MSB&COD activities, including the 8(a), 7(j), and other MSB&COD operations in regional and district offices. The program also includes monitoring and evaluating the operations of SBA and other programs as these operations affect MSB&COD activities and, the preparation of comprehensive reports to the AA/MSB&COD. Establishes standards and promotes a program of incentives and assistance to businesses (placing subcontracts with such small businesses) that will aid in the training and upgrading of potential subcontractors or other small business

concerns eligible for assistance under sections 7(i), 7(j), 8(a), and 8(d) of the Small Business Act, as amended, because of ownership and control by socially and economically disadvantaged individuals. Establishes standards for providing management, technical and financial services as may be necessary to 8(a) program participants as set forth in 7(j)(10) of the Small Business Act, as amended. Develops standards for selection of projects eligible for Agency funding, assuring statutorily-required preference for projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and 8(a) eligible small businesses and determined the appropriate use of the different types of financial assistance, i.e., by grants, contracts, or agreements, as required by section 7(j) of the Small Business Act, as amended. Serves in this capacity, in cooperation with the Associate Administrator for Procurement Assistance (AA/PA), Associate Administrator for Finance and Investment (AA/F&I), and the Assistant Administrator for Management Assistance (AA/MA) at other interagency meetings involving negotiations with Federal agencies whose activities relate to the MSB-COD programs. Confers with top representatives of industry, trade associations, local government, and community action groups to enlist their substantial participation and involvement in the MSB&COD program. Promotes their cooperation in the development of minority enterprises and entrepreneurship in the disadvantaged areas. Negotiates basic agreements with industries for establishment of local outlets and franchises and for the provision of management and technical assistance and other types of support. Coordinates with and invites participation by AA/PA in meetings and conferences that include representatives of manufacturing and construction industries. Works with the AA/PA in the development of policies and procedures governing the combined MSB-COD and PA effort to involve minorities in the manufacturing, construction and related service industries. Maintains liaison and cooperation with the Committee on Small Business and Minority Business Ownership regarding placement of subcontracts with small business concerns located in areas with high concentrations of unemployed or low-income individuals, with small businesses owned by low-income individuals and with small businesses

eligible to receive contracts under the 8(a) program.

§ 101.2-9 Associate Administrator for Policy, Planning, and Budgeting.

Coordinates the development of Agency policy, plans, programs, goals, and objectives as they relate to planning, policy, and budgeting. As the principal planning officer of the Agency, develops and directs the preparation of Agency program memoranda as required by the Office of Management and Budget and coordinates with program offices in the developing and maintaining of the SBA Five-Year Plan. Develops policies, plans, systems, and procedures to effectively strengthen and improve the planning and program evaluation functions of the Agency and all of its program activities. Directs and ensures the conduct of economic, cost benefit, program analysis, and special studies of Agency activities to provide the Administrator and program managers with alternative courses of action and policy. Directs the development of and recommends new and changed size standards for all SBA programs. Is responsible for the determination and interpretation of the SBA size standards and serves as a Member of the Size Appeals Board. Conducts studies, in cooperation with program offices, involving across-the-board investigations of SBA programs to measure their effectiveness in terms of costs, benefits, and other considerations. Serves as the central analytical staff to review and evaluate, in conjunction with appropriate program offices, evaluation studies submitted to the Administrator. Represents the Administrator in negotiations with the Office of Management and Budget, Congressional Appropriations Committees, GAO, Treasury Department, and other agencies on budgeting, accounting, and fiscal matters. Responsible to the Administrator for the Agency's overall budgeting, accounting, and fiscal activities.

§ 101.2-10 Associate Deputy Administrator for Support Services.

Develops plans, systems, procedures, and standards for the effective coordination of the Agency's personnel management services, data and management services, congressional and legislative affairs, and public communications programs. Develops goals and objectives for the above Agency program and reviews and evaluates their effectiveness. Guides the development of systems and evaluative techniques to increase the productivity of these programs and the reduction in

unnecessary administrative procedures. Directs the establishment and development of coordinated management information systems to assure that effective and efficient services are being provided to the small business community. Directs the Agency's efforts in implementing, not only the letter but the intent, of the Civil Service Reform Act, including revision of personnel systems and overall increase in management authority and responsibility. Directs the Congressional and Legislative Affairs programs to develop, not only increased congressional awareness of the Agency's objectives, but also increased sensitivity of Agency officials to the needs of the Congress. Represents the Administrator, as delegated, in negotiations with other Government agencies whose activities relate to these program areas.

§ 101.2-10a Assistant Administrator for Congressional and Legislative Affairs.

Develops and recommends plans, procedures, and standards to effectively strengthen and improve the Congressional relations and legislative affairs programs of the Small Business Administration. Develops Congressional and legislative affairs program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Provides advice, assistance, and support to the Administrator and other Central Office officials relative to the Congressional and legislative affairs programs. Serves as liaison with Members of Congress, Congressional Committees, Commissions, and Executive Agencies in relation to program matters which relate to Congressional or legislative affairs as they affect the SBA. Keeps the Administrator and key officials of the Agency informed of the activities of Congressional Committees as they relate to the programs and activities of SBA. Assures timely and proper submission to Congress of legislative proposals affecting small business. In this regard, coordinates with Congressional Committees regarding dates and witnesses necessary to hearings on new or existing legislation. Ensures coordination of all Congressional testimony with the Chief Counsel for Advocacy, other appropriate program officials, and the Office of the General Counsel. Oversees responsibility for commenting on legislation (other than that prepared by SBA or OMB) and is responsible for final assessment of all Agency comments before submission to the Administrator on such legislation.

Maintains knowledge, through liaison with Congress, of all pending legislation which will affect small business. Coordinates the preparation of testimony and later responses on all legislation affecting SBA, and that needed in the case of oversight, budgetary, and all other hearings.

Maintains liaison with the Office of Management and Budget regarding Administration clearance of Agency testimony, position, and comments concerning legislation which affects the SBA.

§ 101.2-10b Assistant Administrator for Personnel Management.

Develops and recommends policies concerning the personnel programs and related activities. Develops plans, procedures, and standards to effectively strengthen and improve the Agency's personnel program, including position classification, recruitment, selection, placement, promotion, separation, pay and wage administration, labor-management relations, performance evaluation and incentives, grievances and appeals, conduct and discipline, training and career development, personnel records management, employee services, and safety. Plans, directs, coordinates, and executes Agency-wide personnel management program reviews. Provides technical advice, assistance, and support to the ADA/SS and other Central Office Officials relating to the personnel program. Reviews and processes all field office personnel actions requiring Central Office approval. Maintains liaison with the Office of Personnel Management in matters relating to the development, interpretation, and application of personnel regulations and procedures. Develops plans, and establishes standards to provide for effective analysis and improvement of the Agency organization. Maintains an organizational plan which describes the structure and functions of the organizational units and the location and geographical responsibilities of the field offices, etc. Directs the conduct of organizational studies as requested by the Administrator or other top management officials of SBA, or on a continuing basis as necessitated by changes in staffing requirements and/or shifts in program emphasis or direction. Maintains a personnel information system. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Coordinates and administers the Central Office fund drives.

§ 101.2-10c Assistant Administrator for Data and Management Services.

Develops plans, systems, procedures, and standards for effective implementation of data management and management services programs, including emergency preparedness activities. Develops data management and information systems and procedures to effectively strengthen and improve the planning, program evaluation, loan accounting, management assistance, procurement assistance, minority small business, and internal administrative accounting and personnel functions of the Agency. Responsible for development of plans, operating procedures, and standards to effectively strengthen and improve the provision and management of data processing, data communications, computer systems analysis and management science services within SBA. Represents the Associate Deputy Administrator for Support Services as delegated, in negotiations with other Government agencies on matters relating to office programs and activities, and develops goals and objectives for Agency management support and data management activities. Reviews and evaluates their effectiveness.

§ 101.2-10d Assistant Administrator for Public Communications.

Develops plans, operating procedures, and standards to improve and present the Agency's public communications efforts. Coordinates field implementation of these efforts through Assistant Regional Administrators for Public Affairs and Communication (ARAPACs) and field Public Information Officers (PIOs). Develops and recommends public communications program goals and objectives. Reviews and evaluates program effectiveness. Establishes and maintains liaison with the news media, trade associations, chambers of commerce, and similar groups to promote their involvement in informing the public about the contributions of, and opportunities in, small business, and agency policies, programs, and objectives. Directs dissemination of information to print and electronic media about the activities, plans, policies, and actions of the Agency to keep the general public, and especially the small business community, fully informed. Directs the preparation and issuance of news releases, statements, pamphlets, and other informational materials. Develops and recommends policies governing Agency audio-visual, graphic, photographic, and typesetting activities. Directs the preparation of speeches for the Administrator and other key SBA

officials, and provides a continuous flow of information to Management Board members. Directs and plans news conference held by the Administrator and other Management Board officials, and background briefings for the media by Agency officials. Directs development of Agency guidelines for making information and/or records available for public use in conformance with the Freedom of Information Act and Privacy Act. Directs preparation of the Agency's annual report to the President and Congress; acts as Agency historian. Provides information and assistance to Assistant Regional Administrators for Public Affairs and Communication regarding the public communications efforts of the Agency. Directs implementation of internal communications effort, including dissemination of employee newsletter and videotaped educational and information materials. Directs orientation program for visitors to the Central Office through which international and domestic visitors are supplied with information about the operation and management of SBA programs. Directs program to respond to general inquiries (written, telephonic, or in person) from the public.

§ 101.3 Organization and functions of the Field Offices.

(a) *Regional office.* An SBA office, headed by a regional administrator, it is the principal field office of the Agency, responsible and responsive to the Central Office. The city locations and geographical boundaries of each of the 10 regional offices were designated by the President in a statement on May 2, 1969. Such office exercises full authority and supervisory responsibility for: (1) The execution of all field activities within the region; (2) supervision of all district offices within the region.

(b) *District office.* An SBA office headed by a district director, located in a city designated by the Administrator within a defined, limited, and contiguous geographical area within the region. Such office is responsible and responsive to the regional office for the region in which it is located. Except for restrictions based on delegations of authority, the district office has full authority and supervisory responsibility for: (1) The execution of all field activities within the district boundaries; (2) supervision of all branch offices and post-of-duty stations located within the district boundaries; and (3) providing subordinate branch offices and post-of-duty stations within the technical capability necessary to execute assigned programs.

(c) *Branch office.* An SBA office headed by a branch manager, located in a city designated by the Administrator within a defined, limited, contiguous geographic area, within a district. Such office is directly responsible and responsive to the district office within whose boundaries it is located. It executes one or more elements of the business or disaster loan programs and has limited authority for program execution.

(d) *Post-of-duty station.* An SBA office headed by an officer-in-charge, located in a city designated by the Administrator within a district. Such office is directly responsible and responsive to the district office within whose boundaries it is located. It performs tasks required to promote and support the business and disaster loan programs and procurement and management assistance activities. It has no authority for program execution.

§ 101.3-1 Listing of field offices.

(a) *Region I.* Regional Office, 60 Battery Street, Boston, MA 02110. Has jurisdiction over the following district offices and posts-of-duty:

(1) 150 Causeway Street, Boston, MA 02114. Serves Massachusetts.

(2) 302 High Street, Holyoke, MA 01050 (post-of-duty). Serves the following counties in Massachusetts: Berkshire, Franklin, Hampden, and Hampshire.

(3) 40 Western Avenue, Augusta, ME 04330. Serves Maine.

(4) 55 Pleasant Street, Concord, NH 03301. Serves New Hampshire.

(5) One Financial Plaza, Hartford, CT 06103. Serves Connecticut.

(6) 87 State Street, Montpelier, VT 05602. Serves Vermont.

(7) 40 Fountain Street, Providence, RI 02903. Serves Rhode Island.

(b) *Region II.* Regional Office, 26 Federal Plaza, New York, NY 10007. Has jurisdiction over the following district offices, branch offices, and posts-of-duty:

(1) 26 Federal Plaza, New York, NY 10007. Serves the following counties in New York: Bronx, Delaware, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

(2) 401 Broad Hollow Road, Melville, NY 11747 (post-of-duty). Serves the following counties in New York: Nassau and Suffolk.

(3) Chardon and Bollivia Streets, Hato Rey, PR 00918. Serves the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

(4) Veterans Drive, St. Thomas, VI. 00801 (post-of-duty). Serves the U.S. Virgin Islands.

(5) 970 Broad Street, Newark, NJ 07102. Serves New Jersey.

(6) 1800 East Davis Street, Camden, NJ 08104 (post of duty). Serves the following counties in New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem.

(7) 100 South Clinton Street, Syracuse, NY 13260. Serves the following counties in New York: Albany, Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Warren, Washington, Wayne, Wyoming, and Yates.

(8) 111 West Huron Street, Buffalo, NY 14202 (branch office). Serves the following counties in New York: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming.

(9) 180 State Street, Elmira, NY 14901 (branch office). Serves the following counties in New York: Broome, Chemung, Schuyler, Steuben, Tioga, and Tompkins.

(10) 99 Washington Avenue, Albany, NY 12210 (post-of-duty). Serves the following counties in New York: Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, and Washington.

(11) 100 State Street, Rochester, NY 14614 (post-of-duty). Serves the following counties in New York: Livingston, Monroe, Ontario, Seneca, Wayne, and Yates.

(c) *Region III.* Regional Office, 231 St. Asaphs Rd., Bala Cynwyd, PA 19004. Has jurisdiction over the following district and branch offices:

(1) 231 St. Asaphs Rd., Bala Cynwyd, PA 19004. Serves Delaware and the following counties in Pennsylvania: Adams, Berks, Bradford, Bucks, Carbon, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.

(2) 100 Chesnut Street, Harrisburg, PA 17101 (branch office). Serves the following counties in Pennsylvania: Adams, Clinton, Cumberland, Dauphin, Juniata, Lancaster, Lebanon, Lycoming,

Mifflin, Montour, Northumberland, Potter, Snyder, Tioga, Union, and York.

(3) 20 North Pennsylvania Avenue, Wilkes-Barre, PA 18702 (branch office). Serves the following counties in Pennsylvania: Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, and Wyoming.

(4) 844 King Street, Wilmington, DE. 19801 (branch office). Serves Delaware.

(5) 8600 LaSalle Road, Towson, MD 21204. Serves Maryland, except the counties of Montgomery and Prince Georges.

(6) 109 North Third Street, Clarksburg, WV 26301. Serves West Virginia.

(7) Charleston National Plaza, Charleston, WV 25301 (branch office). Serves the following counties in West Virginia: Boone, Braxton, Cabell, Calhoun, Clay, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, Wayne, Webster, Wirt, and Wyoming.

(8) 1000 Liberty Avenue, Pittsburgh, PA 15222. Serves the following counties in Pennsylvania: Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntington, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland.

(9) 400 North Eighth Street, Richmond, VA 23240. Serves Virginia, except the counties of Arlington, Fairfax, and Loudoun.

(10) 1030 Fifteenth Street, NW., Washington, DC 20416. Serves the District of Columbia, the Maryland counties of Montgomery and Prince Georges, and the Virginia counties of Arlington, Fairfax and Loudoun.

(d) *Region IV.* Regional Office, 1375 Peachtree Street, NE., Atlanta, GA 30309. Has jurisdiction over the following district offices, branch offices, and posts-of-duty:

(1) 1720 Peachtree Street, NW., Atlanta, GA 30309. Serves Georgia.

(2) 908 South 20th Street, Birmingham, AL 35205. Serves Alabama.

(3) 230 S. Tryon Street, Charlotte, NC 28202. Serves North Carolina.

(4) 215 South Evans Street, Greenville, NC 27834 (post-of-duty). Serves the following counties in North Carolina: Beaufort, Bertie, Brunswick, Camden, Carteret, Currituck, Chowan, Columbus, Craven, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Hertford, Hyde, Jones, Lenoir, Martin, Nash, New Hanover, Onslow, Pamlico, Perquimans, Pasquotank, Pitt, Pender, Tyrell,

Washington, Wayne, Wilson, and Northampton.

(5) 1835 Assembly Street, Columbia, SC 29201. Serves South Carolina.

(6) 100 West Capitol Street, Jackson, Miss. 39201. Serves Mississippi.

(7) 111 Fred Haise Blvd., Biloxi, Miss. 39530 (branch office). Serves the following counties in Mississippi: Forest, George, Greene, Hancock, Harrison, Jackson, Lamar, Marion, Pearl River, Perry, Stone.

(8) 400 West Bay Street, Jacksonville, FL 32202. Serves the following counties in Florida: Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Orange, Putnam, Santa Rosa, St. Johns, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington.

(9) 600 Federal Place, Louisville, KY 40201. Serves Kentucky.

(10) 2222 Ponce de Leon Blvd., Coral Gables, FL 33134. Serves the following counties in Florida: Brevard, Broward, Charlotte, Collier, Dade, De Soto, Florida Keys, Glades, Hardee, Hendry Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Monroe, Okeechobee, Osceola, Palm Beach, Pasco, Pinellas, Polk, St. Lucie, and Sarasota.

(11) 700 Twigs Street, Tanipa, FL 33602 (post-of-duty). Serves the following counties in Florida: Hillsborough, Pinellas, Polk, and Pasco. (Circuit rider to Manatee and Hendry).

(12) 404 James Robertson Parkway, Nashville, TN 37219. Serves Tennessee.

(13) 502 Gay Street, Knoxville, TN 37902 (branch office). Serves the following counties in Tennessee:

Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Clacke, Cumberland, Fentress, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington.

(14) 167 North Main Street, Memphis, TN 38103. Serves the following counties in Tennessee: Fayette, Hardeman, Haywood, Lauderdale, Shelby, Tipton.

(d) *Region V.* Regional Office, 219 South Dearborn Street, Chicago, IL 60604. Has jurisdiction over the following district offices, branch offices, and posts-of-duty:

(1) 219 South Dearborn Street, Chicago, IL 60604. Serves Illinois.

(2) One North, Old State Capital Plaza, Springfield, IL 62701 (branch office). Serves the following counties in

Illinois: Adams, Alexander, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, De Witt, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Fulton, Gallatin, Greene, Hamilton, Hancock, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Logan, McDonough, McLean, Macon, Macoupin, Madison, Marion, Mason, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Tazewell, Union, Vermilion, Wabash, Washington, Wayne, White, Williamson, and Woodford.

(3) 1240 East Ninth Street, Cleveland, OH 44199. Serves the following counties in Ohio: Ashtabula, Carroll, Columbiana, Cuyahoga, Defiance, Erie, Fulton, Geauga, Harrison, Henry, Huron, Jefferson, Lake, Loraine, Lucas, Mahoning, Medina, Ottawa, Portage, Sandusky, Seneca, Stark, Summit, Trumbull, Tuscarawas, Wayne, Williams, and Wood.

(4) 85 Marconi Boulevard, Columbus, OH 43215. Serves the following counties in Ohio: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Brown, Butler, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Drake, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Guernsey, Hamilton, Hancock, Hardin, Highland, Hocking, Holmes, Jackson, Knox, Lawrence, Licking, Logan, Madison, Marion, Meigs, Mercer, Miami, Monroe, Montgomery, Morgan, Morrow, Muskingum, Noble, Paulding, Perry, Pickaway, Pike, Preble, Putnam, Richland, Ross, Scioto, Shelby, Union, Van Wert, Vinton, Warren, Washington, and Wyandot.

(5) 550 Main Street, Cincinnati, OH 45202 (branch office). Serves the following counties in Ohio: Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland, Montgomery, Preble, and Warren.

(6) 477 Michigan Avenue, Detroit, MI 48226. Serves Michigan.

(7) 540 W. Kaye Avenue, Marquette, MI 49855 (branch office). Serves the Upper Peninsula of Michigan.

(8) 575 North Pennsylvania Street, Indianapolis, IN 46204. Serves Indiana.

(9) 212 East Washington Avenue, Madison, WI 53703. Serves Wisconsin.

(10) 517 East Wisconsin Avenue, Milwaukee, WI 53202 (branch office). Serves the following counties in

Wisconsin: Dodge, Fond du Lac, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, Waukesha.

(11) 500 South Barstow Street, Eau Claire, WI 54701 (post-of-duty). Serves

the following counties in Wisconsin: Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Florence, Forest, Iron, Lincoln, Oneida, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau, Vilas, and Washburn.

(12) 12 South Sixth Street, Minneapolis, MN 55402. Serves Minnesota.

(e) *Region VI.* Regional Office, 1720 Regal Row, Dallas TX 75235. Has jurisdiction over the following district offices, branch offices, and posts-of-duty:

(1) 1100 Commerce Street, Dallas, TX 75242. Serves the following counties in Texas: Anderson, Archer, Baylor, Bell, Bosque, Bowie, Brown, Callahan, Camp, Cass, Cherokee, Clay, Coleman, Collin, Comanche, Cooke, Corywell, Dallas, Delta, Denton, Eastland, Ellis, Erath, Falls, Fannin, Franklin, Freestone, Grayson, Gregg, Hamilton, Harrison, Henderson, Hill, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Limestone, McLennan, Marion, Mills, Montague, Morris, Nacogdoches, Navarro, Palo Pinto, Panola, Parker, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shackelford, Shelby, Smith, Somervell, Stephens, Tarrant, Throckmorton, Titus, Upshur, Van Zandt, Wichita, Wilbarger, Wise, Wood, and Young.

(2) 100 South Washington Street, Marshall, TX 75670 (post-of-duty). Serves the following counties in Texas: Bowie, Cass, Gregg, Harrison, Marion, Panola, Rusk, Shelby, Upshur.

(3) 5000 Marbel Avenue, NE., Albuquerque, NM 87110. Serves New Mexico, except the sections of the Navajo Indian Reservation and the Ute Mountain Indian Reservation in New Mexico.

(4) 500 Dallas Street, Houston, TX 77002. Serves the following counties in Texas: Angeline, Austin, Brazoria, Brazos, Burleson, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Trinity, Tyler, Waller, Walker, Washington, and Warton.

(5) 611 Gaines Street, Little Rock, AR 72201. Serves Arkansas.

(6) 222 East Van Buren Street, Harlingen, TX 78550. Serves the following counties in Texas: Aransas, Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, San Patricio, Starr, Willacy, and Zapata.

(7) 3105 Leopard Street, Corpus Christi, TX 78408 (branch office). Serves the following counties in Texas:

Aransas, Brooks, Kleberg, Nueces, and San Patricio.

(8) 1205 Texas Avenue, Lubbock, TX 79401. Serves the following counties in Texas: Andrews, Armstrong, Bailey, Borden, Brewster, Briscoe, Carson, Castro, Childress, Cochran, Coke, Collingsworth, Cottle, Crane, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Foard, Gaines, Garza, Glascock, Gray, Hale, Hall, Hansford, Hardenman, Hartley, Haskell, Hemphill, Hockley, Howard, Hudspeth, Hutchinson, Jeff Davis, Jones, Kent, King, Knox, Lamb, Lipscomb, Loving, Lubbock, Lynn, Martin, Midland, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Runnels, Scurry, Sherman, Sterling, Stonewall, Swisher, Taylor, Terrell, Terry, Upton, Ward, Wheeler, Winkler, and Yoakum.

(9) 4100 Rio Bravo, El Paso TX 79902 (branch office). Serves the following counties in Texas: Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, and Terrell.

(10) 200 NW. 5th Street, Oklahoma City, OK 73102. Serves Oklahoma.

(11) 616 South Boston Street, Tulsa, OK 74119 (post-of-duty). Serves the following counties in Oklahoma: Adair, Cherokee, Craig, Creek, Delaware, Haskell, La Flore, Latimer, Mayes, McIntosh, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Rogers, Sequoyah, Tulsa, Wagoner, and Washington.

(12) 1001 Howard Avenue, New Orleans, LA 70113. Serves Louisiana.

(13) 500 Fannin Street, Shreveport, LA 71101 (post-of-duty). Serves the following parishes in Louisiana: Bienville, Bossier, Caddo, Caldwell, Catahoula, Clairborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, La Salle, Lincoln, Madison, Moorehouse, Natchitoches, Quachita, Red River, Richland, Sabine, Tensas, Union, Webster, West Carroll, and Winn.

(14) 727 East Durango Street, San Antonio, TX 78206. Serves the following counties in Texas: Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Burnet, Caldwell, Calhoun, Comal, Concho, Crockett, De Witt, Dimmit, Edwards, Fayette, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Irion, Jackson, Kames, Kendall, Kerr, Kimble, Kinney, La Salle, Lampasas, Lavaca, Lee, Live Oak, Llano, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Real, Refugio, San Saba, Schleicher, Sutton, Tom Green, Travis, Uvalde, Val Verde, Victoria, Webb, Williamson, Wilson, and Zavala.

(15) 300 East Eighth Street, Austin, TX 78701 (post-of-duty). Serves the following counties in Texas: Bastrop, Blanco, Burnet, Caldwell, Fayette, Gillespie, Hays, Lampasas, Lee, Llano, Mason, McCulloch, San Saba, Travis, and Williamson.

(f) Region VII. Regional Office, 911 Walnut Street, Kansas City, MO 64106. Has jurisdiction over the following district offices:

(1) 11150 Grande Avenue, Kansas City, MO 64106. Serves the following counties in Kansas and Missouri: Kansas: Allen, Anderson, Atchison, Bourbon, Brown, Cherokee, Coffey, Crawford, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Labette, Leavenworth, Linn, Marshall, Miami, Montgomery, Nemaha, Neosho, Osage, Pottawatomie, Shawnee, Wilson, Woodson, and Wyandotte. Missouri: Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Cedar, Chariton, Christian, Clay, Clinton, Cooper, Dade, Dallas, Daviess, De Kalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, Linn, Livingston, McDonald, Mercer, Morgan, Newton, Nodaway, Ozark, Pettis, Platte, Polk, Ray, St. Clair, Saline, Stone, Sullivan, Taney, Vernon, Webster, Worth, and Wright.

(2) 210 Walnut Street, Des Moines, IA 50309. Serves Iowa.

(3) Nineteenth and Farnum Streets, Omaha, NE 68102. Serves Nebraska, except the portion of the Pine Ridge Indian Reservation in Nebraska.

(4) One Mercantile Center, St. Louis MO 63101. Serves the following counties in Missouri: Andrain, Bollinger, Boone, Butler, Callaway, Camden, Cape Girardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Franklin, Gasconade, Howell, Iron, Jefferson, Knox, Lewis, Lincoln, Macon, Madison, Maries, Marion, Miller, Mississippi, Monroe, Montgomery, Moniteau, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Charles, St. Francois, Ste. Genevieve, St. Louis, St. Louis City, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Warren, Washington, and Wayne.

(5) 110 East Waterman Street, Wichita, KS 67202. Serves the following counties in Kansas: Barber, Barton, Butler, Chase, Chautaugua, Cheyenne, Clark, Clay, Cloud, Comanche, Cowley, Decatur, Dickinson, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jewell, Kearny, Kingman, Kiowa, Lane, Lincoln, Logan,

Lyon, McPherson, Marion, Meade, Mitchell, Morris, Morton, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Saline, Scott, Sedgwick, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Webaunsee, Wallace, Washington, and Wichita.

(g) Region VIII. Regional Office, 1405 Curtis Street, Denver, CO 80202. Has jurisdiction over the following district and branch offices:

(1) 721 Nineteenth Street, Denver, CO 80202. Serves Colorado, except the section of the Navajo Indian Reservation in Colorado.

(2) 100 East B Street, Casper, WY 82602. Serves Wyoming.

(3) 657 Second Avenue, North, Fargo, ND 58108. Serves North Dakota.

(4) 301 South Park Avenue, Helena, Montana 59601. Serves Montana.

(5) 125 South State Street, Salt Lake City, UT 84138. Serves Utah and the portion of the Goshute Indian Reservation in Nevada.

(6) 101 South Main Avenue, Sioux Falls, SD 57102. Serves South Dakota and the portion of the Pine Ridge Indian Reservation in Nebraska.

(7) 515 Ninth Street, Rapid City, SD 57701 (branch office). Serves the following counties in South Dakota: Butte, Custer, Fall River, Lawrence, Meade, Pennington, and Shannon.

(h) Region IX. Regional Office, 450 Golden Gate Avenue, San Francisco, CA 94102. Has jurisdiction over the following district offices, branch offices, and posts-of-duty:

(1) 211 Main Street, San Francisco, CA 94105. Serves California, except the counties of Imperial, Inyo, Kern (East Pt.), Lassen, Los Angeles, Modoc, Mono, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, San Luis Obispo, and Ventura.

(2) 1515 Clay Street, Oakland, CA 94612 (post-of-duty). Serves the following counties in California:

Alameda, Contra Costa, and Solano.

(3) 1229 N Street, Fresno, CA 93712 (branch office). Serves the following counties in California: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kern (west part), Kings, Madera, Mariposa, Merced, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tulare, Tuolumne, Tehama, Trinity, Yuba, and Yolo.

(4) 2800 Cottage Way, Sacramento, CA 95825 (post-of-duty). Serves the following counties in California: Amador, Butte, Calaveras, Colusa, Glenn, Nevada, Placer, Plumas,

Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yuba, and Yolo.

(5) 300 Ala Moana, Honolulu, HI 96850. Serves Hawaii and American Samoa.

(6) Pacific Daily News Building, Agana, Guam 96910 (branch office). Serves Guam and the Trust Territory of the Pacific Islands.

(7) 301 E. Stewart, Las Vegas, NV 89101. Serves Nevada and the California counties of Inyo, Lassen, Modoc, and Mono except the Fort Mohave Indian Reservation, the Duck Valley Indian Reservation, and the Goshute Indian Reservation. Additionally, serves the Fort McDermott Indian Reservation in Oregon.

(8) 50 South Virginia Street, Reno NV 89505 (post-of-duty). Serves the following counties in Nevada and California: Nevada: Carson, Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Washoe, White Pine, and Storey. California: Lassen, and Modoc.

(9) 350 S. Figueroa Street, Los Angeles, CA 90071. Serves the following counties in California: Kern (East part), Los Angeles, Orange, Santa Barbara, San Bernardino, San Luis Obispo, and Ventura.

(10) 3030 North Central Avenue, Phoenix, AZ 85012. Serves Arizona and the section of the Yuma Indian Reservation in California the section of the Colorado River Indian Reservation in California, the sections of the Fort Mohave Indian Reservation in California and Nevada, and the sections of the Navajo Indian Reservation in Colorado and New Mexico.

(11) 301 West Congress Street, Tucson, AZ 85715 (post-of-duty). Serves the following counties in Arizona: Cochise, Graham, Greenlee, Pima, and Santa Cruz.

(12) 880 Front Street, San Diego, CA 92188. Serves the California counties of Imperial, Riverside, and San Diego, except the Fort Yuma, Colorado River, and Fort Mohave Indian Reservations.

(i) Region X. Regional Office, 710 Second Avenue, Seattle, WA 98104. Has jurisdiction over the following district and branch offices:

(1) 915 Second Avenue, Seattle, WA 98174. Serves the following counties in Washington: Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, and Yakima.

(2) 1016 West Sixth Avenue, Anchorage, AK 99501. Serves Alaska.

(3) 101 Twelfth Avenue, Fairbanks, AK 99701 (branch office). Serves the

Alaska election districts of Barrow-Kobuk, Fairbanks-Yukon, and Yukon-Kuskokwim.

(4) 1005 Main Street, Boise, ID 83701. Serves Idaho with the following exceptions: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone. Serves the Oregon Counties of Baker, Grant, Harney, Malheur, Union and Wallowa, except the section of the Fort McDermitt Indian Reservation in Oregon.

(5) 1220 SW Third Avenue, Portland, OR 97204. Serves Oregon except Baker, Grant, Harney, Malheur, Union, and Wallowa counties. Serves the Washington counties of Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum.

(6) West 920 Riverside Avenue, Spokane, WA 99210. Serves the following counties in Washington and Idaho: Washington: Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman. Idaho: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone.

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CIVIL AERONAUTICS BOARD

14 CFR Part 270

[Regulation ER-1166; Economic Regulations, Enactment of Part 270; Docket: 36616]

Criteria for Designating Eligible Points

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts criteria that it will use to decide which communities should be designated eligible points. These criteria will be applied to communities that were deleted from an air carrier's certificate between 1968 and 1978, and to other communities in Alaska and Hawaii. Points that were listed on an air carrier's certificate on October 24, 1978 are already defined by the Act as eligible points and are not covered by this rule. This rule is required by the section of the Federal Aviation Act that guarantees essential air service to small communities that are eligible points.

DATES:

Effective: December 20, 1979.

Adopted: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics

Board 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5408.

SUPPLEMENTARY INFORMATION: By EDR-390, 44 FR 59242, October 15, 1979, the Board proposed criteria that would be applied to deleted communities to determine which should be designated eligible points under section 419(b) of the Federal Aviation Act. Section 419(b) requires that the Board, by rule, establish objective criteria for designating eligible points from the group of about 130 communities that were deleted from an air carrier's section 401 certificate between July 1, 1968 and October 24, 1978. Communities that are designated eligible points will be included in the small community program and guaranteed essential air service, even if it requires subsidizing a carrier's service at that point.

In EDR-390, the Board proposed that communities that were less than 30 road miles from a hub or 20 road miles from a section 419(a) eligible point would not themselves be designated as eligible. A hub was defined as "a point enplaning more than 0.05 percent of the total enplanements in the United States." A community more than 30 but less than 60 road miles from a hub would be eligible if it enplaned or had the potential for enplaning 20 passengers per day. A community more than 60 road miles from a hub would be eligible if it enplaned or had the potential for enplaning 10 passengers per day. A separate criterion was proposed for Alaskan points. They would be designated eligible if they explained or had the potential for enplaning 5 passengers per week. The proposal also made provision for designating additional points in Alaska and Hawaii that were never certificated as required by section 419(b)(1)(B).

Comments were filed by two Federal government agencies, six States, and eight local communities; they are discussed below.

General Issues

The State of Arizona and the Sandhills, N.C. Area Chamber of Commerce were concerned that the proposed criteria were too rigid and would be mechanically applied. They wanted the Board to be flexible in its approach so that the particular needs of each community could be considered before deciding which should be designated as eligible points.

The Texas Aeronautics Commission (TAC) objected to what it considered to be an undue focus in the proposal on the cost of the program to the Federal government. It viewed the major goal of the program as the promotion of air

service to small communities. It concluded that this required the Board to designate some communities as eligible points that do not meet the Board's traffic criteria even if it means subsidizing the service.

We agree with Arizona and Sandhills that the criteria should not be applied mechanically. We have therefore constructed them flexibly so that the individual circumstances of each community may be considered. The traffic criterion, for example, already has a sufficient cushion built into it. Communities that are more than 30 miles from a hub may present evidence that their traffic generating potential meets the Board's criterion for traffic levels even if their historic traffic level does not. Communities that would be excluded from the essential service program because of low traffic levels in the past may be designated eligible if the Board decided that the traffic generating potential there is sufficient to meet the criterion. In evaluating traffic, the Board will consider data submitted by the State and community, the reliability of the historic traffic data, the availability of alternative transportation, and the potential of the community for developing self-supporting air service or subsidized air service at a reasonable cost.

We believe that an isolation criterion that sets specific road mile standards for evaluating a community's eligibility is justified by the reasons for this criterion. The Board is adopting an isolation criterion based on mileage to exclude points from the essential service program that are located close enough to hubs or other eligible points to have reasonably convenient access to the national transportation systems without further Board action on their behalf. The isolation criterion will also avoid putting the Board in the position of guaranteeing essential air service at a point in competition with guaranteed, and possible subsidized, service at a nearby eligible point. Finally, it will avoid forcing the Board to guarantee and subsidize service that will have little chance of properly developing because of traffic diversion from convenient service nearby. The road mile standards are set low enough to accommodate all communities that truly need a Board guarantee of essential air service at their airport.

We do not agree with TAC's contention that the Board is placing too much emphasis on the cost of the program. Cost to the Federal government is one factor that Congress, in section 419(b)(2)(A), directed the Board to consider. It is only one of

several factors, however, that the Board will consider in determining whether to designate a community as an eligible point. The traffic threshold is set low enough so that candidate communities may qualify as eligible points even though their service will have to be subsidized. The traffic criterion is only intended to insure that the air service is in fact needed, that its cost will be reasonable, and that there is a reasonable chance for it to become self-supporting.

Alternate or Additional Criteria

Several commenters, while not necessarily objecting to the Board's proposed criteria, suggested other factors that should be considered in designating eligible points. Arizona and New Hampshire requested that there be an economic criterion giving depressed areas special consideration. Air service, they claimed, is essential to the recovery of depressed areas. They pointed out that the Federal government spends a great deal of money attempting to revitalize these areas and asserted that subsidized air transportation should be viewed as part of that effort.

The availability of public ground transportation to the hub was cited by several commenters as a factor the Board should consider in deciding whether a community should be eligible. DOT suggested that any community that has limousine or bus service to a hub or section 419(a) eligible point need not itself be designated as eligible, presumably even if it met the traffic and isolation criteria. On the other hand, several commenters asked that any community that lacks public ground transportation to a hub be designated eligible regardless of its isolation or traffic levels.

Sandhills and the New York Department of Transportation were concerned about the size and quality of air service available at the nearby hub. The type and level of service at the hub are, according to New York, a necessary element of the Board's isolation criterion. They therefore asked that the size of the hub and the existence of direct service from there to the point's community of interest also be a factor in determining eligibility.

Finally, DOT suggested that the likelihood of self-supporting air service being developed at the community also be considered. A non-isolated community would be designated eligible under this criterion if it could demonstrate that self-sufficient air service can be developed there within 12 months of its start. Isolated communities would have a lesser burden. These communities would only be required to

show that the subsidy cost of providing service there would not, after 1 year, exceed a limit based on either an appropriate per-passenger cost or some percentage of revenues or costs.

After considering all these alternatives, the Board agrees that most should be incorporated into the criteria.

The existence of public ground transportation to a hub is, for example, a factor we will use in determining the traffic generating potential of a community. A community with convenient ground transportation to a hub is less likely to enplane or have the potential for enplaning enough passengers to meet the traffic standards that we set. We agree, however, with DOT and the other commenters that the Board should give more emphasis to the availability of public ground transportation from the community to the hub and its other communities of interest. Doing so will conform the Board's practice more closely to the language in the Act that states that "the Board shall consider, among other factors, . . . the alternative means of transportation available to the residents of such point for access to the national transportation system and its principal communities of interest." We are therefore including the availability of alternative transportation in § 270.5. We do not agree that communities should automatically be excluded from the program solely because they have alternative transportation. That would be ignoring the other factors that Congress directed us to consider.

DOT's proposed test concerning the potential for developing self-supporting air service at the candidate community is also already a factor in our traffic criterion and we will state so explicitly in § 270.5. The traffic levels that were proposed were based on a DOT study that showed that points enplaning 10 passengers per day have a 75-percent chance of developing self-supporting air service. Using the traffic criterion in this manner allows us to objectively measure the probability of self-sufficient service being developed. Trying to forecast how well service will develop in 12 months and how much subsidy will be needed by then is otherwise too uncertain.

We are concerned about the needs of depressed areas, but are not adopting Arizona's suggestion that consideration be given to the economic condition of a community. Section 419 directs the Board to ensure the provision and maintenance of essential air service at eligible points. It does not appear that Congress intended for the Board to use section 419 to develop service at small communities on the basis of their

economic characteristics. The Board, however, is a member of the White House Rural Initiatives Program under which communities may be eligible for subsidy as part of a pilot program to develop air service there. The program is still in its initial phase.

Finally, we are concerned about the contentions in New York's proposal that the quality of service will be inadequate at nearby hubs when they are not large ones. An airport must enplane more than 132,000 passengers annually to qualify as a hub. This figure represents 0.05 percent of the total annual enplanements in the United States, as set out in "Airport Activity Statistics," a report published jointly by CAB and DOT. Any airport enplaning at least that number of people must, in the Board's judgment, be receiving enough air service to provide nearby communities with access to the national transportation system as well as connections, if not a direct flight, to their communities of interest. We will, however, in evaluating a community's traffic, consider the quality of air service that existed at the nearby hub.

Isolation Criterion

Several modifications were suggested to the Board's isolation criterion. Commenters questioned the manner of measuring distance to the hub. They suggested that driving time, rather than road miles, was the appropriate measure. Several commenters from Georgia, however, agreed with the Board proposal to measure distance by road miles. The New River Valley Airport Commission and DOT stated that if road miles are used, the Board should vary the qualifying distance depending on climatic and road conditions at the given community. The Utah Air Travel Commission and the Sandhills Chamber of Commerce proposed that a community's isolation be evaluated by measuring its distance from its principal community of interest rather than from its nearest hub.

The most frequent objection to the isolation criterion concerned its failure to include a separate test for the "most isolated" communities, points 90 to 100 miles from a hub. We did not propose a separate standard for these communities because it appeared that few deleted points would be in that category. The Department of Agriculture, however, asserted that the important question was not how many communities are affected but whether a separate criterion is needed. It claimed it is needed so that extremely isolated points, otherwise excluded from the essential service program, will have access to the national transportation

system. It suggested that these communities be designated eligible if they are more than 90 miles from a hub and enplane at least six passengers per day. Arizona and New Hampshire suggested 100 miles as the qualifying distance, and three and five passengers respectively as the traffic standard. Other commenters called for separate criteria for the most isolated communities without suggesting specific qualifying distances or enplanement levels.

Although there are very few deleted communities more than 100 miles from a hub, we agree that there may be a need to consider them separately. Because of their isolation from the national air transportation system, these points may have a greater need for Board guarantees. It does not appear necessary, however, to establish a separate section in the rule to cover them. Instead, § 270.11 will be worded to indicate that the Board will be flexible in applying the traffic criterion at communities 100 road miles or more from a hub. When such a community is considered, special consideration will be given to designating it eligible even if it does not enplane 10 passengers per day.

We also give some weight to the objections to the proposed method for measuring isolation. We do not find the suggested changes practicable, however, because measuring distance by driving time is not feasible. Driving time depends on the driver, the vehicle, the road, the weather, the time of day, the amount of traffic, and the number of interruptions such as traffic signals and more temporary conditions encountered along the way. Our experience with deletion cases in the past has shown that attempts to set an average driving time to a hub defy satisfactory resolution. Road miles are in contrast an easily ascertainable measure of isolation. It is doubtful that a method for fixing driving times can be established that would be fair to all parties.

The same problem presents itself if the Board were to consider climatic and road conditions in establishing distance standards. There is no satisfactory objective method to measure the extent of the impact of defects in the roads or of bad weather on a point's degree of isolation.

More importantly, it does not appear necessary to make elaborate studies of driving times or climatic and road conditions at each community. In our judgment, the isolation threshold (30 road miles) is low enough to include any community that could reasonably claim it is isolated, regardless of driving or climatic conditions. A Board study, cited

in DOT's comment at page 8, found that a community would have to be at least 90, and possibly as much as 140, minutes by ground transportation from an air service center (some were smaller than hubs) before it could be *presumed* to be isolated. Even taking the more conservative estimate, it is clear that few if any communities that are less than 30 road miles from a hub would qualify as isolated points even if driving time were used as the measure.

The comments of Utah and Sandhills concerning evaluating isolation by measuring the distance from the community of interest rather than to the hub misinterprets the Board's rationale for this criterion. It is meant as a measure of access to the national air transportation system, rather than to the point's primary community of interest. A community close to a hub generally does not need Board guarantees of its own air service to its community of interest. The nearby hub should be able to supply the necessary flights there.

Traffic Criterion

Concern was expressed in the comments about the method the Board would use to establish historic and potential traffic levels for candidate communities. The California Department of Transportation and the Utah Air Travel Commission wanted the Board to use data provided by the States and communities in establishing these traffic levels. The California and the New River Valley Airport Commission asked that facility improvements at the community's airport be considered in determining potential traffic levels. California also wanted traffic generated by a nearby Department of Defense facility to be part of the analysis.

Several commenters thought the traffic criteria did not adequately account for seasonal or peaking patterns. Sandhills sought the option of presenting traffic data by average weekly, rather than average daily, enplanements, to accommodate communities with peak weekend traffic. Several New Hampshire commenters asked the Board to consider seasonal variations in service in establishing the traffic criteria.

The relative weight given to historic and potential traffic data will depend on the reliability of the historic data. If those data are old, if the former service was poor, or if the community has experienced significant growth in population or business activity since its deletion, the Board will give more weight to the potential traffic data. In any event, we consider historic traffic to be only a base from which to begin an evaluation of a community's traffic

level. States and communities may submit their own historic and projected traffic data and their views on the relative weight to be given to each. They will be considered by the Board. Traffic generated by nearby Department of Defense facilities could be included in these submissions. Facility improvements at the community's airport do not, in the Board's view, have a significant bearing on a community's traffic generation, the measure of its need for air service. But to the extent that it can be shown that poor facilities depressed air traffic in the past or that the improved facilities will cause a surge in traffic now, the Board will consider this factor.

Communities may also present data on seasonal and peaking patterns in traffic at their airport. These will be considered, but a community will be designated eligible only if it can meet the traffic standards on at least an annual basis. It is possible to designate a community with a higher demand during one season as an eligible point but to guarantee essential service there only during that peak season.

The Rule

The Board is also adopting DOT's suggestion that the phrase "or an equivalent combination of cargo, mail, and passengers" be added at the end of § 270.20 concerning the traffic criterion for Alaskan points. This will take into account the importance of air cargo service in Alaska, a fact that the Board recognized in the preamble to EDR-390.

The criteria adopted here are simple and objective measures of the need for air service. They are, in our judgment, sufficiently lenient and flexible to ensure that communities truly needing a Board guarantee of air service and deserving government subsidy will receive it. The criteria will exclude those communities that already have access to the national transportation system through a nearby hub or eligible point. They will also exclude points lacking sufficient demand for air service to justify government guarantees and possible subsidy payments. At the same time, the criteria adopted here will allow those communities with a demonstrated need for air service to be included in the essential air service program. These points will be guaranteed service by the Board to the same extent as those already defined as eligible points by section 419(a) of the Act.

Since the Act requires that this rule be in effect by January 1, 1980, the Board finds good cause for making it effective immediately.

Accordingly, the Civil Aeronautics Board amends Chapter II of 14 CFR by

adding a new Part 270, *Criteria for Designating Eligible Points*, to read:

PART 270—CRITERIA FOR DESIGNATING ELIGIBLE POINTS

Subpart A—General Provisions

- Sec.
- 270.1 Purpose.
- 270.2 Applicability.
- 270.3 Definitions.
- 270.4 Evaluation of isolation.
- 270.5 Evaluation of traffic.

Subpart B—Criteria for Communities in the 48 Contiguous States

- 270.10 Communities close to hubs.
- 270.11 Communities not close to hubs.
- 270.12 Communities close to non-hub eligible points.

Subpart C—Criteria for Communities in Alaska and Hawaii

- 270.20 Deleted communities.
- 270.21 Other communities.

Authority: Secs. 204 and 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

Subpart A—General Provisions

§ 270.1 Purpose.

This rule establishes objective criteria for designating small communities as eligible points under section 419(b) of the Act.

§ 270.2 Applicability.

This part applies to the following communities:

- (a) Communities that were deleted from an air carrier's section 401 certificate between July 1, 1968, and October 24, 1978;
- (b) Communities that lost all certificated service at their airport as a result of being hyphenated on a section 401 certificate between July 1, 1968, and October 24, 1978 with another community that was served by more than one certificated carrier on October 24, 1978; and
- (c) Any other communities in Alaska or Hawaii that apply for designation as an eligible point.

§ 270.3 Definitions.

As used in this part: "Eligible point" means a community for which the Board will guarantee essential air service in accordance with the guidelines in Part 398 of this chapter. "Hub" means a point annually enplaning more than 0.05 percent of the total enplanements in the United States.

§ 270.4 Evaluation of isolation.

The isolation of a community will be evaluated by measuring the driving distance from its center to the nearby hub's airport or to an eligible point's airport.

§ 270.5 Evaluation of traffic.

In evaluating traffic at a community the Board shall consider the following information:

- (a) Historic traffic levels at the community;
- (b) The future traffic generating potential of the community;
- (c) Data submitted by the State, the interested community, or a carrier that has served or is serving the community;
- (d) The reliability of the historic traffic data as an indication of the community's present traffic level;
- (e) The availability of public surface transportation from the candidate community to its communities of interest and nearby hubs;
- (f) The type and quality of air service that has been maintained at the nearby hub;
- (g) Facility improvements at the community's airport to the extent that they will lead to an increase in enplanements there; and
- (h) The potential of the community for developing self-supporting air service, or subsidized air service at a reasonable cost to the Federal government.

Subpart B—Criteria for Communities in the 48 Contiguous States

§ 270.10 Communities close to hubs.

A community that is less than 30 road miles from a hub airport will not be designated as an eligible point by the Board.

§ 270.11 Communities not close to hubs.

Except as provided in § 270.12—

(a) A community that is at least 30, but less than 60, road miles from a hub airport will be designated as an eligible point by the Board if that community enplanes or has the potential for enplaning 20 passengers each day during 5 days of the week;

(b) A community that is 60 or more road miles from a hub airport will be designated an eligible point by the Board if that community enplanes or has the potential for enplaning 10 passengers each day during 5 days of the week; and

(c) A community that is more than 100 road miles from a hub will be designated as an eligible point if there is a sufficient demand for air service there to warrant that designation.

§ 270.12 Communities close to non-hub eligible points.

A community will not be designated as an eligible point under this part if it is less than 20 road miles from the airport of a section 419(a) eligible point.

Subpart C—Criteria for Communities in Alaska and Hawaii

§ 270.20 Deleted communities.

A community in Alaska that was deleted from an air carrier's section 401 certificate between July 1, 1968, and October 24, 1978, or lost all certificated service at its airport as a result of being hyphenated with a multi-carrier point on a section 401 certificate between those dates, will be designated an eligible point by the Board if it enplanes or has the potential for enplaning at least 5 passengers each week or an equivalent combination of cargo, mail and passengers.

§ 270.21 Other communities.

(a) Any community in Alaska not covered by § 270.20 may be designated an eligible point after January 1, 1982, if, upon the application of that community, the Board finds that—

(1) The community enplanes or has the potential for enplaning at least 5 passengers each week or an equivalent combination of cargo, mail and passengers; and

(2) Designating that community as an eligible point will not result in more than — points¹ receiving a subsidy under section 419 and section 406 of the Act.

(b) Any community in Hawaii may be designated an eligible point after January 1, 1982, if, upon the application of that community, the Board finds that—

(1) The community meets the criteria set forth in Subpart B of this part; and

(2) Designating that community as an eligible point will not result in more than — points¹ receiving a subsidy under section 419 and section 406 of the Act.

By the Civil Aeronautics Board,

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-39628 Filed 12-27-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 302

[Amendment No. 60, Docket 37293]

Rules of Practice in Board Proceedings; Settlement of Enforcement Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules of practice to simplify, expedite, and provide greater flexibility in the settlement of enforcement proceedings and to conform them to Freedom of

¹ The number of subsidized points on July 1, 1968 will be supplied at a later date.

Information Act standards. By a separate notice issued today, PDR-69, the Board is also requesting comments on this amendment.

DATES: Adopted: December 20, 1979. Effective: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Eleanor Minsky, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-6060.

SUPPLEMENTARY INFORMATION: In line with our general policies to simplify Board procedures and reduce paperwork, we have decided to revise the procedures for settling enforcement actions in § 302.215 of our rules of practice, 14 CFR Part 302. The changes are intended to conform the rules to existing practices and statutory requirements, to provide greater flexibility for all parties, and to facilitate and encourage settlement of enforcement proceedings. We are also taking this opportunity to rewrite § 302.215 in clearer language.

We are removing the requirement that the respondent submit a written "offer of settlement" to the Bureau of Consumer Protection. In practice, settlement negotiations usually involve the parties in an oral give-and-take process over a period of time and, while written offers may be desirable in some instances, we believe that that kind of tactical decision should be left for the parties themselves to work out, not imposed as a rule governing all cases. We of course expect the Bureau to give prompt consideration to any settlement proposal made by a respondent, but the requirement for a formal exchange in writing at each stage in the process imposes unnecessary paperwork and other burdens on the participants.

We are eliminating the requirement that administrative law judges must issue initial decisions under Rule 27 in approving settlements. The procedures called for under that rule are primarily designed for the adjudication of contested cases and are somewhat inapposite to the settlement process. Moreover, since in practice the parties to a settlement often agree on the text of a consent decree or order that articulates the relevant public interest considerations, the signing of such a consent order is all that should be necessary for the judge to register approval of the settlement, and issuance of an initial decision is a redundant formality in such cases. By a companion amendment to our Organization Regulations, OR-160, we are delegating authority to the administrative law judges to accept or reject settlement proposals submitted by the Bureau of

Consumer Protection in enforcement cases under 14 CFR Part 385, which contains general procedures for staff actions in nonhearing matters. This change provides simpler and more flexible review procedures, including interlocutory review by the Board of any disapproval of a settlement by the judge; shortens the period in which Board review of an approved settlement may be sought from 21 to 10 days; and reduces the delay before a settlement may become effective. Since any consent order submitted as part of a settlement is generally the product of intensive and detailed negotiations between the parties, we feel that the judges should accept or reject settlements as submitted, without making unilateral changes in the text or format, and the rule will so provide. This, however, will not intrude upon the judges' inherent authority to raise informally with the parties any concerns they may have about the settlement package, suggest changes to resolve such concerns, or even condition approval on changes being made in the settlement.

The revised rule also clarifies the procedural rights of other parties to the proceeding once a settlement has been reached and submitted for approval. Previously the rule simply stated that the administrative law judge shall "consider" the views of all parties. We are now expressly providing that any settlement agreement shall be served on each party, and that any party may submit written comments supporting or opposing it within 10 days. Of course, the parties may stipulate to waive the 10-day period so that an agreement may be acted on without delay. Since it is implicit in the judges' function to consider each party's views on any matter presented in a proceeding, we do not think it is necessary in this particular rule to say that they must do so in these cases.

While redrafting this section, we have also reexamined the rule under Freedom of Information Act standards, especially in light of the 1974 and 1976 amendments to that legislation and enactment of the Airline Deregulation Act of 1978, which amended Section 1104 of the Federal Aviation Act, governing withholding of information, 49 U.S.C. 1504. Our revised rule codifies the Board's policy that, once agreement between the parties is reached and the settlement has been submitted to the administrative law judge, there are no longer grounds to conceal the terms of the agreement. However, while negotiations are in progress, information contained in any documents relating to

or exchanged in the course of settlement negotiations shall be kept from public disclosure, if the Director of the Bureau of Consumer Protection determines that disclosure would interfere with the likelihood of settlement. This is consistent with exemption 7 of the Freedom of Information Act, 5 U.S.C. 552(b)(7). To encourage the free flow of information and ideas during settlement discussions, we believe some protection is necessary to assure parties that positions taken and matters revealed during the negotiating process will not be prematurely publicized or made known to their competitors. The Director is familiar with the litigation, is aware of the nature of the information at issue and can evaluate its importance in the settlement; therefore, we believe he or she will be best situated to evaluate the effect that disclosure of such information might have in a particular case. Of course, even if the Director does not agree that disclosure would interfere with the likelihood of settlement, claims for confidential treatment of information may still be asserted under any applicable exemption if a request for documents is made under FOIA, and these will continue to be determined on a case-by-case basis in accordance with our existing procedures.

Since these amendments are administrative in nature, affecting a rule of agency procedure, we find that notice and public procedure before adoption of a final rule are unnecessary. Moreover, the amendment is intended to expedite our proceedings and to relieve burdens on participants in Board proceedings, and we accordingly find that an immediate effective date is in the public interest.

While there is no legal requirement that we solicit comments on this rule, we nonetheless have decided to do so, since the public may have useful comments and suggestions on whether these procedures are the most effective way to ensure speed, fairness, and flexibility in the settlement of enforcement proceedings before the Board. Therefore, by a separate notice also issued today, PDR-69, we are inviting public comments on these amendments, and we will evaluate any comments in due course, with a view to making further revisions in the rule if called for.

Accordingly, the Civil Aeronautics Board amends Part 302 of its Procedural Regulations, Rules of Practice in Board

Proceedings (14 CFR Part 302), as follows:

1. The table of contents of Part 302 is amended to read as follows:

Sec.
302.215 Settlement of proceedings.

2. Section 302.215 is revised to read as follows:

§ 302.215 Settlement of proceedings.

(a) The Director of the Bureau of Consumer Protection and the respondent may agree to settle all or some of the issues in an enforcement proceeding at any time before a final decision. The Director shall serve a copy of any proposed settlement on each party and shall submit the proposed settlement to the Administrative Law Judge for approval. The submission of a proposed settlement shall not automatically delay the proceeding.

(b) Any party to the proceeding may submit written comments supporting or opposing the proposed settlement within 10 days from the date of service.

(c) The Administrative Law Judge shall approve the proposed settlement, as submitted, if it appears to be in the public interest, or otherwise shall disapprove it.

(d) Information relating to settlement offers and negotiations will be withheld from public disclosure if the Director of the Bureau of Consumer Protection determines that disclosure would interfere with the likelihood of settlement of an enforcement proceeding.

(Secs. 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, 49 U.S.C. 1324, 1481)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39624 Filed 12-27-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 302

[Doc. 37293; PDR-69; Dated: December 20, 1979]

Rules of Practice in Board Proceedings; Settlement of Enforcement Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Request for Comments on Final Rule.

SUMMARY: By PR-217, issued today, the CAB is amending its rules of practice in enforcement proceedings to simplify,

expedite and provide greater flexibility in the settlement of enforcement proceedings and to conform them to Freedom of Information Act standards. In this proceeding, the CAB invites comments on the rule adopted, with a view to issuing a revised rule later if necessary.

DATES: Comments by February 26, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments shall be sent to Docket 37293, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Eleanor Minsky, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-6060.

(Secs. 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, 49 U.S.C. 1324, 1481)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39625 Filed 12-27-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 385

[Organization Regulations; Amdt. No. 93 to Part 385; Docket 37293]

Amendment of Delegation of Authority to the Administrative Law Judges

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its delegation of authority to administrative law judges that allows them to approve or disapprove settlements of enforcement proceedings, in order to simplify the settlement process.

DATES: Adopted: December 20, 1979. Effective: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Eleanor Minsky, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-6060.

SUPPLEMENTARY INFORMATION: Rule 215 of the Board's rules of practice (14 CFR 302.215) provides procedures for settlement of enforcement proceedings.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. IA-710]

Delegations of Authority to the Director of the Division of Investment Management, the Director of the Division of Enforcement, and the Regional Administrators

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendments.

SUMMARY: The Commission is amending its rules relating to general organization to delegate to the Director of the Division of Investment Management ("Investment Management Director") the authority to issue notices and orders in connection with certain applications for exemptive orders under the Investment Advisers Act of 1940 ("Advisers Act") and to permit the withdrawal of applications under the Advisers Act. In addition, the Commission is delegating to the Investment Management Director, the Director of the Division of Enforcement ("Enforcement Director"), and each Regional Administrator the authority to make written demands upon certain non-resident investment advisers to furnish to the Commission copies of books and records required to be maintained by such non-resident investment advisers under the Advisers Act.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Michael J. Eizelman, Esq., Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272-2079.

SUPPLEMENTARY INFORMATION: The Commission is amending its rules relating to general organization to delegate to the Investment Management Director the authority (i) to issue notices and orders, pursuant to Rule 0-5 under the Advisers Act [17 CFR 275.0-5],¹ in connection with certain applications for exemptive orders under Sections 202(a)(11)(F) [15 U.S.C. 80b-2(a)(11)(F)]²

¹ Rule 0-5 sets forth the general procedures applicable to proceedings initiated by the filing of an application under the Advisers Act, including certain requirements relating to the issuance of notices and orders by the Commission with respect to such applications.

² Section 202(a)(11)(F) authorizes the Commission to exclude, by rule or order, any person from the definition of "investment adviser" set forth in Section 202(a)(11) of the Advisers Act if the Commission finds that such person is "not within the intent of [Section 202(a)(11)]. . . ."

and 206A [15 U.S.C. 80b-6a]³ of the Advisers Act and (ii) to permit the withdrawal of applications under the Advisers Act. In addition, the Commission is amending its general organization rules to delegate to the Investment Management Director, the Enforcement Director, and each Regional Administrator the authority to make written demands, pursuant to Rule 204-2(j)(3)(ii) under the Advisers Act [17 CFR 275.204-2(j)(3)(ii)],⁴ upon certain non-resident investment advisers to furnish to the Commission copies of books and records required to be maintained by such non-resident investment advisers under the Advisers Act.

The authority delegated to the Investment Management Director with respect to Sections 202(a)(11)(F) and 206A of the Advisers Act is limited to applications which do not appear to the Investment Management Director to present issues not previously settled by the Commission and do not appear to the Investment Management Director to require, in the public interest or the interest of investors, that a hearing be held. In such cases the delegated authority should result in a more expeditious processing of applications by eliminating the delay involved in obtaining Commission approval for the issuance of notices and orders in connection with the applications. In addition, the delegation of authority to the Investment Management Director to permit the withdrawal of applications under the Advisers Act should facilitate such withdrawals. The Commission previously has made similar delegations of authority to the Investment Management Director under the Investment Company Act of 1940 [15 U.S.C. 80a-1, et seq.].

Finally, the authority delegated to the Investment Management Director, the Enforcement Director and each Regional Administrator to make written demands pursuant to Rule 204-2(j)(3)(ii) under the Advisers Act will provide the Commission's staff with more timely access to the books and records of non-

³ Section 206A empowers the Commission to exempt, by rule or order, any person from any provision of the Advisers Act if it determines that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act.

⁴ Rule 204-2(j)(3)(ii) requires that a non-resident investment adviser who does not maintain within the United States copies of all books and records required to be kept by such non-resident investment adviser under the Advisers Act must furnish to the Commission, pursuant to an undertaking required to be filed with the Commission, copies of all, or any part of, such books and records within fourteen days after written demand by the Commission therefor.

resident investment advisers who are subject to the provisions of such rule.

Authority, Effective Date

The Commission hereby amends Rules 30-4, 30-5 and 30-6 of the rules of the Commission relating to general organization [17 CFR 200.30-4, 30-5 and 30-6] by adding new paragraph (a)(6) to Rule 30-4; by adding new paragraphs (e)(3), (4), (5) and (6) to Rule 30-5; and by redesignating paragraphs (d) and (e) of Rule 30-6 as paragraphs (e) and (f), respectively, and by adding a new paragraph (d) thereto, pursuant to the authority contained in the Act of August 30, 1962, Pub. L. No. 87-592, 76 Stat. 394 [15 U.S.C. 78d-1, 78d-2] and Section 211(a) of the Advisers Act [15 U.S.C. 80b-11(a)].

The Commission finds, in accordance with sections 553(b)(A) and 553(d) of the Administrative Procedure Act [5 U.S.C. 553(b)(A), 553(d)], that the foregoing action relates solely to agency organization, procedure, or practice; that Section 553(b) of such act [5 U.S.C. 553(b)] makes unnecessary the notice and public procedures required by section 553 of such act [5 U.S.C. 553]; and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. Accordingly, the amendments to Rules 30-4, 30-5 and 30-6 are effective immediately.

Commission Action

Part 200 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By adding new paragraph (a)(6) to § 200.30-4 as follows:

§ 200.30-4 Delegation of Authority to Director of Division of Enforcement.

(a) * * *

(6) pursuant to Rule 204-2(j)(3)(ii) (§ 275.204-2(j)(3)(ii) of this chapter) under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1, et seq.], to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Investment Advisers Act of 1940, or any part of such books and records which may be specified in any such demand.

2. By adding new paragraphs (e) (3), (4), (5) and (6) to § 200.30-5 as follows:

§ 200.30-5 Delegation of authority to Director of Division of Investment Management.

(e) * * *

(3) To issue notices, pursuant to Rule 0-5(a) (§ 275.0-5(a) of this chapter), with respect to applications for orders under the following sections of the Act and the rules and regulations promulgated thereunder, where, upon examination, the matter does not appear to him to present issues not previously settled by the Commission or to raise questions of fact or policy indicating that the public interest or the interest of investors requires that a hearing be held:

(i) Section 202(a)(11)(F), 15 U.S.C. 80b-2(a)(11)(F).

(ii) Section 206A, 15 U.S.C. 80b-6a.

(4) To authorize the issuance of orders where a notice, pursuant to Rule 0-5(a) (§ 275.0-5(a) of this chapter), has been issued and no request for a hearing has been received from any interested person within the period specified in the notice and the matter involved presents no issue that he believes has not been previously settled by the Commission and it does not appear to him to be necessary in the public interest or the interest of investors that a hearing be held (section 211(c) of the Act, 15 U.S.C. 80b-11(c)).

(5) To permit the withdrawal of applications pursuant to the Act (15 U.S.C. 80b-1, et seq.).

(6) Pursuant to Rule 204-2(j)(3)(ii) (§ 275.204-2(j)(3)(ii) of this chapter), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Act, or any part of such books and records which may be specified in any such demand.

3. By redesignating paragraphs (d) and (e) of § 200.30-6 as paragraphs (e) and (f) respectively and by adding a new paragraph (d) thereto as follows:

§ 200.30-6 Delegation of authority to Regional Administrators.

(d) With respect to the Investment Advisers Act of 1940, 15 U.S.C. 80b-1, et seq.: Pursuant to Rule 204-2(j)(3)(ii) (§ 275.204-2(j)(3)(ii) of this chapter), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete and current copies of any or all books

and records which such non-resident investment advisers are required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Investment Advisers Act of 1940, or any part of such books and records which may be specified in any such demand.

By the Commission.

George A. Filzsimmons,
Secretary.

December 19, 1979.

[FR Doc. 79-39620 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release No. 34-16443]

Securities Position Listing Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a previously proposed rule requiring clearing agencies to provide securities position listings to issuers whose securities the clearing agency holds in its name or that of its nominee. A securities position listing is a list of the participants in a clearing agency on whose behalf the clearing agency holds the issuer's securities and of their positions in the issuer's securities as of a specified date.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:

Jerry R. Marlatt, Attorney, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272-2792.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of Rule 17Ad-8, requiring clearing agencies to furnish a securities position listing to an issuer at the issuer's request. The rule, which becomes effective 30 days after publication in the *Federal Register*, was proposed in securities Exchange Act Release No. 14493, February 22, 1978; 43 FR 8269, March 1, 1978. In accordance with Section 17A(d)(3)(A)(i) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78q-1(d)(3)(A)(i), the Commission has consulted and requested the views of the Board of Governors of the Federal Reserve System at least fifteen days prior to this announcement.

The rule as proposed would have required registered clearing agencies to transmit securities position listings to issuers at least annually, or more frequently at an issuer's request. Annual

and quarterly listings would have been provided without charge, but more frequent listings would have been subject to a reasonable charge based on the clearing agency's cost of preparation.

Under the proposed rule, clearing agencies also would have been required to furnish a securities position listing to non-issuers (i) who certified their entitlement under Federal law or applicable state law to inspect, obtain, or otherwise gain access to an issuer's list of security holders of record or securities position listing or (ii) who attested that the issuer had consented to the clearing agency providing the list to them. Non-issuers would have been required to notify issuers of their request, and issuers would have had an opportunity to contest claims of entitlement. All listings provided to non-issuers would have been subject to a reasonable charge.

The impetus for the proposed rule was the recommendation in the Final Report of the Street Name Study that "each depository be required to transmit periodically to each issuer whose securities the depository holds of record a list of the persons on whose behalf the depository holds the securities." ¹ That recommendation was intended to formalize an existing depository practice which permits issuers to initiate the issuer-security owner communication process directly with depository participants rather than with depositories. The proposed rule went beyond the Street Name Study recommendation, however, by extending the requirement to all clearing agencies. The reason for the extension was that, although depositories hold the great majority of securities held by clearing agencies, clearing corporations also may hold securities in their name or that of their nominee.

The proposal also went beyond the recommendation in the Street Name Study by providing that certain non-issuers would have been able to obtain securities position listings directly from clearing agencies without the need for issuer cooperation. The reason for extending this authority to certain non-issuers was that depositories sometimes have refused to provide securities position listings to persons other than issuers. In addition, issuers often have argued that under state law they are obligated to reveal only their

¹SEC, *Final Report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other than the Name of the Beneficial Owner of Such Securities*, pursuant to Section 12(m) of the Securities Exchange Act of 1934 (Committee Print 1976) (the "Street Name Study"), 55.

shareholders of record list, a list which discloses depositories as the owner of record but not the identities of depository participants on whose behalf the depository is holding securities. As a result, non-issuers that are entitled to inspect, obtain or otherwise gain access to an issuer's shareholders of record list often are required to begin the communication process with depositories rather than with depository participants—a requirement that adds an additional step to the security owner communications process.

The Commission received nineteen comment letters on the proposed Rule.² The commenters generally endorsed that part of the proposed rule which would require clearing agencies to provide securities position listings to issuers. Numerous criticisms were raised regarding the providing of securities position listings to non-issuers, however.

After reviewing the comment letters and reassessing the need for the proposed rule, the Commission has decided to (i) adopt, with certain changes, that portion of proposed Rule 17Ad-8 which would required clearing agencies to provide securities position listings to issuers, but (ii) withdraw that portion of the proposed Rule which would have provided non-issuers with access to securities position listings. The following discussion focuses on the four sections of the proposed Rule 17Ad-8 and consists of (i) a description of each proposed section, (ii) a summary of the comments received on the section, and (iii) the Commission's action on the adoption amendment, or withdrawal of the section.

A. Proposed Section 17Ad-8(a)—Definition of Securities Position Listing

This section of the proposed rule defines the term "securities position

²Eight letters were received from corporations: American Standard, Inc. ("American Standard"), Caterpillar Tractor Co. ("Caterpillar"), Dresser Industries, Inc. ("Dresser"), Glosser Bros. ("Glosser Bros."), Joy Manufacturing Co. ("Joy Mfg."), Litton Industries ("Litton"), Pacific Gas and Electric Company ("PG&E"), and A. O. Smith Corporation ("Smith Corp.").

Four letters were received from associations: American Bar Association ("ABA"), American Bankers Association ("Am. Bankers Assoc."), American Society of Corporate Secretaries, Inc. ("ASCS"), and Western Stock Transfer Association, Inc. ("WSTA").

Four letters were received from clearing agencies: Bradford Securities Processing Services Inc. ("BSPPS"), Depository Trust Company ("DTC"), National Securities Clearing Corporation ("NSCC"), and Pacific Securities Depository Trust Company ("PSDTC").

Two letters were received from individuals: Joseph M. Jankite ("Jankite"), and Charles P. Stetson, Jr. ("Stetson").

One letter was received from an investment banker: A. F. Castellano ("Castellano").

listing." No comments were received on the definition, and the Commission has adopted the section as proposed.

B. Proposed Section 17Ad-8(b)—Requirement That Clearing Agencies Transmit Securities Position Listings to Issuers

As discussed, this section of the proposed rule would have required clearing agencies to transmit securities position listings to issuers annually, or more frequently at the issuers' request. Annual and quarterly listings would have been provided without charge, but more frequent listings would have been subject to a reasonable charge.

Some commenters specifically supported the prevailing depository practice of providing securities position listings to issuers, and no commenter criticized the practice. There was a difference of opinion, however, concerning the need to formalize the practice in a Commission rule and on the need to extend the practice to clearing corporations. More specifically, four commenters endorsed the section as proposed, while one depository indicated that it was not aware of occurrences which suggested a need for the proposed rule. A clearing corporation argued that the rule should be limited to depositories and should not be applied to clearing corporation functions, such as delivery and receipt services and the provision of financing for securities transactions, although in providing those services a clearing corporation may hold some customer securities in a segregated account or in nominee name pending delivery.

In addition to those general comments, there were two specific concerns raised by the commenters. A corporation suggested that a depository should be required to transmit securities position listings to issuers within fifteen days of the request and that a regular annual listing be transmitted within thirty days of the close of the corporate year.

A number of commenters also were concerned about the provision which would have required clearing agencies to transmit annual and quarterly securities position listing to issuers free of charge. One commenter argued, for example, that "the cost will be passed on to all participants in a depository, even those who do not have a position in a particular stock." A clearing corporation said that, if the proposed rule were to apply to all clearing agencies, not only to depositories, then a clearing agency should be compensated for each listing it is required to provide. A depository wrote that it "believes the current practice of requiring issuers to

bear such costs other than at the time of a shareholders meeting represents a more reasonable approach. . . . Another depository expressed a similar view. A second clearing corporation felt that requiring clearing agencies to provide an annual and quarterly listing to issuers free of charge was an unnecessary burden in view of the modest cost now imposed on issuers to receive a securities position listing.

Finally, a corporation expressed concern about the ability of corporations with small capitalization to communicate directly to their shareholders with frequency and without delay. It argued that the proposed rule does nothing to alleviate "the hiding of beneficial ownership via usage of nominee names," but "actually gives tacit approval to the continuance."

The Commission believes that section (b) of the proposed rule, with the amendments discussed below, should be adopted for two reasons. First, unlike depositories, clearing corporations customarily do not provide securities position listings to issuers. As a result, although the great majority of securities held by registered clearing agencies are held by depositories, issuers still are required to initiate the communication process with clearing corporations rather than with the clearing agencies' participants, a step that the Commission believes should be eliminated.

Second, this requirement is a necessary complement to Securities Exchange Act Rule 14d-5 (17 CFR 240.14d-5) which the Commission recently adopted.³ Rule 14d-5 gives bidders a Federal right to disseminate tender offer materials by means of mailings pursuant to the stockholder lists of the subject company and securities position listings of clearing agencies. At the election of the subject company, the dissemination may be conducted either by the bidder, using lists furnished by the subject company, or by the subject company itself, in which case the bidder would not be furnished copies of the lists. Because the operation of Rule 14d-5 is dependent on issuers receiving securities position listings from clearing agencies, the Commission believes requiring clearing agencies to furnish issuers with those listings is a necessary complement to the implementation of Rule 14d-5.

With regard to the comment that clearing agencies should be required to provide securities position listings to issuers within specific time periods, the Commission is unaware of any instance in which a depository has not furnished

a securities position listing to an issuer in a timely manner. In addition, because the number of issues held by clearing agencies vary greatly and because the degree to which clearing agencies are automated also varies, the Commission does not favor imposing specific time requirements on clearing agencies. At the same time, the Commission believes it would be beneficial to include a "promptly" standard in section (b) of the proposed rule. Such a standard would help ensure that securities position listings are provided to issuers in a timely manner.⁴

As for the proposal that annual and quarterly securities position listings be provided to issuers free of charge, the Commission agrees with those commenters who argued that clearing agencies should be able to charge a reasonable fee for providing securities position listings to issuers. DTC, for example, currently charges issuers \$60 per year for quarterly securities position listings. If DTC were required to provide those quarterly listings free of charge, it could represent a potential loss of income to DTC of approximately \$750,000, a loss in income which is not insignificant and which would have to be absorbed by DTC's participants.⁵ At the same time, the Commission does not believe that clearing agencies should be authorized to charge issuers for unwanted securities position listings. As a result, the Commission has amended section (b) to provide that clearing agencies are authorized only to charge for securities position listings requested by issuers and has eliminated the requirement that securities position listings be sent to issuers annually. Clearing agencies, of course, still would be able to send securities position listings to issuers free of charge if they so desired.

The Commission recognizes that issuers normally are not represented on clearing agencies' boards of directors and therefore have no input into determining the amount charged for securities position listings. At the same time, there is no indication that depositories have charged unreasonable fees for securities position listings, and such fees would have to be filed with

⁴ As discussed, Securities Exchange Act Rule 14d-5 requires issuers to undertake certain actions regarding the dissemination of tender offer materials within specified time periods. Some of those actions require the use of a securities position listing by the issuer. In responding to requests for securities position listings arising from the operation of Rule 14d-5, a clearing agency should be mindful of the obligations that rule places on issuers.

⁵ There currently are over 13,000 issues eligible for deposit into DTC, and DTC charges issuers \$60 per annum for quarterly securities position listings.

the Commission pursuant to Rule 19b-4 under the Act.

Finally, with regard to the comment that the proposed rule would not assist corporations of small capitalization in communicating directly to their shareowners, Rule 17Ad-8 is not designed to reveal an issuer's beneficial security owners or to permit issuers to communicate directly with their beneficial security owners.

C. Proposed Sections 17Ad-8 (c) and (d)—Transmission of Securities Position Listings to Non-Issuers

Section (c) of the proposed rule would have required clearing agencies to furnish a securities position listing to non-issuers (i) who certified their entitlement under Federal law or applicable state law to inspect, obtain, or otherwise gain access to an issuer's shareholders of record list or securities position listing, or (ii) who attested that the issuer had consented to their receiving the listing. Non-issuers would have been required to notify issuers of their request, and issuers would have had an opportunity to contest claims of entitlement. All listings provided to non-issuers would have been subject to a reasonable charge.

Section (d) of the proposed rule, in turn, would have made it unlawful for any person (i) knowingly or willfully to certify falsely their entitlement to an issuer's securities position listing or (ii) to violate willfully any provision of the proposed rule.

Two commenters supported proposed Rule 17Ad-8 in its entirety. Another commenter endorsed the concept of providing securities position listings to non-issuers whenever the issuer was required to provide a non-issuer with its shareholders of record list. One commenter also thought the concept was a useful one. The latter two commenters, however, had a number of concerns about the specific provisions of sections (c) and (d) of the proposed rule. Every other person who commented on sections (c) and (d) either objected to the concept of clearing agencies providing securities position listings to non-issuers or were concerned about specific provisions of those two sections. One commenter, for example, indicated that it was not aware of significant opposition by issuers to providing securities position listings to those entitled under State law to the shareholders of record list. A depository argued that the proposal would not achieve its primary purpose of facilitating issuer-shareowner communications because non-consenting issuers always would intervene to block the release of a

securities position listing to a non-issuer. That depository also argued that it was not aware of any court that had denied access to a securities position listing when a non-issuer was entitled to an issuer's shareholders of record list and, thus, that existing State law already may provide for access to securities position listings by qualified non-issuers. A clearing corporation saw no apparent benefit from these sections of the proposed rule since broker-dealers are only required to cooperate with issuers under Securities Exchange Act Rule 14b-1 (17 CFR 240.14b-1). That clearing corporation also argued that securities position listings should be given only to issuers and that any dispute over access to the list should be resolved directly between the issuer and non-issuer. Finally, a number of other commenters opposed the concept of providing securities position listings to non-issuers.

In addition to those general comments, there were several concerns raised about specific provisions of sections (c) and (d) of the proposed rule. A number of commenters complained that there were no restrictions on the subsequent use of the list by non-issuers and that the list could be used for improper purposes. Other commenters were concerned that the proposed rule might be contrary to existing State law. One of those commenters argued, for example, that the proposal could be viewed as shifting the burden of proof regarding access to the securities position listing from the non-issuer to the issuer, a change it felt should be made by State legislatures.

Numerous concerns also were raised regarding the certification provision of the proposed rule. More specifically, some commenters felt that securities position listings should not be given to non-issuers on the basis of an unconfirmed certification prepared by the non-issuer, while others felt that the notification process may not give issuers sufficient time to respond to a non-issuer's claim of entitlement. A number of commenters were concerned that it was unclear whether clearing agencies had any responsibility to evaluate the validity of a non-issuer's claimed entitlement to a securities position listing, while other commenters were concerned that the proposal could expose clearing agencies to liability if they furnished a non-issuer with a securities position listing and the non-issuer's claimed entitlement later proved to be invalid.

The two principal areas in which non-issuers have sought access to securities position listings are the tender offer and

proxy areas. After reviewing the comment letters on proposed Rule 17Ad-8 and reassessing the non-issuer access provisions of that proposal, the Commission believes, as discussed below, that the question of non-issuer access to securities position listings in the above two areas is best addressed in the context of the Commission's tender offer and proxy rules rather than in a general provision such as proposed Rule 17Ad-8. Aside from the tender offer and proxy areas, the Commission is unaware of situations in which non-issuers entitled to an issuer's shareholders of record list have unsuccessfully sought access to the issuer's securities position listing. Accordingly, the Commission perceives no need at this time for sections (c) and (d) of proposed Rule 17Ad-8 and has withdrawn those sections.

With regard to the tender offer area, the Commission, as discussed, recently adopted Securities Exchange Act Rule 14d-5, which gives bidders a Federal right to disseminate tender offer materials by means of mailings pursuant to the stockholder lists of the subject company and securities position listings of clearing agencies. At the election of the subject company, the dissemination may be conducted either by the bidder, using lists furnished by the subject company, or by the subject company itself, in which case the bidder would not be furnished copies of the lists. Rule 14d-5 also contains specific provisions concerning the use, handling and disposition of the lists by bidders and otherwise addresses many of the concerns raised about the non-issuer access provisions of proposed Rule 17Ad-8.

As for the proxy area, Securities Exchange Act Rule 14a-7 (17 CFR 240.14a-7) currently provides an election similar to that contained in Rule 14d-5. In brief, Rule 14a-7 gives an issuer the option of mailing security holders' communications or of providing security holders with its shareholders of record list and other information that would enable security holders to mail the communications themselves. The Commission believes that amending Rule 14a-7 to include securities position listings among the information that the issuer may elect to provide security holders may be a better approach for providing non-issuer access to securities position listings in the proxy area. The Commission will review the possible amendment of that rule.

In accordance with the foregoing, the Commission adopts Rule 17Ad-8, as set forth below, effective January 28, 1980.

Statutory Basis and Competitive Considerations

Pursuant to the Securities Exchange Act of 1934 and, in particular, Sections, 2, 17A, and 23(a) thereof [15 U.S.C. 78b, 78q-1, and 78w(a)], the Commission amends Title 17, Chapter II, Part 240 of the Code of Federal Regulations to add § 240.17Ad-8, as set forth below, effective January 28, 1980. The Commission does not perceive that any burden is imposed upon competition by this amendment.

Text of Rule

Section 240.17Ad-8 is added as follows:

§ 240.17Ad-8 Securities position listings.

(a) For purposes of this section, the term "securities position listing" means, with respect to the securities of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participants' respective positions in such securities as of a specified date.

(b) Upon request, a registered clearing agency shall furnish a securities position listing promptly to each issuer whose securities are held in the name of the clearing agency or its nominee. A registered clearing agency may charge issuers requesting securities position listings a fee designed to recover the reasonable costs of providing the securities position listing to the issuer.

By the Commission.

December 20, 1979.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 79-30621 Filed 12-27-79; 8:45 am]
BILLING CODE 8010-01-M

17 CFR Part 240

[Release Nos. 33-6170; 34-16436]

Quarterly Reporting Requirements; Smaller Life Insurance Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is further deferring, until 1981, the effective date of the quarterly reporting requirements for smaller life insurance companies whose shares are not actively traded. Such additional delay is necessary to allow sufficient time for the Commission to consider, as a result of the testimony gathered at its small business hearings, whether one or more classes of small

³ Securities Exchange Act Release No. 16384, November 29, 1979; 44 FR 70326, December 6, 1979.

issuers should be established for purposes of reducing the periodic reporting requirements under the Securities Exchange Act of 1934.

EFFECTIVE DATE: Deferred from fiscal years ending after December 25, 1980 to years ending after December 15, 1981.

FOR FURTHER INFORMATION CONTACT: Robert Rupp or Evan J. Kemp, (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On September 20, 1976, the Commission issued Accounting Series Release No. 197 [41 FR 42645] ¹ to require quarterly financial reporting, on Form 10-Q, by life insurance companies and holding companies having only life insurance subsidiaries. In that release the Commission stated:

Recognizing that some life insurers do not presently prepare quarterly financial information, the Commission believes that the reporting responsibilities imposed by these amendments should first be applied to those life insurance companies whose activities are most closely followed by analysts and investors. At the same time and taking into account the lead time and start-up requirements for those companies not currently preparing quarterly financial information on a generally accepted accounting principles (GAAP) basis, the Commission has decided to defer the effective date of these amendments until 1978 for life insurance companies whose shares are not actively traded. In addition, the Commission notes that its Advisory Committee on Corporate Disclosure is reviewing the overall question of the reporting responsibilities of smaller companies. The results of their work are anticipated in mid-1977 and could possibly impact the filing requirements of many smaller companies, including small public life insurance companies. Accordingly, the Commission will give notice no later than September 30, 1977, as to whether or not there will be any further delay of the effective date of these amendments or any change in these amendments with respect to those life insurance companies whose shares are not actively traded.

In Accounting Series Release No. 228, October 7, 1977, [42 FR 54531], the Commission further deferred through 1978 the effective date of these requirements. Subsequently on November 3, 1977 the Commission's

¹ Certain corrections to that release were made in Accounting Series Release No. 218 [42 FR 27879], May 23, 1977.

Advisory Committee on Corporate Disclosure issued its report which included the following recommendations concerning the problems of small companies:

The Commission should hold public hearings to determine: (1) Whether and to what extent, the Commission should attempt to define a category of "small companies" for the purpose of requiring less burdensome reporting; (2) how such a classification, if desirable and possible, should be defined; and (3) if definition is possible, what reductions of reporting requirements are possible, consistent with the purposes of the Federal securities laws.

During April and May of 1978 the Commission staff conducted a series of public hearings in several parts of the country at which the problems of small companies were discussed. In Accounting Series No. 259, December 28, 1978 [44 FR 1727], the Commission again deferred, through 1979, the effective date of the quarterly reporting requirements for life insurance companies whose shares are not actively traded. The reason for this deferral was to allow the staff time to review the testimony taken at the hearings and ascertain future policies relating to small companies generally. As a result of the information gathered at the hearings, numerous changes in the Commission's rules and regulations which have a particular impact on small businesses have been effected. At present the staff has under consideration the development of one or more classes of small issuers for purposes of reducing the reporting requirements under Sections 13 and 15(d) of the Securities Exchange Act of 1934. A proposal of this nature may have direct impact on smaller life insurance companies. Accordingly, the Commission has decided to further defer until 1981 the effective date of the quarterly reporting requirements for life insurance companies whose shares are not actively traded.

COMMISSION ACTION: The Commission hereby amends paragraphs (c)(1) of §§ 240.13a-13 and 15d-13 of 17 CFR Part 240, to defer the effective date specified therein as given below.

§ 240.13a-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

(c) * * *
(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in

fiscal years ending on or before December 15, 1981, if they do not meet the tests specified in paragraph (t)(1)(i) of § 210.3-16; or

§ 240.15d-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

(c) * * *
(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 15, 1981, if they do not meet the test specified in paragraph (t)(1)(i) of § 210.3-16; or

These amendments are adopted pursuant to authority in Sections 12, 13, 15(d) and 23(a) [12 U.S.C. 781, 78m, 78o(d) and 78w] of the Securities Exchange Act of 1934.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 19, 1979.

[FR Doc. 79-39819 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 274

[Docket No. RM79-68; Order No. 42-A]

Ceiling Prices; Determinations by Jurisdictional Agencies; New Natural Gas and Certain Natural Gas Produced From the Outer Continental Shelf; Order Denying Motion for Reconsideration and Granting in Part and Denying in Part Petitions for Rehearing or Order No. 42

December 20, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Errata notice.

SUMMARY: This Notice Contains Corrections to the Commission's order issued November 29, 1979 (44 FR 69642, December 4, 1979). Please note that the following corrections should be made:

1. The word "both" in the second sentence in the last full paragraph in the third column on page 69643 is corrected to read "either" so that the sentence now reads [in pertinent part]:

Therefore we will require application of this test only if the potentially disqualifying well—that is, an old well which penetrated the subject reservoir before April 20, 1977, and produced oil or gas in commercial quantities before that date—does not meet either of the following conditions:

2. The reference to "§ 271.201" in the first line of the last paragraph in the second column on page 69644 is corrected to read "§ 271.204."
3. The phrase "or natural gas in commercial quantities prior to April 20," in the seventh and eighth lines of the first sentence of the first full paragraph in the first column on page 69645 is deleted. The sentence should now read in pertinent part as follows (emphasis in original):

According to the test in § 274.202(a)(2)(ii)(1)(II): if the sale of production from the subject reservoir (net of royalty) through any well that produced crude oil or natural gas in commercial quantities prior to April 20, 1977, at the "Market price reasonably available as of April 20, 1977," * * *

4. Paragraph "3." under the heading "PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES" on page 69647 is corrected by inserting ", by changing (C) to (E) in clause (ii)(F)." after the reference to clause "(ii)(F)" so that the paragraph now reads as follows:

"3. Section 274.202 of the Commission's Interim Regulations is amended in paragraph (d)(2)(ii) by redesignating clause (ii)(C) as (ii)(E) and clause (ii)(D) as (ii)(F), by changing (C) to (E) in clause (ii)(F), and by inserting new clauses (ii)(C) and (ii)(D) to read as follows:"

FOR FURTHER INFORMATION CONTACT: Scott E. Koves, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8317.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39600 Filed 12-27-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 510 and 555

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed for Custom Feed Blenders Corp., providing for use of a 10-grams-per-pound tylosin premix for making complete swine feeds, and to add this firm to the list of approved NADA sponsors.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Custom Feed Blenders Corp., 540 Hawkeye Ave., Fort Dodge, IA 50501, is the sponsor of an NADA (106-507) providing for safe and effective use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound. The premix is to be used for manufacture of complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (see the Federal

Register of December 23, 1977 (42 FR 64367)), the approval of this NADA does not require reevaluation of the safety and effectiveness data in NADA 12-491 or in NADA 106-507.

Custom Feed Blenders Corp. has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

(c) * * *	
(1) * * *	
Firm name and address Drug labeler code	
* * * * *	
Custom Feed Blenders Corp., 540 Hawkeys Ave., Fort Dodge, IA 50501.	046987
* * * * *	
(2) * * *	
Drug labeler code Firm name and address	
* * * * *	
046987	Custom Feed Blenders Corp., 540 Hawkeys Ave., Fort Dodge, IA 50501.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(63) to read as follows:

§ 558.625 Tylosin.
* * * * *
(b) * * *
(63) To 046987: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.
* * * * *

Effective date. This amendment is effective December 28, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 13, 1979.
Lester M. Crawford,
Director, Bureau of Veterinary Medicine.
[FR Doc. 79-39412 Filed 12-27-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dexamethasone Injection

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Carter-Glogau Laboratories, Division of Chromalloy Pharmaceuticals, Inc., for safe and effective use of dexamethasone injection in horses to provide a glucocorticoid and/or anti-inflammatory effect.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Carter-Glogau Laboratories, Division of Chromalloy Pharmaceuticals, Inc., 5160 W. Bethany Home Rd., Glendale, AZ 85301, filed an NADA (110-349) providing for intravenous injection of dexamethasone in horses for rapid adrenal glucocorticoid and/or anti-inflammatory effect. The firm is sponsor of an approved NADA (104-606) which provides for use of dexamethasone sodium phosphate as an intravenous injection in horses for the same purpose.

This product is similar to Schering's dexamethasone aqueous suspension (NADA 11-901V, originally approved December 7, 1959) and sterile solution (NADA 12-559V, originally approved March 29, 1961). These products were among several that were the subject of a National Academy of Sciences/National Research Council (NAS/NRC) report published in the Federal Register of April 12, 1969 (34 FR 6447). The NAS/NRC report concluded, and the agency concurred, that these drugs are effective as anti-inflammatory agents for dogs, cats, horses, and cattle, and for primary bovine ketosis. In addition, the report stated that the products may be used as supportive therapy for certain other conditions. Supplemental NADA's were invited to provide revised labeling limiting the conditions of use as stated in the report. Schering submitted supplemental applications to revise the

labeling of these products as required by the NAS/NRC report. The supplements were approved April 6, 1971 and codified in the regulations (21 CFR 522.540(a)). Approval of NADA's for similar products does not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(vi) of the animal drug regulations (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(vi)), but may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for generic drugs reviewed by NAS/NRC. The guideline is available at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. This document amends the regulations to reflect this approval.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the new animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information supporting approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, (address given above) from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act, (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.540 is amended by revising paragraph (c)(2) to read as follows:

§ 522.540 Dexamethasone injection.

* * * * *
(c) * * *
(2) Sponsor. See Nos. 000381 and 000864 in § 510.600(c) of this chapter.
* * * * *

Effective date. This regulation is effective December 28, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 18, 1979.
Lester M. Crawford,
Director, Bureau of Veterinary Medicine.
[FR Doc. 79-39411 Filed 12-27-79; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1
(T.D. 7663)
Tax Treatment of Certain Short-Term Corporate Obligations and Certificates of Deposit and Similar Deposit Arrangements

AGENCY: Internal Revenue Service, Treasury.
ACTION: Final regulations.

SUMMARY: This document provides final regulations concerning the tax treatment of certain short-term corporate obligations and certificates of deposit, time deposits, bonus plans, or other deposit arrangements issued or entered into by banks or similar financial institutions. The regulations reflect a change in the position of the Internal Revenue Service with respect to the tax treatment of these types of obligations and deposits and provide the public with needed guidance.

DATES: The amendment to § 1.451-2(a)(2) of the regulations is effective for corporate obligations and certificates of deposit, time deposits, bonus plans, and other deposit arrangements issued or entered into after December 31, 1978. In general, the amendment to § 1.1232-3(b)(1)(iii)(a) of the regulations is effective for taxable years beginning after December 31, 1978. However, the amendment to § 1.1232-3(b)(1)(iii)(a) does not apply for taxable years beginning before September 19, 1979, if for the issuer's last taxable year beginning before September 19, 1978, the issuer properly applied the rules of § 1.163-4 (relating to deduction for original issue discount on certain obligations issued after May 27, 1969).

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202/566-3294.

SUPPLEMENTARY INFORMATION:

Background

On September 19, 1979, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part I) under sections 451(a) and 1232(b)(1) of the Internal Revenue Code of 1954 (44 FR 54315). The amendments were proposed to clarify the tax treatment of certain short-term corporate obligations and certificates of deposit, time deposits, bonus plans, and other deposit arrangements. After consideration of all

comments received in response to the notice of proposed rulemaking and at the public hearing on the proposed amendments which was held on November 1, 1979, those amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

The proposed regulation contained an example to be added to § 1.451-2(a)(2) of the regulations to provide that if three month's interest must be forfeited upon withdrawal or redemption before maturity of a one year certificate of deposit or similar deposit arrangement, then the earnings payable on premature withdrawal or redemption of the deposit would be substantially less when compared with the earnings available at maturity. Thus, under § 1.451-2(a)(2) such an interest forfeiture penalty would be a substantial limitation or restriction on the taxpayer's control and no interest earned on the certificate of deposit or similar deposit arrangement would be constructively received by the taxpayer before maturity. In response to a comment on the notice, paragraph 1 of this Treasury decision amends the facts of this example so that the term of the deposit is one year or less to make it clear that the rule illustrated by the example applies to certificates of deposit or similar deposit arrangements with terms of not only one year, but also with a term of less than one year.

Paragraph 2 of this Treasury decision makes several changes to the amendments that were proposed by the notice to § 1.1232-3(b)(1)(iii) of the regulations. A number of persons submitting comments urged that the effective date of the final regulations be postponed because they felt that in this case it was not appropriate to issue regulations late in 1979 affecting the tax treatment to the issuer in 1979. In response to these concerns it was decided to provide in this Treasury decision that the amendment to § 1.1232-3(b)(1)(iii)(a) does not apply for taxable years beginning before September 19, 1979, if for the issuer's last taxable year beginning before September 19, 1978, the issuer properly applied the rules of § 1.163-4 (relating to deduction for original issue discount on certain obligations issued after May 27, 1969). Thus, for example, if a calendar year bank or similar financial institution properly deducted original issue discount as interest and prorated or amortized the amount over the term of a certificate of deposit before January 1, 1979, it can continue to do so during 1979. In connection with these amendments normal rules for a change in method of accounting apply.

The amendments proposed by the notice to § 1.1232-3(b)(1)(iii) provided that the term of the obligation included renewal periods. The Supplementary Information in the notice indicated that the proposed amendment would thus not apply to a one year certificate of deposit or similar deposit arrangement that was renewable for a specified number of years and indicated that the tax treatment of this type of instrument would continue to be governed by § 1.1232-3A(e)(4) of the regulations. A number of comments on the notice expressed confusion about the circumstances under which renewal periods would be included in determining the term of the obligation. In response to these concerns, the proposed amendment is modified by this Treasury decision to provide that the term of the obligation includes all renewal periods with respect to which, under the terms of the obligation, the holder may either take action or refrain from taking action which would prevent the actual or constructive receipt of any interest on the obligation until the expiration of the renewal period. This rule thus parallels the rule of § 1.1232-3A(e)(4)(iii) concerning renewal periods in the case of obligations having a term of one year or less. It is illustrated by the example in § 1.1232-3A(e)(4)(iv) of the regulations.

Under sections 871 and 881 of the Code, original issue discount on certain bonds or other evidences of indebtedness with a term of six months or less are exempt from the 30% tax imposed by those sections on income not effectively connected with a United States business of nonresident alien individuals and foreign corporations. See S. Rep. No. 92-437, 92d Cong., 1st Sess. 76 (1971). Under the proposed amendment to § 1.1232-3(b)(1)(iii)(a), corporate obligations with a term of one year or less on which an amount based on a fixed rate of simple or compound interest is payable at maturity would not have original issue discount. Thus, because there would be no original issue discount, amounts earned on such obligations would be subjected to the 30% tax under sections 871 and 881. In order to avoid the imposition of this tax on corporate obligations with a term of six months or less and to implement Congressional intent to exempt amounts earned on such obligations from the 30% tax, the amendment proposed by the notice to § 1.1232-3(b)(1)(iii)(a) has been limited so that it will not apply for purposes of applying sections 871 and 881. Thus, such obligations will be treated as having original issue discount only for purposes of exempting them

from the 30% tax. For all other purposes under the Code, the obligations will not have original issue discount.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, State and local governments, and the public. These regulations will impose no new reporting or recordkeeping requirements.

Revenue Ruling 79-72

The regulations adopted by this Treasury decision apply to the time deposit certificates to which Revenue Ruling 79-72, 1979-1 C.B. 278, relating to Federal income tax treatment of interest on short-term nonnegotiable time deposit certificates issued by financial institutions where the term of the certificate overlaps the end of the holder's taxable year, applied. Therefore, this Treasury decision supersedes Revenue Ruling 79-72.

Drafting Information

The principal author of these regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly 26 CFR Part 1 is amended as follows:

Paragraph 1. Paragraph (a)(2) of § 1.451-2 is amended to read as follows:

§ 1.451-2 Constructive receipt of income.

(a) *General rule.* * * *

(2) The fact that the taxpayer would, by withdrawing the earnings during the taxable year, receive earnings that are not substantially less in comparison with the earnings for the corresponding period to which the taxpayer would be entitled had he left the account on deposit until a later date (for example, if an amount equal to three months' interest must be forfeited upon withdrawal or redemption before maturity of a one year or less certificate of deposit, time deposit, bonus plan, or other deposit arrangement then the earnings payable on premature withdrawal or redemption would be substantially less when compared with the earnings available at maturity);

Par. 2. Paragraph (b)(1)(iii) of § 1.1232-3 is amended by deleting the second and third sentences of subdivision (a) and inserting in lieu thereof three new sentences and by adding a new subdivision (e) at the end thereof. The new provisions read as follows:

§ 1.1232-3 Gain upon sale or exchange of obligations issued at a discount after December 31, 1934.

(b) *Definitions*—(1) *Original issue discount.* * * *

(iii) *Stated redemption price at maturity*—(a) *Definition* * * * If any amount based on a fixed rate of simple or compound interest is actually payable or will be treated as constructively received under section 451 and the regulations thereunder either—

(1) At fixed periodic intervals of one year or less during the entire term of an obligation, or

(2) Except as provided in subdivision (e) of this paragraph (b)(1)(iii), at maturity in the case of an obligation with a term of one year or less, any such amount payable at maturity shall not be included in determining the stated redemption price at maturity. For purposes of subdivision (a)(2) of this paragraph (b)(1)(iii), the term of an obligation shall include any renewal period with respect to which, under the terms of the obligation, the holder may either take action or refrain from taking action which would prevent the actual or constructive receipt of any interest on such obligation until the expiration of any such renewal period. To illustrate this paragraph (b)(1)(iii), assume that a note which promises to pay \$1,000 at the end of three years provides for additional amounts labeled as interest to be paid at the rate of \$50 at the end of the first year, \$50 at the end of the second year, and \$120 at the end of the third year. * * *

(e) *Application of definition.*

Subdivision (a)(2) of this paragraph (b)(1)(iii) shall not apply—

(1) For taxable years beginning before September 19, 1979, if for the issuer's last taxable year beginning before September 19, 1978, the rules of § 1.163-4 were properly applied by the issuer, or

(2) In the case of an obligation with a term of six months or less held by a nonresident alien individual or foreign corporation, but only for purposes of the application of sections 871 and 881.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: December 21, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 79-39610 Filed 12-21-79; 4:25 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Virgin Islands Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: On September 11, 1973 notice was published in the Federal Register (38 FR 24896), of the approval of the Virgin Islands Plan and adoption of Subpart S of Part 1952 containing the decision and describing the plan. The Virgin Islands has submitted supplements to the plan involving a developmental change and response to Federal program changes.

Notice is hereby given that the following developmental step and Responses to Federal Program Changes are approved under the Virgin Islands State Plan: Personnel and Staffing, Walkaround Pay Disputes, and Revisions to the Field Operations Manual.

EFFECTIVE DATE: December 28, 1979.

ADDRESSES: Copies of these supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N2439, 200 Constitution Avenue N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Department of Labor, Occupational Safety and Health Division, Bldg., No. 2 2nd Floor, Government Complex, Rm. 207, Lagoon St., Frederiksted, St. Croix, Virgin Islands 00840.

FOR FURTHER INFORMATION CONTACT: Mabel Stanton, Project Officer, Department of Labor, Occupational Safety and Health Administration, 2100

M Street, N.W., Rm. 149, Washington, D.C. 20210 (202) 653-5375.

Supplementary Information

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act), for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 11, 1973 notice was published in the Federal Register (38 FR 24896) of the approval of the Virgin Islands Plan and adoption of Subpart S of Part 1952 containing the decision and describing the plan. The Virgin Islands has submitted supplements to the plan involving a developmental change and response to Federal program changes. (See Subparts B and C, 29 CFR Part 1953).

Description of Supplements

(1) *Personnel and Staffing:* This supplement contains an organizational chart; job descriptions for the Virgin Islands employees of the Division of Occupational Safety and Health; certification by Regional Civil Service Commission that a procedure has been developed by the Virgin Islands Personnel Office for rating and ranking candidates; an Affirmative Action Plan for Equal Employment Opportunity approved by the Civil Service Commission, which "... contains the basic elements for a sound program ... includes provisions for identifying needs and establishing goals and assigns responsibility for action items. ..." In response to a problem of understaffing, this supplement also contains a State-initiated change which presents the staffing commitment in the more flexible terms of a range from two to five compliance positions of which a minimum of two will be filled at the journeyman level.

(2) *Walkaround Pay Disputes:* Amends the Virgin Islands Regulation on Discrimination Against Employees Exercising Rights Under 24 V.I.C. 40(c) by substituting language essentially identical to the Federal 29 CFR 1977.21, as amended September 20, 1977.

(3) *Revisions to the Field Operations Manual:* This change reflects an updating of Chapters VIII, X, XI, and XII through September 1977, which effects a change to the penalty calculation and assessment procedures previously in use. In proposing penalties, the Virgin Islands mirrors the OSHA procedures currently in use for both serious and other-than-serious violations.

Public Participation

Under § 1953.2(c) of this chapter the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Virgin Islands plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Virgin Islands plan supplements described above are hereby approved under Subparts B and C of Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart S of 29 CFR Part 1952 is hereby amended to reflect these approved plan changes by adding a paragraph (i) to § 1952.254 and creating a new § 1952.255 "Changes to Approved Plans":

§ 1952.254 Completed developmental steps.

(i) The Virgin Islands has developed (1) an acceptable organizational chart; (2) job descriptions for V.I. occupational safety and health employees which meet the necessary requirements; (3) a procedure to correct a problem of understaffing in the V.I. in terms of plan commitment; (4) a procedure for rating and ranking candidates; and (5) an Affirmative Action Plan for Equal Employment Opportunity acceptable to CSC.

§ 1952.255 Changes to approved plans.

(a) In accordance with Part 1953, Subpart C of this Chapter, the following Virgin Islands plan changes were approved by the Assistant Secretary on December 20, 1979.

(1) The Virgin Islands amended its Regulation on Discrimination Against Employees Exercising Rights under 24 V.I.C. sec. 40(c) to assure payment to employees for time engaged in walkaround activities in accordance with Federal regulations.

(2) The Virgin Islands amended Chapters VIII, X, XI, and XII through September 1977, changing the penalty calculation and assessment procedures to mirror OSHA procedures currently in use for both serious and other-than-serious violations.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Washington, D.C., this 20th day of December 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-39612 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendments is to add interpretative provisions to the Regulations. The need for the amendments is to make it clear that extensions of credit to Iran, except for fully collateralized trade credits, by persons subject to U.S. jurisdiction are covered by the prohibitions of § 535.201, and that transfers of blocked accounts from demand to interest-bearing status at the instruction of the depositor are authorized under § 535.508. The effect of the amendments is that these interpretations will now be available in published form.

EFFECTIVE DATE: December 26, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202/376-0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation, and delay in effective date are inapplicable.

The interpretation contained in § 535.419 will clarify the fact that the prohibitions of § 535.201 prohibit any person subject to the jurisdiction of the United States from extending credit to Iran or an Iranian entity after the "effective date" (i.e., November 14, 1979) in the absence of a license. This prohibition applies to post-effective date renewals of credits in existence on November 14, 1979. The prohibition applies regardless of the currency in which the credit was to be denominated. It does not apply to fully collateralized trade credits in view of § 535.901.

Section 535.420 clarifies the fact that Iranian owners of blocked assets are authorized by § 535.508 to instruct banks holding their accounts to transfer funds from demand to interest-bearing status at any time.

31 CFR Part 535 is amended as follows:

1. § 535.419 is added to read as follows:

§ 535.419 Extensions of credit to Iran.

(a) § 535.201 prohibits the unlicensed extension of credit to Iran or any Iranian entity, by persons subject to the jurisdiction of the United States, after the effective date.

(b) This prohibition applies to the unlicensed renewal of credits in existence on the effective date.

(c) This prohibition applies to credit extended in any currency.

(d) In view of the provisions of §§ 535.566 and 535.901, the prohibition does not apply to trade credits which are fully collateralized in foreign currency or in unblocked U.S. dollars received after the effective date.

2. § 535.420 is added to read as follows:

§ 535.420 Transfers of accounts under § 535.508 from demand to interest-bearing status.

§ 535.508 authorizes transfer of a blocked demand deposit account to interest-bearing status at the instruction of the Iranian depositor at any time.

[Authority: Secs. 201-207, 91 Stat. 1626; 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729.]

Dated: December 26, 1979.

Stanley L. Sommerfield,
Director, Office of Foreign Assets Control.

Approved:
Richard J. Davis,
Assistant Secretary.

[FR Doc. 79-39909 Filed 12-27-79; 8:15 am]
BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Parts 536 and 538

[AR 37-103]

Military Payment Certificates

AGENCY: Department of the Army, DoD.
ACTION: Final rule.

SUMMARY: This amendment revises the regulation on the use of Military Payment Certificates in overseas areas. The regulation was rewritten to update the content of this rule currently published in 32 CFR 536.79 thru 536.87

and to transfer it to 32 CFR Part 538. Time limit on filing claims for the conversion of invalidated military payment certificates is set forth in § 538.5(a).

EFFECTIVE DATE: December 3, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Keetay, Autovon 699-3001/ Area Code 317-542-3001 or write: Commander, U.S. Army Finance and Accounting Center, ATTN: DACA-FAY-D, Indianapolis, Indiana 46249.

Dated: December 3, 1979.

P. E. Anderson,
Lieutenant Colonel, U.S. Army, Acting Chief,
Field Services Office, U.S. Army Finance and Accounting Center.

Accordingly, 32 CFR, Chapter V is amended as set forth below:

§ 536.79-536.87 [Deleted]

1. Sections 536.79 through 536.87 deleted and reserved.

2. Part 538 is added to read as follows:

PART 538—MILITARY PAYMENT CERTIFICATES

Sec.

538.1 Definitions.

538.2 Use of military payment certificates.

538.3 Restrictions on possession and use.

538.4 Convertibility of military payment

certificates.

538.5 Conversion of invalidated military

payment certificates.

538.6 Claims.

Authority: Sec. 3, 58 Stat. 821, as amended;

31 U.S.C. 492c, unless otherwise noted.

§ 538.1 Definitions.

(a) *United States dollar instruments.* For the purpose of this section, United States dollar instruments include the following:

(1) United States Treasury checks (standard dollar checks) drawn on the Treasurer of the United States by authorized finance and accounting officers.

(2) Travelers' checks issued by the American Express Company; Bank of America, National Trust and Savings Association; Mellon National Bank and Trust Company; Citibank of New York; Thomas Cook and Son (Bankers) Ltd.; and the First National Bank of Chicago, when expressed in United States dollars.

(3) United States military disbursing officers' payment orders.

(4) American Express Company money orders, when expressed in United States dollars, and United States postal money orders.

(5) Telegraphic money orders, when expressed in United States dollars.

(b) *Military Payment Certificate (MPC).* The military payment certificate

is an instrument, denominated in U.S. dollars and fractions thereof, that may be used as the official medium of exchange in U.S. military establishments located in overseas areas when such areas are designated as "Military Payment Certificate Areas."

(c) *Authorized Personnel.* As used herein, the term "authorized personnel" means all individuals authorized to purchase goods, supplies and services from U.S. Government sponsored and controlled facilities located and operated in an MPC area.

§ 538.2 Use of military payment certificates.

(a) *Areas in which used.* Military payment certificates are to be used only in the Department of Defense by authorized personnel in designated MPC areas. A Military Payment Certificate Area is a particular foreign country(s), or a specific area within a foreign country, that has been officially authorized for designation as an MPC area.

(b) *Disbursement of military payment certificates.* Military payment certificates will be disbursed to authorized personnel for all items of pay and allowances and for all other authorized payments to individuals in and under the Department of Defense.

(c) *Facilities in which used.* Military payment certificates are the only authorized medium of exchange in the following facilities:

(1) Army, Navy, and Air Force sales and services installations and activities.

(2) Theaters and other entertainment facilities operated by Department of Defense.

(3) Officers' and enlisted personnel messes and clubs, including American Red Cross installations.

(4) Army, Navy, and Air Force postal installations for purchase of postal money orders and stamps, and cashing of postal money orders.

(5) Contribution to all authorized charitable appeals, church collections, and chaplain's funds when remittance is to be forwarded to the United States through Department of Defense channels.

(6) Payments to all travel agencies, radio, cable, telegraph, and telephone companies, and all other similar facilities when remittance is to be forwarded to the United States through Department of Defense channels.

(7) All other official agencies, quasi-official and private agencies of or working in behalf of United States Army Forces providing goods, services, and facilities to members of the United States Armed Forces.

§ 538.3 Restrictions on possession and use.

(a) *Possession or use prohibited.* Possession or use of military payment certificates is prohibited unless acquired in accordance with §§ 538.1-538.4 and such additional regulations as may be issued by the major overseas commander concerned.

(b) *Not to violate directives.* Acquisition, possession, and use of military payment certificates incident to normal legitimate transactions within the Department of Defense must not violate Department of the Army or major overseas command directives or the Uniform Code of Military Justice.

(c) *Acceptance, transfer, or exchange.* Under no circumstances will military payment certificates be accepted from, transferred to, or exchanged for persons other than authorized personnel. Military payment certificates will not be accepted or exchanged after the date specified by the Secretary of the Army as the last day for their acceptance or exchange.

(d) *Transmission through mail.* Individuals are prohibited from transmitting military payment certificates through the mail to any areas other than those designated as an MPC area. Military payment certificates may be transmitted to authorized personnel or official agencies by mail within or between designated MPC areas.

§ 538.4 Convertibility of military payment certificates.

(a) *For authorized personnel.* Authorized personnel having in their possession military payment certificates that were acquired legitimately may exchange those certificates for U.S. currency, coin, or dollar instruments, including U.S. Treasury dollar checks under the following conditions:

(1) Upon departure for the United States.

(2) When traveling under competent orders to areas where military payment certificates are not designated for use.

(3) When traveling under competent orders to military payment certificate areas where finance and accounting officers, Class "B" Agent Officers, including military attaché agent officers, or exchange facilities are not readily available to the traveler.

(b) The provisions of this section will not be construed as authorizing finance and accounting officers or their agents in areas outside of military payment certificate areas to convert military payment certificates for authorized personnel returning from MPC areas. Such exchange must be made prior to departure from the MPC area.

(c) *Conversion of Military Payment Certificates suspected of being acquired illegitimately.* Military payment

certificates will not be converted for any holder under circumstances where there are reasonable grounds to believe that the holder was not an authorized person at the time of acquisition or that the certificates were acquired by the holder, or by another with the holder's knowledge, from a person not authorized to possess or use them.

Amounts of certificates exceeding those which the holder would normally acquire or hold under applicable circumstances as prescribed by local regulations will not be approved for conversion unless the holder shows by a preponderance of evidence that they were acquired legitimately. Where there are reasonable grounds to believe that the military payment certificates were not acquired legitimately, they will be impounded and retained pending an administrative determination as to the source of acquisition. If it is determined that the individual concerned was not an authorized person at the time of acquisition, the certificates will be confiscated and the dollar proceeds deposited in the Treasury to the General Fund (Miscellaneous) Receipt Account 211099, "Fines, penalties and forfeitures not otherwise classified." If it is determined that the individual concerned was an authorized person at the time of acquisition, or that the certificates belong to an authorized person, the certificates or their dollar value will be returned to the owner unless there are reasonable grounds to believe the certificates were acquired by the holder or another with the holder's knowledge from an unauthorized person. If it is determined that the certificates were acquired from an unauthorized person, the certificates will be confiscated and the dollar proceeds deposited in the Treasury to the General Fund (Miscellaneous) Receipt Account 211099, "Fines, penalties and forfeitures not otherwise classified." Collection vouchers affecting these deposits will cite claimants' names and sufficient information to permit ready identification of the deposits in order to facilitate the processing of any subsequent claims for amounts so deposited.

(d) *Transactions with disbursing officers of other services.* Dollar instruments may be exchanged for military payment certificates or military payment certificates for dollar instruments in transactions with Navy and Air Force disbursing officers and their agents. Major overseas

commanders may specifically authorize such transactions with other disbursing officers of the United States Government and their agents.

§ 538.5 Conversion of invalidated military payment certificates.

(a) *When converted.* Time limit on filing claims for the conversion of invalidated Series 461, 471, 472, 481, 521, 541, 591, 611, 641, 651, 661, 681, and 692 expires on 30 September 1980.

(b) *When found in effects of deceased personnel.* Invalidated series of military payment certificates in amounts not in excess of \$500, found in the effects of deceased personnel or personnel in a missing status, will be converted into a Treasury check. Such military payment certificates will be converted only if date of death or entry into missing status was prior to the date the series of military payment certificates was withdrawn from circulation. The Treasury check will be disposed of in accordance with regulations governing disposition of effects of deceased or missing personnel. Amounts in excess of \$500 will be forwarded by the summary court officer to the U.S. Army Finance and Accounting Center for decision regarding exchange of such certificates.

(c) *Disposition when received with claim.* Under no circumstances will invalidated series of military payment certificates received with claims for conversion be taken up in the accounts of the finance and accounting officer. Such certificates will be held in safekeeping until decision is made. If the claim is disapproved, the certificates will be returned to the claimant. In the event these certificates are again received by the finance and accounting officer as undeliverable and reasonable efforts fail to locate the claimant, the certificates will be held for a period of 6 months after which time the proceeds of the certificates will be deposited in the Treasury to the General Fund (Miscellaneous) Receipt Account 211060, "Forfeitures of unclaimed money and property."

§ 538.6 Claims.

Claims for conversion of military payment certificates, as well as claims arising out of the refusal of the overseas command to convert military payment certificates, will be referred to the U.S. Army Finance and Accounting Center, ATTN: FINCY-D, Indianapolis, Indiana 46249. The U.S. Army Finance and Accounting Center will adjudicate and make final determination on all claims.

[FR Doc. 79-39501 Filed 12-27-79; 8:45 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.
ACTION: Final rule.

SUMMARY: The Postal Service announces an increase in the contracting authority that may be delegated to certain managers for minor repairs and improvements. In addition, the Service prescribes policies and procedures for procurement of architect-engineer services.

EFFECTIVE DATE: January 14, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Jones. (202) 245-4603.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which has been incorporated by reference in the Federal Register (see 39 CFR 601.100), has been amended by the issuance of Transmittal Letter 30, dated December 15, 1979.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the Federal Register as an amendment to that section and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers of the basic Manual will receive these amendments from the Government Printing Office. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

Description of these amendments to the Postal Contracting Manual follows:

1. Paragraph 1-407.2(b)(2)(ii) has been revised to reflect an increase in the contracting authority that may be delegated to Managers, Procurement Services Offices (PSO's), for minor repairs and improvements.

2. Part 6 of Section 18 has been added to prescribe policies and procedures for procurement of architect-engineer services.

In consideration of the foregoing, 39 CFR 601 is amended by adding the following to § 601.105:

§ 601.105 Amendments to the Postal Contracting Manual.

Transmittal letter	Dated	Federal Register publication
30	Dec. 15, 1979	44 FR

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008)
W. Allen Sanders,
Associate General Counsel for General Law and Administration.
[FR Doc. 79-39670 Filed 12-27-79; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1366-3]

Standards of Performance for New Stationary Sources; Adjustment of the Opacity Standard for a Fossil Fuel-Fired Steam Generator

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This action adjusts the NSPS opacity standard (40 CFR Part 60, Subpart D) applicable to Southwestern Public Service Company's Harrington Station Unit #1 in Amarillo, Texas. The action is based upon Southwestern's demonstration of the conditions that entitle it to such an adjustment under 40 CFR 60.11(e).

EFFECTIVE DATE: December 28, 1979.
ADDRESS: Docket No. EN-79-13, containing material relevant to this rulemaking, is located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2903 B, 401 M St., SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

The docket is an organized and complete file of all the information submitted to or otherwise considered by the Administrator in the development of this rulemaking. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Richard Biondi, Division of Stationary Source Enforcement (EN-341), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone No. 202-755-2564.

SUPPLEMENTARY INFORMATION:

Background

The standards of performance for fossil fuel-fired steam generators as promulgated under Subpart D of Part 60 on December 23, 1971 (36 FR 24876) and amended on December 5, 1977 (42 FR

61537) allow emissions of up to 20% opacity (6-minute average), except that 27% opacity is allowed for one 6-minute period in any hour. This standard also requires continuous opacity monitoring and requires reporting as excess emissions all hourly periods during which there are two or more 6-minute periods when the average opacity exceeds 20%.

On December 15, 1977, Southwestern Public Service Company (SPSC) of Amarillo, Texas, petitioned the Administrator under 40 CFR 60.11(e) to adjust the 20% opacity standard applicable to its Harrington Station coal-fired Unit #1 in Amarillo, Texas. The Administrator proposed, on June 29, 1979 (44 FR 37960), to grant the petition for adjustment, concluding that SPSC had demonstrated the presence at its Harrington Station Unit #1 of the conditions that entitle it to such relief, as specified in 40 CFR 60.11(e)(3).

These final regulations are identical to the proposed ones. EPA hereby grants SPSC's petition for adjustment for Harrington Station Unit #1 from compliance with the opacity standard of 40 CFR 60.42(a)(2). As an alternative, SPSC shall not cause to be discharged into the atmosphere from the Harrington Station Unit #1 any gases which exhibit greater than 35% opacity (6-minute average), except that a maximum of 42% opacity shall be permitted for not more than one 6-minute period in any hour. This adjustment will not relieve SPSC of its obligation to comply with any other federal, state or local opacity requirements, or particulate matter, SO₂ or NO_x control requirements.

Comments

Two comment letters were received, both from industry and both supporting the proposed action. One industry representative approved of EPA efforts to adjust NSPS to account for well-known opacity difficulties found in large steam electric generating units which have hot side electrostatic precipitators and combust low-sulfur western coal.

A second industry representative suggested that the use of Best Available Control Technology on coal-fired units has not assured compliance with applicable opacity standards, and that opacity standards do not complement standards for particulate emissions. EPA disagrees with this comment. Violations of opacity standards generally reflect violations of mass emission standards, and EPA will continue to impose opacity standards as a valued tool in insuring proper operation and maintenance of air pollution control devices.

Miscellaneous

This revision is promulgated under the authority of Section 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411 and 7601(a)).

Dated: December 17, 1979.
Douglas M. Costle,
Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

40 CFR part 60 is amended as follows:

Subpart D—Standards of Performance for Fossil Fuel-Fired Steam Generators

1. Section 60.42 is amended by adding paragraph (b)(1) as follows:

§ 60.42 Standard for particulate matter.

(a) * * *
(b)(1) On and after (the date of publication of this amendment), no owner or operator shall cause to be discharged into the atmosphere from the Southwestern Public Service Company's Harrington Station Unit #1, in Amarillo, Texas, any gases which exhibit greater than 35% opacity, except that a maximum of 42% opacity shall be permitted for not more than 6 minutes in any hour.

(Sec. 111, 301(a), Clean Air Act as amended (42; U.S.C. 7411, 7601))

2. Section 60.45(g)(1) is amended by adding paragraph (i) as follows:

§ 60.45 Emission and fuel monitoring.

(g) * * *
(1) * * *
(i) For sources subject to the opacity standard of § 60.42(b)(1), excess emissions are defined as any six-minute period during which the average opacity of emissions exceeds 35 percent opacity, except that one six-minute average per hour of up to 42 percent opacity need not be reported.

[FR Doc. 79-39509 Filed 12-27-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1376-3]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Attainment Status: Alameda County, Calif.

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rulemaking.

SUMMARY: This notice revises the attainment status designation of Alameda County for total suspended particulates (TSP). The revision is the result of (a) a request from the State Air Resources Board (ARB) to redesignate Alameda County to attainment for TSP, and (b) the absence of detected violations during the most recent eight consecutive quarters (1977 and 1978) for which data are available. Alameda County is redesignated from nonattainment (primary) to attainment for TSP.

DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief, Technical Analysis, Section (A-4-3), Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105. Phone: (415) 556-2002.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977, Pub. L. 95-95, added to the Clean Air Act (CAA) section 107(d), which directed each State to submit to the Administrator of the EPA a list of the National Ambient Air Quality Standards (NAAQS) attainment status of all areas within the State. The Administrator was required under section 107(d)(2) to promulgate the State lists, with any necessary modifications.

For each NAAQS, areas are classified as either (1) not attaining the standard or, for certain pollutants, projected not to maintain the standard (nonattainment areas), (2) meeting the standard (attainment areas), or (3) lacking sufficient data or information to be classified (unclassified areas). The EPA published these lists on March 3, 1978 (43 FR 8962). At that time Alameda County was classified nonattainment (primary) for TSP (40 CFR 81.305).

Under section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to the EPA for promulgation.

An August 14, 1979 letter from the ARB states that Livermore, the station upon which Alameda County's nonattainment status had been based, has demonstrated compliance for more than eight quarters with the national TSP primary standards and with the 24-hour national TSP secondary standard. The ARB further states that Fremont, the other Alameda County monitoring station with complete data, has also demonstrated compliance with those TSP standards for the eight quarters of 1977 and 1978. The ARB therefore

redesignated Alameda County as attainment for TSP.

On September 27, 1979 (44 FR 55602), the EPA published a Notice of Proposed Rulemaking, proposing to redesignate Alameda County as attainment for TSP and inviting public comments on that proposal. One comment was received, agreeing with the EPA's analysis and encouraging expeditious final action.

Based upon a review of the TSP air quality data for Alameda County, the EPA finds that the NAAQS for TSP have been attained.

As a result of this redesignation, the requirements of Title I, Part D (Plan Requirements for Nonattainment Areas) of the CAA, as amended, no longer apply in Alameda County for TSP.

The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Sec. 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)))

Dated: December 17, 1979.

Douglas M. Costle,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 81.305 [Amended]

1. In § 81.305—California, the attainment status designation table for TSP is amended as follows:

A. In the California—TSP table published in the Federal Register on September 12, 1979 (44 FR 53081), the designation of Alameda County is amended. The amended portion of the TSP table for § 81.305 reads as set forth below:

California—TSP				
Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * *	* * *	* * *		
Alameda County				x
* * *	* * *	* * *		

[FR Doc. 79-39507 Filed 12-27-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 434

[FRL 1381-4]

Coal Mining Point Source Category Effluent Limitations Guidelines for Existing Sources and Standards of Performance for New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rules.

SUMMARY: These regulations establish an exemption from otherwise applicable effluent limitations guidelines and new source performance standards for the coal mining point source category. The exemption applies to increases in the volume of discharges, overflows and discharges from by-pass systems, caused by precipitation or snowmelt, from facilities meeting the criteria set forth in the exemption.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: William A. Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 426-2707.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 1977, EPA promulgated final effluent limitations guidelines, based on best practicable control technology currently available (BPT) for existing sources in the coal mining point source category. 42 FR 46932. These regulations included the following exemption from otherwise applicable requirements:

Any untreated overflow, increase in volume of a point source discharge, or discharge from a by-pass system from facilities designed, constructed and maintained to contain or treat the discharges from the facilities and areas covered by this subpart which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section. 40 CFR 434.22(c), 434.32(b), and 434.42(b).

Thereafter, on January 12, 1979, the Agency promulgated new source performance standards (NSPS) applicable to new sources in the coal mining point source category. 44 FR 2536. These regulations contained a storm exemption which differed from the BPT exemption. The NSPS exemption provided:

Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a by-pass system, resulting from a 10-year/24-hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed, and maintained to contain or treat the volume of water which

would result from a 10-year/24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section. 40 CFR 434.25(b), 434.35(b), and 434.45(b). (emphasis added).

As the underscored language indicates, the NSPS exemption differed from the BPT exemption in that (1) the burden of proof was placed on the operator to demonstrate that the preconditions to an exemption had been met, and (2) an exemption could only be granted if a 10-year/24-hour or larger precipitation event (or snowmelt of equivalent volume) actually occurred. In contrast, the BPT storm exemption required only that the treatment facility be designed, constructed, and maintained to contain or treat a given volume of water; there was no requirement that a precipitation event (or snowmelt) of a given magnitude occur.

As stated in the preamble to the NSPS regulations, the Agency had not viewed these two provisions as substantially different. Therefore, the Agency announced that the BPT regulations would be amended to conform to the NSPS storm exemption provision. 44 FR at 2588. Accordingly, on April 2, 1979, EPA amended the BPT storm exemption provisions. 44 FR 19193. As stated in the preamble to the BPT amendment, the Agency also took that action to make its regulations consistent with regulations promulgated by the Department of the Interior, through the Office of Surface Mining (OSM), pursuant to the Surface Mining and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87.

Subsequent to these actions, the Agency received substantial criticism of the NSPS and revised BPT storm exemption provisions. The National Coal Association (NCA) filed a petition for review in the United States Court of Appeals for the Fourth Circuit challenging the BPT revision, and filed a similar petition in the Third Circuit challenging the NSPS storm exemption. In addition, the NCA and American Mining Congress (AMC) have filed a petition for review in the District Court for the District of Columbia challenging, among other things, the OSM's storm exemption provision. They have also directly petitioned the OSM requesting it, among other things, to reconsider its storm exemption.

Industry claims that, regardless of EPA's original intent, there is a vast difference between granting relief to a facility designed, constructed and maintained to contain or treat the volume of water that would result from a 10-year 24-hour precipitation event, as opposed to requiring, in addition, that specific effluent limitations be achieved

during all storm events short of the 10-year 24-hour event. It has argued that the Agency's data supporting the BPT and NSPS limitations is based on "average" (i.e., non-storm) flow conditions, and provides no support for the requirement that the limitations be attained during all storms smaller than a 10-year 24-hour storm.

In order to air these issues and develop a more fully informed administrative record, on July 6, 1979, the Agency initiated a new rulemaking proceeding, and suspended that portion of the exemptions which required that a 10-year 24-hour or larger precipitation event (or equivalent snowmelt) actually occur. 44 FR 39391. Concurrently, EPA established a two-stage public comment process. First, it solicited comments for thirty days on the general issues posed by the various storm provisions, and particularly solicited alternative suggestions. In addition, the Agency announced that it was incorporating into its record certain materials cited and discussed in the preamble to OSM's regulations regarding this issue, and solicited comments on that material as well.

Subsequently, on August 14, 1979, the Agency circulated and made available for public comment two new technical reports concerning this issue. 44 FR 47595. These reports were "Evaluation of Performance Capability of Surface Mine Sediment Basins," prepared by Skelly and Loy, and "Evaluation of Sedimentation Pond Design Relative to Capacity and Effluent Discharge," by D'Appolonia Consulting Engineers, Inc. At the request of several persons, the Agency extended the comment period on these studies to October 19, 1979. 44 FR 55223 (September 25, 1979). As a result of that extension and the need to adequately address the issues and comments, the Agency extended this rulemaking to December 21, 1979. 44 FR 64082 (November 6, 1979). The regulations promulgated today are based on the record developed in the above rulemaking process and the previous rulemaking proceedings concerning the Agency's BPT and NSPS regulations.

The legal authority for these regulations include sections 306, 301, and 304 of the Clean Water Act, as amended, 33 U.S.C. 1316, 1311, and 1314, and is discussed in detail in the preambles to EPA's BPT and NSPS regulations.

Summary and Basis of Regulations; Treatment Technology and the Need for a Storm Exemption

The water pollution problems and treatment technologies prevalent in coal

mining and processing operations are discussed in detail in EPA's "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards" (May, 1976), previously made available for public comment, and in the preambles to the Agency's BPT and NSPS regulations. The following discussion provides a summary of that material and the supplemental reports and comments received by the Agency since July 6, 1979.

Process waste waters generated from coal preparation plants include fine coal and mineral particles such as clays, which may remain suspended in the waste water and cause serious pollution problems for receiving waters. Water is not generally used in, and in fact interferes with, coal mining operations. Water enters surface and underground mines through precipitation, ground water infiltration and surface runoff, and can become polluted by contacting materials in the coal, overburden materials and mine bottom. Water which enters mining areas is generally pumped out and discharged after treatment to receiving waters. Management of mine drainage is an integral part of mine planning and engineering.

Water which carries mining-related pollutants may cause serious environmental harm if discharged directly to streams and rivers. Of primary concern are solids; mining operations, particularly surface mining operations, frequently generate large volumes of sediment, which may be washed away by water passing through the mine.

The elementary technique for removing suspended solids from mine drainage and preparation plant process waste water involves the use of a sediment basin. The polluted water is diverted to one or a series of ponds, where natural gravitational settling results in removal of solids. The clarified water is then decanted and discharged. In addition, raw mine drainage in some areas of the country and raw process waste water may be highly acidic or contain unacceptable levels of metals, which may require pH adjustment and chemical precipitation, primarily by using lime, in conjunction with removal of suspended solids. In addition, many facilities recycle all or part of their preparation plant process waste water.

A sediment pond operates on the principle that as the sediment loaded water passes through the pond, the solid particles will settle to the bottom and be trapped. The particle will accelerate vertically until the friction with the fluid

is approximately equal to the impelling force, at which time the particle will reach a constant velocity known as the settling velocity (Vs). Settling velocity is a function of the density, size and shape of the particle and viscosity of the fluid, as defined by Stoke's Law.

The size of a particle greatly affects its settling velocity. For example, whereas a 10 mm particle requires 0.3 seconds to settle one foot, a particle of .001 mm requires 35 hours to settle the same distance (Hill, 1976). Thus, in designing and sizing a sediment pond, the minimum particle size to be removed is critical. The basin must be designed so that all particles having a settling velocity equal to Vs will be detained in the pond long enough to settle. The basic equation can be expressed as: $V_s = Q/A$ where A is the surface area of the pond (m^2) and Q is the overflow rate or hydraulic load on the pond (m^3/sec). (Hill, 1976).

Thus, in order to meet a specific TSS effluent quality, the pond will have to be constructed and operated to detain sediment-laden water long enough to settle all particles of a specific size (and larger). This "detention time" is a critical factor in sediment pond efficiency and effluent quality, and is a function primarily of the pond surface area and flow rate into the pond.

The effectiveness of a given sediment pond will depend upon the specific design features and practices employed to optimize detention time. For example, the pond should be designed and operated to maximize the opportunity for quiescent settling of solids; minimize turbulence which can stir up solids off the bottom of the pond; reduce the potential impacts of climatological factors such as wind; and minimize the potential for "short-circuiting"—that is, the condition where influent to the pond may move rapidly to the discharge point without being detained in the pond long enough to permit optimal settling of solids.

Further, the pond must be of a large enough capacity to handle the mine drainage which can be expected to flow into it from the relevant drainage area. The location of a given pond is thus also an important factor, since large volumes of sediment-bearing storm runoff can inundate a well-designed facility and substantially diminish the pond's effectiveness. However, the location of the pond will often be constrained by topographical factors; particularly (but not solely) in the steep-sloped terrain of Appalachia, a sediment pond may have to be located in valleys or ravines which collect large volumes of sediment-laden drainage during even routine storms.

Consequently, the Agency has always recognized the need for relief from BPT and NSPS requirements during some storm conditions. The original BPT provision gave relief if the operator experienced an overflow, increase in volume of a discharge or discharge from a bypass system caused by any precipitation event, if the operator had designed, constructed, and maintained the facility to contain or treat a given volume of water—the volume which would result from a 10-year 24-hour storm. However, the issue raised by the NSPS and revised BPT storm exemptions is whether sufficient information exists to require, in addition, that a storm event of a particular magnitude occur as an additional prerequisite to an exemption.

As the Skelly and Loy report indicates, and as several public comments and other record material confirm, sediment pond efficiency during storm events is, to a large extent, dependent on site-specific factors. The inflow hydrograph (i.e., the volume of water delivered to a pond at any given moment during or immediately after a storm) of a given storm event, and the volume and concentration of sediment delivered, will depend in each case on, among other things, the soil erodibility, length and steepness of the terrain, and cover and management practices employed at a given watershed.

Moreover, the specific total suspended solids concentration in the effluent of a given sediment pond will depend on the particle size distribution of the solids delivered to the pond. As the Skelly and Loy study demonstrates, theoretical detention times in excess of 24 hours may not be sufficient to permit settling of fine, colloidal solids. Thus, as that study shows, even if all of the larger solids settle, TSS effluent concentrations can vary widely depending upon the amounts of fine material present in the influent. The particle size distribution of the sediment delivered at a particular site is thus a critical factor, largely beyond the control of the operator, affecting effluent quality. This distribution will vary not only from site to site for a given storm event, but at the same site during the course of that storm.

It is therefore an extremely difficult task to determine a particular magnitude storm event during which the BPT and NSPS effluent limitations can be achieved on a generic basis. Although the record contains some data demonstrating compliance during storms, these data do not provide a systematic basis to impose any

particular storm event as the generic test for obtaining an exemption.

The Agency is now in the process of remedying this information gap. In cooperation with the National Coal Association and its member companies, EPA is engaged in a monitoring program at approximately 12 representative surface coal mines across the country. As part of this program, the participating companies are required to take influent and effluent samples during and after storm events. The Agency expects that this information will provide a systematic basis to determine (1) during which storms the BPT and NSPS requirements can be met, and (2) if those requirements cannot be met during some storms, what limitations on settleable solids (generally recognized as 20 microns or larger) may be reasonable. In addition, the Agency recognizes that removal of the finer materials may be possible with the use of chemical flocculants or other treatment. As the Agency has stated previously, such treatment has not generally been in use for coal mine drainage in the past, and hence the BPT effluent limitations guidelines and new source performance standards were not based on flocculation. However, as part of its ongoing efforts to promulgate BAT/BCT regulations, the Agency is examining the feasibility and treatment potential of flocculants, and the extent to which their use may bear on the storm exemption issue. It is expected that the Agency will propose BAT, BCT, and revised NSPS regulations for this industrial category in the spring of 1980. At that time, the Agency may also propose a revised storm provision, based upon the results of the monitoring program previously discussed.

However, until these empirical data are collected and reviewed, the Agency believes it appropriate to utilize the results of the Skelly and Loy report. Skelly and Loy utilized a computer model known as DEPOSITS (Deposition Performance of Sediment in Trap Structures), developed by the University of Kentucky, to predict the effluent quality which would result from sediment ponds designed according to OSM's design criteria at six representative coal mines in Appalachia during 10-year, 5-year, and 2-year 24-hour storm events. During the 5-year and 10-year events, all ponds modeled fail to meet the BPT and NSPS requirements for total suspended solids (TSS) by a large margin. During the 2-year storm event, the model predicts that there will be no TSS in the effluent. This is due to the model's assumption of "plug flow"—that is, it assumes that water is

discharged on a "first in, first out" basis. As a result, the DEPOSITS model predicts that a 2-year storm will merely displace the standing pool of water previously in the pond, which is assumed to be perfectly clear and free of TSS. In the real world, of course, ponds do not operate on a "plug flow" basis, and any standing pool of water would not be free of TSS. There is no record basis to assume that properly operated sediment ponds can meet the BPT or NSPS requirements on a generic basis during a 2-year 24-hour storm.

Several factors corroborate the Agency's judgment to rely on the Skelly and Loy study until sufficient empirical data are collected. First, it corroborates industry's claims that, in practice, attainment of the effluent limitations during certain storm events may be difficult or impossible. Second, the comments confirm that the DEPOSITS model is a state-of-the-art technique. Third, no commenter claimed that the effluents discharged were unrealistically "worst case" results. On the contrary, several commenters confirmed that, in several critical respects, the assumptions employed lead to unrealistically ideal pond performance, and underestimate the TSS effluent concentrations which would result. For example, the model assumes that the pond exhibits no short circuiting. Further, it was assumed that the ponds had been recently cleaned of all sediment and the full sediment storage volume was available. The "plug flow" concept also idealizes pond performance.

Although several commenters criticized other aspects of the Skelly and Loy study—for example, the assumptions regarding particle size distributions and the use of the Modified Universal Soil Loss Equation to compute the inflow hydrograph and sediment delivery as inputs to DEPOSITS—the Agency is satisfied that the assumptions and methodologies employed were as reasonable, if not more reasonable, than the suggested alternatives. Further, if these commenters' suggestions had been used, they would only have served to make TSS effluent concentrations higher, and thus do not affect Skelly and Loy's central conclusions that the ponds cannot meet the BPT and NSPS requirements during storm events.

Thus, based on the information presently available to the Agency, EPA believes that the need for a storm exemption is clear, and that there is no reasonable way, at this time, to tie such an exemption to a storm of any particular magnitude.

Western Mines

Several commenters noted that the Skelly and Loy study focused exclusively on the Appalachian region, and therefore provide no basis for establishing an exemption for western coal mines. While it is true that topographical constraints may be more prevalent in Appalachia, other commenters have previously noted that some western mines are situated in topography similar to eastern coal fields. See preamble to NSPS regulations, 44 FR 2588. In addition, as commenters have also pointed out, snowmelt may pose severe problems in the west. Therefore, there is no basis at this time upon which to limit the storm exemption to a specific geographic region.

Summary of Major Changes

The storm exemptions promulgated today for BPT and NSPS are essentially the same as the Agency's original BPT storm provision, with minor modifications. First, the regulations place the burden of proof on the mine operator to demonstrate that it has met the prerequisites for an exemption—that is, that he has designed, constructed, and maintained his facility in accordance with the design criteria set forth in the exemption provision. This burden of proof requirement was contained in the original NSPS and revised BPT storm exemption, and no commenter argued against it. In fact, the comments urge the Agency to retain this requirement in order to facilitate enforcement.

Second, the regulation has been clarified to state that the operator is only entitled to an exemption if the overflow, increase in volume of a point source discharge or discharge from a by-pass system is actually caused by a hydrological event—that is, rainfall or snowmelt. This is consistent with the explicit language of the NSPS storm provision, and with the intent of the original BPT exemption as explained in the BPT preamble (See 42 FR 21381).

Costs and Economic Impact

The costs and economic impact of the BPT and NSPS regulations, including the storm provision promulgated today, have previously been considered in detail and discussed by EPA. See 42 FR 21383. The Agency has determined that this regulation does not require any additional economic analyses or the preparation of a Regulatory Analysis under Executive order 12044.

Coordination With Office of Surface Mining

After EPA initiated this rulemaking proceeding and circulated the Skelly and Loy and D'Appolonia studies for public comment, the NCA and AMC commenced an action against EPA in the District Court for the District of Columbia (*National Coal Association et al. v. EPA*, Civil No. 79-2406). In this suit, plaintiffs seek to invalidate EPA's previous concurrence in OSM's regulations, which was given on February 14, 1979, pursuant to section 501 of SMCRA. Plaintiffs claim, among other things, that OSM's storm exemption may not differ from EPA's, and that the Skelly and Loy study requires EPA to withdraw its concurrence. The Agency does not believe that the Skelly and Loy study or the regulation promulgated today requires such an action. First, the District Court has previously held that OSM's storm exemption may differ from EPA's. In *Re Surface Mining Litigation*, 456 F. Supp. 1301, 1314-15 (D.D.C. 1978). This case is presently on appeal to the Court of Appeals for the District of Columbia, and a decision is pending.

Second, the NCA and AMC have petitioned OSM to reconsider portions of its regulations in light of the Skelly and Loy study. The decision to grant or deny that petition is now pending before OSM. The agencies will work closely to minimize, to the greatest practicable extent, duplication and inconsistencies in government regulation.

Dated: December 20, 1979.

Douglas M. Costle,
Administrator.

Part 434, §§ 434.22(c), 434.32(b), 434.42(b), 434.25(b), 434.35(b), and 434.45(b) are amended to read as follows:

Any overflow, increase in volume of a discharge or discharge from a by-pass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this subsection have been met.

Appendix A—Summary of Public Participation

The storm exemption issue has been subject to public comment and review at several stages. The Agency received substantial comments on this issue during its initial BPT and NSPS rulemaking efforts. Those comments have been previously summarized and addressed by the Agency, and will not be addressed here. See 42 FR 21388 (April 26, 1977) (BPT) and 44 FR 2591 (January 12, 1979) (NSPS).

In addition, in its notice of July 6, 1979, the Agency solicited general comments on the storm exemption issue. 44 FR 39391. That comment period closed on August 6, 1979. Thereafter, on August 14, 1979, the Agency solicited comments on the Skelly and Loy and D'Appolonia reports. 44 FR 47595. That comment period closed on October 19, 1979. A summary of the comments received since July 6 follows.

The following parties submitted timely comments pursuant to the July 6th or the August 14th notice or both: Dow Chemical U.S.A., Mapco Coals, Inc., Monterey Coal Company, National Coal Association, Northern Energy Research Co., Pennsylvania Department of Environmental Resources, Reynolds Aluminum, James Spotts, Thorp, Reed and Armstrong, Virginia State Water Quality Control Board, and Wyoming Department of Environmental Quality.

General Comments on Storm Exemption Issue

(1) One commenter suggested that there is no need to have a storm exemption because of the infrequency of the "events or constellation of events which could justify the granting of any such exemption in an individual case." Alternatively, this commenter argued that any exemption should be limited to "truly unusual catastrophic precipitation events" in order to induce industry to improve its present treatment practices. However, the Skelly and Loy report and other data in the record suggest that it may not be feasible to meet the BPT and NSPS requirements during precipitation events. In addition, other comments pointed out that the most severe soil erosion can occur from short duration, high intensity storms which are not infrequent. It should be noted that the storm exemption is tied to a design criterion—i.e., 10-year, 24-hour storm containment or treatment—which represents an improvement over present industry practice.

(2) One commenter suggested that any exemption should apply only to total suspended solids, and not to the other pollutants (i.e., metals) covered by the

regulations. The Agency does not agree with this comment. The BPT and NSPS requirements apply to total metal concentrations—that is, metals in solution (dissolved) and metals in suspension as part of the suspended solids loading. It is the judgment of the Agency's technical personnel that, given the high TSS effluent concentrations resulting from precipitation events, the total metals limitations may not be met either.

(3) Several commenters urged that any exemption be limited to mines located in Appalachia, and not apply to western mines where topography is not as constraining a factor. As discussed in the preamble, there is no basis at this time on which to make such a distinction.

(4) One commenter argued that EPA must propose specific language for public comment before promulgating a storm exemption. The Agency does not agree with this assertion. The public notice attending informal rulemaking must include "either the terms or substance of the proposed rule or a description of the subjects and issues involved," 5 U.S.C. § 553(b)(3), but it need not specify "every precise proposal which the Agency may ultimately adopt as a rule." *California Citizens Band Association v. United States*, 375 F.2d 43, 48 (9th Cir.), cert. denied 389 U.S. 844 (1967); *Action for Children's Television v. F.P.C.*, 564 F.2d 458, 470 (D.C. Cir. 1977).

The notices and extensive opportunity for public comment provided on this issue meet this test. Moreover, the regulation promulgated today is virtually identical to the Agency's original BPT storm exemption; the only changes are either for purposes of clarifying the original exemption or in response to public comments. Accordingly, the public notice requirements of the Administrative Procedure Act have been fully met.

(5) Several commenters suggested that a storm exemption will not be enforceable unless tied to an actual storm event. Although tying the exemption to a specified precipitation event might facilitate enforcement, the requirement that a treatment pond be designed, constructed, and maintained in a specified manner will alleviate enforcement problems. Moreover, enforcement will be substantially facilitated by placing the burden of proof on the operator to demonstrate that it has met the prerequisites to an exemption. This burden of proof requirement was urged by one commenter; it was also a requirement in the Agency's NSPS and revised BPT

regulations, and no commenter argued against such a provision.

(6) One commenter suggested that effluent requirements during storm events should reflect the mirror image of the settleable solids concentration entering the pond during the course of a 2-year, 24-hour storm. While this approach is theoretically sound, it would be difficult, if not impossible, to enforce. It would require the operator to take samples of influent and effluent at every step of the storm. Aside from the costs involved, this approach is obviously impractical.

(7) Several commenters stated that sediment pond performance during storm events is inherently site-specific. The Agency agrees with this comment, which is supported by the Skelly and Loy study.

(8) One commenter suggested that the Agency consider the feasibility of chemical treatment to abet suspended solids removal. The Agency is in the process of assessing the costs, feasibility, and pollution reduction benefits of chemical treatment as part of its BAT rulemaking efforts. Forthcoming BAT and revised NSPS regulations may reflect chemical treatment technology. The Agency does not believe, however, that BPT requirements should be based on chemical treatment because it is generally not practiced in the industry and insufficient data presently exists on which to base a national regulation.

(9) One commenter claimed that the Agency did not consider tying an exemption to both a design capacity and a specific flow rate, as it had stated in its July 6 Federal Register notice. This is incorrect; the Skelly and Loy study examined the performance of sediment ponds of a given capacity under different storm events, that is, under different flow rates.

(10) Several commenters urged that a settleable solids limit be established during precipitation events. The validity of such an approach is suggested by the Skelly and Loy study, which shows that properly designed and operated ponds will remove the larger (settleable) solids, but not the finer, colloidal material. Therefore, the Agency is now undertaking a sampling program, in cooperation with industry, to determine what settleable solids limitation may be appropriate during storm conditions. However, until these data are analyzed, the Agency agrees with those commenters who contended that the Skelly and Loy study does not provide sufficient information to establish a settleable solids limitation.

(11) One commenter suggested that an operator be given credit for demonstrating a good faith attempt to

control sediment rather than be required to achieve a specific effluent limitation. The Agency rejects this suggestion as vague and unenforceable.

Comments on Skelly and Loy and D'Appolonia Studies

(1) Several commenters urged that any storm exemption must account for consecutive storm events, none of which equals a 10-year 24-hour storm, but which collectively cause an overflow from a sediment pond. However, as one commenter pointed out, the D'Appolonia study demonstrates that the probability of such multiple storm occurrences is extremely remote. Moreover, although several industry comments endorse other conclusions of the D'Appolonia study (specifically, the conclusions concerning the costs of building a pond to contain such multiple storm events, the increased pond size that would be needed, and the inability of any pond to assure attainment of the effluent limitations in these multiple storm scenarios), no commenter disputed D'Appolonia's conclusions or methodology concerning the probabilities of these multiple storm scenarios. In fact, while one commenter submitted a study purporting to demonstrate that the runoff from several lesser storm events can exceed the runoff from the 10-year 24-hour storm event, this study did not address the *likelihood* of these successive storm events occurring within a time period short enough to cause an overflow of a sediment pond.

(2) One commenter questioned the Agency's use of a computer modeling technique rather than empirical data to justify a storm exemption. The Agency agrees that empirical data would be preferable. As noted above, EPA is now in the process of collecting influent and effluent data during storm events at coal mine sites throughout the country. However, until such data are collected and analyzed, the Agency believes that the computer model utilized in the Skelly and Loy study corroborates industry's contention that relief during precipitation events is appropriate. As the Skelly and Loy report and several comments indicate, the assumptions used in the model, on balance, yield unrealistically low TSS effluent concentrations for the sites studied. In this regard, no commenter argued that the effluent concentrations reported by Skelly and Loy are unrealistically high. No commenter criticized the DEPOSITS model itself or disputed that it is state-of-the-art. Therefore, until a more adequate empirical data base is collected, the Agency believes it is reasonable to rely on the Skelly and Loy

study as an indicator of the need for a storm exemption provision.

(3) One commenter claimed that it was unable to provide substantive comments on the Skelly and Loy and D'Appolonia reports in the absence of a specific proposed regulation. This comment is difficult to accept, since numerous other commenters did submit helpful and substantive comments on these reports.

(4) Several commenters stated that the Skelly and Loy report used assumptions which led to unrealistically ideal or optimal sediment pond performance. One commenter, on the other hand, claimed that this study underestimated pond performance by focusing solely on pond size, whereas other measures are available and may be crucial to control sediment and erosion (e.g., the use of jute matting, mulch, rip rap, check dams, energy dissipators, and other management practices).

On balance, the Agency believes that the assumptions used by Skelly and Loy optimize sediment removal at the sites examined. Most importantly, the model assumed "plug flow" and no "dead storage," which essentially means that the ponds exhibited no short circuiting and perfect displacement of water. These conditions generally cannot be achieved in the real world and, therefore, the model overstates sediment pond efficiency.

With respect to the other practices which are available to control sediment and erosion, it is extremely difficult to translate these measures into specific improvements in effluent quality. For example, it is virtually impossible to predict, on an industry-wide basis, how much improvement in effluent quality will result from using "X" bales of hay upstream of a sediment pond. More fundamentally, while these practices may reduce the concentration of the larger suspended solids before mine drainage enters the pond, they will do little to reduce the volume or concentration of finer, colloidal solids. As industry has claimed, and the Skelly and Loy study confirms, fine particles are the primary factor which prevents even an optimally designed and operated pond from meeting the effluent limitations during precipitation events. In addition, the ideal conditions discussed in the preceding paragraph effectively incorporate many of these management practices.

(5) Several commenters challenged the use of the Modified Universal Soil Loss Equation (MUSLE) for computing sediment delivery. One commenter suggested that the MUSLE is not state-of-the-art, and recommended instead the use of a model which is now being

developed at Purdue University. MUSLE is a more widely accepted model, and is derived from a larger data base than any other model presently in use. In addition, its use requires less site-specific information for many parameters in the equation; thus, use of other models would require even more assumptions concerning various "representative" factors which would necessarily be arbitrary. In short, there is no reason to believe that the use of the Purdue (or any other) method would appreciably change the results of the study; particularly, there is no reason to believe that other methodologies would alter the conclusion that the ponds studied cannot achieve the effluent limitations during precipitation events.

One commenter suggested that MUSLE is not appropriate for estimating sediment loadings for downstream pond locations, and that the use of "delivery ratio techniques" might be more suitable. This commenter also challenged the use of a composite curve number ("CN") in the MUSLE, and recommended use of a distributed parameter approach which would account for discrete areas of the drainage area. Although this commenter submitted revised calculations using a distributed parameter approach, he did not explain the technique which he used. Therefore, there is no basis for the Agency to conclude that this commenter's method is preferable. In short, there is no basis for the Agency to doubt that use of MUSLE was as reasonable as, and probably preferable to, any other approach. Even if this commenter's suggestions were adopted, moreover, they would only have served to *increase* TSS concentrations in the effluent, and therefore would not change the report's central conclusion.

(6) Several commenters argued that there is no basis for the Skelly and Loy recommendation that a sediment pond be designed according to OSM's design criteria, since the study shows that those design criteria will not ensure attainment of the effluent limitations during precipitation events. The Skelly and Loy study took OSM's design requirements as given. This approach was entirely appropriate. In addition, OSM's regulations permit reduction of pond size if other measures are taken.

(7) Several commenters challenged the cost estimates contained in the Skelly and Loy report as unrealistically low. One commenter submitted site-specific cost estimates which were higher than Skelly and Loy's. Cost estimates are necessarily imprecise, and the Agency is unable to conclude that Skelly and Loy's cost estimates are necessarily

unreasonable, or that other cost assumptions are more reasonable. In any event, these comments are moot in light of the regulation promulgated today.

(8) Several commenters criticized the Skelly and Loy report's failure to address the necessity or desirability, from the standpoint of water quality, of achieving an effluent concentration of 35 and 70 mg/l. The Agency is required to establish technology based limitations without regard to water quality considerations.

(9) One commenter challenged the report's assumptions concerning particle size distributions. As the Skelly and Loy report indicates, particle size distributions are inherently site-specific. The Agency is satisfied that Skelly and Loy utilized reasonable assumptions in this regard, and the commenters have not pointed to any data or literature which demonstrate otherwise.

(10) One commenter claimed that Skelly and Loy failed to take into account whether the designed sediment ponds could physically be constructed at the locations modeled. This is incorrect. Skelly and Loy located all ponds based upon their site-specific knowledge of the mine sites examined.

[FR Doc. 79-39632 Filed 12-27-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 435

[1380-8]

Mineral Mining and Processing Point Source Category; Revocation of BPT Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final amendments to rules.

SUMMARY: EPA has published "best practicable technology" (BPT) regulations under the Clean Water Act for several subcategories of the mineral mining industry (40 CFR Part 435). In *National Crushed Stone Association v. EPA*, 601 F.2d 111 (4th Cir. 1979), the U.S. Court of Appeals for the Fourth Circuit invalidated certain portions of the BPT regulations for the (1) crushed stone and (2) construction sand and gravel subcategories. 601 F.2d at 125. EPA is accordingly revoking the invalidated portions below.

DATES: The revocations are effective as of June 18, 1979. (This date corresponds to the Court decision requiring today's revocations.)

FOR FURTHER INFORMATION CONTACT: Barry S. Neuman (A-131), Office of General Counsel, 401 M Street SW., Washington, D.C. 20460, (202) 755-0753.

Dated: December 21, 1979.

Douglas M. Costle,
Administrator.

§§ 436.22 and 436.32 [Amended]

1. 40 CFR § 436.22(a)(1) is amended by deleting the following from the table therein:

TSS..... 45 mg/l..... 25 mg/l

2. 40 CFR § 436.22(a)(2) is revoked.

3. 40 CFR § 436.22(a)(3) is redesignated as 40 CFR § 436.22(a)(2) and is amended by deleting the following from the table therein:

TSS..... 45 mg/l..... 25 mg/l

4. 40 CFR § 436.32(a)(1) is amended by deleting the following from the table therein:

TSS..... 45 mg/l..... 25 mg/l

5. 40 CFR § 436.32(a)(2) is revoked.

6. 40 CFR § 436.32(a)(3) is redesignated as 40 CFR § 436.32(a)(2) and is amended by deleting the following from the table therein:

TSS..... 45 mg/l..... 25 mg/l

[FR Doc. 79-39633 Filed 12-27-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5759]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or

Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized

flood insurance is now available for property in the community. In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related

financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map. The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows: Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Escambia	East Brewton, City of	010073-B	Dec. 4, 1979, Suspension withdrawn.	Nov. 23, 1973.
Do	Manon	Unincorporated Areas	010161-A	do	Oct. 18, 1974, and Mar. 17, 1978.
Do	Tuscaloosa	Northport, City of	010202-B	do	Dec. 28, 1973, and July 9, 1976.
Arizona	Maricopa	Gila Bend, Town of	040043-B	do	Jan. 23, 1974, and Dec. 24, 1976.
Do	Pima	Oro Valley, Town of	040109-B	do	Apr. 11, 1975, and July 18, 1976.
Do	Maricopa	Phoenix City of	040051-B	do	June 28, 1974, and Sept. 12, 1975.
Arkansas	St. Francis	Forrest City, City of	050187-B	do	Mar. 15, 1974, and Dec. 26, 1976.
California	Orange	Villa Park, City of	060236-B	do	Mar. 22, 1974, and Oct. 31, 1975.
Connecticut	New Haven	Oxford, Town of	090150-B	do	June 28, 1974, and Dec. 17, 1976.
Do	Fairfield	Trumbull, Town of	090017-B	do	June 28, 1974, and Apr. 1, 1977.
Florida	Seminole	Oviedo, City of	120293-B	do	Jan. 23, 1974, and Feb. 13, 1976.
Georgia	Whitfield	Dalton, City of	130134-B	do	Aug. 16, 1974, and Aug. 20, 1976.
Illinois	Tazewell	East Peoria, City of	170649-B	do	June 21, 1974.
Do	Cook	Indian Head Park, Village of	170110-B	do	Apr. 5, 1975, and Oct. 10, 1975.
Do	La Salle	Mendota, City of	170403-B	do	Apr. 5, 1974, and Apr. 2, 1975.
Do	Livingston	Pontiac, City of	170426-B	do	Mar. 8, 1974, and July 18, 1975.
Do	Cook and Will.	Tinley, Village of	170169-B	do	May 17, 1974, and Jan. 13, 1978.
Indiana	Madison	Anderson, City of	180150-B	do	Feb. 15, 1974, and Jan. 30, 1976.
Do	Lake	Hobart, City of	180136-B	do	Apr. 12, 1974, and June 18, 1976.
Do	Morgan	Martinsville, City of	180177-B	do	Nov. 23, 1973.
Do	Switzerland	Patnot, Town of	180309-A	do	July 6, 1977.
Do	do	Vevay, Town of	180352-B	do	Feb. 1, 1975.
Kansas	Manon	Manon, City of	200207-B	do	Feb. 1, 1974, and Oct. 31, 1975.
Louisiana	East Feliciana	Clinton, Town of	220249-A	do	July 18, 1975.
Maine	Piscataquis	Milo, Town of	230177-B	do	Jan. 10, 1975, and Jan. 26, 1977.
Do	Oxford	Porter, Town of	230338-A	do	Feb. 7, 1975.
Michigan	Berrien	New Buffalo, City of	260038-B	do	May 31, 1974, and June 11, 1976.
Minnesota	Anoka	Centerville, City of	270008-B	do	May 3, 1974, and Jan. 3, 1975.
Do	Hennepin	Shorewood, City of	270185-B	do	May 31, 1974, and Mar. 19, 1976.
Missouri	New Madrid	Portageville, City of	290259-B	do	Jan. 9, 1974, and Dec. 12, 1975.
Nebraska	Douglas	Bennington, Village of	310074-A	do	Feb. 1, 1974.
Do	Johnson	Tecumseh, City of	310127-B	do	Dec. 4, 1979.
Do	Dodge	Winslow, Village of	310410-A	do	Aug. 23, 1974.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
New Jersey	Essex	Irvington, Town of	340184-B	do	Dec. 28, 1973, and Sept. 26, 1975.
Do	Middlesex	Metuchen, Borough of	340266-A	do	Nov. 5, 1976.
Do	do	New Brunswick, City of	340270-B	do	June 15, 1973, and Mar. 19, 1976.
Do	do	South Amboy, City of	340277-B	do	Feb. 1, 1974, and Dec. 12, 1975.
Do	Somerset	Watchung, Borough of	340447-B	do	Feb. 1, 1974, and June 4, 1976.
New York	Westchester	Bedford, Town of	360903-C	do	May 31, 1974, and July 9, 1976.
Do	Albany	Cohoes, City of	360006-B	do	Oct. 5, 1973, and June 11, 1976.
Do	Livingston	North Dansville, Town of	360388-B	do	Dec. 29, 1973, and Apr. 23, 1976.
Do	Saratoga	Waterford, Town of	360734-B	do	Mar. 29, 1974.
North Dakota	Cass	Hunter, City of	380181-A	do	Feb. 21, 1975.
Ohio	Lake	Madison, Village of	390316-B	do	May 10, 1974.
Do	do	Willowick, City of	390324-B	do	Aug. 15, 1975.
Oklahoma	Muskogee	Haskell, Town of	400124-B	do	Apr. 12, 1974, and Apr. 23, 1976.
Pennsylvania	Lebanon	Jonestown, Borough of	420572-B	do	Mar. 30, 1973, and Nov. 12, 1976.
Do	do	Lebanon, City of	420573-A	do	Nov. 23, 1973.
Do	Cumberland	Lemoyne, Borough of	420361-B	do	Jan. 14, 1977.
Do	Bucks	Middletown, Township of	420193-B	do	May 31, 1974, and Oct. 17, 1975.
Do	Schuylkill	Pine Grove, Borough of	420782-B	do	Aug. 2, 1974, and May 28, 1978.
Do	Northampton	Tatamy, Borough of	420731-B	do	Apr. 12, 1974, and June 25, 1976.
Do	Lebanon	Union, Township of	421806-A	do	Dec. 13, 1974.
Tennessee	Sullivan	Kingsport, City of	470184-B	do	Mar. 8, 1974, and Aug. 13, 1976.
Texas	Collins and Dallas	Richardson, City of	480184-B	do	May 24, 1974, and May 17, 1977.
Vermont	Windsor	Springfield, Town of	500154-B	do	Feb. 22, 1974, and Sept. 12, 1975.
Washington	Cowlitz	Kelso, City of	530033-B	do	Feb. 15, 1974, and June 4, 1976.
Do	Lewis	Morton, City of	530105-B	do	May 31, 1974, and Feb. 6, 1976.
West Virginia	Jefferson	Charles Town, Town of	540066-B	do	Feb. 1, 1974, and Sept. 19, 1975.
Mississippi	Wayne	Unincorporated Areas	280238	Dec. 3, 1979, emergency	Dec. 20, 1974, and Jan. 13, 1978.
Pennsylvania	Warren	Eldred, Township of	422546	do	Jan. 17, 1975.
Do	Bradford	Pike, Township of	421403-A	do	Nov. 1, 1974 and Aug. 20, 1976.
Do	Clearfield	do	421190-A	do	Sept. 6, 1974 and Sept. 10, 1976.
New York	Cattaraugus	Salamanca, Town of	360098-A	do	do
Pennsylvania	Schuylkill	New Castle, Township of	422012	Dec. 3, 1979, regular	June 3, 1977.
California	Stanislaus	Oakdale, City of	060389-B	Dec. 3, 1979, emergency	Dec. 27, 1974.
				Apr. 1, 1975, emergency	June 7, 1974 and Dec. 12, 1975.
				Sept. 5, 1979, regular	do
				Sept. 28, 1979, suspended Dec. 4, 1979, reinstated.	do
Montana	Cascade	Belt, City of	300009-A	May 13, 1975, emergency Feb. 23, 1979, regular Feb. 23, 1979, withdrawal Dec. 5, 1979, reinstated.	Mar. 15, 1974 and Sept. 19, 1975.
Michigan	Genevise	Flushing, Township of	260386	Dec. 6, 1979, emergency	Dec. 10, 1976.
Mississippi	Perry	Richton, Town of	280321	do	Nov. 17, 1978.
Nebraska	Dixon	Wakefield, City of	310404	Dec. 5, 1979, emergency	Aug. 29, 1975.
New York	Green	Helcott, Town of	360291	Dec. 11, 1979, emergency.	Feb. 14, 1975.
North Carolina	Stokes	Unincorporated Areas	370362	do	Mar. 17, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 [33 FR 17804, Nov. 28, 1968], as amended [42 U.S.C. 4001-4128]; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: December 14, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39549 Filed 12-27-79 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5754]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Area.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Area.

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community name	Date of conversion to regular program
Louisiana	Richland Parish	Town of Delhi	Jan. 8, 1980.
Arkansas	Mississippi	City of Osceola	Jan. 15, 1980.
Oregon	Union	City of Summerville	Jan. 15, 1980.
Washington	Island	City of Oak Harbor	Jan. 15, 1980.
Illinois	Moultrie	Village of Bethany	Jan. 18, 1980.
Illinois	St. Clair	Village of Freeburg	Jan. 18, 1980.
Michigan	Berrien	City of Coloma	Jan. 18, 1980.
Ohio	Pickaway and Fayette	Village of New Holland	Jan. 18, 1980.
West Virginia	Fayette	City of Oak Hill	Jan. 18, 1980.
Nevada	Nye	City of Gabbs	Jan. 22, 1980.
South Dakota	Moody	Town of Egan	Jan. 22, 1980.
South Dakota	Hamlin	City of Estelline	Jan. 22, 1980.
Florida	Bay	Town of Cedar Grove	Jan. 25, 1980.
Missouri	Dunklin	City of Clarkton	Jan. 29, 1980.
Oregon	Curry	City of Port Orford	Jan. 29, 1980.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: December 6, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-39531 Filed 12-27-79; 8:45 am]

BILLING CODE 6710-01-M

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

The entry reads as follows:

44 CFR Part 65

[Docket No. FEMA 5755]

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1-4 family dwelling is \$.25 per \$100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is \$.01 per \$100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is \$.05 per \$100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of \$185,000 coverage for the structure and \$60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective

date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

The entry reads as follows:

§ 65.8 List of communities with no special flood hazard areas.

State	County	Community name	Date of conversion to regular program
California	Los Angeles	City of Bell	Nov. 30, 1979.
California	Los Angeles	City of Monterey Park	Nov. 30, 1979.
California	Los Angeles	City of Rolling Hill Estates	Nov. 30, 1979.
Illinois	DeKalb	Town of Cortland	Nov. 30, 1979.
Iowa	Clay	City of Everly	Nov. 30, 1979.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: December 6, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-39552 Filed 12-27-79; 8:45 am]

BILLING CODE 6710-03-M

44 CFR Part 65

[Docket No. FEMA 5756]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood

Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4 (Presently appearing at its former Section 24 CFR Part 1915).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former § 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former Section 24 CFR Part 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
Illinois	Cook	Village of Arlington Heights	The Arlington Heights Herald, Nov. 8 and Nov. 9, 1979.	Mr. L. A. Hanson, Village Manager, Village of Arlington Heights, 33 South Arlington Heights Road, Arlington Heights, Illinois 60005.	Oct. 29, 1979, 1916B.	170056
Louisiana	East Baton Rouge Parish	City of Baker	The Baker Observer, Oct. 11, and Oct. 18, 1979.	Honorable M. A. Cross, Mayor, City of Baker, Post Office Box 707, Baker, Louisiana 70714.	Oct. 18, 1979.....	225193C
Massachusetts	Hampden	Town of West Springfield	West Springfield Record, Oct. 4, and Oct. 11, 1979.	Dr. Frederick Conlin, Chairman, Board of Selectmen, Municipal Office Building, 26 Central Street, West Springfield, Massachusetts 01089	Oct. 11, 1979.....	250155C

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
New Jersey	Bergen	Borough of Bergenfield	<i>The Post</i> , Oct. 3, and Oct. 10, 1979	Honorable James F. Lodato, Mayor, Borough of Bergenfield, 198 North Washington Avenue, Bergenfield, New Jersey 07621.	Oct. 10, 1979	340020A
Pennsylvania	Carbon	Borough of Lehighton	<i>Times-News</i> , Oct. 29, and Nov. 2, 1979	Honorable Wilbur A. Bauchspies, Mayor, Borough of Lehighton, Municipal Building, Lehighton, Pennsylvania 18235.	Oct. 16, 1979, 1916B	420251B
Rhode Island	Bristol	Town of Barrington	<i>Barrington Times</i> , Sept. 26, and Oct. 3, 1979.	Mr. Robert J. Schiedler, Town Manager, Town Hall, Barrington, Rhode Island 02806.	Sept. 19, 1979	445392 0005C
Iowa	Scott	City of Riverdale	<i>Quad-City Times</i> , Nov. 12, and Nov. 13, 1979.	Honorable Ralph I. Brooks, Mayor, City of Riverdale, 209 Manor Drive, Riverdale, Iowa 52722.	Nov. 13, 1979	190245C

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: December 6, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-39553 Filed 12-27-79; 8:45 am]
BILLING CODE 6718-03-M

COMMISSION ON CIVIL RIGHTS

45 CFR Parts 701 and 702

Statement of Organization and Functions of the Commission

AGENCY: United States Commission on Civil Rights.

ACTION: Final rule; corrections.

SUMMARY: In the Federal Register of Wednesday, December 19, 1979, FR Doc. 79-3886 beginning at page 75147, a Final Rule stating the Organization and Functions of the Commission was published containing two typographical

errors. This publication is to correct these errors. No substantive change in the Rule is made by this publication.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Glick, Solicitor, U.S. Commission on Civil Rights Washington, D.C. 20425, (202) 254-5633.

SUPPLEMENTARY INFORMATION: It is appropriate to correct errors in the numbering of sections of the Commission's Statement of Organization and Functions so that no confusion respecting these numbers will arise in the future.

1. In Item 1 of the previous publication the heading of the Section published as: Section 702.2 Responsibilities is corrected to read: "Section 701.1 Responsibilities".

2. Item 7 on page 75150 in column 2 of the previous publication is corrected to read: "Section 702.8 (b) and (c) are revised to read as follows:"

Dated: December 21, 1979.

Lawrence B. Glick,
Solicitor.

[FR Doc. 79-39664 Filed 12-27-79; 8:45 am]
BILLING CODE 6395-01-M

Proposed Rules

Federal Register

Vol. 44, No. 250

Friday, December 28, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force; Retention Preference

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: This regulation, to be issued under the Civil Service Reform Act of 1978, would provide that an employee who is serving a probationary period upon initial appointment to a supervisory or managerial position is in tenure group I unless the employee is serving an initial probationary period on competitive appointment.

DATE: Comment Date: Written comments will be considered if received no later than February 26, 1980.

ADDRESS: Send or deliver written comments to Arch S. Ramsay, Associate Director, Staffing Services, Office of Personnel Management, 1900 E Street, NW., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ted Dow or Tom Glennon, 202-632-4422.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management proposes to make the following specific changes in § 351.501 of Part 351:

(1) Paragraph (b) is revised to provide that a supervisory or managerial employee serving a probationary period required by section 303 of the Civil Service Reform Act, as implemented in Subpart 315-I of OPM's regulations (5 CFR 315-I), is in tenure group I if the employee is otherwise eligible to be included in this group. In addition, a provision is deleted which assigned a career employee in an obligated position to tenure group I when the employee was competing for a position at and below the grade in which he/she last served on a permanent basis. This material became obsolete with the repeal of the Whitten Amendment and

the removal of its requirement for obligated positions.

(2) Paragraph (c) is revised to provide that a supervisory or managerial employee serving a probationary period required by Subpart 315-I is in tenure group II if the employee is serving a probationary period under Subpart 315-H. In addition, a provision which assigned other career employees in obligated positions to tenure group II is deleted because of, again, the repeal of the Whitten Amendment.

Office of Personnel Management.

Beverly M. Jones

Issuance System Manager.

Accordingly, OPM proposes to revise 5 CFR § 351.501 to read as follows:

§ 351.501 Tenure groups and subgroups—competitive service.

(a) Each agency shall classify the competing employees on a retention register who occupy positions in the competitive service in the following groups and subgroups on the basis of tenure of employment and veteran preference. The descending order of retention standing:

(1) By groups is group I, group II, group III;

(2) Within each group is subgroup AD, subgroup A, subgroup B;

(3) Within each subgroup persons are ranked beginning with the earliest service date.

(b) Group I includes each career employee who is not serving a probationary period. (A supervisory or managerial employee serving a probationary period required by Subpart 315-I of this title is in group I if the employee is otherwise eligible to be included in this group.)

(c) Group II includes:

(1) Each employee serving a probationary period under Subpart 315-H of this title. (A supervisory or managerial employee serving a probationary period required by Subpart 315-I of this title is in group II if that employee has not completed a probationary period under Subpart 315-H of this title.); and

(2) Each career-conditional employee.

(d) Group III includes:

(1) Each indefinite employee;

(2) Each employee serving under a temporary appointment pending establishment of register;

(3) Each employee in status quo; and

(4) Each employee serving under other nonstatus nontemporary appointment.

(e) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(f) Subgroup A includes each preference eligible employee not included in subgroup AD.

(g) Subgroup B includes each nonpreference eligible employee.

[5 U.S.C. 1302, 3502]

[FR Doc. 79-39543 Filed 12-27-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 733

Political Participation by U.S. Government Employees in Local Elections in the City of Manassas Park, Va.

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: At the request of the Mayor of the City of Manassas Park, the Office of Personnel Management (OPM) proposes to amend its regulations to grant Federal Government employees residing in the City of Manassas Park, Virginia, a partial exemption from the political activity restrictions of the Hatch Act.

DATE: Written comments will be considered if received on or before February 26, 1980.

ADDRESS: Submit written comments to Office of the General Counsel, United States Office of Personnel Management, Room 5H30, 1900 E Street, N.W., Washington, D.C. 20415. All comments received on this proposed rule will be available for public inspection at the above address on business days between 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Robert H. Moll, (202) 632-7600.

SUPPLEMENTARY INFORMATION: The Hatch Act at 5 U.S.C. 7324 *et seq.*, controls the political activity of Federal employees and individuals employed by the District of Columbia. 5 U.S.C. 7324 general prohibits Government employees from taking an active part in political campaigns. 5 U.S.C. 7327, however, authorizes OPM to prescribe regulations permitting certain Government employees to be politically active to the extent OPM considers it to be in their domestic interest.

Under the authority of 5 U.S.C. 7327, OPM can allow Government employees to participate in political campaigns involving the municipality where they reside when two conditions relevant to the current request for exemption exist. One condition is met if the municipality is in Maryland or Virginia and is in the immediate vicinity of the District of Columbia. The second condition is met if OPM determines that the domestic interest of employees is served by permitting their political participation in accordance with regulations prescribed by OPM.

In regulations at 5 CFR 733.124(b) OPM has designated municipalities and political subdivisions in which Government employees may participate in local elections. At 5 CFR 733.124(c) OPM has established the following limitations on political participation by employees residing in these designated municipalities and subdivisions:

(1) Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.

(2) Candidacy for and service in, an elective office shall not result in neglect of or interference with the performance of the duties of the employee or create a conflict, or apparent conflict, of interests.

In response to a request from the Mayor of the City of Manassas Park, OPM proposes to designate that municipality as one where Government employees may participate in local elections subject to the limitations established by OPM. This proposal reflects OPM's determination that it is in the domestic interest of Government employees residing in the City of Manassas Park to permit their local political participation in connection with independent candidacies. This determination is based on evidence developed during an OPM investigation of the eligibility of the City of Manassas Park for a partial exemption from political activity restrictions.

The OPM investigation included interviews of City officials, consultation with officials of local political organizations, and a review of certain documentary material. Principal factors leading to OPM's determination are the proximity of the City of Manassas Park to the District of Columbia, the substantial proportion of City residents who are Federal Government employees, the history of vigorous nonpartisan elections in the municipality, and the development of partisan political parties in the City.

A copy of this notice will be published in local newspapers serving the City of Manassas Park.

If this proposed rule is adopted, OPM will amend 5 CFR § 733.124(b) by adding the City of Manassas Park to the list of designated Virginia municipalities and political subdivisions in which Federal Government employees may participate in local elections, to be listed after Loudoun County and before Portsmouth.

Office of Personnel Management.
Roderick S. Speer,
Assistant Issuance System Manager.
December 21, 1979.

[FR Doc. 79-39615 Filed 12-27-79; 8:45 am]
BILLING CODE 5325-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

Securities of Insured Nonmember State Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposal will amend the Federal Deposit Insurance Corporation's ("FDIC") securities disclosure regulations issued under the Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.) ("Act") in order to bring them into substantial similarity with those of the Securities and Exchange Commission ("SEC"). Section 12(i) of the Act requires that the FDIC issue substantially similar regulations to those of the SEC or publish its reasons for not doing so. Also, this proposal is an attempt to simplify the regulation and make it more understandable by bringing Part 335 into conformity with changes in Reports of Condition and Reports of Income prescribed for insured banks.

DATES: Comments must be received by February 26, 1980.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. All written comments will be made available for public inspection in Room 6108 at this address between 8:30 A.M. and 5:00 P.M. during work days.

FOR FURTHER INFORMATION CONTACT: Mulford H. Smith or David J. Seermon, Financial Analysts, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. (202) 389-4651.

SUPPLEMENTARY INFORMATION: The proposal covers the following:

1. Recent amendments to Article 9 of the SEC's Regulation S-X which governs the form and content of financial statements of bank holding companies and banks;

2. Incorporation by reference of the Instructions for the Preparation of Reports of Condition and Reports of Income;

3. Modification of certain financial statement schedules;

4. Falsification of accounting records;

5. Bank's representations in connection with the preparation of required reports and documents;

6. Restructuring of accounting and financial statement regulations.

7. Designation of sample financial statements as "Formats" rather than "Forms."

FDIC classifies the proposed changes as significant in that they would have a substantial impact on those banks subject to the reporting requirements of Section 12(i) of the Act. FDIC believes the proposal would not have any significant impact on the competitive status of banks subject to Section 12(i) of the Act. In view of this fact and because the changes are mandated by law, FDIC has concluded that a cost-benefit analysis of the changes is not necessary. Comments are specifically requested on costs and competition, however.

The FDIC would make the following changes in its existing regulation:

A. Amendments To Conform with Regulation S-X

On September 7, 1978 the SEC amended Article 9 of Regulation S-X. The following changes would conform Part 335 to certain of the SEC changes:

1. *Cash and due from depository institutions.* Format F-9A would be changed to add a requirement that interest bearing and noninterest bearing deposit balances be stated separately.

2. *Significant investments.* Format F-9A would be changed to add a requirement that bank investments in the securities of an issuer other than U.S. Treasury and Agency securities for which the aggregate book value exceed 10% of the equity capital accounts of the bank must be separately disclosed in a note to the balance sheet. The format also would state that consideration shall be given to disclosure of risk characteristics of the securities of an issuer and of differences in risk characteristics, of different issues of securities of an issuer, where appropriate.

3. *Loans.* Format F-9A would be changed to add a note requirement for disclosure of the aggregate amount of loans outstanding to officers, directors,

principal shareholders and associates if these total balances exceed 5% of equity capital.

4. *Deposits.* Format F-9A would be changed to include a note requirement for disclosure of the aggregate time certificates of deposit and other time deposits in domestic offices which are \$100,000 or more.

5. Indebtedness of bank.

(a) Financial statement note requirements related to federal funds purchased, securities sold under agreements to repurchase, and other liabilities for borrowed money would be expanded by amending Format F-9A. Disclosures would include the weighted-average interest rate at the balance sheet date(s), the maximum month-end borrowing during each accounting period reported, average borrowings during the period, and the weighted-average interest rate for such average borrowings.

(b) For mortgage, capitalized lease, and subordinated note indebtedness expanded Format F-9A caption instructions would require a table showing on a yearly basis for the next five years after the balance sheet date the combined aggregate amounts of maturities and sinking fund requirements.

6. *Income Statement Format.* As a result of recent amendments to Article 9, Regulation S-X now sets forth an income statement format different from the banking agency format for the reports of income (8040/02, 01A and 02A) of insured banks. The basic difference is that the SEC now requires a net interest margin format for reports of income filed with them. The FDIC does not propose to adopt this requirement because of the substantial difference from the report of income required of insured banks generally and its view that the SEC required format would be unfamiliar to most banks and perhaps their investors. However, the general instructions to Format F-9 would be amended to state that the formats for financial statements are to serve as guides and are recommended presentations. Furthermore, the instructions would state that financial statements could be filed in such form and order as would, in the bank's opinion, best indicate their significance and character. Thus, a bank might at its option provide net interest margin income statements such as would conform with requirements of Regulation S-X if all material information required by Format F-9B is presented.

7. *Foreign Activities.* Section 335.7(e)(9) would be added to require disclosure of foreign activities of an

insured nonmember bank where assets, operating income, income (loss) before taxes and securities gain (losses), or net income (loss) associated with foreign activities, comprise over 10% of the corresponding amount in the related financial statement. Loan categories, cash and due from balances in banks in foreign countries, deposit liabilities, other borrowings, an income and expense summary, and an allowance for possible loan losses must be separately stated. In addition, activities for each significant geographic area (defined to include an area in which assets, operating income, or net income exceed ten percent of the comparable amount in a related financial statement), must be separately given for that area. Other foreign activities may be aggregated and reported as a separate total with respect to the total assets, total operating income, income before taxes and securities gains and net income if those other areas are not significant geographic areas. Also, Format F-9A would be changed to provide for the separate disclosure of deposits in foreign offices.

8. *Preferred Stock.* The SEC issued Accounting Series Release No. 268 "Redeemable Preferred Stock" on July 27, 1979. This release deals with the financial statement classification of an note disclosure requirements for preferred stock subject to mandatory redemption requirements or whose redemption is outside the control of the issuer. Various portions of Article 9 were amended by this release. The FDIC is not currently proposing to adopt these amendments because bank's subject to its regulation generally don't issue this type of security and there are restrictions imposed and prior approvals required by the FDIC for retirement of bank capital.

B. Simplification of the Financial Statement Regulations

In order to ease banks' transition from the report of condition and report of income filed pursuant to bank regulatory requirements to the requirements of the Act, the instructions and formats provided by Form 8040/02 and 8040/12, or other appropriate forms, are incorporated by reference. Necessary revisions or expansions of the instructions or in some cases the formats are provided as a supplement to the standard forms. Thus, banks will be able to use their relevant 8040 presentations by simply modifying them to the extent required under Part 335.

Existing Schedule II—Other Securities would be eliminated and added to the requirements of existing Schedule I. Also, the par value column of Schedule I

would be omitted. Schedule VI—Other Liabilities for Borrowed Money and Schedule IX—Supplementary Income Statement Information would be deleted.

Existing Schedule VIII—Amounts Receivable From Directors, Officers, Employees, and Principal Holders (Other Than Affiliates) of Equity Securities of The Bank And Its Affiliates would be redesignated as Schedule II—Loans to Officers, Directors, Principal Security Holders, and Any Associates of the Foregoing Persons. There would be some minor column caption word changes also. The SEC has recently proposed amendments to its Schedule I of Rule 9-05, the counterpart to FDIC's Schedule VIII, to reduce the reporting detail of this schedule. Loans to individuals for household, family and personal expenditures would be excluded if these loans were made in the ordinary course of business. Ordinary course of business loans to directors (and any of their associates) who are not officers of the bank nor principal security holders may be stated in aggregate. The FDIC proposes to adopt these changes.

C. Falsification of Accounting Records and Issuer's Representations

Section 13(b)(2) of the Act requires issuers who are registered under the Act to (1) make and keep books, records and accounts, in reasonable detail, which accurately and fairly reflect transactions and dispositions of the assets of the Banks' and (2) device and maintain a system of internal accounting controls sufficient to meet certain standards. The SEC has adopted rules 13(b)2-1, and 13(b)2-2 in order to implement this authority. 44 FR 10970 (February 23, 1979). The FDIC would adopt the SEC amendments by amending Section 335.7(c)&(d) to add these new provisions.

D. Deletions and Relocations of Existing Regulations

1. *Deletions.* The following sections in existing Part 335 would be deleted:

- (a) Section 335.7(a) Application.
- (b) Section 335.7(d)(2)(iii) Examination of financial statements of persons other than the bank.
- (c) Section 335.7(e)(5) Omission of substantially identical notes.
- (d) Section 335.7(e)(6) Omission of names of certain subsidiaries.
- (e) Section 335.7(e)(15)(ii) Bases of revenue recognition.
- (f) Section 335.7(e)(15)(vi)(4) Lease Assets and Lease Commitments.
- (g) Sections 335.7(f) (4), (5), (6), (11), (12) Consolidated Financial Statements.

2. Regulations that would be relocated.

(a) Section 335.7(b) would be moved to § 335.71 General Instruction No. 1.

(b) Section 335.7(c) would be moved to § 335.7(a).

(c) Section 335.7(d)(3)(ii)(A) would be moved to § 335.7(b)(1)(i).

(d) Section 335.7(e)(2) would be moved to § 335.71 General Instruction No. 3.

(e) Section 335.7(e)(14)(iii) would be moved to § 335.71(A), Item 26.

(f) Section 335.7(e)(14)(x) would be moved to § 335.7(e)(13)(iii).

(g) Section 335.7(e)(15)(v) would be moved to § 335.7(e)(12)(x).

(h) Section 335.7(e)(15)(vi) would be moved to § 335.7(e)(11).

3. The section numbering and lettering sequences throughout Part 335 would be adjusted to reflect the above changes.

E. Competition and Costs

The FDIC requests comments concerning the impact these amendments may have upon competition. It also requests comments upon any increase in cost or additional burdens the amendments may pose, which would not be outweighed by the benefits provided the bank, its shareholders and the public. The FDIC is specifically requesting information from banks concerning projected startup costs and continuing costs. To the extent feasible, these estimates should be allocated among the various new areas of regulation.

By Order of the Board of Directors,
December 20, 1979
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

It is proposed to amend 12 CFR Part 335 as follows:

1. Section 335.7 is revised as follows:

§ 335.7 Form and content of financial statements.

(a) *Principles of financial reporting.* Financial statements filed with the Corporation pursuant to this part shall be prepared in accordance with generally accepted accounting principles and practices applicable to banks. The Corporation may from time to time issue releases on accounting principles and practices to be used with respect to specific areas.

(b) *Verification.*—(1) *General.*

(i) Every verification with respect to financial statements filed pursuant to this part shall be dated, shall be signed manually, shall indicate the city and State where issued, and shall identify without detailed enumeration the

financial statements covered by the verification.

(ii) If the person or persons making a verification considers that he must take exceptions or express qualifications with respect thereto, each such exception or qualification shall be stated specifically and clearly and, to the extent practicable, shall indicate the effect of the matter on the financial statements to which it relates.

(2) *Opinions to be expressed by principal accounting officer and internal auditor.* Every verification by a bank's principal accounting officer and internal auditor shall state:

(i) The opinions of such persons with respect to the financial statements covered by the verification and the accounting principles and practices reflected therein; and

(ii) The opinions of such persons as to any material changes in accounting principles or practices or in the method of applying the accounting principles or practices, or adjustments of the accounts, required to be set forth by paragraph (e)(5) of this section.

(3) *Examination by independent public accountants.*

(i) *Qualifications of independent public accountants.*

(A) The Corporation will not recognize any person as an independent public accountant who is not registered or licensed to practice as a public accountant by a regulatory authority of a State and in good standing with such authority as such an accountant.

(B) The Corporation will not recognize any certified public accountant or public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates (1) in which, during the period of his professional engagement to examine the financial statements being reported on or at the date of his report, he or his firm or a member thereof had, or was committed to acquire, an direct financial interest or any material indirect financial interest, or (2) with which, during the period of his professional engagement to examine the financial statements being reported on, at the date of his report or during the period covered by the financial statements, he or his firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will not be deemed not independent in regard to a particular person if a former officer or employee of such person is employed by the firm and such individual has completely disassociated himself from the person and its affiliates

and does not participate in auditing financial statements of the person or its affiliates covering any period of his employment by the person. For the purposes of section 335.7 the term "member" means all partners in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit.

(C) In determining whether a public accountant is, in fact, independent with respect to a particular person, the Corporation will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Corporation.

(ii) *Representations as to the audit.* The independent public accountant's report—

(A) shall state whether the audit was made in accordance with generally accepted auditing standards; and

(B) shall designate any auditing procedures generally recognized as normal (or deemed necessary by the accountant under the circumstances of the particular case) that have been omitted, and the reasons for their omission. Nothing in this provision shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (b)(3)(iii) of this section.

(iii) *Opinions to be expressed.* The independent public accountant's report shall state clearly:

(A) The opinion of the accountant with respect to the financial statements covered by the report and the accounting principles and practices reflected therein; and

(B) The opinion of the accountant as to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements required to be set forth by paragraph (e)(5) of this section.

(iv) *Exceptions.* If the accountant making the report considers that he must take exceptions or express qualifications with respect thereto, each such exception or qualification shall be stated specifically and clearly and, to the extent practicable, shall indicate the effect of the matter on the financial statements to which it relates.

(v) *Association with unaudited note covering interim financial data.* If the financial statements covered by the

accountant's report designate as "unaudited" the note required by section 335.7(e)(13)(vii), it shall be presumed that appropriate professional standards and procedures with respect to the data in the note have been followed by the independent accountant who is associated with the unaudited footnote by virtue of reporting on the financial statements in which the note is included.

(vi) *Examination of financial statements by more than one independent public accountant.* If, with respect to the examination of the financial statements of any bank, the principal independent public accountant relies on an audit made by another independent public accountant of certain of the accounts of such bank or its subsidiaries, the report of such other accountant shall be filed (and the provisions of this subparagraph shall be applicable thereto); however, the report of such other accountant need not be filed (A) if no reference is made directly or indirectly to such other accountant's audit in the principal accountant's report, or (B) if, having referred to such other accountant's audit the principal accountant's report indicates an assumption of responsibility for such other accountant's audit.

(c) *Falsification of accounting records.* No person shall, directly or indirectly, falsify or cause to be falsified, any book, record or account subject to section 13(b)(2)(A) of the Securities Exchange Act.

(d) *Bank's representations in connection with the preparation of required reports and documents.* No director or officer of a bank shall directly or indirectly make or cause to be made a materially false or misleading statement, or omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to an accountant in connection with (1) any audit or examination of the financial statements of the bank required to be made pursuant to this part or (2) the preparation or filing of any document or report required to be filed with the Corporation pursuant to this part or otherwise.

(e) *Provisions of general application.*

(1) *Requirements as to form.* Financial statements shall be prepared in accordance with the applicable requirements of Formats 9A, B, C, D, and E. All money amounts required to be shown in financial statements may be expressed in even dollars or thousands of dollars. If shown in even thousands, and indication to that effect shall be

inserted immediately beneath the caption of the statement or schedule, or at the top of each money column. The individual amounts shown need not be adjusted to the nearest dollar or thousand if the failure of the items to add to the totals shown is stated in a note as due to the dropping of amounts of less than \$1.00 or \$1,000, as appropriate.

(2) *Items not material.* If the amount that would otherwise be required to be shown with respect to any item is not material, it need not be separately set forth.

(3) *Inapplicable captions and omission of unrequired or inapplicable financial statements.* No caption need be shown in any financial statement required by the forms set forth in this part as to which the items and conditions are not present. Financial statements not required or inapplicable because the required matter is not present need not be filed, but the statements omitted and the reasons for their omission shall be indicated in the list of financial statements required by the applicable form.

(4) *Additional information.* In addition to the information required with respect to any financial statement, such further information shall be furnished as is necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

(5) *Changes in accounting principles and practices and retroactive adjustments of accounts.* Any change in accounting principle or practice, or in the method of applying any accounting principle or practice, made during any period for which financial statements are filed that affects comparability of such financial statements with those of prior or future periods and the effect thereof upon the net income for each period for which financial statements are filed, shall be disclosed in a note to the appropriate financial statement. Any material retroactive adjustment made during any period for which financial statements are filed, and the effect thereof upon net income of prior periods, shall be disclosed in a note to the appropriate financial statement.

(6) *Summary of accounting principles and practices.* Information required in notes as to accounting principles and practices reflected in the financial statements may be presented in the form of a single statement. In such a case specific references shall be made in the appropriate financial statements to the applicable portion of such single statement.

(7) *Reacquired evidences of indebtedness.* Reacquired evidences of

indebtedness shall be deducted from the appropriate liability caption.

(8) *Reacquired shares.* When authorized by statute, reacquired shares not retired shall be shown separately as a deduction from capital shares, or from the total of capital shares and other stockholders' equity, at either par of stated value, or cost, as circumstances require.

(9) *Foreign activities.* If assets, or operating income, or income (loss) before taxes and securities gains (losses), or net income (loss) associated with foreign activities, exceeded 10 percent of the corresponding amount in the related financial statements, the following disclosures concerning foreign activities shall be furnished in a note to the financial statements.

(i) *Loans.* State separately loan categories as prescribed by Schedule A, Column C of Consolidated Report of Condition, FDIC 8040/13, as applicable. Categories of less than 10 percent of total loans related to foreign activities may be grouped with all other loans.

(ii) *Balances with banks in foreign countries.* State separately balances with foreign branches of other U.S. banks and with other banks in foreign countries. (See line 5 (a) and (b) of Schedule C, Column C of Consolidated Report of Condition, FDIC 8040/13.) Also furnish the amount of interest-bearing balances included above.

(iii) *Deposit liabilities.* Furnish deposit information as prescribed in Schedule F/F of Consolidated Report of Condition, FDIC 8040/13. State also amount of interest-bearing deposits in denominations of \$100,000 or more.

(iv) *Other borrowings.* State separately short-term borrowings, other liabilities for borrowed money, and other indebtedness related to foreign activities corresponding to the amounts reported on the Balance Sheet (Format F-9A) Items 18, 20, 21 and 25.

(v) *Income and expense summary.* For each period for which an income statement is filed, furnish information as prescribed in Part 1, Column B and Part 2 of the Statement of Income FDIC 8040/03. State in a note the basis of pricing money transfers and the policy governing allocation of income and expenses to foreign activities.

(vi) *Allowance for possible loan losses.* For each period for which a statement of income is filed, furnish in a note a reconciliation of changes in the allowance of possible loan losses applicable to loans related to foreign activities.

(vii) If disclosure above is required, state separately in a note for each significant geographic area, and in the

aggregate for all other geographic areas not deemed significant, the following:

- (A) total assets (net of valuation allowances)
- (B) total operating income
- (C) income (loss) before taxes and securities gains (losses)
- (D) net income (loss)

Note.—A "significant geographic area" is one whose assets, operating income, or net income exceed 10 per cent of the comparable amount as reported in the related financial statements.

(10) *Foreign currencies.* The basis of conversion of all items in foreign currencies shall be stated, and the amount and disposition of the resulting unrealized profit or loss shown. Disclosure should be made as to the effect, insofar as this can be reasonably determined, of foreign exchange restrictions upon the consolidated financial position and operating results of the bank and its subsidiaries.

(11) *Commitments.* If material in amount, the pertinent facts relative to from commitments for the acquisition, directly or indirectly, of fixed assets and for the purchase, repurchase, construction, or rental of assets under long-term leases shall be stated briefly in the balance sheet or in footnotes referred to therein. Where the rentals or obligations under long-term leases are material the following shall be set forth in a note to the appropriate financial statement:

(i) Total rental expense (reduced by rentals from subleases, with disclosure of such amounts) entering into the determination of results of operations for each period for which an income statement is presented shall be disclosed. Rental payments under short-term leases for a month or less which are not expected to be renewed need not be included. Contingent rentals, such as those based upon usage or sales, shall be reported separately from the basic or minimum rentals.

(ii) The minimum rental commitments under all noncancelable leases shall be disclosed, as of the date of the latest balance sheet required, in the aggregate for (A) each of the five succeeding fiscal years and (B) the remainder as a single amount. The amounts so determined should be reduced by rentals to be received from existing noncancelable subleases (with disclosure of the amounts of such rentals). For purposes of this rule, a noncancelable lease is defined as one that has an initial or remaining term of more than one year and is noncancelable, or is cancelable only upon the occurrence of some remote contingency or upon the payment of a substantial penalty.

(iii) Additional disclosures shall be made to report in general terms: (A) the basis for calculating rental payments if dependent upon factors other than the lapse of time; (B) existence and terms of renewal or purchase options, escalation clauses, etc.; (C) the nature and amount of related guarantees made or obligations assumed; (D) restrictions on paying dividends, incurring additional debt, further leasing, etc.; and (E) any other information necessary to assess the effect of lease commitments upon the financial position, results of operations, and changes in financial position of the lessee.

(12) *General notes to balance sheets.* If present with respect to the bank for which the statement is filed, the following shall be set forth in the balance sheet or in referenced notes thereto. Information required by paragraphs (e)(12), (i), (v), (vi), (vii), (viii), (ix) and (x) of this section shall be provided with the most recent fiscal year balance sheet and any interim date balance sheet being filed.

(i) *Assets subject to lien.* The amounts of assets mortgaged, pledged, or otherwise subject to a lien or security interest shall be designated and the obligation secured thereby, if any, shall be identified briefly.

(ii) *Intercompany profits and losses.* The effect upon any balance sheet item of profits or losses, resulting from transactions with affiliated companies and not eliminated shall be stated. If impracticable of accurate determination without unreasonable effort or expense, an estimate or explanation shall be given.

(iii) *Pension and retirement plans.* (A) A brief description of the essential provisions of any employee pension or retirement plan and of the accounting and funding policies relating thereto shall be given; (B) The estimated annual cost of the plan shall be stated; (C) If a plan has not been funded or otherwise provided for, the estimated amount that would be necessary to fund or otherwise provide for the past-service cost of the plan shall be disclosed; (D) The excess, if any, of the actuarially computed value of vested benefits over the total of the pension fund and any balance sheet accruals, less any pension prepayments or deferred charges, shall be stated as of the most recent practicable date; (E) A statement shall be given of the nature and effect of significant matters affecting comparability of pension costs for which income statements are presented.

(iv) *Capital stock optioned to officers and employees.* (A) A brief description of the terms of each option arrangement shall be given, including the title and

amount of securities subject to the option, the year or years during which the options were granted, and the year or years during which the optionees became, or will become, entitled to exercise the options; (B) There shall be stated the number of shares under option at the balance sheet date, and the option price and the fair value thereof (per share and in total) at the dates the options became exercisable; the number of shares with respect to which options became exercisable during the period, and the option price and the fair value thereof (per share and in total) at the dates the options were exercised; and the number of unoptioned shares available at the beginning and at the close of the latest period presented, for the granting of options under an option plan. A brief description of the terms of each other arrangement covering shares sold or offered for sale to only directors, officers, and key employees shall be given, including the number of shares, and the offered price and the fair value thereof (per share and in total) at the dates of sale or offer to sell, as appropriate. The required information may be summarized as appropriate with respect to each of the categories referred to in this subclause (B); (C) The basis of accounting for such option arrangements and the amount of charges, if any, reflected in income with respect thereto shall be stated.

(v) *Restrictions that limit the availability of surplus and/or undivided profits for dividend purposes.* Describe the most restrictive of any such restriction, other than as reported pursuant to Item 26(b) of Form F-9A, indicating briefly its source, its pertinent provisions, and where appropriate and determinable, the amount of the surplus and/or undivided profits (A) so restricted or (B) free of such restrictions.

(vi) *Contingent liabilities.* A brief statement as to contingent liabilities not reflected in the balance sheet shall be made.

(vii) *Standby letters of credit.* State the amount of outstanding "standby letters of credit." For the purpose of this paragraph, "standby letters of credit" include every letter of credit (or similar arrangement however named or designated) which represents an obligation to the beneficiary on the part of the issuing bank (A) to repay money borrowed by or advanced to or for the account of the account party or (B) to make payment on account of any

evidence of indebtedness undertaken by the account party, or (C) to make payment on account of any default by the account party in the performance of an obligation,¹ except that, if prior to or at the time of issuance of a standby letter of credit, the issuing bank is paid an amount equal to the bank's maximum liability under the standby letter of credit, or has set aside sufficient funds in a segregated, clearly earmarked deposit account to cover the bank's maximum liability under the standby letter of credit, then the amount of that standby letter of credit need not be stated.

(viii) *Defaults.* The facts and amounts concerning any default in principal, interest, sinking fund, or redemption provisions with respect to any issue of securities or credit agreements, or any breach of covenant of a related indenture or agreement, which default or breach existed at the date of the most recent balance sheet being filed and which has not been subsequently cured, shall be stated. Notation of such default or breach of covenant shall be made in the financial statements. If a default or breach exists, but acceleration of the obligation has been waived for a stated period of time beyond the date of the most recent balance sheet being filed, state the amount of the obligation and the period of the waiver.

(ix) *Significant changes in bonds, mortgages, and similar debt.* Any significant changes in the authorized or issued amounts of bonds, mortgages, and similar debt since the date of the latest balance sheet being filed for a particular person or group shall be stated.

(x) *Warrants or rights outstanding.* Information with respect to warrants or rights outstanding at the date of the related balance sheet shall be set forth as follows: (A) Title of issue of securities called for by warrants or rights outstanding; (B) aggregate amount of securities called for by warrants or rights outstanding; (C) date from which warrants or rights are exercisable and expiration date; (D) price at which warrant or right is exercisable.

(13) *General notes to statement of income.* If present with respect to the bank for which the statement is filed, the following shall be set forth in the

¹ As defined, "standby letter of credit" would not include (1) commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw upon the issuer and which do not "guaranty" payment of a money obligation or (2) a guaranty or similar obligation issued by a foreign branch in accordance with and subject to the limitations of Regulation M of the Board of Governors of the Federal Reserve System.

statement of income or in referenced notes thereto:

(i) *Intercompany profits and losses.* The amount of any profits or losses resulting from transactions between unconsolidated affiliated companies shall be stated. If impracticable of determination without unreasonable effort and expense, an estimate or explanation shall be given.

(ii) *Depreciation and amortization.* For the period for which statements of income are filed, there shall be stated the policy followed with respect to: (A) The provision for depreciation of physical properties or valuation allowances created in lieu thereof, including the methods and, if practicable, the rates used in computing the annual amounts; (B) The provision for depreciation and amortization of intangible, or valuation allowances created in lieu thereof, including the methods and, if practicable, the rates used in computing the annual amounts; (C) The accounting treatment for maintenance, repairs, renewals, and improvements; and (D) The adjustment of the accumulated valuation allowances for depreciation and amortization at the time the properties were retired or otherwise disposed of, including the disposition made of any profit or loss on sale of such properties.

(iii) *Bonus, profit sharing, and other similar plans.* Describe the essential provisions of any such plans in which only directors, officers or key employees may participate, and state, for each of the fiscal periods for which income statements are required to be filed, the aggregate amount provided for all plans by charges to expense.

(iv) *Income tax expense.* (A) Disclosure shall be made, in the income statement or a note thereto, of the components of income tax expense, including: (1) Taxes currently payable; (2) the net tax effects, as applicable, of (i) timing differences (indicate separately the amount of the estimated tax effect of each of the various types of timing differences where the amount of each such tax effects exceeds 5 percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rates; other differences may be combined) and (ii) operating losses; and (3) the net deferred investment tax credits. Amounts applicable to United States Federal income taxes, to foreign income taxes and to other income taxes shall be stated separately for each major component, unless the amounts applicable to foreign and other income taxes do not exceed 5 percent of the total for the component. (B) If it is expected that the cash outlay for income

taxes with respect to any of the succeeding three years will substantially exceed income tax expense for such year, that fact should be disclosed together with the approximate amount of the excess the year (or years) of occurrence and the reasons therefor. (C) Provide a reconciliation between the amount of reported total income tax expense and the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, showing the estimated dollar amount of each of the underlying causes for the difference. If no individual reconciling item amounts to more than 5 percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, and the total difference to be reconciled is less than 5 percent of such computed amount, no reconciliation need be provided unless it would be significant in appraising the trend of earnings. Reconciling items that are individually less than 5 percent of the computed amount may be aggregated in the reconciliation. The reconciliation may be presented in percentages rather than in dollar amounts.

(v) *Interest capitalized.* The amount of interest cost capitalized in each period for which an income statement is presented shall be shown within the income statement. Banks which follow a policy of capitalizing interest cost shall make the following additional disclosures: (A) The reason for the policy of interest capitalization and the way in which the amount to be capitalized is determined. (B) The effect on net income for each period for which an income statement is presented of following a policy of capitalizing interest as compared to a policy of charging interest to expense as incurred.

(vi) *Disagreements on accounting and financial disclosure matters.* If, (A) within the twenty-four months prior to the date of the most recent financial statements, a Form F-3 has been filed reporting a change of accountants, (B) included in the Form F-3 there was a reported disagreement on any matter of accounting principles or practices or financial statement disclosure, (C) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the reported disagreement, and (D) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the

disagreement and also state the effect on the financial statements if the method had been followed which the former accountant apparently concluded was required. The effects on the financial statements need not be disclosed if the method asserted by the former accountant ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

(vii) *Disclosure of selected quarterly financial data in notes to financial statements.*

(A) *Exemption.* This rule shall not apply unless the bank meets the following conditions:

(1) The bank's securities registered under Section 12(g) of the Securities Exchange Act of 1934 are quoted on the National Association of Securities Dealers Automated Quotation System and (i) meet the requirements for continued inclusion on the list of OTC margin stocks set forth in section 220.8(i) of Regulation T of the Board of Governors of the Federal Reserve System or (ii) the bank has securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934; and

(2) The bank and its consolidated subsidiaries (i) have had a net income after taxes but before extraordinary items and the cumulative effect of a change in accounting of at least \$250,000 for each of the last three fiscal years; or (ii) had total assets of at least \$200,000,000 as of the end of the last fiscal year.

(B) *Disclosure requirement.*

(1) Disclosure shall be made in a note to financial statements of total operating income, income before securities gains (losses), income before extraordinary items and cumulative effect of a change in accounting, net income, and per share data based upon such income for each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented.

(2) When the data required by the preceding paragraph above vary from the amounts previously reported on the Form F-4 filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected, reconcile the amounts given with those previously reported describing the reason for the difference.

(3) Describe the effect of any unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the nature of year-end or other adjustments

that are material to the results of that quarter.

(4) Where this note is part of audited financial statements, it may be designated "unaudited."

(f) *Consolidated financial statements.* (1) Consolidated statements generally present more meaningful information to the investor than unconsolidated statements. Except where good reason exists, consolidated statements of the bank and its majority-owned significant subsidiaries should be filed.

(2) Every majority-owned bank-premises subsidiary and every majority-owned subsidiary operating under the provisions of section 25 or section 25(a) of the Federal Reserve Act ("Agreement Corporations" and "Edge Act Corporations") shall be consolidated with that of the reporting bank irrespective of whether such subsidiary is a significant subsidiary.

(3) If the financial statements of a subsidiary are as of a date or for periods different from those of the bank, such statements may be used as the basis for consolidation of the subsidiary only if the date of such statements is not more than 93 days from the date of the close of the bank's fiscal year; the closing date of the subsidiary is specified; the necessity for the use of different closing dates is explained briefly; and any changes in the respective fiscal periods of the bank and the subsidiary made during the period of report are indicated clearly.

(4) There shall be set forth in a note to each consolidated balance sheet filed a statement of any difference between the investment in subsidiaries consolidated, as shown by the bank's books, and the bank's equity in the net assets of such subsidiaries as shown by the subsidiaries' books. If any such difference exists, there shall be set forth the amount of the difference and the disposition made thereof in preparing the consolidated statements, naming the balance sheet captions, and stating the amount included in each.

(5) There may be filed financial statements in which majority-owned subsidiaries not consolidated with the parent are consolidated or combined in one or more groups, and 50 per cent or less owned persons, the investments in which are accounted for by the equity method are consolidated or combined in one or more groups, pursuant to principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations of the group or groups.

(6) A brief description of the principles followed in consolidating or combining the separate financial statements, including the principles

followed in determining the inclusion or exclusion of (i) subsidiaries and (ii) companies in consolidated or combined financial statements, shall be stated in the notes to the respective financial statements.

(7) As to each consolidated financial statement and as to each combined financial statement, if there has been a change in the persons included or excluded in the corresponding statement for the preceding fiscal period filed with the Board which has a material effect on the financial statements, the persons included and the persons excluded shall be disclosed. If there have been any changes in the respective fiscal periods of the persons included made during the periods of the report which have a material effect on the financial statements, indicate clearly such changes and the manner of treatment.

(8) A statement shall be made in a note to the latest balance sheet of the amount and the accounting treatment of any difference between the investment of a bank and its consolidated subsidiaries, as shown in the consolidated balance sheet, in the unconsolidated subsidiaries and 50 per cent or less owned persons accounted for by the equity method, and their equity in the net assets of such unconsolidated subsidiaries and 50 per cent or less owned persons.

(g) *Statement of changes in equity capital.* A statement of changes in equity capital shall be filed with each statement of income filed pursuant to this part.

(h) *Statement of changes in financial position.* A statement of changes in financial position shall be filed with each statement of income filed pursuant to this part.

(i) *Schedules to be filed.* (1) The following schedules shall be filed with each balance sheet filed pursuant to this part: Schedule I—U. S. Treasury Securities, Obligations of other U. S. Government Agencies and Corporations, Obligations of States and Political Subdivisions, and Other Bonds, Notes and Debentures; Schedule III—Loans; and Schedule IV—Bank Premises and Equipment.

(2) The following schedule shall be filed with each statement of income filed pursuant to this Part: Schedule II—Loans to Officers, Directors, Principal Security Holders, and any Associates of the Foregoing Persons; Schedule V—Investments in, Income from Dividends, and Equity in Earnings or losses of Subsidiaries and Associated Companies; and Schedule VI—Allowance for Possible Loan Losses.

(3) Reference to the schedules referred to in paragraphs (i)(1) and (2) of this

section shall be made against the appropriate captions of the balance sheet or statement of income.

(4) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

2. Section 335.71 is revised as follows:

§ 335.71 *Format F-9 financial statements.*

- A. Balance Sheet (Format F-9A)
- B. Statement of Income (Format F-9B)
- C. Statement of Changes in Equity Capital (Format F-9C)
- D. Statement of Changes in Financial Position (Format F-9D)
- E. Schedules (Format F-9E)

General Instructions

1. *Preparation of Financial Statements.*—The formats are intended to serve as guides for preparation of financial statements required to be filed pursuant to this Part. The formats are recommended presentations, but financial statements may be filed in such form and order as will best indicate their significance and character. Requirements for inclusion of financial statements in certain other guideline forms required by Part 335 are found in the instructions to such forms.

Requirements set forth in Section 335.7 of this Part shall be applicable to financial statements filed pursuant to Part 335. The term, "financial statements," as used in this instruction, includes all required notes to financial statements and all required schedules.

2. *Accrual accounting.*—Financial statements shall generally be prepared on the basis of accrual accounting whereby all revenues and all expenses shall be recognized during the period earned or incurred regardless of the time received or paid, with certain exceptions: (a) where the results would be only insignificantly different on a cash basis, or (b) where accrual is not feasible. Statements with respect to the first fiscal year that a bank reports on the accrual basis shall indicate clearly, by footnote or otherwise, the beginning-of-year adjustments that were necessary and their effect on prior financial statements filed under this Part.

3. *Negative Amounts.*—Negative amounts shall be shown in brackets or parentheses and so described in the related caption, column or heading or a note to the statement or schedule, as appropriate.

4. *Items not Material.*—If the amount that would otherwise be required to be shown with respect to any items is not material, it need not be separately set forth.

5. *Inapplicable Captions and Omission of Unrequired or Inapplicable Financial Statements and Schedules.*—No caption need be shown in any financial statement or schedule if the items and conditions are not present. Financial statements and schedules not required or inapplicable because the required matter is not present need not be filed, but the statements and schedules omitted and the reasons for their omission shall be indicated in the list of financial statements and schedules required by the applicable form.

A. Balance Sheet

The Balance Sheet shall be prepared in accordance with the *Instructions for the Preparation of the Consolidated Report of Condition* (FDIC 8040/11, 12 or 13, as applicable) except to the extent revised or expanded financial data presentation is necessary to meet the disclosure standards of the Securities Exchange Act of 1934, as amended.

Note: Banks subject to this Part are required to report on the accrual basis of accounting.

The following captions and added supplemental instructions shall be observed in the preparation of the Balance Sheet required under this Part.

Assets

1. *Cash and due from depository institutions.*—(a) State separately (1) interest bearing deposits in other banks and (2) noninterest bearing deposits and cash. (See Schedule C of FDIC 8040/12 or 13.)

2. *U.S. Treasury Securities.*

3. *Obligations of other U.S. Government agencies and corporations.*

4. *Obligations of States and political subdivisions in the United States.*

5. *Other bonds, notes and debentures.*

6. *Federal Reserve stock and corporate stock.*—(a) With respect to Items 2, 3, 4, 5 and 6, state parenthetically on the balance sheet or in a note for each category the aggregate amount on the basis of market quotations or fair value of securities at the balance sheet date.

(b) With respect to Items 2, 3, 4, 5 and 6, state in a note the basis by which book value is determined. Bond premium shall be amortized and discount shall be accreted.

(c) With respect to Items 4, 5 and 6, as applicable, state in a note the name of issuer, aggregate book value and aggregate amount on the basis of market quotations or fair value of the securities of any issuer for which the aggregate book value exceeds 10 per cent of the equity capital accounts of the bank. Debt securities issued by a State of the United States and its political subdivisions and agencies which are payable from and secured by the same source of revenue or taxing authority shall be considered to be securities of a single issuer. Consideration shall be given to disclosure of risk characteristics of the securities of an issuer and of differences in risk characteristics of different issues of securities of an issuer as may be appropriate.

7. *Trading account securities.*—(a) State in a note whether securities in the trading account are valued at lower of cost or market. If market basis is not used, in valuing the trading account securities inventory, furnish the aggregate fair market value at each balance sheet date.

8. *Federal funds sold and securities purchased under agreements to resell.*

9. *Loans (net of unearned income). Less: Allowance for possible loan losses. Loans, net.*

(a) If the amount exceeds 5 per cent of equity capital, state in a note the aggregate amount of loans outstanding to officers, directors and principal security holders and associates. Amounts to be reported shall

include loans from the bank or any subsidiary. It shall not be necessary to disclose amounts related to individuals for household, family and other personal expenditures made in the ordinary course of business that (i) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectibility or present other unfavorable features.

10. *Lease financing receivables.*

11. *Bank Premises, furniture and fixtures and other assets representing bank premises.*

12. *Real estate owned other than bank premises.*—(a) State in a note (1) the basis at which carried, (2) the aggregate fair market value of all real estate owned other than bank premises with an explanation of the method of determining such fair market value, and (3) a reconciliation of any valuation allowance account.

13. *Investments in unconsolidated subsidiaries and associated companies.*

14. *Customers' liability to this bank on acceptances outstanding.*

15. *Other assets.*

16. *Total assets.*

Liabilities

17. *Deposits.*—(a) State separately

(1) Demand deposits in domestic bank offices.

(2) Savings deposits in domestic bank offices.

(3) Time deposits in domestic bank offices.

(4) Deposits in foreign offices.

(See Schedule F and HF of FDIC 8040/12 or FDIC 8040/13, as applicable.)

(b) State in a note the aggregate amount of (1) time certificates of deposit and (2) other time deposits in denominations of \$100,000 or more in domestic offices. (See Memoranda Items 1 (b) and (c) of FDIC 8040/12 or 13, as applicable.)

18. *Federal funds purchased and securities sold under agreements to repurchase.*—(a) If the approximate average balance outstanding during the period for any category was more than 30 per cent of equity capital accounts, state in a note with respect to each activity category the following:

(1) Weighted average interest rate at balance sheet date.

(2) Maximum amount of borrowings at any month-end during each period for which an end-of-period balance sheet is required.

(3) Approximate average borrowings outstanding during the period.

(4) Approximate weighted average interest rate for such average borrowings outstanding during the period.

19. *Interest-bearing demand notes (note balance) issued to the U.S. Treasury.*

20. *Other liabilities for borrowed money.*—See supplemental instruction to Item 18.

12. *Mortgage indebtedness and liability for capitalized leases.*—(a) State in a note material terms and conditions of each obligation including (but not limited to) (1) the general character of the debt, (2) the rate of interest, (3) the date of maturity, or if maturing serially, a brief indication of the serial maturities, (4) if the payment of principal or interest is contingent, an

Schedule V—Investments in, Income From Dividends, and Equity in Earnings or Losses of Subsidiaries and Associated Companies

Name of issuer ¹	Col. A Percent of voting stock owned	Col. B Total investment	Col. C Equity in underlying net assets at balance sheet date ²	Col. D Amount of dividends ³	Col. E Bank's proportionate part of earnings or loss for the period
Totals.....					

¹ Group separately securities of (a) subsidiaries consolidated, (b) subsidiaries not consolidated, and (c) associated companies. Show shares, bonds, notes and advances separately in each case.

² Equity shall include advances and other obligations reported in column B to the extent recoverable.

³ State as to any dividends other than cash the basis on which they have been reported as income. If any such dividend received has been credited to income in an amount differing from that charged to surplus and/or undivided profits by the disbursing subsidiary, state the amount of such difference and explain.

Schedule VI—Allowance for Possible Loan Losses

	Amount
Balance end of previous period	
Recoveries credited to allowance	
Changes incident to mergers and absorptions ¹ ..	
Provision for possible loan losses	
Less: Losses charged to allowance	
Foreign currency translation adjustment	
Balance end of period ²	

¹ Describe briefly in a footnote any such addition.

² State in a footnote (1) the amount deducted for Federal income tax purposes, (2) the maximum amount that could have been deducted for Federal income tax purposes, and (3) the balance of the allowance at the end of the period as reported for Federal income tax purposes.

Note: See Schedule C of FDIC 8040/02.

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DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Parts 7a, 7b, and 7c

Proposed Amendment to the National Voluntary Laboratory Accreditation Program Procedures To Permit the Inclusion of Additional Relevant Standards and Test Methods in a Laboratory Accreditation Program Established Under Those Procedures

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Proposed rule.

SUMMARY: This amendment to the National Voluntary Laboratory Accreditation Program (NVLAP) procedures (15 CFR Parts 7a, 7b, and 7c) provides a method by which additional standards and test methods can be included in the list of standards and test methods in a laboratory accreditation program (LAP) established under those procedures when (1) such addition is

requested in writing by any member of the public, and (2) such additional standards and test methods meet certain conditions as set out in this notice.

DATES: Interested parties are requested to submit their comments not later than February 26, 1980.

ADDRESS: Comments should be in writing and addressed to Dr. Jordan J. Baruch, Assistant Secretary for Science and Technology, Room 3864, U.S. Department of Commerce, Washington, D.C. 20230, or delivered to Room 3864, Main Commerce Building, 14th Street between Constitution and Pennsylvania Avenues, N.W., between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-3221.

SUPPLEMENTARY INFORMATION:

Summary

In requesting a LAP under 15 CFR Parts 7a, 7b, and 7c, the requestor of the LAP must include the text of applicable standards and test methods. The procedures are silent on the issue of including standards and test methods for a product for which a LAP is being or has been established in addition to those submitted by the original requestor of the LAP. In response to requests for public comment on the establishment of need for a LAP in thermal insulation materials, and in response to requests for comment on proposed criteria to be used in evaluating testing laboratories in a LAP for carpet, the Department of Commerce (DOC) has received comments requesting that those two LAPs include additional standards and test methods. Similar requests are possible during the

operation of future LAPs that may be established.

DOC believes that it would be appropriate to include such additional standards and test methods in a LAP, when requested to do so in writing, if those additional standards and test methods are (1) directly relevant to the product identified in the LAP; (2) technically suitable so that the capability of a testing laboratory to perform the tests can be evaluated; (3) such that the evaluation of a testing laboratory can be accomplished by using the final accrediting criteria already established for the LAP; and (4) likely to be those for which testing laboratories will seek accreditation. DOC does not view this proposed amendment to the NVLAP procedures as being contrary to any finding of need established under the NVLAP procedures because no change in the identification of the product for which a LAP was established is permitted. In the final analysis, NVLAP is a voluntary program, and accreditation would be sought for additional test methods only if a testing laboratory found such accreditation of value.

Background

NVLAP was established by notice in the Federal Register on February 25, 1976 (41 FR 8153-8166, 15 CFR Part 7 which recently has been redesignated 15 CFR Part 7a). That notice, amended by optional procedures for use by Federal agencies (15 CFR Part 7b) published in the Federal Register on March 9, 1979 (44 FR 12982-12990), and optional procedures for use by private sector organizations (15 CFR Part 7c) published in the Federal Register on April 25, 1979 (44 FR 24274-24282), describes the procedures which are to be used for developing laboratory accreditation programs (LAPs). The NVLAP procedures (Parts 7a, 7b, and 7c), require a requestor (of a LAP) to state in writing the product and the standards and test methods which the requestor desires to have included in the LAP. The procedures are silent on the issue of including additional standards and test methods for a product beyond those submitted by the original requestor seeking the LAP.

In response to the proposed criteria for the first LAP published in the Federal Register on September 29, 1978, (43 FR 45290-45298) which concerned thermal insulation materials, comments were

received suggesting that certain test methods, including test methods appearing in the regulations of the Consumer Product Safety Commission, should be added to the program. In response to this suggestion, DOC indicated that such a request amounts to an extension of the finding of need for the LAP and thus could be added only by employing the full finding of need provisions of the procedures.

On September 28, 1979 criteria for two additional LAPs concerning concrete and carpet were proposed (44 FR 56230-56263). The carpet LAP was requested by the Department of Housing and Urban Development (HUD) under Part 7b procedures and published in the Federal Register on June 18, 1979 (44 FR 35090). Several commenters requested in writing and during a public hearing that certain additional test methods be added to the carpet LAP.

In addition, DOC believes that other requests may be received from the public during the operation of future LAPs, particularly after a LAP has been implemented for several years and new standards and test methods related to the program are developed and adopted for use.

Adding Standards and Test Methods in Response to a Written Request

Since the issue of adding standards and test methods to the list of those previously announced is likely to be a recurring issue, DOC proposes to amend the procedures as set forth in this notice to permit the inclusion of additional relevant standards and test methods in a LAP in response to a written request from the public. This would be done only in those cases where there would be no need to change the accrediting criteria. Since NVLAP is a voluntary program which has been designed as a public service that is funded by the participants, DOC believes that every attempt should be made to provide for accreditation of all those test methods of interest to the laboratories which test the product for which a LAP has been established.

Request for Comments

Interested persons desiring to comment on this proposed amendment to the procedures relating to 15 CFR Part 7a.4(i), Part 7b.4(e), and Part 7c.4(f) are invited to submit their comments on or before February 26, 1980 to the Assistant Secretary for Science and Technology, at the address shown earlier in this notice. All written comments that are furnished in response to this invitation will become part of the public record and will be available for inspection and

copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C. 20230.

Dated: December 21, 1979.

Jordan J. Baruch,
Assistant Secretary for Science and Technology.

§§ 7a.4, 7b.4, 7c.4 [Amended]

This proposal would amend the NVLAP procedures by adding Sections 7a.4(i), 7b.4(e) and 7c.4(f), all to read as follows:

"If a person requests in writing that certain standards and test methods be added to a laboratory accreditation program established under these NVLAP procedures, the Secretary may choose to add such additional standards and test methods when, in the Secretary's judgement—

(1) The standards and test methods are directly relevant to the product for which the LAP was established;

(2) The standards or test methods are found to be technically suitable so that the capability of a laboratory to perform the tests can be evaluated;

(3) The standards and test methods are such that the evaluation of a laboratory can be accomplished by using final accreditation criteria already established for the laboratory accreditation program under Part 7a.8 (or under sections 7b.8 or 7c.8 as applicable) of these procedures; and

(4) The standards and test methods requested are likely to be those for which testing laboratories will seek accreditation."

The notice shall provide at least a sixty (60) day period for submission of written comments therein. All comments will be filed in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce Building, 14th Street between E Street and Constitution Avenue, N.W., Washington, D.C. 20230, and will be available for public inspection and copying at that location.

After evaluating the comments received, the Secretary shall publish a notice in the Federal Register identifying the standards and test methods to be added to the LAP or withdrawing the proposal to all such standards and test methods.

[FR Doc. 79-39629 Filed 12-27-79; 8:45]

BILLING CODE 3510-13-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 660

[Docket No. 79N-0076]

Antibody to Hepatitis B Surface Antigen Reduction in the Number of Samples Submitted

AGENCY: Food and Drug Administration

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations reducing the number of samples of diagnostic test kits containing Antibody to Hepatitis B Surface Antigen iodinated with ¹²⁵I that must be submitted to FDA's Bureau of Biologics (the Bureau) for testing after licensure and official release of at least five consecutive lots of diagnostic test kits. Tests conducted by the Bureau show that it is no longer necessary to require samples from every lot of diagnostic test kits produced once a manufacturer is issued a license for the product and consistency in regular production is established.

DATE: Comments by February 26, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Richard E. Fisher, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION:

Antibody to Hepatitis B Surface Antigen is a licensed diagnostic reagent used to detect Hepatitis B Surface Antigen in the serum of blood and plasma donors. A blood or plasma donor whose serum gives a positive reaction in a test with this diagnostic reagent is rejected from any further donations because the donor may be a potential carrier of viral hepatitis that can be transmitted by blood transfusion to a recipient or by the exposure of these contaminated products to their processors and other handlers. To reduce the risk of transmitting viral hepatitis through these human blood products, § 610.40 of the biologics regulations (21 CFR 610.40) requires that each donation of blood and plasma used in preparing a biological product be tested for the presence of Hepatitis B Surface Antigen. Only licensed Antibody to Hepatitis B Surface Antigen can be used in performing the tests. Section 610.40(b)(3) also requires

that testing be performed by the facility collecting the blood or by written agreement with a clinical laboratory meeting the standards of the Clinical Laboratories Improvement Act and qualified to perform radioimmunoassay or other acceptable third-generation sensitivity tests for the presence of Hepatitis B Surface Antigen. Both the Clinical laboratories and the licensed manufacturers who do their own testing for hepatitis are required to participate in proficiency testing programs undertaken by the Bureau of Biologics (§ 610.40(e)).

The regulations governing the manufacture of Antibody to Hepatitis B Surface Antigen are prescribed in §§ 660.1 through 660.5 (21 CFR 660.1 through 660.5). Section 660.2(f)(2) provides that Antibody to Hepatitis B Surface Antigen that has been iodinated with ¹²⁵I may be issued by the manufacturer without obtaining an official release from the Director of the Bureau (the Director), provided the manufacturer submits a protocol of tests and a sample from each lot of the diagnostic test kit.

When a new product is being developed by a manufacturer, smaller lots or fewer lots are produced to avoid loss of valuable source material until specifications are established and the product is licensed. After licensing, production is increased to meet marketing needs. To assure the continuing quality and reliability of the product during this transition period, the license requires that manufacturers send samples of each lot of diagnostic test kits manufactured after licensing to the Bureau until the manufacturer has received written notification of official release of each of at least five consecutive lots of diagnostic test kits from the Director. Following written notification by the Director, subsequent lots of diagnostic test kits may then be released by the manufacturer as provided in § 660.2(f)(2) without obtaining official release, provided the manufacturer sends a protocol of tests and a sample of every lot of diagnostic test kits produced no more than 1 day following the manufacturer's release date. A written notification of official release is not required for all lots of diagnostic test kits manufactured because the product has a short dating period (shelf life) of 45 days.

During the past 3 years, there has been an increase in the number of manufacturers licensed for Antibody to Hepatitis B Surface Antigen iodinated with ¹²⁵I and a 50-percent increase in the number of samples of diagnostic test kits of this product received by the

Bureau. As a result, the number of samples of diagnostic test kits submitted now exceeds the number that can actually be tested. To determine the continued practicality of this sample submission procedure, the Bureau has evaluated the effectiveness of the product along with the testing capabilities of the licensed manufacturers or their testing laboratories by obtaining and reviewing data received from five hepatitis proficiency panels distributed from February 1975 through September 1977. The results of this review show that of the 1,164 establishments participating in the proficiency testing program, the rate of detecting hepatitis reactive samples (among coded negative and weakly reactive to strongly reactive samples) was 98.2 percent by radioimmunoassay.

The Bureau's experience in testing samples of lots of diagnostic test kits received and the satisfactory results of proficiency testing support the conclusion that it is unnecessary for manufacturers to send samples of every lot of diagnostic test kits produced after consistency in manufacturing has been established following licensing. A reduction in the number of samples of diagnostic test kits submitted thereafter would relieve an unnecessary burden on the manufacturers in loss of product and cost of mailing as well as a reduction in the cost of storing, testing, and disposing of samples of diagnostic test kits in the Bureau.

Accordingly, FDA proposed to amend § 660.2 by revising paragraph (f) to include provisions for retention samples of diagnostic test kits and adding a new § 660.6 *Samples, protocols, official release*. The current provisions of § 660.2(f)(1) concerning Antibody to Hepatitis B Surface Antigen not iodinated with ¹²⁵I are transferred to proposed § 660.6(a) and have been edited for consistency in format with paragraph (b). Proposed § 660.6(b) concerns Antibody to Hepatitis B Surface Antigen iodinated with ¹²⁵I and requires submission of one finished package of each lot of diagnostic test kits manufactured after licensing until written notification of official release is received for each of at least five consecutive lots. Each lot of diagnostic test kits must be withheld from distribution until such official release is received from the Director. After the manufacturer receives written notification that official release is no longer required, one finished package of a lot of diagnostic test kits must be submitted at periodic intervals of 90 days, and the manufacturer may release the product for distribution without

obtaining official release. The lot of diagnostic test kits from which a sample is to be submitted must be the first one with the date of manufacture after the ninetieth day. Proposed § 660.6(b)(1)(iii) adds a requirement for sample submission of lots of diagnostic test kits if the Director finds that the product fails to maintain reliability in complying with the standards for this product. This action would be taken for the length of time necessary to reassure continuing reliability in compliance with the standards.

The agency has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 660 be amended as follows:

1. In § 660.2 by revising paragraph (f) to read as follows:

§ 660.2 General requirements.

(f) *Retention samples*. Each manufacturer shall retain representative samples of the product in accordance with § 660.13 of this chapter except for that which has been iodinated with radioactive iodine. Retention samples of Antibody to Hepatitis B Surface Antigen iodinated with ¹²⁵I shall consist of a minimum of two complete finished packages of each lot of the diagnostic test kit and shall be retained for a period of at least 90 days from the date of manufacture.

2. By adding new § 660.6 to Subpart A to read as follows:

§ 660.6 Samples, protocols, official release.

(a) *Antibody to Hepatitis B Surface Antigen not iodinated with ¹²⁵I*—(1) *Samples*. Each manufacturer shall submit a sample of each filling of each lot packaged as for distribution, including all ancillary reagents and materials, to the Director, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20205.

(2) *Protocols*. Each manufacturer shall submit a protocol that consists of a summary of the history of manufacture of each filling of each lot, including all results of each test for which test results

are requested by the Director, to the Director, Bureau of Biologics.

(3) *Official release*. The product must not be distributed by the manufacturer until written notification of official release of each filling of each lot is received from the Director, Bureau of Biologics.

(b) *Antibody to Hepatitis B Surface Antigen iodinated with ¹²⁵I*—(1) *Samples*. Each manufacturer shall submit the following samples of lots of diagnostic test kits in finished packages, including all ancillary reagents and materials, to the Director, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20205, within 1 working day after the manufacturer has satisfactorily completed all tests of the finished packaged material:

(i) One finished package of each lot of diagnostic test kits until written notification of official release is no longer required under paragraph (b)(3) of this section.

(ii) One finished package of a lot of diagnostic test kits at periodic intervals of 90 days, after written notification of official release is no longer required under paragraph (b)(3)(ii) of this section. Submit a sample of the first lot of diagnostic test kits with a date of manufacture after the ninetieth day. Identify the finished package as "surveillance sample."

(iii) Samples of any lot of diagnostic test kits may at any time be required to be submitted to the Director, Bureau of Biologics, if the Director finds that the product fails to maintain reliability in complying with the standards for this product.

(2) *Protocols*. For each sample of a lot of diagnostic test kits submitted as required in paragraph (b)(1) of this section, the manufacturer shall send a protocol that consists of a summary of the history of manufacture of the lot, including all results of each test for which test results are requested by the Director, Bureau of Biologics. The protocols submitted with the samples at periodic intervals as provided in paragraph (b)(1)(ii) of this section shall be identified by the manufacturer as "surveillance test results."

(3) *Official release*. (i) The manufacturer shall not distribute a lot of diagnostic test kits until written notification of official release is received from the Director, Bureau of Biologics. Official release is required for at least five consecutive lots of diagnostic test kits manufactured after licensure of the product.

(ii) After written notification of official release is received from the Director, Bureau of Biologics, for at least five consecutive lots of diagnostic test

kits, and after the manufacturer receives written notification that official release is no longer required, subsequent lots of diagnostic test kits may be released by the manufacturer pursuant to the requirements of § 610.1 of this chapter.

(iii) The manufacturer shall not distribute lots of diagnostic test kits that require sample submission under paragraph (b)(1)(iii) of this section until written notification of official release or notification that official release is no longer required is received from the Director, Bureau of Biologics.

Interested persons may, on or before February 26, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 19, 1979.

William F. Randolph
Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 79-39550 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-93-79]

Continuity of Business Enterprise Requirement for Corporate Reorganizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations clarifying the continuity of business enterprise requirement for corporate reorganizations. The continuity of business enterprise requirement is

fundamental to the notion that tax-free reorganizations merely readjust continuing interests in property. Recent developments involving the availability of tax-free reorganization treatments for certain mutual fund transactions require clarification, in general, of the continuity of business enterprise requirement.

DATE: Written comments and requests for a public hearing must be delivered or mailed by February 25, 1980. The amendments are proposed to be effective for transfers made after 30 days after date this regulation is published as a Treasury Decision in the Federal Register.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention CC:LP:T (LR-93-79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Richard L. Mull of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, Attention CC:LR:T (202-566-3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 368 of the Internal Revenue Code of 1954. These amendments clarify the requirement of continuity of business enterprise in corporate reorganizations. The proposed regulations are to be issued under the authority in Code section 7805 (68A Stat. 917, 26 U.S.C. 7805).

Recent developments involving the availability of tax-free reorganization treatment for certain mutual fund transactions require clarification, in general, of the continuity of business enterprise requirement. The mutual fund transactions typically involve a sale by a closely-held corporation of all of its assets and a transfer of the sale proceeds to a mutual fund for stock.

Assumptions Underlying Tax-Free Reorganizations

A tax-free reorganization assumes that "The new enterprise, the new corporate structure, and the new property are substantially continuations of the old [ones] still unliquidated." Treas. Reg. § 1.1002-1(c). The continuity of business enterprise requirement is fundamental to the notion that tax-free reorganizations effect only a readjustment of continuing interests in property under modified corporate forms. See, § 1.368-1(b).

The proposed regulations set forth certain basic concepts underlying the

continuity of business enterprise requirement. Continuity of business enterprise requires that the transferee either continue the transferor's historic business or use a significant portion of the transferor's historic business assets. The transferee is not required to continue the transferor's business. However, if that business is not continued, there must be significant use of the transferor's historic business assets in the transferee's business.

The facts of the examples in the proposed regulations are based, in large part, upon administrative rulings and judicial opinions. Example (1) shows that continuity of business enterprise requires only that the transferee continue one of the significant lines of the transferor's business. Example (2) shows that continuity of business enterprise may exist even if the transferee's use of the transferor's assets differs from the transferor's use of those assets.

Example (3) shows that stocks and bonds acquired following the sale of a corporation's historic business as part of an overall plan intended to result in a reorganization are not historic business assets. *Compare, Lester J. Workman, T.C. Memo 1977-378.*

The facts in example (4) are a variation of those in Rev. Rul. 63-29, 1953-1, C.B. 77, although the example reaches a different result. Example (5) shows that a disposition of the transferor's assets by the transferee does not differ in result from a disposition of those assets by the transferor.

If the proposed regulation is adopted, the Service will resolve on a case-by-case basis the portion of a transferor's total assets considered to be "significant" for purposes of issuing advance letter rulings.

Related Legislative History

The continuity of business enterprise requirement described in the proposed regulation is closely related to the separate requirement of continuity of interest. While continuity of business enterprise is determined at the corporate level and continuity of interest is determined at the shareholder level, both are fundamental to the underlying assumption that a tax-free reorganization effects only a readjustment of continuing interests under modified corporate forms.

The continuity of interest requirement ensures that the shareholders of the transferor retain a continuing interest in the corporate assets or business through ownership of a proprietary interest in the transferee corporation. *See, Finelles Ice and Cold Storage Co. v.*

Commissioner, 287 U.S. 462 (1933), and *Southwest Natural Gas Co. v. Commissioner*, 189 F.2d 332 (2d Cir.), *cert. denied*, 342 U.S. 860 (1951). *United States v. Groman*, 302 U.S. 82 (1937), and the *United States v. Boshford*, 302 U.S. 454 (1938), held that the shareholder's continuing interest was too indirect where the transferor's historic business was ultimately conveyed to a subsidiary (even a wholly-owned subsidiary) of the transferee corporation.

Although the specific result in *Boshford* involving the continuity of interest requirement has been modified by statute (see section 368(a)(2)(C)), it remains true that a corporation may not acquire assets in a tax-free reorganization with the intention of "transferring them to a stranger." See the Ways and Means Committee Report on the Internal Revenue Code of 1954, H. Rep. No. 1337, 83d Cong., 2d Sess. A134 (1954). It makes no difference which party to a reorganization transfers the assets to a stranger. The continuing relationship between assets and shareholders is broken in either case. Thus, the committee report language is also directly related to the policy underlying the continuity of business enterprise requirement.

Effective Date

The proposed regulation relating to the continuity of business enterprise requirement will apply prospectively only to allow the public to comment and request a hearing. It will be effective for transactions that occur 30 days or more after it is adopted as a Treasury decision. No inferences are intended regarding the law prior to the effective date of the proposed regulation.

Related Documents

Shortly after publication of the proposed regulation, the Internal Revenue Service will publish three documents in the Internal Revenue Bulletin. First, a Revenue Ruling will hold that a mere purchase is not a reorganization. Second, Rev. Rul. 63-29 will be suspended pending revision. Third, the Service's list of no ruling areas contained in Rev. Proc. 79-14, 1979-1 C.B. 499, will be amended to include transactions that violate the continuity of business enterprise requirement as set forth in the proposed regulation.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All

comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of this regulation is Richard L. Mull of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulation.—Accordingly, 26 CFR Part 1 is amended as follows:

§ 1.368 [Removed]

Paragraph 1. Section 1.368 is deleted. Par. 2. § 1.368-1 is amended as follows:

1. "The continuity of business enterprise requirement is described in paragraph (d) of this section." is added immediately following the third sentence in paragraph (b).

2. A new paragraph (d) is added to read as set forth below:

§ 1.368-1 Purpose and scope of exception of reorganization exchanges.

(d) *Continuity of business enterprise.*—(1) *Effective date.* This paragraph (d) applies to transfers occurring after 30 days after date this regulation is published as a Treasury Decision in the Federal Register.

To determine the date of transfer, see § 1.381(b)-1(b).

(2) *General rule.* Continuity of business enterprise requires that the transferee either (i) continue the transferor's historic business or (ii) use a significant portion of the transferor's historic business assets in a business.

(3) *Business continuity.* (i) The continuity of business enterprise requirement is satisfied if the transferee continues the transferor's historic business. The fact the transferee is in the same line of business as the transferor tends to establish the requisite continuity, but is not alone sufficient.

(ii) If the transferor has more than one line of business, continuity of business enterprise requires only that the transferee continue a significant line of business.

(iii) In general, a corporation's historic business is the business it has conducted most recently. However, a

corporation's historic business is not one the corporation enters into as part of an overall plan intended to result in a reorganization. All facts and circumstances are considered in determining the existence of a plan.

(4) *Asset continuity.* (i) The continuity of business enterprise requirement is satisfied if the transferee uses a significant portion of the transferor's historic business assets in a business.

(ii) A corporation's historic business assets are the assets used in its historic business. Business assets include intangible operating assets such as good will, patents, and trademarks, whether or not they have a tax basis.

(5) *Examples.* The following examples illustrate this paragraph (d).

Example (1). Corporation P conducts three lines of business: manufacture of synthetic resins, manufacture of chemicals for the textile industry, and distribution of chemicals. The three lines of business are approximately equal in value. On July 1, 1981, P sells the synthetic resin and chemical distribution businesses to a third party for cash and marketable securities. On December 31, 1981, P transfers all of its assets to corporation Q solely for Q voting stock. Q continues the chemical manufacturing business without interruption. The continuity of business enterprise requirement is met. Continuity of business enterprise requires only that Q continue one of P's three significant lines of business.

Example (2). Corporation R manufactures computers and corporation S manufactures components for computers. S sells all of its output to R. On January 1, 1981, R decides to buy imported components only. On March 1, 1981, S merges into R. R continues buying imported components but retains S's equipment as a backup source of supply. The use of the equipment as a backup source of supply constitutes use of a significant portion of the transferor's historic business assets, thus, establishing continuity of business enterprise. R is not required to continue S's business.

Example (3). Corporation T is a manufacturer of boys' and men's trousers. On January 1, 1977, as part of an overall plan intended to result in a reorganization, T sold all of its assets to a third party for cash and purchased a highly diversified portfolio of stocks and bonds. On July 1, 1980, T transfers all of its assets to U, a regulated investment company, solely in exchange for U voting stock. The continuity of business enterprise requirement is not met. T's investment activity is not its historic business, and the stocks and bonds are not T's historic business assets.

Example (4). Corporation V manufactures children's toys and corporation W distributes steel and allied products. On January 1, 1981, V sells all of its assets to a third party for \$100,000 cash and \$900,000 in notes. On March 1, 1981, V merges into W. Continuity of business enterprise is lacking. The use of the sales proceeds in W's business is not sufficient.

Example (5). Corporation X manufactures farm machinery and corporation Y operates a lumber mill. X merges into Y. Immediately after the merger, Y disposes of X's assets. Y does not continue X's farm machinery manufacturing business. Continuity of business enterprise is lacking.

Jerome Kurtz,
Commissioner of Internal Revenue.
[FR Doc. 79-39591 Filed 12-27-79; 9:45 am]
BILLING CODE 4850-01-16

[26 CFR Part 1]

[LR-52-79]

Discharge of Liabilities on the Sale or Other Disposition of Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the computation under section 1001 of the Internal Revenue Code of 1954 of the amount realized on the sale or other disposition of encumbered property. The proposed regulations would clarify existing regulations. The regulations would provide the public with guidance needed to comply with the Internal Revenue laws and would affect taxpayers who sell or transfer property subject to liabilities.

DATES: Written comments and request for a public hearing must be delivered or mailed by February 25, 1980. The amendments are proposed to be effective for taxable years beginning after December 31, 1953.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, [LR-52-79] Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John H. Parcell of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3288).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1001 of the Internal Revenue Code of 1954. These amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Additional Information

These proposed regulations, when finalized, will clarify existing

regulations with respect to the effect on amount realized of liabilities to which transferred property is subject. These regulations would not represent a change or modification of the Treasury Department's position with respect to the issues addressed. These proposed regulations would clarify existing regulations in order to set forth more precisely what has been the Internal Revenue Service's consistent ruling and litigating position for many years.

The proposed regulations provide that upon the sale or other disposition of property, the transferor's amount realized for purposes of computing gain or loss includes the amount of any liability from which the transferor is discharged, or treated as discharged, as a result of the sale or other disposition. For example, a sale or other disposition subject to a nonrecourse liability is treated as discharging the transferor from the liability. *See Crane v. Commissioner*, 331 U.S. 1 (1947). The proposed regulations also provide that if the transferor of encumbered property is also personally liable for the debt which the property secures and if the transferee agrees to pay the debt, the transferor's debt is treated as discharged. For these purposes, the disposition of encumbered property includes, for example, gifts of the property and transfers to creditors in satisfaction of the outstanding liability.

Finally, the proposed regulations provide that even if the fair market value of the property is less than the amount of the liabilities it secures, the full amount of those liabilities is treated as money received from the sale or other disposition of property. This rule reflects decisions in cases such as *Millar v. Commissioner*, 577 F.2d 212 (3d Cir. 1978), and *John F. Tufts*, 70 T.C. 756 (1978).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspections and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel,

Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. The following section is inserted immediately after § 1.1001-1.

§ 1.1001-2 Discharge of liabilities.

(a) *Inclusion in amount realized.* For the purposes of determining the amount realized from a sale or other disposition of property, the amount of liabilities from which the transferor is discharged, or treated as discharged, as a result of the sale or other disposition shall be treated as an amount realized. For example, the sale or other disposition of property subject to nonrecourse liabilities shall be treated as discharging the transferor from the liabilities. Likewise, the transferor shall be treated as discharged from recourse liability if, by reason of the sale or other disposition of property subject to the liability, another person agrees to pay the liability. Further, for purposes of this section, a disposition of property includes a gift of the property or its transfer to creditors in satisfaction of liabilities to which it is subject.

(b) *Effect of fair market value of security.* The fair market value of the security which is sold or disposed of is not relevant for purposes of determining under paragraph (a) of this section the amount of liabilities from which the taxpayer is discharged or treated as discharged. Thus, the fact that the fair market value of the property is less than the amount of the liabilities it secures does not prevent the full amount of those liabilities from being treated as money received from the sale or other disposition of the property.

(c) *Examples.* The provisions of this section may be illustrated by the following examples. In each example assume the taxpayer uses the cash receipts and disbursements method of accounting, makes a return on the basis of the calendar year, and sells or disposes of all property which is security for a given liability.

Example (1). In 1976 A purchases an asset for \$10,000. A pays the seller \$1,000 in cash and signs a note payable to the seller for \$9,000. A is personally liable for repayment with the seller having full recourse in the event of default. In addition, the asset which was purchased is pledged as security. During the years 1976 and 1977, A takes depreciation deductions on the asset in the amount of

\$3,100. During this same time period A reduces the outstanding principal on the note to \$7,600. At the beginning of 1978 A sells the asset. The buyer pays A \$1,600 in cash and assumes personal liability for the \$7,600 outstanding liability. A becomes secondarily liable for repayment of the liability. A's amount realized is \$9,200 (\$1,600 + \$7,600). Since A's adjusted basis in the asset is \$6,900 (\$10,000 - \$3,100) A realizes a gain of \$2,300 (\$9,200 - \$6,900).

Example (2). Assume the same facts as in example (1) except that A is not personally liable on the \$9,000 note given to the seller and in the event of default the seller's only recourse is to the asset. In addition, on the sale of the asset by A, the purchaser takes the asset subject to the liability. Nevertheless, A's amount realized is \$9,200 and A's gain realized is \$2,300 on the sale.

Example (3). In 1975 L becomes a limited partner in partnership GL. L contributes \$10,000 in cash to GL and L's distributive share of partnership income and loss is 10 percent. L is not entitled to receive any guaranteed payments. In 1978 M purchases L's entire interest in partnership GL. At the time of the sale L's adjusted basis in the partnership interest is \$20,000. At that time L's proportionate share of liabilities, of which no partner has assumed personal liability, is \$15,000. M pays \$10,000 in cash for L's interest in the partnership. L's share of partnership liabilities, \$15,000, is treated as money received. Accordingly, L's amount realized on the sale of the partnership interest is \$25,000 (\$10,000 + \$15,000). L's gain realized on the sale is \$5,000 (\$25,000 - \$20,000).

Example (4). In 1976 B becomes a limited partner in partnership BG. In 1978 B contributes B's entire interest in BG to a charitable organization described in section 170(c). At the time of the contribution all of the partnership liabilities are liabilities for which neither B nor G has assumed any personal liability and B's proportionate share of which is \$9,000. The charitable organization does not pay any cash or other property to B, but takes the partnership interest subject to the \$9,000 of liabilities. Assume that the contribution is treated as a bargain sale to a charitable organization and that under section 1011(b) \$3,000 is determined to be the portion of B's basis in the partnership interest allocable to the sale. The \$9,000 of liabilities is treated by B as money received, thereby making B's amount realized \$9,000. B's gain realized is \$6,000 (\$9,000 - \$3,000).

Example (5). In 1975 C, an individual, creates T, an irrevocable trust. Due to certain powers expressly retained by C, T is a "grantor trust" for purposes of subpart E of part 1 of subchapter J of the Code and therefore C is treated as the owner of the entire trust. T purchases an interest in P, a partnership. C, as owner of T, deducts the distributive share of partnership losses attributable to the partnership interest held by T. In 1978, when the adjusted basis of the partnership interest held by T is \$1,200, C renounces the powers previously and expressly retained that initially resulted in T being classified as a grantor trust. Consequently, T ceases to be a grantor trust

and C is no longer considered to be the owner of the trust. At the time of the renunciation all of P's liabilities are liabilities on which none of the partners have assumed any personal liability and the proportionate share of which of the interest held by T is \$11,000. Since prior to the renunciation C was the owner of the entire trust, C was considered the owner of all the trust property for Federal income tax purposes, including the partnership interest. Since C was considered to be the owner of the partnership interest, C not T, was considered to be the partner in P during the time T was a "grantor trust". However, at the time C renounced the powers that gave rise to T's classification as a grantor trust, T no longer qualified as a grantor trust with the result that C was no longer considered to be the owner of the trust and trust property for Federal income tax purposes. Consequently, at that time, C is considered to have transferred ownership of the interest in P to T, now a separate taxable entity, independent of its grantor C. On the transfer, C's share of partnership liabilities (\$11,000) is treated as money received. Accordingly, C's amount realized is \$11,000 and C's gain realized is \$9,800 (\$11,000 - \$1,200).

Example (6). In 1977 D purchases an asset for \$7,500. D pays the seller \$1,500 in cash and signs a note payable to the seller for \$6,000. D is not personally liable for repayment but pledges as security the newly purchased asset. In the event of default, the seller's only recourse is to the asset. During the years 1977 and 1978 D takes depreciation deductions on the asset totaling \$4,200 thereby reducing D's basis in the asset to \$3,300 (\$7,500 - \$4,200). In 1979 D transfers the asset to a trust which is not a "grantor trust" for purposes of subpart E of part 1 of subchapter J of the Code. Therefore D is not treated as the owner of the trust. The trust takes the asset subject to the liability and in addition pays D \$750 in cash. Prior to the transfer D had reduced the amount outstanding on the liability to \$4,700. D's amount realized on the transfer is \$5,450 (\$4,700 + \$750). Since D's adjusted basis is \$3,300, D's gain realized is \$2,150 (\$5,450 - \$3,300).

Example (7). In 1974 E purchases a herd of cattle for breeding purposes. The purchase price is \$20,000 consisting of \$1,000 cash and a \$19,000 note. E is not personally liable for repayment of the liability and the seller's only recourse in the event of default is to the herd of cattle. In 1977 E transfers the herd back to the original seller thereby satisfying the indebtedness pursuant to a provision in the original sales agreement. At the time of the transfer the fair market value of the herd is \$15,000 and the remaining principal balance on the note is \$19,000. At that time E's adjusted basis in the herd is \$16,500 due to a deductible loss incurred when a portion of the herd died as a result of disease. As a result of the indebtedness being satisfied, E's amount realized is \$19,000 notwithstanding the fact that the fair market value of the herd was less than \$19,000. E's realized gain is \$2,500 (\$19,000 - \$16,500).

Par. 2. Section 1.61-12 is amended by adding at the end thereof the following new paragraph:

§ 1.61-12 Income from discharge of indebtedness.

(e) *Cross reference.* For rules relating to the treatment of liabilities on the sale or other disposition of encumbered property, see § 1.1001-2.

Par. 3. Section 1.671-1 is amended by adding at the end thereof the following new paragraph:

§ 1.671-1 Grantors and others treated as substantial owners; scope.

(f) For rules relating to the treatment of liabilities resulting on the sale or other disposition of encumbered trust property due to a renunciation of powers by the grantor or other owner, see § 1.1001-2.

Par. 4. Section 1.741-1 is amended by adding at the end thereof the following new paragraph:

§ 1.741-1 Recognition and character of gain or loss on sale or exchange.

(d) For rules relating to the treatment of liabilities on the sale or exchange of interests in a partnership see §§ 1.752-1 and 1.1001-2.

§ 1.1001 [Removed]

Par. 5. Section 1.1001 is deleted.

Par. 6. Section 1.1011-2 is amended by adding at the end thereof the following new paragraph:

§ 1.1011-2 Bargain sale to a charitable organization.

(c) *Cross reference.* For rules relating to the treatment of liabilities in a bargain sale transaction, see § 1.1001-2. Jerome Kurtz, Commissioner of Internal Revenue.

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26 CFR Parts 1 and 5

[LR-189-78]

Credit for Employment of Certain New Employees

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the credit for employment of individuals qualifying as members of a targeted group. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with the Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 25, 1980.

The amendments are proposed to be effective for certain wages paid or incurred after December 31, 1978, and before January 1, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-189-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Douglas W. Charnas of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3346).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 44B, 51, 52, 53, 280C and 381 of the Internal Revenue Code of 1954. This document also contains proposed amendments to the Temporary Income Tax Regulations Under the Revenue Act of 1978 (26 CFR Part 5) under sections 44B and 51 of the Internal Revenue Code of 1954. Generally these amendments are proposed to conform the regulations to section 321 of the Revenue Act of 1978 (92 Stat. 2830) and are to be issued under the authority contained in sections 44B and 7605 of the Internal Revenue Code of 1954 (92 Stat. 2834, 26 U.S.C. 44B, 68A Stat. 917, 26 U.S.C. 7605). The amendments to the regulations under section 381 are proposed to conform the regulations to section 202(d)(3)(A) of the Tax Reduction and Simplification Act of 1977 (91 Stat. 148).

In General

Section 321 of the Revenue Act of 1978 provides a targeted jobs credit for the employment of individuals qualifying as members of a targeted group. The targeted jobs credit replaces the new jobs credit allowable under section 44B (as in effect prior to enactment of the Revenue Act of 1978). In general, a taxpayer may elect to claim a credit under section 44B (as amended by the Revenue Act of 1978) for amounts paid or incurred after December 31, 1978, for taxable years ending after that date, to members of a targeted group. Generally, to qualify for the credit, the amounts must be paid or incurred to members of a targeted group first hired after September 26, 1978. However, amounts paid or incurred after December 31, 1978, to a vocational rehabilitation referral hired before September 27, 1978, may qualify for the credit if a credit

under section 44B (as in effect prior to enactment of the Revenue Act of 1978) was claimed for the individual by the taxpayer for a taxable year beginning before January 1, 1979.

Amount of Credit

The amount of the credit allowable by section 44B for the taxable year is 50 percent of the qualified first-year wages plus 25 percent of the qualified second-year wages. Generally, qualified first-year wages are the first \$6,000 of wages paid or incurred by the employer during the taxable year to an individual who is a member of a targeted group for services rendered during the 1-year period beginning with the day the individual begins work for the employer. Qualified second-year wages are the first \$6,000 of wages paid or incurred by the employer during the taxable year to an individual who is a member of a targeted group for services rendered during the 1-year period beginning on the day after the last day of the qualified first-year wages period. Qualified first-year wages are further limited to 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. The amount of the credit may not exceed 80 percent of the tax imposed by chapter 1 of the Code reduced by certain credits. However, in the case of a taxable year beginning before January 1, 1979, and ending after that date, the amount of the credit allowable is limited to 100 percent of the tax imposed by chapter 1 of the Code rather than 80 percent. Any unused credit may be carried back 3 years or over 7 years. In addition, the amount of the employer's income tax deduction for wages must be reduced by the amount of the credit.

Members of a Targeted Group

An individual is a member of a targeted group if he or she is certified as a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged Vietnam-era veteran, an SSI recipient, a general assistance recipient, a youth participating in a cooperative education program, or an economically disadvantaged ex-convict. In general, the State employment security agency is the agency responsible for certifying an individual as a member of a targeted group. In the case of youths participating in a qualified cooperative education program, the school offering the program must certify the individual as a member of that targeted group. A school may satisfy the certification requirement by using Form 6199. In either case, a certificate may be revoked if it is

discovered that the information supplied by the individual or employer for purposes of issuing the certificate was incorrect or false.

Trades or Businesses That are Under Common Control

In the case of a group of trades or businesses that are under common control at any time during the calendar year, all employees of the group of trades or businesses that are under common control are treated as employed by a single employer. The amount of the targeted jobs credit must be apportioned among the members of the group on the basis of each member's proportionate share of the wages giving rise to such credit.

Carryback and Carryover of Credit

Any unused targeted jobs credit may be carried back 3 years and over 7 years. An unused credit of a corporation which arises in an unused credit year for which the corporation is not an electing small business corporation and which is a carryback or carryover to a taxable year for which the corporation is an electing small business corporation shall not be added to the amount allowable as a credit under section 44B to the shareholders of that corporation for any taxable year.

Repeal of Rule for Pass-Through of Credit

Section 53 (b) as enacted by the Tax Reduction and Simplification Act of 1977 limited the amount of the credit under section 44B that is passed through to a partner, a beneficiary of an estate or trust, or a shareholder of a subchapter S corporation to a proportionate part of the taxpayer's interest in the partnership, estate, trust, or subchapter S corporation. The Revenue Act of 1978 repealed section 53 (b) for amounts paid or incurred in taxable years beginning after December 31, 1978. Accordingly, section 53 (b) applies to any unused targeted jobs credit earned in taxable years beginning before December 31, 1978, and carried over to taxable years beginning after December 31, 1978.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written

comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Douglas W. Charnas of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of style and substance.

Proposed amendments to the regulations.—The proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Temporary Income Tax Regulations Under the Tax Reform Act of 1978 (26 CFR Part 5) are as follows:

Paragraph 1. There is inserted immediately after § 1.44–5 the following new section:

§ 1.44B–1 Credit for employment of certain new employees.

(a) *In general.* Under section 44B (as amended by the Revenue Act of 1978) a taxpayer may elect to claim a credit for wages (as defined in § 1.51–1(b)(4)) paid or incurred to members of a targeted group (as defined in § 1.51–1(c)(1)). Generally, to qualify for the credit, the wages must be paid or incurred to members of a targeted group first hired after September 26, 1978. However, wages paid or incurred to a vocational rehabilitation referral (as defined in section 51(d)(2)) hired before September 27, 1978, may qualify for the credit if a credit under section 44B (as in effect prior to enactment of the Revenue Act of 1978) was claimed for the individual by the taxpayer for a taxable year beginning before January 1, 1979. The amount of the credit shall be determined under § 1.51–1. Section 200C (b) (relating to the requirement that the deduction for wages be reduced by the amount of the credit) and the regulations thereunder will not apply to taxpayers who do not elect to claim the credit.

(b) *Time and manner of making election.* The election provided for in section 44B (as amended by the Revenue Act of 1978) may be made by claiming the credit on an original return, or on an amended return, at anytime before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for the taxable year (determined without regard to extensions). The election may be revoked within the above-described 3-year period by filing an amended return on which the credit is not claimed.

(c) *Election by partnership, electing small business corporation, and members of a controlled group.* In the case of a partnership, the election shall be made by the partnership. In the case of an electing small business corporation (as defined in section 1371(a)), the election shall be made by the corporation. In the case of a controlled group of corporations (within the meaning of section 52(a) and the regulations issued thereunder) not filing a consolidated return under section 1501, the election shall be made by each member of the group. In the case of an affiliated group filing a consolidated return under section 1501, the election shall be made by the group.

§§ 1.51 and 1.51–1 [Removed]

Par. 2. Sections 1.51 and 1.51–1 are deleted.

Par. 3. There are inserted immediately after § 1.50B–1 the following new sections:

§ 1.51–1 Amount of credit.

(a) *Determination of amount.* The amount of the targeted jobs credit allowable by section 44B (as amended by the Revenue Act of 1978) for the taxable year equals 50 percent of the qualified first-year wages plus 25 percent of the qualified second-year wages. See § 1.53–1 for rules limiting the amount of the credit to a percentage of the amount of the tax imposed by chapter 1 of the Code.

(b) *Definitions.*—(1) *Qualified wages.* The term "qualified wages" means wages (as defined in paragraph (b)(4)) paid or incurred by the employer during the taxable year to individuals who are members of a targeted group (within the meaning of section 51(d)).

(2) *Qualified first-year wages.* The term "qualified first-year wages" means wages (as defined in paragraph (b)(4)) attributable to services rendered by a member of a targeted group during the 1-year period beginning with the day the individual first begins work for the employer (or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan). However, with the exception of vocational rehabilitation referrals (as defined in section 51(d)(2)) for whom the employer claimed a credit under section 44B (as in effect prior to enactment of the Revenue Act of 1978) for a taxable year beginning before January 1, 1979, members of a targeted group who are first hired after September 26, 1978, and before January 1, 1979, will be treated as if they first began work for the employer on January 1, 1979. The date on which

the wages are paid does not determine whether the wages are first-year wages; rather, the wages must be attributable to the period during which the work was performed.

(3) *Qualified second-year wages.* The term "qualified second-year wages" means wages attributable to services rendered by a member of a targeted group during the 1-year period beginning on the day after the last day of the period for qualified first-year wages. The date on which the wages are paid does not determine whether the wages are second-year wages; rather, the wages must be attributable to the period during which the work was performed.

(4) *Wages.* The term "wages" shall only include amounts paid or incurred after December 31, 1978, and before January 1, 1981, for taxable years ending after December 31, 1978. For purposes of this section, the term "wages" has the meaning given to such term by section 3306(b) (determined without regard to any dollar limitation contained in such subsection). In the case of agricultural labor or railway labor, the term "wages" means unemployment insurance wages within the meaning of subparagraph (A) or (B) of section 51(h)(1). The term "wages" shall not include any amounts paid or incurred by an employer for any pay period to any individual for whom the employer receives federally funded payments for on-the-job training for such individual for such pay period. In addition, the term "wages" shall not include any amount paid or incurred by the employer to an individual with respect to whom the employer claims a credit under section 40 (relating to expenses of work incentive programs). In the case of youths participating in a qualified cooperative education program, the term "wages" shall include only those amounts paid or incurred by the employer that are attributable to services rendered by the individual while he or she meets the conditions specified in section 51(d)(8)(A).

(c) *Members of targeted groups.*—(1) *In general.* An individual is a member of a targeted group if the individual is certified as (i) a vocational rehabilitation referral, (ii) an economically disadvantaged youth, (iii) an economically disadvantaged Vietnam-era veteran, (iv) an SSI recipient, (v) a general assistance recipient, (vi) a youth participating in a cooperative education program, or (vii) an economically disadvantaged ex-convict. Except where provided below, see section 51(d) for a definition of these groups. With the exception of individuals who are youths participating in a qualified cooperative education

program, the local offices of the State employment security agencies are responsible for certifying individuals as members of a targeted group.

(2) *Youths participating in a qualified cooperative education program.* For an individual to qualify as a "youth participating in a qualified cooperative education program" under section 51(d)(8), the individual must be certified in writing by the qualified school (as defined in section 51(d)(8)(C)) participating in the program as meeting the conditions specified in section 51(d)(8)(A). The school may satisfy the certification requirement by using Form 6199. For purposes of section 51(d)(8)(B) relating to the definition of a "qualified cooperative education program", the term "program of vocational education" means an organized educational program which is directly related to the preparation of individuals for employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree. An "organized education program" means only instructions related to the occupation or occupations for which the students are in training.

(3) *General assistance recipients.* In order for an individual to qualify as a general assistance recipient, the individual must receive assistance for a period of not less than 30 days ending within the preemployment period (as defined in section 51(d)(10)) from the qualified general assistance program. A qualified general assistance program is a program of a State or a political subdivision of a State that the Secretary has designated as providing general assistance (or similar assistance) which is based on need and consists of money payments. For purposes of this subparagraph, the term "money" means cash or an instrument convertible into cash (e.g., a check).

(4) *Effect of certification.* The certificate may be revoked if it is discovered that the information supplied by the individual or employer for purposes of issuing the certificate was false or incorrect. The employer may not claim a credit for wages paid or incurred to an individual for services rendered after the certificate has been revoked. However, the employer is entitled to a credit for wages paid or incurred attributable to services rendered prior to the revocation.

(d) *Limitations.*—(1) *Wage limitation per employee.* The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account for purposes of the credit may not exceed \$6,000 per year for each employee.

(2) *Limitation on qualified first-year wages.* The amount of the qualified first-year wages which may be taken into account for purposes of the targeted jobs credit for any taxable year shall not exceed 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. In the case of a group of trades or businesses under common control (as defined in section 1.52–1(b)), the qualified first-year wages cannot exceed 30 percent of the aggregate unemployment insurance wages paid to all employees of that group of trades or businesses under common control during the calendar year ending in such taxable year. For this purpose, the term "unemployment insurance wages" has the same meaning given to the term "wages" as defined in section 3306(b). In the case of agricultural or railway labor, see section 51(h)(1) for the applicable definition of unemployment insurance wages.

(3) *Remuneration must be for trade or business employment.* Remuneration paid by an employer to an employee during any taxable year shall be taken into account only if more than one-half of the remuneration paid by the employer to an employee is for services in the employer's trade or business. This determination shall be made by each employer without regard to section 52 (a) or (b). Accordingly, employees of corporations that are members of a controlled group or all employees of partnerships, proprietorships, and other trades or businesses (whether or not incorporated) which are under common control will be treated as being employed by each separate employer for this purpose. For this purpose, the term "year" means the taxable year of the employer.

(e) *Examples.* The application of this section may be illustrated by the following examples in each of which it is assumed that the limitations imposed by sections 1.51–1(d)(2) and 1.53–1 are inapplicable:

Example (1). Corporation M is a calendar year, cash receipts and disbursements method taxpayer. A, an economically disadvantaged youth, first began work for Corporation M on October 1, 1978. Qualified first-year wages with respect to A are wages attributable to the period beginning on January 1, 1979 (since A was first hired after September 26, 1978, he is treated as having begun work on January 1, 1979), and ending on December 31, 1979. In the 1979 taxable year, Corporation M pays A \$5,000 of qualified first-year wages attributable to services performed in 1979. Corporation M's allowable credit is equal to \$2,500 (50 percent of \$5,000).

Example (2). Assume the same facts as in example (1) except that in 1980 Corporation

M pays to A \$100 of wages attributable to services rendered in 1979. These wages will still be considered as qualified first-year wages, but the credit may not be claimed until the 1980 taxable year.

Example (3). Assume the same facts as in example (1) with these additional facts. In 1980, Corporation M pays to A a qualified second-year wages of \$5,000 attributable to services performed by A in 1980. In 1981, Corporation M pays to A a qualified second-year wages of \$100 attributable to services performed by A in 1980. Since, for purposes of the credit, wages do not include any amounts paid after 1980 in the case of a cash receipts and disbursements method taxpayer, Corporation M may not claim a credit on the wages paid to A in 1981.

Example (4). Corporation N is a calendar year, cash receipts and disbursements method taxpayer. B, a vocational rehabilitation referral, first began work for Corporation N on July 1, 1978. Corporation N claimed a credit under section 44B (as in effect prior to enactment of the Revenue Act of 1978) for \$3,000 of wages paid to B in the 1978 taxable year. Corporation N paid B \$6,000 for services rendered from January 1, 1979, to June 30, 1979. The period during which qualified first-year wages are determined begins on July 1, 1978, and ends on June 30, 1979. Amounts paid before January 1, 1979, however, are not taken into consideration for determining the amount of qualified first-year wages. Accordingly, only the wages attributable to services performed from January 1, 1979, through June 30, 1979, may be considered as qualified first-year wages. Corporation N, therefore, may claim a credit on \$6,000 of qualified first-year wages.

Example (5). C, an economically disadvantaged youth, first began work for Corporation O, a calendar year, cash receipts and disbursements method taxpayer, on January 1, 1979. On August 1, 1979, C was laid off by Corporation O and began work for Corporation P, which is unrelated to Corporation O, on August 2, 1979. On December 1, 1979, C again began work for Corporation O and continued working for Corporation O until February 1, 1981. At the time C began work of Corporation P, C no longer met the qualifications of an economically disadvantaged youth because C's income during the time he worked for Corporation O was not less than 70 percent of the Bureau of Labor Statistics lower living standard. Corporation P may not claim a credit for wages paid to C since C was not a member of a targeted group when he was first hired by Corporation O. Corporation O may claim a credit for qualified first-year wages paid for services rendered by C from January 1, 1979, to August 1, 1979, and from December 1, 1979 to December 31, 1979. Corporation O may claim a credit for qualified second-year wages paid for services rendered by C from January 1, 1980, to December 31, 1980.

Example (6). Corporation Q is a calendar year, cash receipts and disbursements method taxpayer. D, a member of a targeted group, first began work for Corporation Q on January 1, 1979. For the pay periods from January 1, 1979, to March 31, 1979, Corporation Q received federally funded

payments for on-the-job training for D and paid wages of \$2,000 to D. During the remainder of 1979 Corporation Q paid wages of \$7,000 to D. Corporation Q may claim a credit on \$5,000 of qualified first-year wages. Amounts paid to D by Corporation Q during the pay periods for which Corporation Q received federally funded payments for on-the-job training for D are not considered wages for purposes of the credit. However, Corporation Q may consider \$6,000 of the total \$7,000 of wages paid after March 31, 1979, as qualified first-year wages.

Example (7). Corporation R is a calendar year, cash receipts and disbursements method taxpayer. E, a youth participating in a qualified cooperative education program first began work for Corporation R on September 30, 1979. E meets the conditions specified in section 51(d)(6)(A) until June 10, 1980, when E's enrollment in the cooperative education program ends because the school offering the program closes for summer vacation. During the period of September 30, 1979, to June 10, 1980, Corporation R paid E qualified first-year wages of \$5,000. E continues to work for Corporation R during the summer vacation from June 11, 1980, to September 8, 1980, for which Corporation R pays E \$2,000 in wages. These are not qualified first-year wages and do not count for purposes of the credit or the \$6,000 per year wage limitation since E no longer meets all the conditions specified in section 51(d)(6)(A). On September 8, 1980, the school offering the program opens and E again participates in a qualified cooperative education program and meets the conditions specified in section 51(d)(6)(A). Corporation R pays \$1,500 to E for services rendered during the period from September 9, 1980 to September 29, 1980. With respect to these wages, Corporation R may claim a credit on an additional \$1,000 of qualified first-year wages (\$6,000 maximum qualified first-year wages less \$5,000 qualified first-year wages attributable to services rendered from September 30, 1979, to June 10, 1980) paid to E before September 30, 1980.

Example (8). Corporation S is a cash receipts and disbursements method taxpayer with a July 1 through June 30 taxable year. In the 1979-1980 taxable year the aggregate unemployment insurance wages paid by S were \$150,000. In calendar year 1979 the aggregate unemployment insurance wages paid by Corporation S were \$110,000. Corporation S' qualified first-year wages are limited to 30 percent of the aggregate unemployment insurance wages paid by it in calendar year 1979 or \$33,000 (30 percent of \$110,000), even though the aggregate unemployment insurance wages paid by it in the 1979-1980 taxable year were \$150,000.

Example (9). Corporation T began business on December 1, 1978, and elected to use a December 1 through November 30 taxable year. All of Corporation T's employees began work on December 1, 1978. In December 1978, the aggregate unemployment insurance wages paid by Corporation T were \$10,000. From January 1, 1979, to November 30, 1979, the aggregate unemployment insurance wages paid by Corporation T were \$110,000. Corporation T's qualified first-year wages are limited to 30 percent of the aggregate unemployment insurance wages paid by it in

1978 or \$3,000 (30 percent of \$10,000) even though the aggregate unemployment insurance wages paid by it in the 1978-1979 taxable year were \$120,000.

Example (10). G, a sole proprietor, is a calendar year, cash receipts and disbursements method taxpayer. H and I, both members of a targeted group, first began work for G on January 1, 1979. G paid H total qualified first-year wages of \$6,000 in 1979. Three thousand one hundred dollars of those wages were for services in G's trade or business, and \$2,900 of those wages were not for services in G's trade or business. G paid I total qualified first-year wages of \$6,000 in 1979. Three thousand dollars of those wages were for services in G's trade or business, and \$3,000 of those wages were not for services in G's trade or business. G has an allowable credit of \$3,000 in 1979 on all \$6,000 of qualified first-year wages paid to H because more than one-half of the remuneration paid by G to H was for services in G's trade or business. G may not take into account the wages paid to I because not more than one-half of the remuneration paid by G to I was for services in G's trade or business. Accordingly, G may not claim a credit on wages paid to I.

Par. 4. Section 1.52-1 is amended by revising paragraph (a) to read as follows:

§ 1.52-1 Trades or businesses that are under common control.

(a) *Apportionment of jobs credit among members of a group of trades or businesses that are under common control*—(1) *Targeted jobs credit.* (i) In the case of a group of trades or businesses that are under common control (within the meaning of paragraph (b) of this section) at any time during the calendar year, the amount of the targeted jobs credit (computed under section 51 as if all the organizations that are under common control are one trade or business) under section 44B (as amended by the Revenue Act of 1978) must be apportioned among the members of the group on the basis of each member's proportionate share of the wages giving rise to such credit. If the group of trades or businesses that are under common control have different taxable years, the credit shall be computed as if all the organizations have the same taxable year as the organization for which a determination of the proportionate share of the credit is being made. The amount of the qualified first-year wages cannot exceed 30 percent of the aggregate unemployment insurance wages paid by the group of trades or businesses under common control during the calendar year ending in the taxable year of the organization for which a determination of the proportionate share of the credit is being made. The limitations in section 53 (as amended by the Revenue Act of

1978) and the regulations thereunder apply to each organization individually (although, in applying these limitations, an affiliated group of corporations electing to make a consolidated return shall be treated as one organization).

(ii) The application of the subparagraph may be illustrated by the following examples:

Example (1). (a) Corporation M and its three subsidiaries, Corporations N, O, and P, are a group of businesses that are under common control and each uses the cash receipts and disbursements method of accounting and has a calendar year taxable year. Corporations M, N, O, and P paid out the following amounts in unemployment insurance wages, qualified first-year wages and qualified second-year wages during 1980:

Corporation:	Unemployment insurance wages	Qualified 1st-year wages	Qualified 2d-year wages
M.....	\$600,000	\$184,000	\$75,000
N.....	300,000	85,000	90,000
O.....	360,000	120,000	115,000
P.....	24,000	24,000	0
Total.....	1,284,000	413,000	280,000

(b) Since Corporations M, N, O, and P are under common control, the amount of qualified first-year wages paid by the group is limited to 30 percent of the aggregate unemployment insurance wages paid by the group in the calendar year ending in the group's taxable year. Since the qualified first-year wages of \$413,000 exceeds 30% of the aggregate unemployment insurance wages, the group is limited to qualified first-year wages of \$385,200 (30% of \$1,284,000). The amount of the targeted jobs credit attributable to qualified first-year wages is equal to \$192,600 (50% of \$385,200). The amount of the credit attributable to qualified second-year wages is equal to \$70,000 (25% of \$280,000).

(c) The credit is apportioned among Corporations M, N, O, and P on the basis of their proportionate share of the qualified first-year wages or qualified second-year wages giving rise to the credit. Each corporation's share of the credit attributable to qualified first-year wages would be computed as follows:

Corporation:	Amount of credit
M....	\$192,600 × $\frac{\$184,000}{\$413,000}$ = \$85,807.26
N....	\$192,600 × $\frac{\$85,000}{\$413,000}$ = \$39,639.23
O....	\$192,600 × $\frac{\$120,000}{\$413,000}$ = \$55,961.26
P....	\$192,600 × $\frac{\$24,000}{\$413,000}$ = \$11,192.25

Each corporation's share of the credit attributable to qualified second-year wages is computed as follows:

Corporation:	Amount of credit
M....	\$70,000 × $\frac{\$75,000}{\$280,000}$ = \$18,750
N....	\$70,000 × $\frac{\$90,000}{\$280,000}$ = \$22,500
O....	\$70,000 × $\frac{\$115,000}{\$280,000}$ = \$28,750
P....	\$70,000 × $\frac{0}{\$280,000}$ = 0

Example (2). Assume the facts in example (1) with these additional facts. A, a member of a targeted group, worked for more than one of the members of the controlled group in the taxable year. A first began work for Corporation M on January 1, 1980, and later worked for Corporations N and O during 1980. For services rendered by A during 1980, the following wages were paid to A: Corporation M paid A \$2,500 of qualified first-year wages; Corporation N paid A \$1,500 of qualified first-year wages; Corporation O paid A \$3,000 of qualified first-year wages. Corporations M, N, and O paid A a total of \$7,000 of wages during 1980. Only \$6,000 of qualified first-year wages per year per employee may be taken into account for purposes of the credit. See § 1.51-1(d)(1). Since Corporations M, N, and O are treated as a single employer under section 52(a), the maximum \$6,000 of qualified first-year wages paid A by the group must be apportioned among Corporations M, N, and O as follows:

Corporation:	Qualified 1st year wages
M....	\$6,000 × $\frac{\$2,500}{\$7,000}$ = \$2,142.86
N....	\$5,000 × $\frac{\$1,500}{\$7,000}$ = \$1,285.71
O....	\$6,000 × $\frac{\$3,000}{\$7,000}$ = \$2,571.43

Example (3). (a) Corporation Q and its two subsidiaries, Corporations R and S, are a group of businesses that are under common control and each uses the cash receipts and disbursements method of accounting. Corporation Q has a calendar year taxable year. Corporation R has a July 1 through June 30 taxable year. Corporation S has an October 1 through September 30 taxable year. For purposes of determining Corporation R's proportionate share of the credit, the credit is computed as if Corporations Q and S have the same taxable year as Corporation R. Accordingly, Corporation R would compute its share of the credit for its 1979-1980 taxable year as set forth below.

Corporation:	Unemployment insurance wages, 1979	Qualified wages paid from July 1, 1979, to June 30, 1980
O.....	\$500,000	\$150,000
R.....	300,000	110,000
S.....	100,000	25,000
Total.....	900,000	285,000

(b) Since Corporations Q, R, and S are under common control, the amount of qualified first-year wages is limited to 30 percent of the aggregate unemployment insurance wages paid by the group during the calendar year ending in Corporation R's taxable year. Since the qualified first-year wages of \$285,000 exceeds 30 percent of the aggregate unemployment insurance wages, the group is limited to qualified first-year wages of \$270,000 (30% of \$900,000). The amount of the targeted jobs credit attributable to qualified first-year wages paid by members of the group during the period of the taxpayer's taxable year is \$135,000 (50% of \$270,000). The amount of the credit attributable to qualified second-year wages paid or incurred by members of the group during the period of the taxpayer's taxable year is \$35,000 (25% of \$140,000).

(c) The credit is apportioned to Corporation R on the basis of its proportionate share of the qualified first-year wages and qualified second-year wages giving rise to the credit. Corporation R's share of the credit attributable to qualified first-year wages is \$52,105.26

$$(\$135,000 \times \frac{\$110,000}{\$285,000})$$

Corporation R's share of the credit attributable to qualified second-year wages is \$12,500

$$(\$35,000 \times \frac{\$50,000}{\$140,000})$$

Corporation R's share of the credit for its 1979-1980 taxable year is \$64,605.26 (\$52,105.26 + \$12,500).

(2) *New jobs credit.* In the case of a group of trades or businesses that are under common control at any time during the calendar year, the amount of the new jobs credit (computed under section 51 as if all the organizations that are under common control are one trade or business) under section 44B (as in effect prior to enactment of the Revenue Act of 1978) must be apportioned among the members of the group on the basis of each member's proportionate contribution to the increase in unemployment insurance wages for the entire group. The limitations in section 53 (as in effect prior to enactment of the Revenue Act of 1978) and the regulations thereunder apply to each organization individually (although, in applying these limitations, an affiliated group of corporations electing to make a consolidated return shall be treated as one organization). The application of this subparagraph may be illustrated by the following example:

Example. (a) Corporation T and its three subsidiaries, U, V, and W, are a group of businesses that are under common control and each has a calendar year taxable year. Corporations T, U, V, and W have paid out the following amounts in unemployment insurance wages during 1976 and 1977:

	1976	1977	Increase in FUTA wages in 1977 over 1976
Corporation:			
T.....	\$1,000,000	\$1,915,000	+ \$915,000
U.....	500,000	650,000	+ 150,000
V.....	600,000	550,000	- 50,000
W.....	40,000	100,000	+ 60,000
Total.....	2,140,000	2,345,000	+ 205,000

(b) Since all employees of trades or businesses that are under common control are treated as employed by a single employer, the computations in section 51 are performed as if all the organizations which are under common control are one trade or business. Consequently, the amounts of the total unemployment insurance wages of the group in 1976 (i.e., \$2,140,000) and 1977 (i.e., \$2,345,000) are used to determine the increase in unemployment insurance wages in 1977 over the 1976 wage base. Since the amount equal to 102 percent of the 1976 unemployment insurance wages (\$2,182,800) is greater than the amount equal to 50 percent of the 1977 unemployment insurance wages (\$1,172,500), the increase in unemployment insurance wages in 1977 over the 1976 wage base is \$162,200 (\$2,345,000 - \$2,182,800). The limitations in section 51 (c), (d), and (e) (as in effect prior to enactment of the Revenue Act of 1978) must also be computed as though all the organizations under common control are one trade or business. For purposes of this example, it is assumed that none of those limitations reduce the amount of increase in unemployment insurance wages. As a result, the amount of the new jobs credit allowed to the group of business is \$81,100 (50% of \$162,200).

(c) The credit is apportioned among Corporations T, U, and W on the basis of their proportionate contributions to the increase in unemployment insurance wages. No credit would be allowed to Corporation V because it did not contribute to the increase in the group's unemployment insurance wages. Corporation T's share of the credit would be \$54,066.66 (\$81,100 × (\$15,000 ÷ \$225,000) (i.e., \$15,000 ÷ (\$150,000 + \$60,000))). Corporation U's share would be \$54,066.67 (\$81,100 × (\$150,000 ÷ \$225,000)), and Corporation W's share would be \$21,626.67 (\$81,100 × (\$60,000 ÷ \$225,000)).

Par. 5. Section 1.52-2 is amended by revising paragraph (a) to read as follows:

§ 1.52-2 Adjustments for acquisitions and dispositions.

(a) *General rule.* The provisions in this section only apply to the computation of the new jobs credit. If,

after December 31, 1975, an employer acquires the major portion of a trade or business or the major portion of a separate unit of a trade or business, then, for purposes of computing the new jobs credit for any calendar year ending after the acquisition, both the amount of unemployment insurance wages and the amount of total wages considered to have been paid by the acquiring employer, for both the year in which the acquisition occurred and the preceding year, must be increased, respectively, by the amount of unemployment insurance wages and the amount of total wages paid by the predecessor employer that are attributable to the acquired portion of the trade or business or separate unit. If the predecessor employer informs the acquiring employer in writing of the amount of unemployment insurance wages and the amount of total wages attributable to the acquired portion of the trade or business that have been paid during the periods preceding the acquisition, then, for purposes of computing the credit for any calendar year ending after the acquisition, the amount of unemployment insurance wages and the amount of total wages considered paid by the predecessor employer shall be decreased by those amounts. Regardless of whether the predecessor employer so informs the acquiring employer, the predecessor employer shall not be allowed a credit for the amount of any increase in the unemployment insurance wages or the total wages in the calendar year of the acquisition attributable to the acquired portion of the trade or business over the amount of such wages in the calendar year preceding the acquisition.

Par. 6. Section 1.52-3 is revised to read as follows:

§ 1.52-3 Limitation with respect to certain persons.

(a) *Mutual savings institutions.* In the case of an organization to which section 593 applies (that is, a mutual savings bank, a cooperative bank or a domestic building and loan association), the amount of the targeted jobs credit (new jobs credit in the case of wages paid before 1979) allowable under section 44B shall be 50 percent of the amount otherwise determined under section 51, or, in the case of an organization under common control, under § 1.52-1 (a) and (b).

(b) *Regulated investment companies and real estate investment trusts.* In the case of a regulated investment company or a real estate investment trust subject to taxation under subchapter M, chapter 1 of the Code, the amount of the targeted jobs credit (new jobs credit in the case of wages paid before 1979) allowable under section 44B shall be reduced to the company's or trust's ratable share of the credit. The ratable share shall be determined in accordance with rules similar to the rules provided in section 46(e)(2)(B) and the regulations thereunder. For purposes of computing the ratable share, the reduction of the deduction for wage or salary expenses under § 1.280C-1 shall not be taken into account.

(c) *Cooperatives—(1) Taxable years ending after October 31, 1978.* For taxable years ending after October 31, 1978, in the case of a cooperative organization described in section 1381(a), rules similar to rules provided in section 46(h) and the regulations thereunder shall apply in determining the distribution of the amount of the targeted jobs credit (new jobs credit in the case of wages paid before 1979) allowable to the cooperative organization and its patrons under section 44B.

(2) *Taxable years ending before November 1, 1978.* For taxable years ending before November 1, 1978, in the case of a cooperative organization described in section 1381(a), the amount of the new jobs credit allowable under section 44B shall be reduced to the cooperative's ratable share of the credit. The ratable share shall be the ratio which the taxable income of the cooperative for the taxable year bears to its taxable income increased by the amount of the deductions allowed under section 1382 (b) and (c). For purposes of computing the ratable share, the reduction of the deduction for wage or salary expenses under § 1.280C-1 shall not be taken into account.

Par. 7. Section 1.53-1 is redesignated as § 1.53-3 and new §§ 1.53-1 and 1.53-2 are added immediately after § 1.52-3 to read as follows:

§ 1.53-1 Limitation based on amount of tax.

(a) *General rule—(1) Targeted jobs credit.* For taxable years beginning after December 31, 1978, the amount of the

targeted jobs credit allowed by section 44B (as amended by the Revenue Act of 1978) shall not exceed 90 percent of the tax imposed by chapter 1, reduced by the credits enumerated in section 53(a).

(2) *New jobs credit.* For taxable years beginning before January 1, 1979, the amount of the new jobs credit allowed by section 44B (as in effect prior to enactment of the Revenue Act of 1978) shall not exceed the tax imposed by chapter 1, reduced by the credits enumerated in section 53(a).

(b) *Special rule for 1978-79 fiscal year.* In the case of a taxable year beginning before January 1, 1979, and ending after that date, the sum of the targeted jobs credit (determined without regard to the tax liability limitation in paragraph (a)(1) of this section) and the new jobs credit (determined without regard to the tax liability limitation in paragraph (a)(2) of this section) shall not exceed the tax imposed by chapter 1, reduced by the credits enumerated in section 53(a).

§ 1.53-2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as a carryback or carryover—(1) In general.* Section 53(b) (formerly designated as section 53(c) for taxable years beginning before 1979) provides for carrybacks and carryovers of unused targeted jobs credit (new jobs credit in the case of wages paid before 1979). An unused credit is the excess of the credit determined under section 51 for the taxable year over the limitation provided by § 1.53-1 for such taxable year. Subject to the limitations contained in paragraph (b) of this section and paragraph (f) of § 1.53-3, an unused credit shall be added to the amount allowable as a credit under section 44B for the years to which an unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year."

(2) *Taxable years to which unused credit may be carried.* An unused targeted jobs credit (new jobs credit in the case of wages paid before 1979) shall be a new employee credit carryback to each of the 3 taxable years preceding the unused credit year and a new employee credit carryover to each of the 7 taxable years succeeding the unused credit year. An unused credit must be carried first to the earliest of the taxable years to which it may be carried, and then to each of the other taxable years (in order of time) to the extent that the unused credit may not be added (because of the limitation contained in paragraph (b) of this section) to the

amount allowable as a credit under section 44B for a prior taxable year.

(b) *Limitations on allowance of unused credit—(1) In general.* The amount of the unused targeted jobs credit (new jobs credit in the case of wages paid before 1979) from any particular unused credit year which may be added under section 53 (b) (1) (section 53 (c) (1) in the case of a new jobs credit) to the amount allowable as a credit under section 44B for any of the preceding or succeeding taxable years to which such credit may be carried shall not exceed the amount by which the limitation in § 1.53-1 for such preceding or succeeding taxable year exceeds the sum of (i) the credit allowable under section 44B for such preceding or succeeding taxable year, and (ii) other unused credits carried to such preceding or succeeding taxable year which are attributable to unused credit years prior to the particular unused credit year. Thus, in determining the amount, if any, of an unused credit from a particular unused credit year which shall be added to the amount allowable as a credit for any preceding or succeeding taxable year, the credit earned for such preceding or succeeding taxable year, plus any unused credits originating in taxable years prior to the particular unused credit year, shall first be applied against the limitation based on amount of tax for such preceding or succeeding taxable year. To the extent the limitation based on amount of tax for the preceding or succeeding year exceeds the sum of the credit earned for such year and other unused credits attributable to years prior to the particular unused credit year, the unused credit from the particular unused credit year shall be added to the amount allowable as a credit under section 44B for such preceding or succeeding year. If any portion of the unused credit is a carryback to a taxable year beginning before January 1, 1977, section 44B shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under section 44B. To the extent that an unused credit cannot be added for a particular preceding or succeeding taxable year because of the limitation contained in this paragraph, such unused credit shall be available as a carryback or carryover to the next succeeding taxable year to which it may be carried.

(2) *Special rules for an electing small business corporation.* An unused targeted jobs credit (new jobs credit in the case of wages paid before 1979) under section 44B of a corporation which arises in an unused credit year for

which the corporation is not an electing small business corporation (as defined in section 1371 (b)) and which is a carryback or carryover to a taxable year for which the corporation is an electing small business corporation shall not be added to the amount allowable as a credit under section 44B to the shareholders of such corporation for any taxable year. However, a taxable year for which the corporation is an electing small business corporation shall be counted as a taxable year for purposes of determining the taxable years to which such unused credit may be carried.

(3) *Corporate acquisitions.* For the carryover of unused credits under section 44B in the case of certain corporate acquisitions, see section 381 (c) (26) and § 1.381 (c) (26)-1.

(4) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). In 1978, A, a calendar year taxpayer, had an unused new jobs credit of \$2,000. In 1979, A has a targeted jobs credit of \$2,000 and a tax liability imposed by chapter 1 of the Code of \$4,000 after all credits listed in section 53 (a) have been taken into account. The amount of A's targeted jobs credit allowable under section 44B for 1979 is 90 percent of A's tax liability. The amount of the new jobs credit that may be carried to 1979 is limited to \$1,600 (\$4,000 [90% of \$4,000] - \$2,000).

Example (2). In 1979, B, a calendar year taxpayer, has a tax liability imposed by chapter 1 of the Code of \$10,000 after all credits listed in section 53 (a) have been taken. B's targeted jobs credit for that taxable year is limited to 90 percent of his income tax liability or \$9,000. B had a \$15,000 targeted jobs credit in 1979 resulting in an unused targeted jobs credit of \$6,000 for that year. In 1976 and 1977 B had tax liabilities imposed by chapter 1 of the Code of \$3,000 and \$4,000 respectively after all credits listed in section 53 (a) had been taken. For purposes of carrying back an unused targeted jobs credit to a taxable year beginning before January 1, 1977, section 44B as amended by the Revenue Act of 1978 is deemed to have been in effect for such taxable year. Accordingly, the applicable tax liability limitation for 1976 would be governed by section 53 (a) (as amended by the Revenue Act of 1978) which limits the amount of targeted jobs credit allowed to 90 percent of the tax imposed by chapter 1 of the Code after all credits listed in section 53 (a) have been taken. B may carry back \$2,700 (90% of \$3,000) of the 1979 unused targeted jobs credit to 1976. B may carry back \$4,000 of the unused targeted jobs credit to 1977 because section 53 (a) as it applied to the 1977 taxable year limited the amount of the credit to 100 percent of the taxpayer's tax liability imposed by chapter 1 of the Code after all credits listed in section 53 (a) had been taken.

Par. 8. Section 1.53-3, as redesignated in paragraph 7, is amended as follows:

1. Paragraph (a) is amended to read as set forth below.

2. Paragraph (f) is amended by adding a new sentence at the end thereof to read as set forth below.

§ 1.53-3 Separate rule for pass-through of jobs credit.

(a) *In general.* For taxable years beginning before January 1, 1979, under section 53(b), in the case of a new jobs credit or targeted jobs credit earned under section 44B by a partnership, estate or trust, or subchapter S corporation, the amount of the credit that may be taken into account by a partner, beneficiary, or shareholder may not exceed a limitation separately computed with respect to the partner's, beneficiary's, or shareholder's interest in the entity. The separate computation is required not only for the taxable year with respect to which the credit is earned but also for each taxable year to which an unused credit attributable to an interest in such an entity is carried back or over. This section prescribes rules, under the authority of section 44B(b), relating to the computation of the separate limitation. For purposes of this section, references to section 53 (a) and (b) are to that section as it existed before it was amended by the Revenue Act of 1978.

(f) *Carryback or carryover of credit subject to separate limitation.* * * * This paragraph may be illustrated by the following example:

Example. A is a shareholder in Corporation M, a subchapter S corporation. In 1978, A's pro rata share of the new jobs credit earned by Corporation M was \$10,000. A could only use \$2,000 of the credit in 1978 because of the separate limitation under section 53(b) (as in effect prior to enactment of the Revenue Act of 1978). In 1979, A carries the unused credit over from 1978. The carryover credit is subject to the separate limitation under section 53(b) (as in effect prior to enactment of the Revenue Act of 1978).

Par. 9. Section 1.280C-1 is amended to read as follows:

§ 1.280C-1 Disallowance of certain deductions for wage or salary expenses.

If an employer elects to claim the targeted jobs credit under section 44B (as amended by the Revenue Act of 1978), or is entitled to a new jobs credit under section 44B (as in effect prior to enactment of the Revenue Act of 1978), the employer must reduce its deduction for wage or salary expenses paid or incurred in the year the credit is earned by the amount allowable as credit (determined without regard to the provisions of section 53). In the case in which wages and salaries are capitalized, the amount subject to depreciation must be reduced by an

amount equal to the amount of the credit (determined without regard to the provisions of section 53) in determining the depreciation deduction. In the case of an employer who uses the full absorption method of inventory costing under § 1.471-11, the portion of the basis of the inventory attributable to the wage or salary expenses giving rise to the credit and paid or incurred in the year the credit is earned must be reduced by the amount of the credit allowable (determined without regard to the provisions of section 53). If the employer is an organization that is under common control (as described in § 1.52-1), it must reduce its deduction for wage or salary expenses by the amount of the credit apportioned to it under § 1.52-1 (a) or (b). The deduction for wage and salary expenses must be reduced in the year the credit is earned, even if the employer is unable to use the credit in that year because of the limitations imposed by section 53.

Par. 10. There is inserted immediately after § 1.381(c)(24)-1 the following new section:

§ 1.381(c)(26)-1 Credit for employment of certain new employees.

The computation of carryovers and carrybacks of unused targeted jobs credit (new jobs credit in the case of wages paid before 1979) under section 44B in a transaction to which section 381 applies shall be made under the principles of § 1.381(c)(23)-1 (relating to the computation of carryovers and carrybacks of unused investment credit), except that provisions of paragraph (c)(4) and paragraph (e) (6), (7), and (8) of such section shall not apply.

§§ 5.44B-1 and 5.55-1 [Deleted]

Par. 11. Sections 5.44B-1 and 5.51-1 are hereby deleted.

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79-39555 Filed 12-27-79; 6:45 am]
BILLING CODE 4830-01-M

26 CFR Parts 1, 16, 17, and 160

[LR-71-78]

Vinson-Trammell Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the Vinson-

Trammell Act; Excess profits on contracts for naval vessels or military aircraft.

DATES: The public hearing will be held on March 12, 1980, beginning at 10 a.m. Outlines of oral comments must be delivered or mailed by February 26, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-71-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations that appeared in the *Federal Register* for Friday, October 26, 1979, at page 61611 (44 FR 61611). A notice of extension of time for submission of comments and requests for a public hearing appeared in the *Federal Register* for Friday, December 21, 1979, at page 75670 (44 FR 75670), extending the deadline for submitting the same from December 26, 1979, to February 26, 1980.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and the notice of extension and who also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 26, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal*

Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-39630 Filed 12-27-79; 8:45 am]

BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates; Rates to Republic of Korea

AGENCY: Postal Service.

ACTION: Proposed International Express Mail Rates to Republic of Korea.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service proposes to begin International Express Mail Service with the Republic of Korea (South Korea) at rates indicated in the tables below. Rates to the Republic of Korea are proposed to be the same as those currently charged to Taiwan. The proposed rates are scheduled to become effective on March 1, 1980.

DATE: Comments must be received on or before January 28, 1980.

ADDRESS: Written comments should be directed to the General Manager, Expedited Mail Services Division, Customer Services Department, U.S. Postal Service, Washington, DC 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday in Room 5913, 475 L'Enfant Plaza West, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Patricia M. Gibert (202) 245-5024.

SUPPLEMENTARY INFORMATION: Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 533), the Postal Service invites interested persons to submit written data, views, or arguments concerning the proposed rates of postage for International Express Mail set out in the following tables (designated 8-8 and 8-13 for inclusion in Publication 42, International Mail, incorporated by reference 39 CFR 10.1).

(39 U.S.C. 401, 403, 404(2), 407, 410(a), Universal Postal Convention, Lausanne, 1974, T.I.A.S. No. 8321, Art. 6).

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

BILLING CODE 7710-12-M

REPUBLIC OF KOREA
INTERNATIONAL EXPRESS MAILTable 8-8
CUSTOM DESIGNED SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	\$28.31	\$28.34	\$28.38	\$28.42	\$28.46	\$28.51	\$28.56
2	30.84	30.90	30.96	31.06	31.14	31.24	31.34
3	33.37	33.46	33.58	33.70	33.82	33.97	34.12
4	35.90	36.02	36.18	36.34	36.50	36.70	36.90
5	38.43	38.58	38.78	38.98	39.18	39.43	39.68
6	40.96	41.14	41.38	41.62	41.86	42.16	42.46
7	43.49	43.70	43.98	44.26	44.54	44.89	45.24
8	46.02	46.26	46.58	46.90	47.22	47.62	48.02
9	48.55	48.82	49.18	49.54	49.90	50.35	50.80
10	51.09	51.38	51.78	52.18	52.58	53.08	53.58
11	53.61	53.94	54.38	54.82	55.26	55.81	56.36
12	56.14	56.50	56.98	57.46	57.94	58.54	59.14
13	58.67	59.06	59.58	60.10	60.62	61.27	61.92
14	61.20	61.62	62.18	62.74	63.30	64.00	64.70
15	63.73	64.18	64.78	65.38	65.98	66.73	67.48
16	66.26	66.74	67.38	68.02	68.66	69.46	70.26
17	68.79	69.30	69.98	70.66	71.34	72.19	73.04
18	71.32	71.86	72.58	73.30	74.02	74.92	75.62
19	73.85	74.42	75.18	75.94	76.70	77.65	78.60
20	76.38	76.98	77.78	78.58	79.33	80.38	81.38
21	78.91	79.54	80.38	81.22	82.06	83.11	84.16
22	81.44	82.10	82.93	83.86	84.74	85.84	86.94
23	83.97	84.66	85.58	86.50	87.42	88.57	89.72
24	86.50	87.22	88.18	89.14	90.10	91.30	92.50
25	89.03	89.78	90.78	91.78	92.78	94.03	95.28
26	91.56	92.34	93.38	94.42	95.46	96.76	98.06
27	94.09	94.90	95.98	97.06	98.14	99.49	100.64
28	96.62	97.46	98.58	99.70	100.82	102.22	103.62
29	99.15	100.02	101.16	102.34	103.50	104.95	106.40
30	101.68	102.58	103.78	104.98	106.18	107.68	109.18
31	104.21	105.14	106.38	107.62	108.86	110.41	111.56
32	106.74	107.70	108.98	110.26	111.54	113.14	114.74
33	109.27	110.26	111.58	112.90	114.22	115.87	117.52

NOTES: 1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.
2) Pick-up is available under a Service Agreement for an added charge of \$5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.
3) If tendered at origin airport mail facility, deduct \$3.00 from these rates.

[FR Doc. 79-39669 Filed 12-27-79; 8:45 am]

BILLING CODE 7710-12-C

Table 8-13
ON DEMAND SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	\$18.03	\$18.06	\$18.10	\$18.14	\$18.18	\$18.23	\$18.28
2	20.56	20.62	20.70	20.78	20.86	20.96	21.06
3	23.09	23.18	23.30	23.42	23.54	23.69	23.84
4	25.62	25.74	25.90	26.06	26.22	26.42	26.62
5	28.15	28.30	28.50	28.70	28.90	29.15	29.40
6	30.68	30.86	31.10	31.34	31.58	31.88	32.18
7	33.21	33.42	33.70	33.98	34.26	34.61	34.96
8	35.74	35.98	36.30	36.62	36.94	37.34	37.74
9	38.27	38.54	38.90	39.26	39.62	40.07	40.52
10	40.80	41.10	41.50	41.90	42.30	42.60	43.30
11	43.33	43.66	44.10	44.54	44.98	45.53	46.08
12	45.86	46.22	46.70	47.18	47.66	48.26	48.86
13	48.39	48.78	49.30	49.82	50.34	50.99	51.64
14	50.92	51.34	51.90	52.46	53.02	53.72	54.42
15	53.45	53.90	54.50	55.10	55.70	56.45	57.20
16	55.98	56.46	57.10	57.74	58.38	59.18	59.98
17	58.51	59.02	59.70	60.38	61.06	61.91	62.76
18	61.04	61.58	62.30	63.02	63.74	64.64	65.54
19	63.57	64.14	64.90	65.66	66.42	67.37	68.32
20	66.10	66.70	67.50	68.30	69.10	70.10	71.10
21	68.63	69.26	70.10	70.94	71.78	72.83	73.88
22	71.16	71.82	72.70	73.58	74.46	75.56	76.66
23	73.69	74.38	75.30	76.22	77.14	78.29	79.44
24	76.22	76.94	77.90	78.86	79.82	81.02	82.22
25	78.75	79.50	80.50	81.50	82.50	83.75	85.00
26	81.28	82.06	83.10	84.14	85.18	86.48	87.78
27	83.81	84.62	85.70	86.78	87.86	89.21	90.56
28	86.34	87.18	88.30	89.42	90.54	91.94	93.34
29	88.87	89.74	90.90	92.06	93.22	94.67	96.12
30	91.40	92.30	93.50	94.70	95.90	97.40	98.90
31	93.93	94.86	96.10	97.34	98.58	100.13	101.68
32	96.46	97.42	98.70	99.98	101.26	102.66	104.46
33	98.99	99.93	101.30	102.62	103.94	105.59	107.24

NOTES: 1) Pick-up is available under a Service Agreement for an added charge of \$5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 52

(FRL 1330-5)

Approval and Promulgation of State
Implementation Plan; Montana State
Implementation PlanAGENCY: Environmental Protection
Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The purpose of this notice is to reopen the record on EPA's proposed conditional approval of the State Implementation Plan for attaining the national ambient air quality standards for sulfur dioxide in East Helena, Montana, and to invite the public to review and comment on materials not made available by the proposal published on August 2, 1979 (44 FR 45420).

DATES: Comments must be received on or before December 28, 1979.

ADDRESSES: Comments received on EPA's proposal, EPA's evaluation report, and the SIP submission itself are available for review by any interested persons at:

Environmental Protection Agency, Montana Office, FOB, Drawer 10096, 301 South Park, Helena, Montana 59601

Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region VIII, Regional Library, 1860 Lincoln Street, Denver, Colorado 80295

FOR FURTHER INFORMATION CONTACT: Ivan W. Dodson, Director, Montana Office, Environmental Protection Agency, Region VIII, FOB, Drawer 10096, 301 South Park, Helena, Montana 59601 (406) 449-5432.

SUPPLEMENTARY INFORMATION: On April 24, 1979, the State of Montana submitted a State Implementation Plan revision which addressed East Helena and was intended to meet the requirements of Part D of the Clean Air Act, as amended in 1977.

On August 2, 1979 (44 FR 45420), EPA proposed to approve the plan on the condition that the State provide additional documentation that the proposed 375 foot stack at the ASARCO lead smelter constituted good engineering practice as required in Section 123 of the Clean Air Act. However, the technical support for EPA's determination did not include certain documents which supported the results of EPA's review. Those documents are now available for review and comment.

Additionally, on September 21, 1979, and December 12, 1979, EPA personnel met with representatives of the ASARCO company to discuss EPA's proposed action. Summaries of the meetings and resulting memoranda are also available for public review and comment.

Interested persons are invited to review these new materials now available and comment on their impact on EPA's proposed action with respect to the ASARCO lead smelter.

Dated: December 17, 1979.

David Standley,

Acting Regional Administrator.

[FR Doc. 79-39508 Filed 12-27-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 250

(FRL 1331-3)

Hazardous Waste; Notice of
Availability of InformationAGENCY: Environmental Protection
Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today making available to the public four reports on hazardous waste testing procedures and hazardous waste management which were completed and published after the close of the comment period on EPA's proposed regulations implementing Sections 3001-3004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended [43 FR 18506-18512, April 28, 1978, and 43 FR 58946-59022, December 18, 1978]. In addition, EPA is extending the comment period on six reports previously noticed for public comment on August 22, 1979 (44 FR 49277) and October 2, 1979 (44 FR 56724-56725).

DATES: Comments on these ten reports are due no later than February 6, 1980.

ADDRESSES: Comments should be addressed to Deborah Villari, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. Comments should be identified as referring to the Section 3001 regulatory docket.

Copies of the reports described in this notice are available for reading at the EPA Public Information Reference Unit (Room 2404) and the RCRA Docket Room (Room 2711), both located at 401 M Street, S.W., Washington, DC 20460, and at all EPA Regional Office libraries during the hours of 9:00 A.M. to 4:30 P.M., Monday through Fridays. Copies

may also be ordered from Ed Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, OH 45268, (513) 684-8491. EPA plans to provide the reports noticed today free of charge to all who request copies. However, the Agency may charge \$0.20 per page for photocopying if the available copies run out.

FOR FURTHER INFORMATION CONTACT: Deborah Villari, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-9173.

SUPPLEMENTARY INFORMATION: During the development of its proposed Section 3001 regulations, EPA or other organizations initiated several studies to obtain additional information on major issues raised by those regulations. In a number of cases, reports of those studies have only recently been finalized or are not scheduled to be finalized until some time in the near future. The purpose of this notice is to announce the availability of four of these reports for public comment and EPA's intent to make available several additional reports dealing with section 3001 over the next several months.

Announcements regarding the release of other reports will be made in subsequent Federal Register notices.

The reports which EPA is making available to the public today are:

Proposed RCRA Extraction Procedure: Reproducibility and Sensitivity, Parts [a] Introduction, [b] Phase I: Reproducibility of the Proposed Extraction Procedure, and [c] Phase II: Sensitivity of the Extraction Procedure to Modifications in Laboratory Procedure, November 1, 1979, Electric Power Research Institute, Palo Alto, CA.

This study, undertaken by the Electric Power Research Institute (EPRI), was designed to determine the reproducibility both of EPA's proposed Extraction Procedure [EP] (43 FR 58956) and of the associated analytical procedures. The study also sought to determine the effect that various changes in the EP procedure would have on the final results when the EP was applied to utility wastes. The parameters changed in this study included agitation rate, eluant composition, particle size of the waste, analytical methodology, and liquid/solid separation techniques.

Interim Phase I Report: Electroplating Wastewater Sludge Characterization, Cooperative Agreement No. R630026-01, September 12, 1979.

This study was conducted by the American Electroplaters' Society under a grant from EPA's Industrial

Environmental Research Laboratory, both to determine the reproducibility of the proposed EP and to characterize the leachability of wastewater treatment sludges characteristic of those generated by the electroplating industry.

Evaluation of the Procedures for Identification of Hazardous Waste, Interim Report, August 1979, Environmental Monitoring and Systems Laboratory, U. S. Environmental Protection Agency, Las Vegas, NV.

The proposed Section 3001 regulations provide specific procedures for sampling, extraction, and analysis of wastes to identify those wastes which are hazardous due to the presence of leachable toxic components. This report details progress on a study that has been undertaken to obtain additional data to assure the accuracy and reproducibility of these proposed procedures using industrial wastes.

Evaluation of Solid Waste Extraction Procedures and Various Hazard Identification Tests, September 1979, EPA Contract No. 68-01-4725, NUS Corporation, Pittsburgh, PA.

In this study, two leaching tests developed by the EPA, the Toxicant Extraction Procedure (TEP) and the Extraction Procedure (EP), were evaluated for their reproducibility. The tests proposed by EPA on December 18, 1976 to determine whether a waste has ignitable, corrosive or reactive properties (43 FR 58955-58956) were also evaluated to determine their usefulness in a regulatory program. This report summarizes the results of this series of reproducibility studies.

In addition to these four reports, EPA is extending the comment period for the reports which it previously noticed for public comment on August 22, 1979 at 44 FR 49277 (Comparison of Three Waste Leaching Tests: Executive Summary, EPA-600/2-79-001 and Background Study on the Development of a Standard Leaching Test, EPA-600/2-79-103,) and October 2, 1979, at 44 FR 56724-56725 (Compilation and Evaluation of Leaching Test Methods, EPA-600/2-79-095; Comparison of Three Wastes Leaching Tests, EPA-600/2-79-071; Toxicity of Leachates: Interim Progress Report, Oak Ridge National Laboratory and Assessment of RCRA EP Test Results on FBC Residue, Part II—Proposed Procedure in Federal Register, December 18, 1979). Due to distribution problems, EPA has been unable to make these reports reasonably available to the public; therefore, the comment period for these six reports is being extended to allow the public adequate time to review and comment on them.

Comments on these reports and letters should be submitted to EPA no later

than February 6, 1980. The purpose of making this information available to the public is to allow comments on the accuracy of the data contained in the reports and the conclusions reached, not to reopen the comment period on the EPA's proposed Section 3601-3604 regulations. Commenters should limit the scope of their written submissions accordingly.

Dated: December 15, 1979.

Sweep T. Davis, Jr.,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 79-39571 Filed 12-27-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 9230

Trespass: Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of notice of intent to propose rulemaking and extension of comment period.

SUBJECT: On October 22, 1979, the Bureau of Land Management gave public notice in the Federal Register (44 FR 60764) that it is considering a proposed rulemaking to amend 43 CFR Part 9230—Trespass. Statements in the supplementary information in that notice contained material errors with reference to payment for damages to the Federal mineral estate. The Bureau of Land Management hereby revokes and disclaims these statements. The remainder of the notice of intent to propose rulemaking is unchanged. In consideration of this correction the comment period for the notice, which had closed on November 21, 1979, is hereby reopened.

DATE: Comments by January 23, 1980.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5535 of the above address during regular working hours (7:45 a.m.-4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Walter Rewinski, 202/343-6921, or Ann Vance, 202-343-4693

December 21, 1979

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-39573 Filed 12-27-79; 8:45 am]

BILLING CODE 4310-04-M

OFFICE OF MANAGEMENT AND BUDGET

48 CFR Chapter 1

Draft Federal Acquisition Regulation; Availability and Request for Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for review and comment by interested parties draft segments of the Federal Acquisition Regulation regarding (1) renegotiation objectives, (2) profit, and (3) the proposed cost principle on Facilities Capital Cost of Money. Since OFPP intends to direct the implementation of the profit segment by means of a Policy Letter as soon as final regulatory coverage is developed, the proposed Policy Letter is also available for review and comment.¹

DATE: Comments must be submitted by February 29, 1980.

ADDRESS: Obtain copies of the draft regulations and the proposed Policy Letter from and submit comments to Conroy B. Johnson, Deputy Associate Administrator for Regulations and Procedures, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 5013, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Conroy Johnson, Telephone 202-395-6166.

SUPPLEMENTARY INFORMATION: The proposed FAR segment on profit is the outgrowth of the Commission on Government Procurement recommendation that the Office of Federal Procurement Policy (OFPP) take the lead in development of uniform Government-wide guidelines for determining profit objectives in negotiated contracts. This recommendation was accepted by the executive branch and acknowledged by a notice appearing in the September 17, 1976 Federal Register (41 FR 40238).

The Federal Acquisition Regulation (FAR) segments and proposed Policy Letter on which OFPP is soliciting comments were developed by an interagency task group chaired by OFPP. The FAR Project Office provided editing assistance.

The proposed FAR segment on profit certain criteria to be considered in

¹ Draft regulation and policy letter filed as part of the original document.

establishing profit negotiation objectives irrespective of the specific approach employed. In addition, each agency, if it had not already done so, would be required to prescribe a structured approach for use by contracting officers in establishing profit negotiation objectives. Agencies would be encouraged to adopt a weighted guidelines approach but other structured approaches could be prescribed provided they incorporate a logic and rationale similar to that of the weighted guidelines method. In either case, the views of interested parties would have to be solicited and considered.

Alternatively, an agency could elect to adopt the structured approach prescribed by another agency. For example, an agency might elect to adopt one of the weighted guidelines methods presently prescribed by the Department of Defense, the Department of Energy or the Environmental Protection Agency. This provision would be particularly helpful to smaller agencies lacking the resources or expertise to develop their own structured approach.

Differences in agencies' missions and market place environments are viewed as precluding adoption of a single uniform structured approach with common profit factors, weightings and profit ranges. In time, it may prove practical to accommodate these differences under an expanded weighted guidelines method such as recently proposed by the Department of Defense or under some other approach. For similar reasons, agencies would have the latitude whether to recognize the imputed cost determined in accordance with Cost Accounting Standard No. 414, Cost of Money as an Element of the Cost of Facilities Capital (4 CFR 331 et seq.)

Public participation in the formulation of a uniform Government-wide profit policy has been encouraged from the outset of this effort. Public hearings were held November 4 and 8, 1976 to consider major issues pertinent to the adoption of such a policy. In February 1977 OFPP circulated a proposed profit policy based on the weighted guidelines method for comment by executive agencies, trade association, and others who had expressed an interest in this matter in conjunction with the public hearings. The majority of responders to the proposal indicated that, subject to some exceptions, a weighted guidelines approach could be equitably applied to negotiated contracts Government-wide. However, other alternatives had not been explored by OFPP and a research project was initiated for that purpose.

Notice of this research effort was published in the December 13, 1977 Federal Register (42 FR 62576) soliciting

the views of interested parties on any innovative concept that might be offered for consideration. The result of this effort was the Logistics Management Institute's (LMI) approach to a Uniform Profit Policy for Government Acquisition. Public comment on the LMI approach was solicited through a notice appearing in the March 6, 1979 Federal Register (44 FR 12225).

Few commentators found the LMI proposal totally acceptable. A common problem cited related to LMI's use of historical composite industrial averages as the base line for determining profit negotiation objectives. Lack of line-of-business data necessitated LMI's use of such averages. OFPP believes that LMI's approach is conceptually sound and that most of the problems cited by commentators could be satisfactorily resolved. (See LMI's supplemental report which is available on request.) However, since serious inequities could result from the use of composite averages—with no near term acceptable alternative in sight—OFPP decided not to pursue the LMI approach any further at this time.

In summary, the proposed FAR segments are intended to provide the foundation for determining equitable profit negotiation objectives and for public participation in the establishment of structured approaches tailored to agencies' missions and market place environments. OFPP believes these disciplines would prove meaningful and in the public interest.

Dated: December 20, 1979.

LeRoy J. Haugh,

Associate Administrator for Regulations and Procedures.

[FR Doc. 79-39556 Filed 12-27-79; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 621

Fishery Conservation and Management Act of 1976—Civil Procedures

AGENCY: National Oceanic and Atmospheric Administration/Department of Commerce.

ACTION: Proposed amendments to 50 CFR Part 621, Civil Procedures.

SUMMARY: Amendments are proposed to 50 CFR Part 621, which contains regulations governing civil procedures under the Fishery Conservation and Management Act of 1976. The proposed

amendments would accomplish the following objectives:

1. Alter the existing civil penalty assessment procedures to provide for the issuance of a single Notice of Violation and Assessment;
2. Provide for an additional procedure to impose sanctions against domestic fishing permits pursuant to regulations implementing fishery management plans;
3. Specify the hearing procedures available to holders of fishing permits against which sanctions are imposed; and
4. Effect certain amendments of a technical nature.

COMMENTS: Comments on these proposed amendments will be accepted on or before February 11, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell or David Allan Fitch, NOAA Office of General Counsel (GC&L), Room 280-L, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235. Telephone (202) 254-8350.

SUPPLEMENTARY INFORMATION: On March 1, 1977, at 42 FR 12026, the National Oceanic and Atmospheric Administration (NOAA) published interim regulations governing administrative procedures which apply to violations of the Fishery Conservation and Management Act of 1976 (the Act). The interim regulations became effective immediately and have remained in effect without change since that time. The comment period for the interim regulations extended until May 31, 1977. Two comments were received during the comment period (see below).

The purpose of these proposed amendments is fourfold: (1) to alter the existing procedures by which civil penalties are assessed, (2) to provide for the imposition of permit sanctions pursuant to regulations which implement fishery management plans, (3) to specify with greater clarity the hearing procedures available to owners of vessels whose permits are subject to sanction, and (4) to effect certain other technical amendments. These proposals are discussed in greater detail below.

Civil Penalty Assessment.

Section 308 of the Act authorizes the Secretary, upon finding that a person has violated the Act, and after notice and an opportunity for a formal evidentiary hearing, to assess a civil penalty against that person. The Secretary's authority has been delegated to the NOAA Administrator, and with certain reservations has been redelegated to NOAA's Regional Councils in the NOAA Office of General Counsel.

The interim regulations currently provide for the exercise of this authority through a "two tiered" assessment system. Briefly described, this system operates as follows: When the agency determines that a violation of the Act has occurred which, if proven, would warrant the assessment of a civil penalty, a Notice of Violation (NOV) is issued to the alleged violator (respondent). This is a charging document, in which the respondent is informed of the agency's belief that a violation has occurred and the facts which form the basis for that belief. The respondent has 45 days in which to respond formally or informally to this document. After 45 days, the agency may issue a Notice of Assessment (NOA), which contains findings and conclusions with respect to the facts of the case, and assesses a penalty. The assessment becomes final after 45 days if a hearing is not requested during that time. Upon a request for hearing, the final agency action is stayed; and after a formal hearing under 5 U.S.C. 554, the administrative law judge determines, subject to administrative appeal, whether a violation has been proven and what money penalty is to be paid.

NOAA has utilized the assessment system described above for nearly three years. During this period, the system has proved cumbersome and time-consuming. The timely preparation of two complex documents for each case has proved burdensome for the agency. The availability of two 45-day response periods, and the demand on the NOAA resources required to react fully to them, have unduly lengthened the assessment process and substantially frustrated the goal of prompt adjudication of alleged violations, contrary to efficient administration of an enforcement program and the best interests of the parties.

NOAA proposes to remedy those problems by the institution of a one-step civil penalty assessment process. This should substantially accelerate the assessment of penalties. The central feature of the proposed system is a "Notice of Violation and Assessment" (NOVA), which would combine the functions currently served by the NOV and NOA into one document. The NOVA would operate as a charging document and, upon the occurrence of certain events, would also serve as the document by which a civil penalty is assessed. Figure 1 illustrates the general format of the proposed NOVA.

**Figure 1.—U.S. Department of Commerce
National Oceanic and Atmospheric
Administration
Notice of Violation and Assessment of
Administrative Penalty**

Respondent: _____
File No: _____
Mailed to: _____
Cert. No: _____

This is your official notice of the civil violation(s) and administrative penalty described herein.

You are entitled to request a hearing (like a trial) before an Administrative Law Judge to deny and contest all, or any part, of the violation charged and the forfeiture and/or civil (administrative) penalty, imposed. This is not a criminal action. You, your attorney, or other representative, are also invited to contact the undersigned to discuss this Matter and its disposition, or to urge any modification of the allegations and penalty which you may feel is warranted by all of the facts and circumstances.

Warning, if you should fail to exercise your rights within 30 calendar days following receipt of this notice, all of the allegations and the penalty herein will be taken as admitted and this assessment will become a final administrative order enforceable in any United States District Court as provided in Section 1656, Title 16 United States Code, The Fishery Conservation and Management Act of 1976, as amended, and the implementing regulations in Part 621, Title 50, Code of Federal Regulations (copies attached for your information and guidance).

Facts constituting violation(s): On or about _____, at or about _____ latitude and _____ longitude, within the Fishery Conservation Zone of the United States (as described in 16 U.S.C. § 1811), the Respondent named _____ herein, a person subject to the jurisdiction of the United States, did:

Statute/regulation/permit violated: Fishery Conservation and Management Act of 1976, 16 U.S.C. § 1857 _____, and _____.

Evidence seized: _____
Findings, conclusions, and order: Having considered all of the facts and circumstances presented in this Matter, and taking into account the criteria for determining the amount of the civil penalty [as provided in 16 U.S.C. § 1856(a)], I do hereby find and conclude that the Respondent herein did violate the Fishery Conservation and Management Act of 1976 as alleged, in every particular, and that a just and reasonable disposition for such violation(s) is forfeiture of all evidence seized plus a civil penalty in the amount of \$_____. It is so ordered.

For the Secretary of Commerce _____, dated _____
Send reply or make inquiry to:

Agreed disposition: I do not wish to contest this notice of violation and assessment. I hereby waive my right to a hearing and relinquish and transfer to the United States all right, title, and interest in any items listed above as seized. I have enclosed payment of the penalty assessed (by check or money

order payable to the "Treasurer of the United States"). I take this action on the understanding that it is a settlement of all charges, claims, and complaints against me by the United States resulting from the incident(s) described in this notice of violation and assessment.
Date _____.

Signature of Respondent or Authorized Representative

The proposed NOVA system would operate as follows:

1. When the agency determines that a violation has occurred which, if proven, would warrant the assessment of a civil penalty, a NOVA will be issued to the respondent. The NOVA will contain the same information as is currently found in the NOV. In addition, however, the NOVA will state the findings and conclusions which, absent subsequent additions or corrections to the record, would be the basis for assessment of a civil penalty. Documents which were used in making the findings and conclusions may be attached to the NOVA.

Upon receipt of the NOVA, the respondent shall have thirty (30) calendar days in which to respond. During this period, the respondent may (1) pay the proposed civil penalty (or proposed compromise penalty, if any), (2) seek to have the NOVA amended to reflect what respondent sees as the true facts, (3) request a hearing on the matter, or (4) do nothing.

3. If, during the 30-day period, the respondent pays a the proposed penalty or otherwise settles the case, the civil penalty action is terminated. If respondent seeks to have the NOVA amended, the agency must, as soon as possible, determine whether it will amend the NOVA and inform the respondent of its decision. The agency may enlarge the 30-day period if necessary to respond to a timely request for amendment. Finally the respondent may request a hearing before an administrative law judge. The agency, in its discretion, may treat any communication as a request for a hearing. All hearing requests will be promptly forwarded to the NOAA Office of Hearings and Appeals, which will docket the matter for hearing.

4. If respondent fails to request a hearing during the 30-day period (as extended where applicable), the dual role of the NOVA comes into play. When the applicable period expires, the NOVA becomes "final": the charges it contains are treated as admitted, and the civil penalty prescribed is assessed and becomes binding. The assessment is enforceable against the respondent in any federal district court where

respondent resides or can be found, and the facts of the case may not be reviewed by this court.

If a hearing is requested, the case will be processed according to current practice. An administrative law judge will conduct a formal hearing and render an initial decision; his decision may be appealed to the NOAA General Counsel, and thereafter to federal district court.

The NOVA system is intended to simplify and expedite the civil penalty assessment process by shortening the time between the initial formal charge and the final agency decision. Additionally, the system will tend to move individual cases more quickly into the hearing mode, thus shortening the initial "informal" phase. The agency does not anticipate that this change will substantially affect the number of cases settled before hearing; although all cases will be processed more expeditiously. This trend will benefit both the Government and individual respondents, whose due process rights will not be adversely affected.

Imposition of Permit Sanctions

Imposition of permit sanctions under the Act is governed by Subpart D of 50 CFR Part 621. Subpart D, at § 621.52(a), currently prescribes three bases for the imposition of sanctions. The proposed amendments would add a fourth basis; specifically, the satisfaction of the requirements of any regulation which governs permit sanctions in implementing a fishery management plan. In a separate proposed rulemaking promulgated December 3, 1979 at 44 FR 69312, NOAA has proposed a "point" system for permit sanctions, to apply to and be governed by regulations issued to implement the Fishery Management Plan for Atlantic Groundfish, at 50 CFR Part 651, although Part 651 would govern the imposition of such sanctions, the rights of holders of permits against which sanctions have been or are to be imposed will continue to be described in this Part 621. These proposed amendments would also amend existing § 621.54, 621.55, and 621.56 to clarify the procedural rights of permit holders under Subpart D. Specifically, the amendments would alter existing provisions regarding the effective dates of permit sanctions and the timing and nature of hearings available to permit holders.

A. *Effective date of sanctions.* The proposed amendments provide that a permit sanction may become effective earlier than 30 days from the date of receipt of the Notice of Permit Sanction when:

1. Substantial harm to a fishery resource may result from a later effective date (this is already provided for in current regulations);
2. The offense serving as the basis of the permit sanction was willful or egregious; or
3. The basis for the sanction is the accumulation of sufficient points for violations under any fishery management plan.

Additionally, a permit sanction may become effective upon passage of 30 days from the date of receipt of the Notice of Permit Sanction if the basis for the sanction is the nonpayment of civil penalty or criminal fine.

B. *Opportunity for hearing.* Finally, sanctions other than those referred to above would not become effective until an opportunity for hearing has been afforded, and the facts serving as the basis for the sanction have been fully and finally adjudicated, either by the agency or by a court of competent jurisdiction.

Sanctions based on point systems or failure to pay civil penalties or criminal fines are, by their nature, actions with respect to which an opportunity for formal hearing has already been afforded. Sanctions *not* based on point systems or failure to pay, however, may become appropriate before an opportunity for hearing has been afforded. Since it is the agency's view that the opportunity for a hearing at some point in the process is required by law, the proposed amendments would provide for a hearing in these cases prior to the imposition of the sanction, except, as noted above, in cases of willful or egregious violations, or where substantial harm to a fishery resources may result.

Technical Amendments

Other amendments are proposed which are of a minor or technical nature. These include, in response to the comments received on the interim regulations, deletion of the provision at § 621.22 requiring that corporate respondents or petitioners file documents with the agency only under signature of corporate officers (the corporation's counsel could do so).

Note.—NOAA's Assistant Administrator for Fisheries has determined that these proposed amendments to Part 621: (1) do not constitute a major Federal action requiring the preparation of an Environmental Impact Statement, and (2) do not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044.

16 U.S.C. 1801, *et seq.*

Signed at Washington, D.C. this 20th day of December, 1979.
Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

It is therefore proposed to amend 50 CFR Part 621 as follows:

1. Revise this Part 621 by substituting the word, "Administrator," in each place the word, "Director," appears.
2. Add a new paragraph (e) to § 621.1 to read as follows:

§ 621.1 Purpose and scope.

(e) Subparts B and C of this Part shall apply to any civil penalty proceeding initiated by Notice of Violation and Assessment (NOVA) subsequent to the effective date of revisions to this Part which authorized issuance of the NOVA regardless of when the act or omission which is the basis of a civil penalty proceeding occurred. Proceedings initiated by Notice of Violation under former Subparts B and C, promulgated March 1, 1977, 42 FR 11839, shall be governed by those procedures, except as otherwise stipulated by the parties.

3. Revise § 621.4(b) to read as follows:

§ 621.4 Definitions

(b) *Administrator:* Administrator, National Oceanic and Atmospheric Administration, or his or her designee.

4. Revise § 621.21 to read as follows:

§ 621.21 Notice of Violation and Assessment (NOVA)

(a) A Notice of violation and assessment (NOVA) shall be issued by the Administrator and served personally or by registered or certified mail, return receipt requested, upon the person alleged to be subject to a civil penalty (the respondent). Where appropriate, or prescribed by § 621.26(a), a copy of the NOVA shall similarly be served upon the owner of an affected vessel, as defined in § 621.26(b), if the owner is not the respondent. Although no specific form is prescribed, the NOVA shall contain: (1) a concise statement of the facts believed to show a violation; (2) a specific reference to the provisions of the Act, regulation, permit, or governing international fishery agreement allegedly violated; (3) the findings and conclusions upon which the Administrator has based the proposed assessment; and (4) the amount of penalty proposed to be assessed. The NOVA may also contain an initial proposal for compromise or settlement of the case. The Administrator may also attach documents which illuminate the

facts believed to show a violation. The NOVA shall advise the respondent of his or her rights at that point in the proceeding, and shall be accompanied by a copy of regulations governing civil procedures, this Part 621.

5. Revise § 621.22 to read as follows:

§ 621.22 Procedures upon receipt of NOVA.

(a) The respondent shall have 30 calendar days from receipt of the NOVA in which to respond. During this time the respondent may:

(1) Accept the proposed penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(2) Seek to have the NOVA amended or modified to conform to the facts as respondent sees them, as prescribed in paragraph (b), of this section;

(3) Request a hearing, as prescribed in paragraph (c), of this section; or

(4) Take no action, in which case the NOVA shall become final and constitute the final agency decision in the matter, as further described in paragraph (d), of this section. Options 2, 3 and 4, above, may also be exercised by the owner of an affected vessel, as defined in that section.

(b) If the respondent or the owner of an affected vessel seeks amendment or modification of the NOVA to conform to the facts as he or she sees them, he or she shall contact the Administrator or the Administrator's designee at the telephone number or address specified in the NOVA.

Where amendment or modification is sought, the Administrator shall either amend the NOVA or decline to amend it, and shall so notify the respondent (or owner, as appropriate). The Administrator may, pursuant to a request for modification or amendment under this subsection, extend the 30-day period referred to the paragraph (a), of this section, but in no event shall such period exceed 45 days.

(c) If the respondent or the owner of an affected vessel requests a hearing, such request shall be in writing, and shall be served either in person or by certified or registered mail, return receipt requested, at the address specified in the NOVA.

(d) Any denial, in whole or in part, of any request under this section, which is based upon untimeliness shall be made in writing.

(e) The Administrator may, in his or her discretion, treat any communication from a respondent or owner as a request for a hearing pursuant to paragraph (c). Requests for hearings shall promptly be forwarded to the NOAA Office of Hearings and Appeals for further proceedings.

6. Revise § 621.23 to read as follows:

§ 621.23 Assessment upon expiration of 30-day period.

If, during the period prescribed in § 621.22,

(9) No action is taken,

(b) All outstanding requests for modifications or amendment are denied, and no further action is taken, or

(c) No proposed penalty or compromise penalty (if any) is accepted by respondent,

then the proposed assessment shall become effective and shall constitute the final administrative decision and order of the Administrator; and shall be enforceable against the respondent in an appropriate United States district court.

§§ 621.24-621.28 [Deleted]

7. Delete §§ 621.24, 621.25, 621.26, 621.27 and 621.28.

8. Add a new § 621.24 (formerly § 621.27, with conforming amendments) to read as follows:

§ 621.24 Payment of final assessment.

(a) Respondent shall make full payment of the civil penalty assessment within 30 calendar days of the date upon which the assessment becomes final; or, if judicial review of the assessment is initiated under section 308(b) of the Act during such 30 day period, within 10 calendar days after the appropriate court has entered final judgment in favor of the Administrator, unless the court's order provides otherwise. Payment shall be made by mailing or delivering to the Administrator at the address specified in the NOVA a check or money order made payable in United States currency in the amount of the assessment to the "Treasurer of the United States."

(b) Upon any failure to pay the civil penalty assessed, the Administrator may request the Attorney General of the United States to recover the amount assessed in any appropriate district court of the United States; or may take action under § 621.25 of this part.

9. Add a new § 621.25 (formerly § 621.28, with conforming amendments) to read as follows:

§ 621.25 Compromise of civil monetary penalty.

(a) In his or her sole discretion the Administrator may compromise, modify, remit, or mitigate, with or without conditions, any civil monetary penalty which has been imposed under this Part 621, or which is subject to such imposition.

(b) The compromise authority of the Administrator under this section shall be in addition to any similar authority provided in the Act or in these

regulations, and may be exercised either upon the initiative of the Administrator or in response to a request of the respondent or other affected vessel owner.

(c) If the Administrator takes action under this section prior to the issuance of a NOVA or after an assessment becomes final, the Administration will prepare a document indicating the action taken and citing this section and section 308(d) of the Act as authority. Once the case has been assigned for hearing under § 621.31 of this Part, the Administrator will, except in unusual circumstances, defer any compromise action under this section until the administrative law judge has rendered an initial decision in the matter. Neither the existence of the compromise authority of the Administrator under this section nor the Administrator's exercise thereof at any time shall change the date upon which an assessment becomes final.

(d) If compromise action is requested or otherwise becomes appropriate for the Administrator's consideration during the pendency of a petition for relief from forfeiture, filed under Subpart E of this Part 621, the Administrator may consolidate in a manner consistent with the provisions of Subpart E his or her consideration of the two matters.

10. Add a new § 621.26, to read as follows:

§ 621.26 Application of this Subpart to vessel owners.

(a) The provisions of this subpart shall apply to owners of affected vessels where such application is specifically provided for in regulations implementing any Fishery Management Plan.

(b) For the purposes of paragraph (a), "affected vessel" shall mean a fishery vessel of the United States whose federal permit may be affected by a civil penalty proceeding under this Part.

11. Revise § 621.31 to read as follows:

§ 621.31 Commencement of hearing procedures.

Following receipt of a written request for hearing filed in a timely manner in accordance with § 621.22 of Subpart B of this part, the Administrator will commence procedures under this subpart by forwarding the request, a copy of the NOVA, and any response thereto, to the NOAA Office of Hearings and Appeals, which shall docket the matter for hearing. Written notice of the assignment shall promptly be given to the respondent and the owner of the affected vessel (as defined in § 621.42(b)) if the owner is other than the respondent, with the name and address of the attorney who will

represent the Administrator in the proceedings (the agency representative), and thereafter all pleadings and other documents shall be filed directly with the NOAA Office of Hearings and Appeals, and a copy will be served on the opposing party (respondent or agency representative).

12. Amend § 621.32 by revising the list of Department of Commerce officials in paragraph (b) to read as follows:

§ 621.32 Ex parte communications.

(b) * * *
Administrator, Deputy Administrator, Assistant Administrator for Fisheries, Deputy Assistant Administrator for Fisheries, and the Executive Director, Office of Resource Conservation and Management Director, Enforcement Division Chief, and all Regional Directors, National Marine Fisheries Service.

13. Revise § 621.33(a)(1) to read as follows:

§ 621.33 Duties and powers of judges.

(a) * * *
(1) Rule on a request to participate as a party in the proceedings by allowing, denying, or limiting such participation, provided that the respondent, the owner of an affected vessel, and the agency representative shall be parties, and provided further that the judge shall prior to ruling ascertain the views of the other parties and base his ruling on whether the request is from a person who could be directly and adversely affected by the final decision and who may contribute materially to the disposition of the proceedings;

14. Revise § 621.34 to read as follows:

§ 621.34 Participation by parties.

(a) The respondent, the owner (where prescribed by Section 621.42), the agency representative, and, to the extent permitted by the judge, any other party, may appear in person, by counsel, or by other representative, and may examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, present documentary or other evidence in support of his case or defense, and conduct oral argument at the close of testimony, provided, however, that this section shall not be interpreted to diminish the powers and duties of the judge set forth in § 621.33 of this part.

(b) Failure of any party to appear at the hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the record of the hearing.

15. Add a new § 621.42 as follows:

§ 621.42 Application of this subpart to vessel owners.

(a) The provisions of this subpart shall apply to owners of affected vessels where such application is specifically provided for in regulations implementing any Fishery Management Plan.

(b) For the purposes of paragraph (a), "affected vessel" shall mean a fishing vessel of the United States whose federal permit may be affected by a civil penalty proceeding under this Part.

16. Add a new paragraph (a)(4) to § 621.52 to read as follows:

§ 621.52 Basis for sanctions.

(a) * * *
(4) The requirements of a regulation issued under the Act to govern permit sanctions in the implementation of a fishery management plan have been satisfied (example: permit sanction point systems).

17. Revise paragraph (c) of § 621.54 to read as follows:

§ 621.54 Notice of permit sanction.

(c) The Administrator may make the permit sanction effective immediately or otherwise earlier than 30 days after the notice of permit sanction if he finds, and summarizes such finding and the basis therefor in the notice, that

(1) Substantial harm to a fishery resource of the United States may result from a later effective date; or

(2) The offense serving as the basis for the permit sanction was willful or egregious; or

(3) The basis for the sanction is the accumulation of sufficient points under other regulations in this Chapter implementing a fishery management plan.

If the Administrator acts under this paragraph, he shall seek to expedite a hearing the opportunity for which is provided by § 621.55, but a request for hearing shall not delay the effectiveness of the sanction.

[FR Doc. 79-39635 Filed 12-27-79; 8:45 am]
BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Distribution of Rabies Vaccines, Brucella Abortus Vaccine, Brucella Abortus Antigen, and Tuberculin-PPD Bovis—Proposed New Restrictions; Extension of Time for Comments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of time for comments.

SUMMARY: This document extends the time period for submitting written comments, data, views, and other information with respect to the notice of the Department's intent to add conditions to all U.S. Veterinary Biological Product Licenses for Rabies Vaccine, Brucella Abortus Vaccine, Brucella Abortus Antigen, and Tuberculin-PPD Bovis under the provisions of Title 9, CFR Part 102.5(e). This extension of time is granted in order to provide additional time in which interested parties may prepare relevant data and information and to develop sound views and comments. The effect of this action would be to extend the comment period on the subject notice for an additional 60 days from the original closing date, which was November 20, 1979.

DATE: Comments must be received on or before January 19, 1980.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the notice to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: On September 21, 1979, there was published in the Federal Register (44 FR 54737) advance notice of the Department's proposal to add conditions to all U.S. Veterinary Biological Product Licenses for Rabies Vaccine, Brucella Abortus Vaccine, Brucella Abortus Antigen, and Tuberculin-PPD Bovis, under the provisions of Title 9, CFR Part 102.5(e).

These conditions would require that such vaccines and antigens contain restrictive statements on their labels limiting them to use by or under the direction of a veterinarian and that distribution of these products by licensees be subject to any State restrictions regarding their distribution and sale by which may be in effect.

The notice provided for receipt of comments on or before November 20, 1979.

Licensed manufacturers of these products have requested the Department for additional time in which to obtain relevant data and information and to develop sound views and comments. Since the Department is interested in receiving meaningful views and comments, these circumstances are considered to be adequate justification for an extension of the time period originally allotted for submitting views and comments.

Therefore, the period for the submission of comments concerning the notice is hereby extended until January 19, 1980.

Done at Washington, D.C., this 21st day of December 1979.

Pierre A. Chaloux,
Deputy Administrator, Veterinary Services.

[FR Doc. 79-39592 Filed 12-27-79; 8:45 am]

BILLING CODE 3410-34-M

Commodity Credit Corporation

Determination of the Support Prices for Wool and Mohair for the 1980 Marketing Year

AGENCY: Commodity Credit Corporation.

ACTION: Notice of determination.

SUMMARY: This is a notice of the determination of the Secretary of Agriculture, in accordance with the provisions of the National Wool Act of 1954, as amended, of the support prices for wool and mohair under Commodity Credit Corporation's Wool and Mohair Payment Programs for the 1980

Federal Register

Vol. 44, No. 250

Friday, December 28, 1979

Marketing Year. The Payment Programs are intended to encourage the continued domestic production of wool and mohair at prices fair to both producers and consumers.

EFFECTIVE DATE: December 28, 1979.

ADDRESS: Emergency and Indemnity Programs Division, ASCS, U.S. Department of Agriculture, Room 4095 South Building, Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT: Gerald Schiermeyer 202-447-4428

SUPPLEMENTARY INFORMATION: The National Wool Act of 1954, as amended ("Wool Act"), provides that the Secretary of Agriculture shall support the prices of wool and mohair to producers by means of loans, payments or other operations. If payments are utilized as a means of price support, the payments shall be as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by all producers, to give producers a national average return for the commodity equal to the support level.

The Wool Act, as amended by the Food and Agriculture Act of 1977, established the price support level for shorn wool for the marketing years 1977 through 1981 at 85 percent of an amount determined by multiplying 62 cents (the support price in 1965) by the ratio of (1) the average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years preceding the year in which such support price is being determined and announced, to (2) the average parity index for the three calendar years 1958, 1959, and 1960 and rounding the resulting amount to the nearest full cent.

The Wool Act also provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary of Agriculture determines will maintain normal marketing practices for pulled wool and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Further, the support price for mohair must be within a range of 15 percent above or below the comparable percentage of parity at which shorn wool is supported.

The regulations for the wool and mohair payment programs for the 1980 marketing year are published in 7 CFR Parts 1472 and 1468, respectively. The Wool Act and the regulations provide that the Secretary shall establish and, to the extent practicable, announce the support price levels for wool and mohair sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year.

Determination

Accordingly, pursuant to the authority conferred by section 703 of the National Wool Act of 1954, as amended, it is hereby determined that the support prices for shorn wool and mohair for the 1980 marketing year are \$1.23 and \$2.903 per pound, respectively. The support price for shorn wool, which is equal to 72.4 percent of the October 1979 parity price for wool, has been calculated in accordance with the formula contained in the Act. The support price for mohair, which is 72.4 percent of the October 1979 parity for mohair, has been established at a level, in relationship to the support prices for shorn wool, as determined to be necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The support level for pulled wool will be determined after the National average market price of shorn wool for the 1980 marketing year is announced.

Note.—This determination has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A decision has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Emergency and Indemnity Programs Division, ASCS, USDA, Room 4095 South Building, Washington, D.C. 20013.

Signed at Washington, D.C. on December 19, 1979.

Jim Williams,

Acting Secretary of Agriculture.

[FR Doc. 79-39452 Filed 12-27-79; 8:45 am]

BILLING CODE 3410-25-M

Federal Grain Inspection Service

Request for Public Comment on Proposed Grain Standardization Studies

AGENCY: Federal Grain Inspection Service.

ACTION: Request for Public Comment on Suggested Priorities for Proposed Grain Standardization Studies.

SUMMARY: The Federal Grain Inspection Service (FGIS) invites public comment

on 9 proposed grain standardization studies for 1980. Comment is also invited concerning other grain standardization studies that may be desired.

COMMENT DATE: Written comments should be submitted by January 31, 1980.

ADDRESS: Written comments should be addressed to: USDA, FGIS, Compliance Division, Attention: Comments Section, Rm. 2405 Auditors Bldg., 1400 Independence Ave., S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: James L. Driscoll, Director, Standardization Division, FGIS, USDA, Richards-Gebuar Air Force Base, Building 221, Grandview, Missouri 64030. Telephone (816) 348-2861.

SUPPLEMENTARY INFORMATION: Under the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), the FGIS has the responsibility of studying the handling, weighing, grading, and transportation of grain, rice, beans, peas, lentils, hops, hay, straw, and processed grain products and establishing, amending, and revoking standards, procedures, or criteria for the commodities whenever the necessities of the trade may require.

Nine grain standardization studies have been proposed for 1980, as follows:

Field Testing the Alpha Content of Wheat. Alpha amylase is an enzyme produced in wheat kernels when they sprout. High levels of alpha amylase are unacceptable in certain wheat products such as noodles. Laboratory methods for measuring alpha amylase content have been developed. A study is proposed to determine the feasibility of measuring in grain inspection offices the alpha amylase content of wheat.

Uniform Requirements for the Special Grade "Weevily". The administrative allowances for live insects injurious to stored grain are not uniform for all grains. Concerns about insects in export grain have been expressed by the industry and foreign buyers. A study is proposed to investigate procedures to improve the special grade "weevily" through development of uniform allowances for live insects for all grains.

Certifying Dockage in Tenths of a Percent. Dockage in wheat, rye, and triticale is presently determined to the nearest 0.1 percent level but is certified in increments of 0.5 percent for wheat and triticale and in increments of 1.0 percent for rye. Importers of U.S. wheat favor the certification of dockage in increments of 0.1 percent. A study is proposed to determine the feasibility of certifying dockage in wheat, rye, and triticale in increments of 0.1 percent.

The grains are similar in shape and size, and dockage in the grains is determined in a similar manner with similar equipment.

Special Grade for Organic Acid-Treated Grain. The treatment of high-moisture grain, particularly corn, with certain organic acids reportedly retards spoilage of the grain in storage. Grain treated with organic acid is reportedly not acceptable for certain processing purposes. A study is proposed to determine the feasibility of developing (1) an inspection procedure for identifying organic acid-treated grain, and (2) a special grade for describing organic acid-treated grain.

Simplified Format for the United States Standards for Beans. The format for the standards for beans consists of a complex series of grade tables with numerous footnotes. Comments are requested to determine whether the grades, grade requirements, and grade designations for beans can be shown in a more simple and easily understood format.

Objective Testing Procedures for Hay. The standards for hay generally measure the physical properties of hay and not the nutrient properties. Objective methods have been developed for measuring certain nutrient properties in hay. A study is proposed to determine the feasibility of using the methods in the on-site inspection of hay.

The Need for Buckwheat Standards. The production of buckwheat is reportedly increasing. A study is proposed to determine the need for official standards for buckwheat.

The Need for Sunflower Standards. The production of sunflower has increased significantly. A study is proposed to determine the need for official standards for sunflower.

The Need for Rapeseed Standards. The production of rapeseed has increased. A study is proposed to determine the need for official standards for rapeseed.

The FGIS invites producers, elevator operators, merchandisers, processors, exporters, importers, inspection agencies, weighing agencies, and other interested individuals and groups to submit comments and views on the suggested priorities for the proposed studies. Comments and views are also invited on suggested priorities for other grain standardization studies that may be desired or needed by the trade. Data, documents, and other supportive information may be submitted with the comments and views.

(Secs. 5, 18, Pub. L. 94-582, 90 Stat. 2869, 2884 [7 U.S.C. 76, 87(e)])

(Secs. 203, 205, Pub. L. 79-733, 60 Stat. 1087, 1090 (7 U.S.C. 1622, 1624))

Done in Washington, D.C. on December 21, 1979

D. R. Gallant,

Acting Administrator.

[FR Doc. 79-38274 Filed 12-27-79; 8:45 am]

BILLING CODE 3419-02-M

Forest Service

National Forest System Advisory Committee; Meeting

The National Forest System Advisory Committee will meet at 9:00 a.m. on January 28 and 29 in Room 3840-46, South Agriculture Building, U.S. Department of Agriculture, 12th and Independence Avenue, S.W., Washington, D.C.

This Committee, comprised of 12 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and the Forest Service on the planning and management of the National Forests. Topics will include updates on RPA and land management planning, the role of the National Forests in meeting future needs of America, landscape management as related to visual effects in harvesting timber, wood as an energy source, and research. Dr. M. Rupert Cutler, Assistant Secretary for Natural Resources and Environment, will chair the meeting.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, Floyd J. Marita, National Forest System, USDA-Forest Service, P.O. Box 2417, Room 3021-S, Washington, D.C. 20013, telephone (202) 447-8341. Written statements may be filed with the Committee before or after the meeting.

Jerome A. Miles,
Deputy Chief.

[FR Doc. 79-39548 Filed 12-27-79; 8:45 am]

BILLING CODE 3419-11-M

Office of the Secretary

National Advisory Committee on Meat and Poultry Inspection; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Advisory Committee on Meat and Poultry Inspection will be held on January 16, 1980, beginning at 9:00 a.m., in Conference Room "B" of the Departmental Auditorium, 12th and Constitution Avenue, N.W., Washington, D.C.

The purpose of the Committee is to advise the Secretary of Agriculture regarding issues pertaining to the meat and poultry inspection program, pursuant to sections 7(c), 24, 205, and 301(a)(4) of the Federal Meat Inspection Act (21 U.S.C. 607(c), 624, 645, and 661(a)(4)) and sections 5(a)(4), 8(b), and 11(e) of the Poultry Products Inspection Act (21 U.S.C. 454(a)(4), 457(b), and 460(e)). The meeting will include a discussion of the following topics: Federal-State programs (funding, legislation, State plant reviews); status report on net weight regulation; mechanically deboned poultry; food labeling; voluntary quality control programs in meat and poultry plants; proteolytic enzymes; the status of the regulation of nitrite; the PCB contamination incident in the Western United States; and the Agency's plan for handling future contamination incidents.

The meeting is open to the public, but space is limited. Comments of interested persons may be filed with the Committee before or after the meeting, by sending them to Nancy F. Moody, Director, Executive Secretariat, Room 333-E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, DC 20250, (202) 447-3002.

Done at Washington, DC, on December 21, 1979.

Donald L. Houston,
Vice Chairman.

[FR Doc. 79-39725 Filed 12-27-79; 8:45 am]

BILLING CODE 3419-04-M

CIVIL AERONAUTICS BOARD

[Order 79-12-113; Docket 37020]

Intra-Alaska Service Investigation; Order on Motions To Consolidate

Issued under delegated authority December 19, 1979.

Motions to Consolidate have been filed by Delta Development Corporation d/b/a Western Yukon Air (Yukon), Great Northern Airlines, Inc. (Northern), Transamerica Airlines, Inc. (Transamerica), and Polar Airways, Inc. d/b/a Polar Airlines (Polar).¹ These motions seek the consolidation of the carriers' applications for certificates of public convenience and necessity in Dockets 37141, 37143, 37178, and 37210, respectively, into this proceeding. Sea Air motive, Inc. has filed an answer which opposes these motions. Sea Air motive contends that the motions were not timely filed and the

¹ Polar had earlier filed a petition for leave to intervene and this petition was granted.

applications involved are not sufficiently related to this proceeding.

Board Order 79-11-15 directed all motions to consolidate to be filed 20 days from the adoption of the order. Yukon and Northern both submitted their motion within the stated time limit. Transamerica and Polar, however, failed to meet the 20 day period. In regard to their delay, it is noted that neither Transamerica nor Polar were on the Order's service list, and therefore neither received a copy of the order. It is also noted that both motions were filed well before the scheduled prehearing conference date of January 8, 1980.

In instituting this proceeding, the Board recognized Wien Air Alaska's (Wien) claim that the grant of authority requested in this proceeding will cause diversion from Wien. The Board combined the applications for various Alaska route authority of Alaska Airlines, Inc., Northwest Airlines, Inc., and Sea Air motive, Inc. to given Wien the chance to prove that the award of additional authority in more of its markets will create the results it alleges. The Board expects this proceeding to resolve the question whether the benefits of actual and potential competition outweigh the economic harm which would come to Wien.

Upon consideration of all motions and objections, it is found that the Yukon and Northern motions were timely filed. While Transamerica and Polar failed to meet the time requirement of the Board, it is found that the carriers' omission from the service list and their subsequent and prompt good faith filings constituted good cause under Section 302.12 of the Board's Rules of Practice. Thus, their motions will be considered timely. Finally, it is found that since some of the points to be served in the applications overlap with those already in issue in this proceeding, the applications sufficiently relate to scope of this case. Consolidation is, therefore, consistent with the Board's determination that a need for a hearing exists.² Further the Ashbacher doctrine requires consolidation of the involved carriers' applications.³

Accordingly, it is ordered, That:

The Motions to Consolidate filed by Delta Development Corporation d/b/a Western Yukon Air, Great Northern Airlines, Inc.,⁴ Transamerica Airlines,

² It is noted that all of the points to be served in the various applications are not identical to all of the points applied for by other applicants in this proceeding.

³ Ashbacher Radio Co. v. F.C.C. 325 U.S. 327 (1945).

⁴ The grant of Great Northern's Motion to Consolidate renders its petition for leave to intervene moot.

Inc., and Polar Airways, Inc. d/b/a Polar Airlines are granted and the applications of these carriers in Dockets 37141, 37143, 37178, and 37210, respectively, are consolidated into this proceeding.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the Federal Register.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39647 Filed 12-27-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-12-117; Docket 36632]

Air Florida, Inc.; Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-12-117, Air Florida, Inc. Show Cause Proceeding, Docket 36632.

SUMMARY: The Board proposes to approve the following application: Applicant: Air Florida, Inc. Application Date: September 19, 1979. Docket: 36632. Authority Sought: Miami, Florida-Puerto Plata, Dominican Republic, nonstop or via the Bahama Islands.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than January 28, 1979 file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Dominican Republic. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.¹

¹ The CAB will not enter a final order in Docket 36632 until a final decision is rendered in the Caribbean Area Service Investigation, Docket 30687.

ADDRESSES FOR OBJECTIONS: Docket 36632, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Air Florida, Inc., c/o Fisher Gelband & Sinick, Suite 440, 2020 K Street, N.W., Washington, D.C. 20006.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

For further information, contact John D. Keppel, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5135.

By the Civil Aeronautics Board, December 20, 1979

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39658 Filed 12-27-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective on the opening of business on November 13, 1979, The Cleveland Trust Company, Cleveland, Ohio, changed its name of Ameritrust Company.

Dated, December 18, 1979.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 79-39547 Filed 12-27-79; 8:45 am]

BILLING CODE 3510-15-M

U.S. Merchant Marine Academy Advisory Board; Public Meeting

Notice is hereby given of a meeting of the Advisory Board to the U.S. Merchant Marine Academy (the Board) on January 28, 1980, at 10 a.m. in the Board Room of Wiley Hall at the U.S. Merchant Marine Academy (the Academy), Kings Point, New York.

The Advisory Board to the Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the Academy and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce selected from segments of the maritime industry, labor, educational institutions, and other

fields relating to the objectives of the Academy.

The Agenda for the meeting is:

1. Call meeting to order;
2. Approve minutes of the October 24, 1979, Board meeting;
3. Board members' reports;
4. Status report of the medical services for Midshipmen;
5. Status report on the use of Land Hall for Midshipmen pub;
6. Report on attrition rate of the Class of '83;
7. Report on the status of the '81 Budget;
8. Set date for next Board meeting.

This meeting is open to public observation and comment. Approximately 20 seats will be available for the public on a first come, first-served basis.

Copies of the minutes are available upon request. Inquiries may be addressed to the Committee Control Officer, Arthur W. Friedber, Office of Maritime Labor and Training, Room 3069A, Main Commerce Building, telephone A/C 202/377-3018.

Dated: December 20, 1979. So ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 79-39548 Filed 12-27-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Fishery Conservation and Management; Transponders Aboard Foreign Fishing Vessels

AGENCY: National Oceanic and Atmospheric Administration/National Marine Fisheries Service.

ACTION: Notice concerning placement of transponders aboard foreign fishing vessels.

FOR FURTHER INFORMATION CONTACT:

Morris M. Pallozzi, Enforcement Division, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634-7265.

SUPPLEMENTARY INFORMATION: The Fishery Conservation and Management Act of 1976 permits foreign fishing within the U.S. fishery conservation zone (FCZ) if such fishing is conducted in accordance with a valid and applicable permit, the provisions of a governing international fishery agreement (CIFA), and applicable regulations. All GIFAs include a binding commitment on the part of foreign nations, and the owners and operators

of foreign fishing vessels, to install and maintain transponders, or other position-fixing and identification equipment specified by the U.S. Coast Guard, on each fishing vessel.

The Coast Guard, in cooperation with the National Oceanic and Atmospheric Administration (NOAA), intends to conduct a test of the capabilities of transponders by placing a limited number of them aboard foreign fishing vessels fishing in the FCZ in the Northwest Atlantic Ocean. The transponders will be deployed with U.S. observers. They are designed to transmit an identity signal that will permit the Coast Guard to determine the position of those foreign fishing vessels which carry the device while in the FCZ. Other features include: (1) automatic collection and transmittal of air temperature; (2) and emergency switch to indicate distress requiring immediate assistance; and (3) other switches which may be used by an observer to transmit catch and other data.

The test is scheduled to begin on or about January 1, 1980, and will terminate approximately 120 days later. The purpose of the test is to verify the accuracy of position determinations and the reliability of the data transmitted. If the test proves satisfactory, transponders may be deployed in greater numbers aboard foreign fishing vessels. The Coast Guard and National Marine Fisheries Service will employ identification, position, and weather data for improved patrol planning and other enforcement purposes; NOAA will use weather data to enhance its prediction capability; and National Marine Fisheries Service will use catch and other data from observers to improve compliance with catch limitations.

Authority: 16 U.S.C. 1831, *et seq.*

Signed at Washington, D.C., this 20th day of December, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-39559 Filed 12-27-79; 8:45 am]
BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-255), will meet to discuss: Reports of the Groundfish and Scallop Oversight (O/S) Committees; A

presentation on Computer Modelling; The new Data Confidentiality Regulations; A presentation on Enforcement Practices and Capabilities; Joint Ventures; Law, Regulation and Procedures; and other Council business.

DATES: The meeting will convene on Wednesday, January 16, 1980, at approximately 10 a.m. and will adjourn on Thursday, January 17, 1980, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at King's Grant, Route 128 at Trask Lane, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960. Telephone: (617) 535-5450.

Dated: December 20, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-39560 Filed 12-27-79; 8:45 am]
BILLING CODE 3510-22-M

New England Fishery Management Council; Meeting

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Conduct a Scoping Meeting.

SUMMARY: The New England Fishery Management Council announces a meeting to discuss the preparation of a Fishery Management Plan (FMP) and associated Environmental Impact Statement (EIS) for American lobster. This Scoping Meeting is part of the process for: (1) determining the range of issues to be considered by the Council; and (2) identifying those issues significant to the development and implementation of the FMP/EIS. The purposes of the scoping process are discussed in the Council on Environmental Quality's (CEQ) regulations implementing the National Environmental Policy Act (40 CFR 1501.7).

DATES: The meeting will convene on Monday, January 14, 1980, beginning at 10:00 a.m.

ADDRESS: The meeting will take place at the Holiday Inn, Routes 1 and 128, Peabody, Massachusetts 01960.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, One Newbury Street, Peabody

Office Building, Peabody, MA 01960. Phone: (617) 535-5450.

SUPPLEMENTARY INFORMATION: At its meeting on November 8, 1979 in Danvers, Massachusetts, the New England Fishery Management Council (Council) adopted the following objective for management of the American lobster resource:

The objective of the lobster FMP shall be to manage the total American lobster (*Homarus americanus*) resources so as to minimize the possibility of recruitment failure when and where possible. In its efforts to accomplish this objective, the management effort should consider the need to minimize social, cultural, and economic dislocations which may result from provisions of this FMP.

In adopting this objective, the Council has recognized the relevance of efforts by the Northeast Marine Fisheries Board relating to American lobster under the State/Federal Fisheries Management Program. The State/Federal program for lobster began in 1972 and culminated in October, 1978, upon adoption by the Board of a plan for management of the lobster fishery resources. On the basis that lobster populations of the northwestern Atlantic area comprise a single stock, the plan adopted by the Northeast Marine Fisheries Board addressed problems of lobster management within both state territorial waters and the United States Fishery Conservation Zone (FCZ). The Board referred the plan to the lobster producing states for use as a basis for management of the fisheries within state waters and to the New England and Mid-Atlantic Fishery Management Councils for use as a basis for development of an FMP for the FCZ under authority of the Fishery Conservation and Management Act of 1976, as amended (Act). Subsequently, the Assistant Administrator for Fisheries/NOAA, under authority of Section 304(f) of the Act, designated the New England Fishery Management Council as the lead Council for preparation of an FMP for American lobster. The New England Fishery Management Council intends to use the plan developed by the Northeast Marine Fisheries Board as a basis for preparation of the FMP and associated EIS.

This notice of intent initiates the process of development of an FMP and associated EIS prescribed by NOAA Directive 02-10 (44 FR 60779). This Directive establishes NOAA policy and procedures for implementing the National Environmental Policy Act in compliance with CEQ's regulations. The Council invites the participation of all interested Federal, State, and local

agencies, fishing industry organizations, fishermen, fish processors, consumers of fishery products, environmental organizations, and any other interested persons in this process. Public participation will begin with the Scoping Meeting on January 14, 1980. Alternative actions to implement the management objective adopted on November 8, 1979, as well as methods for analyzing environmental and economic impacts of these alternatives will be discussed at the Scoping meeting.

Once the Scoping process is completed, the Council will prepare a draft FMP and draft EIS for public review and comment. At that time, public hearings will be held at locations throughout the northwestern Atlantic coast area.

Dated: December 21, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-39722 Filed 12-27-79; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From Taiwan, Effective on January 1, 1980

December 21, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton, wool and man-made fiber textile products imported from Taiwan, effective on January 1, 1980.

SUMMARY: The Bilateral Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan establishes specific ceilings for cotton and man-made fiber textile products in Categories 313, 331, 333/334/335, 338/339, 340, 341, 347/348, 445/446, 633/634/635, 638, 639, 640, 641, 643/644, 647, and 648 during the agreement year which begins on January 1, 1980 and extends through December 31, 1980. The agreement also provides consultation levels for certain categories of cotton, wool and man-made fiber textile products, such as Categories 342, 363, 442, 444, 469, 631, 659 and 669, which are not subject to specific ceilings and which may be increased upon agreement between the two governments. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of

Customs, in accordance with the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in Taiwan and exported during the twelve-month period which begins on January 1, 1980 and extends through December 31, 1980, in excess of the designated levels. The sublimit for fish nets in Category 669 (only T.S.U.S.A. 355.4560) has been reduced to account for 1977 and 1978 overshipments totaling 23,392 pounds.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39406), January 2, 1979 (44 FR 84), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Shirley Hargrove, Trade and Industry Assistant, U.S. Department of Commerce, Office of Textiles, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1979

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11551 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Taiwan, in excess of the indicated levels of restraint:

Category	12-month level of restraint
313.....	43,612,998 square yards.
331.....	454,671 dozen pairs.
333/334/335.....	100,615 dozen of which not more than 52,693 dozen shall be in Cat. 333/334 and not more than 63,014 dozen shall be in Cat. 335
338/339.....	490,517 dozen.
340.....	619,583 dozen.
341.....	359,895 dozen.
342.....	39,326 dozen.
347/348.....	832,466 dozen of which not more than 409,851 dozen shall be in Cat. 347 and not more than 631,732 dozen shall be in Cat. 348
363.....	4,000,000 numbers.
442.....	5,556 dozen.
444.....	1,652 dozen.
445/446.....	123,755 dozen.
469.....	50,000 pounds.
631.....	2,109,286 dozen pairs.
633/634/635.....	1,377,873 dozen of which not more than 908,730 dozen shall be in Cat. 633/634 and not more than 675,824 dozen shall be in Cat. 635.
643/644.....	136,719 dozen of which not more than 72,290 dozen shall be in Cat. 643 and not more than 78,101 dozen shall be in Cat. 644
636.....	1,519,339 dozen.
639.....	5,033,179 dozen.
640.....	3,097,170 dozen.
641.....	667,303 dozen.
647.....	1,815,614 dozen.
648.....	2,999,004 dozen.
659.....	9,187,500 pounds of which not more than 2,725,000 pounds shall be in T.S.U.S.A. numbers 702.1000 and 703.0500; not more than 1,700,000 pounds shall be in T.S.U.S.A. numbers 360.0429, 380.8163, 382.0449 and 382.7877 of which not more than 225,000 pounds shall be in T.S.U.S.A. numbers 360.0429 and 380.8163 and not more than 1,600,000 pounds shall be in T.S.U.S.A. numbers 382.0449 and 382.7877.
669.....	1,282,051 pounds of which not more than 58,018 pounds shall be in T.S.U.S.A. number 355.4560

In carrying out this directive entries of textile products in the foregoing categories, except Categories 342, 363, 442, 444 and 469, which have been exported to the United States prior to January 1, 1980, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 342, 363, 442, 444 and 469 which have been exported prior to January 1, 1980 shall not be subject to this directive.

Textile products in Categories 342, 363, 442, 444 and 469 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of June 8, 1978, as amended, which provide in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated

percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended by January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,
Paul T. O'Day,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39511 Filed 12-27-79; 8:45 am]
BILLING CODE 3510-25-M

Announcing Import Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From India

Effective: January 1, 1980.
AGENCY: Committee for the Implementation of Textile Agreements.
ACTION: Establishing import levels for certain cotton, wool and man-made fiber textile products imported from India, effective on January 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India establishes, among other things, ceilings for cotton, wool and man-made fiber textile products in Categories 330-369, 431-469, and 630-669, as a group, and individual Categories 335, 338/339/340, 341 and 347/348 during the agreement year which begins on January 1, 1980 and extends through December 31, 1980. The agreement also provides consultation levels for categories, such as Categories

335, 342, 359, 363, 369, 410, 447, 636, 640, 641, and 666, which are not subject to specific ceilings and which may be increased during the year upon agreement between the two governments. In the letter published below the Chairman, Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of textile products in the foregoing categories, produced or manufactured in India and exported during the twelve-month period which begins on January 1, 1980, in excess of the designated levels. Pending conclusion of consultations with the Government of India, which have been requested pursuant to paragraph 17 of the bilateral agreement, apparel products in Categories 330-359, 431-459 and 630-659, which are certified by the elephant certification, shall be permitted entry up to a level of 3 million dozen during the twelve-month period beginning on January 1, 1980.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.
FOR FURTHER INFORMATION CONTACT: Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,
Acting Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1979.
Committee for the Implementation of Textile Agreements
Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive

Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in India, in excess of the indicated twelve-month levels of restraint:

Category	12-mo level of restraint
330-369, 431-469 and 630-669.....	40,532,895 square yards equivalent.
335.....	16,949 dozen.
342.....	39,326 dozen.
359.....	152,174 pounds.
363.....	20,000,000 numbers.
369.....	2,608,696 pounds.
410.....	100,000 square yards.
447.....	5,556 dozen.
636.....	15,453 dozen.
640.....	29,167 dozen.
641.....	48,276 dozen.
666.....	256,410 pounds.

Floor coverings in Categories 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), 465 (only T.S.U.S.A. numbers 360.0500, 360.1000, 360.1500, 361.4200 and 361.4400) and 665 (only T.S.U.S.A. number 360.7800) shall not be subject to this directive.

Apparel products in Categories 330-359, 431-459 and 630-659 which are certified by the elephant certification shall be permitted entry up to a level of 3 million dozen for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980 and shall not be charged to the foregoing levels.

You are further directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 336, 338/339/340, 341 and 347/348, produced or manufactured in India, in excess of the following levels of restraint:

Category	12-mo level of restraint
336.....	192,560 dozen.
338/339/340.....	975,340 dozen.
341.....	2,134,655 dozen.
347/348.....	117,028 dozen.

Cotton textile products in Categories 336, 338/339/340, 341 and 347/348 are also chargeable to the level of restraint established for Categories 330-369, 431-469 and 630-669, as a group, unless accompanied by an elephant certification in which case they shall be chargeable to the level of 3 million dozen established for apparel products in Categories 330-359, 431-459 and 630-669.

In carrying out this directive, cotton, wool and man-made fiber textile products in Categories 330-369, 431-469 and 630-669, as a group, and individual Categories 335, 338/339/340, 341, 342, 347/348, 359, 447, 641 and 666, including products accompanied by the elephant certification, produced or manufactured in India and exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be

charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

Cotton, wool and man-made fiber textile products in Categories 363, 369, 410, 636, and 640, exported prior to January 1, 1980 shall not be subject to this directive.

Cotton, wool and man-made fiber textile products in Categories 363, 369, 410, 636 and 640 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future, as applicable, according to the provisions of the bilateral agreement of December 30, 1977, as amended, between the Governments of the United States and India which provide, in part, that: (1) within the aggregate, group limits may be exceeded by designated percentages; (2) specific limits may be exceeded by various percentages subject to various provisions of the agreement; (3) consultation levels may be increased upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).)

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5

U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,
Paul T. O'Day,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-39546 Filed 12-27-79; 8:45 am]
BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION
Toxicological Advisory Board; Meeting
AGENCY: Consumer Product Safety Commission.
ACTION: Notice of meeting, Toxicological Advisory Board.

SUMMARY: This notice announces a meeting of the Toxicological Advisory Board on Tuesday, January 22, 1980, from 8:30 a.m. to 5:00 p.m. and Wednesday, January 23, 1980, from 8:30 a.m. to 2:30 p.m. The meeting, which is open to the public, will be held in Room 456 at 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Catherine Bolger, Office of the Secretary, Suite 300, 1111 16th Street, NW., Washington, D.C. 20207 (202) 634-7700.

SUPPLEMENTARY INFORMATION: The Toxicological Advisory Board is a newly-established nine-member advisory committee which advises the Commission on precautionary labeling for acutely toxic household substances and on instructions for first aid treatment labeling. In addition, the Board reviews labeling requirements that have been issued under the Federal Hazardous Substances Act and recommends revisions it deems appropriate. The Toxicological Advisory Board was created on November 10, 1978, under the authority of Section 10 of the 1976 CPSC Authorization Act (Pub. L. 95-631). Both days of the meeting will be devoted to a review of petroleum distillates, petrochemicals and similar type hydrocarbon substances for which labeling advice appears in the CPSC Labeling Guide. For specific information on the format of the agenda contact Catherine Bolger at the address above.

The two-day meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Toxicological Advisory Board should notify the Office of the Secretary (see address above) by January 11, 1980.

The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the

presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Board may be allowed by the presiding officer. Requesters will be informed of the decision before the meeting.

Dated: December 20, 1979.
Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.
[FR Doc. 79-39591 Filed 12-27-79; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE
Department of the Army
Military Traffic Management Command; Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on 24 January 1980 at the Quality Inn, Pentagon City, 300 Army Navy Drive, Arlington, VA, and will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315. Topics to be discussed should be received on or before 17 January 1980.

Dated: December, 21 1979.
John J. Durant,
Colonel, GS, Director of Personal Property.
[FR Doc. 79-38702 Filed 12-27-79; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY
Environmental Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Environmental Advisory Committee.
Date and Time: Thursday, January 17, 1980
and Friday, January 18, 1980—9:00 a.m.
Place: Department of Energy, 1000
Independence Avenue, S.W., Forrestal
Building, Room 4A-098, Washington, D.C.
Contract: Georgia Hildreth, Director,
Advisory Committee Management,
Department of Energy, Room 8G087, 1000
Independence Avenue, S.W., Washington,
D.C. 20585. Telephone, 202-252-5187.
Purpose of Committee: To advise the
Department of Energy on the overall
activities which pertain to the goals of
restoring, protecting and enhancing
environmental quality and assuring public
health and safety.
Tentative Agenda:

Thursday, January 17, 1980

9:00 a.m. to 12:00

Report by Chairman.
Presentation by Ruth Clusen, Assistant
Secretary, Environment.
Report of results of Delphi Associates
evaluation.
Report of Subcommittee on Demand
Projections.

1:30 p.m. to 4:30 p.m.

Presentation C02 problem: Dr. Don G.
Scroggin, Energy Policy Staff, Council on
Environmental Quality. David H. Slade,
Mgr., DOE C02 and Climate Research
Program.
Discussion by Messrs. Gibson and Browning
(committee members) of suggestions on
how Committee should approach C02 issue.
Committee Discussion of C02 issue.
Public comment (10 minute rule).

Friday, January 18, 1980

9:00 a.m. to 12:00

Further Committee discussion on C02.
Discussion by Dr. Slack of draft DOE paper
on Environmental Impacts of Synthetic
Fuels.
Committee discussion of procedures for
dealing with draft DOE paper.
Committee discussion of draft DOE paper re
Coal Environmental Issues Fact Book (if
available).

1:30 p.m. to 4:30 p.m.

General Discussion/Committee Business.
Public Comment (10 minute rule).

Public Participation: The meeting is open to
the public. The Chairperson of the
Committee is empowered to conduct the
meeting in a fashion that will, in his
judgement, facilitate the orderly conduct of
business. Any member of the public who
wishes to file a written statement with the
Committee will be permitted to do so,
either before or after the meeting. Members
of the public who wish to make oral
statements pertaining to agenda items
should contact the Advisory Committee
Management Office at the address or
telephone number listed above. Requests
must be received at least 5 days prior to
the meeting and reasonable provisions will
be made to include the presentation on the
agenda.

Transcripts: Available for public review and
copying at the Freedom of Information

Public Reading Room, Room GA-152,
Forrestal Building, 1000 Independence
Avenue, S.W., Washington, D.C., between
8:00 a.m. and 4:30 p.m., Monday through
Friday, except Federal holidays.

Executive Summary: Available
approximately 30 days following the
meeting from the Advisory Committee
Management Office.

Issued at Washington, D.C. on December
21, 1979.

Georgia Hildreth,
Director Advisory Committee Management.

[FR Doc. 79-59648 Filed 12-27-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration [ERA Docket No. 79-33-LNG]

**Columbia LNG Corp.; Application for
Authority To Change the Point of
Importation of Liquefied Natural Gas
and for Approval of Related Increase
in Transportation Costs Pursuant to
Section 3 of the Natural Gas Act**

AGENCY: Department of Energy,
Economic Regulatory Administration.

ACTION: Notice of receipt of application
and invitation to submit petitions to
intervene in the proceeding.

SUMMARY: The Economic Regulatory
Administration (ERA) of the Department
of Energy (DOE) gives notice of receipt
of an application by Columbia LNG
Corporation (Columbia LNG), in ERA
Docket No. 79-33-LNG, for authorization
pursuant to Section 3 of the Natural Gas
Act to change the point of importation
with respect to a portion of the volumes
of LNG which Columbia LNG previously
has been authorized to import at Cove
Point, Maryland, to a point of
importation at Elba Island, Georgia,
during the period from November 1,
1979, through March 31, 1980; and to pay
the related increase in the
transportation costs for such LNG
deliveries to Elba Island. Pursuant to
Section 7(c) of the Natural Gas Act,
Columbia LNG has filed an application
with the Federal Energy Regulatory
Commission in FERC Docket No. CP80-
68 for authorization to resell the
regasified LNG received during such
period to Columbia Gas Transmission
Corporation and to recover the related
costs of the proposed transaction.
Petitions to intervene are invited.

DATES: Petitions to intervene are due on
or before January 7, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Finn K. Neilsen, Director, Import/
Export Division, 2000 M Street, N.W.,
Room 4126, Washington, D.C. 20461,
telephone (202) 254-8202. Mr. Martin S.
Kaufman, Deputy Assistant General

Counsel for International Trade and
Emergency Preparedness, 1000
Independence Ave., S.W., Forrestal
Building, Room 5E064, Washington, D.C.
20585, telephone (202) 252-2918.

SUPPLEMENTARY INFORMATION: In an
application filed on November 9, 1979,
Columbia LNG states that due to an
event of force majeure at facilities at
Cove Point, Maryland (an explosion
which temporarily incapacitated the
LNG terminal facility), it is unable to
receive and regasify the previously
authorized quantities of LNG which El
Paso Algeria Corporation (El Paso
Algeria) had scheduled for delivery at
Cove Point. In order to restore its LNG
supply Columbia LNG proposes that El
Paso Algeria deliver the LNG to the
receiving terminal of Southern Energy
Company (Southern Energy) at Elba
Island, pursuant to a Cargo Sharing
Agreement between Columbia LNG and
Southern Energy. Columbia states that
deliveries to Elba Island will occur from
November 1, 1979, to March 31, 1980, to
the extent the Cove Point facilities
cannot be used.

Southern Energy is to receive, store,
regasify and deliver the regasified LNG
to Southern Natural Gas Company
(Southern Natural) for Columbia LNG's
account pursuant to an LNG
Terminaling Agreement between
Columbia LNG and Southern Energy.
For this service, Columbia LNG has
agreed to pay Southern Energy a charge
of \$.04 per MMBtu of regasified LNG
delivered to Southern natural at Elba
Island for the account of Columbia LNG.
In addition to this charge Columbia LNG
will provide the volumes of LNG
necessary for regasification of its share
of the LNG received by Southern
Energy.

Columbia LNG is obligated to pay the
same F.O.B. origin price of the LNG for
deliveries to either Elba Island and/or
Cove Point, and pursuant to the
authorization sought by Columbia LNG,
would incur the transportation costs to
Elba Island for quantities of LNG
delivered to Elba Island for its account.
The interim F.O.B. price authorized by
ERA in its Docket No. 79-14-LNG
(DOE/ERA Opinion and Order Number
Seven, dated August 22, 1979) is \$1.15
per MMBtu. The transportation rate
elements in the authorized import ceiling
prices at Cove Point and Elba Island are
106.16¢ and 116.23¢ per MMBtu
respectively. Columbia states that the
current actual transportation costs are
102.33¢ per MMBtu at Cove Point, and
109.24¢ per MMBtu at Elba Island.

Other Information

The ERA invites petitions for
intervention in this proceeding. Such
petitions are to be filed with the
Economic Regulatory Administration,
Room 4126, 2000 M Street, N.W.,
Washington, D.C. 20461, in accordance
with the requirements of the rules of
practice and procedure (18 CFR 157.10).
Such petitions for intervention will be
accepted for consideration if filed no
later than 4:30 p.m., on January 7, 1980.

Any person wishing to become a party
to this proceeding or to participate as a
party in any hearing which may be
convened therein must file a petition to
intervene. Any person desiring to make
any protest with reference to the
application should file a protest with the
ERA in the same manner as indicated
above for petitions to intervene. All
protests filed with ERA will be
considered by it in determining the
appropriate action to be taken, but will
not serve to make protestants parties to
the proceeding.

A formal hearing will not be held
unless a motion for such hearing is made
by any party or intervenor and is
granted by ERA, or if the ERA on its
own motion believes that such a hearing
is required. If such hearing is required,
due notice will be given.

Copies of this application are
available for public inspection and
copying in Room B-120, 2000 M Street,
N.W., Washington, D.C. 20461, between
the hours of 8:00 a.m. and 4:30 p.m.,
Monday through Friday, except Federal
holidays.

Issued in Washington, D.C., on December
23, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum
Operations Economic Regulatory
Administration.

[FR Doc. 79-59748 Filed 12-27-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-94]

Columbia Gas Transmission Corp.; Notice of Application

December 19, 1979.

Take notice that on November 19,
1979, Columbia Gas Transmission
Corporation (Applicant), 1700
MacCorkle Avenue, S.E., Charleston,
West Virginia 25314, filed in Docket No.
CP80-94 an application pursuant to
Section 7(c) of the Natural Gas Act for a
certificate of public convenience and
necessity authorizing the construction of
154 interconnecting tap facilities to

provide additional points of delivery to
existing wholesale customers, all as
more fully set forth in the application
which is on file with the Commission
and open to public inspection.

Applicant proposes the following new
points of delivery for the following
wholesale customers:

- (1) Columbia Gas of Kentucky, Inc., 9 taps for
residential service, 3 taps for commercial
service—estimated annual usage of 2,175
Mcf.
- (2) Columbia Gas of Maryland, Inc., 3 taps for
residential service, 1 tap for commercial
service—estimated annual usage of 1,642
Mcf.
- (3) Columbia Gas of Ohio, Inc., 88 taps for
residential service, 3 taps for commercial
service, 2 taps for combined residential and
commercial service—estimated annual
usage of 74,625 Mcf.
- (4) Columbia Gas of Pennsylvania, Inc., 7 taps
for residential service—estimated annual
usage of 1,050 Mcf.
- (5) Columbia Gas of Virginia, Inc., 7 taps for
residential service—estimated annual
usage of 1,050 Mcf.
- (6) Columbia Gas of West Virginia, Inc., 31
taps for residential service—estimated
annual usage of 4,850 Mcf.

Applicant states further that it does
not propose to increase its currently
authorized level of sales.

It is stated that the total cost of the
interconnections is estimated to be
\$46,350, which would be financed by
internally generated funds.

Any person desiring to be heard or to
make any protest with reference to said
application should on or before January
9, 1980, file with the Federal Energy
Regulatory Commission, Washington,
D.C. 20426, a petition to intervene or a
protest in accordance with the
requirements of the Commission's Rules
of Practice and Procedure (18 CFR 1.8 or
1.10) and the Regulations under the
Natural Gas Act (18 CFR 157.10). All
protests filed with the Commission will
be considered by it in determining the
appropriate action to be taken but will
not serve to make the protestants
parties to the proceeding. Any person
wishing to become a party to a
proceeding or to participate as a party in
any hearing therein must file a petition
to intervene in accordance with the
Commission's Rules.

Take further notice that, pursuant to
the authority contained in and subject to
jurisdiction conferred upon the Federal
Energy Regulatory Commission by
Sections 7 and 15 of the Natural Gas Act
and the Commission's Rules of Practice
and Procedure, a hearing will be held
without further notice before the
Commission or its designee on this
application if no petition to intervene is
filed within the time required herein, if
the Commission on its own review of the

matter finds that a grant of the
certificate is required by the public
convenience and necessity. If a petition
for leave to intervene is timely filed, or if
the Commission on its own motion
believes that a formal hearing is
required, further notice of such hearing
will be duly given.

Under the procedure herein provided
for, unless otherwise advised, it will be
unnecessary for Applicant to appear or
be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-59720 Filed 12-27-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-121]

Columbia Gas Transmission Corp. and Consolidated Gas Supply Corp.; Notice of Application

December 19, 1979.

Take notice that on December 4, 1979,
Columbia Gas Transmission
Corporation (Columbia), 1700
MacCorkle Avenue, S.E., Charleston,
West Virginia 25314, and Consolidated
Gas Supply Corporation (Consolidated),
445 West Main Street, Clarksburg, West
Virginia 26301, filed in Docket No. CP80-
121 a joint application pursuant to
Section 7(c) of the Natural Gas Act for a
certificate of public convenience and
necessity authorizing the transportation
and exchange of natural gas and the
construction and operation of related
facilities, all as more fully set forth in
the application which is on file with the
Commission and open to public
inspection.

Applicants state that they have
entered into an exchange agreement
dated August 27, 1979, whereby
Columbia would provide up to 25,000
dekatherms equivalent of gas per day
from its reserves in Wyoming County,
New York, for delivery to mutually
agreeable points on Consolidated's
Lines 14, 24, 554 and 546 in Wyoming
County, New York. It is said that the
connections would be constructed under
a gas supply budget-type authorization
or pursuant to an application to be filed.

It is stated that Consolidated would
redeliver gas to Columbia at an existing
interconnection between Columbia's
Line A-5 and Consolidated's Lines 1 and
31 near the Town of Horseheads,
Chemung County, New York, or at a
new interconnection to be constructed
between Columbia's Line 10120 and
Consolidated's Lines 25 and 35 in North
Sewickley Township, Beaver County,
Pennsylvania. It is further stated that the
exchange would be on a gas-for-gas
basis with Consolidated retaining 2.60

percent of the quantity delivered by Columbia, as a fuel retention charge, and that balancing would be, as nearly as possible, on a monthly basis.

Applicants state that Columbia proposes to construct an interconnecting pipeline tap facility at the point of receipt from Consolidated at Beaver Junction, Pennsylvania, at an estimated cost of \$4,000, which cost would be financed from funds generated internally.

It is further stated that Consolidated proposes to construct: (1) three interconnecting tap facilities; (2) Beaver Junction Measuring Station; (3) modifications to Horseheads Measuring Station and (4) modifications to 11 existing measuring stations, all at a cost of \$370,679, which cost would be reimbursed by Columbia from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39521 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. E-9002 and ER76-122]

Commonwealth Edison Co.; Notice of Compliance Filing

December 18, 1979.

The filing Company submits the following:

Take notice that Commonwealth Edison Company on November 13, 1979, tendered for filing, in compliance with Opinion No. 63 of the Federal Energy Regulatory Commission issued in this Docket on September 14, 1979, Revised FERC Electric Tariffs, Rate 78, Wholesale Service, and Rider 20, Fuel Adjustment Applicable to Rate 78, along with certain other material.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 225 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39522 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP77-289]

El Paso Natural Gas Co.; Notice of Amendment

December 19, 1979.

Take notice that on November 26, 1979, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-289 an amendment to its application filed March 11, 1977¹ pursuant to Section 7(c) of the Natural Gas Act so as to authorize the utilization of the Clay Basin interim storage arrangements to pay back Southern California Gas Company (So Cal) and Pacific Gas and

¹ This proceeding was commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (10 CFR 169.1), it was transferred to the Commission.

Electric Company (PG and E) natural gas diverted to serve Applicant's east-of-California (EOC) high priority customers during the 1979-80 winter season, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant states that by orders issued March 17, 1977, September 30, 1977, and July 3, 1978, as amended, in *Mountain Fuel Resources, Inc., et al.*, Docket No. CP76-285, *et al.*, the Commission has authorized the construction and operation of certain facilities and the interim utilization, through September 30, 1980, of a portion of the storage capacity of the Clay Basin Storage Field located in Daggett County, Utah, all for the purpose of assisting Applicant in protecting Priority 1 and 2 service to its EOC customers. The Clay Basin arrangements have been utilized by Applicant for the protection of EOC Priority 1 and 2 service during the 1977-78 and 1978-79 winter seasons, and, it is stated, would again be utilized to assist Applicant in providing such protection during the 1979-80 winter season.

It is further stated that Applicant has recently entered into arrangements (California back-off arrangements) with its California customers. So Cal and PG and E, designed to assist Applicant in further protecting peak-day service to its EOC customers' Priority 1 and 2 requirements during the 1979-80 winter season. It is stated that these arrangements would permit Applicant to divert from its otherwise scheduled deliveries to So Cal and PG and E during the 1979-80 winter season such quantities of natural gas, not to exceed 200,000 Mcf daily, nor a cumulative net total of 2,000,000 Mcf at any time, from each California customer, as may be required for use in protecting peak-day EOC Priority 1 and 2 service. It is said that such diversions from otherwise scheduled deliveries to So Cal and/or PG and E would be required only on those peak days during the 1979-80 winter season when the quantities of natural gas otherwise available for service to Applicant's customers, as augmented by the maximum volumes available from withdrawals from Applicant's Rhodes Reservoir Storage Project and through the Clay Basin arrangements, are not alone sufficient to provide full service to the EOC customers' Priority 1 and 2 requirements.

Applicant states that the California back-off arrangements require that the volumes diverted from the California customers for peak-day EOC Priority 1 and 2 service protection would be restored to those customers as soon as operationally possible. It is stated that

the pay-back of diverted volumes would be accomplished first with such volumes of natural gas as would be made available through withdrawals from Applicant's Rhodes Reservoir. It is asserted that to the extent that withdrawals from Rhodes Reservoir are not sufficient to accomplish pay-back gas, additional volumes would be made available for that purpose through utilization of the Clay Basin arrangement.

Applicant states that the purpose for the request that its existing authorization in connection with the Clay Basin arrangements be amended is to enable it to withdraw volumes for pay-back under the California back-off arrangements. It is further stated that in order to withdraw volumes for pay-back under the said arrangement, Applicant would be required to reduce its otherwise scheduled deliveries to its three largest EOC distributor customers in off-peak periods during the 1979-80 winter season so that natural gas so diverted may be delivered instead to the California customers. It is asserted that such off-peak diversions would only occur to the extent that the volumes of natural gas then available through withdrawals from Rhodes Reservoir are insufficient to accomplish pay-back. It is further said that the three largest EOC distributor customers would be kept whole in the same manner as under the presently authorized Clay Basin arrangements through the contemporaneous delivery by Applicant and sale by Clay Basin Storage Company to those customers of equivalent volumes of Clay Basin Storage Company's gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the

Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39523 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP77-349]

Florida Gas Transmission Co.; Notice of Amendment

December 19, 1979.

Take notice that on October 29, 1979¹, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP77-349 an amendment to its application for a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of additional quantities of natural gas for the account of Southern Natural Gas Company (Southern) from Vermilion Parish, Louisiana, to Washington Parish, Louisiana, or any other authorized point of interconnection which may be mutually agreeable to FGT and Southern, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

FGT states that by temporary certificate issued August 3, 1977, in the instant docket, it was authorized to transport up to 100,000 million Btu equivalent of gas per day for Southern from Vermilion Parish, Louisiana, to Washington Parish, Louisiana. FGT requests herein that said authorization be amended so as to authorize the transportation of an additional 2,000 Mcf of natural gas per day from Vermilion Parish to Washington Parish, Louisiana. It is stated that said additional gas volume would be purchased by Southern in East Cameron Block 38. It is further stated that no other terms of the March 15, 1977, transportation agreement would be changed by the implementation of this proposal.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All

¹ The application was initially tendered for filing on October 29, 1979; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 3, 1979; thus, filing was not completed until the latter date.

protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not do so again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39524 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-99]

Kansas-Nebraska Natural Gas Company, Inc.; Notice of Application

December 19, 1979.

Take notice that on November 21, 1979, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68801, filed in Docket No. CP80-99 and application pursuant to Section 7 of the Natural Gas Act and Sections 157.7(b), 157.7(e) and 157.7(g) of the Regulations thereunder (18 CFR 157.7(b), (e) and (g)), for (1) a certificate of public convenience and necessity authorizing the construction, for an indefinite period commencing January 1, 1980, and operation of facilities to take into its certificated system supplies of natural gas; (2) permission and approval to abandon, during the calendar year 1980, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers; and (3) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon various field compression and related metering and appurtenant facilities, during the calendar year 1980, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application, pursuant to Section 157.7(b), is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant, and supplies of natural gas from Applicant's own production as acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978. Applicant states that the total cost of such facilities would not

exceed \$2,500,000 with no single onshore project to exceed \$20,000,000, for each calendar year.

The stated purpose of this budget-type application, pursuant to Section 157.7(e), is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The stated purpose of this budget-type application, pursuant to Section 157.7(g), is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application. Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed \$2,000,000 with no single project to exceed \$500,000.

The costs involved, it is stated, would be financed from current working capital or from interim bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the

Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-56025 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-110]

Locust Ridge Gas Co., Notice of Application

December 19, 1979.

Take notice that on November 29, 1979, Locust Ridge Gas Company (Applicant), 4100 Southwest Freeway, Suite 320, Houston, Texas 77027, filed in Docket No. CP80-110 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction, and for permission and approval to abandon, during the 12-month period commencing January 1, 1980, and operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed \$935,000 which Applicant would finance through use of internally generated funds and borrowing. Applicant requests a waiver of the cost limitation prescribed in Section 157.7(g) predicated upon the climbing inflation which has eroded the usefulness of the budget authorization.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All

protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-56026 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-111]

Locust Ridge Gas Co., Notice of Application

December 19, 1979.

Take notice that on November 29, 1979, Locust Ridge Gas Company (Applicant), 4100 Southwest Freeway, Suite 320, Houston, Texas 77027, filed in Docket No. CP80-111 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1980, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous

rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant.

Applicant requests waiver of the cost limitations prescribed by Section 157.7(c)(2) to permit a total cost limitation not exceeding \$289,640. It is indicated that the waiver is required because of the increase in construction costs since the limitation was prescribed by the Commission's Regulations. Applicant further states that the cost of the proposed facilities would be financed from internally-generated funds and borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39527 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-85]

National Fuel Gas Supply Corp.; Notice of Application

December 19, 1979.

Take notice that on November 14, 1979, National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14240, filed in Docket No. CP80-85 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the construction and operation of gas delivery facilities, (2) the establishment of new delivery points and (3) the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant request blanket authorization to construct and operate facilities for the delivery and exchange of gas at various points on existing distribution transmission facilities of its affiliate, National Fuel Gas Distribution Corporation (Distribution) over a three-year period. It is stated that Applicant would receive gas from local independent producers or for the account of pipeline and distributor companies and in turn would deliver such gas to Distribution as part of its existing service obligation to Distribution. It is stated further that all gas purchased by Applicant would become part of its general system supply and that the major portion of gas received would come from producers, but that some of the gas would be received subject to an obligation to return volumes pursuant to exchange and exchange-transportation agreements.

Applicant proposes to construct and operate tap, measurements, and related facilities at various points on Distribution's existing facilities where it would receive gas from local producers and then deliver same to Distribution in partial fulfillment of Applicant's existing service obligations.

Applicant further proposes to implement an exchange agreement with Columbia Gas Transmission Corporation (Columbia) by establishing new delivery points to Distribution, and to receive a portion of gas deliveries from Consolidated Gas Supply Corporation (Consolidated) and Columbia at new delivery points for the sale and delivery of such gas to Distribution at new delivery points. It is stated that some of the exchange gas from Columbia would be delivered at existing points of delivery established previously by Columbia.

Applicant further requests blanket authorization to tap pipeline facilities under an October 1979 agreement pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) between Applicant, Consolidated, Elizabethtown Gas Company (Elizabethtown) and New Jersey Natural Gas Company (New Jersey Natural), whereby gas would be delivered to Applicant which Applicant would sell and deliver to Distribution at new delivery points on Distribution's distribution transmission system. Applicant asserts that the construction of such taps on a distribution system are not permitted under the NGPA.

Applicant states that the presently known points of delivery to be constructed for delivery to Distribution are: (1) from Columbia at Distribution's Line HM-190 in Springboro, Crawford County, Pennsylvania, (2) from Consolidated at Cream Hill Road, Town of Fremont, Steuben County, New York, and to Distribution's Line PY-2 in Concord, Erie County, New York, and (3) with Elizabethtown and New Jersey Natural at Black Street Road, Genesee County, New York, and on Distribution's Line WM-2 in Livingston County, New York.

The estimated costs are said to be not more than \$10,000 for each delivery point with not more than \$2,000,000 annually and not more than \$5,000,000 over the three-year term of the proposal. It is stated that the construction would be financed with internally generated funds and/or interim short-term bank loans.

Applicant states that its proposal herein would enable it to provide new supplies of natural gas to its interstate pipeline system in order to offset contemplated diminishing supplies available to serve existing markets.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39526 Filed 12-27-79, 8:15 am]
BILLING CODE 6450-01-M

[Docket No. CP80-116]

Natural Gas Pipeline Company of America; Notice of Application

December 19, 1979.

Take notice that on December 3, 1979, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-116 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delayed exchange of gas between Applicant and Mountain Fuel Supply Company (Mountain Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into transportation agreements with Mountain Fuel dated October 3, 1978 (agreement No. 1), and September 27, 1979 (agreement No. 2), whereby Mountain Fuel has agreed to transport up to 20,000 Mcf of natural gas per day for Applicant from the Bonanza Area, Uintah County, Utah, and up to 30,000 Mcf per day from an area of interest including portions of the Overthrust Belt in northeastern Utah and southwestern Wyoming, respectively.

It is stated that both agreements require redelivery by Mountain Fuel to Colorado Interstate Gas Company (CIG) for Applicant's account at an existing interconnection between Mountain Fuel and CIG in Sweetwater County, Wyoming, pursuant to an agreement dated December 29, 1978, between

Applicant and CIG. It is further stated that CIG has informed Applicant that a capacity constraint on its transmission system may render it unable to accept or deliver all the gas delivered by Mountain Fuel for Applicant's account.

It is said that due to the possible capacity constraints on CIG's system, Applicant and Mountain Fuel have entered into a delayed exchange agreement dated September 28, 1979, which provides for Mountain Fuel to retain for its own use any volumes of gas tendered by Applicant pursuant to agreement No. 1 and agreement No. 2 during the November through March periods of 1979-80, 1980-81, and 1981-82 which cannot be accepted by CIG, and that Mountain Fuel would redeliver thermally equivalent volumes to CIG for the account of Applicant on a best-efforts basis during the April through October periods of 1980, 1981 and 1982.

It is further stated that the charges by and to Applicant would be based on the price of new natural gas under Section 102 of the Natural Gas Policy Act of 1978 on the date of receipt by Mountain Fuel or Applicant, and that compression, if necessary, for Mountain Fuel to make redelivery to CIG, would be 5.0 cents per Mcf plus a proportionate share of the compressor fuel. The term of the delayed exchange agreement in said to be until October 31, 1982, but would be extended until all exchange gas thereunder is redelivered to CIG for Applicant's account.

Applicant states that it would classify costs associated with the proposed exchange in Account No. 806, Exchange Gas, and that the effect of the delayed exchange would be included in the calculation of Applicant's purchased gas cost adjustment. Applicant requests Commission approval of its accounting and rate treatment or Commission assurance that Applicant would be able to recover its costs during both the delivery and redelivery periods of the proposed exchange.

Applicant further requests that delivery of exchange gas not be subject to curtailment by Applicant as a result of the terms of Applicant's curtailment plan as revised from time to time or because of any other reason except *force majeure*.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All

protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39529 Filed 12-27-79, 8:15 am]
BILLING CODE 6450-01-M

[Docket No. CP80-101]

Northwest Pipeline Corp.; Notice of Application

December 19, 1979.

Take notice that on November 21, 1979, Northwest Pipeline Corporation (Applicant), P. O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP80-101 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the transportation of natural gas for the account of Northwest Natural Gas Company (Northern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant states that it has entered into a gas transportation agreement with Northern dated October 5, 1979, which provides for the transportation of up to 10,000 Mcf of natural gas per day, which Northern has or would have available from wells

located in the Sage Brush Hills area of Rio Blanco County, Colorado.

It is said further, that upon receipt of gas tendered by Northern, Applicant would transport such volumes through its facilities to a point of interconnection with Mountain Fuel Resources, Inc. (Resources) in Rio Blanco County, Colorado, where thermally equivalent volumes, less compressor fuel, would be delivered to Resources.

Applicant states that Resources would transport and redeliver the subject gas, less operational losses, to Applicant for the account of Northern at a point of interconnection between Resources and Applicant in Rio Blanco County, Colorado.

Applicant states further that it would transport the gas, less one and one-half percent retained for fuel use, to El Paso Natural Gas Company (El Paso) at the existing point of interconnection between Applicant and El Paso located in La Plata County, Colorado.

It is said that gas so delivered by Applicant to El Paso for the account of Northern would then be further transported and/or exchanged by El Paso for ultimate redelivery to Northern.

Applicant proposes to transport up to 1,924 Mcf of gas per day during the first year, up to 1,434 Mcf per day during the second year, and up to 1,275 Mcf per day during the third year of operation. Applicant states that additional development of the acreage subject to the agreement is anticipated to provide increased volumes in the future.

Applicant states that it would charge Northern 30.5 cents per Mcf for gas delivered to Resources.

Applicant states that it would also charge Northern for the transportation of Northern's gas on Applicant's mainline for redelivery to El Paso. It is further stated that the contemplated transportation by Applicant for Northern would initially be effectuated by displacement, for which Northern would be charged a transportation rate equal to 50 percent of Applicant's average rolled-in transmission cost-of-service, currently 10.54 cents per Mcf. The agreement, it is said, provides that at such time that Applicant redelivers gas to El Paso for Northern's account by direct transportation, Applicant would charge Northern a transportation rate equal to Applicant's average rolled-in transmission cost-of-service, currently 21.08 cents per Mcf.

It is stated that the gathering trunk facilities for the receipt of gas from Northern for delivery to Resources would be constructed and operated pursuant to Applicant's budget authority

for gas supply facilities. Applicant states that the connection to this trunk from the initial five wells would be constructed and owned by Northern.

It is further stated that Applicant proposes to construct and operate an eight-inch tap and related metering facilities at the proposed point of interconnection between Resources' pipeline and Applicant's mainline facilities at a cost of approximately \$22,110, which amount would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39530 Filed 12-27-79, 8:55 am]
BILLING CODE 6450-01-M

[Docket No. CP79-150]

Northwest Pipeline Corp.; Notice of Amendment to Application

December 19, 1979.

Take notice that on November 26, 1979, Northwest Pipeline Corporation (Applicant), P. O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79-150 an amendment to its application filed in said docket on January 17, 1979, pursuant to Section 7(c) of the Natural Gas Act by which amendment Applicant provides information requested by the Commission and up-dates certain exhibits which have become out-dated because of elapsed time, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that the proposed mileage of various sizes of pipeline has been changed to reflect surveyed distances as follows: from 6.38 miles of 10-inch O.D. pipeline to 6.36 miles; from 16.13 miles of 18-inch O.D. pipeline to 15.49 miles; and from 26.20 miles of 20-inch pipeline to 26.33 miles.

It is stated that the horsepower previously requested was erroneously reflected as a four unit station totaling 3,390 horsepower in the Ryckman Creek Field, whereas, it should have been shown as a three unit station totaling 2,625 horsepower.

Applicant states further that by a gas purchase contract dated October 23, 1979, between it and Amoco Production Company together with its gas purchase contract with Chevron U.S.A., Inc., dedicates a total of 87.5 percent of the available gas reserves in the Ryckman Field Creek to Applicant. It is stated that the producers have the option to have Applicant process the Ryckman gas at Applicant's existing Opal gasoline plant.

It is stated that the estimated costs have been revised to reflect the inflationary impact of shifting from a 1973 construction schedule to a mid-year 1980 schedule. It is stated such costs now total approximately \$47,419. Applicant further states that the proposed facilities would initially be financed by short-term borrowings which would be replaced with permanent financing consistent with its then overall financial requirements.

Exhibit P has been supplemented to illustrate the cost of processing gas at the Opal plant and the development of Ryckman-Painter area gathering rate based on the rate of return in Applicant's most recent general rate increase in Docket No. RP79-57.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39531 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ST80-6]

Producer's Gas Co.; Petition for Approval of Transportation Charges
December 19, 1979

Take notice that on November 9, 1979, Producer's Gas Company (Petitioner), 950 One Energy Square, 4925 Greenville Avenue, Dallas, Texas 75206, filed in Docket No. ST80-6 a petition (1) pursuant to Section 284.123(b)(2) of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for an order approving a base transportation charge of 18.45 cents per Mcf for the intrastate transportation and redelivery of natural gas to Michigan-Wisconsin Pipe Line Company (Mich-Wis), (2) for a waiver of the reporting requirements of Section 284.4 of the Commission's Regulations with respect to such transportation, and (3) for an extension of time for the filing of its initial full report under Section 284.126(a) of the Commission's Regulations to November 9, 1979, all as more fully set forth in the petitions which are on file with the Commission and open to public inspection.

Petitioner states that by an agreement with Mich-Wis on September 18, 1979, it is to gather Mich-Wis's interest in gas wells in Caddo County, Oklahoma, until Mich-Wis constructs its own gathering facilities. It is stated that this agreement is for two years with a possible two-year renewal.

It is further stated that the gas of Mich-Wis would be delivered to Western Farmers Electric Cooperative at an existing delivery point in Caddo

County, Oklahoma, for Petitioner's account and that Petitioner would provide Mich-Wis an equivalent volume of gas at a common connection point in Dewey County, Oklahoma. It is said that approximately 9,340 million Btu's per day would be transported for Mich-Wis pursuant to the transportation agreement and that during the primary two-year term a projected total of 6,730,000 million Btu's would be delivered.

Petitioner further states that it was unaware of the 48 hour notice requirement in Section 284.4(b) of the Commission's Regulations or of the Commission's Order No. 46 when it commenced the transportation of gas for Mich-Wis. It is further stated that Petitioner's failure to file its Initial Full Report within 30 days as required by Section 284.126(a) of the Commission's Regulations arose, in part, by the Commission's order dated October 24, 1979, granting rehearing of Order No. 46 for the purpose of reconsideration as Petitioner is unaware of possible changes resulting from the rehearing.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39532 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP70-7]

Southern Natural Gas Co.; Notice of Petition to Amend

December 19, 1979.

Take notice that on November 19, 1979, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 a petition to amend the order issued October 29, 1969,¹ as amended, in the instant docket pursuant to Section 7

¹This proceeding was commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (18 CFR 1080.1), it was transferred to the Commission.

of the Natural Gas Act so as to authorize (1) an increase in the aggregate contract demand volume of Alabama Gas Corporation (Algasco) from 418,527 Mcf per day to 418,877 Mcf per day and (2) an additional delivery point measuring station to Algasco and the deletion of the authorization to sell gas to the Town of Steele, Alabama, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that pursuant to the order issued October 29, 1969, as amended, it is authorized, *inter alia*, to sell and deliver to the Town of Steele, Alabama, a maximum delivery obligation volume of 350 Mcf of gas per day.

Petitioner states that on October 31, 1979, Algasco petitioned the Alabama Public Service Commission for permission to purchase the gas distribution system of the Town of Steele, Alabama. It is stated further the Petitioner's maximum delivery obligation of 350 Mcf per day, to the Town of Steele, has been assigned to Algasco.

Petitioner further states that by an agreement dated October 29, 1979, with Algasco, the service agreement between them was amended so as to provide for a new delivery point measuring station and additional contract demand volume of 350 Mcf per day to reflect Algasco's assumption of Petitioner's service agreement with the Town of Steele.

Petitioner states that the delivery point with an additional 350 Mcf per day contract demand volume would be offset by the abandonment of the sale to the Town of Steele. It is further stated that the reliability of gas service now rendered to customers in and about the Town of Steele, Alabama, would be substantially improved as the result of the ability of Algasco's present peak shaving facilities to provide gas to meet peak load conditions on the system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party

to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39533 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-97]

Southern Natural Gas Co.; Notice of Application

December 19, 1979.

Take notice that on November 19, 1979, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-97 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon in place certain described facilities and to abandon the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon in place approximately 2.7 miles of 4½-inch pipeline known as the Lovick Line with appurtenances thereto, and metering stations thereon, known as the McDavid Meter Station and the Lovick Meter Station. Applicant further proposes to abandon the direct sale transportation for William L. McDavid, formerly Stephenson Brick and Tile Company. Furthermore, Applicant states it would abandon an appurtenant regulator station located at the intersection of the Lovick Line and Applicant's main lines known as the Lovick Tap Regulator Station and a farm tap facility known as the Mountain Lake Farm Tap.

It is stated that the McDavid Meter Station facilities are currently available for direct sale deliveries to William L. McDavid, but that no deliveries are required at this time. Applicant states that the balance of the facilities are currently used for delivery of gas to Alabama Gas Corporation (Algasco). Applicant proposes to delete the Lovick Delivery Point and reallocate that contract demand volume of 168 Mcf per day to the Birmingham Area Delivery Point in Applicant's service agreement with Algasco.

It is further stated that Algasco would extend its Lovick distribution system to interconnect with another of its distribution systems, and that Applicant would supply the Lovick distribution system at the existing Birmingham Area Delivery Point measuring station.

It is asserted that these facilities are in need of substantial repair as a result of physical deterioration which would require an investment disproportionate to gas sale revenues from this system.

Any person desiring to be heard or to make protest with reference to said application should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39534 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-65]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Notice of Application

December 19, 1979.

Take notice that on November 8, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-65 an

application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation of natural gas in connection with a related storage service in New York, Pennsylvania, Massachusetts, Connecticut, and New Hampshire, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate facilities and render transportation services for natural gas storage services which some of its existing customers in New York, Pennsylvania, and New England propose to purchase from Consolidated Gas Supply Corporation (Consolidated), Honeoye Storage Corporation (Honeoye) and National Gas Storage Corporation (National).

Applicant proposes to transport top storage injection and withdrawal volumes for certain of its customers on a long-term firm basis and for others on a long-term best-efforts basis, with a primary term ending March 31, 1995. Additionally, Applicant proposes to transport base gas injection volumes for certain of its customers on a short-term best-efforts basis in connection with the Honeoye and National storage services. It is stated that short-term transportation services would expire on October 31, 1983.

The facilities proposed by Applicant for construction in 1980 are (1) a 4,500 NEMA Horsepower Compression Station 319 in Pennsylvania, and (2) 11 miles of 12,750-inch delivery line loop in New Hampshire and Massachusetts.

Applicant states that the 1981 construction in New York, Massachusetts, Connecticut, and New Hampshire would be as follows:

Main Line Loop		
Location	Size (inch)	Miles
MLV 239 to MLV 239 + 4.0	30	4.0
MLV 243 + 5.74 to MLV 244	30	7.0
MLV 246 to MLV 246 + 5.0	30	5.0
MLV 250 to MLV 250 + 4.0	30	4.0
MLV 255 to MLV 255 + 9.0	30	9.0

Delivery Line Loop		
Location	Size (inch)	Miles
Val. 256A - 101 to Val. 256A - 101 + 3.09	10.750	3.0
Val. 256B - 101C to Val. 256B - 101C + 3.0	8.625	3.0
Val. 256C - 102 + 1.65 to Val. 256C - 102 + 4.55	12.750	3.0
Val. 270B - 103 + 6.0 to Val. 270B - 103 + 2.0	12.750	4.0

It is stated that the direct cost of the 1980 construction is estimated to be \$7,589,000 and that of the 1981 construction is estimated to be \$26,225,000. Such costs, it is stated, would be financed with funds on hand, funds generated internally, borrowings

under revolving credit agreements or short-term financing.

Applicant states that it would provide long-term storage service commencing April 1, 1980, for some customers on a best-efforts basis and for others on a firm basis on the following volumes at 14.73 psia:

Customer	Best efforts		Firm	
	Daily transportation volume (Mcf)	Winter transportation volume (Mcf)	Maximum daily volume (Mcf)	Top storage volume available from consolidated (Mcf)
Bay State Gas Co.	13,956	1,595,164		
Berkshire Gas Co.			1,273	140,000
Boston Gas	909	100,000		
Connecticut Gas Co.	8,327	905,000		
Connecticut Natural Gas Corp.	501	65,000		
Fitchburg Gas & Electric Light Co.			455	50,000
Haverhill Gas Co.			3,192	350,000
Manchester Gas Co.			909	100,000
Valley Gas Co.			1,364	150,000

Applicant states further that the proposed service would be rendered pursuant to its *pro forma* storage service transportation contract and its *pro forma* Rate Schedule SST (for firm service) and its interruptible storage service contract and *pro forma* Rate Schedule ISST for best-efforts service.

It is stated that Applicant would render this transportation service by receiving from each of the above-mentioned customers during each summer, commencing with the 1980 summer, volumes up to the maximum volumes specified above, which volumes the customers would make available to Applicant from their respective purchases from Applicant under Applicant's contracted demand rate schedule and by transporting and delivering equivalent volumes to Consolidated at Applicant's existing Ellsberg Storage Field delivery point to Consolidated located in Potter County, Pennsylvania, for injection into storage for the account of each customer. During each winter period, Applicant would receive volumes from Consolidated at Ellsberg, for the account of each customer, and transport and deliver equivalent volumes up to the above daily volumes to each customer at the delivery points set forth in its respective transportation contract.

Applicant states that the above firm services would require the use of the facilities proposed to be constructed during the 1980 summer.

Applicant further states that it is presently authorized, by order issued

August 1, 1975, in Docket No. CP75-95, to transport top storage injection and withdrawal volumes on a best-efforts basis for three of its customers: namely, Consolidated Edison Company of New York, Inc. (Con Ed), Long Island Lighting Company and The Brooklyn Union Gas Company (BUG) in connection with a storage service rendered for those three customers by Honeoye through its storage facilities in Ontario County, New York.

It is said that Con Ed and BUG have requested that Applicant transport their top storage injection and withdrawal volumes on a firm basis, instead of the present best-efforts basis, commencing with the 1980-81 winter withdrawal period, and both Con Ed and BUG would each have transported by Applicant a maximum daily volume of 6,867 Mcf and each a 1,000,000 Mcf top storage volume available from Honeoye.

Applicant further proposes that the transportation of top storage injection and withdrawal volumes for the two customers be performed on and after the date Applicant has completed construction of the related proposed facilities and is prepared to commence

the transportation service on a firm basis and that Applicant's authorization at Docket No. CP75-95 terminate as to Con Ed and BUG effective the same date. It is stated that the facilities proposed for construction during 1980 would be necessary to convert the transportation service to a firm basis.

Applicant states that two of Applicant's other customers, Boston Gas Company (Boston Gas) and Gas Service, Inc. (Gas Service), have contracted with Honeoye for storage service commencing on April 1, 1980.

It is said that in order for each of these customers to receive the storage service from Honeoye, they have requested and Applicant has agreed to transport, on a long term basis, their top storage injection and withdrawal volumes between Honeoye's storage facilities and Applicant's respective sales meter station delivery point to each customer as set forth in the *pro forma* storage service transportation contract and *pro forma* Rate Schedule SST for firm service and its *pro forma* interruptible storage service transportation contract and *pro forma* Rate Schedule ISST for best-efforts service.

Applicant further states that Boston Gas has requested that the transportation service rendered for it be performed on a best-efforts basis, and Gas Service has requested service in part on a best-efforts basis and in part on a firm basis. It is stated both customers have requested Applicant to commence transportation of their top storage injection volumes during the 1980 summer after they fulfill their obligations to provide base gas injection volume to Honeoye and that the facilities proposed by Applicant to be constructed during the 1980 summer would be necessary to enable Applicant to commence the firm transportation of storage withdrawal volumes for Gas Service effective November 1, 1980.

The volumes which Applicant proposes to transport for each customer are as follows:

Customer	Best efforts		Firm	
	Daily transportation volume (Mcf)	Winter transportation volume (Mcf)	Maximum daily volume (Mcf)	Top storage volume available from Honeoye (Mcf)
Boston Gas	7,273	800,000		
Gas Service	909	100,000	1,000	1,000,000

¹Applicant states that the top storage space to be made available by Honeoye to Gas Service would be 200,000 Mcf and that Gas Service plans to request Applicant to transport 100,000 Mcf of this gas on a best-efforts basis and 100,000 Mcf on a firm basis.

Applicant proposes to service Gas Service's Nashua and Laconia service areas under Applicant's Rate Schedule CD-6 pursuant to an agreement between Applicant and Gas Service. In addition Applicant also requests authorization to transport on a best-efforts basis commencing with the 1980 summer injection period on April 1, 1980, certain volumes of natural gas for Boston Gas and Gas Service for their base storage gas injections related to Honeoye's storage service for such customers as follows:

Customer	Maximum daily volume (Mcf)	Base storage gas obligation to Honeoye (Mcf)
Boston Gas	2,476	520,000
Gas Service	629	130,000

Applicant anticipates that all of the above base gas storage volumes would be delivered by it to Honeoye, for the account of each customer, during the 1980 summer.

It is said that this service would be rendered pursuant to the *pro forma* interruptible base gas transportation contract and *pro forma* Rate Schedule IBGT.

Applicant further proposes to transport top storage injection and withdrawal volumes for certain customers in relation to their storage service with National on best-efforts and/or firm basis as follows:

Customer	Best efforts		Firm	
	Daily transportation volume (Mcf)	Winter transportation volume (Mcf)	Maximum daily volume (Mcf)	Top storage volume available from national ² (Mcf)
Berkshire Gas Co.	1,273	140,000	2,364	260,000
Boston Gas	7,426	816,641		
Central Hudson Gas & Electric Corp.			4,545	500,000
Connecticut Gas Co.	4,823	530,000	4,463	969,450
Connecticut Natural Gas Corp.	4,924	541,600	8,030	958,400
Fitchburg Gas & Electric Lt. Co.	455	50,000		
Gas Service	909	100,000	1,000	100,000
Haverhill Gas Co.	2,395	283,431	787	86,569
Lowell Gas Co.	2,491	274,000	15,691	1,726,000
Manchester Gas Co.			1,227	135,000
Orange & Rockland Utilities, Inc.			9,091	1,000,000
Penn. & Southern Gas Co. (Penn)	1,818	200,000		
Southern Connecticut Gas Co.			1,000	150,000
Valley Gas Company	1,364	150,000	2,727	300,000

² The volumes in this column are only that portion of buyer's top storage volume available from National which buyer has indicated it would request Applicant to transport under Applicant's firm transportation service. The balance of buyer's top storage volume appears in the column entitled Winter Transportation Volume.

Applicant states that under National's storage program, volumes of natural gas made available to National from the above customers via Applicant during the 1980 summer would be utilized by National entirely as base storage gas for the account of each customer and that gas made available to National by these customers during the 1981 summer would be utilized by National, in part as base storage gas, and in part as top storage gas for each customer's account. Applicant proposes to make available its transportation of the top storage injection volumes related to both its best-efforts and firm transportation services listed above whenever such services are requested on or after April 1, 1981. Applicant further proposes to make available its transportation of top storage withdrawal volumes under the best-efforts transportation services listed above whenever they are requested after April 1, 1981, and to make available its transportation of top

storage withdrawal volumes under the above-listed firm transportation services upon completion of its facilities proposed herein to be constructed during the 1981 summer, which completion date is projected to be November 1, 1981.

Applicant's transportation of the top storage injection and withdrawal volumes would be performed by it on a best-efforts basis for all customers listed above, except Penn, pursuant to the *pro forma* interruptible storage service transportation contracts and *pro forma* Rate Schedule ISST, and for Penn pursuant to a *pro forma* transportation contract, and on a firm basis pursuant to *pro forma* storage service transportation contracts. It is further stated that the firm services would require the utilization by Applicant of the facilities proposed for construction during the 1981 summer.

Applicant further states that both the best-efforts and firm top storage

transportation volumes which it proposes to transport are volumes which the customers would nominate for transportation to National for storage from their respective purchases from Applicant under its contracted demand rate schedule.

It is also said that as to top storage injection volumes, Applicant would deliver such volumes as nominated to National at the proposed interconnection of the facilities of Applicant and National to be located in Potter County, Pennsylvania, for injection into storage for the account of each customer. As to top storage withdrawal volumes, Applicant would receive volumes from National for the account of each customer and transport and deliver equivalent volumes for each customer at its existing delivery point(s) to each customer set forth in its respective transportation contract, it is asserted.

Applicant states that in order to be able to render the top storage services for the above listed customers, National would require each of them to furnish base storage injection gas to National. Therefore, Applicant also requests authorization to transport on a best-efforts basis commencing with the 1980 summer injection period on April 1, 1980, certain volumes of natural gas for the customers listed above for their base storage gas injections which would enable National to inject base gas into its underground storage fields.

The maximum daily base gas injection volumes to be transported by Applicant for each customer and the total base gas volume required by National from each customer are as follows:

	Maximum daily storage volume (Mcf)	Base gas obligation to National (Mcf)
Berkshire Gas Co.	573	214,000
Boston Gas	1,259	470,000
Central Hudson Gas & Electric Corp.	711	268,000
Connecticut Gas Co.	2,137	804,000
Connecticut Natural Gas Corp.	2,137	804,000
Fitchburg Gas & Electric Lt. Co.	72	27,000
Gas Service	283	107,000
Haverhill Gas Co.	500	188,000
Lowell Gas Co.	2,848	1,072,000
Manchester Gas Co.	191	72,000
Orange & Rockland Utilities, Inc.	1,427	536,000
Penn.	283	107,000
Southern Connecticut Gas Co.	211	80,000
Valley Gas Co.	639	241,000

Applicant requests authorization to serve Penn hereunder in accordance

with its Rate Schedule CD-4 in lieu of Rate Schedule G-4, with a contract demand volume equal to Penn's presently effective and authorized maximum daily volume of 12,470 Mcf per day effective on the date Applicant first transports top storage injection gas for Penn.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39535 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP74-33]

Transcontinental Gas Pipe Line Corp.; Notice of Petition to Amend

December 19, 1979.

Take notice that on November 29, 1979, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket

No. CP74-33 a petition to amend the order of February 26, 1975¹, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act, so as to delete the allocation of rate schedule WSS service for UGI Corporation (UGI), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that of the present top capacity of the Washington Storage Field, St. Landry Parish, Louisiana, of 66,000,000 dekatherms (dt) equivalent of natural gas, a total of 65,203,319 dt has been allocated by the Commission to Petitioner's Rate Schedule WSS customers. Petitioner states further that one of said customers, UGI, desires to relinquish its allocation of 125,000 dt equivalent. Petitioner, therefore, requests that its authorization be amended to eliminate the WSS service allocation of UGI.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39536 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP75-265]

United Gas Pipe Line Co. and Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Notice of Petition to Amend

December 19, 1979

Take notice that on November 29, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston,

¹ This proceeding was commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Texas 77001, filed in Docket No. CP75-265 a joint petition to amend the Commission's order issued pursuant to Section 7(c) of the Natural Gas Act on July 15, 1975, as amended, in the instant docket¹ so as to authorize a new delivery point for the exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners stated that by an agreement dated September 27, 1976, they have agreed to establish a new delivery point for the exchange of natural gas at an existing point of interconnection between Tennessee's 16-inch Cameron-Grand Chenier Line and United's 4-inch pipeline on the east bank of the Calcasieu River in Cameron Parish, Louisiana.

It is stated that the proposed exchange point would make additional volumes available during the peak heating season. It is further asserted that no additional facilities would be required.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39537 Filed 12-27-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticides and Toxic Substances

(OPTS-51012; FRL 1380-3)

Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section (§)5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the Federal Register. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on the PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number "5AHQ1179-0070" and should be submitted in triplicate to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, SW., Washington, D.C. 20460.

Nonconfidential portions of the PMN and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460; telephone: 202/426-3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under § 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28556). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the

Federal Register" on p. 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a non-confidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentially claims for chemical identity, chemical use, the identity of the submitter, and health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA normally has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without

providing EPA notice under Section 5(a)(1)(A).

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).)
Dated: December 19, 1979.

John P. DeKany,
Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ-1179-0070.
Close of Review Period: February 14, 1980.
Manufacturer's Identity: Claimed confidential.

Specific Chemical Identity: The company claims the specific chemical identity to be confidential.

Uses: The company claims the uses to be confidential.

Data Submitted: The company claims as confidential the data describing the physical and chemical properties of the new chemical substance. No other health and safety data were submitted.

[FR Doc. 79-39510 Filed 12-27-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP-00110; 1380-7]

Federal Insecticide, Fungicide, and Rodenticide Act, Scientific Advisory Panel; Open Meeting

AGENCY: Office of Pesticide Programs,
Environmental Protection Agency (EPA).
ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:00 a.m. to 5:00 p.m. daily on Thursday and Friday, January 17 and 18, 1980. The meeting will be held in the Terrace Room, Quality Inn—Pentagon City, 300 Army Navy Drive, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), EPA, Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202, Telephone: 703/557-7590.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact of regulatory actions under sections 6(b) and 25(a) on health and the environment prior to implementation. The agenda for this meeting will include the following topics:

1. Discussion of Agency assessment of toxicology and safety data on the chlorinated isocyanurates for swimming pool sanitation uses;
2. Agency presentation on the hazard to avian species from the use of soil-incorporated granular pesticides;

3. Review of data contained in the Canadian and Mississippi studies on photomirex in response to a Congressional request;

4. Completion of any unfinished business from previous Panel meetings; and

5. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 may be obtained by contacting Mr. Homer Hall, Special Pesticide Review Division (TS-791), Room: 724 J, Crystal Mall, Building No. 2, at the address given above, Telephone: 703/557-7440. Information relative to item 2 may be obtained by contacting Mr. Richard Balcomb, Telephone: 703/557-7725. Information relative to item 3, may be obtained by contacting the Executive Secretary at the above address and telephone number.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm that the Panel will review all of the agenda items. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than January 14, 1980.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is Friday and Saturday, February 22 and 23, 1980, in Tucson, Arizona.

Authority: Section 25(d) of FIFRA, amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 88 Stat. 770).

Dated: December 20, 1979.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-39648 Filed 12-27-79 am]

BILLING CODE 6550-01-M

[OPTS-51013; 1380-6]

Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notices.

SUMMARY: Section (§) 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. § 5(d)(2) requires EPA to publish a summary of each PMN in the Federal Register. This Notice announces receipt of PMN's and provides a summary of each.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Flamm, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-3980.

SUPPLEMENTARY INFORMATION: § 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under § 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested

persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the Federal Register" on p. 28567 of the Interim Policy.

A PMN must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under § 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the § 5(d)(2) notice is subject to § 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, and the generic use and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA normally has 90 days to review a PMN once the Agency receives it (§ 5(a)(1)). The § 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under § 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must

report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under § 5(a)(1)(A).

Authority: § 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604). Dated: December 20, 1979.

John P. DeKany

Deputy Assistant Administrator for Chemical Control.

PMN No.: 5AHQ-1279-0079.

Close of Review Period: March 12, 1980.

Manufacturer's Identity: Manufacturer's identity is claimed confidential.

Specific Chemical Identity: Polymer of phthalic anhydride, ethylene glycol, heptanol, and 2-ethylhexanol.

Use: Plasticizer for polyvinyl chloride resins.

Data:¹

Physical/Chemical Properties:

Theoretical min. avg. molecular wt.—500

Color—clear yellow liquid

Viscosity (centipoise), 25° C—1900

Specific gravity, 25°/25° C—1.090

Acid value—2.0

Refractive index at 25° C—1.505

Flash point—COC, °F—435

Fire point—COC, °F—500

Pour point—ASTM, °F—18

Odor—characteristic

Exposure and Effects: Dermal exposure may occur during reactor sampling, quality control testing, drumming, and loading tankcars/tankwagons. However, the potential for contact is slight, as employees wear gloves, goggles/safety glasses and other appropriate protective equipment to prevent skin contact. Maximum duration of exposure will occur during drumming operations which could take up to six (6) hours.

Polyvinyl chloride plastic articles may contain up to sixty percent (60%) plasticizer. The plasticizer forms a molecular film on the finished plastic article. As a result of handling plastic articles, minute quantities of plasticizer may be rubbed off from contact.

The plasticizer is similar in chemical structure to other commercial polymeric plasticizers for polyvinyl chloride resins which have been marketed for over thirty years. The manufacturer states that it is not aware of any adverse effects resulting from the use of similar high molecular weight plasticizers.

PMN No.: 5AHQ-1279-0080.

Close of Review Period: March 12, 1980.

Manufacturer's Identity: Manufacturer's identity is claimed confidential.

Specific Chemical Identity: Polymer of phthalic anhydride, 1,2-propylene glycol, 1,4-butanediol, 1-octanol and 1-decanol.

Use: Plasticizer for polyvinyl chloride resins.

Data:¹

Physical/Chemical Properties:

Theoretical min. avg. molecular wt.—550

Color—clear yellow liquid

Viscosity (centipoise), 25° C—3960

Specific gravity, 25°/25° C—1.1000

Acid value—2.0

Refractive index at 25° C—1.5140

¹ All data and other information are as provided by the manufacturer.

Flash point—COC, °F—450
Fire point—COC, °F—490
Pour point—ASTM, °F—20
Odor—characteristic

Exposure and Effects: Dermal exposure may occur during reactor sampling, quality control testing, drumming, and loading tankcars/tankwagons. However, the potential for contact is slight, as employees wear gloves, goggles/safety glasses and other appropriate protective equipment to prevent skin contact. Maximum duration of exposure will occur during drumming operations which could take up to six (6) hours.

Polyvinyl chloride plastic articles may contain up to sixty percent (60%) plasticizer. The plasticizer forms a molecular film on the finished plastic article. As a result of handling plastic articles, minute quantities of plasticizer may be rubbed off from contact.

The plasticizer is similar in chemical structure to other commercial polymeric plasticizers for polyvinyl chloride resins which have been marketed for over thirty years. The manufacturer states that it is not aware of any adverse effects resulting from the use of similar high molecular weight plasticizers.

PMN No.: 5AHQ-1279-0081.

Close of Review Period: March 12, 1980.

Manufacturer's Identity: Manufacturer's identity is claimed confidential.

Specific Chemical Identity: Polymer of phthalic anhydride, ethylene glycol, heptanol, 1-octanol, and 1-decanol.

Use: Plasticizer for polyvinyl chloride resins.

Data:¹

Physical/Chemical Properties:

Theoretical min. avg. molecular wt.—500

Color—clear yellow liquid

Viscosity (centipoise), 25° C—1900

Specific gravity, 25°/25° C—1.090

Acid value—2.0

Refractive index at 25° C—1.505

Flash point—COC, °F—435

Fire point—COC, °F—500

Pour point—ASTM, °F—18

Odor—characteristic

Exposure and Effects: Dermal exposure may occur during reactor sampling, quality control testing, drumming, and loading tankcars/tankwagons. However, the potential for contact is slight, as employees wear gloves, goggles/safety glasses and other appropriate protective equipment to prevent skin contact. Maximum duration of exposure will occur during drumming operations which could take up to six (6) hours.

Polyvinyl chloride plastic articles may contain up to sixty percent (60%) plasticizer. The plasticizer forms a molecular film on the finished plastic article. As a result of handling plastic articles, minute quantities of plasticizer may be rubbed off from contact.

The plasticizer is similar in chemical structure to other commercial polymeric plasticizers for polyvinyl chloride resins which have been marketed for over thirty years. The manufacturer states that it is not aware of any adverse effects resulting from the use of similar high molecular weight plasticizers.

PMN No.: 5AHQ-1279-0082.

Close of Review Period: March 12, 1980.

Manufacturer's Identity: Manufacturer's identity is claimed confidential.

Specific Chemical Identity: Polymer of phthalic anhydride, 1,2-propylene glycol, 1,4-butanediol, and 2-ethylhexanol.

Use: Plasticizer for polyvinyl chloride resins.

Data:¹

Physical/Chemical Properties:

Theoretical min. avg. molecular wt.—550

Color—clear yellow liquid

Viscosity (centipoise), 25° C—3960

Specific gravity, 25°/25° C—1.1000

Acid value—2.0

Refractive index at 25° C—1.5140

Flash point—COC, °F—450

Fire point—COC, °F—490

Pour point—ASTM, °F—20

Odor—characteristic

Exposure and Effects: Dermal exposure may occur during reactor sampling, quality control testing, drumming, and loading tankcars/tankwagons. However, the potential for contact is slight, as employees wear gloves, goggles/safety glasses and other appropriate protective equipment to prevent skin contact. Maximum duration of exposure will occur during drumming operations which could take up to six (6) hours.

Polyvinyl chloride plastic articles may contain up to sixty percent (60%) plasticizer. The plasticizer forms a molecular film on the finished plastic article. As a result of handling plastic articles, minute quantities of plasticizer may be rubbed off from contact.

The plasticizer is similar in chemical structure to other commercial polymeric plasticizers for polyvinyl chloride resins which have been marketed for over thirty years. The manufacturer states that it is not aware of any adverse effects resulting from the use of similar high molecular weight plasticizers.

PMN No.: 5AHQ-1279-0083.

Close of Review Period: March 12, 1980.

Manufacturer's Identity: Manufacturer's identity is claimed confidential.

Specific Chemical Identity: Polymer of phthalic anhydride, 1,3-butylene glycol, 1-octanol, and 1-decanol.

Use: Plasticizer for polyvinyl chloride resins.

Data:¹

Physical/Chemical Properties:

Theoretical min. avg. molecular weight—

574

Color—clear yellow liquid

Viscosity (centipoise), 25° C—795

Specific gravity, 25°/25° C—1.0900

Acid value—2.0

Refractive index at 25° C—1.5040

Flash point—COC, °F—465

Fire point—COC, °F—500

Pour point—ASTM, °F—5

Odor—characteristic

Exposure and Effects: Dermal exposure may occur during reactor sampling, quality control testing, drumming, and loading tankcars/tankwagons. However, the potential for contact is slight, as employees wear gloves/goggles/safety glasses and other appropriate protective equipment to prevent skin contact. Maximum duration of exposure will occur during drumming operations which could take up to six (6) hours.

Polyvinyl chloride plastic articles may contain up to sixty percent (60%) plasticizer.

¹ All data and other information are as provided by manufacturer.

The plasticizer forms a molecular film on the finished plastic article. As a result of handling plastic articles, minute quantities of plasticizer may be rubbed off from contact.

The plasticizer is similar in chemical structure to other commercial polymeric plasticizers for polyvinyl chloride resins which have been marketed for over thirty years. The manufacturer states that it is not aware of any adverse effects resulting from the use of similar high molecular weight plasticizers.

PMN No.: 5AHQ-1279-0064.

Close of Review Period: March 12, 1980.

Manufacturer's Identity: Manufacturer's identity is claimed confidential.

Specific Chemical Identity: Polymer of phthalic anhydride, 1,3-butylene glycol, 2-ethylhexanol.

Use: Plasticizer for polyvinyl chloride resins.

Data:¹

Physical/Chemical Properties:

Theoretical min. avg. molecular wt.—574

Color—clear yellow liquid

Viscosity (centipoise), 25°C—795

Specific gravity, 25°/25°C—1.0600

Acid value—2.0

Refractive index at 25°C—1.5040

Flash point—COC, °F—465

Fire point—CVOG, °F—500

Pour point—ASTM, °F—5

Odor—characteristic

Exposure and Effects: Dermal exposure may occur during reactor sampling, quality control testing, drumming, and loading tankcar/tankwagons. However, the potential for contact is slight, as employees wear gloves, goggles/safety glasses and other appropriate protective equipment to prevent skin contact. Maximum duration of exposure will occur during drumming operations which could take up to six (6) hours.

Polyvinyl chloride plastic articles may contain up to sixty percent (60%) plasticizer. The plasticizer forms a molecular film on the finished plastic article. As a result of handling plastic articles, minute quantities of plasticizer may be rubbed off from contact.

The plasticizer is similar in chemical structure to other commercial polymeric plasticizers for polyvinyl chloride resins which have been marketed for over thirty years. The manufacturer states that it is not aware of any adverse effects resulting from the use of similar high molecular weight plasticizers.

[FR Doc. 79-39645 Filed 12-27-79; 8:45 am]

BILLING CODE 6500-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Development and Review of FDIC Rules and Regulations; Statement of Policy, Amendments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Amendment of policy statement.

¹ All data and other information are as provided by manufacturer.

SUMMARY: As part of its general regulatory reform effort and FDIC initiatives for the White House Conference on Small Business, FDIC has amended its policy statement which sets forth the procedures for the development and review of its regulations. The amendments formally incorporated into the policy statement specific provisions to insure that maximum consideration is given to the reduction of the regulatory burden for small banks, i.e., banks with assets of \$25 million or less.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, 202-389-4237

SUPPLEMENTARY INFORMATION: The amendments change the "Policy and Scope" section to emphasize that the reduction of the regulatory burden for small banks is a primary concern of FDIC. Further, with respect to the development of new regulations, the amendments provide for the disclosure of information concerning (1) the consideration that is given to the use of alternative regulatory approaches to minimize the small bank burden and (2) the development of impact statements for small banks. The amendments also provide that appropriate consideration will be given to the reduction of the small bank burden when existing FDIC regulations are reviewed. In addition, the amendments state that the FDIC Regulations Task Force will review formal proposals for new regulations to determine whether they comply with the FDIC policy statement.

Accordingly, FDIC does hereby amend its policy statement entitled "Development and Review of FDIC Rules and Regulations" [44 FR 31007; 44 FR 32353] as follows:

1. Item "(f)" of the first paragraph in section 1 is changed to read: "(f) That burdens on the public, on the banking industry generally, and on small banks particularly (i.e., banks with assets of \$25 million or less), be minimized; and".

2. A new sentence is added to the end of the first paragraph in section 2 which reads: "The Regulations Task Force will also receive a copy of the preliminary report and will review each formal proposal before it is submitted to the Board of Directors to certify that it complies with the guidelines of this policy statement."

3. Item "(4)" in the third paragraph of section 2 is amended to read: "(4) Alternative approaches (including flexible regulatory methods to minimize

the burden for small banks) that were considered;"

4. Item "(6)" in the third paragraph of section 2 is amended to read: "(6) A cost-benefit analysis, including a small bank impact statement, for the regulation (unless the staff advises the Board of Directors of the reasons why such an analysis is not feasible and the Board of Directors agrees with that advice);"

5. Item "(d)" in section 5 is changed to read: "(d) The need to minimize the burden imposed on those affected by the regulation, especially small banks;"

By order of the Board of Directors December 20, 1979.

Federal Deposit Insurance Corporation.

Heyle L. Robinson,

Executive Secretary.

[FR Doc. 79-39572 Filed 12-27-79; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA 5716]

National Flood Insurance Program; Communities with Flood-Prone Areas Subject to Section 202(A) Prohibition of Federal and Federally Related Assistance

AGENCY: Federal Insurance Administration.

ACTION: Deletion.

In the Federal Register, Docket No. FEMA 5716 appearing on page 64893 in the issue of Thursday, November 8, 1979, delete the following community from this listing:

City of Courtland, Courtland County, NY
Comm. No. 361441 ID Date 2-14-75.

[National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17604, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963].

Issued: December 4, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39515 Filed 12-27-79; 8:45 am]

BILLING CODE 6715-03-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, January 17,

1980; Thursday, January 24, 1980; Thursday, January 31, 1980.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E

Street, NW., Washington, D.C. 20415 (202-632-9710).

Jerome H. Ross,
Chairman, Federal Prevailing Rate Advisory Committee.

December 19, 1979.

[FR Doc. 79-39542 Filed 12-27-79; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Pan American Bancshares, Inc.; Proposed Acquisition of Assets of Atico Mortgage Corp.

Pan American Bancshares, Inc., Miami, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission for its subsidiary, Bancshares Properties, Inc., to acquire four offices of Atico Mortgage Corporation, Miami, Florida.

Applicant states that the subsidiary would engage at these locations in the activity of mortgage banking, including originating and servicing loans and other extensions of credit secured by real estate mortgages, for its own account and for the account of others. These activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). These activities would be performed from the offices to be acquired in Orange Park, Orlando, Tampa, and West Palm Beach, Florida, and the geographic area to be served by each office is, respectively, Orange, Duval, Hillsborough, and Palm Beach County, Florida.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 21, 1980.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 17, 1980.

Board of Governors of the Federal Reserve System, December 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39539 Filed 12-27-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The Bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 21, 1980.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Philadelphia National Corporation, Philadelphia, Pennsylvania (commercial finance); Maryland, Pennsylvania,

Virginia, and the District of Columbia); to engage through its subsidiary, Congress Financial Corporation, in origination of loans secured by accounts receivable, inventory, machinery and equipment and/or other commercial finance collateral, to business and corporations. These activities would be conducted from an office located in Columbia, Maryland serving Maryland, Pennsylvania, Virginia, and the District of Columbia.

B. Federal Reserve Bank of Cleveland (Harry W. Hunning, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; Hawaii) to engage *de novo* through its subsidiary, The Kissell Company, Springfield, Ohio, in the making or acquiring and servicing for its own accounts and the accounts of others, loans and other extensions of credit. Such activities would be conducted from an office in Kailua-Kona, Hawaii and would serve metropolitan Kona and the entire island of Hawaii.

C. Other Federal Reserve Banks
None.

Board of Governors of the Federal Reserve System, December 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39703 Filed 12-26-79; 8:45 am]
BILLING CODE 6210-01-M

Commerce BancShares of Wyoming, Inc.; Acquisition of Bank

Commerce BancShares of Wyoming, Inc., Sheridan, Wyoming, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Security Bank of Buffalo, Buffalo, Wyoming. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 21, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39707 Filed 12-28-79; 8:45 am]
BILLING CODE 6210-01-M

Elsie, Inc.; Formation of Bank Holding Company

Elsie, Inc., Elsie, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Commercial State Bank, Elsie, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39709 Filed 12-28-79; 8:45 am]
BILLING CODE 6210-01-M

First of Chadron Bank Corp.; Formation of Bank Holding Company

First of Chadron Bank Corporation, Chadron, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95.5 percent of the voting shares of The First National Bank of Chadron, Chadron, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing.

identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39711 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

First Denham BancShares, Inc.; Formation of Bank Holding Company

First Denham Bancshares, Inc., Denham Springs, Louisiana, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Denham Springs, Denham Springs, Louisiana. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39713 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

First State Agency of Lake Lillian, Inc.; Proposed Retention of General Insurance Agency Activities

First State Agency of Lake Lillian, Inc., Lake Lillian, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain its general insurance agency activities. These activities would be performed from offices of Applicant's subsidiary in Lake Lillian, Minnesota, and the geographic area to be served is Lake Lillian, and its surrounding area in Minnesota. Such activities have been specified by the Board in section

225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 21, 1980.

Board of Governors of the Federal Reserve System, December 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39715 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

Horizon Bancorp; Acquisition of Bank

Horizon Bancorp, Morristown, New Jersey, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of The Marine National Bank of Wildwood, Wildwood, New Jersey. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39710 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

Liberty National Corp.; Proposed Acquisition of Mid-America Credit Life Assurance Co.

Liberty National Corporation, Oklahoma City, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Mid-America Credit Life Assurance Company, Oklahoma City, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activities of underwriting and reinsuring credit life and credit accident and health insurance in connection with extensions of consumer credit by lending subsidiaries of Applicant. These activities would be performed from offices of Applicant's subsidiary in Oklahoma City, Oklahoma, and the geographic area to be served will be limited to the area within a 100 mile radius of the subsidiary's main office. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 21, 1979.

Board of Governors of the Federal Reserve System, December 21, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39706 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

Orbanco, Inc.; Acquisition of Bank

Orbanco, Inc., Portland, Oregon, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of Lincoln Bank, Lincoln City, Oregon. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-39712 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

Treasure Valley Bancorp, Inc.; Formation of Bank Holding Company

Treasure Valley Bancorp, Inc., Fruitland, Idaho, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of Intermountain State Bank, Cascade, Idaho and Treasure Valley State Bank, Fruitland, Idaho. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 19, 1979.

Griffith L. Garwood

Deputy Secretary of the Board.

[FR Doc. 79-39714 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79F-0449]

BASF Wyandotte Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: BASF Wyandotte Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a sanitizing solution consisting of elemental iodine, *alpha*-alkyl (C10-C14)-*omega*-hydroxypoly(oxyethylene)poly (oxypropylene) of average molecular weight (768-837) and *alpha*-alkyl (C12-C18)-*omega*-hydroxypoly(oxyethylene)poly (oxypropylene) of average molecular weight (950-1120).

FOR FURTHER INFORMATION CONTACT: Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB 3456) has been filed by BASF Wyandotte Corp., Wyandotte, MI 48192, proposing that the food additive regulations be amended to provide for the safe use of a sanitizing solution consisting of elemental iodine, *alpha*-alkyl (C10-C14)-*omega*-hydroxypoly(oxyethylene)poly (oxypropylene) of average molecular weight (768-837) and *alpha*-alkyl (C12-C18)-*omega*-hydroxypoly(oxyethylene)poly

(oxypropylene) of average molecular weight (950-1120).

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, and environmental assessment report as applicable, will be published in the Federal Register as required by 21 CFR 25.25(b).

Dated: December 17, 1979.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 79-39302 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79M-0438]

Cooper Laboratories, Inc.; Premarket Approval of Permalens (Perfilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 (Pub. L. 94-295; 90 Stat. 539-583) of the Permalens (perfilcon A) Hydrophilic Contact Lens sponsored by Cooper Laboratories, Inc., Mountain View, CA. After reviewing the Ophthalmology Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 28, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Cooper Laboratories, Inc., submitted an application for premarket approval of Permalens (perfilcon A) Hydrophilic Contact Lens to FDA on November 14, 1979. The Ophthalmology Device Classification Panel, an FDA advisory committee, reviewed the application and recommended approval

of the application. On June 11, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (h)) (the act), soft contact lenses and solutions are not regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provided transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, as a condition to approval, FDA requires that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the information on which the agency's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the hearing of this document.

The labeling of the Permalens (perfilcon A) Hydrophilic Contact Lens, like that of other approved soft contact lenses, states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling helps to inform lens users that they must avoid purchasing inappropriate products, e.g., solutions for use with hard contact lenses. But the restrictive labeling needs to be updated periodically to refer to new solutions FDA approves for use with an approved lens. A sponsor who does not update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41 through 59), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the Federal Register of the

agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall at the next printing or at any other time as FDA prescribes by letter to the sponsor correct its labeling to refer to the new solution.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b)(21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 28, 1980, filed with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above-named office, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: December 18, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-39333 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79C-0456]

Ethicon, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Ethicon, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of D&C Violet No. 2 in poly (p-dioxanone) synthetic absorbable surgical sutures.

FOR FURTHER INFORMATION CONTACT: Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.
SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402-403 (21 U.S.C. 376(d))), notice is given that a petition (CAP 9C0142) has been filed by Ethicon, Inc., Somerville, NJ 08876, proposing that the color additive regulations be amended to provide for the safe use of D&C Violet No. 2 in poly (p-dioxanone) synthetic absorbable surgical sutures.

The potential environmental effects of this action have been carefully considered, and FDA has concluded that the action will not significantly affect the quality of the human environment. The environmental impact analysis report and the environmental assessment report are available upon request from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Dated: December 12, 1979.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 79-39397 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

National Institutes of Health

Workshop on Assays for Identification of High Risk Individual in Autosomal Dominant Gene Cancer Family, Members; Notice of Meeting

Notice is hereby given of the workshop on Assays for Identification of High Risk Individuals in Autosomal Dominant Gene Cancer Family Members sponsored by the National Institutes of Health, National Cancer Institute, Carcinogenesis Extramural Program, Biological Carcinogenesis Branch, January 29 and 30, 1980, at the National Institutes of Health, Building 31, Conference Room 9, Bethesda, Maryland 20205.

This meeting will be open to the public on January 29 and 30 at 8:30 a.m. until adjournment, to discuss the merits and deficiencies of the individual assay systems and attempt to establish

criteria, including the appropriate controls for use in evaluating the tests. Attempts will be made to define appropriate populations to be used in further evaluations of the tests. Emphasis will be placed on determining the parameters, validity, specificity and reproducibility of each test. Attendance by the public will be limited to space available.

Dr. Mina Lee Vernon, Biological Carcinogenesis Branch, Division of Cancer Cause and Prevention, National Cancer Institute, Landow Building, Room 9A-22, Bethesda, Maryland 20205, (301) 496-9740, will provide additional information.

Date: December 20, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-39519 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-08-M

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, January 23, 1980, Building 31C, Conference Room 4, National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 1:00 p.m. to adjournment, to hear reports on activities of the President's Cancer Panel and the National Cancer Program. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5700) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Richard A. Tjalma, Executive Secretary, National Cancer Institute, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5654) will furnish substantive program information.

Date: December 18, 1979.

Suzanne L. Freneau,
Committee Management Officer, National
Institutes of Health.

[FR Doc. 79-39517 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-08-M

National Heart, Lung, and Blood Institute

Notice of Meeting of Sickle Cell Disease Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee,

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National Heart, Lung, and Blood Institute, February 21-22, 1979. The meeting will be held at the Federal Building, Conference Room 6C01, 7550 Wisconsin Avenue, Bethesda, Maryland. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A21, (301) 496-4236, will provide summaries of the meeting and roster of the Committee members.

Clarice D. Reid, M.D., Chief, Sickle Cell Disease Branch, DEDR, NHLBI, NIH, Federal Building, Room 504, (301) 496-6931, will furnish substantive program information.

Dated: December 18, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-39518 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-08-M

Comment	Change
"Within-School Segregation" does not adequately describe the sub-issues.	The category title was changed to "Within-School Discrimination."
Secondary school athletics should be covered as a distinct category.	Secondary school athletics as a sub-issue in "Within-School Discrimination" was clarified.
Vocational training at the postsecondary level should receive more emphasis.	No change. The addition of this issue would require a diversion of investigative staff planned for allocation to other issues which OCR has determined are of higher priority. This issue will be addressed as part of the monitoring of State vocational education agencies' Methods of Administration provided for under the "monitoring section of the AOP."
The provisions of Titles VII and VIII of the Public Health Services Act should be included as an issue.	This subject has been added to the planned coverage of graduate and professional school admissions where the institutions selected for review are subject to the provisions of Titles VII and VIII. It has not been added to the undergraduate compliance review issues because it would require a diversion of investigative staff planned for allocation to other issues which OCR has determined are of higher priority.
Not enough investigative time was allocated to Title IX activities.	The allocation of investigative staff time for complaints and carryover compliance reviews was adjusted to account for actual workload as of the beginning of FY 1980. Adjustments were made to account for increased coverage of Title IX in the compliance review issues. The overall effect was an increase of time for Title IX activities from 17 percent to 18 percent.
Title IX coverage should be added to the vocational rehabilitation issue.	Title IX coverage was added to the extent that educational activities are operated by the recipients to be reviewed.

In OCR's affidavit to the court in October, we stated that at present, because the complaint workload is within manageable proportions, we anticipate no further difficulties in maintaining our scheduled compliance review activities. Thus, resources which were diverted earlier to resolve the large complaint load will be assigned to the compliance review program.

In addition, more accurate analysis of FY 1979 workload statistics identified fewer pending complaint cases than the August draft AOP projected and a higher investigator productivity rate for complaints (as described further below).

Office for Civil Rights Annual Operating Plan for Fiscal Year 1980

The Office for Civil Rights (OCR) issued its Proposed Fiscal Year 1980 Annual Operating Plan (AOP) for public comment in the Federal Register on August 1, 1979 (44 FR 45255-56). The AOP sets forth the compliance and enforcement activities that OCR proposed to conduct in FY 1980.

All of the comments received related to Title IX activities. They dealt primarily with: The allocation of resources for Title IX activities; The selection of compliance review issues, particularly in postsecondary education; and The coverage of sex discrimination in certain health and human development compliance review issue areas.

The AOP was revised on the basis of these comments and updated workload statistics. The comments and the changes made in response to them are identified in the following chart.

Consequently, the updated statistics created available resources beyond those projected in the August draft AOP.

OCR has decided to concentrate these additional resources on health and human services programs. OCR has made this decision for several reasons. First, OCR recognizes that there has been an historical imbalance in the distribution of its resources. OCR has traditionally concentrated its enforcement of civil rights laws on education programs due to the mandates that the *Adams* and other court orders placed on resolving civil rights issues in the education sector. Second, the majority of HEW funds support health

and human services programs, and the majority of HEW recipients and beneficiaries are in the health and human services sector. Third, for various reasons, individuals have filed relatively few complaints in the health and human services areas, even though compliance reviews indicated substantial noncompliance with Title VI and other civil rights statutes. Consequently, in order to ensure adequate civil rights enforcement in the health and human services sector, there is a need to focus investigator resources in the health and human services area by conducting a large number of compliance reviews.

The final AOP bases its projection of a higher productivity rate (15.5 complaints investigated per person year) on the following factors:

- During FY 79, OCR recruited and trained over 700 investigators. The productivity of these FY 1979 recruits will be significantly higher during FY 1980. OCR has also recently accelerated its plan for additional investigator training.
 - In late FY 1979, OCR established and staffed the civil rights attorneys divisions in all regional offices. Daily assistance from civil rights attorneys to investigators will greatly enhance investigator productivity.
 - We now have policy determinations for a number of issues which had previously been unresolved (for example, Title IX employment, Title IX intercollegiate athletics, and hair and dress code issues). In addition, during FY 1980, OCR will accelerate policy determinations on certain remaining issues which have been unresolved and are consequently preventing investigators from settling related complaints (for example, discrimination based on limited English-speaking ability, whether section 504 would prohibit a school district from denying a handicapped child an education in excess of the standard school year if that excess is required to provide the child with an appropriate education, and what limitations section 504 placed on school districts which attempt to suspend or expell a handicapped child).
- Analysis of workload data also indicated that the August draft AOP projection of resources needed for conducting pregrant reviews was significantly higher than the resources actually directed to pregrant reviews in FY 1979. The final AOP allocates the

same level of effort to pregrant reviews in FY 1980 as it allocated to those reviews in FY 1979.

The final AOP for FY 1980 follows: OCR has an authorized employment ceiling of 1700. Of these, 440 are assigned to Headquarters and 1260 are assigned to ten regional offices. The regional staff is composed of managers, supervisors, investigators, attorneys and clericals. This regional staff produces 623 person years of investigator time. These investigative person years will be assigned to compliance and enforcement work in FY 1980 as follows:

	Investigator Time	Person	Percent
		years	years
Complaint investigations	214	34	
Compliance reviews	368	59	
Pregrant reviews	18	3	
Monitoring	23	4	
Total	623	100	

Complaint Investigations

Table 1 shows projected complaint receipts, closures, and opening and ending inventories by jurisdiction. In order to determine the level of investigative staff resources required to process these complaints, the following projections were made: OCR expects to receive 5,855 complaints in FY 1980. Of these, 55 percent will require a full investigation and 45 percent can be resolved without a formal investigation or closed administratively because they are incomplete or outside OCR's jurisdiction. Based on these projections, 214 investigative years are allocated to complaints.

If these projections are not accurate, the amount of staff assigned to complaint processing will be adjusted. For example, it is possible that complaint receipts could range from a high of 7,220 to a low of 4,490. Within this range, as many as 4,693 or as few as 2,016 complaints could require a full investigation.

Adjustments in the staff assigned to complaint processing will be accomplished by adjusting the level of staff assigned to compliance reviews. If fewer complaints are received or if the percentage requiring a full investigation is smaller than projected, investigative time will be transferred from complaints to compliance reviews. Any such adjustments will be announced in a supplementary AOP and published during FY 1980.

Compliance Reviews

A total of 368 investigative years will be available to conduct compliance

reviews in FY 1980. Of these, 147 investigative years will be used for reviews started, but not completed in previous years. The remaining 221 investigative years will be allocated for newly initiated reviews.

The issues to be covered in newly initiated reviews during FY 1980 are presented in Table 2. These issues were identified on the basis of survey results, findings from previous complaint investigations and compliance reviews, related research findings, and the public comments received on the Proposed AOP.

Table 2 also indicates the number of reviews to be conducted on each issue and the amount of investigative years to be assigned to each.

Pregrant Reviews

In FY 1980, OCR will review the civil rights compliance of applicants for HEW grants under the Emergency School Aid Act (ESAA) and in health and human development programs prior to the award of Federal assistance. OCR will allocate 18 investigative years to this work. Table 3 presents the distribution of investigative years for pregrant review activities.

Monitoring

During FY 1980, OCR will review recipients to determine whether they are

complying with the terms of compliance agreements. These activities will include monitoring the desegregation plans of State systems of higher education, the methods of administration of State vocational education agencies and agreements entered into as a result of previous complaint investigations and compliance reviews under all authorities. OCR will allocate 23 investigative years to this work.

Summary

Table 4 summarizes the allocation of investigative years by recipient groups. Table 5 summarizes the allocation by jurisdiction.

Dated: December 14, 1979

Roma J. Stewart,
Director, Office for Civil Rights

Table 1.—Fiscal Year 1980 Annual Operating Plan (Projected Fiscal Year 1980 Complaint Workload)

	Title VI	Title IX	Sec 504	Total
Pending Oct. 1, 1979				
Fiscal year 1980 projected receipts	335	614	542	1,491
Fiscal year 1980 projected closures	1,674	1,112	2,669	5,855
Fiscal year 1980 projected openings	1,790	1,477	2,771	6,038
Percentage	(33)	(25)	(45)	(100)
Pending October 1, 1980	410	249	640	1,308

Table 2.—FY 1980 Annual Operating Plan Compliance Review Issues

Issue	Description of Violation	Number of reviews	Investigative years required
Elementary and Secondary Education			
1. Identification of and Services to Limited English Proficiency (LEP) Children	Discrimination against non-English speaking (NES) or limited English proficiency children (LEP) including NES and LEP handicapped children.	7	3
2. Within-School Discrimination: Classroom Assignments, Tracking and Ability Grouping, Special Education, Mainstreaming, Physical Education and Secondary School Athletics	Discriminatory assignment of students on the basis of race, national origin, sex and/or handicap to courses, classrooms, special programs (including educable mentally retarded and gifted or talented), ability grouping, special education programs and athletic and physical education programs.	5	4
3. School Discipline: Expulsions and Suspensions	Discriminatory disciplinary treatment of students on the basis of race, national origin, sex and/or handicap.	5	4
4. Vocational Education: Access, Admissions and Job Placement	Discrimination on the basis of race, national origin, sex and/or handicap in vocational education programs and in industrial arts and home economics programs.	7	4
5. Special Purpose Schools: Program Availability and Least Restrictive Environment	Discrimination in admissions, accessibility, treatment or employment in state administered special purpose schools on the basis of race, national origin, sex and/or handicap.	7	3
6. School Segregation	Discriminatory assignment of students to schools on the basis of race or national origin.	5	4
Postsecondary Education			
1. Program Accessibility for the Handicapped	Lack of program accessibility and accommodations for handicapped students in school programs.	13	3
2. Graduate and Professional Schools: Admissions	Discrimination on the basis of race, national origin, sex and/or handicap in admissions to graduate and professional schools.	7	3
3. Intercollegiate Athletics: Overall Program Equality	Inadequate comparability of programs including interests and abilities of students and inadequate comparability of facilities provided.	140	19
4. Dual School Systems	Discriminatory assignment of students to or establishment and continuation of dual school systems on the basis of race.		

Table 2.—FY 1980 Annual Operating Plan—Continued
Compliance Review Issues

Issue	Description of Violation	Number of reviews	Investigative years required
<i>Health and Human Development</i>			
1. Hospitals, Nursing Homes and Extended Care Facilities: Accessibility and Admissions.	Discrimination on the basis of race, national origin and/or handicap in hospital, nursing home or extended care facility accessibility and/or admissions.	27	22
2. Medicaid/Medicare: Delivery of Services.	Discrimination on the basis of race, national origin and/or handicap in the provision of Medicaid and Medicare services.	27	22
3. Hospital Services to Special Population Groups.	Discrimination by hospitals on the basis of national origin and/or handicap in providing bilingual services and services to meet the needs of visually and hearing impaired patients.	82	19
4. Welfare Agencies: Bilingual Services and Methods of Administration.	Discrimination on the basis of race, national origin and/or handicap in provision of welfare services by welfare agencies.	82	19
5. Mental Health Center/Mental Health Hospital Practices: Equal Care and Bilingual Services.	Discrimination on the basis of race, national origin and/or handicap by mental health agencies in the provision of services to clients.	44	20
6. Vocational Rehabilitation Services.	Discrimination in the provision of services and benefits to severely mentally and physically handicapped individuals, and/or discrimination on the basis of sex in the provision of educational services and benefits.	27	22
7. Child Welfare Referral Practices: Foster Care, Bilingual Services and Location of Services.	Discrimination by child welfare agencies in the provision of services and benefits to minority and/or handicapped children.	27	22
8. Title XX: Supportive Services to Elderly and Disabled Adults.	Discrimination on the basis of race, national origin and/or handicap in the provision of services and benefits to elderly and disabled adults.	82	19
9. Health Planning.	Discrimination on the basis of race, national origin and/or handicap in the provision of health care which results from health planning activities conducted by health services agencies.	27	22
Total		521	1224

¹Because these reviews are being scheduled to include the investigation of complaints for which resources are allocated under complaint investigations, this person year allocation is composed of 6.28 years review time and 2.72 years of complaint time.

²Although dual postsecondary school systems continue to be a significant civil rights issue, no new reviews will be initiated during FY 1980. See section of the AGP on monitoring for a description of FY 1980 activities on this issue.

³See footnote 1.

Table 3.—FY 1980 Annual Operating Plan
Pregnant Review Activities

Type of Review	Number of reviews	Investigative years required
ESAA.....	655	15
Health.....	1,600	3
Total.....	2,255	18

Table 4.—FY 1980 Annual Operating Plan
Investigative Years Allocated to Each Type of Recipient

Type of recipient	Complaints	Compliance reviews	Pregnant reviews	Monitoring	Total	Percent
Elementary and Secondary Schools	116	67	15	8	206	33
Postsecondary Education Institutions	53	40	0	12	105	17
Health and Human Development Agencies	45	261	3	3	312	50
Total	214	368	18	23	623	100

Table 5.—FY 1980 Annual Operating Plan
Investigative Years Allocated to Each Jurisdiction

Jurisdiction	Complaints	Compliance reviews	Pregnant reviews	Monitoring	Total	Percent
Title VI.....	64	156	18	17	255	41
Title IX.....	54	53	0	3	110	18
Section 504.....	96	159	0	3	258	41
Total.....	214	368	18	23	623	100

¹Resources allocated to Title IX constitute only 18 percent of the total time because Title IX does not extend to most health and human development issues. However, 35 percent of the staff time devoted to elementary, secondary and postsecondary education activities will be focused on Title IX issues.

[FR Doc. 79-39496 Filed 12-27-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management Idaho Wilderness Inventory, Decision Oil and Gas Overthrust Belt

The Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to inventory roadless areas and roadless islands of the public lands to identify those areas possessing wilderness characteristics as described in the Wilderness Act of 1964.

The Federal Register Notice of September 7, 1979 announced the proposed decision on accelerated intensive wilderness inventory for the Oil and Gas Overthrust Belt in the Idaho Falls District.

Notice is hereby given that the BLM has completed the intensive wilderness inventory for the Overthrust Belt in Idaho. The purpose of conducting this intensive inventory in advance of the statewide intensive inventory is to have wilderness data available for consideration in relation to oil and gas activities in the Overthrust Belt within the Idaho Falls District.

Following publication of the proposed inventory decisions in the September 7, 1979, **Federal Register** a 90-day comment period was conducted.

Those public responses received during the comment period that addressed specific factors related to wilderness characteristics were carefully analyzed. Comments that related to other resource value, resource conflicts, or that expressed opinions for or against wilderness were reviewed but were not utilized in arriving at the intended final decision. The inventory process is only for the purpose of determining wilderness characteristics; comments not related to characteristics will be analyzed during the study phase.

Following is the intended final decision:

Units With Characteristics

35-77, Henry's Lake; 1350 acres

37-77, Worm Creeks; 140 acres

34-2, 3, 4, Islands; 770 acres

Portions of Unit 34-2 (115 acres) are identified as lacking characteristics.

Units Without Characteristics

34-8, Game Creek; 4,792 acres

36-15, Big Spring; 5,810 acres

37-88, Mt. Naomi; 240 acres

34-1, 1A, Islands; 250 acres

36-18, Rattlesnake Point; 8,365 acres

In summary, of the total of 20,732 acres intensively inventoried in the Overthrust Belt, 1,160 acres were found to have wilderness characteristics, and thus the units containing those acres are identified as Wilderness Study Areas. The remaining 19,572 acres are dropped from the wilderness inventory process.

Upon publication of this intended final decision in the **Federal Register**, a 30-day protest period is initiated, during which persons wishing to protest any of the intended final decisions shall have 30 days to file a written protest.

Protest should address specific inventory units and must include a clear and concise statement of reasons for the protest, including any supporting data available. Protests may be filed with the Idaho State Office or the Idaho Falls District Office of the BLM and must be postmarked or received by the end of the 30-day period, January 28, 1980.

BLM office addresses for further information on this intended final decision are as follows:

Idaho State Office, Federal Building, Box 042,
550 W. Fort Street, Boise, Idaho 83724

Idaho Falls District Office, 940 Lincoln Road,
Idaho Falls, Idaho 83401.

Dated: December 18, 1979.

Robert O. Buffington,

State Director.

[FR Doc. 79-39462 Filed 12-27-79; 8:45 am]

BILLING CODE 4310-84-M

¹Unit less than 5,000 acres dependent upon a contiguous RARE II area to meet the size criteria.

[Tentative Sale No. 68]

Southern California Outer Continental Shelf; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Purpose of Call

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to establish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf (OCS) in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resources development with the protection of the human, marine and coastal environments, as well as assuring State and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3313.1, nominations are hereby requested for areas on the Southern California Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.). The Secretary is also requesting comments on the possible environmental impacts and potential use conflicts in specified areas.

These comments will be part of an information-gathering process to assemble current information on local environmental conditions within the call area so that other impacts besides the realization of hydrocarbon potential can be assessed.

Description of the Area

The area extends from Point Conception south to the U.S.-Mexico border.

Nominations will be considered for any or all of that part of the following blocks located in the OCS mapped areas listed below:

1. Outer Continental Shelf Leasing Map No. 6A, Channel Islands area: All blocks and fractional blocks except for the following:

45N 72W through 77W
46N 72W through 78W
47N 72W through 81W
46N 79W through 81W

2. Outer Continental Shelf Leasing Map No. 6B, Channel Islands area: All blocks and fractional blocks except for the following:

45N 61W through 66W

46N 62W through 71W
47N 63W through 71W

3. Outer Continental Shelf Leasing Map No. 6C, Channel Islands area: All blocks and fractional blocks except for the following:

9N 19W through 20W
10N 19W through 25W
11N 19W through 28W
12N 21W through 28W
13N 21W through 28W
14N 21W through 28W
15N 21W through 28W
16N 22W through 28W
17N 21W through 28W
18N 21W through 28W
19N 21W through 28W
20N 22W through 28W
21N 22W through 28W
22N 22W through 28W
23N 23W through 28W
24N 23W through 28W
25N 24W through 28W
26N 25W through 28W
27N 26W through 30W
28N 27W through 30W
29N 28W through 30W
30N 29W through 30W

4. Outer Continental Shelf Leasing Map No. 6D, Channel Islands area: All blocks and fractional blocks.

5. Outer Continental Shelf Leasing Map No. 6E, Channel Islands area: All blocks and fractional blocks.

6. Outer Continental Shelf Official Protraction Diagram NI 11-10, San Clemente: All blocks and fractional blocks.

7. Outer Continental Shelf Official Protraction Diagram NH 11-1, Bushnell Knoll: All blocks and fractional blocks.

8. Outer Continental Shelf Official Protraction Diagram NH 11-4, Rampart: All blocks and fractional blocks.

These blocks may be found on the following Outer Continental Shelf Protraction Diagrams and Leasing Maps:

Map and protraction No.	Cost
6A	\$1.00
6B	1.00
6C	2.00
6D	1.00
6E	1.00
NI 11-10, San Clemente	2.00
NH 11-1, Bushnell Knoll	2.00
NH 11-4, Rampart	2.00

Notice is hereby given that, effective with this publication the new OCS Official Protraction Diagrams NH 11-1, Bushnell Knoll, and NH 11-4, Rampart, are available in the Pacific OCS Office. The protraction diagrams, as well as the others listed above, may be purchased from the Manager, Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams and leasing maps, for information only, are the basic record for the description of mineral and

oil and gas lease offers in the geographic area they represent.

Instructions on Call

Nominations must be described by referring to the Outer Continental Shelf Official Protraction Diagrams and Leasing Maps prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one-quarter of a block, may be nominated. Although individual company nominations are considered to be privileged and confidential information, the names of persons or entities submitting nominations or comments will be of public record.

Those nominating twelve blocks or more are requested to arrange their nominations into three groups according to the priority of their interest.

In addition to nominations, we are seeking comments about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular blocks where available.

Comments should be as specific as possible in identifying individual blocks or areas which should receive special concern and analysis in any leasing decision.

Nominations and comments must be submitted not later than February 29, 1980, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf-Southern California," or "Comments on Leasing in the Outer Continental Shelf-Southern California," as appropriate. They must be submitted to the Manager, Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017. Copies must also be sent to the Conservation Manager, U.S. Geological Survey, Pacific OCS Region, 1340 West Sixth Street, Room 200, Los Angeles, California 90017, and to the Director, Bureau of Land Management, Department of the Interior, Attention 540, Washington, D.C. 20240.

Use of Information from Call

Nominations will be evaluated and used along with other biological and geophysical information to determine what, if any, tracts should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and the OCS Lands Act, as amended. Generally, because of limits on the geographical scope of areas which can be successfully planned for a single sale, only a portion of the tracts

nominated are selected for further environmental analysis and possible leasing.

Comments will be considered along with other relevant information available to the Secretary to determine what tracts should be designated for further environmental analysis and study. As a general rule, tracts which are believed to have potential for the production of hydrocarbons are not excluded from further environmental study unless the Secretary has sufficient information to conclude that it is not possible for those tracts to be developed in an environmentally safe manner.

In any event, selection of tracts for further environmental analysis does not insure that the tracts will be subsequently offered for lease or that they will be deleted for environmental or use conflicts. It simply insures that more information will be available when that decision is made. In performing the additional environmental analyses leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of tracts for competitive bidding will be made only at a later date after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the Federal Register stating the conditions and terms for leasing, and the place, date, and hour at which bids will be received and opened.

Ed Hastey,
Associate Director, Bureau of Land Management.

Approved: December 21, 1979.

Heather L. Ross,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-39514 Filed 12-27-79; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-61]

Certain Compact Cyclotrons With a Pre-Septum; Termination

In the matter of: Certain Compact Cyclotrons With a Pre-Septum.

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission is ordering the termination of investigation No. 337-TA-61, *Certain Compact Cyclotrons with a Pre-septum*, by granting a motion by all parties to terminate this investigation [Motion

Docket No. 61-3) and accepting a consent order agreement proposed by complainant and the principal respondent.

Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission Order, Action, and Opinion. Such petitions must be in accord with § 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a final Commission action may appeal such action to the United States Court of Customs and Patent Appeals.

Copies of the Commission's Order and Commissioners' Opinion (USITC Publication No. 1024, December 1979) are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161. Notice of the institution of the Commission's investigation was published in the Federal Register of December 28, 1978 (43 FR 60674). The text of the proposed consent order agreement and the Commission's request for public comments thereon were published in the Federal Register of October 24, 1979 (44 FR 61270).

By order of the Commission.

Issued: December 21, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-39607 Filed 12-27-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-76]

Certain Food Slicers; Change of Commission Investigative Attorney

In the matter of: Certain Food Slicers.

Donald R. Dinan is designated Commission Investigative Attorney for Investigation No. 337-TA-76, *Certain Food Slicers* replacing JoAnn Miles. The service of all papers on the Commission Investigative Attorney should henceforth be served upon Mr. Dinan, effective Wednesday, December 26, 1979.

The Secretary is requested to publish this notice in the Federal Register.

Dated: December 20, 1979.

Earl Levy,

Deputy Director, Office of Legal Services.

[FR Doc. 79-39608 Filed 12-27-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-72]

Certain Turning Machines and Components Thereof; Amendment to Complaint and Notice of Investigation

In the matter of: Certain Turning Machines and Components Thereof.

Upon consideration of Motion Docket No. 72-3, as certified to the Commission by the administrative law Judge on November 28, 1979, together with the supporting documents filed by the complainant and the Commission investigative attorney, and the ALJ's recommendation of November 28, 1979, that the complaint and notice of investigation be amended, the Commission is ordering the addition of the following new respondents to the complaint and the notice of investigation:

Tsugami Corporation, 1-18-16 Shinbashi, Minato-ku, Tokyo, Japan.
REM Sales Incorporated, West Hartford, Connecticut 06107.

Copies of the Commission action and order and the Commission opinion are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street N.W., Washington, D.C. 20436, telephone (202) 523-0161.

By order of the Commission.

Issued: December 21, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-39606 Filed 12-27-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-503(a)-6 and 332-107]

President's List of Articles Which May Be Designated as Eligible Articles for Purposes of the Generalized System of Preferences

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 503(a) and 131(b) of the Trade Act of 1974 (hereinafter referred to as "the Act") and section 332(g) of the Tariff Act of 1930, as amended, the Commission has instituted investigation TA-503(a)-6 and 332-107 for the purpose of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Act. This information is for use in connection with the preparation of advice requested by the Special Representative for Trade Negotiations (STR) with respect to certain listed articles as to the probable economic effects on U.S. industries producing like or directly competitive articles and on

consumers of the elimination of U.S. import duties under the United States Generalized System of Preferences (GSP).

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: (1) Agricultural products, Mr. Ed Furlow (202-523-0234); (2) Textile products, Mr. Reuben Schwartz (202-523-0114); (3) Chemical products, Dr. Aimison Jonnard (202-523-0423); (4) Metals and metal products, Mr. William Wright (202-523-0275), Office of Industries, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436; (5) Legal aspects, Terry K. Smith, Esquire (202-523-0311), Office of General Counsel, at the same address.

SUPPLEMENTARY INFORMATION: On December 7, 1979, in accordance with section 503(a) and 131(a) of the Act and pursuant to the authority of the President delegated to the STR by Executive Order 11846, as amended by Executive Order 11947, the STR furnished the United States International Trade Commission the attached list of articles which are being considered for designation as eligible articles for purposes of the GSP set forth in Title V of the Act.

Specifically, the STR has requested that the Commission provide its advice, with respect to each listed article, as to the probable economic effects on U.S. industries producing like or directly competitive articles and on consumers of the elimination of the U.S. import duties under the GSP.

In providing its advice, the STR requested the Commission to assume that benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the "competitive-need" limitations specified in section 504(c) of the Act.

Section 504(d) of the Act exempts from one of the competitive-need limits in section 504(c) articles for which no like or directly competitive article was being produced in the United States on the date of enactment of the Act. Accordingly, pursuant to the authority of section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)), and in conformity with the delegation of authority from the President to him of Executive Order 11846 as amended by Executive Order 11947, the STR requested that the Commission also provide advice with respect to whether products like or directly competitive with any products described in the attached tariff categories were being produced in the United States on January 3, 1975.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t., on January 24, 1980. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, January 18, 1980.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than February 6, 1980. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.
Issued: December 21, 1979.

Kenneth R. Mason,
Secretary.

BILLING CODE 7020-02-M

Articles being considered for designation as eligible articles for purposes of the Generalized System of Preferences

ISUS or TSUSA item	Article
	[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration]
130.45	Oats, hulled or not hulled
	Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in schedule 1, part 8, subpart B of the Tariff Schedules of the United States Annotated):
	[Beans; cabbage; chickpeas or garbanzos; black-eye cowpeas; onions; peas; pimientos; tomatoes; water-chestnuts]
	Other:
	[Packed in salt, in brine, or pickled]
	Other:
	[Palm hearts]
	Other:
	[Frozen]
	Other:
	[Artichokes; asparagus; potatoes, dehydrated]
141.8180 1/ or	Other
141.8180 pt. or	or
141.8180 pt.	Tender cactus
	or
	Pre-cooked rice
	Berries, fresh, or prepared or preserved:
	[Fresh or in brine; dried]
	Otherwise prepared or preserved:
	[Blueberries; black currants, gooseberries, lingon or partridge berries, and loganberries]
	Other berries:
	Frozen:
	[Strawberries]
146.7550 2/ or	Other
146.7550 pt.	or
	Blackberries
	Grapes, fresh, or prepared or preserved:
	[Fresh (in bulk, or in crates, barrels or other packages); dried]
147.77 or	Otherwise prepared or preserved
147.77 pt.	or
	Grape must
	Note: See footnotes at end of table.

Articles being considered for designation as eligible articles
for purposes of the Generalized System of Preferences--Con.

TSUS or TSUSA item	Article
	Olives, fresh, or prepared or preserved: [Fresh] In brine, whether or not pitted or stuffed: Not ripe and not pitted or stuffed: [Not green in color and not packed in airtight containers of glass, metal, or glass and metal] Other
148.44	
148.50	Pitted or stuffed
148.56	[Dried] Otherwise prepared or preserved
148.60	Papayas, fresh, or prepared or preserved: Fresh
170.10	Wrapper tobacco (whether or not mixed or packed with filler tobacco): Not stemmed
170.15	Stemmed
170.65 or 170.65 pt.	Cigarettes or Bidis
170.66	Cigars and cheroots: Cigars each valued 15 cents or over
175.36	Poppy seed
	Yarns of wool or hair: [Yarns of wool, colored, and cut into uniform lengths of not over 3 inches, in immediate packages or containers not over 6 ounces in weight including the weight of the immediate package or container] Other: [Of angora rabbit hair] Other or Yarns, handspun and handdyed
307.64 or 307.64 pt.	
	Cordage: Of vegetable fibers: Of jute: Not bleached, not colored, and not treated: The singles yarn of which measures under 720 yards per pound
315.80	
315.85	The singles yarn of which measures 720 yards or over per pound

Articles being considered for designation as eligible articles
for purposes of the Generalized System of Preferences--Con.

TSUS or TSUSA item	Article
	Cordage (con.): Of vegetable fibers (con.): Of jute (con.): Bleached, colored, or treated: The singles yarn of which measures under 720 yards per pound
315.90	
315.95	The singles yarn of which measures 720 yards or over per pound
	Woven fabrics, of silk: Wholly of silk: Jacquard-figured: Degummed, bleached, or colored
337.40	
	Woven or knit fabrics (except pile or tufted fabrics), of textile materials, coated or filled with rubber or plastics material, or laminated with sheet rubber or plastics: Of man-made fibers: Over 70 percent by weight of rubber or plastics
355.81	
	Floor coverings of pile or tufted construction, of textile materials: In which the pile was inserted or knotted during weaving or knitting: With pile hand-inserted or hand-knotted: [With over 50 percent by weight of the pile being hair of the alpaca, guanaco, huarizo, llama, misti, suri, or any combination of these hairs] Other: Valued over 66-2/3 cents per square foot
360.15	
	Floor coverings not specially provided for, of textile materials: Of wool: Woven, but not made on a power-driven loom: Valued over 30 cents per square foot
361.44	

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Articles being considered for designation as eligible articles for purposes of the Generalized System of Preferences--Con.

TSUS or TSUSA item	Article
364.22 or 364.22 pt.	Tapestries, including hand-worked petit-point and other needle-point tapestries, all the foregoing of textile materials: [Gobelin and other hand-woven tapestries fit only for use as wall hangings, and valued over \$20 per square foot] Other: Of wool: Valued over \$2 per pound or Hand-woven mohair tapestries
385.45	Bags and sacks, or other shipping containers, of textile materials: Of vegetable fibers, except cotton: Not bleached, not colored, and not rendered nonflammable
389.6260 or 389.6260 pt.	Articles not specially provided for, of textile materials: [Lace or net articles, whether or not ornamented, and other articles ornamented] Other articles, not ornamented: Of man-made fibers: [Knit (except pile or tufted construction); pile or tufted construction] Other: [Artificial flowers] Other: [Tents and tarpaulins; shoe uppers; inked ribbons] Other or Nylon sleeping bags
427.88	Alcohols, monohydric, unsubstituted: Ethyl for nonbeverage purposes
610.3265	Pipes and tubes and blanks therefor, all the foregoing of iron (except cast iron) or steel: Welded, jointed, or seamed, with walls not thinner than 0.065 inch, and of circular cross section: Other than alloy iron or steel: 0.375 inch or more in outside diameter: [Suitable for use in boilers, superheaters, heat exchangers, condensers and feedwater heaters] Other: Over 16 inches in outside diameter

Articles being considered for designation as eligible articles for purposes of the Generalized System of Preferences--Con.

TSUS or TSUSA item	Article
618.02	Unwrought aluminum: [Of uniform cross-section throughout its length, the least cross-sectional dimension of which is not greater than 0.375 inch, in coils] Other: Aluminum other than alloys of aluminum
618.06	Alloys of aluminum: [Aluminum silicon] Other
624.0330	Unwrought lead: [Lead bullion] Other: Alloyed
	1/ Effective January 1, 1980, TSUSA item 141.8180 will be discontinued (redesignated as 141.78, .82, .83, .84, .8630, .87, and .8860).
	2/ Effective January 1, 1980, TSUSA item 146.7550 will be discontinued (redesignated as 146.71, .74, and .77).

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket Nos. M-79-253-C, M-79-256-C, M-79-257-C, M-79-258-C, M-79-259-C, and M-79-261-C]

Consolidation Coal Co.; Petitions for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241, filed six (6) essentially identical petitions to modify the application of 30 CFR 75.1700 (Barriers around oil and gas wells) to mines located in West Virginia as follows:

Docket No.	Mine	Location (county)
M-79-253-C...	Blacksville No. 1 Mine.	Monongalia.
M-79-256-C...	Blacksville No. 2 Mine.	Monongalia.
M-79-257-C...	Pursglove No. 15 Mine.	Monongalia.
M-79-258-C...	Consol No. 20 Mine...	Marion.
M-79-259-C...	Humphrey No. 7 Mine.	Monongalia.
M-79-261-C...	Robinson Run No. 95 Mine.	Harrison.

The petitions were filed in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petitions is as follows:

1. Mining is approaching areas containing petroleum wells. Most of the wells drilled prior to 1930, are abandoned, and the sands are nearly depleted of oil and gas. No appreciable volume of gas comes from the abandoned petroleum reservoirs.

2. Research by the United States Bureau of Mines (BuMines) and the Energy Research and Development Administration (ERDA) disclosed plugging methods which can effectively prevent well gas from entering the mine during regular mining operations while, at the same time, allowing additional safety and operational benefits that are not possible under 30 CFR 75.1700.

3. As an alternative to the provisions of 30 CFR 75.1700 (to establish and maintain barriers around oil and gas wells), the petitioner proposes to seal the Pittsburgh Coal Seam from the surrounding strata at the affected wells by using a technique developed through experience and technology derived from its past successful well plugging program. To date, more than 30 abandoned oil and gas wells have been effectively plugged, and more than 8 of these have been successfully mined through.

4. The technique is approved by the State of West Virginia, effective June 10, 1978.

5. The petitioner agrees to take a number of precautionary actions (listed in the petition) before, during, and after starting plugging and mining operations in the affected areas.

6. The petitioner believes that the proposed alternate method will provide no less protection to the miners than that afforded by 30 CFR 75.1700.

7. The petitions are similar to one previously approved and granted for the petitioner's Dents Run Mine in Marion County, West Virginia, on or about October 29, 1979 (Docket No. M-79-103-C).

Request for Comments

Persons interested in any of these petitions may furnish written comments on or before January 28, 1980. Comments relating to only one petition may be made separately; however, the applicable docket number must be clearly stated. If comments apply to more than one of the listed petitions, each comment must mention individually the docket number, or numbers, to which the comment applies. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petitions are available for inspection at that address.

Dated: December 17, 1979.
Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39505, Filed 12-27-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-270-C]

Kentland-Eikhorn Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kentland-Klkhorn Coal Corporation, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Kentland No. 1 Mine located in Pike County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Abandoned areas of the mine now being used as a section return have become inaccessible and unsafe to travel due to loose unsupported roof and numerous massive roof falls throughout.

2. The abandoned areas or return airways are not part of the mine's escapeway system.

3. Attempts to restore these abandoned airways would result in

unnecessary exposure of the miners to hazardous conditions.

4. As an alternative to making weekly examinations for hazardous conditions in the return airways, the petitioner proposes the following:

a. The section foreman shall examine the quantity and quality of air flow at a specified point daily and record the results in the pre-shift and on-shift examination book.

b. The petitioner will establish two evaluation points at the abandoned mine opening on the surface and examine them weekly as required by 30 CFR 75.305.

5. The petitioner believes the alternative method will at all times guarantee the same measure of protection afforded by the standard and that application of the standard would result in a diminution of safety to the miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 28, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 17, 1979.
Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39506 Filed 12-27-79; 8:45 am]
BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-6255]

Bethlehem Steel Corp., Lebanon, Pa; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 24, 1979 in response to a worker petition received on October 16, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing

steel industrial fasteners at the Lebanon, Pennsylvania plant of Bethlehem Steel Corporation. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average employment of production workers increased during January-October 1979 compared to the same period of 1978. Employment in each of the first three quarters of 1979 increased over the comparable quarters of 1978. Additional workers had been hired in early 1979 because of anticipated increased sales to the automobile industry. The separations that occurred in October 1979 resulted mainly when automobile orders did not meet projected sales.

Conclusion

After careful review, I determine that all workers of Bethlehem Steel Corporation, Lebanon, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of December 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-39504 Filed 12-27-79; 8:45 am]
BILLING CODE 4510-28-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on January 15-16, 1980 at the New Department of Labor Building, Room N-5437, Third Street and Constitution Avenue, N.W., Washington, D.C. The meeting will begin at 9:00 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act in 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

The Committee will hear and discuss reports on the activities of OSHA and NIOSH. Some of the topics will be: An overview of NIOSH research; Safety and

health hazards associated with the production of synthetic fuels; An update on 11c activities.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health, Room N-3635, U.S. Department of Labor Building, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 26th day of December 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79-39706 Filed 12-27-79; 8:45 am]
BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-80; Exemption Application No. D-1061]

Exemption From the Prohibitions for Certain Transactions Involving the United Precision Machine & Engineering Co. Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the loan of \$120,000 by United Precision Machine and Engineering Company Profit Sharing Plan (the Plan) to United Precision Machine and Engineering Company (the Employer).

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 16, 1979 notice was published in the Federal Register (44 FR 66106) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was posted on the employee bulletin board and hand delivered or mailed to all plan participants. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest

of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefits of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Therefore, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to a loan of \$120,000 by the Plan to the Employer, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and representations contained in the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 20th day of December 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-39587 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-996]

Proposed Exemption for Certain Transactions Involving Leep Homes Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of model homes by Leep Homes (Leep) to the Leep Homes Profit Sharing Plan (the Plan) and the leasing of those homes by the Plan to Leep. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Leep, and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 4, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-996. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Robert N. Sandler of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1), 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section

4975(c) (1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Leep pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. Leep is a corporation actively engaged in the construction of residential housing units, including single family residences, townhouse developments, planned unit developments and condominium developments. Its business activities are centered primarily in the San Francisco Bay Area. As in many residential developments, model homes demonstrating the available plans are constructed for public inspection and, occasionally, for use as an on-site office for sales representatives for the development. At the conclusion of the development and sale of the constructed properties, the model homes are sold at the then prevailing market price.

2. The applicants propose that the Plan purchase model homes from Leep, and that the Plan receive a net return on its investment of 10 percent per annum in the form of rental. The Plan will at all times limit its investment in the model homes to 25% of Plan assets. For purposes of the 25% limitation, the homes will be valued at the purchase price which the Plan paid to Leep. Leep will make the initial acquisition of the tract of land to be developed and incur all expenses in the improvement and development of the land.

3. The Plan and Leep will execute a purchase agreement, the terms of which will remain the same for all similar purchases. The purchase price, which is Leep's cost, will be the acquisition cost of the land, the actual cost of construction of the home and an overhead factor of 7.2 percent of actual construction costs, including land

acquisition cost. The 7.2 percent figure is based on Leep's historical experience regarding the costs of construction of residential housing. The purchase price will be paid by the Plan to Leep upon completion of construction of the home. All payments by the Plan to Leep will be made in cash.

4. Prior to the purchase by the Plan of any model home constructed by Leep, Leep will offer to sell to the Plan all of the model homes which it then owns.

The Plan trustees who make investment decisions for the Plan are Elwood Leep, president and treasurer of Leep and its sole shareholder, and Leonard B. Bearden, Sr., vice-president. The Plan trustees would then submit all of the offers to an independent real estate investment advisor for his review of the properties themselves and terms and conditions of the offers. The independent investment advisor would have the power to reject any or all of the offers on behalf of the Plan. Any offers not rejected by the independent investment advisor would be accepted by the Plan trustees on behalf of the Plan, unless doing so would exceed the 25% limitation on Plan investment in model homes. If the 25% limitation would be exceeded, the Plan trustees will resubmit the offers to the independent investment advisor and request that he reject additional offers in order to come within the 25% limitation.

5. Each home is to be completed for eventual sale. Any and all additions to the home to make it usable as a model are to be made at the expense of Leep. Leep will pay a monthly rental to the Plan which will represent a net return of 10 percent per annum on all cash payments made by the Plan, accruing from the date of each payment. Such rental payments will continue until the home is sold. The trustees of the Plan will submit all proposed leases to the independent real estate investment advisor. The Plan will not enter into any lease unless the investment advisor determines that the rental payments under the lease, and other terms and conditions, are fair and equitable to the Plan in light of then-existing market conditions.

6. All taxes relating to any model home purchased by the Plan will be paid by Leep. All maintenance expenses will be paid by Leep and at the conclusion of its use as a model, each home will be repaired at Leep's expense, so as to be saleable as a new house. At the conclusion of a home's use as a model, Leep will sell the home and lot on behalf of the Plan. The Plan will receive the gross sales price and Leep will incur all selling expenses, including payment of a

real estate agent's commission, if one should be involved.

7. The exemption will be a temporary exemption expiring five years from the date it is published in the Federal Register. Currently, the Plan leases one model home to Leep, which has been leased since 1973.

8. In summary, it is represented that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act, because:

a. The Plan will purchase the model homes at a price representing Leep's cost of building the homes;

b. The Plan will limit its investment in model homes to 25% of Plan assets;

c. The exemption will be temporary, expiring five years from the time it is granted;

d. Leep will pay all taxes and maintenance expenses relating to the model homes.

e. At the conclusion of a home's use as a model, Leep will, at its own expense, make any repairs necessary to make it saleable as a new house;

f. At the conclusion of a home's use as a model, Leep will sell the house on behalf of the Plan and incur all selling expenses, including payment of a real estate agent's commission, if one should be involved; and

g. A qualified independent real estate investment advisor would review all model homes that Leep owns and have the power to accept or reject any homes offered for sale to the Plan by Leep, subject only to the 25% limitation on Plan investment in the model homes.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested parties, including the trustees of the Plan and all participants and beneficiaries of the Plan, on or before January 2, 1980. The notice will contain a copy of the notice of proposed exemption, will inform each recipient of his right to comment or request a hearing with regard to the proposed exemption, and will be hand-delivered to all interested parties.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that

a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of 404(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for

cash of model homes by Leep to the Plan and the leasing of such model homes back to Leep, as long as the Plan's investment in the model homes does not exceed 25% of Plan assets. The exemption will be a temporary exemption, expiring five years from the date it is published in the Federal Register. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of December 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-39585 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1476]

Proposed Exemption for a Transaction Involving the Stanley D. Crawford, D.D.S., P.C. Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a limited partnership interest from the Stanley D. Crawford, D.D.S., P.C. Profit Sharing Plan (the Plan) to Dr. Stanley D. Crawford. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before February 8, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-1476. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and

Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen, of the Department of Labor, telephone (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 408(a), 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Roger D. Nittler, CPA as a duly authorized representative of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan holding assets on August 31, 1979 valued at \$45,565.16. As of July 24, 1979 the Plan had four participants. The Plan trustee is Stanley D. Crawford who is also an officer, director and the sole shareholder of Stanley D. Crawford, D.D.S., P.C.

2. On August 13, 1976 Dr. Crawford signed, on behalf of the Plan, a subscription agreement to purchase a unit of limited partnership interest in the First Mate Restaurant Ltd. (the Partnership). The subscription cost was \$24,250, payable in two installments. The Plan paid \$16,250 on the date of subscription and \$8,000 on May 1, 1977. At the time of this purchase the value of Plan assets were \$28,929.

3. On September 25, 1979 the limited partners were notified that the Partnership was currently in the process of dissolution and liquidation pursuant to the partnership agreement. It was expected that the outstanding debts will far exceed the value of any assets left in the Partnership. It is alleged that the

monetary loss to the Plan would be \$24,250, the amount of its original investment.

4. Dr. Crawford has proposed to purchase, for cash, the Plan's investment in the Partnership for the original acquisition cost plus interest at a rate of 8% per annum from the time of such acquisition.

5. In summary, the applicant represents that the proposed sale meets the criteria of section 408(a) of the Act because: (1) It will be a one time transaction for cash; and (2) it will afford the Plan an opportunity to avoid the loss of a substantial amount of Plan assets. With respect to the transaction covered by this exemption the trustee represents that the subject transaction is appropriate for and in the best interests of the Plan.

Notice of Interested Persons

Within ten days of publication of the proposed exemption in the Federal Register, all participants and beneficiaries of the Plan will receive by personal delivery a copy of the notice of pendency and a statement to the effect that interested persons have the right to comment on the proposed exemption, and the right to request that a hearing be held.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the

exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale of a limited partnership interest in First Mate Restaurant, Ltd. by the Plan for \$24,250 plus 8% per annum from the date of acquisition by the Plan to Dr. Stanley D. Crawford, provided that the sales price is not less than the fair market value of the Plan's partnership interest at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of December 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-39585 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-604]

Proposed Exemption for Certain Transactions Involving Westdale Co. Retirement Plan and Trust

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale for cash of real property by the Westdale Company Retirement Plan and Trust (the Plan) to the Westdale Company (the Employer), a party in interest. The proposed exemption, if granted, would affect Leonard Westdale, Sr., beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before January 28, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D-604. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green, of the Department of Labor, telephone (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (A) through

(E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. In March 1971, the Employer contributed to the Plan 3.34 acres of unimproved real property (the Property) located on the east side of East Beltline Avenue, N.E. in Grand Rapids, Michigan. The Property represented a contribution of \$19,000 to the Plan.

2. The Plan was terminated on March 31, 1974 and received a favorable determination from the Internal Revenue Service on May 18, 1976. All the participants in the Plan were given the option to withdraw the vested amounts in their accounts as of March 31, 1975 or leave the vested amounts in the Plan with no further option or opportunity to withdraw the same except by retirement, death or occurrence of other events permitting distribution under the terms of the Plan. All participants, except Leonard Westdale, Sr., the president and majority stockholder of the Employer, chose to take distribution of their vested amounts.

3. The Plan has listed the Property for sale and/or lease to others, without success. Thus it has been, and continues to be, a non-income producing asset of the Plan. All related costs and expenses (interest, taxes, assessments, etc.) of the Property, as of August 24, 1979, amounted to \$5,931.42. As a result, the Plan proposes to sell the Property for cash to the Employer at its fair market value, as determined by an independent appraiser. No commission will be charged with respect to the sale.

4. An independent appraisal, dated March 6, 1979, by the Blandford Appraisal Company valued the Property at \$70,000. In arriving at an estimated value for the Property, the appraiser had

assumed that all outstanding sewer and water assessments (special assessments) had been paid, however, as of August 24, 1979, there was a balance due of \$7,686. Based on the above, the fair market value of \$70,000 has been reduced to \$62,314, to reflect the unpaid balance of the special assessments. The Employer will assume the liability of the special assessments and there will be no further costs to the Plan after the sale. In the opinion of the appraiser, the existing appreciation of the Property is a result of (1) the reconstruction and widening of East Beltline Avenue from the location of the Property to an area extending 3 miles south from the Property, (2) the recent availability of public sewer and water and (3) the demand for and value of sites for suburban office development.

5. In summary, the applicant represents that the proposed transaction meets the criteria for an exemption under section 408(a) of the Act because (1) it is a one time transaction for cash, (2) it would allow the Plan to sell the Property for a large gain, without paying any sales commissions, at a price determined by an independent appraiser, (3) it would allow the Plan to dispose of a non-income producing asset, (4) since the Plan has listed the Property for sale and/or lease to others, without success, the sale to the Employer appears to be the only solution and (5) the Plan trustee has determined that the proposed transaction is appropriate for the Plan and is in the best interests of the Plan participant and beneficiaries.

Notice to Interested Persons

Since Leonard Westdale, Sr. is the only participant remaining in the Plan and the president and majority stockholder of the Employer, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of

the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale for cash by the Plan to the Employer of the Property, provided that the price is not

less than the fair market value of the Property on the date of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of December 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-39584 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-81; Exemption Application No. D-1293]

Exemption From the Prohibitions for Certain Transactions Involving the William E. Dill, D.D.S., P.A. Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of real property by the William E. Dill, D.D.S., P.A. Profit Sharing Plan (the Plan) to a party in interest.

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 30, 1979 notice was published in the Federal Register (44 FR 62382) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by William E. Dill, D.D.S., P.A. (the Employer), William E. Dill (the Trustee) and Dill Properties Inc. (Dill Properties). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at

the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the notice requirements contained in the proposed exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule

is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

The restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of a citrus grove, not to include the growing crop, legally described as Lots 22 and 23 of Lakeview Heights, Orange County, Florida, by the Plan to Dill Properties for cash consideration of \$60,500 provided that this amount is not less than the fair market value at the time of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 19th day of December 1979

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-39583 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-82; Exemption Application No. D-1279]

Exemption from the Prohibitions for Certain Transactions Involving the Samaritan Medical Clinic, Inc., Profit Sharing Plan and the Samaritan Medical Clinic, Inc., Pension Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the cash sale of limited partnership units owned by the Samaritan Medical Clinic, Inc. Profit Sharing Plan and the Samaritan Medical Clinic, Inc. Pension Plan (the Plans) to SRMC Rentals, a party in interest.

FOR FURTHER INFORMATION CONTACT:

Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On

October 19, 1979, notice was published in the Federal Register (44 FR 60442) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed on behalf of the Plans' trustees. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was hand delivered to each of the Plans' participants. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These

provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Therefore, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale by the Plans of limited partnership units in the Century Properties Fund X to SRMC Rentals for the sum of \$16,500, provided this price is not less than the fair market value at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 19th day of December 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-39582 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1587]

Proposed Exemption for Certain Transactions Involving the Wells Fargo Bank Yield-Tilt Market Fund for Employee Benefit Trusts

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would enable the purchase or sale of securities between the Wells Fargo Bank Yield-Tilt Market Fund for Employee Benefit Trusts (the Yield-Tilt Fund) and certain employee benefit plans (the Plans) with respect to which the Wells Fargo Bank (the Bank) is a fiduciary. The proposed exemption, if granted, would affect participants and beneficiaries of such Plans, the Bank, the Yield-Tilt Fund, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 28, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20216, Attention: Application No. D-1587. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW, Washington, DC 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for

exemption from the restrictions of section 406(a) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed by the Bank, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions to the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Yield-Tilt fund is a collective investment fund maintained by the Bank acting as trustee for trusts constituting parts of pension and profit sharing plans qualified under section 401(a) of the Code for which the Bank acts as trustee, co-trustee or investment manager. The Yield-Tilt Fund is designed to replicate as closely as possible the rate of return (income and capital appreciation) reflected by the Standard and Poor's 500 Composite Stock Index (Index) with the exception that the Yield-Tilt Fund will attempt to exceed the rate of return of the Index by investing the greatest proportion of its assets in the stocks of the Index having the highest dividend yields.

(2) The Yield-Tilt Fund commenced operations on April 15, 1979 and its portfolio on June 20, 1979 consisted of 362 common stocks included in the Index. The Yield-Tilt Fund's investments are selected and maintained by application of a computerized mathematical formula based solely on quantitative information concerning dividend rates and risk levels published by sources independent of the Bank. The common stocks selected by the computer for the Yield-Tilt Fund are selected on a predetermined mathematical basis to establish and maintain the desired dividend yield and risk level characteristics of its investment portfolio. Accordingly, portfolio adjustments are occasionally necessitated by dividend yield changes. Since stock purchase and sale decisions are not influenced by the individual or

relative investment merit of the stocks, portfolio turnover is expected to be 5% or less.

(3) Certain stocks considered by the Bank to be "imprudent" investments under a screening procedure for potential bankruptcies are not purchased. Should a stock held by the Yield-Tilt Fund become "imprudent" under this screening procedure, it would be sold either in conventional market transactions or in negotiated transactions with institutional investors having no relationship with the Yield-Tilt Fund or the Bank.

(4) The Index is a readily available and broad measure to the stock market. It is composed of 500 common stocks listed on the New York Stock Exchange and includes 425 industrial stocks, 15 rail stocks, and 60 utility stocks. These stocks are estimated to account for about three-quarters of the value of all listed common stocks and about two-thirds of the value of all publicly traded common stocks in the United States.

(5) The index is weighted by market capitalization and measures the aggregate market value of the 500 stocks in comparison with the average aggregate market value of the stocks comprising the Index during the 1941-43 base period. The weight of each stock in the Index is determined by multiplying the number of shares outstanding by the current market price and dividing the result by the sum of the total number shares of the 500 stocks outstanding times their respective current prices. This weighting by market capitalization means that over 50 percent of the Index is accounted for by the stocks of the 30 largest companies such as International Business Machines Corporation, American Telephone and Telegraph Company, Exxon Corporation, Eastman Kodak Company and General Motors Corporation. The Index is adjusted from time to time to reflect consolidations, acquisitions and mergers, delistings from the New York Stock Exchange, increases in stock outstanding and other changes.

(6) The Bank represents that the aggregate amount invested in the Yield-Tilt Fund is increasing primarily due to demand for a highly diversified investment vehicle which reflects the performance of the equity market as measured by the Index. The reinvestment of cash dividends also contributes to the growth of the Yield-Tilt Fund.

(7) In order to maintain the proper relationship to the Index while growing, the Yield-Tilt Fund must purchase additional shares of the stocks which make up the Yield-Tilt Fund in determinate relative amounts. Shares of

the stock available to be purchased may be held by a Plan in a separate investment portfolio which is managed and controlled by a trustee or investment manager unrelated to the Bank. (The Bank is a trustee or investment manager of a separate portion of the assets of the same Plan.) Plan representatives have asked the Bank whether the Yield-Tilt Fund may purchase such stock directly from the Plan if the decision to sell such stock is made by the unrelated trustee or investment manager for reasons entirely independent of the Yield-Tilt Fund's need to purchase the stock. Such a direct sale would eliminate brokerage commissions otherwise payable by the Plan on the sale. The Yield-Tilt Fund would also benefit from the direct purchase of the needed stock from the Plan by avoiding the brokerage commissions it would have incurred on the purchase. Similarly, if the Yield-Tilt Fund experiences a withdrawal of funds by participating trusts and a subsequent contraction in size at a future date, the Yield-Tilt Fund may wish to sell stocks directly to various Plans desiring to buy the stocks in order to eliminate brokerage commissions.

(8) The Bank wishes to enable the Yield-Tilt Fund to enter into the above described purchase and/or sale transactions with the Plans. The Bank represents that neither it nor an affiliate (as defined in Department of Labor regulation § 2510.3-21(e)) will exercise discretionary authority or control over the management of that portion of a Plan's assets (other than any assets which may be invested in the Yield-Tilt Fund) which are involved in the purchase and/or sale transactions with the Yield-Tilt Fund. In addition, should a stock held by the Index Fund become an investment that may not be held by the Yield-Tilt Fund under its screening procedure, it would be sold either in conventional market transactions or in negotiated transactions with institutional investors having no relationship with the Yield-Tilt Fund or the Bank.

(9) The prices paid to or by the Plans under this proposal for all securities that are traded on the New York Stock Exchange would be set by the closing price on the Exchange on the day of the offer. In the case of any stocks in the Yield-Tilt Fund which are traded in the Over-The-Counter Market, the price would be the average of the highest bid and lowest asked price on the NASDAQ quotation system at the end of trading on the day of the offer.

Notice to Interested Persons

The trustees of all the Plans currently investing in the Yield-Tilt Fund will be notified of the proposed exemption by mail within thirty days of the date the notice of proposed exemption is published in the Federal Register. The notification will include a copy of the notice of proposed exemption and will advise these persons of their right to comment and/or request a hearing within the period of time specified in this notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(1) and (b)(3) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to a purchase or sale by the Yield-Tilt Fund of securities from and/or to various plans as described above.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of December.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-39579 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-84; Exemption Application No. D-1215]**Exemption for the Prohibitions for Certain Transactions Involving the C. Hugh Bishop & Associates, Inc., Profit Sharing Plan**

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale for cash of real property by the C. Hugh Bishop & Associates, Inc., Profit

Sharing Plan (the Plan) to C. Hugh Bishop, a party in interest. Since Mr. Bishop is the sole stockholder and employee of C. Hugh Bishop & Associates, Inc. and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT:

Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20216, (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 12, 1979 notice was published in the *Federal Register* (44 FR 59011) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, for the transaction described in an application filed by the trustee of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participant and beneficiaries; and

(c) It is protective of the rights of the participant and beneficiaries of the plan.

The taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale by the Plan of two parcels of unimproved real property located on Highway 105, approximately 3 miles east of Monument, Colorado, to C. Hugh Bishop for the fair market value at the date of sale or the original purchase price plus all expenses and costs since acquisition, whichever is greater.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 19th day of December.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-39580 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-83; Exemption Application No. D-1198]**Employee Benefit Plans; Exemption From the Prohibitions for Certain Transactions Involving the Iowa Realty Co. Profit Sharing Plan and Trust**

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits, retroactively and prospectively, the purchase of land by the Iowa Realty Company, Inc. (the Employer) from the Iowa Realty Company Profit Sharing Plan and Trust (the Plan), in order that the agreement between the Plan and the Employer, entered into prior to the effective date of the Employee Retirement Income Security Act of 1974, can be concluded in a manner which is beneficial for the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20216, (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 19, 1979 notice was published in the *Federal Register* (44 FR 60438) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any

interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department. The notice also stated that notice of the pending exemption and a copy of the notice of pendency as published in the *Federal Register* was to be given to all participants and beneficiaries of the Plan no later than ten days following publication in the *Federal Register*. The applicant represents that it has fully complied with this notice provision.

The notice of pendency was issued and the exemption is being granted solely by the Department because effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the

transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, retroactively and prospectively, to the purchase during 1976 of portions of two parcels of land (the Hopkins Farm and the Meredith Farm, respectively) and within 120 days after the grant of this exemption, to the proposed purchase of five parcels of land (the Oleson Farm or Bondurant Land, the Staples Farm, the Life Investors Farm, and the remainder of the Hopkins Farm and Meredith Farm) by the Employer from the Plan for a cash purchase price which will be the highest sum as determined by one of the following alternatives:

(a) The original cost of each parcel plus an appreciation of 6 percent per year from date of acquisition to the date of sale. Added to this amount will be any costs or improvements paid or contracted for by the Plan; or

(b) The appraised value, as of November 30, 1978, as determined by Arthur J. Frahm and Associates without adjustments for commissions, error factor, or other items; or

(c) The higher of two appraised current fair market values for each parcel of land, as determined individually and separately, at or near the date of sale to the Employer, by two qualified and independent appraisers, plus any cost incurred by the Plan which was not included in the appraisals.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 19th day of December, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-39581 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-29-M

Wage and Hour Division

[Administrative Order No. 655]

Special Industry Committee for All Industry in American Samoa, Appointment; Convention; Notice of Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949-53 Comp., p. 1004) and 29 CFR 511, I hereby appoint special Industry Committee No. 14 for American Samoa.

2. Pursuant to section 6(a)(3) and section 6 of the Act, as amended (29 U.S.C. 206(a)(3), 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and 29 CFR 511, I hereby:

(a) Convene the above-appointed industry committee.

(b) Refer to the industry committee the question of the minimum rate or rates for all industry in American Samoa to be paid under section 6(a)(3) of the Act, as amended.

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industry and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the Act.

The Committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on April 28, 1980, in the Rainmaker Hotel, Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rates prescribed by sections 6(a) and 6(b) of the Act, as amended by the Fair Labor Standards Amendments of 1977. These rates are \$3.10 during calendar year 1980, and \$3.35 thereafter.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industry which it determines, having due regard to economic and

competitive conditions, will not substantially curtail employment in such industry, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in such industry than may be determined for other employees in such industry, the committee shall recommend such reasonable classifications within such industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, which will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within industry, in making such classifications and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. The Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information he has assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, as soon as it is completed. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part

of the regulations will be available at the Office of the Governor in Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested person shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Each prehearing statement shall contain the data specified in § 511.8 of the regulations and shall be filed not later than April 18, 1980. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, D.C., this 21st day of December 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79-39557 Filed 12-27-79; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Notice of Meetings

December 21, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: January 15, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in American Literature submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
2. Date: January 16, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1134. Purpose: To review NEH Fellowships in Category C applications in Reading, Theory and Rhetoric submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
3. Date: January 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review NEH Summer Stipend applications in German, Slavic and European Film submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
4. Date: January 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 309. Purpose: To review NEH Fellowships in Category C applications in Humanities for Two-Year College Teachers submitted to the National

Endowment for the Humanities for projects beginning after June 1, 1980.

5. Date: January 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 307. Purpose: To review NEH Fellowships in Category C applications in Sociology and Literature submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
6. Date: January 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 500. Purpose: To review NEH Fellowships in Category B applications submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.
7. Date: January 19, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in Contemporary Literature, and Literary Theory and Criticism submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
8. Date: January 21, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1134. Purpose: To review NEH Fellowships in Category C applications in Humanities for Two-Year College Teachers submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
9. Date: January 22, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review NEH Summer Stipend applications in Linguistics, Speech, Communications, Composition, Rhetoric, and Theater submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.
10. Date: January 23, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipends applications in English Literature: Restoration to the Present submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-39938 Filed 12-27-79; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel Advisory Committee; Notice of Changes

This is to announce changes in two meetings of the Humanities Panel Advisory Committee.

1. The meeting to be held on January 3-4, 1980 in Room 897, National Endowment for the Humanities, 806 15th St., N.W., Washington, D.C. to review Museums and Historical Organizations Humanities Projects Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1980 has been changed. It will be held in Room 807 of the National Endowment for the Humanities on January 9-10, 1980.

2. The meeting to be held January 10, 1979 in the 5th Floor Conference Room, National Endowment for the Humanities, 806 15th St., N.W., Washington, D.C. to review NEH Libraries Humanities Projects Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1980 has been changed. It will be held in Room 911 on January 16, 1980.

Both of these meetings were announced on page 70937 of the Federal Register dated December 10, 1979.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-39639 Filed 12-27-79; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel Advisory Committee; Notice of Meeting

December 26, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-364 as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506, in room 314, from 9 am to 5:30 pm on Saturday, January 12, 1980.

The purpose of the meeting is to review NEH Fellowships in Category B applications submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid

interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, DC 20506, or call area code 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-39640 Filed 12-27-79; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Anticipated Transients Without Scram; Meeting

The ACRS Subcommittee on Anticipated Transients Without Scram (ATWS) will hold an open meeting on January 25, 1980, in Room 1046, 1717 H St., NW., Washington, DC 20555. Notice of this meeting was published December 20, 1979.

The agenda for subject meeting shall be as follows:

Friday, January 25, 1980; 8:30 a.m. Until Conclusion of Business

The Subcommittee will discuss proposed resolution of ATWS with representatives of the NRC Staff.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul A. Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 20, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39562 Filed 12-27-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold an open meeting on January 23-24, 1980, in Room 1046, 1717 H St., NW., Washington, DC 20555. Notice of this meeting was published December 20, 1979.

The agenda for subject meeting shall be as follows:

Wednesday, January 23, Approximately 11:00 a.m. (following the ACRS Subcommittee

meeting on the Surry Station) until conclusion of business. Thursday, January 24, 8:30 a.m. until the conclusion of business.

The Subcommittee will review the status of unresolved generic safety items involving pressure vessels, steam generators, and other pressure boundary components in its cognizant area of review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio G. Igne (telephone 202/634-3314) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 20, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39564 Filed 12-27-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on the Surry Nuclear Station; Meeting

The ACRS Subcommittee on the Surry Nuclear Station will hold a meeting on January 23, 1980 in Room 1046, 1717 H St., NW, Washington, DC 20555 to continue its review of the Surry Station steam generator replacement program. Notice of this meeting was published December 20, 1979.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, January 23, 1980; 8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear

presentations by and hold discussions with representatives of the NRC Staff, the Virginia Power and Electric Company, and their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the Swem Library, College of William and Mary, Williamsburg, VA 23185.

Dated: December 20, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39565 Filed 12-27-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Licensee Event Reports (LERs); Meeting

The ACRS Subcommittee on Licensee Event Reports (LERs) will hold an open meeting on January 23, 1980, in Room 1167, 1717 H St., NW, Washington, DC 20555. Notice of this meeting was published December 20, 1979.

The agenda for subject meeting shall be as follows:

Wednesday, January 23, 1980; 11:30 a.m. Until Conclusion of Business

The Subcommittee will discuss the evaluation of LER information with representatives of NRC's newly formed Office of Analysis and Evaluation of Operational Data.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be

obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Andrew L. Bates (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 20, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39566 Filed 12-27-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission; Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on January 10-12, 1980, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the Federal Register on December 20, 1979.

The agenda for the subject meeting will be as follows:

Thursday, January 10, 1980

8:30 A.M.-12:30 P.M.: *Executive Session (Open)*—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will discuss proposed ACRS comments and recommendations to the U.S. Congress regarding the NRC Safety Research Program.

Portions of this session will be closed as necessary to discuss information the premature disclosure of which would frustrate the ACRS ability to perform its statutory function.

1:30 P.M.-5:30 P.M.: *Meeting with NRC Staff (Open)*—The Committee will hear and discuss reports from representatives of the NRC Staff regarding proposed NRC action plans to implement recommendations of the President's Commission and other studies of the Three Mile Island, Unit 2 accident.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to these items.

5:30 P.M.-6:30 P.M.: *Executive Session (Open)*—The Committee will discuss proposed methods to strengthen the role of the ACRS in accordance with the recommendations of the President's Commission on the accident at Three Mile Island.

Friday, January 11, 1980

8:30 A.M.-10:30 A.M.: *Meeting with NRC Staff (Open)*—The Committee will hear reports and will discuss proposed plans for NRC Implementation of the

Bulletins and Orders resulting from the accident at Three Mile Island.

10:30 A.M.-12:30 P.M.: *Meeting with NRC Staff (Open)*—The Committee will hear presentations and discuss proposed changes in NRC criteria for siting of nuclear powerplants (NUREG-0625).

1:30 P.M.-6:30 P.M.: *Executive Session (Open)*—The Committee will discuss proposed comments and recommendations regarding the NRC Safety Research Program and the NRC plans to implement the recommendations of the President's Commission and others on TMI-2.

Portions of this session will be closed as necessary to discuss Proprietary Information and information the premature disclosure of which would frustrate the ACRS ability to perform its statutory function.

Saturday, January 12, 1980

8:30 A.M.-4:00 P.M.: *Executive Session (Open)*—The Committee will continue its discussion of proposed ACRS comments and recommendations regarding the NRC safety research program; NRC plans to implement recommendations of the President's Commission and others on TMI-2; implementation of NRC Bulletins and Orders resulting from the TMI-2 accident; proposed changes in NRC criteria for siting nuclear facilities; and proposed changes to strengthen the ACRS role.

The Committee will hear reports from its Subcommittees on Babcock and Wilcox Light Water Reactors and on ACRS Procedures.

The future schedule for Committee activities will also be discussed.

The Committee will complete discussion of items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information related to matters being considered, and to protect information the premature release of which would frustrate the ACRS ability to perform its statutory function.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1979 (44 FR 56408). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate

arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)) and to protect information the premature release of which would frustrate the Committee in the performance of its statutory function (5 U.S.C. 552b(c)(9)(B)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: December 20, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39567 Filed 12-27-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-69 issued to Baltimore Gas & Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment revises the Appendix A technical Specifications of the facility to increase the measurement/calculational uncertainties for peaking factors F₁ and F₂ from 5.1 and 5.8

percent to 6.0 and 7.0 percent, respectively.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 27, 1979, as supplemented October 1, 1979, (2) Amendment No. 24 to License No. DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of December 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 79-39568 Filed 12-27-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-251]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of the Turkey Point Nuclear Generating, Unit No. 4 (the facility) located in Dade County, Florida. The amendment is effective as of the date of issuance.

The amendment permits continued operation of the Turkey Point Plant, Unit No. 4 for an additional two effective full power months from that authorized by Amendment No. 41 dated June 15, 1979 for a total of eight effective full power months from June 1, 1979 at which time the steam generators shall be inspected.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 7, 1979, (2) Amendment No. 43 to License No. DPR-41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of December, 1979.

For the Nuclear Regulatory Commission,
A. Schwencer,
Chief, Operating Reactors Branch #1,
Division of Operating Reactors.

[FR Doc. 79-39509 Filed 12-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-445 and 50-446]

Negative Declaration Supporting Amendments No. 3 to CPPR-126 and CPPR-127 Relating to Change in Ownership Interests, Comanche Peak Steam Electric Station Units Nos. 1 and 2, Texas Utilities Generating Co., et al.

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the amendments to

Construction Permits CPPR-126 and CPPR-127 relating to changes in ownership interests in the Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, located in Somervell County, Texas. The construction permits are issued to the Texas Utility Generating Company. The amendments would include the Texas Municipal Power Agency and the Brazos Electric Power Cooperative, Incorporated, as co-owners of the facility with the present owners.

In accordance with 10 CFR Part 51, the Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal (EIA) for the amendment. The Commission has concluded that an environmental impact statement for this action is not warranted, because there will be no adverse environmental impacts affecting the quality of the human environment attributable to the proposed action that would be in addition to those impacts evaluated in the Commission's Final Environmental Statement for Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, issued in June 1974. A negative declaration is, therefore, appropriate.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room located at the Somervell County Public Library, P.O. Box 417, Glen Rose, Texas. A copy of the EIA may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 18th day of December 1979.

For the Nuclear Regulatory Commission,
Ronald L. Ballard,
Chief, Environmental Projects Branch 1,
Division of Site Safety and Environmental Analysis.

[FR Doc. 79-39559 Filed 12-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-438 and 50-439]

Negative Declaration Supporting: Extension of Construction Permits Nos. CPPR-122 and CPPR-123; Expiration Date for the Bellefonte Nuclear Plant, Units 1 and 2

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Tennessee Valley Authority's (permittee) request to extend the expiration date of the construction permit for the Bellefonte Nuclear Plant, Units 1 and 2 (CPPR-122 and CPPR-123)

which is located in Jackson County, Alabama. The permittee requested a 39 month extension for the Unit 1 permit to March 1, 1983 and a 39 month extension for the Unit 2 permit to December 1, 1983, to allow for completion of construction of the Bellefonte Nuclear Plant.

The Commission's Division of Site Safety and Environmental Analysis (staff) has prepared an environmental impact appraisal relative to this change to CPPR-122 and CPPR-123. Based upon this appraisal, the staff has concluded that an environmental impact statement for this particular action is not warranted because pursuant to the Commission's regulations in 10 CFR Part 51 and the Council of Environmental Quality's regulations, the Commission has determined that this change to the construction permits is not a major federal action significantly affecting the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555; and at the Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama 35768.

Dated at Bethesda, Md., this 5th day of December.

For the Nuclear Regulatory Commission,
Donald E. Sells,
Acting Chief, Environmental Projects Branch 2,
Division of Site Safety and Environmental Analysis.

[FR Doc. 79-39561 Filed 12-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-312SP]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this proceeding.

Richard S. Salzman, Chairman
Dr. John H. Buck
Thomas S. Moore¹
Dated: December 18, 1979.

C. Jean Bishop,
Secretary to the Appeal Board.
[FR Doc. 79-39570 Filed 12-27-79; 8:45 am]
BILLING CODE 7590-01-M

¹ Effective January 2, 1980.

[Dockets Nos. 50-438 and 50-439]

Tennessee Valley Authority, Bellefonte Nuclear Plant, Units 1 and 2; Order Extending Construction Completion Dates

Tennessee Valley Authority is the holder of Construction Permit Nos. CPPR-122 and CPPR-123 issued by the Atomic Energy Commission¹ on December 24, 1974, for construction of the Bellefonte Nuclear Plant, Units 1 and 2, presently under construction at the Company's site in Jackson County, Alabama.

On October 15, 1979, the applicant filed a request for an extension of the completion dates. Construction has been delayed due to:

- (1) Labor problems in obtaining and training welders and craftsmen,
- (2) Delay of deliveries of material, including valves, hangers, embedment materials and piping,
- (3) Additional modifications and requirements as a result of the Three Miles Island accident; and
- (4) Difficulties in obtaining acceptable contracts bids for instrumentation and controls.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation, dated December 14, 1979. The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for the Bellefonte Nuclear Plant, Units 1 and 2, published in June 1974. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., 20555 and at the local public document room establishment for the Bellefonte Nuclear Plant, Units 1 and 2 facility in the Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama 35768.

It is hereby ordered, That the latest completion date for CPPR-122 be extended from December 1, 1979 to March 1, 1983 and for CPPR-123 from September 1, 1980 to December 1, 1983.

¹ Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

Date of Issuance: December 17, 1979.

For the Nuclear Regulatory Commission,
Domenic B. Vassallo,
Acting Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-39560 Filed 12-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-445 and 50-446]

Texas Utilities Generating Co., Dallas Power & Light Co., Texas Electric Service Co., Texas Power & Light Co., Texas Municipal Power Agency, and Brazos Electric Power Cooperative, Inc.; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Construction Permit No. CPPR-126 and Amendment No. 3 to Construction Permit No. CPPR-127. The amendment reflects the addition of two new co-owners of the Comanche Peak Steam Electric Station, Units 1 and 2 (the facilities). Initially, the construction permits were issued to Texas Utilities Generating Company, Dallas Power and Light Company, Texas Electric Service Company, and Texas Power and Light Company. Amendment No. 3 adds as co-owners the Texas Municipal Power Agency and Brazos Electric Power Cooperative, Inc. Texas Utilities Generating Company has sole responsibility for the design, construction, and operation of the facilities, which are located in Somervell County, Texas.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments.

Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated December 26, 1978, and supplementary information dated December 14 and 22, 1978, February 22, March 1, July 19, September 18, November 6 and 19, 1979, (2) Amendment No. 3 to Construction Permit No. CPPR-126, (3) Amendment No. 3 to Construction Permit No. CPPR-127, (4) the Commission's related Safety Evaluation, (5) the Environmental Impact Appraisal and (6) the Negative

Declaration supporting the amendments to the construction permits. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Somervell County Public Library, On the Square, Glen Rose, Texas 76043. In addition, a copy of the above items (2), (3), (4), (5) and (6) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 18th day of December 1979.

For the Nuclear Regulatory Commission,
Robert L. Baer,
Chief, Light Water Reactors Branch No. 2,
Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-39558 Filed 12-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has pursuant to the Decision of its Atomic Safety and Licensing Appeal Board dated September 6, 1979, issued Amendment No. 22 to Facility Operating License No. NPF-3, issued to the Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment modifies License Condition 2.E. relating to antitrust matters.

For further details with respect to this action, see (1) Amendment No. 22 to License No. NPF-3 and (2) the Decision of the Atomic Safety and Licensing Appeal Board dated September 6, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. A copy of both items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 12th day of December 1979.

For the Nuclear Regulatory Commission.
Robert W. Reid,
*Chief, Operating Reactors Branch #4,
 Division of Operating Reactors.*
 [FR Doc. 79-39571 Filed 12-27-79; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the Office of Science and Technology Policy announces the following meeting:
 Name: Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP); Transportation, Commerce, and Community Development Task Force.

Date: January 17, 1980 1:30 p.m.-4:30 p.m.
 Place: Annapolis Hilton, Annapolis, Maryland 301-268-7555.

Type of meeting: Open.
 Contact person: Ms. Deborah Rudolph, Staff Director, ISETAP Transportation, Commerce, and Community Development Task Force, Office of Science and Technology Policy, Executive Office of the President, 202/395-4596 or 202/426-4208.
 Minutes of the meeting: Executive minutes of the meeting will be available from the office of Ms. Rudolph.

Agenda

1. Update on Needs Identification Activities of the Department of Commerce, Housing and Urban Development, and Transportation.
2. Definition of Activities for 1980 To Follow Up on Needs Identification Process.

William J. Montgomery,
Executive Officer, OSTP.

[FR Doc. 79-39641 Filed 12-27-79; 8:45 am]
BILLING CODE 3170-01-M

Intergovernmental Science, Engineering, and Technology Advisory Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP); Science and Technology Transfer Task Force.

Date: January 18, 1980, 4:00 p.m.-6:00 p.m.
 Place: Annapolis Hilton, Annapolis, Maryland, 301-268-7555.

Type of meeting: Open.
 Contact person: Mr. Robert Goldman, Staff Director, ISETAP, Science and Technology Transfer Task Force, Office of Science and Technology Policy, Executive Office of the President, 202-395-4596.

Minutes of the meeting: Executive minutes of the meeting will be available from the office of Mr. Goldman.

Agenda

1. Review of Actions Taken at ISETAP Full Panel Meeting;
 2. Design Guidelines for Use by ISETAP Staff for the Implementation of Actions Taken at Full Panel Meeting.
- William J. Montgomery,**
Executive Officer, OSTP.

[FR Doc. 79-39642 Filed 12-27-79; 8:45 am]
BILLING CODE 3170-01-M

Intergovernmental Science, Engineering, and Technology Advisory Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP); Full Panel Meeting.
 Date: January 18, 1980, 8:30 a.m.-3:30 p.m.
 Place: Annapolis Hilton, Annapolis, Maryland, 301-268-7555.

Type of Meeting: Open.
 Contact Person: Dr. Joseph Clark, Executive Secretary, ISETAP, Office of Science and Technology Policy, Executive Office of the President, 202-395-4596.

Minutes of the meeting: Executive minutes of the meeting will be available from the office of Dr. Clark.

Agenda

1. Welcome, Introduction, and Task Force Status Reports.
 2. Update on Current ISETAP and Other Related Activities:
 - A. Science & Technology Transfer Task Force Meeting of November 9-10, 1979;
 - B. ISETAP Staff Retreat;
 - C. AAAS Evaluation Planning Meeting.
 3. Discussion of Organizational and Programmatic Action Items.
 4. Determination of Resource and Program Priorities.
 5. Information Items (Update on selected projects).
- William J. Montgomery,**
Executive Officer, OSTP.

[FR Doc. 79-39643 Filed 12-27-79; 8:45 am]
BILLING CODE 3170-01-M

Intergovernmental Science, Engineering, and Technology Advisory Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP); Natural Resource and Environment Task Force.

Date: Wednesday, January 16, 1980, 2:00 p.m.-5:00 p.m.

Place: State Capitol Building, Room 136, Denver, Colorado.

Type of Meeting: Open.

Contact Person: Mr. Leonard Slosky, Staff Director, ISETAP, Natural Resource & Environment Task Force, Office of Science and Technology Policy, Executive Office of the President, 303-839-2471.

Minutes of the meeting: Executive minutes of the meeting will be available from the office of Mr. Slosky.

Agenda

1. Progress Report on Landsat;
2. Review of Hazardous Waste Management Report;
3. Review Department of Interior Project;
4. Discuss Work Program for Coming Year.

William J. Montgomery

Executive Officer, OSTP.

[FR Doc. 79-39644 Filed 12-27-79; 8:45 am]
BILLING CODE 3170-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act that the first meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavior Research will be held in Room 2010 of the New Executive Office Building, 1726 Jackson Place, N.W., Washington, D.C. from 1:00 p.m. to 5:00 p.m. on Monday, January 14, 1980, and from 9:00 a.m. to 3:00 p.m. on Tuesday, January 15, 1980.

The meeting will be open to the public. The agenda of this Commission meeting will include (1) discussion of the responsibilities mandated under the Commission's charter (see attachment) (2) review of the relevant work in the fields covered by the mandate, and (3) procedures to be followed in fulfilling the mandated responsibilities.

Records shall be kept of all Commission proceedings and will be available for public inspection at the Commission's Office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information contact: Mary Ann Orlando, Suite 555, 2000 K Street, N.W., Washington, D.C., phone: 202/653-8053.

Mary Ann Orlando,
Deputy Staff Director.

Charter

President's Special Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research

Purpose

This Commission was established by Executive Order No. 12184, dated December 17, 1979, to investigate and study ethical problems in medicine and biomedical and behavioral research, and to report its findings and recommendations for legislation or administrative action to the President and the Congress and to each federal agency to which a recommendation applies.

Authority

The President has directed that the Commission shall adhere to the provisions of Title III of Public Law 95-622. It is also subject to the provisions of Public Law 92-463, which sets forth standards for the formation and use of advisory committees.

Functions

1. The Commission shall undertake studies of the ethical and legal implications of:

A. the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

B. the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

C. the matter of defining death, including the advisability of developing a uniform definition of death;

D. voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

E. current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research (ii) to ensure the confidentiality of individually identifiable patient records, and (iii) to ensure appropriate access of patients to information contained in such records; and

F. such other matters relating to medicine or biomedical or behavioral research as the President may designate for study by the Commission.

2. The Commission may, on its own initiative or at the request of the head of a Federal agency, undertake an investigation or study of any other appropriate matter which relates to medicine or biomedical or behavioral research (including the protection of human subjects of biomedical or behavioral research) and which is consistent with the purposes of this act (Title III, Section 301 of Public Law 95-622).

3. In order to avoid duplication of effort, the Commission may, in lieu of, or as part of, any study or investigation required or otherwise conducted, use a study or investigation conducted by another entity if the Commission sets forth its reasons for such use.

4. Upon the completion of each investigation or study undertaken by the Commission (including a study or investigation which merely uses another

study or investigation), it shall report its findings (including any recommendations for legislation or administrative action) to the President and the Congress and to each Federal agency to which a recommendation in the report applies.

5. The Commission shall biennially report to the President, the Congress, and appropriate Federal agencies on the protection of human subjects of biomedical and behavioral research. Each such report shall include a review of the adequacy and uniformity of:

A. the rules, policies, guidelines, and regulations of all Federal agencies regarding the protection of human subjects of biomedical or behavioral research which such agencies conduct or support; and

B. the implementation of these rules, policies, guidelines, and regulations by such agencies, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

6. The Commission may at any time publish and disseminate to the public, reports respecting its activities.

Structure

The Commission shall consist of eleven members appointed by the President as follows:

Three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research;

Three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care;

Five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs.

No individual who is a full-time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Health, Education, and Welfare, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, and the Director of the National Science Foundation shall each designate an individual to provide liaison with the Commission.

No individual may be appointed to serve as a member of the Commission if the individual has served for two terms of four years each as such a member.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

Members shall be appointed for terms of four years, except that, of the members first appointed, four shall be appointed for terms of three years and three shall be appointed for terms of two years, as designated by the President at the time of appointment.

Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such

term. A member may serve after the expiration of his term until his successor has taken office.

The Chairman of the Commission shall be appointed by the President, from among the members of the Commission, by and with the advice and consent of the Senate.

The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of Title V of the United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of Title V of the United States Code, but at rates of individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

The Commission shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties under this title.

The Commission shall not disclose any information reported to or otherwise obtained by the Commission which is exempt from disclosure under subsection (a) of section 552 of Title V, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

The Administrator of General Services shall provide the Commission on a reimbursable basis such administrative support service as the Commission may request, and will perform all Federal Advisory Committee functions in behalf of the Commission, excepting the submission of reports as required by the legislation.

Seven members of the Commission shall constitute a quorum for business, but a lesser number may conduct hearings.

Meetings

The Commission may hold meetings at the call of the Chairman or at the call of a majority of its members.

The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

Compensation

Members of the Commission shall be paid at the rate of \$170.00 per day for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of Title V of the United States Code.

Annual Cost Estimate

The estimated annual cost for the operations and functions of the Commission including compensation, the cost of approximately seven person years of staff support for the work of the Commission, travel expenses and contract services is \$1,200,000 for fiscal year 1980, \$2,100,000 for fiscal year 1981, \$2,300,000 for fiscal year 1982, and \$750,000 for fiscal year 1983.

Report

By December 15 of each year, the Commission shall report to the President, the Congress, and appropriate Federal agencies on the activities of the Commission during the fiscal year ending in such year. Each such report shall include a complete list of all recommendations made to Federal agencies by the Commission during the fiscal year and the actions taken by the agencies upon such recommendations, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

Termination Date

Unless renewed by appropriate action prior to its expiration, the Commission will terminate on December 31, 1982.

Approved: December 20, 1979.

Douglas B. Huron,

Senior Associate Counsel to the President.

[FR Doc. 79-39577 Filed 12-27-79; 8:45 am]

BILLING CODE 6820-AV-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16442; File No. SR-Amex-79-15]

American Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 7, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. proposes to adopt new Rules 601 through 619 regarding Exchange arbitrations, replacing existing Rules 601 through 610. The new rules incorporate

the Uniform Code of Arbitration for resolving disputes between investors and member firms.

Statement of Basis and Purpose

New Rules 601 through 619 are being adopted to conform Amex arbitration rules to the proposed Uniform Arbitration Code developed by the Securities Industry Conference on Arbitration ("SICA"). The Amex is one of the ten self-regulatory organizations which are members of SICA. The purpose of the proposed rule change is to provide investors with a simple and inexpensive procedure for resolution of controversies with broker-dealers.

The proposed Rules are consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(5) of the Act in particular in that they are designed to promote just and equitable principles of trade and to protect investors and the public interest. They do so by providing improved uniform procedures for the arbitration of disputes involving members and member organizations of the Exchange.

Comments Received From Members, Participants or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule changes.

Burden on Competition

The Amex has determined that no burden on competition will be imposed by the proposed rule changes.

On or before February 1, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 110 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal

office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 18, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

December 19, 1979.

[FR Doc. 79-39650 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 15446]

Receipt of Amendments to Joint Industry Plan

December 21, 1979.

On November 20, 1979, the participants in the consolidated quotation system ("CQS") submitted to the Commission various amendments to the joint industry plan (the "Plan") authorized pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 ("Act") governing and implementing the operation of the CQS.

I. Description of Amendments

A. Amendments Relating to NASD Participation in the Plan

The Plan participants have proposed the amendment of Sections I(j), VI(c), VI(d) and IX(c) of the Plan and the addition of a new Section III(d) to the Plan. Among other things, these proposals would provide that at some future date the Plan may be amended and submitted to the Commission for approval: (i) To provide for a 'CQ Network C' for unlisted, over-the-counter NASDAQ securities; (ii) to name the NASD as the network's administrator thereof, with all of the rights and authority with respect to 'CQ Network C' that the network's administrators for CQ Network A and B have under the CQ plan with respect to their respective networks; (iii) to properly allocate income and expenses in relation to unlisted, over-the-counter NASDAQ securities; and (iv) to make such other changes as deemed necessary at that time.

B. Amendments Relating to the Regulatory Halt Provision

The Plan participants have proposed the deletion of Section IX(a) of the Plan and the amendment of Section IX(b) of the Plan. Section IX(a) of the Plan, as originally filed with the Commission, provided that, during a regulatory halt of trading in a security called by the "primary" exchange, all Plan participants must cease making

available quotation information in that security to the Plan Processor. The Commission determined to condition its temporary authorization of the Plan on the Plan participants not implementing this provision of the Plan and requested the Plan participants to execute and file amendments to the Plan eliminating this provision.¹ The amendment to Section IX(b) of the Plan would provide that each Plan participant shall be authorized to suspend the furnishing of quotation information in any "eligible security" for any reason deemed adequate by it. Any Plan participant which does so suspend furnishing of quotation information shall immediately advise the Plan processor of its actions and reasons therefor.

C. Amendments Relating to Financial Arrangements Among the Participants

The Plan participants have proposed the amendment of Section X(b)(i) of the Plan. Section X(b) of the Plan provides for the sharing of income and expenses associated with making available Network A and Network B quotation information. Specifically, as to each network, it provides that a participant's "Annual Share" of net income for any calendar year will be measured by the number of transactions reported by that participant during that year in the consolidated transaction reporting system as compared with all transactions reported by all participants during that year. The amendment would modify the definition of the term "Annual Share" to exclude those transactions reported in those securities as to which an exemption has been granted to a participant from the requirements of Rule 11Ac1-1 under the Act.

II. Request for Comment

In order to assist the Commission in determining whether to approve the proposed amendments, interested persons are invited to submit their views and comments on the proposal to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before January 18, 1980. The amendments to the Plan will be available for public inspection in the Commission's public reference room. All such communications should refer to File No. 4-281.

¹ See Securities Exchange Act Release No. 14415 (July 28, 1978) 43 FR 34851; Securities Exchange Act Release No. 15511 (January 24, 1979) 44 FR 6230.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 79-39649 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16429/Dec. 17, 1979; File No. SR-CBOE-79-13]

Chicago Board Options Exchange, Inc.; Proposed Rule Change By Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) (the "Act"), notice is hereby given that on November 28, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

(Brackets indicate deletions, italics indicate new material)

Rule 6.45

. . . Interpretation and Policies:

.01 [The Floor Procedure Committee has adopted the following guideline regarding orders to sell at a price of $\frac{1}{16}$ th:] *When a Board Broker or Order Book Official is displaying, pursuant to Rule 7.7, limit orders to sell at $\frac{1}{16}$ th which have priority pursuant to Rule 6.45, no Floor Broker, Board Broker or Order Book Official shall hold a market order to sell that series. Whenever this condition occurs, any such market order held by a Floor Broker, Board Broker[s] or Order Book Official[s] [and Floor Brokers] shall [immediately return any held orders to the member firm's floor communication station clearly marked "Unable $\frac{1}{16}$ th limit in book." The member initiating the order on the floor shall immediately transmit a request for a cancellation or a change to a limit order back to the office originating the order.] be considered a limit order to sell at a price of $\frac{1}{16}$ th, and the Floor Broker, Board Broker or Order Book Official shall change the market sell order to reflect a limit price of $\frac{1}{16}$ th.*

The Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing rules change is as follows:

The purpose of the proposed rule change is to eliminate a requirement, which has proven unworkable in practice, that all market sell orders held by Floor Brokers, Board Brokers and Order Book Officials be returned to the member firm offices originating the orders for resubmission as limit orders to sell at $\frac{1}{16}$ th whenever a $\frac{1}{16}$ th offer is displayed on the limit order book.

A market order is defined as an order to be executed at the best price

obtainable when that order reaches the trading post. When the public limit order book is displaying sell orders at a price of $\frac{1}{16}$ th, the book is offering to sell at the lowest price available in the CBOE's marketplace. The market order cannot be executed by offering to sell at a lower price (unless it can be submitted as an accommodation liquidation offer), and the limit offers in the book at a price of $\frac{1}{16}$ th are entitled to priority at that price. Limit orders on the book to sell at a price of $\frac{1}{16}$ th necessarily have priority over all other sell orders. To obtain promptest execution, a market sell order must be converted to a $\frac{1}{16}$ limit sell order and queued with other sell orders at that price to await execution. The sooner the market sell order can be converted to a $\frac{1}{16}$ limit sell order and queued, the better the seller's position in the queue.

The proposed amendment would allow the market sell order to be changed to a limit sell order at a price of $\frac{1}{16}$ th without resubmitting the order to the originating member firm office. The current requirement that necessitates such a resubmission involved an unwarranted clerical burden and delayed entry of the order into the book.

The basis under the Act for the proposed rule change is Section 6(b)(5) since the change will facilitate transactions in securities permitting brokers to change market sell orders so that they can be placed on the book as $\frac{1}{16}$ th limit sell orders when the book is displaying a $\frac{1}{16}$ th offer.

No comments were solicited or received on the proposed rule change.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before February 1, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in

the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 18, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

December 17, 1979.

[FR Doc. 79-39651 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16428; SR-CSE-79-8]

Cincinnati Stock Exchange; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

December 17, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on November 20, 1979, the Cincinnati Stock Exchange ("CSE"), 209 Dixie Terminal Building, Cincinnati, Ohio 45202, filed with the Commission copies of a proposed rule change which would amend Section 9.3 of Article II of the By-Laws of the Exchange, concerning the valuation by and sale to the Exchange of proprietary memberships, to limit the amount to be paid by the CSE, upon written demand, in redeeming proprietary membership certificates. Under the proposed amendment, the CSE would pay 80 percent of a certificate's value where redemption of a proprietary membership is sought because a member has died or has a bona fide intention of retiring permanently from the broker-dealer business. The CSE would pay 50 percent of the value of a certificate where redemption is sought by a member without a bona fide intention of retiring from the broker-dealer business. These percentages are currently in effect under the present Section 9.3, but were scheduled to increase on January 1, 1980. The value of a proprietary membership is computed by dividing the adjusted net capital of the CSE as of the valuation date by the number of certificates of proprietary membership outstanding as of that date. The proposal also would allow the CSE to hold back a portion of the redemption price until after the end of the fiscal year so that adjustments in the value can be made to reflect year-end audit results.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, DC 20549. Reference should be made to File No. SR-CSE-79-8.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in order that the amounts which the CSE pays when redeeming proprietary membership certificates may be frozen at the current percentages rather than rising on January 1, 1980, as was previously scheduled. The CSE states that the proposed rule change is necessary to insure the maintenance of a net capital account sufficient to assure its continued operations.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George Fitzsimmons,
Secretary.

[FR Doc. 79-39582 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16441; File No. SR-CSE-79-5]

The Cincinnati Stock Exchange; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L.

94-29, 16 (June 4, 1975), notice is hereby given that on November 20, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Article IV, Section 2 of the By-Laws of the Cincinnati Stock Exchange ("Exchange") is proposed to be amended as follows: (brackets indicate words to be deleted and italics indicate words to be added).

2. Unlisted Trading Privileges

[No security shall be granted unlisted trading privileges on the Exchange and no securities shall be eligible to continue to enjoy unlisted trading privileges unless the issuer thereof shall meet the requirements for listing set forth in Section 1.3. of this Article IV.]

No application shall be made to the Securities and Exchange Commission for the extension of unlisted trading privileges to any security unless the issuer thereof shall meet the requirements for listing set forth in Section 1.3. of this Article IV. In the event that an issuer whose security has been the subject of a grant of unlisted trading privileges to the exchange ceases to meet the requirements for listing set forth in Section 1.3. of this Article IV, the Exchange shall terminate such unlisted trading.

The Exchange's Statement of Basis and Purpose

The purpose of the proposed rule change is to revise the current By-Laws of the Exchange to reflect more accurately the procedure and criteria which will be followed by the Exchange in seeking unlisted trading privileges. The current Section 2 suggests that the granting of unlisted trading privileges is at the discretion of the Exchange whereas in fact this is the province of the Securities and Exchange Commission under Section 12(f) of the Securities Exchange Act of 1934.

The basis for the proposed rule change is Section 6(b)(5) and Section 12(f) of the Securities Exchange Act is that the principal purpose of the rule change is to clarify the procedures to be followed by the Exchange, and the criteria to be used by the Exchange, in determining whether to apply for the granting or termination of unlisted trading privileges on the Exchange. Therefore, the proposed rule change is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market

and a national market system, and, in general, to protect investors and the public interest.

Comments Received From Members, Participants or Others on Proposed Rule Change

No comments on the proposed rule change were solicited or received by the Exchange.

Burden on Competition

The Exchange believes that the proposed rule change imposes no burden on competition.

On or before February 1, 1980, or within such longer period (i) as the Commission may designate up to ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 18, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

December 19, 1979.

[FR Doc. 79-39653 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

Horizon Energy Corp.; Order of Suspension of Trading

December 18, 1979.

It appearing to the Securities and Exchange Commission that there are questions concerning the accuracy of certain information regarding the testing and demonstration of a product which Horizon Energy Corporation claims to be a process to produce hydrogen and oxygen gas from the catalytic disassociation of water, the Commission is of the opinion that the public interest and the protection of investors require a

summary suspension of trading in the securities of Horizon Energy Corporation.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended for the period from 9:30 a.m. (EST) on December 18, 1979 through midnight on December 27, 1979.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-39654 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16440; File No. SR-MSE-79-17]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Incorporated

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 1, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms and Substance of the Proposed Rule Change

The Midwest Stock Exchange, Incorporated proposes to adopt new Rules 23 and 24 regarding Exchange Arbitrations, replacing existing Rules 23 and 24. The new rules incorporate the Uniform Code of Arbitration for resolving disputes between investors and member firms and also provide for arbitration of disputes between members.

Statement of Basis and Purpose

The procedures set forth in the proposed Uniform Arbitration Code were developed by the Securities Industry Conference on Arbitration, which is composed of representatives of the Midwest Stock Exchange and 9 other self-regulatory organizations, the Securities Industry Association and 3 representatives from the public. It is anticipated the Uniform Arbitration Code will eventually be adopted by each of these self-regulatory organizations and will provide for a uniform system of arbitration throughout the securities industry. The proposed uniform code will enable each of the self-regulatory organizations to provide investors with a simple and inexpensive procedure for the resolution of controversies with member firms. It will also provide, a consistent procedural

format for utilization with arbitration proceedings for member disputes.

The proposed amendments to the Rules are consistent with Section 6(b)(5) of the Act in that the Uniform Arbitration Code will provide a more effective, efficient and economical dispute resolution system for the public and the memberships and thus will protect investors and the public interest.

Comments were received from the staff of the Securities and Exchange Commission by letter dated April 5, 1979 to a report by the Securities Industry Conference on Arbitration containing an earlier version of the Uniform Arbitration Code. Based on those comments the procedures were revised as presently submitted.

There will be no burden on competition.

On or before February 4, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceeding to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 21, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

December 19, 1979.

[FR Doc. 79-39655 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16432; File No. SR-MSRB-79-13]

**Self-Regulatory Organizations;
Proposed Rule Changes by Municipal
Securities Rulemaking Board**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 12, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Changes

The Municipal Securities Rulemaking Board (the "Board") is filing proposed amendments to rule A-13 (hereinafter sometimes referred to as the "proposed rule changes"). The text of the proposed rule changes is as follows:¹

Rule A-13. Underwriting Assessment for Municipal Securities Brokers and Municipal Securities Dealers

(a) *Assessment Rate.* In addition to the fees prescribed by [rule A-12] *other rules of the Board*, each municipal securities broker and municipal securities dealer shall pay a fee to the Board equal to .001% (\$.01 per \$1,000) of the [face amount] *par value* of all municipal securities which are purchased from an issuer [as part of a new issue] by or through such municipal securities broker or municipal securities dealer, whether acting as principal or agent, [and which have] *as part of a new issue which has an aggregate par value of \$1,000,000 or more and which has a final stated maturity of not less than two years from the date of the securities; provided, however, that if such municipal securities broker or municipal securities dealer is a member of a syndicate or similar account formed for the purchase of such securities, such fee shall be calculated on the basis of the participation of such municipal securities broker or municipal securities dealer in the syndicate or similar account. Such fee must be received at the office of the Board in Washington, D.C. not later than 30 calendar days following the date of settlement with the issuer. In the event a syndicate or similar account has been formed for the purchase of the securities, the fee shall be paid by the managing underwriter on behalf of each participant in the syndicate or similar account.*

(b) *Form A-13.* Payment of the fee [specified] *required in paragraph (a) hereof shall be accompanied by [two]*

one completed [copies] copy of Form A-13 prescribed by the Board.

(c) *Form A-13 for Issues of Less Than \$1,000,000.* In addition to filing the copy or copies of the Form A-13 required by paragraph (b) hereof, each municipal securities broker and municipal securities dealer shall file with the Board one completed copy of Form A-13 for each issue of municipal securities which is purchased from an issuer by or through such municipal securities broker or municipal securities dealer, whether acting as principal or agent, as part of a new issue which has an aggregate par value of less than \$1,000,000 and which has a final stated maturity of not less than two years from the date of the securities; provided, however, that if such municipal securities broker or municipal securities dealer is a member of a syndicate or similar account formed for the purchase of such securities, the Form A-13 with respect to such securities shall be filed by the managing underwriter on behalf of each participant in the syndicate or similar account. Each Form A-13 required to be filed under this paragraph must be received at the office of the Board in Washington, D.C. not later than 15 calendar days following the end of the calendar quarter in which the date of settlement with the issuer occurs.

[(c)](d) *Effective Date.* Anything herein to the contrary notwithstanding, the fee prescribed in paragraph (a) shall be payable with respect to any new issue of municipal securities which a municipal securities broker or municipal securities dealer shall have contracted on or before December 31, 1979 to purchase from an issuer, including issues which have an aggregate par value of less than \$1,000,000. The provisions of paragraph (c) shall apply only to new issues of municipal securities which a municipal securities broker or municipal securities dealer shall have contracted on or after January 1, 1980 to purchase from an issuer. [The fee prescribed herein shall be payable with respect to municipal securities which the persons subject hereto (or, in the event any such person is acting as agent for another party with respect to the purchase of the securities, such other party) shall have contracted on or after November 1, 1977 to purchase from the issuer. The fee payable with respect to municipal securities which such persons shall have contracted to purchase from an issuer prior to November 1, 1977 shall be calculated at the rate of .002% (\$.02 per \$1000) of the face amount of such securities.]

[(d)](e) *Penalty.* In the event any person subject to this rule shall fail to pay the required fee, the Board may recommend to the Commission that the registration of such person with the Commission be suspended or revoked.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule changes is as follows:

Purpose of Proposed Rule Changes

Rule A-13 requires each municipal securities broker and municipal securities dealer to pay to the Board a fee based essentially on its underwriting activities. The purpose of the fee is to provide a continuing source of revenue to defray the costs and expenses of operating the Board.

Prior to the proposed rule changes, municipal securities brokers and municipal securities dealers were required to pay the fee on all new issues purchased by or through them which had final stated maturity of not less than two years from the date of the securities. The proposed rule changes modify rule A-13 to provide that the fee does not have to be paid with respect to new issues with an aggregate par value of less than \$1,000,000. This change will result in significant administrative cost savings for the Board and the industry.

Under the rule prior to amendment, the Board had to reflect in its books as an account receivable the assessment fee due on each new issue with an aggregate par value of less than \$1,000,000 and to make separate entries upon the receipt of payment of such fees. These accounting requirements imposed a significant administrative burden on the Board which far outweighed the value to the Board of the resulting fee payments. According to an independent accounting firm retained by the Board to review its financial systems, the elimination of the underwriting assessment fee on issues of less than \$1,000,000 will reduce the "recording requirements" * * * by 39 to 46 percent," while only reducing annual revenue to the Board by \$20,000 at most. The accounting firm therefore recommended that the Board eliminate the assessment fee on such issues.

The change will also benefit the industry because municipal securities brokers and municipal securities dealers will not have to draw checks for relatively insignificant amounts. The administrative costs associated with drawing and processing assessment checks for such amounts is often considerably in excess of the fees paid. In this regard, the Board notes that such administrative costs tend to increase as

a function of the size of the dealer involved. The requirement to pay the underwriting assessment fee on small issues has therefore proven burdensome to the industry and presented compliance problems.

Although the requirement to pay an assessment fee on issues of less than \$1,000,000 has been eliminated, the proposed rule changes require that municipal securities brokers and municipal securities dealers file on a quarterly basis a Form A-13 for each such issue. The principal purpose for this requirement is to assure that the Board has continuing information regarding such issues, so that it may, among other things, reassess in the future its decision exempting them from the fee requirement.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to sections 15B(b)(2)(I) and 15B(b)(2)(J) of the Securities Exchange Act of 1934, as amended (the "Act"). Section 15B(b)(2)(J) of the Act authorizes and directs the Board to adopt rules providing for the assessment of municipal securities brokers and municipal securities dealers to defray the costs and expenses of operating and administering the Board. Section 15B(b)(2)(I) authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

Comments Received From Members, Participants or Others on Proposed Rule Changes

The Board has received numerous complaints from members of the industry regarding the difficulty and inconvenience of having to prepare and send checks in small amounts for payment of the underwriting assessment fee.

Burden on Competition

The Board recognizes that the proposed rule changes may have a greater impact on certain municipal securities brokers and municipal securities dealers than others, benefiting to a larger extent those which underwrite the greatest number of new issues with an aggregate par value of less than \$1,000,000. The Board nonetheless believes that the proposed rule changes are justified in view of the significant administrative benefits which they will produce for the Board and the industry. Further, any advantage which may accrue to certain municipal securities brokers or municipal securities dealers will not be material

since the proposed rule change saves them in fee costs a maximum of \$10.00 per issue. The Board notes that all municipal securities brokers and municipal securities dealers will benefit to the extent that they underwrite issues with an aggregate par value of less than \$1,000,000.

The foregoing rule changes have become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 21, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

December 18, 1979.

[FR Doc. 79-39656 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16438; File No. SR-OCC-79-8]

**Self-Regulatory Organizations;
Proposed Rule Change by the Options
Clearing Corporation**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 12, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would extend the deadline for filing exercise notices with OCC on regular trading days from 3:30 p.m. to 7:00 p.m. (Central Time), and would permit exercise notices to be revoked until 7:00 p.m. (Central Time) on the date of filing.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change would extend the deadline for filing exercise notices with OCC on regular trading days from 3:30 p.m. to 7:00 p.m. The rule change would also permit exercise notices to be revoked or modified until 7:00 p.m. on the date of filing.

The purpose of the proposed rule change is to reduce the incidence of errors in the filing of exercise notices by providing additional time in which to make exercise determinations and by permitting erroneous exercise notices to be corrected.

Background

Under (OCC's present rules, Clearing Members may exercise options at any time until 3:30 p.m. on regular trading days by filing a written exercise notice with OCC. Once filed, an exercise notice is irrevocable. Exercise notices filed with OCC during the day are assigned the same evening, beginning at approximately 11:00 p.m.

As the volume of options trading has increased, OCC has observed a corresponding increase in the number of errors made in connection with exercises. In a number of instances, brokers have failed, by mistake, to exercise a sizable long position in call options on the day before an ex-date, thereby losing a substantial dividend. Exercise errors can lead to other types of losses as well. OCC believes that the incidence of errors in the exercise process can be substantially reduced by the rule changes proposed herein.

Extension of Filing Deadline

Under OCC's present rule, a broker who executes transactions at the close of trading has only twenty minutes in which to determine his updated positions, make exercise decisions, and file exercise notices. For brokers whose positions fluctuate throughout the day, such as marketmakers and specialists, the 3:30 p.m. exercise deadline creates a significant potential for error.

Inasmuch as OCC's assignment processing does not commence until approximately 11:00 p.m., there is no significant operational reason for a 3:30

¹ Italics indicate new language; [brackets] indicate deletions.

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p.m. exercise deadline. Neither, as far as OCC can determine, is there any regulatory reason for such a deadline. OCC therefore proposes to extend the deadline for filing exercise notices on regular trading days to 7:00 p.m.

Correction of Erroneous Exercise Notices

On a number of occasions, Clearing Members have sought to withdraw exercise notices filed in error. Such errors have included specifying the wrong class of options, the wrong series within a class, or a greater number of option contracts than were intended to be exercised. In some cases (e.g., where a Clearing Member mistakenly exercises out-of-the-money options), erroneous exercise notices can cause substantial losses. In other cases, while there may be no significant dollar loss, a broker or Clearing Member may find it necessary to purchase or sell the underlying security when he had not intended to do so, and to reconstruct the mistakenly exercised position.

Such errors could be substantially reduced if Clearing Members were permitted to withdraw or to correct exercise notices (and particularly if they were given until 7:00 p.m. in which to do so). Under OCC's present rules, however, exercise notices are expressly made irrevocable, and OCC has therefore been forced to deny all requests to revoke or modify exercise notices after filing.

The irrevocability provision in OCC Rule 801(a) dates from OCC's original rules. Its origins are not entirely clear, but it is believed to have been a by-product of OCC's former practice of assigning exercise notices in three separate "passes" on each trading day (which was dropped when OCC ceased to permit assignments to be "retendered"). Multiple assignment passes would have made it difficult, if not impossible, to process attempted withdrawals or modifications of exercise notices.

Whatever the original reasons may have been, OCC does not believe that exercise notices should continue to be treated as irrevocable. The processing of withdrawals or modifications would pose no significant operational problems for OCC; and as long as an exercise notice has not yet been assigned, its withdrawal would not affect the rights of any third party. OCC believes that there are significant benefits to be gained, in the form of a reduction of exercise errors, by permitting exercise notices to be revoked or corrected during the course of the day on which they are filed.

The proposed rule change would enhance OCC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible by reducing the incidence of errors in the filing of exercise notices.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before February 4, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 21, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

December 19, 1979.

[FR Doc. 79-39057 Filed 12-27-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area # 1749]

Alaska; Declaration of Disaster Loan Area

The area of Sheldon Point to Togiak, Coastal portion of the Unorganized Borough of the State of Alaska, constitutes a disaster area because of

damage caused by sea storm, high winds and heavy seawaves which occurred on November 8-9, 1979.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 18, 1980, and for economic injury until the close of business on September 19, 1980, at: Small Business Administration, District Office, Suite 200, Anchorage Legal Center, 1016 West, Sixth Avenue, Anchorage, Alaska 99501, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 19, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39635 Filed 12-27-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1736]

Idaho; Declaration of Disaster Loan Area

Boundary County and adjacent counties within the State of Idaho constitute a disaster area as a result of natural disaster as indicated:

County, Natural Disaster(s), and Date(s)

Boundary, drought, dry wells, May 5, 1979 to September 18, 1979.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 11, 1980, and for economic injury until the close of business on September 10, 1980, at: Small Business Administration, District Office, 1005 Main Street, Boise, Idaho 83702, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 14, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39638 Filed 12-27-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area # 1747]

Kansas; Declaration of Disaster Loan Area

The following counties and adjacent counties within the State of Kansas constitute a disaster area as a result of natural disaster as indicated:

County, Natural Disaster(s), and Date(s)

Harper, Heavy Rains and Flooding, October 30, 1979.

Harvey, Heavy Rains and Flooding, October 30, 1979 to November 5, 1979.

McPherson, Heavy Rains and Flooding, October 29, 1979 to October 30, 1979.

Barber, Heavy Rains, Hail, Winds, and Flooding, October 29, 1979 to October 30, 1979.

Sedgwick, Heavy Rains and Flooding, October 30, 1979 to October 31, 1979.

Reno, Heavy Rain, October 14, 1979.

Reno, Heavy Rains and Flooding, October 30, 1979.

Kingman, Heavy Rains and Flooding, October 29, 1979 to October 30, 1979.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 19, 1980, and for economic injury until close of business on September 19, 1980, at: Small Business Administration, District Office, Main Place Building, 110 East Waterman Street, Wichita, Kansas 67202, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 19, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-39637 Filed 12-27-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Dept. Circular; Public Debt Series—No. 31-79]

Treasury Notes of Series H-1983; Interest Rate

December 21, 1979.

The Secretary announced on December 20, 1979, that the interest rate on the notes designated Series H-1983, described in Department Circular—Public Debt Series—No. 31-79, dated December 13, 1979, will be 10½ percent. Interest on the notes will be payable at the rate of 10½ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 79-39593 Filed 12-27-79; 8:45 am]

BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protests' information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property Notice No. 218

MC 14552 (Sub-70TA), filed September 21, 1979. Applicant: McNICHOLAS TRANSPORTATION CO., 555 W. Federal St., Youngstown, OH 44501. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business*, between Mahoning County, OH, on the one hand, and, on the other, points in Kenton County, KY for 180 days. Supporting shipper(s): Thorofare Markets, Inc., 650

N. Meridian, Youngstown, OH 44509. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 36422 (Sub-10TA), filed November 2, 1979. Applicant: MERCHANTS CONTRACTS DELIVERIES, INC.

d.b.a., Warwick Delivery Service, 1212 East 19th St., Kansas City, MO 64108. Representative: John W. Iles 3123 Delaware Ave., Des Moines, IA 50313. Contract authority, *Such merchandise as is dealt in by retail department and mail order stores*, between Des Moines, IA, on the one hand, and, on the other, Omaha and Lincoln, NE. Supporting shipper(s): Montgomery Ward & Co., 140 South State St., Des Moines, IA., Send Protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 96992 (Sub-18TA), filed September 4, 1979. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, 801 Vaughn Building, Austin, TX 78701. *Gasoline*, in bulk, in tank vehicles from Arcadia, LA and the facilities of Atlas Processing Co., at or near Shreveport, LA, to Athens, Atlanta, Carthage, Clarksville, Gladewater, Henderson, Jacksonville, Longview, Lufkin, Marshall, Mineola, Mt. Pleasant, Nacogdoches, Palestine, Paris, San Augustine, Sulphur Springs, Texarkana and Tyler, TX for 180 days. Underlying ETA filed for 90 days. Supporting shipper: Exxon Company, U.S.A., P.O. Box 2180 Houston, TX 77001. Send protests to: Opal Jones, I.C.C. Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 103993 (Sub-1007TA), filed October 10, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Lumber, lumber products, wood products, millwork and particleboard*, from the facilities of Pluswood, Inc., at or near Oshkosh, WI to points in ME, VT, MA, NH, CT, RI, NY, NJ, NC, PA, MD, SC, VA, WV and the District of Columbia for 180 days. Supporting shipper: Pluswood Incorporated, P.O. Box 2248, Oshkosh, WI 54903. Send protests to: Beverly J. Williams, Transportation Assistant, ICC 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 107012 (Sub-458TA), filed October 12, 1979. Applicant: NORTH AMERICAN VAN LINES, P.O. Box 988, Ft. Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). *Video game cartridge, cartoned* from the facilities of Atari at or near El Paso, TX to the facilities of

Atari Inc. at or near Sunnyvale, CA; Wheeling, IL; and Edison, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Atari, Inc., 390 Caribbean Drive, Sunnyvale, CA 94066. Send protest to: Beverly J. Williams, Trans. Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 107012 (Sub-459TA), filed October 10, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Ft. Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). *Kitchen and vanity cabinets* from the facilities of Creative Cabinets at or near San Antonio, TX to points in AZ, CA, CO, ID, KS, LA, NM, NV, OK, SD, WA and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Creative Cabinets, 3215 North Pan American Expressway, San Antonio, TX 78220. Send protest to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 110012 (Sub-63TA), filed Sept. 20, 1979. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. *New furniture*, from Chicago, IL to points in and east of MN, IA, MO, KS, OK, and TX, for 180 days. Supporting Shipper(s): Douglas Furniture Corp., 5555 W. 65th St., Chicago, IL 60638. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 110012 (Sub-64TA), filed Sept. 20, 1979. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. *Nonalcoholic beverages (except in bulk in tank vehicles)*, from the facilities of Shasta Beverages at or near Birmingham, AL and Charlotte, NC to points in TN, for 180 days. Supporting Shipper: Shasta Beverages Inc., 26901 Industrial Blvd., Hayward, CA 94545. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 114273 (Sub-678TA), filed October 2, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Four-wheel steer wagon truck bodies* from Milton, IA, to Decatur, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Mid-States Engineering &

Manufacturing Co., P.O. Box 100, Milton, IA 52570. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 118202 (Sub-141TA), filed September 24, 1979. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Thomas J. Beener, One State Street Plaza, New York, NY 10004. *Fertilizing compounds (manufactured fertilizer)*, NOI dry, in bags, barrels or boxes from Maumee, Holland and Toledo, OH to points in CT, IA, IL, IN, MA, ME, MN, NH, NY, PA and WI, for 180 days. Supporting Shipper: The Andersons, P.O. Box 119, Maumee, OH 43537. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119632 (Sub-112TA), filed September 4, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same as applicant). *Such commodities as are dealt in by grocery and food business houses (except perishable or in bulk)* from the facilities used by Hunt-Wesson Foods, Inc. in the Chicago, IL commercial zone to points in IN, KY, MI, OH for 180 days. Restricted in the service to points in the named states. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hunt-Wesson Foods, Inc., P.O. Box 127, Rossford, OH 43460. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 123993 (Sub-65TA), filed October 18, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). *(1) Poultry and animal feed and mineral and vitamin mixtures for poultry and animal feeding except in bulk, (2) materials and supplies used in the manufacture, distribution and sales of commodities listed in (1) above*, between the plantsites of Allied Mills, Inc. at Fort Worth, TX and Memphis, TN on the one hand, and, on the other, points in LA, MS, AR, AL, and KY, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting Shipper: Allied Mills, Inc., 5050 Poplar, Suite 1708, Memphis, TN 38147. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 124692 (Sub-315TA), filed September 11, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: J. David Douglas (same address as applicant). *Fiberglass tanks* from

Denver, CO to points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Lifetime Fiberglass Tank Co., 5000 Packinghouse Road, Denver, CO 80216. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124692 (Sub-316TA), filed September 4, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland P.O. Box 1680, Fargo, ND 58107. *Brick* from Denver, CO to points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Big Sky Masonry Supplies, Inc., 1100 Cherry Street, Helena, MT 59601. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124692 (Sub-317TA), filed October 10, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58107. *Wire cable*, from ports of entry at Portland, OR and Vancouver, WA to the warehouse facilities utilized by VSL Corporation in the Portland, OR commercial zone, restricted to the transportation of traffic having a prior movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: VSL Corporation, 1077 Dell Avenue, Campbell, CA 95008. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124692 (Sub-318TA), filed October 11, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58107. *Steel pipe* from Hammond, IN to Minneapolis, MN; Des Moines and Bettendorf, IA; St. Louis and Jennings, MO; Louisville, KY; Erie, PA; Omaha and Lincoln, NE; and points in IN, IL, WI, OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Tait Pipe Sales, Suite 202 Academy Center, 4000 Palos Verdes Drive North, Palos Verdes Peninsula, CA 90274. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124692 (Sub-319TA), filed October 9, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58107. *Concrete products* from Elk River, MN to the Antelope Valley Power Plant at or near Beulah, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: North Dakota Concrete Products, Box 815, Bismarck,

ND 58501. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124692 (Sub-320TA), filed November 1, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: William J. Gambucci, P.O. Box 1680, Fargo, ND 58107. *Refractories and refractory products, and commodities used incidental to the installation thereof*, from Fulton and Mexico, MO to points in AZ, CA, CO, ID, MN, MT, NM, NV, ND, OR, SD, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: A. P. Green Refractories Co., Green Blvd., Mexico, MO 62265. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 128102 (Sub-2TA), filed September 28, 1979. Applicant: STATE MOTOR FREIGHT, INC., 3905 E "A" Street, Pasco, WA 99301. Representative: Boyd Hartman, 10655 N.E. 4th Street, P.O. Box 3641, Bellevue, WA 98009. *Commercial fertilizer, liquid and dry, in bulk*, between points in Whitman County, WA and points in ID, north of the southern boundary of Idaho County, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Palouse Producers, Inc., P.O. Box 9, Pullman, WA 99163. The McGregor Company, Box 769, Colfax, WA 99111. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 135953 (Sub-8TA), filed October 1, 1979. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Foodstuffs*, except in bulk, from the facilities of International Multifoods Corporation, at or near Melrose Park, IL, to points in OK & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): International Multifoods Corporation, 2000 North George Street, Melrose Park, IL 60160. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138313 (Sub-66TA), filed October 1, 1979. Applicant: BUILDERS TRANSPORT, INC., 409-14th Street S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. *Insulation board* from Nephi, UT to the facilities of Sun Wise, Inc. at or near Great Falls, MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Sun Wise, Inc., 609-10th Avenue South, Great Falls, MT 59401. Send protests to: Paul J.

Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 140243 (Sub-10TA), filed October 1, 1979. Applicant: APPLE HOUSE, INC., 3726 Birney Ave, Scranton, PA 18505. Representative: Joseph F. Horay, 121 S. Main St., Taylor, PA 18518. *Masonry Supplies* from Bethany, CT to FL, GA, NC and SC, for 180 days. Supporting Shipper: Latacrete International, Inc., P.O. Box A.F., Woodbridge, CT 06525. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19108.

MC 140563 (Sub-48TA), filed October 11, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Lighting Fixtures and Parts and Accessories for Lighting Fixtures* from the facilities of Lithonia Lighting, a Division of National Service Industries, Inc. at or near Conyers, GA, Cochran, GA and Crawfordsville, IN to points in the United States in and east of ND, SD, CO, and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Lithonia Lighting, Inc., a Division of National Service Industries, Inc., P.O. Box A, Conyers, GA 30207. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., N.W. Room 300, Atlanta, GA 30309.

MC 140563 (Sub-49TA), filed October 2, 1979. Applicant: W.T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202 Atlanta, GA 30345. *Paper and paper products* from the facilities of Union Camp Corporation at or near Morristown, TN to points in IL, IN, KY, MI, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW Room 300, Atlanta, GA 30309.

MC 141443 (Sub-48TA), filed October 15, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Such commodities as are dealt in or used by manufacturers, distributors or dealers of waterbeds*. From Colorado Springs, CO to Oklahoma City and Tulsa, OK, Albuquerque, NM, and Austin, TX restricted to the transportation of traffic originating at or destined to the facilities of Waterbed Palace for 180 days. Supporting Shipper: Waterbed Palace, Inc., 3950 Palmer Park Blvd., Colorado Springs CO, 80909. Send

protests to: Connie Stanley, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 144303 (Sub-13TA), (filed November 9, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., US Highway 25S, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave, NW, Washington, DC 20036. *Contract carrier-Irregular routes; Paints, stains and varnishes, NOI, caulking compound, with related display and advertising materials, and materials, equipment and supplies used in the manufacture of paints, stains and varnishes and caulking compound (except commodities in bulk)* between the plant, manufacturing, and warehouse facilities of United Coatings, Inc. located at Charlotte, NC; Chicago, IL; Indianapolis, IN and Memphis, TN, on the one hand, and on the other, points in and East of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: United Coatings, Inc., 3050 N. Rockwell, Chicago, IL 60618. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 144622 (Sub-116TA), filed November 6, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *(1) Food, foodstuffs and food ingredients (except in bulk), material supplies used in the manufacture, distribution, and sales of products in (1), between AR, AL, CT, DE, WA, DC, FL, GA, KY, MD, MA, MS, ME, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, and WV, restricted to shipments originating at, or destined to the facilities of, or used by, Morton Frozen Foods, Division of Continental Baking Company, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Morton Frozen Foods Division, ITT Continental Baking Co., Inc., P.O. Box 7547, Charlottesville, VA. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 144832 (Sub-1TA), filed September 21, 1979. Applicant: JOE C. SIKES d.b.a. GLENN-LEE TRUCKING CO., Hwy 21 S (P.O. Box 281), Springfield, GA 31329. Representative: Michael Hines, Walstrom Road, Savannah, GA 31404. *Gypsum and gypsum products* from the plantsite of the Flintkote Company, Chatham County, GA to all points in AL, FL, GA, SC, NC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Flintkote Company, P.O. Box 800, Irving TX 75221. Send protests to: Sara K.

Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 145152 (Sub-129TA), filed November 7, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Glassware, glass containers, caps, covers, stoppers and tops and materials* used in the manufacture of such commodities, from the facilities of Libbey Glass, Division of Owens-Illinois, at or near Shreveport, LA, to points in the United States (except AK, HI and LA), for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Libbey Glass, Division of Owens-Illinois, P.O. Box 919, Toledo, OH 43693. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-130TA), filed November 8, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Frozen and dry canned goods* from Laredo, TX to points in the United States (except AK and HI) for 180 days. Supporting shipper: United States Customs Brokers, 1490 Santa Rita Ave., Laredo, TX 78040. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145513 (Sub-9TA), filed October 15, 1979. Applicant: SERVICE TRANSPORTATION, INC., P.O. Box 732, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Sugar molasses by-products, in bulk*, from San Jose, CA and points in its commercial zone, to the facilities of Loomis, Inc. at or near Nyssa, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Loomis, Inc., P.O. Box 2474, Nyssa, OR 97913. Send protest to: Barney L. Hardin, D, S ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 145522 (Sub-4TA), filed August 29, 1979. Applicant: DENMARK TRUCKING, INC., P.O. Box 373, Green Mt., MS 38701. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Contract carrier; irregular routes: Malt beverages, advertising and display material and containers* (except commodities in bulk) between the facilities of Anheuser Busch located at or near Columbus, Ohio and Greenville, MS, for the account of Riverside Distributor, Inc., Greenville, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riverside Distributor, Inc., 730 Main Street, Greenville, MS 38701. Send protest to:

Alan C. Tarrant, D/S, ICC, Federal Building, Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 146402 (Sub-11TA), filed September 13, 1979. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske, P.O. Box 968, Jackson TN 38301. *Toilet preparations (except commodities in bulk in tank vehicles)*, from the facilities of Pro-Line Corp, at Carson, CA to Birmingham, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pro-Line Corp, 1059 Bedmar St., Carson, CA 0-746. Send protest to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 146452 (Sub-2TA), filed September 5, 1979. Applicant: ALBERTSON'S, INC., P.O. Box 20, Boise, ID 83726. Representative: William H. Grady, 1100 Norton Bldg., Seattle, WA 98104. *Such merchandise, articles or commodities as are dealt in by wholesale, retail and chain grocery store establishments (except commodities in bulk)*, from points in WA, OR, UT and ID to Fremont, CA, under a continuing contract or contracts with Kockos Bros., Inc. of Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kochos Bros., Inc. d.b.a. Fleming Foods Co., 5900 Stewart, Fremont, CA. Send protest to: Barney L. Hardin, D/S, ICC Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 146522 (Sub-9TA), filed September 10, 1979. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Rd., Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Ctr., Des Moines, IA 50309. *Contract carrier—irregular routes, malt beverages* from the facilities of the Miller Brewing Co. at Milwaukee, WI, and Fulton, NY, to Davenport, IA, under continuing contract(s) with Wolfe Beverage Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wolfe Beverage Co., 1023 South Dittmer, Davenport, IA 52802. Send protests to: Herbert W. Allen, DS, ICC, 515 Federal Bldg., Des Moines, IA 50309.

MC 146623 (Sub-4TA), filed October 11, 1979. Applicant: STAMEY ENTERPRISES, INC., 7350 102nd Place, South, Boynton Beach, FL 33435. Representative: Richard B. Austin, Suite 214, 5255 N.W. 87th Ave., Miami, FL 33178. *Foodstuffs, prepared foods and drink mixers* between New York, NY, Chicago, IL, Newark, Ridgefield and Pennsauken, NJ, Berwick, Montville and York, PA, Cleveland, OH, Boston, MA, Oconomowac, WI, Birmingham, AL, and Atlanta, GA, on the one hand, and, on

the other, Dade County, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hamersmith, Inc., 3200 N.W. 125th St., Miami, FL 33187. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 146753 (Sub-3TA), filed October 17, 1979. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 46240. Representative: Donald W. Smith, 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. *Cosmetics, jewelry products, and materials used in their distribution* from Morton Grove and Glenview, IL to Monrovia and Pasadena, CA; Chamblee, GA, and Kansas City, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Avon Products, Inc., 6901 Golf Road, Morton Grove, IL 60053. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 146782 (Sub-21TA), filed September 10, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 1st Avenue, South, Nashville, TN 37201. Representative: James Rex Raines, 300 1st Avenue, South, Nashville, TN 37201. *Paint and construction adhesives and materials, supplies and equipment used in the manufacturing of paint and construction adhesives (except in bulk)*, between the facilities of Warren Paint and Color Company at Nashville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). For 180 days. Restriction: Restricted to traffic originating at or destined to Warren Paint and Color Company at or near Nashville, TN. Supporting shipper(s): Warren Paint & Color Co., 700 Wedgewood Avenue, Nashville, TN 37203. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 147192 (Sub-1TA), filed September 4, 1979. Applicant: TESORO TANK LINES COMPANY, 8700 Tesoro Drive, San Antonio, TX 78286. Representative: Thomas F. Sedberry, 801 Vaughn Bldg., Austin, TX 78701. *Contract, Irregular, Crude petroleum and gas well condensate, in bulk, in tank vehicles*, between points in LA, on the one hand, and, on the other, points in TX, on and east of Interstate Highway 35, under a continuing contract with Tesoro Crude Oil Company for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Tesoro Crude Oil Company, 8700 Tesoro Drive, San Antonio, TX 78286. Send protests to: Opal Jones,

I.C.C., Rm 9A27 Federal Bldg. 819 Taylor St., Fort Worth, TX 76102.

MC 147212 (Sub-2 TA), filed August 13, 1979. Applicant: YASTE TRANSPORTATION CO., INC., 2619 Cherry Street, Hoquiam, WA 98550. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract carrier: Irregular routes: Wood pulp and empty ocean containers*, between Hoquiam, WA and Seattle, WA, restricted to the transportation of traffic having a prior or subsequent movement by water and to a transportation service to be performed for the account of Kerr Steamship Co., Inc. of Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Steamship Co., Inc., 3801 Seattle First National Bank Bldg., Seattle, WA 98154. Send protests to: Shirley M. Holmes, T/A, ICC, 856 Federal Building, Seattle, WA 98174.

MC 147343 (Sub-5TA), filed October 15, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). *Loudspeakers, and material used in the manufacture of loudspeakers* from Tiffin, OH to Los Angeles, CA; Miami, FL; Atlanta, GA; Chicago, IL; Santa Claus, IN; Baltimore, MD; Boston, Newburyport, and North Adams, MA; Minneapolis, MN; St. Louis, MO; Albany and New York, NY; Shawnee, OK; and Dallas and Houston, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tiffin Enterprise, 458 Second Avenue, Tiffin OH 44883. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 147402 (Sub-4TA), filed September 14, 1979. Applicant: WACO DRIVERS SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: John P. Tucker, Jr., 2200 Century Parkway, Suite 202, Atlanta, GA 30345. *Contract carrier-Irregular routes: Scrap paper and waste paper* between points in GA, on the one hand, and, on the other, points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Atlanta Intercel-A, Division of International, Cellulose, Inc., 1240 Stewart Ave., Atlanta, GA, 30310. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 148363 (Sub-1TA), filed October 2, 1979. Applicant: WILLIAM H. BECK, INC., Box 51, Fulton, NY 13069. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *Contract carrier-irregular routes.*

Liquid brewers condensed solubles, in bulk, from the facilities of Anheuser Busch, Inc. at Merrimack, NH to facilities of Anheuser Busch, Inc. at East Brunswick, NJ under a continuing contracts with Anheuser Busch, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anheuser Busch, Inc., 721 Pestalozzi St., St. Louis, MO 63118. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 148423 (Sub-1TA), filed October 29, 1979. Applicant: AVANT TRUCKING COMPANY, INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, 700 Home Federal Bldg., Macon, GA 31201. *Industrial waste products, in bulk* from the plantsite of General Motors Corporation at or near Atlanta, GA to approved EPA dumping points in AL and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors Corporation, McDonough Boulevard and Sawtell Road, Atlanta, GA 30315. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 148423 (Sub-2TA), filed October 29, 1979. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, 700 Home Federal Building, Macon, GA 31201. *Solar salt, in bag and bulk* from Glynn County, GA to points in SC and NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marine Port Terminals, Inc., P.O. Box 1039, Brunswick, GA. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 148483 (Sub-1TA), filed October 19, 1979. Applicant: INTERSTATE MOVING AND STORAGE CO., P.O. Box 334, Cheyenne, WY 82001. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036. *Household Goods*, as defined by the Commission, between points in WY and Banne, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan and Sioux Counties, NE. Supporting shipper(s): HC&D Forwarders International, Inc., Robert E. Lederer, Operations Manager, P.O. Box 4475—Burlingame, CA 94010. Allied Freight Forwarding, Inc., Mario Rizzo, Vice Pres., P.O. Box 4403, Chicago, IL 60680. AFI Worldwide Forwarders, Patrick M. Cronin, Vice Pres. Operations, 335 Valencia St., San Francisco, CA 94103. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt

House, 111 South Wolcott, Casper, WY 82601.

MC 148622 (Sub-TA), filed November 1, 1979. Applicant: EXPRESS SERVICE, INC., P.O. Box 263, Antioch, TN 37013. Representative: Bryan E. Hubbard (same address as applicant). (1) *Parts, supplies, accessories & associated items for: automobile, trucks, farm equipment, earth moving equipment & industrial machinery*, (2) *Printed Matter & associated items*, (3) *General Commodities which have a prior or subsequent movement by air*, between Davidson County, TN, on the one hand, and, on the other, points in Simpson, Warren, Barren and Allen Counties, KY; Robertson, Sumner, Macon, Trousdale, Wilson, Rutherford, Bedford, Lincoln, Marshall, Giles, Maury & Williamson Counties, TN, for 180 days. Note: Applicant intends to interline with other carriers at Nashville, TN. Supporting Shipper(s): "There are 26 supporting shippers. Their statements may be examined at the office listed below and Headquarters." Sent protests to: Glenda Kuss, TA, ICC, A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 148623 (Sub-TA), filed October 16, 1979. Applicant: RON BUNGER TRUCKING AND FERTILIZER, LTD., Box 156, Davis Junction, IL 61020. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Fertilizer materials*, from the facilities of N-Ren Corporation at East Dubuque, IL; from the facilities of W. R. Grace & Co. at Henry, IL, and from the facilities of Illinois-Nitrogen at Marseilles, IL to points in IA, MN, and WI for 180 days. Supporting Shipper(s): N-Ren Corporation, P.O. Drawer D, East Dubuque, IL 61025, W. R. Grace & Co., P.O. Box 1701, Peoria, IL 61656. Send protests to: Annie Booker, TA, IC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

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MC 11722 (Sub-70TA), filed Nov. 6, 1979. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 N.E. Weidler St., Portland, OR 97232. *Liquid sweetener, in bulk in tank vehicles* from Harrah, WA to Missoula, Butte, and Great Falls, MT and Lewiston, ID for 180 days. A corresponding ETA has been filed and a permanent will be filed in the immediate future. Supporting shipper(s): Liquid Sugar, Inc., 1299 N.E. Front St., Salem, OR 97301. Send protests to: D. Merine Galbraith, T/A, ICC, 14 Pioneer Courthouse, Portland, OR 97204.

MC 15242 (Sub-11TA), filed November 5, 1979. Applicant: CAUTHEN GIN & BAG CO., Rt. 4, Box 550, Monroe, NC

28110. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. *Office furniture* from the facilities of Vanguard Business Furniture, Inc. located at or near Brooklyn, NY to points in and east of LA, AR, MO, IA and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vanguard Business Furniture, Inc., 10 Java St., Brooklyn, NY 11222. Send protests to: Sheila Reece, T/A, 890 Briar Creek Rd—Rm CC518, Charlotte, NC 28205.

MC 20992 (Sub-57TA), filed November 5, 1979. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Iron and steel articles* from the facilities of Nucor Corporation at or near Norfolk, NE to points in IL, IN, MN, ND, SD, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nucor Corp., P.O. Box 59, Norfolk, NE 68701. Send protests to: Judith Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 41432 (Sub-165TA), filed November 2, 1979. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, TX 75207. Representative: Wayland Little (same address as applicant). Common carrier, regular routes: *General commodities, except household goods, as defined by the Commission, commodities of unusual value, commodities requiring special equipment, livestock, and petroleum products, in bulk, in tank vehicles* serving the facilities of Payson Display Fixture, Division of AG Industries, Inc., located at or near Payson, Utah, as an off-route point in connection with carrier's authorized regular route operation, for 180 days. Underlying ETA for 90 days has been filed. NOTE: Applicant intends to tack its authority; it also intends to interline with other carriers. Supporting shipper(s): Payson Display Fixture, Division of AG Industries, Inc., 4777 West 10400 South, Payson, UT 84651. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 58302 (Sub-18TA) filed October 1, 1979. Applicant: MANLEY TRANSFER COMPANY, INC., P.O. Box 1575 SSS, Springfield, MO 65806. Representative: A. J. Whisler (same as applicant). *General Commodities, except those of unusual value, Classes A and B explosives, Htg as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, serving*

points in Woodson, Allen, Wilson, Neosho, Montgomery, LeBette and Cherokee Counties, KS as off-route points in connection with carrier otherwise regular route authority. Applicant intend to tack this authority with its other authority. Supporting Shipper(s): Application is supported by 12 shippers, whose names are on file at the Kansas City and Washington offices. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 71772 (Sub-3TA), filed November 5, 1979. Applicant: MT. PLEASANT TRANSFER, INC., P.O. Box 267, Columbia Highway, Mt. Pleasant, TN 38474. Representative: Stephen L. Edwards, 808 Nashville, Bank & Trust Bldg., Nashville, TN 37201. *Common carrier: regular routes: General commodities, except those of unusual value, Classes A and B explosives household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading:* Between Mt. Pleasant, TN and Chattanooga, TN: (1) From Mt. Pleasant, TN over U.S. Hwy No. 43, to the intersection of U.S. Hwy 43 with TN State Hwy No. 50, then over TN State Hwy No. 50 to the intersection of TN State Hwy 50 with U.S. Hwy No. 431, then over U.S. Hwy 431 to its intersection with U.S. Hwy No. 64, then over Hwy No. 64 to its intersection with U.S. Hwy Interstate 24, then over U.S. Hwy Interstate 24 to its intersection with TN State Hwy No. 28, then over TN State Hwy No. 28, to its intersection with U.S. Hwy No. 41, 64, and 72, then over U.S. Hwy No. 41, 64, and 72 to their intersection with U.S. Hwy Interstate 24, then over U.S. Hwy Interstate 24 to Chattanooga, and return over the same routes, serving no intermediate points, but serving all points in Maury County, TN as off-route points. Supporting shipper(s): "There are (22) shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

Note.—Applicant seeks authority to tack the authority sought herein with existing authority held by it and to interline with other carriers at Chattanooga and Nashville, TN for 180 days.

MC 107162 (Sub-59TA), filed November 1, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route No. 1, Brimley, MI 53701. Representative: Michael S. Varda, 121 South Pinckney, Madison, WI 53701. *Iron and steel articles and non-ferrous*

metals, from points in the commercial zones of Chicago, IL and Minneapolis-St. Paul, MN to Kincheloe, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kinship, Inc., Building 400, Kincheloe, MI 49788. Send protests to: C.R. Flemming, DS, ICC, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 107912 (Sub-32TA), filed October 1, 1979. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood Dr., Memphis, TN 38118. Representative: James N. Clay, 2700 Sterick Bldg., Memphis, TN 38103. *General commodities, except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Baton Rouge and Reserve, LA serving all intermediate points and as off-route points those in Baton Rouge, East Baton Rouge, Iberville, Ascension, St. James and St. John the Baptist Parishes: from Baton Rouge over U.S. Hwy. 61 to Reserve and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority to existing authority under MC-107912 and subs thereunder at the common joinder point of Baton Rouge, LA. Applicant intends to interline with existing carriers at Baton Rouge, LA, Jackson, MS and Memphis, TN. Supporting shipper(s): Applicant has 15 supporting shippers. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.*

MC 114552 (Sub-238TA), filed November 1, 1979. Applicant: SENN TRUCKING COMPANY, P.O. Box 220, Newberry, SC 29108. Representative: William F. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Metal articles, between points in Knox County, TN, on the one hand, and, on the other, points in KY, VA, AL, TN, GA, LA, OH, PA, IL, AR, MS, TX, FL, SC, NC and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glazer Steel & Aluminum, Inc., 2501 Ailor Avenue, Knoxville, TN. Send protests to: E. E. Strotheid, D/S, ICC, 866 Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201.*

MC 128273 (Sub-375TA), filed October 3, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Such commodities as are used or dealt in by paper converters (except commodities in bulk, in tank vehicles) from (a) Sheridan, AR to points in CA, KY, OR, PA, VA & WA and (b) from points in KY to Sheridan, AR. Restricted to traffic*

originating at or destined to the facilities of St. Regis Paper Company at Sheridan, AR; for 180 days, common, irregular; Supporting shipper: St. Regis Paper Company, First City East Bldg., 1111 Fannin St., Houston, TX 77002. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 138322 (Sub-17TA), filed October 12, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitmore, El Monte, CA 91733. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Plywood, composition board and lumber products, from Carson, CA and ports in the United States Galveston, TX, New Orleans, LA, Charleston, NC, and Baltimore, MD to points in the United States (except AK and HI), restricted to shipments for the account of Pacific Wood Products, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Pacific Wood Products, 22673 S. Wilmington Ave., Carson, CA 90745. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.*

MC 138732 (Sub-34TA), filed October 9, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, Post Office Box 5546, Orange, California 92267. Representative: Michael R. Eggleton, 2500 Old Crow Canyon Road, Suite 325, San Roman, California 94583. *Steel strapping, from the facilities of Stanley Steel Strapping Systems, at Pittsburg, California, to points in Arizona and Albuquerque, New Mexico, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Stanley Steel Strapping Systems, Plant Manager, 855 North Parkside Drive, Pittsburg, California 94565. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.*

MC 138882 (Sub-326TA), filed October 1, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Stoneware, china and steel flatware, between points in the United States, for 180 days. Supporting shipper(s): Wallace International, Inc., P.O. Box 22226, Birmingham, AL 35203. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.*

MC 139482 (Sub-163TA), filed November 9, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. *General*

commodities (except commodities in bulk) from Miles, Bensenville and Elk Grove Village, IL to Shreveport, LA, restricted to the transportation of traffic destined to the facilities of W. W. Grainger, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. W. Grainger, Inc., 5959 W. Howard St., Chicago, IL 60648. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 142672 (Sub-93TA), filed September 24, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Such commodities as are dealt in or used by discount, variety and grocery stores (except in bulk), from points in AL, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV and DC, to Harrison, AR, for 180 days. Supporting shipper(s): Mass Merchandisers, Inc., P.O. Box 790, Harrison, AR 72601. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 142672 (Sub-94TA), filed November 2, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. (1) *Bx broiler, cookers, roasters (outdoor BBQ type, gas-fired, cast aluminum; and, (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above between the facilities of Arkla Industries, Inc., at or near paragould, AR, on the one hand, and, on the other, points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Arkla Industries, Inc., P.O. Box 1309, Paragould, AR 72450. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 142672 (Sub-95TA), filed November 1, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Sets, radio and TV and related articles; phono operated and sound mechanisms; stands and tables, KD; loudspeakers, dynamic console type; and games and tapes having a density of more than six pounds but less than twelve pounds from Greenville and Jefferson City, TN to points in AR, OK and TX for 180 days. Supporting shipper(s): Magnavox Consumer Electronics, P.O. Box 479, Greenville, TN. Send protests to:*

William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142672 (Sub-96TA), filed October 2, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Wood pallets, wood boxes, softwood and hardwood products used for material handling, from the facilities of Mulberry Lumber Company, at or near Mulberry, AR to points in AZ, CA, NV, OH, PA and UT, for 180 days. Supporting shipper(s): Mulberry Lumber Co., South Main at M.P.R.R., Mulberry, AR 72947. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 143812 (Sub-17TA), filed October 19, 1979. Applicant: MARTIN E. VAN DIEST, d.b.a., M. VAN DIEST COMPANY, 8087 Victoria Avenue, Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1758, Whittier, CA 90609. *Glycerine, in bulk, between Burbank, CA, on the one hand, and, on the other, Cincinnati, OH and Hammond, IN, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Andrew Jergens Co., 99 W. Verdugo Avenue, Burbank, CA 91502. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 144452 (Sub-18TA), filed November 5, 1979. Applicant: ARLEN LINDQUIST, d.b.a., ARLEN E. LINDQUIST TRUCKING, 3242 Old Highway 8, Minneapolis, MN 55418. Representative: William J. Gambucci, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. (1) *Petroleum and petroleum products, in containers, and (2) advertising matter and commodities used or distributed by wholesale or retail supplier, marketers, or distributors of petroleum products when moving in mixed loads with petroleum products (except in bulk) from Ponca City, OK, to points in MN, ND and SD, for 180 days. Supporting shipper(s): Conoco Inc., P.O. Box 2197, Houston, TX 77061. Send protests to: Judith Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.*

MC 144572 (Sub-31TA), filed November 1, 1979. Applicant: MONFORT TRANSPORTATION CO., P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Automobile parts and accessories, and advertising and packaging materials from the facilities of Chrysler Corp., Service, and Parts Division, located at Center Line, Marysville, and Warren, MI, for 180 days. Authority sought for underlying 90-day ETA. Supporting*

shipper(s): Chrysler Corporation, Service, & Parts Division, 26311 Lawrence Avenue, Center Line, Michigan 48105. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, Colorado 80202.

MC 144622 (Sub-117TA), filed November 1, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip H. Glenn (same address as above). *Chemical and chemical products* from Cleveland, Ohio to points in California, Iowa, Illinois, Oregon, Texas and Wisconsin, for 180 days. Supporting shipper(s): Fosco, Inc., 20200 Sheldon Rd., Cleveland, OH 44181. Send protests to: William H. Land DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145072 (Sub-30TA), filed November 5, 1979. Applicant: M. S. CARRIERS, INC., 1797 Florida Street, Memphis, TN 38109. Representative: A. Doyle Cloud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Televisions, microwave ovens, stereos, electronic equipment (except in bulk and materials, equipment and supplies utilized in the manufacture of the previously named items, between Memphis, TN on the one hand, and in and east of the states of TX, OK, KA, IA, and MN, restricted to traffic originating at or destined to the facilities of Sharp Manufacturing Co. of America, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sharp Manufacturing Company of America, 4036 Raines Rd. East, Memphis, TN 38118. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.*

MC 145513 (Sub-10TA), filed November 7, 1979. Applicant: SERVICE TRANSPORTATION, INC., P.O. Box 732, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Anhydrous Ethanol (200 proof)* from Bellingham, WA and points in its commercial zone to Boise, ID and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sun Ray Drive-In Dairies, Inc., 6127 Franklin Road, Boise, ID 83705. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 145772 (Sub-10TA), filed September 27, 1979. Applicant: LANG CARTAGE CORP., P.O. Box 1465, Waukesha, WI 53187. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. *Chemical products* except in bulk, from the facilities of Athea Laboratories, Inc., at Milwaukee, WI to points in MN, the

Upper Peninsula of MI and in Boone, Cook, DeKalb, DuPage, Kane, Lake, McHenry, Ogle, Stephenson and Winnebago Counties, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Athea Laboratories, Inc., 830 East Keefe Avenue, Milwaukee, WI 53212. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146182 (Sub-3TA), filed November 1, 1979. Applicant: GARY W. GRAY, P.O. Box 48, Delaware, NJ 07823. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Contract carrier, irregular routes, *gasoline and distillates*, in bulk, from Newark and Chagewater, NJ to points in Carbon, Schuylkill, Northumberland, Wayne, Montgomery, Lackawanna, Lehigh, Luzerne, Lycoming, Northampton and Monroe Counties, PA and Orange and Rockland Counties, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Getty Refining & Marketing Company, P.O. Box 5038, Cherry Hill, NJ 08034. Send protests to: Joel Morris, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146293 (Sub-37TA), filed October 5, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Paper and paper products, and materials, equipment and supplies used in the manufacture or distribution of paper and paper products*, from Green Bay, Fond du Lac, Marinette and Oconto Falls, WI to points in the states of IL, IN, NY, OH and PA, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 146402 (Sub-12TA), filed November 1, 1979. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (same as applicant). *Copper and copper products* (except commodities in bulk in tank or hopper vehicles), from the facilities of Cerro Copper Products Company at Sauget, IL to points in CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cerro Copper Products Company, P.O. Box 681, East St. Louis, IL 62202. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 147062 (Sub-6TA), filed November 2, 1979. Applicant: EXPRESS TRANSPORTATION COMPANY, P.O. Box 789, Chattanooga, TN 37401. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. *General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment*, between points in AL, GA and TN, on the one hand, and, on the other, points in IL, IN, MI, MO and WI, for 180 days. RESTRICTION: Restricted to transportation of traffic moving on bills of lading of shippers association operating pursuant to Section 10562(3) of the Interstate Commerce Act and further restricted against the use of substituted rail for motor service. Supporting shipper(s): Action Shippers Association, Inc., P.O. Box 224, Chattanooga, TN 37401. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 147652 (Sub-1TA), filed October 2, 1979. Applicant: J & V TRUCKING COMPANY, INC., 948 Alton Parkway, Alton Industrial Park, Birmingham, AL 35203. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Contract, Irregular: *Fabricated steel pipe and materials and supplies used in the manufacture, installation or sale of such commodities*. Between the facilities of Emergency Fire Protection, Inc. of AL, at or near Birmingham, AL; on the one hand, and on the other, all points in the states of AL, GA, FL, SC, NC, VA, KY, TN, AR, MO, MS, LA, TX, NM, AZ, and CA, for 180 days. Supporting shipper(s): Emergency Fire Protection Inc. of Alabama, Alton Industrial Park, Birmingham, AL, 35203. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 147712 (Sub-8TA), filed November 2, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as above). *General commodities (with issued exception) restricted to the transportation of commodities normally transported on flat-bed equipment*, from Los Angeles County, CA, to points in AL, CO, FL, GA, IL, IN, LA, MA, MN, MO, OH, PA, and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Interstate Express, Inc., Manager—Los Angeles Operations, 8696 S. Atlantic Blvd., South Gate, CA 90280. Send protests to: Irene Carlos, TA, ICC, 1321

Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148002 (Sub-1TA), filed October 5, 1979. Applicant: BECO, INC., Route 1, Box 138, New Salem, ND 58563. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Contract carrier: irregular routes: Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except commodities in bulk)*, from Owatonna and Minneapolis, MN, and their commercial zones, to Bismarck, ND, under contract with Super Valu Stores, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Super Valu Stores, Inc., 101 Jefferson Avenue South, Hopkins, MN 55343. Send protests to: H. E. Farsdale, DS, ICC, 657 2nd Avenue North, Room 268 Fed. Bldg. & U.S. Post Office, Fargo, ND 58102.

MC 148183 (Sub-4TA), filed October 25, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30501. Representative: Pauline E. Myers, Suite 348 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. *Canned fruit juices* from Lakeland, FL (facilities of Juice Bowl Products, Inc.) to points in AL, GA, NC, and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden Foods (Division of Borden, Inc.), 180 East Broad Street, Columbus, OH 43215. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 148513 (Sub-1TA), filed October 29, 1979. Applicant: GARY W. WILCOX, dba, WILCOX TRUCKING COMPANY, P.O. Box 189, Washington, GA 31533. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30326. *Lumber and lumber products*, from points in Coffee County, GA to points in FL for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Coffee Forest Products, Inc., P.O. Box 965, Douglas, GA 31533. Stubbs & Souther Lumber Company, Douglas, GA. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

Passenger Application

MC 145992 (Sub-4TA), filed October 1, 1979. Applicant: THE TOWN TOUR FUN BUS COMPANY, INC., d.b.a., FUN BUS SYSTEMS, 304 Katella Way, Anaheim, CA 92802. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Passengers and their baggage, and express and newspapers in the same vehicle with passengers*, between Buena Park, CA and Las Vegas, NV, serving the

intermediate point of Fullerton, CA, from Buena Park, CA over California Highway 91 to junction California Highway 57, then California Highway 57 to junction Interstate Highway 10, then Interstate Highway 10 to junction Interstate Highway 15, then Interstate Highway 15 to Las Vegas, NV, and return over the same route, for 180 days. An ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 34 supporting shippers. They may be examined at Headquarters or the office listed below. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90033.

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MC 11722 (Sub-69TA), filed October 2, 1979. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 N. E. Weidler St., Portland, OR 97232. *Rags, compressed in bales* from Helena, Missoula, Havre, Great Falls, Bozeman, and Butte, MT, to Seattle, WA, Portland, OR, and Fresno, CA, for 180 days. A corresponding ETA has been granted and a permanent will be filed. Supporting shipper(s): Salvation Army, P.O. Box 2585, Great Falls, MT 59403. Send protests to: D. Merine Galbraith, Transportation Asst., Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 111812 (Sub-695TA), filed September 26, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same as above). *Plumbing, plumbers goods and plumbers fittings*, from the facilities of Kohler Company in Sheboygan County, WI, to points in AZ, CA, ID, MT, NV, ND, OR, SD, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kohler Company, Kohler, WI 53044. Send protests to: J. L. Hammond, DS, ICC, Rm. 455, Federal Bldg., Pierre, SD 57501.

MC 113382 (Sub-26TA), filed October 23, 1979. Applicant: NELSEN BROS., INC., P.O. Box 613, Nebraska City, NE 68410. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract carrier: irregular routes, (a) *pet food* (except in bulk), and (b) *containers*, from Kansas City, KS, to points in NE, AR, TN, MO, MS, LA, TX, IA, and OK under a continuing contract(s) with Strongheart Products, Inc. of Kansas City, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Strongheart Products, Inc., Betty Welter, Traffic Manager, P.O. Box 2009, Kansas City,

KS 66110. Send protests to: Carroll Russell, ICC, DS, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 124692 (Sub-314TA), filed October 24, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58107. *Iron and steel articles* from the facilities of Western Tube & Conduit Corp. at Long Beach, CA to points in AZ, NM, TX and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Tube & Conduit Corporation, 2001 East Dominguez Street, Long Beach, CA 90810. Send protests to: Paul J. Labane, DS, ICC, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 135592 (Sub-7TA), filed October 29, 1979. Applicant: U & R EXPRESS, INC., P.O. Box 2369, White City, Oregon 97501. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, Oregon 97210, 503-226-3755. *Wood residuals* from points in Klamath and Jackson Counties, OR to points in Siskiyou County, CA for 180 days. Supporting shipper(s): Weyerhaeuser Company, Tacoma, WA 98477. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 136212 (Sub-31TA), filed October 25, 1979. Applicant: JENSEN TRUCKING COMPANY, INC., P.O. Box 349, Gothenburg, NE 69138. Representative: Scott T. Robertson, Peterson, Bowman & Johanss, 521 S. 14th St. Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Feed, feed ingredients and feed supplements* from Lubbock, TX to points in IA, IL, IN, KS, MO, ND and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Progressive Grain Processing, Joe Tarver, President, P.O. Box 3520, Lubbock, TX 79452. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138322 (Sub-16TA), filed October 26, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitemore, El Monte, CA 91733. Representative: Robert Fuller, Suite 310, 13215 E. Penn Street, Whittier, CA 90602. *Iron or steel angles*, from the facilities of Cunningham Manufacturing Co., in Riverside, CA and Wilmington, CA to points and places in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cunningham Manufacturing Co., 2400 E. Pacific Coast Hwy, Wilmington, CA 90744. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 138882 (Sub-321 TA), filed October 22, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Household liquid bleach, dish detergents, materials, equipment and supplies used in the manufacturing, sale, and distribution of the commodities in above* (restricted against commodities in bulk). Between the facilities of National Marketing Associates, Inc. located at or near New Orleans, LA and points in MS, AL, GA, TN, and FL for 180 days. Supporting shipper(s): National Marketing Associates, Inc., P.O. Box 1554, Gretna, LA 70053. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-322TA), filed October 17, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: J. W. Segrest (same address as above). *Containers and container chassis: From Troy, AL to New Orleans, LA; Houston, TX; Miami, FL; Savannah, GA; and Mobile, AL. For subsequent movement by water from Mobile, AL. for 180 days. Supporting shipper(s): Cash Trailer, Inc., P.O. Box 169, Troy, AL 36081. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.*

MC 138882 (Sub-323TA), filed October 10, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Lumber, from Clifton & Crockett, TX to the facilities of Henderson, Black and Greene, Inc. located at Troy, AL, for 180 days. Supporting shipper(s): Henderson, Black and Green, Inc., 110 Pike Street, Troy, AL 36081. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.*

MC 138882 (Sub-324TA), filed October 15, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as above). *Roofing, roofing materials, equipment, and supplies used in the manufacture, sales, and distribution of roofing, and roofing materials. Between the facilities of the Masonite Corporation—Roofing Division located at or near Meridian MS, and points in AL, FL, GA, LA, Houston and Dallas, TX., for 180 days. Supporting shipper(s): Masonite Corporation—Roofing Division, P.O. Box 5777, Meridian, MS 39301. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.*

MC 138882 (Sub-325TA), filed October 5, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladston, NJ 07934. *Lumber and lumber mills products, from points in CA, to points in the US east of and including the states of ND, SD, NE, KS, OK, and TX, for 180 days. Supporting shipper(s): Pacific Southeast Forest Products, 5330 Primrose Drive, Fair Oaks, CA 95628. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.*

MC 140812 (Sub-75TA), filed October 24, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). *(1) such merchandise as is dealt in by wholesale, retail, and chain grocery and feed business houses; paste; and dairy, flour, and soy products; and (2) materials, ingredients, and supplies used in the manufacture, distribution, and sale of the products named in (1) between points in the United States (except AK and HI), for 180 days, restricted to traffic originating at or destined to the facilities used by Ralston Purina Company. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 140612 (Sub-77TA), filed September 28, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). *(1) kitchen, bathroom, and household cabinets, and (2) materials, equipment, and supplies used in the manufacture, sale, and distribution of (1) above (except commodities in bulk, in tank vehicles) between Des Moines, IA, on the one hand, and, on the other, points in and west of MI, OH, KY, TN, NC, SC, GA, and FL, for 180 days. RESTRICTED to traffic originating at or destined to the facilities used by Francisco Cabinet Corp. An underlying ETA seeks 90 days authority. Supporting shipper(s): Francisco Cabinet Corp., 1525 Illinois, Des Moines, IA 50314. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 141522 (Sub-1TA), filed September 28, 1979. Applicant: NORTH WEST COMMERCIAL HAULING, LTD., 10753 180th Street, Edmonton, AB, Canada T5S 1G6. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. *New construction equipment from points in IA, IL and MO to ports of entry*

on the International Boundary line between the U.S. and Canada for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North West Commercial Sales (1973) Ltd., 10940—168A Street, Edmonton, AB, Canada T5P 3V5. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 142592 (Sub-8TA), filed October 31, 1979. Applicant: H. L. STANSELL, INC., 1221 U.S. Alternate Hwy 19, P.O. Box 158, Palm Harbor, FL 33653. Representative: David C. Venable, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Clay products and furniture from Laredo, TX to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carol Melton & Audrey Rodgers d/b/a, ACT IMPORTS, 2101 Starkey Rd., Largo, FL 35540. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Room 101, 8410 N.W. 53rd Ter., Miami, FL 33166.*

MC 142872 (Sub-92TA), filed October 24, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72758. *Frozen meat and seafood from points in CA to points in the U.S. (except AK and HI), restricted to transportation of traffic originating at the facilities of or used for the account of Australasian Meat and Seafoods, Inc.; and restricted to transportation of traffic having a prior movement via water, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Australasian Meat & Seafoods, Inc., 1205 East Olympic Blvd., Los Angeles, CA 90640. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 143002 (Sub-10TA), filed October 24, 1979. Applicant: C.D.B., INCORPORATED, 155 Spaulding, SE, Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Contract carrier; irregular routes; *drugs and toilet articles, materials and supplies used in the manufacture, sale and distribution thereof, (i) between Allegan, MI and its commercial zone, on the one hand, and, on the other, Tempe, AZ, Portland, OR, Los Angeles and San Francisco, CA and their respective commercial zones; and (ii) from Tempe, AZ and its commercial zone to Los Angeles and San Francisco, CA and their respective commercial zones, under continuing contract or contracts with L. Perrigo Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. Perrigo Company, 117 Water Street, Allegan, MI 49010. Send protests to: C.*

R. Flemming, DS, ICC, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 143002 (Sub-11TA), filed October 23, 1979. Applicant: C.D.B., INCORPORATED, 155 Spaulding, SE, Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Contract carrier; irregular routes; *household and personal care products and materials and supplies used in the manufacture and distribution thereof, between Ada, MI, on the one hand, and, on the other, Davenport, IA and its commercial zone under continuing contract with the Amway Corporation, for 180 days. Supporting shipper(s): Amway Corporation, 7575 E. Fulton Road, Ada, MI 49301. Send protests to: C. R. Flemming, DS, ICC, 201 Corr Bldg., 300 E. Michigan Avenue, Lansing, MI 48933.*

MC 143002 (Sub-12TA), filed September 24, 1979. Applicant: C.D.B., INCORPORATED, 155 Spaulding, SE, Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Contract carrier; irregular routes; *household and personal care products and materials and supplies used in the manufacture and distribution thereof, between Ada, MI, on the one hand, and, on the other, Aurora, CO and its commercial zone, under a continuing contract with the Amway Corporation for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amway Corporation, 7575 E. Fulton Road, Ada, MI 49301. Send protests to: C. R. Flemming, DS, ICC, 201 Corr Building, Lansing, MI 48933.*

MC 143702 (Sub-6TA), filed September 28, 1979. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th Street, Kansas City, KS 66105. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. *Foodstuffs (except commodities in bulk) vehicles equipped with mechanical refrigeration, from the facilities of Inland Storage Distribution Center at Kansas City, KS to points in MO. Supporting shipper(s): Inland Storage Distribution Center, 6500 Inland Drive, Kansas City, KS 66110. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.*

MC 144572 (Sub-30TA), filed October 26, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Building materials, from the facilities of Alsie, Inc. and its division at Cuyahoga Falls, Wadsworth and West Salem, OH to points in CO, IA, KS, MO, NE and WY, for 180 days. Underlying ETA filed*

seeking 90 days authority. Supporting shipper(s): Alsie, Inc., P.O. Box 2010, Akron, OH 44309. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 144622 (Sub-111TA), filed September 4, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Confectionery requiring mechanical refrigeration, except in bulk, from plantsites of M&M/Mars at Hackettstown, NJ and Elizabethtown, PA to points in MI, OH, IL and PA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): M&M/Mars, Division Mars, Incorporated, High St., Hackettstown, NJ 07840. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 144622 (Sub-112TA), filed September 12, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72201. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Toilet preps and related sundries carried by retail stores, between Detroit, MI on the one hand, and on the other, all points in the U.S. for 180 days. Supporting shipper(s): Supreme Distributors Company, Advance Promotions, Inc., 6501 E. McNichols, Detroit, MI 48212, 5570 Bellevue Ave., Detroit, MI 48211. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 144622 (Sub-113TA), filed October 2, 1979. Applicant: GLEN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, Arkansas 72219. Representative: Phillip B. Glenn (same as applicant), and Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Foodstuffs, from Louisville, KY to points in AL, AR, CT, FL, GA, IL, IN, KS, LA, MA, MD, MI, MO, MS, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WI and WV, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting Shipper(s): Paramount Foods, Inc., 2700 Fern Valley Road, Louisville, KY 40213. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 144622 (Sub-114TA), filed October 12, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Such commodities as are dealt in by discount or variety stores (except commodities in bulk), from all points in IL, IN and IA to the facilities of Wal-Mart Stores, Inc. in the state of AR, for 180 days. Underlying*

ETA seeks 90 days authority. Supporting Shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144622 (Sub-115TA), filed October 18, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Household products and related articles, dessert preparations, milk food liquid, beverage preparations, noncarbonated water, hair care toiletries and hair care equipment, drugs shampoo, soap and toilet articles, from the facilities used by Bristol-Myers Company, and its subsidiaries, Clairol, Inc., Drackett Company, Mead-Johnson & Company, Monarch Crown Corporation, and Westwood Pharmaceuticals, Inc., at Dallas, TX to points in LA, for 180 days. Supporting Shipper(s): Bristol-Myers Company, 345 Park Ave., New York, NY 10022. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 145072 (Sub-29TA), filed September 21, 1979. Applicant: M.S. CARRIERS, INC., 7372 Eastern Ave., Germantown, TN 38138. Representative: A. Doyle Cloud, 3800 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, soy products, paste flour products and (2) materials ingredients and equipment and supplies used in development, manufacture, distribution and sale of items in (1) above except commodities in bulk, between the facilities used by Ralston Purina Co. at or near Oklahoma City, OK and points in AR, LA, MS, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Puring Co., 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.*

MC 145202 (Sub-5TA), filed September 28, 1979. Applicant: K-LINES, LTD., 3125 South 11th Street, Council Bluffs, IA 51501. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, and meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Prime Meat Processors Inc. at Omaha, NE to points in AR, AL, FL, GA, LA, MO, MS, NC, SC and TN under continuing contract(s)*

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with Prime Meat Processors, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Prime Meat Processors, Inc., 1202 Jones, Omaha, NE 68102. William Winfield, Sales Manager—Food Service. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 145842 (Sub-8TA), filed October 31, 1979. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Hides, green or green salted*, from the facilities of John Morrell Company located at or near Estherville, IA to Kansas City, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 146192 (Sub-3TA), filed August 2, 1979. Applicant: SANDHILLS GRAIN, INC., 524 Augusta Street, Bassett, NE 68714. Representative: Robert A. Wichser, P.O. Box 417, Sioux City, IA 51102. Contract carrier, irregular routes: (1) *Home decorating trimmings and accessories* from Traverse City, MI; Grand Island, NE; and Big Springs, TX to points in CA, IL, IN, MI, NE, OH, TX and WI (2) *Materials, supplies and equipment used in the manufacture, sale and distribution of home decoration trimmings and accessories* from states specified in (1) above to the named origin points, for 180 days. Restriction: Said service is limited to a transportation service performed under a continuing contract(s) with Burwood Products Company. Supporting shipper(s): Burwood Products Company, 807 Airport Access Road, Traverse City, MI. Send protests to: D/S Carol Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 146442 (Sub-1TA), filed October 24, 1979. Applicant: CLEARFIELD TRANSPORTATION COMPANY, P.O. Box 313, 5th & Pine Streets, Clinton, MO 64735. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. Contract, Irregular (1) *Cheese, cheese products, and pasteurized process cheese product substitutes*, between points in the United States (except AK and HI); and, (2)(a) *additives for the commodities in (1) above*; (b) *cleaning compounds, salt, corn meal, mush, oleomargarine, salad dressing, butter, fish bait*; (c) *commodities otherwise exempt from economic regulations under 49 USC 10526 (a)(6)*, when moving in the same vehicle with the commodities in (1) and (2) (a) and (b)

above; and (d) *materials, equipment, and supplies used in the manufacture, development, packaging, and distribution of the commodities in (1) above*, between Clinton, MO, on the one hand, and, on the other, point in the United States (except AK and HI) under a continuing contract(s) with Clearfield Cheese Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clearfield Cheese Company, P.O. Box 120, Curwensville, PA 16833. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 146782 (Sub-23TA), filed September 25, 1979. Applicant: ROBERTS CONTRACT CARRIER CORP., 300 First Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. *Welded and seamless tubing*, from the facilities of Ohio Steel Tube Co., at or near Shelby, OH, to points in AL, AR, CA, KY, MS, NC, OK, SC, TN, TX, VA, & WV, for 180 days. Supporting shipper(s): Ohio Steel Tube Co., W. Main St., Shelby, OH 44875. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 146862 (Sub-4TA), filed October 26, 1979. Applicant: CREECH BROS. TRUCK LINES, INC., 100 Industrial Dr., Troy, MO 63379. Representative: Richard A. Mehley, 1000—16th St. NW, Washington, D.C. 20036. Contract, Irregular: *Furniture and furniture parts (other than upholstered) plastic articles, display racks, wood, and furniture stock, and materials, supplies and equipment used by furniture manufacturers*, for the account of Gerber Industries, Inc., between St. Peters, MO and Dunn, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gerber Industries, Inc., 1 Gerber Industrial Dr., St. Peters, MO 63376. Send protests to: Peter E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146992 (Sub-6TA), filed October 26, 1979. Applicant: PHIL-MART TRANSPORTATION, INC., P.O. Box 126, Braselton, GA 30517. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. (1) *Foodstuffs, and (2) cleaning, scouring or washing compounds, napkins, tablecloths, dishes, cups, trays, forks, knives and spoons, when transported in mixed loads with foodstuffs* (a) from the facilities of Prime Packing Co., at or near Chicago, IL to points in the U.S. (except AK, AL, AR, FL, GA, HI, IN, KY, LA, MS, OH, TN, TX, and WV) (b) from points in the U.S.

(except AK and HI) to the facilities of Prime Packing Co., at or near Chicago, IL, restricted to the transportation of traffic destined to the facilities of Prime Packing Co., at or near Chicago, IL, for 180 days. Supporting shipper(s): Prime Packing Co., 4551 South Racine, Chicago, IL 60609. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 147112 (Sub-3TA), filed October 2, 1979. Applicant: L. H. BRYAN, d.b.a. BRYAN TRUCKING COMPANY, Route 4, Circle Creek Drive, Stockbridge, GA 30281. Representative: Marc A. Pearl, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. *Lumber and lumber products (except commodities in bulk)*, from points in GA and AL to points in GA, AL, NC, SC, FL, TN, KY, VA, LA, & MS, for a period of 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern International Lumber Ind., Inc., P.O. Box 90943, East Point, CA 30364. Slaughter Brothers, 1800 Montreal Circle, Tucker, GA 30084. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree Street, NW Room 300, Atlanta, GA 30309.

MC 147242 (Sub-8TA), filed September 25, 1979. Applicant: 12-90 PLAZA CORP., d.b.a., PLAZA FREIGHT TRANSPORT, 12-90 Plaza Road, Fairlawn, NJ 07410. Representative: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10019. Contract carrier, irregular routes, *drugs, medicines, sugar cane, other than raw, acids N.C.I. and animal feed supplements*, except commodities in bulk, between Belvidere, NJ on the one hand, and on the other, Bell, San Leandro and Fresno, CA, Des Plaines, IL, Ames, IA and Dallas, TX, under a continuing contract with Hoffman LaRoche, Inc., for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Hoffman-LaRoche, Inc., Nutley, NJ. Send protests to: Joel Morrows, DS, ICC, 744 Broad St., Rm 522, Newark, NJ 07102.

MC 147662 (Sub-3TA), filed October 29, 1979. Applicant: KMC TRANSPORT, INC., P.O. Box 962, Caldwell, ID 83605. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Wrecked, disabled or repossessed motor vehicles, recreational vehicles, cargo trailers, vessels and parts thereof, not compressed auto bodies*, between points in CA, CO, ID, KS, MT, NV, NM, OR, TX, UT, WA and WY, on the one hand, and on the other, points in Canyon and Ada Counties, ID, under continuing contract for Idaho Salvage Pool, for 180 days. An underlying ETA seeks 90 days authority. (Contract, Irregular). Supporting shipper(s): Idaho Salvage

Pool, 3515 Cleveland, Caldwell, ID 83605. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 147712 (Sub-7TA), filed September 20, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, California 90670. Representative: Joseph Fazio, 10506 South Shoemaker Avenue, Santa Fe Springs, California 90670. *Beverages, alcoholic*, from New York City, NY, Elizabethport, NJ, Baltimore, MD, Relay, MD, Dundalk, MD, Chicago, IL, Lawrenceburg, KY, to Los Angeles County, CA, Orange County, CA, San Bernardino County, CA, San Diego County, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Bohemian Distributing Co., Inc., Controller-Treasurer, 11428 Sherman Way, North Hollywood, California 91605. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 147992 (Sub-3TA), filed September 26, 1979. Applicant: MAGGERT & FUQUA, Partnership—Lloyd Maggert and Robert Fuqua, Rural Route 3, Paris, IL 61944. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Ag limestone* from Cloverdale, IN to Edgar and Douglas Counties, IL; *dry fertilizer* from Henderson and Irvington, KY; and Mt. Vernon, IN to Edgar County, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keys Fertilizer Sales, R.R. #6, Paris, IL 61944. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148012 (Sub-1TA), filed September 26, 1979. Applicant: EXCURSIONS UNLIMITED, INC., 3500 4th Street W., Birmingham, AL 35206. Representative: Gene Davis (same address as above). *Passengers and baggage in the same vehicle with passengers, in special and charter operations*, between points in Jefferson, Shelby and St. Clair Counties, AL, and points in GA, OH, MI, KY, TN, FL, LA, MS, NC, IL, NY, CA and TX, for 180 days. Supporting shipper(s): There are 6 Supporting Shippers, the materials of which may be examined at Washington, DC, ICC, or Birmingham, AL Field Office. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 148292 (Sub-3TA), filed October 26, 1979. Applicant: J. POSA, INC., One North First Street, Fulton, NY 13069. Representative: Piken & Piken, 95-25 Queens Blvd., Rego Park, NY 11374. *Malt beverages*, from Philadelphia, PA and points in its commercial zone, to

points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, VT, VA and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Van Munching & Co., Inc., 51 W. 51st St., New York, NY 10019. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 148342 (Sub-1TA), filed September 28, 1979. Applicant: J AND J MOTOR FREIGHT LINES, INC., 1516 N. 13th St., St. Louis, MO 63106. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Contract carrier, irregular routes, (1) *Candy* from the facilities of Switzer Candy Co., a division of Beatrice Foods Co., St. Louis, MO, to points in IN, OH, PA, NY, NJ, RI, CT, ME, MA, MD, DE, VA, WV, VT, NH and DC; and *materials and supplies* used in the manufacture and distribution of candy (except in bulk) on return; and (2) *Licorice Mass* from Camden, NJ to St. Louis, MO, such service to be performed under a continuing contract or contracts with Switzer Candy Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Switzer Candy Co., Div. of Beatrice Foods Co., 1600 N. Broadway, St. Louis, MO 63102. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 148442 (Sub-1TA), filed October 29, 1979. Applicant: SOUTHEASTERN FOOD DISTRIBUTORS, INC., d.b.a. SOUTHEASTERN TRANSPORT COMPANY, 607 10th Avenue, North, Nashville, TN 37202. Representative: Lawson L. Turk (same address as applicant). *Frozen Bakery Products*, from Tennessee Doughnut Company in Nashville and Memphis, TN to points in AR, AL, MS and GA, for 180 days. Supporting shipper(s): Tennessee Doughnut Corp., 2975 Armory Drive, Nashville, TN 37204. Send protests to: Glenda Kuss, TA, ICC, A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 148462 (Sub-1TA), filed October 23, 1979. Applicant: ABLE TRUCKING, INC., Route 2, Box 157, Borden, IN 47106. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Foodstuffs*, except frozen or in bulk, from the facilities of Snake Foods, Inc. at Jeffersonville, IN, to Newport News, VA, Houston, TX, York, PA, Newington, CT, Kansas City, MO, Lincoln, NE, Fargo, ND, Green Bay, WI, Minneapolis, and St. Paul, MN, Sioux Falls, SD, Tulsa, OK, and St. Louis, MO and their respective commercial zones and to points in IL, MI and OH for 180 days. Supporting shipper(s): Snack Foods, Inc., P.O. Box 399, Jeffersonville, IN 47130.

Send protests to: Beverly J. Williams, TA, ICC, 46 E. Ohio St., Rm 420, Indianapolis, IN 46204.

MC 148492 (Sub-1TA), filed October 29, 1979. Applicant: LYLE R. WHITE, Star Route, Box 29A, Dixfield, ME 04224. Representative: (same as applicant). Contract: Irregular: *Coal*, in bulk, in dump type vehicles from Winslow and Westbrook, ME to the port of entry on the International Boundary Line between the U.S./Canada at or near Jackman, ME. Restricted to transportation performed under bilateral contract with Zielinski Brothers, Agawam, MA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zielinski Brothers, 218 Shoemaker Lane, Agawam, MA 01001. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

By the Commission.
Agathia L. Mergenovich,
Secretary.

[FR Doc. 79-39541 Filed 12-27-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-261, Amdt. 4; Dec. 21, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items from the December 20, 1979, agenda.

TIME AND DATE: 9:30 a.m., December 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

Deletion

15. Docket 37109, Limitation of Excess Baggage Allowance Proposed by Eastern Airlines, Inc., in Certain Caribbean Markets—report of an informal conference of interested persons (Memo 9288-B, BDA)

Addition

3b. Changes in the Standard Industry Fare Level (BDA)
3c. Texas International Holiday discount program (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 15 was deleted from the December 20, 1979 agenda in order to allow the staff additional time for coordination. Item 3b had to be acted on well before January 1 when the new SIFL Level is to become effective so that carriers and the public will have sufficient notice to make any plans regarding any implementation of increased fare levels. Short notice was requested because the calculations are based upon, in part, fuel cost data for November 1979 which does not arrive at the Board before December 20. Item 3c was added because the carrier approached the staff the afternoon of December 19, to determine whether

staff, acting under delegated authority, would authorize a new and complex discount fare program for the Holiday. The staff felt that it should request instructions from the Board. Due to the timing of the request no advance notice was possible. Accordingly, the following members voted that Item 15 be deleted and that Items 3b and 3c be added to the December 20, 1979 agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2480-79 Filed 12-26-79; 3:38 pm]
BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552), notice is hereby given that at 12:15 p.m. on Friday, December 21, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider a recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 44, 152-L).

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6) and (c)(9)(B)).

Dated: December 21, 1979.

Federal Register
Vol. 44, No. 250
Friday, December 28, 1979

Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Assistant Executive Secretary.
[S-2485-79 Filed 12-26-79; 11:38 am]
BILLING CODE 6714-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: January 2, 1980, 1 p.m.
PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Agreement No. 10320-2: Amendment to equal access agreement in Brazilian trade to reallocate shares.
2. Avion Forwarding, Inc.—Application for independent ocean freight forwarder license.
3. Petitions of the West Coast United States & Canada/India Pakistan, Ceylon & Burma Rate Agreement and the India, Pakistan, Ceylon & Burma/West Coast United States Rate Agreement to allow officers or employees thereof to serve as policing authority.
4. Docket No. 79-90: Ernest L. Levine d/b/a Gerald Export & Import Company v. Hapag-Lloyd, A.C.—Review of order of dismissal.
5. Docket No. 79-61: Rene Lopez and David Romano d/b/a United Dispatch Services—Independent Ocean Freight Forwarder License No. 1361—Decision on request for oral argument.
6. Docket No. 78-46: Financial Exhibits and Schedules of Common Carriers in the Domestic Offshore Trades—Review of comments.

Portions Closed to the Public

1. Docket No. 78-32: Pacific Westbound Conference Equalization Rules and Practices—Petition of Port of Seattle to intervene.

CONTACT PERSON FOR MORE INFORMATION:
Francis C. Hurney, Secretary, (202) 523-5725.

[S-2491-79 Filed 12-26-79; 3:45 pm]
BILLING CODE 6730-01-M

4

FEDERAL MARITIME COMMISSION.
"FEDERAL REGISTER": CITATION OF PREVIOUS ANNOUNCEMENT: December 20, 1979, 44 FR 75549.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: December 20, 1979, 8:30 am.

CHANGES IN THE MEETING:
Additions of the following items to the open session:

2. Rates of Far Eastern Shipping Company.
3. Proposed increase in demurrage charges filed by Puerto Rico Maritime Shipping Authority.

[S-2484-79 Filed 12-26-79; 9:10 am]
BILLING CODE 6730-01-M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 27, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, December 27, 1:35 p.m.

1. Briefing on Scope of Issues Involved in Setting Standards for Licensee Technical Specifications (Approximately 1½ hours, public meeting).
2. Affirmation Session (Approximately 5 minutes, public meeting, items are tentative).
 - a. Delegation of Authority to Director, NMSS.
 - b. Amendment to 10 CFR Part 2 re: Discipline in Adjudicatory Proceedings.

ADDITIONAL INFORMATION: The Discussion of TMI Unit 1 Management Capability and Technical Resources scheduled for Thursday, December 20, was POSTPONED to the Week of January 7, 1980.

CONTACT PERSON FOR MORE INFORMATION:
Walter Magee, (202) 634-1410.
Walter Magee,
Office of the Secretary.

[S-2486-79 Filed 12-26-79; 1:31 pm]
BILLING CODE 7590-01-M

6

POSTAL SERVICE (Board of Governors).

Notice of Meetings

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. § 552b), hereby gives notice that it intends to hold meetings at 3:30 P.M. on Monday, January 7, 1980, and at 9:00 A.M. on Tuesday, January 8, 1980, in Room 205 of the Management Sectional Center, 5350 South Western, Oklahoma City, Oklahoma. Except as indicated in the following paragraphs, the meetings are open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the

Secretary of the Board, Louis A. Cox, at (202) 245-4832.

On December 4, 1979, the Board of Governors voted to close to public observation a portion of its next meeting. Each of the members of the Board voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway, Senior Assistant Postmaster General Finch, and Secretary of the Board Cox.

The portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking which was commenced at the Board's meeting of December 4, 1979.

Since the last Board meeting, the Governors have received two Recommended Decisions from the Postal Rate Commission on proposed changes in the Domestic Classification Schedule: the Commission's Opinion and Recommended Decision of December 5, 1979, regarding the Postal Service's bulk parcel post proposal (Commission Docket No. MC78-1) and the Commission's Opinion and Recommended Decision dated December 17, 1979, regarding the Postal Service's electronic mail proposal (Commission Docket No. MC78-3). The Governors are expected to review these matters during their meetings on January 7 and 8, 1980. Should they determine to go beyond a general review of what the Rate Commission has recommended in each of these cases and to discuss what action they should take, they may elect to close the portion or portions of the meeting at which these agenda items are discussed to public observation, since the discussion is likely to specifically concern the participation of the Postal Service in a civil action or proceeding.

Agenda

Monday Afternoon Session

1. Discussion of Postal Service ratemaking strategy. (The Board will discuss Postal Service ratemaking plans. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)
2. Recommended Decision of the Postal Rate Commission re Bulk Parcel Post. (The Governors will consider the Recommended Decision on December 5, 1979, recommending that the Postal Service's proposal for restructuring the parcel post subclass of the Domestic Mail Classification Schedule be rejected. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter may be closed to the public. If the Governors elect not to close this

portion of the meeting, this item will be discussed at the Tuesday session.)

Tuesday Morning Session

1. Minutes of the previous meeting.
2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Report of the Regional Postmaster General. (Mr. Cooper, Regional Postmaster General, will report on postal conditions in the Southern Region.)
4. Annual Report on open meetings compliance. (Mr. Cox, General Counsel, will present for approval of the Board the Annual Report to Congress that is required by the Government in the Sunshine Act regarding the Board's compliance with the Act.)
5. Annual Report of the Postmaster General. (The Board will consider the Annual Report of the Postmaster General to the Board concerning the operations of the Postal Service, as required by 39 U.S.C. § 2402. Upon approval thereof, or after making such changes as it considers appropriate, the Board is to transmit this report to the President and the Congress.)
6. Capital Investment Project: New General Mail Facility for San Francisco, California. (Mr. Biglin, Senior Assistant Postmaster General for Administration, will present a proposal to increase the amount which the Board authorized for investment at its April 4, 1978, meeting for a new general mail facility and vehicle maintenance facility in San Francisco.)
7. Recommended Decision of the Postal Rate Commission on Electronic Computer Originated Mail Service (E-COM). (The Governors will consider the Rate Commission's Opinion and Recommended Decision dated December 17, 1979, re electronic mail classification proposal, 1978, (Commission Docket No. MC78-3). As stated in the Notice of Meeting, the part of the meeting that will be devoted to this matter may be closed to the public.)
8. Election of Chairman and Vice-Chairman of the Board and appointment of Committees of the Board. (Under the Board's Bylaws, the first regular meeting of each calendar year is designated as the Annual Meeting. The terms of the Chairman and Vice-Chairman of the Board expire at the end of the first Annual Meeting following the meeting at which they were elected. Accordingly, the Board will consider the election of a Chairman and a Vice-Chairman. In addition, the terms of appointments to Committees of the Board expire at the end of each Annual Meeting.

The Chairman of the Board appoints the Chairman and members of each committee.)
Louis H. Cox,
Secretary.

[S-2487-79 Filed 12-28-79; 3:11 pm]
BILLING CODE 7710-12-M

7

POSTAL SERVICE (Board of Governors).

Notice of Committee Meeting

The Committee on Postal Rates of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 7:30 A.M. on Tuesday, January 8, 1980, in Room 205 of the Management Sectional Center, 5350 South Western, Oklahoma City, Oklahoma.

The Committee will discuss the Recommended Decision of the Postal Rate Commission of December 17, 1979, regarding the Electronic Computer Originated Mail Service (E-COM) (Commission Docket No. MC78-3). The Committee may elect to close the meeting to public observation, since the discussion is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

Louis H. Cox,
Secretary.

[S-2489-79 Filed 12-28-79; 3:11 pm]
BILLING CODE 7710-12-M

8

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 31, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meetings will be held on Thursday, January 3, 1980, at 9:30 a.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may

be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(4)(8)(9)(i) and (10).

Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, January 3, 1979, at 9:30 a.m., will be:

1. Consideration of what response to make to the request of the House Committee on Interstate and Foreign Commerce for the Commission's comments on S. 885, the "Pacific Northwest Electric Power Planning and Conservation Act." Section 9(h) of the bill provides a conditional legislative exemption from the requirements of the Public Utility Holding Company Act of 1935 for companies who sponsor any company which owns or operates facilities for the generation of electricity primarily for sale to the Bonneville Power Administrator, in accordance with the scheme of S. 885. For further information, please contact Diane Sanger at (202) 272-2447.

The subject matter of the closed meeting scheduled for Thursday, January 3, 1980, immediately following the 9:30 a.m. open meeting, will be:

Formal orders of investigation.
Formal order of investigation and access to investigative files by Federal, State, or Self-Regulatory Authorities.
Order compelling testimony.
Litigation matter.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Regulatory matter regarding financial institution.
Opinions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

December 26, 1979.

[S-2489-79 Filed 12-28-79; 3:11 pm]
BILLING CODE 8010-01-M

Friday
December 28, 1979

Part II

Department of the Interior

Bureau of Land Management

Wild Free-Roaming Horse and Burro
Protection, Management and Control

POSTED REPORT

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[Circular No. 2454]

Wild Free-Roaming Horse and Burro Protection, Management and Control

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will amend the regulations relating to wild free-roaming horses and burros on the public lands. It implements the Wild Free-Roaming Horse and Burro Act as amended by the Public Rangelands Improvement Act of 1978. The amended rules will improve the protection, management and control of wild free-roaming horses and burros on the public lands.

DATE: Effective January 28, 1980.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (440), Bureau of Land Management, 18th & C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert J. Springer, (202) 343-4773.

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is Robert J. Springer of the Division of Wild Horses and Burros, Bureau of Land Management, Washington, D.C., assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Proposed rulemaking was published on pages 20724-20727 in the Federal Register of April 6, 1979, and invited comments for 60 days ending June 5, 1979. Comments were received from 34 sources including individuals, State governments, businesses, environmentalists, Federal agencies, humane societies and recreationists. These comments have been reviewed and analyzed. The following summarizes the comments, suggestions and actions taken.

Definitions

One comment suggested that the regulations include a timetable to preserve and maintain the ecological balance identified in the "excess animals" definition. The current inventories and resource management plans required by section 4730.1 will provide the timeliness and flexibility necessary to protect the environment from excess animals.

There were a few comments that felt it was unacceptable to use a wild free-roaming horse or burro for any kind of commercial gain. It would seem that the use of wild free-roaming horses or burros for commercial purposes that do not exploit their characteristic wildness is an acceptable alternative to the distasteful possibility of having to destroy the animals.

There were numerous requests to define the words "old," "sick" and "lame." Consequently, definitions of the three words have been added to these regulations and should help alleviate some of the concerns expressed about the fate of these animals.

It was suggested that the definition of "inhumane practices" be revised by using an expression such as "not using humane practices or procedures." Using the positive term—humane—to describe the negative term—inhumane—is not considered an acceptable method of definition.

It was suggested that there be a definition for a "qualified applicant." The term has not been defined because the qualifications are set out in the regulations, e.g. in sections 4740.4-2 and 4740.5. Further, the authorized officer could, on occasion, be faced with situations where a person might meet all the criteria of the definition, but still not be a desirable adopter for some reason left undefined.

It was suggested that the definition for "problem animal" as it presently appears in § 4700.0-5(e) be redefined. Since this definition was not under consideration in the proposed rulemaking it cannot be redefined in this final rule. A redefinition, however, is under consideration for the future.

Policy

As a result of suggestions made in some comments, the policy paragraph 4740.0-6(c)—has been revised to address itself only to those wild free-roaming horses and burros found on public lands and that the animals shall be considered "comparably with other resource values" in the development of resource management plans. And finally, the policy now provides for the "allocation of appropriate portions of the available forage" to the animals when resource management plans are developed.

It was recommended by some comments that the policy contained in § 4700.0-6(d) be expanded to include the National Park Service and other agencies. This policy statement has been confined to the Forest Service and the Bureau of Land Management because they are the only two agencies, under the Secretarial level, mentioned in

the Wild Horse and Burro Act. Additionally, the common boundaries of the two agencies are much more extensive than those with other agencies. The Bureau will cooperate with any agency where appropriate and possible. Coordination with other agencies is an integral part of the Bureau's planning regulations.

Inventory and Planning

Under § 4730.1(a) which deals with the inventory of wild free-roaming horses and burros, there was a question of how many animals constitute a herd. "Herd" has been defined by § 4700.0-5(c) and means one or more stallions and their mares or jacks and their jennies.

Also under § 4730.1(a), the frequency of "current inventories" was questioned. The National Academy of Sciences is presently studying the wild free-roaming horse and burro inventory procedures used by the Bureau. It was also recommended that there be periodic inventories of forage available for wild free-roaming horses and burros. This is essential to determine whether or not excess animals are present on an area, but the frequency of the inventories has not yet been established.

There was a question as to how many animals must be present to be considered in multiple use planning. The answer is one or more.

It was recommended that § 4730(c)(2), which requires the determination of appropriate actions needed to achieve proper population levels, be expanded to require the maintenance of stable and viable breeding populations. This suggested change has not been added because it would not change the intent of the regulation as written.

Although there were many suggestions to identify additional persons or groups to be consulted about the actions necessary to protect, manage and control wild free-roaming horses and burros, only one change has been made in § 4730.1(d). Any State wildlife agency may be consulted now rather than only those within a given State. This has been done because a wildlife agency in Nevada might have information or experience that is applicable in Wyoming, or vice versa, as an example. It must be added that the paragraph allows the authorized officer to consult with anyone who has special expertise, knowledge or experience in the field of wild free-roaming horses or burros.

Concern was also expressed that the consultation process described in § 4730.1(d) would be too frequent. It is unlikely that reinventories and revisions of resource management plans will take

place often enough to cause any concern about this matter.

Capture

There were suggestions that the paragraph on "capture" specify a time limit for holding animals pending their disposal. A time limit has not been specified because of the differing numbers of applicants, availability of other ranges, relocation to distribution centers and problems of timing and availability of transportation. A time limit, with flexibility for special circumstances, is being considered for inclusion in a policy statement currently under development for wild free-roaming horses and burros.

Humane Use of Helicopters and Motor Vehicles

The section on the humane use of helicopters and motor vehicles which is part of the current regulations, was inadvertently left out of the proposed rulemaking. It is included and has been reintroduced here as § 4740.2 with minor changes from the current regulations.

A paragraph (c) has been added to this section. It sets out standards for the humane transportation of wild free-roaming horses and burros. Several comments expressed concern about humane transportation and suggested standards that would be too detailed for inclusion as regulations. These suggestions, however, will be given serious consideration when the Bureau of Land Management Manual is developed to provide detailed instructions for humane transportation.

Removal

To improve its clarity, § 4730.3 (which was § 4740.2 in the proposed rulemaking) has been restructured into three basic divisions: Paragraph (a) covers the removal of excess animals, paragraph (b) was inadvertently left out of the proposed rulemaking and has been reintroduced here from § 4740.3 of current regulations with minor nonsubstantive changes and paragraph (c) covers the removal of problem animals.

There were numerous expressions of concern that old, sick, or lame animals would be destroyed regardless of their overall physical condition. This is not the case and such fears should be allayed after reading the new definitions for old, sick and lame under § 4700.0-5.

It was apparent from some comments that there was a misunderstanding that all animals, once removed from an area, must be either destroyed, adopted or relocated. If the number of rounded-up animals is greater than the predetermined number of excess

animals, then some of the animals cannot be considered excess and may be returned to the public lands.

Another apparent misunderstanding was that an old, sick or lame animal must be rounded-up before it can be humanely destroyed. This misunderstanding was, at least in part, caused by the oversight of not including in the proposed rules what is now § 4740.3(b) in this rulemaking, but is § 4740.3 of the existing regulations.

It was suggested that the authorized officer predict where excess animals would develop and remove the animals in advance of the buildup. Although there is much about biological communities that might be predictable most of the time, there is also an unpredictability—epidemic outbreaks of diseases, for example—that makes it imprudent to require predictions.

It was recommended that the expression "destroyed in the most humane manner possible" as used in §§ 4740.3 (a)(3) and (b) should be clarified and interpreted. The need to destroy an animal can occur under such a wide variety of circumstances and times that a set of guidelines for destruction is impractical. An animal could be found at locations or under weather conditions that would preclude the use of a veterinarian to provide the most humane method. It is possible also that there could be disagreement among veterinarians themselves as to what method is most humane. This is further complicated by the continual development of new and improved drugs.

Also in connection with the circumstances that make it necessary to destroy an animal, the regulations have been rewritten to emphasize that humane destruction is the primary consideration and that cost effectiveness is secondary.

Acts of Mercy

Comments about acts of mercy (§ 4740.3-1) suggested that there be provision for destroying an animal at the site of capture. The authorized officer is allowed this discretion by section 4740.3(c). It was also suggested that there be provision for acts of mercy applicable to adopted animals. Section 4740.3-1 is intended to apply to all animals whether adopted or not. In connection with this, it is reasonable to assume that a veterinarian would make mention of an act of mercy in the statement required by § 4740.4-2(f).

There were also recommendations as to which drugs to use—and not to use—in performing an act of mercy. As mentioned previously, this is considered impractical because of the possible

variations in the opinions of veterinarians and the continual development of new drugs.

It was suggested that an animal not lose its status as a wild free-roaming horse or burro if adopted prior to the effective date of these regulations. The apparent concern here was that title to large numbers of animals might be granted to someone who would sell them to a slaughterhouse upon receipt of title. Since the authorized officer cannot grant title for more than four animals per year to any qualified adopter, that small number would limit the potential for making a business of selling animals for conversion to commercial products.

There was concern expressed that the natural death of an animal referred to in § 4740.3-2(b) could not be verified. This possibility is covered in § 4740.4-2(f) which requires that the authorized officer receive a written statement of a veterinarian of the apparent cause of death.

One comment questioned how one would be able to distinguish between an animal that is a wild free-roaming horse or burro and one that has become the legal property of an adopter. The legal ownership of a former wild free-roaming horse or burro can be confirmed with a certificate of title showing that ownership of the animal has been transferred. This concept has been incorporated into § 4760.2(m).

The second sentence of § 4740.3-3, which addresses the disposal of carcasses, has been deleted because its intent is provided for under the prohibited acts of § 4760.2(e) which states, in part, that no consideration can be received for the remains of a wild free-roaming horse or burro that has not lost its status as such.

Many comments wanted to know how a processing plant could establish that a carcass bearing a Bureau of Land Management brand had passed to private ownership. An explanation of this process has been incorporated into the provision of § 4760.2(m) which requires that a carcass be accompanied by a certificate of title to the animal.

Relocation on Public Lands

Concern was expressed that it is too restrictive to limit the relocation of wild free-roaming horses and burros to the public lands they were using as of December 15, 1971. Section 9 of the Act is quite clear on the point that the Secretary shall not relocate animals to areas where they did not exist when the Act was passed.

Custodial Arrangements

Concern was expressed that staffing will be inadequate to administer the

custodial arrangements regulations. Regulations establish programs, but do not determine personnel requirements or ceilings. It is expected that the programs established by these regulations will be adequately funded through the normal budgeting process.

Considerable concern was expressed about the number of wild free-roaming horses and burros that could be adopted in any one year and particularly as it applied to families. After careful consideration of these concerns, it has been decided not to limit by regulation the number of animals a family may adopt. The possibility of incorporating such a provision into the regulations will be reconsidered if experience shows that a uniform policy established by regulations is necessary or desirable.

There was an obvious uneasiness among the comments with regard to the adoption of more than four animals per year as provided in § 4740.3-2(c). There were also numerous suggested actions for the authorized officer to follow to assure that these animals would receive humane treatment and not be commercially exploited or sold by adopters. That an authorized officer is required to justify these additional adoptions in writing should, in itself, provide assurance of humane treatment and protection. Detailed instructions, which tell the authorized officer how to determine who should receive additional animals, are more appropriate for inclusion in the Bureau of Land Management Manual. Furthermore, an adopter cannot gain title to more than four animals in any one year regardless of the total number adopted. This limitation should provide further assurance that selling so few animals for conversion to commercial products would limit the potential for making this a business operation.

It was suggested that the Bureau of Land Management make systematic inspections of all adopted animals as a means of carrying out the intent of § 4740.4-2(e). The logistics involved in such an endeavor would make this next to impossible. However, there will be inspections of adopted animals whenever possible.

There was a question as to what an authorized officer would do with an animal that was repossessed under the provisions of § 4740.4-2(e). In such a situation, the authorized officer would determine whether or not the animal could be returned to the public lands and if not, the provisions under § 4740.3(a), which provide for the disposition of excess animals, would be followed.

As a result of many comments received regarding § 4740.4-2(f), which

explains what to do when an adopted animal dies, the paragraph has been changed to provide that, within seven days of death, the transferee shall furnish the authorized officer with a veterinarian's written statement of the apparent cause of death.

Granting of Title

There were some questions as to whether or not the requirements of § 4740.5 (granting of title) would apply to horses that were adopted prior to the effective date of these regulations. The regulations have been amended to show that they apply to all animals adopted after December 15, 1971.

The comments suggested that, in addition to licensed veterinarians, others be authorized to write the statement required for the granting of title in § 4740.5(b). Limiting this authority to licensed veterinarians appears to be the best way to assure equal treatment of all adopters of wild free-roaming horses and burros.

There was a suggestion that when title passes, the Bureau of Land Management brand the animal to signify the change of ownership. This would be impractical because the animals are so widely distributed geographically. Giving the adopter a certificate of title is a sufficient and more practical way of providing proof of ownership.

Concern was expressed that title could be passed to persons with prior records of animal abuse, death or "loss." If there is abuse, the authorized officer can recover an animal under the provisions of § 4740.4-2(e), and additionally it is required in § 4740.5(b) that an application for title be accompanied by a veterinarian's written statement that the animal has been humanely treated in the year prior to application. Furthermore, when an animal dies, § 4740.4-2(f) now requires that an adopter furnish the authorized officer with a veterinarian's written statement of the apparent cause of death. As regards the loss of animals, there will be a record search by the Bureau of Land Management to determine if there is evidence of prior unaccountable losses.

Prohibited Acts

Section 4760.2(e) has been changed so that it now prohibits the sale of a wild free-roaming horse or burro or its remains unless it has lost its status as such.

As a result of a suggestion from one comment, the word "allows" in § 4760.2(g) has been replaced with "is responsible for."

The words "in a rodeo or similar contest" have been removed from the

prohibited acts in § 4760.2(h) because wild free-roaming horses or burros could possibly be used for bucking stock in other, less formal, situations.

It has been suggested that adopters be required to produce an animal for inspection at any time rather than after receipt of a written notice as required in § 4760.2(i). This suggestion has not been adopted because there are too many circumstances under which it would be unreasonable.

There were suggestions that § 4760.2(j), as written in the proposed rulemaking, be changed so that the 14-day notice of death requirement be reduced to seven days. This has been accomplished by removing the requirement from § 4760.2(i) and inserting a newly written § 4760.2(j) which contains a seven-day requirement.

Section 4760.2(k) has been changed, in part, to read " * * * official mark * * *" instead of " * * * official freeze mark * * *" because the Bureau of Land Management has used other marking systems in the past and possibly could change in the future.

Section 4760.2(m) has been added to the prohibited acts to assure that a conscientious effort has been made to capture escaped wild free-roaming horses or burros.

Section 4760.2(n) has been added as a prohibited act in order to prevent the acceptance of a Bureau of Land Management-marked horse or burro without a certificate providing evidence that title to the animal has been transferred.

Section 4760.2(o) has also been added as a prohibited act to require a one-year retention of the title to a Bureau of Land Management-marked animal that has been accepted for slaughter or destruction.

Editorial and clarification changes in the proposed regulations have been made as needed.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Act of December 15, 1971, as amended, (16 U.S.C. 1331 et seq.) commonly referred to as the Wild Free-Roaming Horse and Burro Act, Part 4700, Subchapter D, Chapter 2, Title 43 of the Code of Federal Regulations is amended as set forth below.

December 18, 1979.

Guy R. Martin,
Assistant Secretary of the Interior.

1. Section 4700.0-5 is amended to revise subsection (d) and to add five

new subsections (n), (o), (p), (q), and (r) as follows:

§ 4700.0-5 Definitions.

(d) "Excess animals" means wild free-roaming horses or burros (1) which have been removed from an area by the authorized officer pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

(n) "Commercial exploitation" means using a wild free-roaming horse or burro, because of its characteristics of wildness, for direct or indirect financial gain. Characteristics of wildness include the rebellious and feisty nature of such animals and their defiance of man as exhibited in their undomesticated and untamed state. Uses such as saddle or pack stock or other uses that require domestication of the animal are not commercial exploitation of the animals because of their characteristics of wildness.

(o) "Inhumane treatment" means causing physical stress to an animal through any harmful action or omission that is not compatible with standard animal husbandry practices; causing or allowing an animal to suffer from a lack of necessary food, water or shelter; using any equipment, apparatus, or technique during transportation, domestication or handling that causes undue injury to an animal; or failing to treat or care for a sick or injured animal.

(p) "Old" means a wild free-roaming horse or burro characterized by its inability to fend for itself because of age, physical deterioration, suffering or closeness to death.

(q) "Sick" means a wild free-roaming horse or burro with failing health, infirmness or disease from which there is little chance of recovery.

(r) "Lame" means a wild free-roaming horse or burro with malfunctioning muscles, ligaments or limbs that impair its freedom of movement.

2. Section 4700.0-6 is amended by adding new paragraphs (c) and (d) as follows:

§ 4700.0-6 Policy.

(c) Wild free-roaming horses and burros where found on public lands shall be considered comparably with other resource values in the development of resource management plans under the Bureau's planning system including allocation of appropriate portions of the available forage.

(d) Where wild free-roaming horses and burros use, as part of their habitat, public lands administered by the Bureau of Land Management and lands in the National Forest system, the Bureau of Land Management shall cooperate to the fullest extent with the Forest Service in the management of these animals.

3. Section 4730.1 is revised to read as follows:

§ 4730.1 Inventory and planning.

(a) A current inventory of wild free-roaming horses and burros shall be maintained by the authorized officer for each area where a herd exists for the purpose of evaluating population dynamics including whether and where excess animals exist as a basis for making management decisions. Such inventory will be designed to estimate animal numbers, productivity, sex ratio and age structure for each herd.

(b) In planning for management, protection, and control of wild free-roaming horses and burros, including determination of desirable numbers and other management requirements of these regulations, the authorized officer will utilize the Bureau's multiple use planning system.

(c) Using the information developed from inventory data and planning the authorized officer shall determine—

(1) Appropriate protection and management for wild free-roaming horses and burros on the management areas under consideration; and

(2) The appropriate actions needed to achieve proper population levels.

(d) In making these determinations, the authorized officer shall consult with the U.S. Fish and Wildlife Service, State wildlife agencies, individuals independent of Federal or State government recommended by the National Academy of Sciences, and any other individuals who he determines have scientific expertise or special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

4. Subpart 4740 is revised in its entirety to read as follows:

Subpart 4740—Removal and Relocation of Excess or Problem Animals

Sec.

4740.1 Capture.

4740.2 Humane use of helicopters and motor vehicles.

4740.3 Removal.

4740.3-1 Acts of mercy.

4740.3-2 Loss of status.

4740.3-3 Disposal of carcasses.

4740.4 Relocation.

4740.4-1 Relocation on public lands.

4740.4-2 Custodial arrangements.

4740.5 Granting of title.

Subpart 4740—Removal and Relocation of Excess or Problem Animals

§ 4740.1 Capture.

Under the supervision of the authorized officer, where it has been determined necessary, wild free-roaming horses and burros may be captured, corralled and held in a humane manner. All excess or problem animals will be held under humane conditions pending disposal under the provisions of this Subpart.

§ 4740.2 Humane use of helicopters and motor vehicles.

(a) The use of helicopters is authorized to locate the animals involved and for related purposes such as to transport personnel and equipment. The condition of the animals shall be continuously observed by the authorized officer and should signs of unnecessary stress be noted, the source of stress shall be removed so as to allow for recovery. Helicopters may be used in roundups or other capture operations subject to the following humane procedures:

(1) Helicopters shall be used in such a manner that bands or herds will tend to remain together.

(2) The rate of movement shall not exceed limitations set by the authorized officer who shall consider terrain, weather, distance to be traveled, and condition of animals.

(3) The helicopter shall be used to enable the authorized officer to look for the presence of dangerous areas and move the animals away from hazards during the capture operation.

(4) During capture operations, animals shall be moved in such a way as to prevent unnecessary stress or injury.

(b) Motor vehicles may be used for the purposes of transporting captured animals, subject to the following humane procedures:

(1) All such transportation shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of horses and burros.

(2) Vehicles shall be in good repair, of adequate rated capacity, and carefully operated so as to insure that captured animals are transported without undue risk of injury.

(3) Vehicles shall be inspected and approved by an authorized officer prior to use.

(4) Where necessary and practical, animals shall be sorted as to age, size, temperament, sex, and condition when transporting them so as to minimize, to the extent possible, injury due to fighting and trampling.

(5) The authorized officer shall consider the condition of the animals, weather conditions, type of vehicles, and distance to be transported when planning for the movement of captured animals.

(c) The transportation of wild free-roaming horses and burros shall be under humane conditions. Unless otherwise approved by the authorized officer, transportation shall be limited, in sequence, to a maximum of 24 hours followed by a minimum of 5 hours of on-the-ground rest with adequate feed and water.

§ 4740.3 Removal.

(a) The authorized officer, after making a determination that there are excess animals in an area shall immediately take action to remove those animals from the public lands. Such action shall be taken in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from deterioration associated with overpopulation:

(1) Old, sick, or lame animals shall be destroyed in the most humane manner possible. If there are equally humane methods, the most cost efficient may be selected.

(2) Any additional excess animals shall be humanely captured and removed for maintenance and care for which the authorized officer determines an adoption demand exists by qualified persons, organizations, or agencies and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling).

(3) Additional excess animals for which an adoption demand by qualified individuals does not exist shall be destroyed in the most humane manner possible. If there are equally humane methods, the most cost efficient may be selected.

(b) Where the authorized officer finds it necessary to remove excess animals from areas of the public lands, and he determines that it is not practical to relocate them on public lands or capture and remove them for maintenance, he may destroy such animals in the most humane manner possible. No person, except the authorized officer or his authorized representative, shall destroy wild free-roaming horses and burros.

(c) The authorized officer, after making a determination that there are problem animals in an area and that action is required, shall humanely remove the animals and may dispose of them in the same manner as excess

animals including the relocation or return to the public lands.

§ 4740.3-1 Acts of mercy.

Any severely injured or seriously sick animals will be destroyed in the most humane manner possible as an act of mercy.

§ 4740.3-2 Loss of status.

Wild free-roaming horses and burros or their remains shall lose their status as such—

(a) Upon passage of title under § 4740.5 of this part;

(b) If they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title;

(c) Upon destruction by the authorized officer or his designee pursuant to section 3(b) of the Act;

(d) If they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 of the Act and disposal is authorized by the authorized officer or his designee; or

(e) Upon destruction or death for purposes of or incident to the program authorized in section 3 of the Act.

§ 4740.3-3 Disposal of carcasses.

Carcasses of animals that have lost their status as wild free-roaming horses and burros may be disposed of in any customary manner. However, no consideration of any kind shall be received by any person who transfers the remains of a wild free-roaming horse or burro, that has not lost its status as such, to a rendering plant or other facility for disposal.

§ 4740.4 Relocation.

Wild free-roaming horses and burros may be relocated when: (1) The authorized officer determines there are excess animals in an area; (2) They have been removed from private lands under § 4750.3 of this title; (3) They are problem animals; or (4) the authorized officer determines that proper resource and herd management requires such action.

§ 4740.4-1 Relocation on public lands.

(a) Wild free-roaming horses and burros shall not be introduced by relocation to areas of public land that were not being used by wild free-roaming horses or burros as all or part of their habitat on December 15, 1971.

(b) Before wild free-roaming horses and burros are relocated to a different area of the public lands a written determination shall be made by the authorized officer that the action meets the requirements of the Bureau of Land Management's resource management

plans and that the area has an adequate allocation of forage for the animals relocated.

§ 4740.4-2 Custodial arrangements.

(a) The authorized officer may transfer for private maintenance or adoption up to 4 wild free-roaming horses or burros per year to any qualified person, organization, or government agency.

(b) Wild free-roaming horses and burros shall be transferred only to an applicant of a legal age in the State in which the applicant resides.

(c) Notwithstanding the provision of subsection (a) hereof, more than four animals per year may be transferred to any qualified person, organization, or agency for adoption if the authorized officer determines in writing that the applicant is capable of humanely transporting and caring for the additional animals.

(d) Before wild free-roaming horses and burros are transferred, the applicant shall sign a cooperative agreement that incorporates provisions for custodial maintenance including but not limited to provisions for proper maintenance of the animals and protection from inhumane treatment and commercial exploitation.

(e) If the authorized officer determines that an adopted wild free-roaming horse or burro is being commercially exploited, inhumanely treated, or treated in a manner that violates a provision of the cooperative agreement, he may take immediate possession of the animal.

(f) If a wild free-roaming horse or burro that has been transferred for private maintenance or adoption dies, the transferee shall, within 7 days of the death, furnish the authorized officer with a veterinarian's written statement of the apparent cause of death.

(g) Persons, organizations, or agencies who receive wild free-roaming horses or burros that have been previously transferred for private maintenance or adoption shall be subject to all the provisions of these regulations. No wild free-roaming horse or burro shall be transferred without the approval of the authorized officer.

(h) At the request of the transferee, the authorized officer may transfer custody of wild free-roaming horses and burros to another qualified applicant.

§ 4740.5 Granting of title.

(a) The authorized officer may grant title to not more than four wild free-roaming horses and burros in any one year upon application of any qualified person, organization, or agency to whom these animals have been transferred for adoption. Applicants for granting of title

must be of legal age in the State in which they reside.

(b) Persons, organizations, or agencies who have provided humane conditions, treatment, and care for the animals they have adopted after December 15, 1971, for at least one year under a cooperative agreement with the Bureau of Land Management are qualified to apply for title to the animals. The application for a title shall include a written statement of a licensed veterinarian attesting to the best of his knowledge that the animals have been given humane treatment and care preceding the filing of the application.

(c) The application for title shall be on a form prescribed by the Director, Bureau of Land Management, and shall be filed at the office specified on the form.

5. Section 4760.2 is amended by revising paragraph (e); redesignating paragraph (f) as paragraph (p) and by adding paragraphs (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) to read as follows:

§ 4760.2 Prohibited acts.

(e) Sells, directly or indirectly, a wild free-roaming horse or burro, or the remains thereof which have not lost their status as a wild free-roaming horse or burro, or

(f) Uses a wild free-roaming horse or burro for commercial exploitation, or

(g) Causes or is responsible for the inhumane treatment of a wild free-roaming horse or burro, or

(h) Uses a wild free-roaming horse or burro for bucking stock, or

(i) Fails, upon written notice, to produce for inspection by an authorized officer those animals assigned to him for private maintenance under a cooperative agreement, or

(j) Fails to notify the authorized officer of the death of a wild free-roaming horse or burro within 7 days of death pursuant to § 4740.4-2(f) of this title, or

(k) Removes or attempts to remove, alters or destroys any official mark identifying a wild horse or burro, or its remains, or

(l) Being the assignee of a wild free-roaming horse or burro, or having charge or custody of the animal, abandons the animal without making arrangements for necessary food, water and shelter, or

(m) Being the assignee of a wild free-roaming horse or burro, or having charge or custody of the animal, fails to diligently pursue in an attempt to capture the escaped animal, or

(n) Accepts for slaughter or destruction a horse or burro bearing an official Bureau of Land Management identification mark, and which is not

accompanied by a certificate that title to the animal has been transferred, or

(o) After acceptance of an animal for slaughter or destruction, fails to retain for one year the certificate of title to a horse or burro bearing an official Bureau of Land Management identification mark, or

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Friday
December 28, 1979

Part III

Department of Labor

Employment and Training Administration

Comprehensive Employment and Training
Act; Designation as a Prime Sponsor;
Invitation To Submit Preapplications

U.S. DEPARTMENT OF LABOR
OFFICE OF EMPLOYMENT AND TRAINING ADMINISTRATION
WASHINGTON, D.C. 20460

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DEPARTMENT OF LABOR

Employment and Training Administration

Designation as a Prime Sponsor Under the Comprehensive Employment and Training Act; Invitation To Submit Preapplications

The purpose of this notice is to describe the eligibility criteria for prime sponsor designation under the Comprehensive Employment and Training Act (CETA) and the procedures for applying for such designation. The Secretary of Labor provides financial assistance under CETA to qualified prime sponsors for the conduct of employment and training programs. Each year applicants for prime sponsor designation, including those that have been designated as prime sponsors in previous years, must submit a preapplication for Federal assistance. One such preapplication will suffice for all titles of CETA, except that the preapplication for Special Grants to Governors must be separate.

The primary basis upon which a unit of general local government may qualify as a prime sponsor under Section 101(a)(2) of CETA is having a population of 100,000 or more. Accordingly, Attachment 1, entitled "List A," of this notice lists jurisdictions with a population of 100,000 or more, based upon the most satisfactory current data available to the Secretary. If any jurisdiction previously having a population of 100,000 or more falls below 100,000 it may still apply, provided it meets the requirements under Section 101(a)(6). This latter group is called "List B," Attachment 2. On or about April 1, 1980, the Secretary will publish a notice of those jurisdictions newly exceeding 100,000 in population, newly under 100,000 in population, and those now in "List B" which will exceed 100,000. The publication of these lists is not intended in any manner to preclude other applicants from applying.

Eligibility Criteria. Section 101(a) of the Act provides that a prime sponsor shall be:

- A State;
- A unit of a general local government which has a population of 100,000 or more;
- Any consortium of units of general local government which includes a unit of general local government qualifying under paragraph (b) of this section;
- The four existing Concentrated Employment Program (CEP) prime sponsors.

(e) Any unit of general local government previously designated as a prime sponsor, with a population below 100,000 persons, which the Secretary certifies has demonstrated its effectiveness in, and continues to have the capability for, adequately carrying out programs under the Act.

(f) Any unit of general local government or any consortium of such units, without regard to population, which is determined by the Secretary (1)(i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and (2) to have demonstrated that (i) it has the capability for adequately carrying out programs under the Act, (ii) there is a special need for services within the area to be served, and (iii) it will carry out programs and services in the area as effectively as any larger unit of general local government in the jurisdiction of which it is located or as the State.

General Procedures for Applying. In accordance with Section 101(c) of the Act, and in order to be considered eligible for prime sponsorship, the Secretary of Labor hereby informs all potential applicants that they must submit a preapplication for Federal assistance no later than February 15, 1980. The Department of Labor will not accept any changes in these applications subsequent to February 15, 1980, except in those cases involving the newly eligible jurisdictions which will be published in the Federal Register on or about April 1, 1980.

The preapplication must be submitted to the appropriate Regional Administrator, Employment and Training Administration (ETA), the Governor, and appropriate State and areawide clearinghouses pursuant to OMB Circular A-95, not later than 30 days prior to the completed Comprehensive Employment and Training Plan to the clearinghouse for formal review.

The preapplication will consist of Standard Form (SF) 424, as described in 41 CFR 29-70, with an attachment giving the following information:

- Population of area(s) to be served;
- Certification that the prime sponsor applicant, except for States, CEP and consortia prime sponsor applicants, has the general government authority required by the definition of "unit of general local government" at Section 3(29) of CETA;
- Name of any ineligible unit of general local government, located within the prime sponsor applicant's jurisdiction, that has informed the prime sponsor applicant that it will not be

participating in the prime sponsor applicant's plan;

(d) Certification that the development of the applicant's plan will be in accordance with the requirements of the Act and regulations;

(e) The signature of the chief elected official(s) or chief executive officer(s), as appropriate, of each applicant. For a newly formed consortium, and for a consortium in which one or more members have joined or withdrawn, the signature of the chief elected official or chief executive officer of each consortium member is required. In the case of an established consortium with no membership changes, the preapplication may, with the consent of all consortium members, be signed by the consortium's chief executive officer.

Special Application Procedures

(a) *Units of general local government of less than 100,000 population.* Any unit of general local government which does not have a population of 100,000 but wishes to be named a prime sponsor because of exceptional circumstances under the provisions of Section 101 of the Act should submit a preapplication according to procedures set forth above. In addition, the preapplication should include information as to:

(1) The labor market area(s) in which the unit of general local government is located;

(2) The proportion of the labor market area population which resides within the jurisdiction of the unit of general local government;

(3) The unit of general local government's administrative and organizational capability for adequately carrying out programs under the Act;

(4) The unit of general local government's ability to carry out the program as effectively as the State, e.g., past experience in operating employment and training programs, effective linkages with community-based organizations and programs, administrative efficiency in terms of costs, and of the existence and effective operation of an Operational Planning Grant;

(5) The special need for services within the area to be served, e.g., a high proportion of groups within the population such as disadvantaged youth, offenders, high school dropouts, a high unemployment rate, substantial outmigration, or unique commuting problems. The problems faced by prime sponsors in dealing with these special needs for services should be different from the problems faced by other prime sponsors in similar geographic areas.

(b) *Consortia.* Combination of units of general local government may form a

consortium to plan and operate a comprehensive employment and training program. The nature of consortium agreements is set forth in detail in Section 676.4 of the CETA regulations, published at 20 CFR Parts 675 through 680.

In order to encourage the formation of consortia that comprise at least 75 percent of labor market areas, the Secretary will use up to 5 percent of the funds available for Title II, Parts A, B and C, of the Act to provide additional funding for such consortia.

Consortia which do not serve such areas shall not be eligible for these additional funds. Prior to making decisions concerning these funds, the Regional Administrator, ETA, will consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

A consortium must submit a preapplication according to the procedures set forth above. In addition, each consortium shall submit a consortium agreement to the appropriate Regional Administrator, ETA, by March 3, 1980. (See 20 CFR 676.4.) An established consortium which submitted a formal written agreement last year may attest in writing that the agreement is the same or specify amendments to the agreement. The formal agreement or attestation must be signed by the chief elected official or chief executive officer of each consortium member. Only one such agreement is necessary for designation under all titles.

List of ETA Regional Offices. All preapplication information and consortium agreements (described above) must be submitted to the appropriate Regional Administrator, ETA. The names, addresses and areas of responsibility of the Regional Administrators are listed on Attachment No. 3.

Implementation Schedule

Grants to prime sponsors for Fiscal Year 1981 will be executed by October 1, 1980. Planning estimates will be released by May 15, 1980. Prime sponsors will be expected to submit their final grant applications to the appropriate Regional Administrator by August 15, 1980.

List A—Eligible Under Section 101(a)(1) and (2)

Listing of Jurisdictions of 100,000 or More Population (Based on the most satisfactory current data available to the Secretary)

Alabama

Birmingham	Jefferson County
Huntsville	Mobile County
Mobile	Tuscaloosa County
Montgomery	Balance Alabama
Calhoun County	

Alaska

Municipality of Anchorage	Balance Alaska
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Arizona

Phoenix	Maricopa County
Tucson	Balance Arizona
Mesa	

Arkansas

Little Rock	Balance Arkansas
Pulaski County	

California

Anaheim	San Francisco City/County
Berkeley	San Jose
Fremont	Santa Ana
Fresno	Stockton
Garden Grove	Sunnyvale
Glendale	Torrance
Huntington Beach	Alameda County
Long Beach	Butte County
Los Angeles	Contra Costa County
Oakland	Fresno County
Pasadena	Humboldt County
Riverside	Kern County
Sacramento	Los Angeles County
San Bernardino	Marin County
San Diego	Merced County
Monterey County	Santa Barbara County
Orange County	Santa Clara County
Placer County	Santa Cruz County
Riverside County	Solano County
Sacramento County	Sonoma County
San Bernardino County	Stanislaus County
San Diego County	Tulare County
San Joaquin County	Ventura County
San Luis Obispo County	Yolo County
San Mateo County	Balance California

Colorado

Aurora	Arapahoe County
Colorado Springs	Boulder County
Denver City/County	El Paso County
Lakewood	Jefferson County
Pueblo	Larimer County
Adams County	Weld County
	Balance Colorado

Connecticut

Bridgeport	Stamford City
Hartford City	Waterbury City
New Haven City	Balance Connecticut

Delaware

New Castle County	Balance Delaware
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District of Columbia**Florida**

Ft. Lauderdale	Hillsborough County
Hialeah	Marion County
Hollywood	Lee County
Jacksonville City/County	Leon County
Duval County	Manatee County
Miami	Okaloosa County
Orlando	Orange County
St. Petersburg	Palm Beach County
Tampa	Pasco County
Alachua County	Pinellas County
Brevard County	Polk County
Broward County	Sarasota County
Dade County	Seminole County
Escambia County	Volusia County
	Balance Florida

Georgia

Atlanta	Cobb County
Columbia City/County	DeKalb County
Musconge County	Fulton County
Macon	Gwinnett County

Savannah

Clayton County	Richmond County
	Balance Georgia

Hawaii

Honolulu City/Honolulu County	Balance Hawaii
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Idaho

Boise	Balance Idaho
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Illinois

Chicago	LaSalle County
Peoria	Lake County
Rockford	Macon County
Champaign County	Madison County
Cook County	McHenry County
DuPage County	McLean County
Kane County	Rock Island County
Sangamon County	Will County
St. Clair County	Balance Illinois
Tazewell County	

Indiana

Evansville	Indianapolis City/Marion County
Ft. Wayne	Porter County
Gary	South Bend
Hammond	Allen County
Delaware County	Madison County
Elkhart County	Trippcanoe County
LaPorte County	Vigo County
Lake County	Balance Indiana

Iowa

Cedar Rapids	Davenport
Des Moines	Woodbury County
Black Hawk County	Balance Iowa

Kansas

Kansas City	Johnson County
Topeka	Balance Kansas
Wichita	

Kentucky

Lexington City/Fayette County	Jefferson County
Louisville	Kenton County
	Balance Kentucky

Louisiana

Baton Rouge/E. Baton Rouge Parish	Jefferson Parish
New Orleans City/Parish	Lafayette Parish
Shreveport	Ouachita Parish
Calcasieu Parish	Rapides Parish
	Balance Louisiana

Maine

Cumberland County	Penobscot County
Kennebec County	York County
	Balance Maine

Maryland

Baltimore	Howard County
Anne Arundel County	Montgomery County
Baltimore County	Prince Georges County
Frederick County	Washington County
Hartford County	Balance Maryland

Massachusetts

Boston City	Springfield
Worcester	Balance Massachusetts

Michigan

Ann Arbor	Kalamazoo County
Detroit	Kent County
Flint	Macomb County
Grand Rapids	Monroe County
Lansing	Muskegon County
Livonia	Oakland County
Warren	Ottawa County
Bay County	Saginaw County
Berrien County	St. Clair County
Calhoun County	Washtenaw County
Genesee County	Wayne County
Ingham County	Balance Michigan
Jackson County	

Minnesota

Minneapolis
St. Paul
Anoka County
Dakota County
Hennepin County

Ramsey County
St. Louis County
Sterns County
Washington County
Balance Minnesota

Mississippi

Jackson
Harrison County

Jackson County
Balance Mississippi

Missouri

Independence City
Kansas City
Springfield City
St. Louis City
Jackson County

Jefferson County
St. Charles County
St. Louis County
Balance Missouri

Montana

Yellowstone County

Balance Montana

Nebraska

Lincoln City
Omaha City

Balance Nebraska

Nevada

Las Vegas City
Clark County

Washoe County
Balance Nevada

New Hampshire

Hillsborough County

Balance New Hampshire

New Jersey

Elizabeth City
Jersey City
Newark City
Paterson City
Atlantic County
Bergen County
Burlington County
Camden County
Cumberland County
Essex County
Gloucester County

Hudson County
Mercer County
Middlesex County
Monmouth County
Morris County
Ocean County
Passaic County
Somerset County
Sussex County
Union County
Balance New Jersey

New Mexico

Albuquerque City

Balance New Mexico

New York

Albany City
Buffalo City
New York City
Rochester City
Syracuse City
Town of Amherst
Town of Cheektowaga
Yonkers City
Town of Babylon
Town of Brookhaven
Town of Huntington
Town of Islip
Town of Smithtown
Town of Hempstead
North Hempstead
Township
Oyster Bay Township
Albany County
Broome County

Chautauqua County
Chemung County
Dutchess County
Erie County
Monroe County
Niagara County
Oneida County
Onondaga County
Orange County
Oswego County
Rensselaer County
Rockland County
Saratoga County
Schenectady County
St. Lawrence County

Steuben County
Ulster County
Westchester County
Balance New York

North Carolina

Charlotte City
Greensboro
Davidson County
Durham City
Raleigh City
Winston-Salem City
Buncombe County

Cumberland County
Gaston County
Guilford County
Onslow County
Wake County
Balance North Carolina

North Dakota**Ohio**

Akron City
Cincinnati City
Cleveland City
Columbus City
Dayton City
Parma City
Toledo City
Youngstown City
Allen County
Butler County
Clark County
Clermont County
Columbiana County
Cuyahoga County
Franklin County

Green County
Hamilton County
Lake County
Licking County
Lorain County
Lucas County
Medina County
Mahoning County
Montgomery County
Portage County
Richland County
Stark County
Summitt County
Trumbull County
Wood County
Balance Ohio

Oklahoma

Oklahoma City
Tulsa City

Comanche County
Oklahoma County
Balance Oklahoma

Oregon

Portland City
Clackamas County
Jackson County
Lane County

Marion County
Multnomah County
Washington County
Balance Oregon

Pennsylvania

Allentown City
Erie City
Philadelphia City/County
Pittsburgh City
Allegheny County
Beaver County
Berks County
Blair County
Bucks County
Butler County
Cambria County
Centre County
Chester County
Cumberland County
Dauphin County
Delaware County
Erie County
Fayette County

Fayette County
Franklin County
Lackawanna County
Lancaster County
Lawrence County
Lebanon County
Lehigh County
Luzerne County
Lycoming County
Mercer County
Montgomery County
Northampton County
Schuylkill County
Washington County
Westmoreland County
York County
Balance Pennsylvania

Puerto Rico

Bayamon Municipio
Caguas Municipio
Carolina Municipio
Mayaguez Municipio

Ponce Municipio
San Juan Municipio
Balance Puerto Rico

Rhode Island

Providence City

Balance Rhode Island

South Carolina

Columbia City
Anderson County
Charleston County
Florence County
Greenville County

Lexington County
Richland County
Spartanburg County
Balance South Carolina

South Dakota

Minnehaha County

Balance South Dakota

Tennessee

Chattanooga City
Knoxville City
Memphis City
Nashville City/Davidson
County

Hamilton County
Knox County
Sullivan County
Balance Tennessee

Texas

Amarillo City
Arlington
Austin City
Beaumont City
Collin County

Bexar County
Brazoria County
Cameron County
Dallas County
Ector County

Corpus Christi City
Dallas City
El Paso City
Fort Worth City
Garland
Houston City
Irving
Lubbock City
Pasadena
San Antonio City
Bell County

Utah

Salt Lake City
Davis County
Salt Lake County

Utah County
Weber County
Balance Utah

Vermont

Chittenden County

Balance Vermont

Virginia

Alexandria City
Chesapeake City
Hampton City
Newport News City
Norfolk City
Portsmouth City
Richmond City

Virginia Beach City
Arlington County
Chesterfield County
Fairfax County
Henrico County
Prince William County
Balance Virginia

Washington

Seattle City
Spokane City
Tacoma City
Clark County
King County
Kitsap County

Pierce County
Snohomish County
Spokane County
Thurston County
Yakima County
Balance Washington

West Virginia

Cabell County
Kanawha County

Balance West Virginia

Wisconsin

Madison City
Milwaukee City
Brown County
Dane County
Kenosha County
Marathon County
Milwaukee County

Outagamie County
Racine County
Rock County
Sheboygan County
Waukesha County
Winnebago County
Balance Wisconsin

Wyoming**Virgin Islands****American Samoa****Guam****Northern Marianas****Trust Territory of the Pacific Islands**

Note: Any jurisdiction whose name does not appear on this list which has Bureau of Census certified documentation to support the fact that its population has increased to 100,000 should submit such documentation, along with a preapplication, according to the procedures contained herein.

List B—Eligible Under Section 101(a)(6)

Listings of Jurisdictions Which Previously Exceeded 100,000 or More in Population (Based on the most satisfactory current data available to the Secretary)

Region I—Cambridge City, Massachusetts, Fall River, Massachusetts, New Bedford, Massachusetts.

Region II—City of Camden, New Jersey, City of Trenton, New Jersey, Town of Tonawanda, New York.

Region III—City of Scranton, Pennsylvania, Northumberland County, Pennsylvania, Roanoke City, Virginia.

Region V—Dearborn, Michigan, Duluth, Minnesota, Canton, Ohio, Ashtabula, Ohio.
Region VI—Cleveland County, Oklahoma.

Regional Administrators Employment and Training Administration**Location, and States in Region****Region I, Boston**

Timothy M. Barnicle, Regional Administrator, ETA, U.S. Department of Labor, J. F. Kennedy Building, Room 1703, Boston, Massachusetts 02203—Connecticut, Maine, Massachusetts, Vermont, Rhode Island, New Hampshire.

Region II, New York

James A. Ware, Regional Administrator, ETA, U.S. Department of Labor, 1515 Broadway, Room 3713, New York, New York 10036—New York, Puerto Rico, New Jersey, Virgin Islands, Canal Zone.

Region III, Philadelphia

William J. Haltigan, Regional Administrator, ETA, U.S. Department of Labor, Post Office Box 8796, Philadelphia, Pennsylvania 19101—Delaware, Virginia, Maryland, Pennsylvania, West Virginia, District of Columbia.

Region IV, Atlanta

James A. Lowe, Acting Regional Administrator, ETA, U.S. Department of Labor, 1371 Peachtree Street, N.E., Room 405, Atlanta, Georgia 30309—Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, Tennessee.

Region V, Chicago

Charles T. Ross, Regional Administrator, ETA, U.S. Department of Labor, 230 South Dearborn Street, 6th Floor, Chicago, Illinois 60604—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region VI, Dallas

Richard A. Flores, Jr., Regional Administrator, ETA, U.S. Department of Labor, 555 Griffin Square Building, Room 316, Dallas, Texas 75202—Arkansas, Oklahoma, Texas, Louisiana, New Mexico.

Region VII, Kansas City

Richard G. Miskimins, Regional Administrator, ETA, U.S. Department of Labor, 911 Walnut Street, Room 1000, Federal Building, Kansas City, Missouri 64106—Iowa, Missouri, Nebraska, Kansas.

Region VIII, Denver

Floyd E. Edwards, Regional Administrator, ETA, U.S. Department of Labor, 16122 Federal Office Building, 1961 Stout Street, Denver, Colorado 80294—Colorado, Utah, South Dakota, North Dakota, Montana, Wyoming.

Region IX, San Francisco

Carolyn M. Golding, Regional Administrator, ETA, U.S. Department of Labor, Federal Office Building, Box 36084, 450 Golden Gate Avenue, San Francisco, California 94102—Arizona, California, Hawaii, Nevada, Guam, American Samoa, Trust Territory of the Pacific Islands.

Region X, Seattle

Don A. Balcer, Acting Regional Administrator, ETA, U.S. Department of Labor, Federal Office Building, 909 First Avenue, Room 1145, Seattle, Washington 98174—Alaska, Idaho, Oregon, Washington.

Signed at Washington, D.C., this 20th day of December 1979.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 79-39500 Filed 12-27-79; 8:45 am]

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test report Federal Register

Friday
December 28, 1979

Part IV

Department of Health, Education, and Welfare

National Institutes of Health

Committee on Federal Research Into the
Biological Effects of Ionizing Radiation;
Notice of Meeting

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE****National Institutes of Health****Committee on Federal Research Into
the Biological Effects of Ionizing
Radiation; Notice of Meeting**

Notice is hereby given of a public meeting on a projected federal radiation research agenda, sponsored by the Committee on Federal Research Into the Biological Effects of Ionizing Radiation, March 10 and 11, 1980. On each day the meeting will run from 9:00 a.m. until adjournment, and be convened at the National Institutes of Health, Clinical Center (Building 10), Masur Auditorium, Bethesda, Maryland 20205.

This meeting is being held to discuss solicited "Science Projection Papers" prepared by experts in the various disciplines of radiation biology.

In addition, the Committee has solicited authors to address in writing a series of broader subjects related to radiation research and issues of public concern. These communications will be summarized by the authors at the public meeting. Following is a list of these broad questions.

1. What knowledge is considered certain regarding human somatic effects of ionizing radiation?
2. What knowledge is considered certain regarding human genetic effects of ionizing radiation?
3. What are the limits of extrapolation in applying results from experimental radiation studies on cellular and animal systems to human populations?
4. What are the opportunities and limits in applying epidemiological methods to determine the effects of ionizing radiation on humans?
5. What is our current knowledge about the effects of differences in schedules of delivery of a given dose of ionizing radiation (dose rate, fractionation) and "quality" of radiation (LET) on biological systems and how can this information be used to predict the effects of low doses of radiation in man?
6. What is our current knowledge from animal and cellular systems about the combined effects of ionizing radiation and exposure to other agents (chemical, pharmacologic, physical, viral etc.) and is this knowledge adequate to predict human responses?
7. What is the state of knowledge about differences in response to ionizing radiation as a result of biological factors such as age, sex, and genetically determined variations?
8. What kinds of information must be developed to foster enlightened public discussion on control of man-made ionizing radiation? How and by whom should such information be made accessible to the public? What end points or criteria, such as shortening of life, developing disease etc. are useful to provide perspective for public understanding of radiation risks?
9. What is the potential for significant human exposure to internal radiation from environmentally dispersed radionuclides and what research is needed to reduce the effects of such exposure?
10. What are the legal, ethical, and economic constraints to developing a comprehensive knowledge of the biological effects of ionizing radiation?
11. How does man-made ionizing radiation contribute to the welfare of mankind?

Members of the public are invited to forward written comments on these questions. Any submissions received before February 1, 1980 will be printed along with the manuscripts by invited authors.

Copies of all printed material will be available after February 20, 1980, and may be obtained from:

Office of Communication, National Institutes of Health, Bethesda, Maryland 20205, Tel: (301) 496-4461.

This same material will be available on March 10 and 11 at the Masur Auditorium.

Attendance by the public and discussion from the floor is encouraged, limited only by space available and time constraints imposed by the agenda.

Additional information can be obtained from:

Dr. Charles U. Lowe, Special Assistant to the Director, NIH, Building 1, Room 103, Bethesda, Maryland 20205, Tel: (301) 496-3283.

Dated: December 20, 1979.

Suzanne L. Freneau,

Committee Management Officer, NIH.

[FR Doc. 79-39516 Filed 12-27-79; 8:45 am]

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Test Report Federal Project

Friday
December 28, 1979

Part V

Department of Labor

Office of Federal Contract Compliance
Programs

Compliance Responsibility for Equal
Employment Opportunity

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60-1, 60-2, 60-30

Compliance Responsibility for Equal Employment Opportunity

AGENCY: Office of Federal Contract Compliance Programs, Labor.
ACTION: Final rule.

SUMMARY: The regulations published today make changes and additions to three parts of the regulations implementing Executive Order 11246, as amended. These regulations codify existing policy, procedures and practices concerning conciliation agreements. The regulations also establish a requirement that contractors file an annual Affirmative Action Program summary. The summary is being developed and will be published in the Federal Register after it has been cleared with the Office of Management and Budget. Finally, new sections to the rules of practice add an expedited hearing procedure.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Edward E. Mitchell, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C-3324, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-9426.

SUPPLEMENTARY INFORMATION: On March 20, 1979, the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, published in the Federal Register (44 FR 17136) a proposal to amend 41 CFR Parts 60-1, 60-2 and 60-30. The proposal set forth current policy, procedures and practices followed by OFCCP concerning conciliation agreements, a proposed annual Affirmative Action Program (AAP) summary, and expedited hearing rules. Comments were invited from the public for 30 days.

The Department of Labor received comments regarding the proposed AAP summary which suggested that the Department provide the public with more information about: (1) The extent of the information to be required in the AAP summary, (2) The need for and use to which the summary will be put, and (3) Alternative sources of the information to be collected in the AAP summary. In addition, some comments suggested that the public comment period for the proposed AAP summary be extended from 30 to 60 days.

On April 17, 1979, OFCCP published in the Federal Register (44 FR 22761) a

further explanation of the proposed AAP summary, and extended the comment period for that proposal, alone, for an additional 30 days. Comments from interested parties were received until May 21, 1979, on the AAP summary, and until April 19, 1979, on the other proposed sections.

Over 130 separate written comments were submitted by individuals and groups. During the comment period, 34 comment letters were submitted by manufacturers; 20 by other contractors; 18 by trade associations; 13 by colleges and universities; 11 by law firms and lawyers; 5 by state and Federal agencies and 25 by other organizations. Each submission and each specific criticism and suggestion has been given careful consideration.

Section 60-1.33. This section codifies existing OFCCP policy, procedures, and practices regarding the use of conciliation agreements to resolve deficiencies and/or violations. It sets forth those instances when a conciliation agreement is required, and when a letter of commitment may be used.

1. Many contractors contended that § 60-1.33's requirement that back pay must be provided, where appropriate, in a conciliation agreement goes beyond the authority of Executive Order 11246.

The proposition that Executive Order 11246 has the force and effect of law has been recognized by every Court which has considered the issue. See, e.g., *Contractor's Ass'n. of Eastern Pennsylvania v. Secretary of Labor*, 442 F. 2d 159 (3rd Cir. 1971); *Farkas v. Texas Instrument Co.*, 375 F. 2d 629 (5th Cir. 1967), cert. denied, 389 U.S. 977 (1967); *Farmer v. Philadelphia Electric Co.*, 329 F. 2d 3 (3rd Cir. 1964); *United States v. New Orleans Public Service, Inc.*, 553 F. 2d 459 (5th Cir. 1977) vacated and remanded for reconsideration on another issue, 98 S. Ct. 2841 (1978); *United States v. Mississippi Power Light Co.*, 553 F. 2d 480 (5th Cir. 1977) vacated and remanded for reconsideration on another issue, 98 S. Ct. 2841 (1978); *Legal Aid Society v. Brennan*, 381 F. Supp. 131 (N.D. Calif. 1974); *Southern Illinois Builders Assoc. v. Oglivie*, 327 F. Supp. 1154, aff'd, 471 F. 2d 680 (7th Cir. 1972); *Joyce v. McCrane*, 320 F. Supp. 1285 (D. N.J. 1970); *United States v. Local 189, Paper Makers*, 282 F. Supp. 39 (E.D. La. 1968), aff'd, 416 F. 2d 980 (5th Cir. 1969), cert. denied 397 U.S. 919 (1971).

Section 201 of the Executive Order authorizes the Secretary of Labor to "adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes [of the Order]." Pursuant to the authorization in section 201 to adopt

rules and regulations and the authorization in section 202(6) to require remedies not specifically enumerated in the Executive Order, the Secretary issued formal regulations on December 4, 1971, which required that remedial relief be provided to members of an "affected class" as part of a Government contractor's obligations under the Executive Order (41 CFR 60-2.1). The codification of the words "including back pay" into the regulations (41 CFR 60-2.1(b) and 41 CFR 60-1.26) in 1977 (42 FR 3461, January 18, 1977), merely clarified the long-standing OFCCP policy and practice of obtaining back pay in appropriate cases. Back pay relief has been obtained under the Executive Order since at least 1967, and between 1969 and 1979, OFCCP entered into hundreds of back pay agreements involving well over \$61,000,000.

Section 202(1) of the Executive Order requires nondiscrimination in employment towards individual applicants and employees and it also requires affirmative action to correct the effects of past discrimination. The Order also provides that a contractor may be debarred if it discriminates in employment (202(6), 209(a)(6)), and have its contracts cancelled, terminated or suspended (202(6), 209(a)(5)). A debarred contractor must satisfy the Secretary of Labor that it has brought itself into compliance with the Executive Order before it can be reinstated as an eligible bidder on Government contractors. (209(a)(6)). Failure to provide back pay relief would preclude the contractor from being reinstated.

Therefore, the requirements that back pay where appropriate must be provided for in a conciliation agreement is clearly consistent with Executive Order 11246.

2. Several contractor comments contended that § 60-1.33's requirement that retroactive seniority, where appropriate, must be provided for in a conciliation agreement goes beyond the authority of Executive Order 11246. However, it has been the policy to obtain retroactive seniority under the Executive Order program since at least 1963. Moreover, the Supreme Court has upheld the recovery of retroactive seniority in some circumstances under Title VII of the Civil Rights Act of 1964, as amended. *Franks v. Bowman Transportation Company*, 424 U.S. 747 (1976).

Some commentators argued that the decision in *Teamsters v. United States*, 431 U.S. 324 (1977), in which the Court held that seniority systems which perpetuate past discrimination are not subject to attack under Title VII if they are bona fide within the meaning of

section 703(h) of Title VII, means that Congress preempted the field in enacting Title VII. Thus, they assert that a seniority system lawful under Title VII cannot be held unlawful under the Executive Order. This argument was stated in dicta in *United States v. East Texas Motor Freight System*, 564 F.2d 179 (C.A. 5 1977) and adopted in *United States and EEOC v. Trucking Management, Inc.*, USDC D.C., C.A. No. 74-453, July 17, 1979, appeal docketed, Nos. 79-2102, 79-2103 (D.C. Cir. Sept. 18, 1979). The Government does not agree with this construction and has taken an appeal from the *Trucking Management* decision. In any event, neither decision purports to outlaw all retroactive seniority. See, also, *Franks v. Bowman Transportation Company*, supra, 424 U.S. 747.

Section 60-1.34. This section codifies existing OFCCP policy, procedures and practices regarding the procedure to be followed when violation of a conciliation agreement or a letter of commitment is alleged.

1. The section provides a contractor 15 days to respond to an allegation that a conciliation agreement has been violated. This is sufficient time for a contractor to set forth its position. Furthermore, the 15-day period is not the only opportunity the contractor has to present its defenses. If, after the expiration of the 15-day period, the contractor has been unable to demonstrate that it has not violated its commitments, enforcement proceedings may be initiated pursuant to the expedited hearing rules in sections 60-30.31 through 60-30.37, adopted today; under existing procedures in Part 60-30; or pursuant to section 209(a)(2) of the Executive Order. In either instance, the contractor will have an opportunity to present its case before an Administrative Law Judge or before a Federal judge.

2. This section does not require issuance of a show cause notice prior to initiating enforcement proceedings for violation of a conciliation agreement. Several contractors stated that by signing a conciliation agreement they would be waiving their due process right to a show cause notice. The show cause procedure, however, is a regulatory procedure, not a procedure required by the Executive Order itself. Moreover, the current regulations do not require a show cause notice prior to the initiation of enforcement proceedings in each instance. (See, e.g., 41 CFR 60-1.26(a)(2) and 41 CFR 60-4.8.) Also, the U.S. District Court for the Northern District of California has held in *Castillo, et al. v. Usery, et al.* (Civil No. 73-282 AJZ),

that a show cause notice is not required where an Executive Order violation has been found, the contractor has agreed to remedy the violation, and the contractor has subsequently violated its commitment.

The section affords contractors with notice of the alleged violations and an opportunity to rebut the allegations prior to the initiation of enforcement proceedings. Thus, contractors' rights are more than adequately protected.

3. Contrary to the statements in many comments, the section does not place the burden of proof on the contractor. In fact, it does not allocate the burden of proof at all. If a conciliation agreement is violated, OFCCP is required to give the contractor notice. The contractor may then demonstrate to OFCCP that it has not violated the conciliation agreement. If the contractor does not demonstrate compliance, enforcement proceedings, may be initiated during which the Department of Labor must prove the violations alleged.

4. This section also sets forth procedures to be followed when OFCCP alleges that a letter of commitment has been violated. Such a violation may be corrected by negotiating an agreement, or enforcement proceedings may be initiated.

Section 60-2.14. This section imposes a new requirement under which contractors must prepare a brief summary of their affirmative action programs and the results achieved under those programs. This summary will be based on contractors' written affirmative action plans and will be submitted to OFCCP annually and will assist OFCCP in establishing a priority compliance review selection system.

Present § 60-2.14, captioned "Compliance status" is renumbered § 60-2.15.

1. Many comments stated that OFCCP already has the information in the form of the EEO-1 report.

However, the EEO-1 report summarizes employment by nine major job categories, and contains no data on affirmative action goals, projected job opportunities or related matters. The AAP Summary would contain, as explained in the April 17, 1979, Federal Register Notice, the following types of data: Level of goals by job groups for the preceding AAP period; Level of goal achievement by job group during the preceding AAP period; Level of employment of minorities and women by job groups plus the total level of employment by job groups at the end of the preceding AAP period; Level of goals by job groups for current AAP period; Level of total employment by job groups projected for current AAP period; Hires,

terminations and applications of minorities and women, by job group, for preceding AAP year; Indications of disparities (if any) in employment opportunities between minorities and women and others in the work force; and Indications of actions taken to address any such disparities.

This information is much different than the data contained in the EEO-1 report and will be of great value in targeting contractors for review. OFCCP does not require contractors, as a matter of course, to submit AAP's on an annual basis. This AAP summary will allow OFCCP to derive relevant data from contractor AAP's and, since it merely summarizes AAP content, will not impose a substantial paperwork burden on contractors. The AAP summary format is being developed, and will be published in the Federal Register after it has been cleared by the Office of Management and Budget.

2. As many of the comments point out, information contained in the AAP summary would not be protected from disclosure under the Freedom of Information Act (FOIA). Unless the information falls within one of the Act's nine exemptions¹ or is otherwise protected from disclosure, OFCCP is required to disclose it. *Chrysler Corp. v. Brown*, — U.S. —, 99 S. Ct. 1105 (1979). If the information is within an exemption, disclosure is within the discretion of the agency. *Chrysler Corp. v. Brown*, supra.

The fact that some or all the information contained in the AAP summary may at some point be disclosed pursuant to the FOIA does not, however, lessen the importance of the summary to the effective enforcement of Executive Order 11246.

3. The April 17, 1979, Federal Register notice stated that the data collected would be used by OFCCP to establish a priority compliance review selection system and would permit OFCCP to "concentrate its limited resources on industries and/or contractors which appear to be failing to meet Executive Order obligations." Many of the comments expressed concern that this targeting would result in a compliance review beginning with a presumption of noncompliance. But as was explained in the April 17, 1979, notice, "the information to be collected would be used for targeting purposes only; determinations of noncompliance with the Executive Order would continue to be made only upon conclusion of the compliance review procedures set forth in the remainder of 41 CFR Chapter 60."

¹ 5 U.S.C. § 552(h)(1)-(9).

Section 60-30.31. This section authorizes expedited hearings, and lists four examples of instances when such a hearing would be appropriate.

Section 60-30.32. This section sets forth the procedure for filing the Administrative Complaint and Answer in an Expedited Hearing. It is patterned after current sections 60-30.5 and 60-30.6 which deal with the Administrative Complaint and Answer, respectively, in a non-expedited hearing. A complaint under this section must, in addition to meeting the requirements of 60-30.5, state that the proceeding will be subject to the expedited hearing procedures.

As under current procedures, Section 60-30.32(c) provides that failure to request a hearing constitutes a waiver of the hearing, allowing the matter to proceed directly to a final administrative order. Only the Solicitor may file exceptions to such findings.

Section 60-30.33. This section provides for limited discovery and the exchange of witness lists in an expedited hearing. The proposal allowed only depositions, and then only by motion. Many of the comments expressed concern that by so limiting discovery, the contractor would be placed at a disadvantage. Accordingly, the section, as adopted today, provides for requests for admissions as well as depositions. This will not interrupt the accelerated timeframe of an expedited hearing since the regulations regarding admissions allow their use within the 45 days set forth for the beginning of an expedited hearing. See 41 CFR 60-30.32(d).

This section also provides for the exchange of witness lists and hearing exhibits at least 10 days prior to the hearing. Several comments urged that the time for exchange be lengthened to 20 days. That would be unworkable since that would be only 5 days after the Answer to the Complaint is due. The 10 days provides the parties sufficient time to prepare their cases in response to the exchange.

Section 60-30.34. This section provides that the Government will first have the opportunity to prove that the contractor is in violation of the Order and that the contractor will then have the opportunity to demonstrate that it is not. The section places the initial burden of proof on the Government to demonstrate a violation.

This section also provides that the Expedited Hearing will be informal. This is comparable to 41 CFR 60-30.18, which also provides that formal rules of evidence shall not apply.

Hearings conducted pursuant to § 60-30.18 have been successful and fair to both sides, and expedited hearings

should be conducted in the same manner.

Section 60-30.35. This section provides that within 15 days of the conclusion of the hearing the Administrative Law Judge shall recommend findings, conclusions and a decision.

Many of the comments objected to the fact that no provision was made for filing briefs. Accordingly, a provision has been added to section 60-30.35 which allows the Administrative Law Judge to permit the parties to file post-hearing briefs, but the Administrative Law Judge's recommendations shall not be delayed by this process.

Section 60-30.36. This section provides for the filing of exceptions to the Administrative Law Judge's recommendations and for responses to the exceptions. All parties have the opportunity to file exceptions and responses.

Section 60-30.37. This section provides for a final Administrative Order to be issued by the Secretary of Labor. If the Secretary has not issued a Final Administrative Order 30 days after the expiration of time for filing exceptions, the Recommended Decision of the Administrative Law Judge shall become the final Administrative Order.

Other Comments

Many comments discussing the Expedited Hearing expressed concern about the time limits contained in the regulations.

The reason for an Expedited Hearing is to dispose of uncomplicated issues in an uncomplicated proceeding which will preserve the rights of all parties. Since only basically uncomplicated issues will be litigated under these procedures, the time limits are adequate.

In consideration of the foregoing, 41 CFR Chapter 60 is amended by adding to Part 60-1, new sections 60-1.33 and 60-1.34, by amending Part 60-2 by renumbering § 60-2.14 as 60-2.15 and by adding a new section 60-2.14; and by adding to Part 60-30, new sections 60-30.31 through 60-30.37, as set forth below.

Dated: December 21, 1979.

Ray Marshall,

Secretary of Labor.

Donald Elisburg,

Assistant Secretary, Employment Standards Administration.

Weldon Rougeau,

Director, Office of Federal Contract Compliance Programs.

PART 60-1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

1. Part 60-1 is amended by adding a new § 60-1.33 to read as follows:

§ 60-1.33 Conciliation agreements.

(a) If a compliance review, complaint investigation or other review by OFCCP or its representative indicates a material violation of the equal opportunity clause, and (1) if the contractor, subcontractor or bidder is willing to correct the violations and/or deficiencies, and (2) if OFCCP or its representative determines that settlement (rather than referral for consideration of formal enforcement) is appropriate, a written agreement shall be required. The agreement shall provide for such remedial action as may be necessary to correct the violations and/or deficiencies noted, including, where appropriate (but not necessarily limited to), remedies such as back pay and retroactive seniority.

(b) The term "conciliation agreement" does not include "letters of commitment" which are appropriate for resolving minor technical deficiencies.

2. Part 60-1 is further amended by adding a new section 60-1.34 to read as follows:

§ 60-1.34 Violation of a conciliation agreement or letter of commitment.

(a) When a conciliation agreement has been violated, the following procedures are applicable:

(1) A written notice shall be sent to the contractor setting forth the violations alleged and summarizing the supporting evidence. The contractor shall have 15 days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

(2) During the 15-day period the contractor may demonstrate in writing that it has not violated its commitments.

(3) If the contractor is unable to demonstrate that it has not violated its commitments, or if the complaint alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement contained in this chapter.

(b) If the contractor has violated a letter of commitment, the matter shall be handled, where appropriate, pursuant to 41 CFR 60-2.2(c) or 41 CFR 60-4.8. The violation may be corrected through a conciliation agreement, or an

enforcement proceeding may be initiated.

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

3. Part 60-2 is amended by renumbering the present § 60-2.14, "§ 60-2.15," and by adding a new § 60-2.14 to read as follows:

§ 60-2.14 Program summary.

The affirmative action program shall be summarized and updated annually. The program summary shall be prepared in a format which shall be prescribed by the Director and published in the Federal Register as a notice before becoming effective. Contractors and subcontractors shall submit the program summary to OFCCP each year on the anniversary date of the affirmative action program.

PART 60-30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

4. Part 60-30 is amended by adding a new series of regulations to read as follows:

Expedited Hearing Procedures

§ 60-30.31 Expedited hearings--when appropriate.

Expedited Hearings may be used, *inter alia*, when a contractor or subcontractor has violated a conciliation agreement; has not adopted and implemented an acceptable affirmative action program; has refused to give access to or to supply records or other information as required by the equal opportunity clause; or has refused to allow an on-site compliance review to be conducted.

§ 60-30.32 Administrative complaint and answer.

(a) Expedited hearings shall be commenced by filing an administrative complaint in accordance with 41 CFR 60-30.5. The complaint shall state that the hearing is subject to these expedited hearing procedures.

(b) The answer shall be filed in accordance with 41 CFR 60-30.6 (a) and (b).

(c) Failure to request a hearing within the 20 days provided by 41 CFR 60-30.6(a) shall constitute a waiver of hearing, and all the material allegations of fact contained in the complaint shall be deemed to be admitted. If a hearing is not requested or is waived, within 25 days of the complaint's filing, the

Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint, and shall order the appropriate sanctions and/or penalties sought in the complaint. The Administrative Law Judge's findings and order shall constitute a final Administrative Order, unless the Office of the Solicitor, U.S. Department of Labor, files exceptions to the findings and order within 10 days of receipt thereof. If the Office of the Solicitor, U.S. Department of Labor, files exceptions, the matter shall proceed in accordance with § 60-30.36 of this Part.

(d) If a request for a hearing is received within 20 days as provided by 41 CFR 60-30.6(a), the hearing shall be convened within 45 days of receipt of the request and shall be completed within 15 days thereafter, unless more hearing time is required.

§ 60-30.33 Discovery.

(a) Any party may serve requests for admissions in accordance with § 60-30.9 (b) and (c).

(b) Witness lists and hearing exhibits will be exchanged at least 10 days in advance of the hearing.

(c) For good cause shown, and upon motion made in accordance with § 60-30.8, the Administrative Law Judge may allow the taking of depositions. Other discovery will not be permitted.

§ 60-30.34 Conduct of hearing.

(a) At the hearing, the Government shall be given an opportunity to demonstrate the basis for the request for sanctions and/or remedies, and the contractor shall be given an opportunity to show that the violation complained of did not occur and/or that good cause or good faith efforts excuse the alleged violations. Both parties shall be allowed to present evidence and argument and to cross-examine witnesses.

(b) The hearing shall be informal in nature, and the Administrative Law Judge shall not be bound by formal rules of evidence.

§ 60-30.35 Recommended decision after hearing.

Within 15 days after the hearing is concluded, the Administrative Law Judge shall recommend findings, conclusions, and a decision. The Administrative Law Judge may permit the parties to file written post-hearing briefs within this time period, but the Administrative Law Judge's recommendations shall not be delayed pending receipt of such briefs. These recommendations shall be certified,

together with the record, to the Secretary for a final Administrative Order. The recommended decision shall be served on all parties and amici to the proceeding.

§ 60-30.36 Exceptions to recommendations.

Within 10 days after receipt of the recommended findings, conclusions and decision, any party may submit exceptions to said recommendations. Exceptions may be responded to by other parties within 7 days after receipt by said parties of the exceptions. All exceptions and responses shall be filed with the Secretary. Briefs or exceptions and responses shall be filed with the Secretary. Briefs or exceptions and responses shall be served simultaneously on all parties to the proceeding.

§ 60-30.37 Final Administrative Order.

(a) After expiration of the time for filing exceptions, the Secretary shall issue a final Administrative Order which shall be served on all parties. Unless the Secretary issues a final Administrative Order within 30 days after the expiration of the time for filing exceptions, the Administrative Law Judge's recommended decision shall become a final Administrative Order which shall become effective on the 31st day after expiration of the time for filing exceptions. Except as to specific time periods required in this subsection, 41 CFR 60-30.30 shall be applicable to this subsection.

Authority: E.O. 11246 (30 FR 12319) as amended by E.O. 11375 and 12086.

[FR Doc. 79-39590 Filed 12-27-79; 8:45 am]

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Annual Report Federal Reserve

Friday
December 28, 1979

Part VI

Department of Labor

Office of Federal Contract Compliance
Programs

Government Contractors; Affirmative
Action Requirements

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60-1, 60-2, 60-20, 60-30, 60-50, 60-60, 60-250, and 60-741

Government Contractors: Affirmative Action Requirements

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes general revisions to a limited number of the regulatory provisions under Executive Order 11246, as amended, and under sections 402 and 503 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and the Rehabilitation Act of 1973, as amended, respectively (sections 402 and 503). To the extent clarity permits, the proposal also consolidates and integrates certain portions of the regulations pertaining to sections 402 and 503 into 41 CFR Part 60-1, which presently is devoted solely to regulations implementing Executive Order 11246.

DATES: Comments will be received until February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Edward E. Mitchell, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C-3324, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: The regulations proposed have been the subject of extensive consultation with groups protected under the three laws administered by the Office of Federal Contract Compliance Programs (OFCCP) and contractor groups covered by the three laws. OFCCP also consulted with, or offered to consult with, other interested groups such as unions and public interest groups. These consultations were carried out in the spirit of Executive Order 12044. In addition, the Equal Employment Opportunity Commission (EEOC) and other Federal EEC agencies were consulted in accordance with Executive Order 12067.

The proposal uses the short form amending procedure in which only those sections of the regulations which would be amended are published. This procedure is designed to focus public comments directly to those items for which changes actually are proposed.

The regulations will continue to contain phrases, words, etc., which

could benefit from editorial changes. Accordingly, OFCCP is considering making non-substantive changes, to those parts of the regulations, and perhaps republishing all of Chapter 60 at the time of final rulemaking. This procedure will allow users of the OFCCP regulations to have in one place all the regulations applicable to the three programs until they are completely codified into the Code of Federal Regulations, and the Code is published.

After consolidation OFCCP instituted a practice of reviewing in a single compliance review a contractor's compliance with each of the three laws administered by OFCCP. To reflect this unified approach to enforcement, an effort has been made here to consolidate and integrate the regulations to the extent possible. Although it has not been possible to integrate the regulations completely, the proposal would incorporate into Part 60-1 important elements which are common to all three programs. Accordingly, a substantial number of provisions presently in 41 CFR Part 60-250 and 60-741 are proposed to be consolidated into Part 60-1.

Some rearrangement of the regulations also has been accomplished. The proposed arrangement conforms essentially to the order of events as they unfold in the course of a compliance review.

Summary of Proposed Changes

Section 60-1.1. This section has not been revised since it first was published, and was the only regulation implementing the Executive Order. It is to be amended to reflect that other regulations in Chapter 60 also contain obligations of contractors. In addition, it will reflect the consolidation into Part 60-1 of certain regulations pertaining to sections 402 and 503.

Section 60-1.3. The definition section contains definitions applicable to each program. This should simplify matters as a number of the definitions in Part 60-250 and 60-741 (veterans and handicapped regulations) are identical to the regulations in 41 CFR 60-1.3 which implement the Executive Order. Some definitions have been amended to reflect statutory changes (see, for example, the proposed definition of handicapped individual). In addition, throughout the proposal, references to "the equal opportunity clause, rules, regulations and orders" have been eliminated. Instead the word "Order" encompasses each of these items. The Department's view is that these references are useless repetition which do little more than add to the length of the regulations. Similarly, references to

"subcontract" and "subcontractor" have been dropped with the understanding that "contract" and "contractor," as applicable, subsume these meanings. This same approach has been followed in referring to the "Act" or to "sections 402 and 503". That is, when the regulations state that compliance with the "Act" or with "sections 402 or 503" is required, they mean that compliance with the regulations is required also.

Section 60-1.5(a). Generally, contracts for \$10,000 or less are exempt from the requirements of the Order. This exemption has not applied to financial institutions which are covered by the Order if they act as depositories of Federal funds in any amount or as issuing or paying agents for U.S. savings bonds or savings notes in any amount. In addition, OFCCP consistently has maintained that Federal deposit insurance is a contract within the meaning of the Order. The proposal would codify this position into the regulations for the first time, and such contracts also would be excluded from the \$10,000 and under exemption.

Under the current regulations, most agencies of state and local governments which do not participate on or under a covered contract are not required to comply with the Order or with sections 402 and 503. Neither are such agencies required to file the annual compliance report (EEO-1) or develop and maintain written affirmative action programs. Educational institutions and medical facilities of state and local governments are required to develop and maintain AAPs, however. The proposal also would add utilities which comprise part of a state or local government to the list of those agencies which must develop and maintain written affirmative action programs.

Section 60-1.7. This section provides that contractors with contracts of \$50,000 must file the EEO-1 report. The amendment would require the report to be filed by contractors with contracts which aggregate to a total of \$50,000 or more in any 12-month period. In addition, financial institutions with Federal deposit insurance also would be required to file the annual reports. (See comments on sections 60-1.5 and 60-1.40.)

Section 60-1.8. This section is to be amended to delete the certification of nonsegregated facilities. This proposal will reduce a substantial amount of paper work without reducing protection because the prohibition against segregated facilities is retained, and will be monitored through compliance investigations.

Section 60-1.9. The proposal requires that unions be allowed to present their

views to OFCCP when compliance may necessitate a revision in the collective bargaining agreement. (Also, see discussion on § 60.1.25.)

Section 60-1-20. The major change in this section is that the provisions relating to compliance reviews under the Executive Order will be applicable to compliance reviews under sections 402 and 503. A number of other changes (such as transferring provisions from Part 60-60) have been made but no basic substantive requirements have been added.

Section 60-1.21. The preaward review has always been a major factor in the implementation of the Executive Order. However, because preaward reviews are required for each award in excess of \$1 million (if the establishment has not been reviewed in the past 12 months), preaward reviews have severely impeded OFCCP's efforts to plan and carry out other compliance reviews.

The benefits of placing so much emphasis on the preaward review are dubious, because every contract of \$1 million or more does not necessarily carry any expansion of employment opportunities with it. Some contracts of \$1 million or more, for example, regularly are awarded to small family-owned businesses which employ no more than five employees, all of whom may be part of the family which owns the business.

To cope better with this situation, OFCCP is proposing several changes. First, while OFCCP will continue to receive preaward requests of all awards in excess of \$1 million, 45-days notice will be required for formally advertised competitive contracts and 120-days notice will be required for negotiated contracts. Second, a preaward review will be required if the establishment has at least 250 employees and a compliance review has not been conducted in the 24 months immediately preceding the notice of award. It is estimated, based upon OFCCP's experience over the past year, that the combination of 250 employees and 24 months will eliminate a total of 11,800 mandatory preaward reviews a year. The resources freed by this change will be used to conduct comprehensive compliance reviews under OFCCP's targeting system or other procedures. With these new standards in effect, OFCCP still expects to conduct approximately 1,200 preaward reviews a year (based upon current preaward demand levels).

The proposal also would authorize OFCCP to conduct discretionary preawards even for those contractors which do not meet the minimal 250 employees and 24-month preaward review standards. In determining

whether to conduct a discretionary preaward, OFCCP would consider the company's past EEO performance, its current EEO profile and indications of underutilization, the volume and nature of complaints filed by employees against the company, whether the contractor is in a growth industry, employment opportunities resulting from the contractor's expansion or turnover in its workforce, employment opportunities resulting from the contract about to be awarded and whether OFCCP has resources to conduct the review.

Subsection (i) of proposed § 60-1.21 also will allow OFCCP to ask contracting agencies not to enter into contracts with contractors, which have stated that they no longer will contract with the Government, until a preaward review has been conducted since such contractors would not have been subject to regular compliance reviews. This procedure will allow OFCCP to conduct reviews of such contractors at some time prior to their receiving a new contract. The preaward requirement also would be applicable to sections 402 and 503 consistent with OFCCP's practice of conducting reviews under each of the programs simultaneously.

Section 60-1.22. No substantive changes are proposed.

Section 60-1.23-60-1.24. The basic change in these sections is that complaints may be filed by third parties. Another change would be to codify the practice of investigating outstanding complaints during a compliance review. This approach would apply to complaints which are deferred to EEOC and which are not resolved at the time of the review. The present regulations permit referral of complaints to EEOC. The proposal would defer complaints and OFCCP would not lose jurisdiction over the complaints so long as they remain unresolved. OFCCP also would send copies of all complaints to the EEOC.

Present 41 CFR 60-1.24(c)(4) is proposed to be deleted. This section permits a contractor to comply with the demands of OFCCP and then request a hearing. The agency's experience has been, however, that most frequently the contractor does not comply with demands of the agency prior to requesting the hearing. If the section is retained it specifically will provide for a record hearing before an OFCCP official. A hearing before an Administrative Law Judge or with live testimony is not contemplated. Comments specifically are requested on this proposal.

Section 60-1.25. A new section dealing with show cause notices and notices of violation is to be added. A show cause notice is to be used in both compliance

reviews and complaint investigations when the violation is one not previously addressed by a conciliation agreement. A notice of violation will be used when circumstances do not permit 30 days to complete the review or when the violation is one previously addressed by a conciliation agreement. When the show cause notice proposes a change in employment conditions governed by a collective bargaining agreement, the union shall be given notice of the proposed change. The union also would be invited to conciliate on those issues related to the change in the collective bargaining agreement.

Section 60-1.26. This section codifies existing OFCCP practices and procedures regarding conciliation agreements. A conciliation agreement normally will be required when a major or serious violation is disclosed. Letters of commitment will normally be permitted when minor violations are disclosed.

Section 60-1.27. No substantive change is proposed.

Section 60-1.28. The proposal incorporates sections 402 and 503 authority into this section. It also prohibits intimidation or discrimination against an employee because he/she opposes an illegal employment practice.

Section 60-1.29. This section has been reorganized. The basic change is an addition of a preliminary enforcement provision to allow expedited hearings in a number of instances. This section may be used, for example, when a question of a contractor's responsibility is raised in a preaward situation. See discussion on 41 CFR 60-30.38 also.

Section 60-1.30. No substantive change is proposed but a requirement has been added for the Director to notify prime contractors of a debarred contractor's ineligibility for subcontracts.

Section 60-1.31. The procedure for reinstatement for debarred contractors is expanded. The proposal makes it clear that the reinstatement will be conditioned upon the ability of the contractor to satisfy the Director that it will carry out employment practices which comply with the three laws. The burden is on the contractor to demonstrate that it is entitled to reinstatement. Compliance reviews may be required, or the matter may be referred back to the Administrative Law Judge for additional hearings as part of the reinstatement process. Intervenor who participated in the debarment process would be allowed to make submissions either supporting or opposing the reinstatement.

Section 60-1.40. The proposal amends this section to allow aggregation of

contracts to establish the \$50,000 floor for coverage under the written affirmative action program requirement. A new amendment is proposed to include requirements that the nonconstruction employees of a construction contractor are to be included in the written affirmative action program.

Section 60-1.43. No substantive changes are proposed. Computer tapes and printouts are added to the list of items but they already are subject to production under 41 CFR 60-30.10.

Part 60-2

Section 60-2.1. This section repeats the aggregation requirement of contracts (i.e. dollar volumes) for the purpose of establishing coverage under Part 60-2. It also deletes references to enforcement procedures, because these procedures are to be transferred to Subpart B of Part 60-1.

Section 60-2.2. References to show cause notices, responsibility determinations, and other enforcement procedures are deleted and transferred to Part 60-1.

Section 60-2.3. The proposal transfers from Part 60-60 certain requirements relating to the maintenance and submission of affirmative action program and support data. The time for submitting AAPs has been reduced to 15 days.

Part 60-20

Sections 60-20.2 through 60-20.8. The proposal reorganizes the Sex Discrimination Guidelines slightly. The basic changes relate to maternity leave practices and to violations based on sexual advances and favors. The maternity leave provisions have been conformed to the Pregnancy Discrimination Act.

No changes are proposed with regard to employer contributions for insurance, pensions, welfare programs and similar fringe benefits because a proposal already has been published on this issue (43 FR 38057). The Department of Labor anticipates publishing a final rule on this issue very shortly.

Part 60-30

Section 60-30.1. A number of changes are proposed for the rules of practice. Some of these are technical in nature and some correct oversights not noted when the rules first were published. Matters such as a requirement for pretrial and final pretrial conferences and a requirement that discovery be terminated in advance of the hearing have been added. Emphasis also is to be placed on the fact that the rules of practice notice-plead rather than fact-

plead. An amendment is proposed which excludes weekends and legal holidays when the time for responding to a matter is seven days or less. The rules also make specific provision for the Under Secretary to issue the final administrative order in the absence of the Secretary or when the Secretary may disqualify himself for some reason.

A major addition to Part 60-30 is a section providing for preliminary enforcement proceedings. The procedure is designed to expedite the resolution of issues which do not involve complex factual situations. The preliminary proceeding may be initiated on a single issue or it may be included in a complaint which alleges general violations. In the latter instances, the preliminary hearing will be separated from the general issues and proceed on an expedited basis. Fact, rather than notice pleading, will be required for preliminary hearing issues and discovery will be allowed only upon leave of the Administrative Law Judge for compelling reasons. With respect to issues which involve the contractor's responsibility to perform its EEO obligations, the Administrative Law Judge's decision will not be subject to administrative review. All other decisions in the preliminary proceeding, however, will be in the form of a recommended decision to the Secretary. (Also, see discussion of § 60-1.29 above.)

Part 60-50

The proposal also states that no amendments are being proposed with respect to religious accommodation. OFCCP will postpone rulemaking in this area until EEOC goes to final rulemaking with its prior proposal on religious accommodation and perhaps publish a final rule based on the EEOC final rule. A number of religious groups have expressed concern that they are not protected under the religious guidelines. This concern presumably results from the fact that § 60-50.1(b) mentions specific religious and ethnic groups. To avoid any confusion about protected groups under that section, the specific references have been dropped.

Part 60-60

Part 60-60 (also known as Revised Order No. 14) is to be deleted. A number of the Part 60-60 procedures already have been incorporated into the Compliance Manual, and a number of the remaining ones are proposed to be incorporated into Parts 60-1 or 60-2.

Parts 60-250 and 60-741

No substantive changes are proposed for these two parts. The definition of a

handicapped individual has been expanded to incorporate a recent amendment to the Rehabilitation Act. Mostly, however, the changes proposed in these two parts relate to consolidating and integrating various sections into Part 60-1. The definition sections of these two parts, for example, are proposed to be deleted and the relevant portions are proposed to be consolidated into Part 60-1.

Finally, published elsewhere in the Federal Register today is a final rule amending Parts 60-1, 60-2 and 60-30. That rule results from a proposal published on March 20, 1979 (44 FR 17136). Except for the amendment to Part 60-2, which establishes a requirement for an affirmative action program summary, it is the Department of Labor's intention to withdraw the final rule when the regulations proposed herein become final. This proposal treats the same issues contained in the final rule but the procedures adopted in the final rule are necessary, on an interim basis, for orderly administration of the Executive Order program.

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 (43 FR 12661) or under the Department's guidelines implementing Executive Order 12044.

This document was prepared under the direction and control of Weldon J. Rougeau, Director, Office of Federal Contract Compliance Programs.

Accordingly, it is proposed to amend 41 CFR Chapter 60 as set forth below.

Dated: December 21, 1979.

Ray Marshall,
Secretary of Labor.
Donald Elisburg,
Assistant Secretary, Employment Standards.
Weldon J. Rougeau,
Director, Office of Federal Contract Compliance Programs.

PART 60-1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

1. 41 CFR 60-1.1 is amended to read as follows:

§ 60-1.1 Purpose and application.

(a) The purpose of the regulations in this part is to set forth the general obligations of Government contractors and of contractors performing on federally assisted construction contracts under Executive Order 11246, and to promote and ensure equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with Government contractors or with

contractors performing under federally assisted construction contracts. The regulations in this part also set forth some general obligations which are equally applicable to contractors covered by section 503 of the Rehabilitation Act of 1973, as amended, and section 402 or the Vietnam Era Veterans Readjustment Assistance Act of 1974. When the regulations in this part implement sections 402 and 503 the regulations expressly indicate that fact. Specific obligations of contractors covered under the three laws are set forth in other parts of the regulations in this chapter.

(b) The regulations in this part apply to all contracting agencies of the Government and to contractors which perform under Government contracts. The regulations in this part also apply to all agencies of the Government administering programs involving Federal financial assistance which may include a construction contract, and to all contractors performing under construction contracts which are related to any such programs. The procedures set forth in the regulations in this chapter govern all disputes relative to a contractor's compliance with its obligations under the three laws regardless of whether its contract contains a "Disputes" clause. Failure of a contractor or applicant to comply with any provision of the regulations in this part shall be grounds for the imposition of any or all the sanctions authorized by the order or by the regulations implementing sections 402 and 503. The regulations in this chapter do not apply in any action taken to effect compliance with respect to employment practices subject to Title VI of the Civil Rights Act of 1964. The rights and remedies of the Government hereunder are not exclusive and do not affect rights and remedies provided elsewhere by law, regulation, or contract. Neither do the regulations limit the exercise by the Secretary of powers not herein specifically set forth but granted to him/her by the Order or by sections 402 and 503.

2. 41 CFR 60-1.3 is amended by making the following amendments, deletions and substitutions:

§ 60-1.3 Definitions.

"Act" means the Vietnam Era Veterans Readjustment Assistance Act, as amended, and the Rehabilitation Act, as amended, as applicable.

"Administrative complaint" means the pleading which commences an administrative enforcement proceeding

under the Order, section 402 or section 503.

"Affirmative action clause" means the contract clause set forth at 41 CFR 60-250.4 or at 41 CFR 60-741.4, as applicable.

"Applicant" means a person applying for Federal assistance involving a construction contract or a person who has received such assistance. "Applicant" also means a person who is seeking employment or who has sought employment with a contractor.

"Assistant Secretary" means the Assistant Secretary of Labor for Employment Standards or his/her designee.

"Complaint" means a charge filed with OFCCP by an employee, applicant for employment or by a third party alleging discriminatory employment practices under the Order, or under sections 402 and 503.

"Contract" means any Government contract, subcontract, and with respect to the Order, or any federally-assisted construction contract or subcontract. The regulations in this chapter frequently refer only to contract. The word subcontract is subsumed under the word contract.

"Contractor" means a contractor or subcontractor, and with respect to the Order, a federally-assisted construction contractor or subcontractor. For the purpose of Subpart B of this part and part 60-30 of this chapter the term also includes any person who has held a contract. The regulations in this chapter frequently refer only to contractor. The word subcontractor is subsumed under the word contractor.

"Disabled veteran" means a person entitled to disability compensation under laws administered by the Veterans Administration for disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

"Establishment" means the location of a contractor's business or operations generally having some component which exercises personnel authority and responsibilities. Small locations having no personnel authority or responsibilities may be considered to be part of an establishment in a different location if such locations are within the same chain of command.

"Facilities" means buildings, structures, equipment, roads, walks, parking lots or other real or personal property.

"Handicapped individual" means any person who (a) has a physical or mental impairment which substantially limits one or more of the person's major life activities; (b) has a record of such impairment; or (c) is regarded as having such an impairment. A handicapped individual is "substantially limited" if he or she is likely to experience difficulty in securing, retaining, or advancing in employment because of a real or perceived handicap. The term does not include an individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question, or whose employment, by reason of this current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. For purposes of this chapter, "major life activities" includes employment or training. "Regarded as" means the employer perceives the individual as having an impairment whether or not there is an impairment.

"Order," "Executive Order," or "Executive Order 11246" means parts II, III, and IV of Executive Order 11246 dated September 24, 1965 (30 FR 12319), any Executive Order amending such Order, and any other Executive Order superseding such Order. Order specifically includes the equal opportunity clause and the rules, regulations and orders issued pursuant to the Order. The short form reference of Order is used simply to avoid needless repetition of the above phrases.

"Prime contractor" means any person holding a contract and, for the purposes of Subpart B of this part and 41 CFR Part 60-30, any person who has held a contract subject to the Order or to sections 402 and 503.

"Qualified disabled veteran" means a disabled veteran as defined in this section 60-1.3 who is capable of performing a particular job, with reasonable accommodation to his or her handicap or disability.

"Qualified handicapped individual" means a handicapped individual capable of performing a particular job with reasonable accommodation to his or her handicap or disability.

"Section 402" means section 402 of the Vietnam Era Veterans' Readjustment Assistance Act, as amended. The reference, section 402, specifically

includes rules and regulations promulgated pursuant to the Act.

"Section 503" means Section 503 of the Rehabilitation Act, as amended. The reference, section 503, specifically includes rules and regulations promulgated pursuant to the Act.

"Veteran of the Vietnam Era" means a person (a) who (1) served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge, or (2) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975, and (b) who was so discharged or released within 48 months preceding the alleged violation of the Act.

3. 41 CFR 60-1.5(a)(1) and (4) are amended to read as follows:

§ 60-1.5 Exemptions.

(a) *General.*—(1) *Transactions of \$10,000 or under.* Contracts not exceeding \$10,000, other than (i) Government bills of lading and (ii) contracts with financial institutions which serve as depositories of Government funds in any amount, or which serve as issuing or redeeming agents for U.S. savings bonds and savings notes or which subscribe to Federal deposit insurance, are exempt from the requirements of the Order. In determining the applicability of this exemption to any federally assisted construction contract, the amount of such contract rather than the amount of the Federal financial assistance shall govern. No agency or contractor, shall procure supplies or services in a manner so as to avoid applicability of the Order: *Provided*, That where a contractor has contracts with the Government in any 12-month period which have an aggregate total value (or can reasonably be expected to have an aggregate total value) exceeding \$10,000, the \$10,000 or under exemption does not apply, and the contracts are subject to the Order regardless of whether any single contract exceeds \$10,000.

(i) *Contracts with state or local governments.* The Order, and sections 402 and 503, with respect to a contract with a state or local government (or any agency thereof) shall apply only to the agency or agencies of such government which perform on the contract. Agencies, instrumentalities or subdivisions of state or local governments, except educational

institutions, utilities, and medical facilities, are exempt from filing the annual compliance report required by § 60-1.7(a)(1) of this part and from maintaining a written affirmative action program prescribed by § 60-1.40 of this part and Part 60-2 of this chapter.

4. 41 CFR 60-1.7(a)(1) is amended to read as follows:

§ 60-1.7 Reports and other required information.

(a) *Requirements for contractors.* (1) Each contractor shall file annually, on or before the 31st day of March, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance Programs and the Equal Employment Opportunity Commission or such form as may hereafter be promulgated in its place if such contractor (i) has 50 or more employees; and (ii) has a contract or contracts which total \$50,000 or more, or reasonably may be expected to total \$50,000 or more in any 12-month period; or (iii) is a financial institution which serves as a depository for Government funds in any amount, acts as an issuing or redeeming agent for U.S. savings bonds and notes in any amount, or subscribes to Federal deposit insurance.

5. 41 CFR 60-1.8 is amended to read as follows:

§ 60-1.8 Segregated facilities.

To comply with its obligations under the equal opportunity clause, a contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. This obligation extends to all contracts regardless of the amount of the contract. The term "facilities" as used in this section means waiting rooms, work areas, restaurants, and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees: *Provided*, That separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

6. 41 CFR 60-1.9 is amended to read as follows:

§ 60-1.9 Compliance by labor unions and by recruiting and training agencies.

(a) The policy of OFCCP is to use its best efforts, directly and through agencies, contractors, applicants, state and local officials, public and private agencies, and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts to cooperate with, and to comply in the implementation of, the purposes of the Order and of sections 402 and 503.

(b) To effectuate the purposes of paragraph (a) of this section, the Director may hold hearings, public or private, with respect to the practices and policies of any such labor union or recruiting and training agency.

(c) Whenever compliance with the Order or with sections 402 and 503 necessitates a revision of a collective bargaining agreement or which otherwise significantly affects a substantial number of employees represented by the union, the collective bargaining representatives shall be given an opportunity to present their views to OFCCP. [See 41 CFR 60-1.25(b)(4).]

(d) The Director may notify any Federal, state, or local agency of his/her conclusions and recommendations with respect to any such labor organization or recruiting and training agency which in his/her judgment has failed to cooperate with OFCCP, agencies, contractors or applicants in carrying out the purposes of the Order or of sections 402 and 503. The Director also may notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies when there is reason to believe that the practices of any such labor organization or agency violate Title VII of the Civil Rights Act of 1964 or other provisions of Federal law.

7. 41 CFR 60-1.20 is amended to read as follows:

§ 60-1.20 Compliance reviews.

(a) The purpose of a compliance review is to determine if the contractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, terminated, otherwise treated during employment without regard to race, color, religion, sex, or national origin. It shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned practices and policies,

and conditions resulting therefrom. Compliance reviews normally are conducted in three stages (desk audit, on-site review and off-site analysis). The desk audit may be shortened or omitted, however, when an immediate on-site review (e.g., where a preaward compliance review is involved, where intimidation is alleged or other circumstances do not permit a desk audit) is required. (See, 41 CFR 60-1.24(b).)

(b) Compliance reviews generally are conducted under the direction of an OFCCP Assistant Regional Administrator, but the Director is authorized to designate other officials for this purpose.

(c) Where deficiencies or violations are found, reasonable efforts shall be made to secure compliance through conciliation and persuasion. Before the contractor can be found to be in compliance with the Order, it must make a specific commitment, in a written conciliation agreement or a letter of commitment, as appropriate, to correct any such deficiencies or violations. Minor technical deficiencies usually may be resolved in a letter of commitment from the contractor. The agreement or letter must include the precise action to be taken and dates for completion. The time period allotted shall be no longer than the minimum period necessary to effect such changes. Upon approval, the contractor may be considered in compliance, on condition that the commitments are faithfully kept. The contractor shall be notified, however, that making such commitments does not preclude future determinations of noncompliance based either on a finding that the commitments are not sufficient to achieve compliance or on violations not previously revealed in a compliance review or complaint investigation.

(d) This section also shall govern compliance reviews conducted under sections 402 and 503 to the extent this section is not inconsistent with the other regulations implementing sections 402 and 503.

8. 41 CFR 60-1.21 is renumbered 41 CFR 60-1.22 and a new 41 CFR 60-1.21 is added to read as follows:

§ 60-1.21 Preaward reviews.

(a) The purpose of a pre-award compliance review is to determine whether a responsive contractor or bidder will be able to comply with the requirements of the Order and with sections 402 and 503.

(b) Each contracting agency shall include in the invitation for bids for each formally advertised nonconstruction contract or state at the

outset of negotiations for each negotiated contract, that if the award, when let, should exceed \$1 million, the prospective contractor and known first-tier subcontractors with subcontracts in excess of \$1 million will be subject to a compliance review before the award of the contract.

(c) Prior to the award of any nonconstruction contract in excess of \$1 million, the contracting agency shall give written notice of the proposed award to the OFCCP Assistant Regional Administrator of the Region in which the contract is to be performed as far in advance of the award date as possible. In the case of formally advertised competitive contracts, the notice shall be given no less than 45 days in advance of the award date. In the case of negotiated contracts, the notice shall be given no less than 120 days in advance of the award date. The notice shall identify the projected prime contractor and all known first tier subcontractors or prospective subcontractors projected to receive subcontracts in excess of \$1 million.

(d) If the establishment where the contract or subcontract is to be performed has 250 or more employees and no compliance review of that establishment has been conducted in the 24 months prior to the notification, a compliance review of the establishment shall be commenced on a priority basis.

(e) OFCCP is authorized to conduct preaward compliance reviews of any contractor even though the establishment has less than 250 employees and a compliance review has been conducted within the last 24 months. In determining whether to conduct a preaward review under this paragraph (e), OFCCP may consider (1) the past EEO performance of the contractor, including its current EEO profile and indications of underutilization; (2) The volume and nature of complaints filed by employees or applicants against the contractor; (3) whether the contractor is in a growth industry; (4) the level of employment or promotional opportunities resulting from the contractor's expansion of or turnover in the workforce; (5) the employment opportunities likely to result from the contract in issue; and (6) whether resources are available in conduct the review.

(f) If, prior to the award date of the contract or subcontract, the contracting agency has not provided the notice required by paragraph (c) of this section, the preaward compliance review has not been completed or the contractor-bidder's alleged noncompliance has not been resolved, the Director may request the contracting agency to delay the

award of the contract, until such time as the contractor is found eligible or ineligible for the contract in accordance with the preliminary hearing procedures in 41 CFR 60-30.38 of this chapter. If such a request is made, the award of the contract shall be delayed, unless the contracting agency determines that a delay is contrary to the national security of the United States. Written notification of such determination shall be given to the Director within 30 days of the determination (see 41 CFR 60-1.5(c)); *Provided*, That unless the preliminary hearing procedures in 41 CFR 60-30.38 have been invoked or will be invoked shortly, Executive Order clearance for award of the contract shall not be withheld.

(g) The preaward review authorized by this section shall be conducted in accordance with the procedures of § 60-1.20 of this part to the extent that those procedures are not inconsistent with the provisions of this section.

(h) If by the award date, the preaward compliance review has not been completed or a decision to invoke the preliminary hearing procedure in 41 CFR 60-30.38 of this chapter has not been made, Executive Order clearance for the contract shall be granted, except as provided in paragraph (i) of this section, and the review shall be completed on an expedited basis.

(i) Upon the request of the Director, contracting agencies shall not enter into contracts or approve the entry into contracts with any bidder or prospective contractor or subcontractor which previously has stated that it no longer will contract with the Government, until a preaward compliance review has been conducted and it has been determined that the bidder or prospective contractor will be able to comply with the Order and with sections 402 and 503.

9. 41 CFR 60-1.22 is combined with 41 CFR 60-1.21 to form a new CFR 60-1.22 to read as follows:

§ 60-1.22 Filing complaints.

Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extending by the Director for good cause shown. Complaints may be filed with the OFCCP, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, or with any OFCCP regional or area office.

10. 41 CFR 60-1.23 is amended to read as follows:

§ 60-1.23 Contents of complaint.

(a) The complaint shall include the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor

committing the alleged discrimination, a description of the acts considered to be discriminatory, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his/her authorized representative. Signed third party complaints which do not identify the complainant will be accepted, whether or not signed by the authorized representative provided that the other information required by this paragraph is included.

(b) If a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant or other person filing the complaint. In the event such information is not furnished within 60 days of the date of such request, the case may be closed.

11. 41 CFR 60-1.24 is amended to read as follows:

§ 60-1.24 Processing complaints.

(a) *Complaints.* OFCCP may defer appropriate complaints to the Equal Employment Opportunity Commission (EEOC) for processing under Title VII of the Civil Rights Act of 1964, as amended, in lieu of processing them under the Order. Upon deferring a complaint to the EEOC, OFCCP shall promptly notify the complainant. OFCCP also may transmit a copy of any complaint to EEOC and to any state or local agency with jurisdiction over the subject matter of the complaint.

(b) *Complaint investigations.* If a complaint is retained for investigation, OFCCP shall conduct a thorough evaluation of the allegations of the complaint and develop a complete case record. In addition, in conducting a compliance review, OFCCP shall investigate and resolve class or systemic complaints against the establishment on file with OFCCP and unresolved at the commencement of the compliance review, including such complaints deferred to EEOC.

(c) *Resolution of matters.* (1) If any complaint investigation indicates a violation of the Order, reasonable efforts shall be made to secure compliance through conciliation and persuasion.

(2) For reasonable cause shown, the Director may, on his/her own motion or pursuant to a request, reconsider or cause to be reconsidered a matter arising under the Order or under sections 402 and 503.

(3) Where any complaint investigation indicates a violation of the Order and the matter has not been resolved by informal means, the matter may be recommended to the Office of the

Solicitor for legal enforcement proceedings.

(12) A new 41 CFR 60-1.25 is added to read as follows:

§ 60-1.25 Show cause notices and notices of violations.

(a) *General.* At the conclusion of a compliance review or complaint investigation conducted pursuant to the Order or sections 402 and 503, a notice to show cause or a notice of violations shall be served on the contractor if deficiencies were disclosed in the review or investigation, and the deficiencies have not been corrected through a conciliation agreement, letter of commitment or consent decree.

(b) *Show cause notices.* (1) A notice to show cause why enforcement proceedings should not be initiated shall be issued when a deficiency is disclosed in a compliance review or complaint investigation, and the deficiency is not the subject of an existing conciliation agreement, letter of commitment, or consent or other decree between the contractor and the Department of Labor, the Attorney General, acting on behalf of OFCCP, or a former compliance agency. A show cause notice also should be used where the relief obtained in a prior conciliation agreement, upon further review, is determined inadequate to correct the violation or deficiency.

(2) A notice to show cause should contain:

(i) An itemization of the sections of the Order, sections 402 and 503 and of the regulations with which the contractor has been found in violation, and a summary of the conditions, practices, facts, or circumstances which give rise to each violation;

(ii) A statement of the corrective actions proposed by OFCCP to achieve compliance;

(iii) A request for a written response to the findings, including commitments to corrective actions or the presentation of the opposing facts and evidence; and

(iv) A suggested date for the conciliation conference.

(3) The contractor shall be accorded 30 days, or such longer period as may be authorized by the Director or his/her designee, to establish that it is not covered by or is in compliance with the Order and sections 402 and 503 or to enter into a conciliation agreement or letter of commitment.

(c) *Notice of violations.* (1) A notice of violation may be used where circumstances do not permit 30 days to resolve the matters (e.g., pre-award compliance reviews), and may be used at any time during the compliance review or complaint investigation (e.g., where serious violations such as

intimidation, or interference with the orderly process of the review or investigation are alleged). A notice of violation shall contain a short and plain statement of the deficiency adequate enough to put the contractor on notice of the violation with which it is charged.

(2) A notice of violation also may be used when the compliance review or complaint investigation discloses a violation of a matter which is the subject of a conciliation agreement, letter of commitment or consent or other decree between the contractor and the Department of Labor, the Attorney General, acting on behalf of OFCCP, or a former compliance agency. The notice of violation shall contain a statement showing in what respects the contractor is in violation and accord the contractor a reasonable period of time (not to exceed 15 days) in which to respond and for conciliation, except that conciliation is not required (although some discussions may be appropriate) when a violation of a conciliation agreement is alleged.

(d) When a notice to show cause or notice of violations proposes a change in the terms or conditions of employment which are governed by the provisions of a collective bargaining agreement, the collective bargaining representative shall be given notice of the proposed change and shall be invited to participate in conciliation discussions, to the extent those discussions relate to such change. (See 41 CFR 60-1.9.)

13. A new 41 CFR 60-1.26 is added to read as follows:

§ 60-1.26 Conciliation agreements.

(a) A conciliation agreement is a written agreement between OFCCP and a contractor by which the contractor undertakes specific obligations to correct or remedy noncompliance with the Order or with sections 402 and 503. A conciliation agreement normally is required where a compliance review, complaint investigation or some other review discloses violations of the Order or of sections 402 and 503, and (1) the contractor is willing to correct the violations or deficiencies and (2) OFCCP determines that a settlement (rather than formal enforcement) is appropriate. The agreement shall provide for the remedial relief necessary to correct the violations or deficiencies which may include priority rights to hire or promotion, training, back pay, front pay and retroactive seniority, etc., for an affected class or for individuals, as appropriate.

(b) A conciliation agreement shall include (1) A statement of each deficiency or violation; (2) the corresponding precise remedial action to

be taken and a timetable for implementation; (3) a requirement for periodic reporting to OFCCP as to implementation of the agreement, if appropriate; and (4) a copy of the notice to show cause or notice of violation when such has been previously issued.

(c) A conciliation agreement is effective when it has been signed by the contractor and the proper Assistant Regional Administrator, OFCCP, unless within 45 days of receipt from the Assistant Regional Administrator, the Director rejects the agreement.

(d) Conciliation agreements shall not be entered into after enforcement proceedings have been initiated. Settlements of enforcement proceedings by the Office of the Solicitor normally will be by consent decree.

(e) Letters of commitment, in lieu of conciliation agreements, are appropriate for resolving minor technical deficiencies.

14. 41 CFR 60-1.25 is renumbered 41 CFR 60-1.27 and is amended to read as follows:

§ 60-1.27 Assumption of jurisdiction by the Director.

The Director may inquire into the status of any pending matter. Where the Director considers it necessary or appropriate to the achievement of the purposes of the Order or of sections 402 and 503 he/she may assume jurisdiction over the matter and proceed as provided in this chapter. Whenever the Director assumes jurisdiction over any matter, he/she may conduct, or have conducted, such investigation, hold such hearings, make such findings, issue such recommendations and directives and take such other action as may be necessary or appropriate to achieve the purposes of the Order or of sections 402 and 503.

15. 41 CFR 60-1.32 is renumbered 41 CFR 60-1.28 and is amended to read as follows:

§ 60-1.28 Intimidation and interference.

The sanctions and penalties contained in Subpart D of the Order, and in Parts 60-250 and 60-741 of this chapter may be exercised against any contractor or applicant which fails to take all necessary steps to ensure that no person intimidates, threatens coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Order, sections 402 and 503 or any other Federal, state or local laws requiring equal employment opportunity. Such

sanctions and penalties also apply to contractors or applicants which discriminate against a person because he or she has opposed any employment practice unlawful under the Order, sections 402 and 503, Title VII of the Civil Rights Act of 1964, as amended, or any other Federal, state or local laws.

16. 41 CFR 60-1.26 is renumbered 41 CFR 60-1.29. Subsection (g) of 41 CFR 60-1.26 is deleted and subsection (f) is renumbered subsection (g). The remainder of the section is amended to read as follows:

§ 60-1.29 Enforcement proceedings.

(a) *Referrals to the Office of the Solicitor.* If, as a result of a compliance review, complaint investigation or some other review, OFCCP believes that the Order or that sections 402 and 503 have been violated, the matter may be referred to the Office of the Solicitor for consideration of legal enforcement proceedings.

(b) *Violations.* Violations may be found based upon, *inter alia*, any of the following: (1) the results of a compliance review or complaint investigation; (2) analysis of an affirmative action program; (3) the results of an on-site review of the contractor's compliance with the Order or of sections 402 and 503; (4) a contractor's refusal or failure to submit an affirmative action program; (5) a contractor's refusal or failure to permit an on-site compliance review or complaint investigation to be conducted; (6) a contractor's refusal or failure to maintain records and other information, or to supply copies of such records or information required to be maintained or supplied by the Order or by sections 402 and 503; and (7) any substantial or material violation of the contractual provisions of the Order or of sections 402 and 503.

(c) *Administrative enforcement proceedings.* Administrative enforcement proceedings are brought by the Office of the Solicitor and shall be conducted under the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity under the Contract Compliance Programs contained in Part 60-30 of this chapter. Administrative enforcement proceedings may be commenced to enjoin violations of the Order or of sections 402 and 503, to seek appropriate relief (which may include back pay, front pay, retroactive seniority, training, priority rights to hire or promotion, etc., for an affected class or for individuals) and to impose sanctions.

(d) *Special violations.* If the contractor refuses or fails to (1) submit an affirmative action program; (2) supply copies of records or other requested

information; (3) allow OFCCP access to its premises for an on-site review or investigation; or (4) is being charged with intimidation or interference under § 60-1.28 of this part, and if conciliation efforts under this part are unsuccessful, administrative enforcement proceedings may be commenced without serving the contractor with a show cause notice or a notice of violation.

(e) *Preliminary Administrative Enforcement Proceedings.* Preliminary or summary enforcement proceedings under 41 CFR 60-30.38 may be appropriate when the evidence indicates one or more of the following violations of the Order, section 402 and section 503: (1) That the contractor is engaging in unlawful employment practices so as to make the contractor not responsible to perform its contractual EEO obligations (such as, where a preaward or other compliance review discloses evidence that the contractor is engaging in unlawful employment practices and the contractor has failed to change the practice); (2) the contractor has refused or failed to develop or submit a current affirmative action program; (3) the contractor has failed or refused to supply requested records or other information it is required to supply; (4) the contractor has failed or refused to permit access to its premises, to its records for reviewing or copying and to its employees or witnesses for interviewing or questioning during an on-site review or investigation; (5) the contractor has engaged in intimidation or retaliation in violation of § 60-1.28 of this part. Preliminary enforcement proceedings involving one or more such violations may be commenced by the Office of the Solicitor, and shall be conducted pursuant to the rules of practice for such proceedings under Part 60-30 of this chapter.

(f) *Judicial enforcement—referrals to the Department of Justice.* (1) Violations of the Order or the threat of violations of the Order may be referred to the Department of Justice for judicial enforcement. There are no procedural prerequisites to a referral to the Department of Justice.

(2) Whenever a matter has been referred to the Department of Justice for consideration of judicial proceeding, the Attorney General may bring a civil action against the contractor or any other person in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, and an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full

enjoyment of the rights secured by the Order, or any of the above.

(3) The Attorney General is authorized to conduct such investigation of the facts as he/she may deem necessary or appropriate to carry out his/her responsibilities under these regulations.

(4) Prior to the institution of any judicial proceedings, the Attorney General, on behalf of the Director, is authorized to make reasonable efforts to secure compliance with the contract provisions of the Order. He/she may do so by providing the contractor and any other person with reasonable notice of findings, his/her intent to file suit, and the actions he/she believes necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other person a reasonable opportunity for conference and conciliation, in an effort to obtain such compliance without contested litigation.

(5) As used in this part, the Attorney General shall mean the Attorney General, the Assistant Attorney General for Civil Rights, or any other person authorized by regulations or practice to act for the Attorney General with respect to the enforcement of equal employment opportunity laws, orders and regulations generally, or in a particular matter or case.

(6) The Director or his/her designee, and representatives of the Attorney General may consult from time to time to determine what investigations should be conducted to determine whether contractors or groups of contractors or other persons may be engaged in patterns or practices in violation of the order, or of resistance to or interference with the full enjoyment of any of the rights secured by the Order, warranting judicial proceedings.

§§ 60-1.27-60-1.29 [Removed]

17. 41 CFR 60-1.27, 60-1.28 and 60-1.29 are deleted.

18. 41 CFR 60-1.30 is amended to read as follows:

§ 60-1.30 Debarment and contract ineligibility list.

No order for debarment from further Government contracts or subcontracts pursuant to section 209(a)(6) of the Order or pursuant to the regulations implementing section 402 and 503 shall be made without affording the contractor an opportunity for a hearing, either administrative or judicial. The Director periodically shall distribute a list to all executive departments and agencies giving the names of contractors who have been declared ineligible under

the Order or under sections 402 and 503 for further Government contracts and subcontracts. The Director shall promptly notify the Comptroller General of the United States when contracts have been cancelled or terminated or when a contractor has been debarred from further Government contracts under the Order or under section 402 and 503. The Director shall take appropriate steps to notify prime contractors of the debarred contractor's ineligibility for subcontracts.

19. 41 CFR 60-1.31 is amended to read as follows:

§ 60-1.31 Petition for reinstatement for debarred contractors.

(a) Any contractor declared ineligible under the Order or under sections 402 and 503 for further contracts may petition the Director for reinstatement. The petition for reinstatement shall set forth what actions the contractor has taken to comply with the Order and with sections 402 and 503 and in what way the contractor will comply with requirements which may involve future performance. The burden shall be on the contractor to demonstrate that it is entitled to reinstatement.

(b) The Director may condition rescission of the debarment order and reinstatement of the contractor's eligibility for further contracts on the contractor's satisfying the Director that it has established and will implement personnel and employment policies in compliance with the provisions of the Order or of sections 402 and 503. In carrying out his/her responsibilities under this section, the Director may require that compliance reviews be conducted of the contractor's establishments, and that the contractor supply copies of any information relevant to determining its compliance with the Order or with sections 402 and 503. Reinstatement also may be conditioned on a program of compliance which may include meeting requirements not specifically mentioned in the debarment order where meeting these requirements is necessary to achieve compliance under the Order or under sections 402 and 503. Where the debarment was based on a determination of the contractor's liability but the extent of the relief or the number or identity of employees entitled to relief has not been determined, the Director may remand the matter to the Administrative Law Judge for a determination of such issues prior to reinstatement. On remand, from the Director, the Administrative Law Judge shall follow the procedures required by Part 60-30 of this chapter just as if it were a new matter, and reinstatement

by the Director may be conditioned on the contractor's satisfying any relief finally determined to be owed.

(c) Any conditions upon which the rescission of the debarment order and reinstatement of the contractor are based shall be set forth by the Director in an order which shall be filed with the Administrative Law Judge and made a part of the record in the original proceeding from which the debarment resulted. The Administrative Law Judge shall retain jurisdiction, and any subsequent violations involving the same issues which gave rise to the debarment order or which are included in the reinstatement order issued by the Director may be raised by motion in the original proceeding.

(d) When a debarred contractor is reinstated, the Director shall take prompt action to notify the Comptroller General and the agencies which received notice of the debarment.

(e) The Director's decision on the petition for reinstatement shall constitute a final administrative order.

(f) Any party or person who participated (pursuant to 41 CFR 60-30.24) in the proceeding which gave rise to the debarment order may make submissions to the Director opposing or supporting the contractor's petition for reinstatement.

20. 41 CFR 60-1.40 is amended to read as follows:

§ 60-1.40 Affirmative action programs.

(a) *Requirements of programs.* Each nonconstruction contractor which has 50 or more employees and (1) has a contract of \$50,000 or more; or (2) has Government bills of lading which, in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or (3) has one or more contracts which total \$50,000 or more in any 12-month period, or (4) is a financial institution which serves as a depository for Government funds in any amount, acts as an issuing or redeeming agent for U.S. savings bonds and savings notes in any amount, or subscribes to Federal deposit insurance, shall develop a written affirmative action program for each of its establishments. Each nonconstruction contractor shall require each subcontractor which has 50 or more employees and (i) has a subcontract of \$50,000 or more; or (ii) has Government bills of lading which, in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or (iii) has one or more subcontracts which total \$50,000 or more in any 12-month period; or (iv) is a financial institution which serves as a depository for Government funds in any amount, acts as an issuing or redeeming

agent for U.S. savings bonds and savings notes in any amount, or subscribes to Federal deposit insurance, to develop a written affirmative action program for each of its establishments.

A necessary prerequisite to the development of a satisfactory affirmative action program is the identification and analysis of problem areas inherent in minority and female employment and an evaluation of opportunities for utilization of minority group and female personnel. The contractor's program shall provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of members of minority groups and women, including, when there is underutilization or other deficiencies, the development of specific goals and time tables for the prompt achievement of full and equal employment opportunity.

(b) *Maintenance of programs.* Within 120 days from the commencement of the contract, each contractor covered by paragraph (a) above shall develop, implement, and maintain separate affirmative action programs for each of its establishments. A copy of the appropriate affirmative action program shall be maintained at each of the contractor's locations. An affirmative action program shall be part of the staffing and training plans for each new establishment and shall be developed and made available prior to the staffing of such establishment. A report of the results of such program shall be compiled annually and the program shall be updated at that time. This information shall be made available to OFCCP upon request and the contractor's affirmative action program and the results it produces shall be evaluated as part of compliance review activities.

(c) *Application to construction contractors.* The provisions of this section 60-1.40 shall be applicable to the nonconstruction employees of a construction contractor with 50 or more nonconstruction employees and which has one or more contracts totaling \$50,000 or more during any 12-month period.

21. 41 CFR 60-1.43 is amended to read as follows:

§ 60-1.43 Access to records and site of employment.

Each contractor shall permit access during normal business hours to its premises for the purpose of conducting on-site compliance reviews which include interviewing employees, inspecting, copying and removing off-site copies of such books, records, accounts, and other material such as

computer tapes and printouts as may be relevant to the matter under investigation and pertinent to compliance with the Order or with sections 402 and 503.

22. 41 CFR 60-1 is amended by renumbering 41 CFR 60-1.45, 60-1.46 and 60-1.47 to 41 CFR 60-1.48, 60-1.49 and 60-1.50 respectively, and by amending 41 CFR 60-1.44 and by adding a new 41 CFR 60-1.45, 60-1.46 and 60-1.47 to read as follows:

§ 60-1.44 Rulings and interpretations.

Rulings under or interpretations of the Order and of sections 402 and 503 shall be made by the Director.

§ 60-1.45 Adaptation of language.

Such necessary changes in language may be made in the equal opportunity clause of the Order and in the affirmative action clauses of sections 402 and 503 as shall be appropriate to identify properly the parties and their undertakings.

§ 60-1.46 Incorporation by reference.

The equal opportunity clause and the affirmative action clauses may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts as the Director may designate.

§ 60-1.47 Incorporation by operation of law.

By operation of the Order and sections 402 and 503, the equal opportunity clause of the Order and the affirmative action clauses of sections 402 and 503 shall be considered to be a part of every contract and subcontract required by the Order and sections 402 and 503 to include such clauses regardless of whether the clauses are physically incorporated into such contracts and regardless of whether the contract is written.

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

23. 41 CFR 60-2.1 is amended to read as follows:

§ 60-2.1 Title, purpose and scope.

(a) This part shall also be known as "Revised Order No. 4" and shall cover nonconstruction contractors. The provisions of this part also shall apply to the nonconstruction employees of a construction contractor with 50 or more nonconstruction employees and one or more contracts totaling \$50,000 or more during any 12-month period. Section 60-1.40 of this chapter, requires that within

120 days from the commencement of a contract each contractor with 50 or more employees and (1) a contract of \$50,000 or more; or (2) one or more contracts or Government bills of lading which, in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or (3) which is a financial institution which (i) serves as a depository of Government funds in any amount; (ii) acts as an issuing or redeeming agent for U.S. savings bonds and savings notes in any amount; or (iii) subscribes to Federal deposit insurance, shall develop, implement and maintain a written affirmative action program for each of its establishments. This part sets forth guidelines to be used by contractors and the OFCCP in developing and judging written affirmative action programs as well as the good faith effort required to transform these programs from paper commitments to equal employment opportunity.

(b) Relief, including back pay, where appropriate, for members of an affected class or individuals who by virtue of past discrimination continue to suffer the present effects of that discrimination, shall be provided in the conciliation agreement entered into pursuant to 41 CFR 60-1.26 of this chapter. An affected class problem must be remedied before a contractor may be considered in compliance. Section 60-2.2 of this part pertaining to an acceptable affirmative action program also is applicable to a contractor's failure to remedy discrimination against members of an affected class.

24. 41 CFR 60-2.2 is amended to read as follows:

§ 60-2.2 Requirements for contractors.

Any contractor required by 41 CFR 60-1.40 of this chapter to develop an affirmative action program at each of its establishments which has not complied fully with that section is not in compliance with the Order. Until such programs are developed and found to be acceptable in accordance with the standards and guidelines set forth in §§ 60-2.10 through 60-2.32 of this part, the contractor is unable to comply fully with the Order. An affirmative action program shall be deemed to have been accepted by OFCCP at the time the appropriate OFCCP area, regional or national office has accepted such program unless within 45 days thereafter the Director has disapproved such program. The intention of 41 CFR 60-1.40 and this part is that each contractor establishment will be covered by a written affirmative action program and that all the contractor's employees will be included in an

affirmative action program regardless of where they work.

25. A new 41 CFR 60-2.3 is added to read as follows:

§ 60-2.3 Submission of affirmative action programs and support data.

(a) The contractor shall submit the affirmative action program and supporting documentation within 15 days of receipt of a request from OFCCP. The affirmative action program shall contain a workforce analysis, a utilization analysis and goals and timetables, if applicable. Supporting documentation refers to the required contents of Affirmative Action Programs, as set forth in Subpart B of this part, and Methods of Implementing the Requirements of Subpart B, set forth in Subpart C of this part.

(b) The contractor shall submit the affirmative action program and supporting documentation upon OFCCP's request when a complaint is being investigated or a preaward compliance review is being conducted.

(c) The contractor in accordance with 41 CFR 60-1.43, shall provide full access to and copies of all relevant information and data for the on-site phase of the review.

(d) The contractor shall provide, for off-site review, all data or information determined by the compliance officer to be necessary to analyze more fully alleged deficiencies or violations before a determination of compliance is made.

(e) If a contractor fails or refuses to submit its affirmative action program and supporting documentation or other information as required by paragraphs (a), (b), (c) and (d) of this section, enforcement proceedings authorized by this chapter may be initiated against the contractor after appropriate conciliation efforts have been attempted, without issuing a show cause notice or notice of violations.

PART 60-20—SEX DISCRIMINATION GUIDELINES

26. 41 CFR 60-20.2 is amended to read as follows:

§ 60-20.2 Recruitment and advertisement.

(a) Contractors engaged in recruiting activity shall recruit employees of both sexes for all jobs unless sex is a bona fide occupational qualification.

(b) Advertisements in newspapers and other media for employment sponsored by or on behalf of contractors shall not depict, express a preference, or indicate that a particular sex is sought, desired or better suited for a particular job unless sex is a bona fide occupational qualification for the job. The placement of an advertisement in

columns headed "Male" or "Female", or similar wording, will be considered an expression of a preference, limitation, specification, or discrimination based on sex.

27. 41 CFR 60-20.4 is amended to read as follows:

§ 60-20.4 Seniority systems.

Where they exist, seniority lines and lists must not be based upon sex. Where such a separation has existed, the contractor must eliminate this distinction and provide appropriate relief.

28. 41 CFR 60-20.5 is amended to read as follows:

§ 60-20.5 Discriminatory wages and placements.

(a) *Wages.* The contractor's wage schedules must not be related to or based on the sex of the employees.

While the more obvious cases of discrimination exist where employees of different sexes are paid different wages on jobs which require substantially equal skill, effort and responsibility and are performed under similar working conditions, compensation practices with respect to any jobs where males or females are substantially underutilized will be scrutinized closely to assure that sex has played no role in the setting of levels of pay.

(b) *Placements.* The Contractor may not discriminatorily restrict one sex to certain jobs. In such a situation, the contractor shall provide appropriate relief and shall ensure that all jobs are made available to all qualified employees without regard to sex. (Example: An electrical manufacturing company may have a production division with three functional units: One (assembly) all female; another (wiring), all male; and a third (circuit boards), also all male. The highest wage attainable in the assembly unit is considerably less than that in the circuit board and wiring units. In such a case the contractor must take steps to provide qualified female employees opportunity for placement in job openings in the other two units.)

29. 41 CFR 60-20.6 is amended to read as follows:

§ 60-20.6 Affirmative action.

(a) Women typically have not been found in significant numbers in management. In many companies management trainee programs are one of the ladders to management positions. Traditionally, few, if any women have been admitted into these programs. An important element of affirmative action shall be a commitment to include female candidates in such programs.

(b) Distinctions based on sex may not be made in other training programs. Both sexes should have equal access to all training programs and affirmative action programs should require a demonstration by the contractor that such access has been provided.

(c) The contractor shall take affirmative action to recruit women for jobs in which they previously have been excluded or are underrepresented. The contractor also shall take affirmative action to encourage the participation of women in training programs for jobs in which they have been previously excluded or are underrepresented.

Note.—This can be done by various methods. Examples include: (1) Including in itineraries of recruiting trips, women's colleges where graduates with skills desired by the contractor can be found, and female students of coeducational institutions and (2) designating advertisements to indicate that women will be considered equally with men for jobs.

30. 41 CFR 60-20.3(g) (1) and (2) are deleted and 41 CFR 60-20.3(h) is renumbered 41 CFR 60-20.3(g). A new 41 CFR 60-20.7 is added to include the provisions relating to maternity leave (presently codified in 41 CFR 60-20.3(g) (1) and (2)) which reads as follows:

§ 60-20.7 Pregnancy, childbirth and related medical conditions.

(a) Employees or applicants for employment shall not be denied employment because of pregnancy, childbirth or related medical conditions.

(b) Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other disabilities. Health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion, are not required to be paid by an employer; nothing herein, however, precludes an employer

from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

(c) Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such a termination violates the Order if it has a disparate impact on employees of one sex and is not justified by business necessity.

(d)(1) Any fringe benefit program, or fund, or insurance program which is in effect on October 31, 1978, which does not treat women affected by pregnancy, childbirth, or related medical conditions the same as other persons not so affected but similar in their ability or inability to work, must be in compliance with the provisions of § 60-20.7(b) by April 29, 1979. In order to come into compliance with the provisions of § 60-20.7(b) there can be no reduction of benefits or compensation which were in effect on October 31, 1978, before October 31, 1979, or the expiration of a collective bargaining agreement in effect on October 31, 1978, whichever is later.

(2) Any fringe benefit program implemented after October 31, 1978, must comply with the provisions of § 60-20.7(b) upon implementation.

31. 41 CFR Part 60-20 is amended by adding a new 41 CFR 60-20.8 which reads as follows:

§ 60-20.8 Sexual advances and favors.

(a) It shall be a violation of the Order, for an official or supervisor who is authorized to recommend or take personnel actions affecting employees to (1) Use official authority in making sexual advances toward employees over whom the official or supervisor is authorized to make or recommend personnel actions; (2) grant, recommend, or refuse to take any personnel action because of sexual favors; and (3) take or fail to take a personnel action as a reprisal against an employee for rejecting or reporting a sexual advance.

(b) It also shall be a violation of the Order if a contractor knows or should have known of one or more of the violations set forth in § 60-20.8(a) and fails to take appropriate corrective action.

PART 60-30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

32. 41 CFR 60-30.1 is amended to read as follows:

§ 60-30.1 Applicability of rules.

This part provides the rules of practice for all administrative proceedings, instituted to enforce equal

employment opportunity under Executive Order 11246, section 402 of the Vietnam Era Veterans Readjustment Assistance Act and section 503 of the Rehabilitation Act. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

33. 41 CFR 60-30.3 is amended to read as follows:

§ 60-30.3 Computation of time.

In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day. When the period of time allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

34. 41 CFR 60-30.4 is amended to read as follows:

§ 60-30.4 Form, filing, service of pleadings and papers.

(a) *Form.* The original of all pleadings and papers in a proceeding conducted under the regulations in this part shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case file number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed. Unless the Administrative Law Judge otherwise orders with respect to specific pleadings and papers in a specific case, all such papers and pleadings are public documents.

(b) *Service.* Service upon any party shall be made by the party filing the pleading or document by delivering a copy to the party or by mailing a copy to the party's last known address. When a party is represented by an attorney, service shall be made upon the attorney.

(c) *Proof of service.* A certificate of the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of service shall be proof of service.

35. 41 CFR 60-30.5 (b) and (c) are amended to read as follows:

§ 60-30.5 Administrative complaint.

(b) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the defendant on notice of the acts or practices it is alleged to have committed in violation of the Order, the regulations, or its contractual obligations. The complaint shall also contain a prayer regarding the relief being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government. The notice pleading contemplated by this paragraph (b) shall conform to notice pleading under the Federal Rules of Civil Procedure.

(c) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and the defendant may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party; and leave shall be freely given where justice so requires. An amended complaint shall be answered within 14 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer. If a response is required to an amended answer, such response shall be made within 14 days of service of the amended answer.

36. 41 CFR 60-30.7 is amended to read as follows:

§ 60-30.7 Notice of prehearing conference.

The Administrative Law Judge shall respond to defendant's request for a hearing within 15 days. The Administrative Law Judge shall notice the parties for a prehearing conference at least 45 days after the answer is filed, and shall conduct a final prehearing conference in accordance with § 60-30.12(c)(1) of this part.

37. 41 CFR 60-30.8 is amended by amending § 60-30(b) and adding a new § 60-30(c) to read as follows:

§ 60-30.8 Motions; disposition of motions.

(b) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties following a hearing, but may overrule or deny such motion without awaiting response. The Administrative Law Judge

shall make every reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing:

Provided, That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

(c) *Motions to compel discovery*. Prior to filing a motion to compel discovery under sections 60-30.9 through 60-30.11 of this part, counsel for the moving party shall communicate with opposing counsel concerning the matter in dispute. Counsel for the moving party shall file with the motion a certificate of compliance with this rule.

38. 41 CFR 60-30.9 is amended by amending subsection 60-30.9(a) and by adding a new subsection (d) to read as follows:

§ 60-30.9 *Interrogatories, and admissions as to facts and documents*.

(a) *Interrogatories*. Not later than 25 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections by the attorney or by whomever is representing the party. Answers and objections shall be filed and served within 25 days of service of the interrogatory. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

(d) *Filing with Administrative Law Judge*. All interrogatories and requests for admissions, and all responses thereto, shall be filed with the Administrative Law Judge and shall become a part of the record of the case.

39. 41 CFR 60-30.11(c) is amended to read as follows:

§ 60.30.11 *Depositions upon oral examination*.

(c) *Before whom taken; scope of examination; failure to answer*. Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held.

At the time and place specified in the notice, each party shall be permitted to examine and cross-examine the witness under oath upon any matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions and to evidence shall be noted on the record and shall be reserved until the hearing. Taking of the deposition shall not be interrupted to resolve objections. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the witness' failure or refusal to answer the question: *Provided*, That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his/her intention to invoke the presumption if no answer is forthcoming.

40. 41 CFR 60-30.12 is amended to read as follows:

§ 60-30.12 *Prehearing conferences*.

(a) Upon his/her own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him/her for a conference to consider:

- (1) Simplification of the issues;
- (2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;
- (3) Stipulation, admissions of fact and contents and authenticity of documents;
- (4) Limitation of number of witnesses;
- (5) Scheduling dates for the exchange of witness lists and of proposed exhibits; and
- (6) Such other matters as may tend to expedite the disposition of the proceedings.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

(c)(1) A final prehearing conference shall be scheduled by the Administrative Law Judge a reasonable time in advance of the hearing to develop a prehearing order. The prehearing order shall contain any matters described in subparagraph (a) of this section agreed upon by the parties or ordered by the Administrative Law Judge. The prehearing order also shall contain the factual and legal contentions of the parties.

(2) Witness lists and hearing exhibits shall be exchanged at least 10 days in advance of the hearing, or such other later time as is set by the Administrative Law Judge. Each party should provide to all other parties copies of all exhibits that it then plans to use at the hearing or, in the case of voluminous documents, it shall permit other parties to make copies of such documents.

(3) All discovery should be concluded at least 30 days prior to the hearing or by such other later time as ordered by the Administrative Law Judge for good cause shown. Administrative Law Judges, however, shall allow adequate time for discovery.

41. 41 CFR 60-30.15 is amended to read as follows:

§ 60-30.15 *Authority and responsibilities of Administrative Law Judges*.

The Administrative Law Judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He/she shall have all powers necessary to those ends, including but not limited to, the power to:

- (a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his/her own motion;
- (b) Require parties to state their position with respect to the various issues in the proceedings;
- (c) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories and requests for admissions in full;
- (d) Administer oaths;
- (e) Rule on Motions, and other procedural items or matters pending before him/her;
- (f) Regulate the course of the hearing and conduct of participants therein;
- (g) Examine and cross-examine witnesses and introduce into the record documentary or other evidence;
- (h) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;

(i) Fix time limits for submission of written documents in matters before him/her and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(j) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(1) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters into evidence;

(2) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him/her; and

(3) Expelling any party or person from further participation in the hearing;

(4) Invoking a presumption that the answers or actions ordered if made, would be unfavorable or adverse to the party ordered to answer or act.

(k) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(l) Recommend whether the defendant violated the Order, section 402 or section 503, as well as the nature of the relief necessary to ensure the full enjoyment of the rights secured by the Order, section 402 or section 503;

(m) Issue subpoenas; and

(n) Render interlocutory decisions for the Department of Labor in preliminary enforcement proceedings under § 60-30.38; and

(o) Take any action authorized by these rules.

42. 41 CFR 60-30.18 is amended to read as follows:

§ 60-30.18 *Evidence; testimony*.

Formal rules of evidence shall not apply, but rules or principles, including the Federal Rules of Evidence, designed to assure production of the most probative evidence available shall be applied. Testimony shall be given orally by witnesses at the hearing. Testimony taken by deposition may be introduced into evidence pursuant to § 60-30.11, in lieu of testimony given at the hearing, in the discretion of the Administrative Law Judge. A witness shall be available for cross-examination, and, at the discretion of the Administrative Law Judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding. The Administrative Law Judge may exclude evidence which is

immaterial, irrelevant, or unduly repetitious.

43. 41 CFR 60-30.19(c) is amended to read as follows:

§ 60-30.19 *Objections; exceptions; offer of proof*.

(c) *Offer of proof*. An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof. The offer of proof should clearly and specifically indicate the significance of the excluded evidence, unless the substance is apparent from the context.

44. 41 CFR 60-30.30 is amended to read as follows:

§ 60-30.30 *Final administrative order*.

After expiration of the time for filing exceptions, the Secretary or the Under Secretary, in the absence of the Secretary or if the Secretary disqualifies himself or herself for any reason, shall make a final Administrative Order which shall be served on all parties. If the Secretary concludes that the defendant has violated the Order, section 402 or section 503, an Administrative Order shall be issued which shall enjoin the violations, and require the contractor to provide whatever remedies are appropriate, and which shall impose whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate termination and suspension of the defendant's contracts and/or debarment of the defendant from further contracts: *Provided*, That the portion of any order under Executive Order 11246 terminating, cancelling, or suspending contracts shall not become effective until the consultation requirements of section 209(a)(5) of the Order, as amended by Executive Order 12086, have been satisfied.

45. A new 41 CFR 60-30.38 is proposed to be added as follows:

§ 60-30.38 *Preliminary administrative enforcement proceedings*.

(a) A preliminary enforcement proceeding is commenced by filing an administrative complaint. (See 41 CFR 60-1.29(e).) An Administrative complaint may combine general allegations and prayers for relief and

sanctions or it may be limited to preliminary relief and sanctions. In the event an administrative complaint seeks preliminary and general enforcement, the allegations relating to preliminary enforcement shall be so designated and stated separately in the complaint.

An administrative complaint which is limited to preliminary relief and sanctions may be amended in accordance with 41 CFR 60-30.5(c) to make general allegations of violations and to request general relief and sanctions.

(b) The administrative complaint, as it relates to preliminary enforcement proceeding issues, shall contain a clear and concise factual statement sufficient to inform the defendant with reasonable definiteness of the acts and practices it is alleged to have committed which constitute a violation. That is, fact pleading rather than notice pleading which obtains under § 60-30.5 of this part, shall apply to preliminary enforcement proceeding issues. The complaint also shall contain a statement of any relief being sought and/or any sanctions which are sought to be imposed.

(c) No answer, as required by 41 CFR 60-30.6 of this part, shall be required with respect to the issues in the complaint which seek preliminary enforcement proceedings. However, the Administrative Law Judge shall notify the parties of the time and place of the hearing within 10 days after the complaint is filed.

(d) The plaintiff shall submit with the administrative complaint any affidavits and other documentation and a supporting memorandum. The defendant shall have 15 days after service of the complaint to submit any affidavits and other documentation and supporting memorandum.

(e) The Administrative Law Judge is authorized to conduct any prehearing conferences or procedures to expedite the hearing process.

(f) Discovery in a preliminary enforcement proceeding shall be granted only upon leave of the Administrative Law Judge for compelling reasons.

(g) The preliminary administrative enforcement proceeding is intended to provide a speedy hearing and decision on limited issues, and the Administrative Law Judge shall take all measures consistent with these rules and procedural fairness to achieve this end. The hearing shall commence within 20 days of the notice of hearing specified in 41 CFR 60-30.38(c).

(h) The decision of the Administrative Law Judge shall be issued within 10 days after the conclusion of the hearing. The decision shall not be delayed either

to await the preparation of a transcript or post-hearing submissions by the parties. The decision shall set forth findings of fact and conclusions of law on the issues presented, including the imposition of sanctions.

(i) The Administrative Law Judge's decision and order shall constitute the decision of the Department of Labor with respect to any preliminary issue concerning the contractor's responsibility to perform its contractual EEO obligations and its eligibility for the award of further contracts during the pendency of administrative proceedings. That decision shall not be subject to administrative review. If the contractor's practices are found to be in substantial violation, the Administrative Law Judge shall determine either that the contractor is ineligible for the award of contracts during the pendency of administrative proceedings or under what circumstances the contractor will be eligible for the award of contracts during the pendency of the administrative proceedings. For all other issues and all other relief or sanctions, the Administrative Law Judge shall recommend findings, conclusions and a decision which together with the record shall be referred to the Secretary for a final administrative order in accordance with § 60-30.30 of this part. The parties may submit exceptions to such recommendations in accordance with § 60-30.28 of this part.

PART 60-50—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

46. 41 CFR 60-50.1(b) is amended to read as follows:

§ 60-50.1 Purpose and scope.

(b) Members of various religious and ethnic groups continue to be excluded from executive, middle-management, and other job levels because of discrimination based upon their religion and/or national origin. These guidelines are intended to remedy such unfair treatment.

47. No amendments for religious accommodation are proposed at this time. On September 15, 1979, EEOC published proposed Guidelines on Discrimination Because of Religion for a 90-day comment period. These Guidelines were coordinated with OFCCP under Executive Order 12067. OFCCP therefore will postpone rulemaking on the accommodation of religious practices until the EEOC Guidelines are made final, and determine at that time whether to

publish a final rule based on the EEOC Guidelines.

PART 60-60 [DELETED]

47A. 41 CFR Part 60-60 is deleted.

PART 60-250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

§ 60-250.2 [Reserved]

48. 41 CFR 60-250.2 is deleted, and the definitions presently contained in this section have been written into 41 CFR 60-1.3. The section number (41 CFR 60-250.2) is reserved.

49. 41 CFR 60-250.5 is amended to read as follows:

§ 60-250.5 Applicability of the affirmative action program requirement.

(a) Within 120 days of the commencement of a contract, every Government contractor which has 50 or more employees and (1) has a contract of \$50,000 or more or (2) has one or more contracts (at least one of which is at least \$10,000) which total \$50,000 or more in any 12 month period shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices and procedures in accordance with § 60-250.6 of this part. This program may be integrated into or kept separate from other affirmative action programs of the contractor which OFCCP requires it to maintain pursuant to this chapter. Contractors presently holding Government contracts shall update their affirmative action programs within 120 days of the effective date of this part.

(b) The affirmative action program shall be reviewed and updated annually. If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

(d) The contractor shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse

treatment, and that it will be used only in accordance with the Act, and regulations in this part. If an applicant or employee so identifies himself or herself, the contractor should also seek the advice of the applicant or employee regarding proper placement and appropriate accommodation (an acceptable form for such an invitation is set forth in appendix A attached). Nothing in this section shall preclude an employee from informing a contractor at a future time of his or her desire to benefit from this program. Nothing in this section shall relieve a contractor from liability for discrimination under the Act.

50. 41 CFR 60-250.7 is amended to read as follows:

§ 60-250.7 Determination of disability.

Any disabled veteran filing a complaint under this part shall submit documentation from the Veterans Administration or military service from which the person was discharged or released which indicates the disability. Such documentation shall be updated within one year prior to filing the complaint.

§§ 60-250.8 and 60-250.9 [Deleted]

51. 41 CFR 60-250.8, and 60-250.9 are deleted.

§ 60-250.21 [Redesignated from § 60-250.24]

§ 60-250.24 [Redesignated as § 60-250.21]

52. 41 CFR 60-250.21, 60-250.22 and 60-250.23 are deleted. 41 CFR 60-250.24 is renumbered 41 CFR 60-250.21. 41 CFR 60-250.25 is renumbered 41 CFR 60-250.22 and is amended to read as follows:

§ 60-250.22 Evaluations by the OFCCP Assistant Regional Administrators.

The Assistant Regional Administrators, OFCCP, shall be primarily responsible for undertaking compliance reviews and investigations of complaints against contractors as may be necessary to assure that the purposes of the Act are being carried out effectively.

53. 41 CFR 60-250.26 is renumbered 41 CFR 60-250.23 and is amended to read as follows:

§ 60-250.23 Complaint procedures.

(a) *Filing complaints.* Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended for good cause shown.

(b) *Where to file.* Complaints may be filed with the OFCCP, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, or with

any OFCCP regional or area office. Complaints also may be filed with the Veterans Employment Service of the Department of Labor. Complaints filed with the Veterans Employment Service shall be referred to OFCCP promptly for investigation.

(c) *Contents of complaints.* Complaints must be signed by the complainant or an authorized representative and must contain the following information: (1) name and address (including telephone number) of the complainant; (2) name and address of the contractor who committed the alleged violation; (3) a description of the act or acts considered to be a violation; (4) a statement that he/she is a disabled or Vietnam era veteran; and (5) any other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted, provided the other requirements of this paragraph are met. Signed third party complaints which do not identify the complainant will be accepted, whether or not signed by the authorized representative provided that the other information required by this paragraph is included.

(d) *Incomplete information.* If a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant. If the information is not furnished within 60 days of the date of the request, the case may be closed.

(e) *Investigations.* The OFCCP shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record.

(f) *Referral to contractor.* When a complaint is filed by an employee of a contractor and the contractor has an applicable internal review procedure, the complaint may be referred to the contractor for processing under that procedure if the employee gives his/her consent. The contractor shall be informed of the elements of the complaint either by furnishing a copy or a sanitized version. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If the contractor is able to resolve the complaint to the satisfaction of the complainant prior to the OFCCP investigation, the contractor shall notify OFCCP of the results in writing. The case will be closed upon verification with the complainant.

(g) *Resolution of matters.* (1) If the complaint investigation shows no

violation of the Act or regulations, or if the matter is not recommended to the Office of the Solicitor for legal enforcement proceedings, the matter shall be closed and the complainant shall be so notified.

(2) If an investigation indicates that the contractor has not complied with the requirements of the Act, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment in accordance with the procedure in 41 CFR 60-1.26.

(3) If a complaint investigation or compliance review indicates a violation of the Act, and the matter has not been resolved by informal means, OFCCP may refer the matter in accordance with the procedure in 41 CFR 60-1.29(a) for consideration of any action authorized under 41 CFR 60-1.29. After a matter arising under the Act is referred to the Office of the Solicitor, the provisions of 41 CFR 60-1.29 through 60-1.31 shall be applicable to it in the same way those provisions apply to a matter arising under Executive Order 11246.

§§ 60-250.27—60-250.32 [Deleted]

54. 41 CFR 60-250.27, 60-250.28, 60-250.29, 60-250.30, 60-250.31 and 60-250.32 are deleted.

55. 41 CFR 60-250.33 is moved to Subpart C, is redesignated 41 CFR 60-250.30 and is amended to read as follows:

§ 60-250.30 Responsibilities of the Deputy Assistant Secretary for Veterans' Employment.

(a) In accordance with the provisions of 38 U.S.C. 2002A, the Deputy Assistant Secretary for Veterans' Employment (DASVE) has responsibilities in all Department of Labor employment programs for veterans. The DASVE shall monitor and evaluate the mandatory job listing provisions of 41 CFR 60-250.4 in the regular course of evaluations of state employment service offices by the Veterans Employment Service. Deficiencies noted by the employment service shall be reported through the DASVE, to OFCCP. OFCCP, in coordination with the DASVE, will continue to review the mandatory job listing requirements by contractors in the course of regularly scheduled compliance reviews.

(b) Any job openings listed pursuant to § 60-250.3, which requires contractors to list their job openings with state employment services offices, shall be utilized by state employment security agencies to refer qualified disabled

veterans and veterans of the Vietnam era.

(c) The local offices of the Federal-state employment service shall give priority in referral of disabled veterans and veterans of the Vietnam era to such employment openings listed by contractors and subcontractors pursuant to this part.

(d) The local employment office staff will contact employers to solicit job orders. The state employment service will make available information pertinent to a determination of whether the contractor is in compliance with the mandatory listing and reporting requirements of the affirmative action clause.

§§ 60-250.50 and 60-250.51 [Deleted]

56. 41 CFR 60-250.50 and 60-250.51 are deleted.

57. 41 CFR 60-250.52 is redesignated 41 CFR 60-250.31 and is amended to read as follows:

§ 60-250.31 Recordkeeping.

(a) Each contractor shall maintain for a period not less than one year records regarding complaints and actions taken thereunder, and such employment or other records as required by the Director or by this part and shall furnish such information in the form required by the Director or as the Director deems necessary for the administration of the Act.

(b) Failure to maintain complete and accurate records as required under this section or failure to update annually the affirmative action program as required by § 60-250.5(b) constitutes noncompliance with the contractor's obligations under the Act and is a ground for the imposition of appropriate sanctions.

§§ 60-250.53 and 60-250.54 [Deleted]

58. 41 CFR 60-250.53 and 60-250.54 are deleted.

PART 741—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

59. 41 CFR 60-741.5 is amended to read as follows:

§ 60-741.5 Applicability of the affirmative action program requirement.

(a) Within 120 days of the commencement of a contract, every Government contractor which has 50 or more employees and (1) has a contract of \$50,000 or more or (2) has one or more contracts (at least one of which exceeds \$2,500) which total \$50,000 or more in any 12-month period shall prepare and maintain an affirmative action program

at each establishment which shall set forth the contractor's policies, practices and procedures in accordance with § 60-741.6 of this part. This program may be integrated into or kept separate from other affirmative action programs of the contractor which OFCCP requires it to maintain pursuant to this chapter. Contractors presently holding Government contracts shall update their affirmative action programs within 120 days of the effective date of this part.

(b) The affirmative action program shall be reviewed and updated annually. If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c)(1) The contractor shall invite all applicants and employees who believe themselves covered by the Act and who wish to benefit under the affirmative action program to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with the Act and the regulations in this part. If an applicant or employee so identifies himself or herself, the contractor should also seek the advice of the applicant or employee regarding proper placement and appropriate accommodation. (An acceptable form for such an invitation is set forth in Appendix B attached.)

(2) Nothing in this section shall preclude an employee from informing a contractor at any future time of his or her desire to benefit under the program.

(3) Nothing in this section shall relieve a contractor of its obligation to take affirmative action with respect to those applicants or employees of whose handicap the contractor has actual knowledge. *Provided*, That the contractor is not obligated to search the medical files of any applicant or employee to determine the existence of a handicap.

(4) Nothing in this section shall relieve a contractor from liability for discrimination under the Act.

(d) The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

§ 60-741.2 [Deleted]

60. 41 CFR 60-741.2 is deleted, and the definitions presently contained in this section have been written into 41 CFR

60-1.3. The section number (41 CFR 60-741.2) is reserved.

§ 60-741.9 [Deleted]

61. 41 CFR 60-741.9 is deleted.

§ 60-741.21 [Redesignated from § 60-741.24]

§ 60-741.24 [Redesignated from § 60-741.21]

62. 41 CFR 60-741.21, 60-741.22 and 60-741.23 are deleted. 41 CFR 60-741.24 is renumbered 41 CFR 60-741.21. 41 CFR 60-741.25 is renumbered 41 CFR 60-741.22 and is amended to read as follows:

§ 60-741.22 Evaluations by the OFCCP Assistant Regional Administrator.

The Assistant Regional Administrators, OFCCP, shall be primarily responsible for undertaking such investigations of complaints against contractors and conducting compliance reviews as may be necessary to assure that the purposes of the Act are being carried out effectively.

63. 41 CFR 60-741.26 is renumbered 41 CFR 60-741.23 and is amended to read as follows:

§ 60-741.23 Complaint procedures.

(a) *Filing complaints.* Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended for good cause shown.

(b) *Where to file.* Complaints may be filed with the OFCCP, 200 Constitution Avenue, N.W., Washington, D.C., 20210, or with any OFCCP regional or area office.

(c) *Contents of complaints.* Complaints must be signed by the complainant or an authorized representative and must contain the following information: (1) Name and address (including telephone number) of the complainant; (2) name and address of the contractor who committed the alleged violation; (3) a description of the act or acts considered to be a violation; (4) a statement that the individual is handicapped, has a history of a handicap, has documentation of impairment, or was regarded by the contractor as having an impairment; and (5) any other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted, provided the other requirements of this paragraph are met. Signed third party complaints which do not identify the complainant will be accepted, whether

or not signed by the authorized representative provided that the other information required by this paragraph is included.

(d) *Incomplete information.* If a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant. If the information is not furnished within 60 days of the date of the request, the case may be closed.

(e) *Investigations.* The OFCCP shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record.

(f) *Referral to contractor.* When a complaint is filed by an employee of a contractor and the contractor has an applicable internal review procedure, the complaint may be referred to the contractor for processing under that procedure if the employee gives his/her consent. The contractor shall be informed of the elements of the complaint either by furnishing a copy or a sanitized version. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If the contractor is able to resolve the complaint to the satisfaction of the complainant prior to the OFCCP investigation, the contractor shall notify OFCCP of the results in writing. The case will be closed upon verification with the complainant.

(g) *Resolution of matters.* (1) If the complaint investigation shows no violation of the Act or regulations in this part, or if the matter is not referred to the Office of the Solicitor for consideration of legal enforcement proceedings, the matter shall be closed and the complainant shall be so notified.

(2) If an investigation indicates that the contractor has not complied with the requirements of the Act, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment in accordance with the procedure in 41 CFR 60-1.26.

(3) When a complaint investigation or compliance review indicates a violation of the Act, and the matter has not been resolved by informal means, OFCCP may refer the matter in accordance with the procedure in 41 CFR 60-1.29(a) for consideration of any action authorized under 41 CFR 60-1.29. After a matter arising under the Act is referred to the Office of the Solicitor, the provisions of 41 CFR 60-1.29 through 60-1.31 shall be applicable to it in the same way those provisions apply to a matter arising under Executive Order 11246.

§§ 60-741.27-60-741.32 [Deleted]

64. 41 CFR 60-741.27, 60-741.28, 60-741.29, 60-741.30, 60-741.31 and 60-741.32 are deleted.

§§ 60-741.50 and 60-741.51 [Deleted]

65. 41 CFR 60-741.50 and 60-741.51 are deleted.

66. 41 CFR 60-741.52 is redesignated 41 CFR 60-741.30, and is amended to read as follows:

§ 60-741.30 Recordkeeping.

(a) Each contractor shall maintain for a period not less than one year records regarding complaints and actions taken thereunder, and such employment or other records as required by the Director or by this part and shall furnish such information in the form required by the Director or as the Director deems necessary for the administration of the Act.

(b) Failure to maintain complete and accurate records as required under this section or failure to update annually the affirmative action program as required by § 60-741.5(b) constitutes noncompliance with the contractor's obligations under the Act and is a ground for the imposition of appropriate sanctions.

§§ 60-741.53 and 60-741.54 [Deleted]

67. 41 CFR 60-741.53 and 60-741.54 are deleted.

Authority: E.O. 11246 (30 FR 12319) as amended by E.O. 11375 and 12086; sec. 503, Pub. L. 93-1112, 67 Stat. 393 (20 U.S.C. 793), as amended by sec. 111, Pub. L. 93-516, 86 Stat. 1619 (29 U.S.C. 706) and Executive Order 11758; sec. 503(a), Pub. L. 92-540, 86 Stat. 1097 (38 U.S.C. 2012), as amended by Sec. 402, Pub. L. 93-503, 88 Stat. 1593 (38 U.S.C. 2012).

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Proposed Rules

Friday
December 28, 1979

Part VII

Department of Labor

Wage and Hour Division, Employment
Standards Administration

Procedure for Predetermination of Wage
Rates

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 1

Procedures for Predetermination of Wage Rates

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule.

SUMMARY: This document is a proposal to reexamine and revise our procedures in Part 1 for predetermination of wage rates. The test for determining what constitutes a prevailing wage is clarified. In addition, there are clarifications of the use of wage determinations, modifications, and supersedeas wage determinations, and the necessary corrective action when an erroneous schedule of wage determinations (building, heavy, highway, residential) is included in bidding documents and contracts.

DATE: Comments must be received on or before February 26, 1980.

ADDRESS: Submit comments to: Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Department of Labor, Room S3502, 200 Constitution Ave., N.W., Washington, D.C. 20210. Phone: (202) 523-8333.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Department of Labor, Room S3502, 200 Constitution Ave., N.W., Washington, D.C. 20210. Phone: (202) 523-8333.

SUPPLEMENTARY INFORMATION: The definition of "prevailing wage" in § 1.2(a) is changed under this proposal to explicitly include fringe benefits in the wage determination process, and to clarify treatment of differences in wages due solely to the time in which the wages are paid.

Although no changes are proposed in the current method of determining prevailing wages by surveying the number employed in each classification in the peak work week on each project, suggestions are invited regarding the advisability and feasibility of alternatives, such as surveying the total number of man-hours worked on similar projects in each classification or the number employed in each classification on similar projects in the area at a particular point in time, with consideration for the availability of wage rate data under the alternative methods.

The use of modifications of wage determinations has created problems. In many cases agencies have declined to use modifications on the basis that they

were received later than 10 days before bid opening, even though it may have been feasible to notify bidders of the modification prior to bid opening. The proposed amendment to § 1.6 (formerly § 1.7) would require a contracting agency to use a modification unless it finds that there is not a reasonable time still available after receipt of the modification to notify bidders of the modification. Section 1.6 would also expressly state the intent of the Department of Labor that "modifications" to wage determinations are changes in the rates occasioned by updating of prevailing wage determinations to reflect current prevailing wage rates, as distinguished from a determination that an erroneous wage determination has been issued or utilized by the agency.

Additional problems have arisen from delay in awarding a contract after bid opening. General wage determinations (i.e., those published in the Federal Register) now have no expiration date. Accordingly, it is proposed that if the contract is not awarded within 60 days after bid opening, any modification published in the Federal Register prior to award of the contract shall be effective with respect to that contract unless the agency requests and obtains an extension from the Administrator.

From time to time problems have arisen because of use of wage rate schedules (e.g., building, heavy, highway, residential) not properly applicable to a project. Therefore a new subsection 1.6(f) is proposed which would provide that if the contract includes a schedule of rates which by its terms or the provisions of this part is not applicable to the work to be performed, or if an incorrect project wage determination is issued on the basis of an inaccurate description of the project or its location, the correct schedule is to be included in the contract by whatever means are appropriate (such as supplemental or change order). See Comptroller General Opinion No. B-179871 (April 1, 1975), 75-1 CPD ¶189. Similarly, if a wage determination is erroneously omitted, it is to be included. These types of errors can be corrected at any time, and the 10-day rule applicable to modifications of wage determinations is inapplicable to such errors.

A new subsection 1.6(g) is also proposed to explain the application of wage determinations where federal assistance is not approved until after contract award or the start of construction.

Section 1.7 (formerly § 1.8) has been revised to clarify the scope of wage rate surveys where there is insufficient

current construction in the county where the work is to be performed, and to incorporate in the regulations the Department's practice concerning issuance of classifications of laborers and mechanics, based upon differences in work performed, not skill or supervisory functions.

Provisions for wage determination hearings before Administrative Law Judges are proposed to be deleted because as a result of the time-consuming nature of such proceedings, hearings are no longer conducted, and more expedited appeals are available at the Wage Appeals Board.

All-Agency Memoranda Nos. 130 and 131 have been incorporated as an appendix to this part to provide clarification of the application of wage schedules.

Other changes are minor and largely editorial in nature.

It has been determined that the proposed amendments to these regulations do not warrant preparation of a regulatory analysis within the meaning of Executive Order 12044 and the Department of Labor's guidelines (44 FR 5570).

Accordingly, it is proposed to revise Part 1 as set forth below.

Signed at Washington, D.C., on this 21st day of December, 1979.

Donald Elisburg,
Assistant Secretary of Labor, Employment Standards Administration.

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

Sec.

- 1.1 Purpose and scope.
- 1.2 Definitions.
- 1.3 Obtaining and compiling wage rate information.
- 1.4 Outline of agency construction programs.
- 1.5 Procedure for requesting wage determinations.
- 1.6 Use and effectiveness of wage determinations.
- 1.7 Scope of consideration.
- 1.8 Reconsideration by the Administrator.
- 1.9 Review by Wage Appeals Board.

Appendix A.
Appendix B.
Appendix C.
Authority: 5 U.S.C. 301; R.S. 131, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; and the laws listed in Appendix A of this Part.

§ 1.1 Purpose and scope.

(a) The procedural rules in this part apply under the Davis-Bacon Act (46 Stat. 1494, as amended; 40 U.S.C. 276a-276a-7) and other statutes listed in Appendix A to this part which provide

for the payment of minimum wages, including fringe benefits to laborers and mechanics engaged in construction activity under contracts entered into or financed by or with the assistance of agencies of the United States or the District of Columbia, based on determinations by the Secretary of Labor of the wage rates and fringe benefits prevailing for the corresponding classes of laborers and mechanics employed on projects similar to the contract work in the local areas where such work is to be performed. Functions of the Secretary of Labor under these statutes and under Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 U.S.C. Appendix), except those assigned to the Wage Appeals Board (see 29 CFR Part 7), have been delegated to the Assistant Secretary of Labor for Employment Standards who in turn has delegated the functions to the Administrator of the Wage and Hour Division, and authorized representatives.

(b) The regulations in this part set forth the procedures for making and applying such determinations of prevailing wage rates and fringe benefits pursuant to the Davis-Bacon Act, each of the other statutes listed in the Appendix A, any other Federal statute providing for determinations of such wages by the Secretary of Labor in accordance with the provisions of the Davis-Bacon Act, and such other statutes as may, from time to time, confer upon the Secretary of Labor similar wage determining authority.

(c) Procedures set forth in this part are applicable, unless otherwise indicated, both to general wage determinations published in the Federal Register for contracts in specified localities, and to project wage determinations for use on contract work to be performed on a specific project.

§ 1.2 Definitions.¹

(a) The term "wages" (and its singular form) has the meaning prescribed in section 1(b) of the Davis-Bacon Act (40 U.S.C. 276a(b)). It includes the basic hourly rate of pay and the rate of contributions or payments for bona fide fringe benefits.

(1) A "wage" shall be deemed to be the "prevailing wage" if it is the wage (hourly rate of pay and fringe benefits) paid to the greatest number of laborers or mechanics in the classification on similar projects in the area during the period in question, provided that the wage is paid to at least 30% of those employed in the classification. If the

¹These definitions are not intended to restrict the meaning of the terms as used in the applicable statutes.

same wage (hourly rate of pay and fringe benefits) is not paid to at least 30% of those employed in the classification during the period in question, the "prevailing wage" shall be deemed to be the average of the basic hourly rates of pay plus the average of the rates of contributions or payments for bona fide fringe benefits, weighted by the total employed in the classification.

(2) In determining the "prevailing wages" at the time of issuance of a wage determination, the Administrator will be guided by paragraph (a)(1) of this section and will consider the types of information listed in § 1.3(b) of this part. In applying paragraph (a)(1), where differences in wages paid during the period in question are due solely to the point in time at which the wages were paid, wages paid at the earlier point in time will be considered to have been paid at the current wage.

(b) The term "area" in determining wage rates under the Davis-Bacon Act and the prevailing wage provisions of the other statutes listed in Appendix A shall mean the city, town, village, county or other civil subdivision of the State in which the work is to be performed.

(c) The term "Administrator" shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative. In the absence of the Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division is designated to act for the Administrator under this part. Except as otherwise provided in this part, the Assistant Administrator for Government Contract Wage Standards is the authorized representative of the Administrator for the performance of functions relating to the making of wage determinations.

(d) The term "agency" shall mean the Federal agency, State highway department under the Federal-Aid Highway Act of 1956, as amended, or recipient State or local government under Title 1 of the State and Local Fiscal Assistance Act of 1972.

§ 1.3 Obtaining and compiling wage rate information.

For the purpose of making wage rate determinations, the Administrator will conduct a continuing program for the obtaining and compiling of wage rate information.

(a) The Administrator will encourage the voluntary submission of wage rate data by contractors, contractors' associations, labor organizations, public officials and other interested parties,

reflecting wage rates paid to laborers and mechanics on various types of construction in the area.

The Administrator will also obtain data from agencies on wage rates paid on construction projects under their jurisdiction. The information submitted should reflect not only the wage rates paid a particular classification in an area, but also the type or types of construction on which such rate or rates are paid.

(b) The following types of information will be considered in making wage rate determinations:

(1) Statements showing wage rates paid on projects. Such statements should indicate the names and addresses of contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed in each classification on each project, and the respective wage rates paid such workers.

(2) Signed collective bargaining agreements. The Administrator may request the parties to an agreement to submit statements certifying to its scope and application.

(3) Wage rates determined for public construction by State and local officials pursuant to prevailing wage legislation.

(4) Information furnished by Federal and State agencies. See § 1.5. In making wage rate determinations pursuant to Federal-Aid Highway Acts as codified in 23 U.S.C. 113, the highway department of the State in which a project in the Interstate System is to be performed shall be consulted. Before making a determination of wage rates for such a project the Administrator shall give due regard to the information thus obtained.

(5) Wage rate data submitted by the Department of Labor by contracting agencies pursuant to 29 CFR 5.5(a)(1)(ii).

(6) Any other information pertinent to the determination of prevailing wage rates.

(c) The Administrator will supplement such information obtained on a voluntary basis by such means and from whatever sources are determined to be necessary. All information of the types described in § 1.3(b) of this Part, pertinent to the determination of the wages prevailing at the time of issuance of the wage determination, will be evaluated in the light of § 1.2(a) of this Part.

§ 1.4 Outline of agency construction programs.

To the extent practicable, at the beginning of each fiscal year each agency using wage determinations under any of the various statutes listed

in Appendix A will furnish the Administrator with a general outline of its proposed construction programs for the coming year indicating the estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction. During the fiscal year, each agency will notify the Administrator of any significant changes in its proposed construction programs, as outlined at the beginning of the fiscal year.

§ 1.5 Procedure for requesting wage determinations.

(a)(1) Except as provided in paragraph (b) of this section, the Federal agency shall initially request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting Standard Form 303 to the Department of Labor at this address:

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Construction Wage Determinations, Washington, D.C. 20210.

The agency shall check only those classifications on the applicable form which will be needed in the performance of the work. Inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient. Additional classifications needed which are not on the form may be typed in the blank spaces or on a separate list and attached to the form. The agency shall not list classifications which can be fitted into classifications on the form, or classifications which are not generally recognized in the area or in the construction industry.

(2) In completing SF-303, the agency shall furnish:

(i) A sufficiently detailed description of the work to indicate the type of construction involved. Additional description or separate attachment, if necessary for identification of type of project, shall be furnished.

(ii) The county (or other civil subdivision) and State in which the proposed project is located.

(3) Such request for a wage determination shall be accompanied by any pertinent wage payment information which may be available. When the requesting agency is a State highway department under the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, such agency shall also include its recommendations as to the wages which are prevailing for each classification of laborers and mechanics on similar construction in the immediate locality.

(b) Whenever the wage patterns in a particular area for a particular type of

construction are well settled and whenever it may be reasonably anticipated that there will be a large volume of procurement in that area for such a type of construction, the Administrator, upon the request of a Federal agency or in his discretion, may publish a general wage determination in the Federal Register when, after consideration of the facts and circumstances involved, the Administrator finds that the applicable statutory standards and those of this part will be met. If there is a general wage determination applicable to the project, the agency may use it without notifying the Department of Labor.

(c) The time required for processing requests for wage determinations varies according to the facts and circumstances in each case. An agency should anticipate that such processing in the Department of Labor will take at least 30 days.

§ 1.6 Use and effectiveness of wage determinations.

(a)(1) Project wage determinations initially issued shall be effective for 120 calendar days from the date of such determinations. If such a wage determination is not used in the period of its effectiveness it is void. If it appears that a wage determination may expire between bid opening and contract award (or between initial endorsement under the National Housing Act or the execution of an agreement to enter into a housing assistance payments contract under section 8 of the U.S. Housing Act of 1937, and the start of construction) the agency should request a new wage determination sufficiently in advance of the bid opening to assure receipt prior thereto. However, when due to unavoidable circumstances a determination expires before award (or the start of construction) but after bid opening (or initial endorsement or the execution of the agreement to enter into a housing assistance payments contract, as appropriate), the agency may, in addition to requesting a new wage determination, request the Administrator to extend the expiration date of the wage determination in the bid specifications. Such request shall be supported by a written finding (which shall include a brief statement of the factual support for the finding) by the head of the agency that the extension of the expiration date of the determination is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business. The Administrator will either grant or deny the request for an extension after

consideration of all of the circumstances.

(2) General wage determinations issued pursuant to § 1.5(b) and which are published in the Federal Register, shall contain no expiration date.

(b) Application of general wage determinations to projects and application of project wage determinations with more than one wage rate schedule shall be in accordance with Memoranda Nos. 130 and 131 contained in Appendix C of this part. Any question regarding application of wage rate schedules or the guidelines contained in Memoranda Nos. 130 and 131 shall be referred to the Administrator for resolution.

(c)(1) Project and general wage determinations may be modified from time to time to keep them current. A modification may specify only the items being changed, or may be in the form of a supersedeas wage determination, which replaces the entire wage determination. Such actions are distinguished from a determination by the Administrator under paragraphs (d), (e) and (f) of this section that an erroneous wage determination has been issued or that the wrong wage determination or wage rate schedule has been utilized by the agency.

(2)(i) All actions modifying a project wage determination received by the agency before contract award (or the start of construction where there is no contract award) shall be effective except as follows:

(A) In the case of contracts entered into pursuant to competitive bidding procedures, modifications received by the agency later than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available to notify bidders of the modification and a report of the finding is sent to the Administrator. No such report shall be required after bid opening.

(B) In the case of those contracts entered into under the National Housing Act which are not awarded pursuant to competitive bidding procedures, modifications shall be effective if received prior to the beginning of construction or the date the mortgage is initially endorsed, whichever occurs first.

(C) In the case of projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, if there is no contract for the project awarded pursuant to competitive bidding procedures, modifications shall be effective if received prior to the beginning of construction or the date the agreement to enter into a housing

assistance payments contract is executed, whichever occurs first.

(ii) Modifications to project wage determinations and supersedeas wage determinations shall not be effective after contract award, or after the beginning of construction, as appropriate.

(iii) Actual notice of a modification (written or oral) shall constitute receipt.

(3) All actions modifying a general wage determination shall be effective with respect to any project to which the determination applies, if published before contract award (or the start of construction where there is no contract award), except as follows:

(i) In the case of contracts entered into pursuant to competitive bidding procedures, modifications published later than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available to notify bidders of the modification and a report of the finding is sent to the Administrator. No such report shall be required after bid opening.

(ii) In the case of those contracts entered into under the National Housing Act which are not awarded pursuant to competitive bidding procedures, modifications shall be effective if published prior to the beginning of construction or the date the mortgage is initially endorsed, whichever occurs first.

(iii) In the case of projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, if there is no contract for the project awarded pursuant to competitive bidding procedures, modifications shall be effective if published prior to the beginning of construction or the date the agreement to enter into a housing assistance payments contract is signed, whichever occurs first.

(iv) If under paragraph (c)(3)(i) of this section the contract has not been awarded within 60 days after bid opening, or if under paragraph (c)(3)(ii) or (iii) of this section construction has not begun within 60 days after initial endorsement or the signing of the agreement to enter into a housing assistance payments contract, any

modifications published in the Federal Register prior to award of the contract or the beginning of construction, as appropriate, shall be effective with respect to that contract unless the agency requests and obtains an extension of the 60-day period from the Administrator. Such request shall be supported by a written finding (which shall include a brief statement of the factual support for the finding) by the head of the agency that the extension is necessary and proper in the public

interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business. The Administrator will either grant or deny the request for an extension after consideration of all the circumstances.

(v) A modification to a general wage determination is "published" within the meaning of this section on the date of publication in the Federal Register, or on the date the agency receives actual notice (written or oral) of the modification from the Department of Labor, whichever occurs first.

(vi) Modifications or supersedeas wage determinations to an applicable general wage determination published after contract award or after the beginning of construction, as appropriate, shall not be effective.

(d) Upon his/her own initiative or at the request of an agency, the Administrator may correct any wage determination included in a contract whenever the Administrator finds such a wage determination contains clerical errors.

(e) Notification (written or oral) by the Department of Labor prior to the award of a contract (or the start of construction where there is no contract award) that (1) there is included in the bidding documents or solicitation the wrong wage determination or the wrong schedule of craft classifications and rates in a wage determination, or that (2) a wage determination is withdrawn because the Department of Labor has determined that it is erroneous (as distinguished from no longer current), shall be effective immediately without regard to paragraph (c) of this section.

(f) The Administrator may issue a wage determination after contract award or after the beginning of construction if the agency has failed to incorporate a wage determination in a contract required to contain prevailing wage rates determined in accordance with the Davis-Bacon Act, or has used a wage determination which by its terms or the provisions of this part does not apply to the contract. Further, the Administrator may issue a wage determination which shall be applicable to a contract after contract award or after the beginning of construction when it is found that an erroneous wage determination has been incorporated in the contract because of an inaccurate description of the project or its location in the agency's request for the wage determination. Under any of the above circumstances, the agency is to incorporate the valid wage determination in the contract specifications retroactively to the date of award, or the beginning of construction, as appropriate. This

should be done by whatever means the agency deems appropriate, including, for example, terminating and resoliciting the contract, or amending the contract through supplemental agreement or through change order.

(g) If Federal funding or assistance under a statute requiring payment of wages determined in accordance with the Davis-Bacon Act is not approved prior to contract award or the beginning of construction, as appropriate, the agency shall request a wage determination prior to approval of such funds, which shall be incorporated in the contract specifications retroactively to the date of award or the beginning of construction, as appropriate, *provided*, that upon the request of the head of the agency in individual cases the Administrator may issue such a wage determination to be effective on the date of approval of Federal funds or assistance whenever the Administrator finds that it is necessary and proper in the public interest to prevent injustice or undue hardship, *provided further* that the Administrator finds no evidence of intent to apply for Federal funding or assistance prior to contract award or the start of construction, as appropriate.

§ 1.7 Scope of consideration.

(a) In making a wage determination, the "area" will normally be the county unless sufficient current wage data (data on wages paid no more than one year prior to the beginning of the survey or the request for a wage determination, as appropriate) is unavailable to make a wage determination, although multi-county wage determinations may be issued where the prevailing wages are substantially the same.

(b) If there has not been sufficient similar construction to make a wage determination within the area in the past year, wages paid on similar construction in surrounding counties may be considered, *provided* that projects in metropolitan counties will not be used as a source of data for a wage determination in a rural county, and projects in rural counties will not be used as a source of data for a wage determination for a metropolitan county.

(c) If there has not been sufficient similar construction in the State in the past year, wages paid on projects completed more than one year prior to the beginning of the survey or the request for a wage determination, as appropriate, may be considered.

(d) Classifications and wage and fringe benefit rates will be issued only for identifiable "classes of laborers and mechanics." Distinctions between classifications are based upon differences in the work performed, not

upon skill and supervisory functions. A semi-skilled classification of laborers or helpers, for example, is issued when the classification as utilized in the area performs a scope of duties which distinguishes it from other classifications in the area. Prevailing wages for apprentices and trainees are not issued on wage determinations, but their use is permitted in accordance with § 5.5(a)(4) of part 5.

§ 1.8 Reconsideration by the Administrator.

Any interested person may seek reconsideration of a wage determination issued under this part or of a decision of the Administrator regarding application of a wage determination. Such a request for reconsideration shall be accompanied by a full statement of the interested person's views and any supporting wage data or other pertinent information.

§ 1.9 Review by Wage Appeals Board.

Any interested person may appeal to the Wage Appeals Board for a review of a wage determination or its application made under this part, after reconsideration by the Administrator has been sought pursuant to § 1.8 and denied. Any such appeal may, in the discretion of the Wage Appeals Board, be received, accepted, and decided in accordance with the provisions of 29 CFR Part 7 and such other procedures as the Board may establish.

Appendix A

Statutes Related to the Davis-Bacon Act Requiring Payment of Wages at Rates Predetermined by the Secretary of Labor

1. The Davis-Bacon Act (secs. 1-7, 46 Stat. 1494, as amended; Pub. L. 74-403, 40 U.S.C. 276a-276a-7).
2. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).
3. Housing Act of 1950 (college housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 681; 12 U.S.C. 1749a(f)).
4. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86-372, 73 Stat. 681; 12 U.S.C. 1701q(c)(3)).
5. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).
6. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).
7. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).
8. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).
9. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendments of 1968 (sec. 423 as added by Pub. L. 91-230,

title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92-318; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is extended to all programs administered by the Commissioner of Education.

10. The Federal-Aid Highway Act of 1956 (sec. 108(b), 70 Stat. 378, recodified at 72 Stat. 895; 23 U.S.C. 113(a), as amended), see particularly the amendments in the Federal-Aid Highway Act of 1963 (Pub. L. 90-495, 62 Stat. 815).

11. Indian Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).

12. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).

13. Rehabilitation Act of 1973 (sec. 306(b)(5), 87 Stat. 384, 29 U.S.C. 776(b)(5)).

14. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 83 Stat. 1845; 29 U.S.C. 966; also sec. 604, 88 Stat. 1846; 29 U.S.C. 964(b)(3)).

15. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 86 Stat. 933; 31 U.S.C. 1249(a)(6)).

16. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 694; 33 U.S.C. 1372).

17. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(8)).

18. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 726 as amended; 39 U.S.C. 410(b)(4)(C)).

19. National Visitors Center Facilities Act of 1968 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).

20. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).

21. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 306(h)(2) thereof, 83 Stat. 370, as amended by 90 Stat. 378; 42 U.S.C. 242m(h)(2)).

22. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 76 Stat. 453; 42 U.S.C. 291e(a)(5)).

23. Health Professions Education Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2256, 42 U.S.C. 293a(c)(7)).

24. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 364; 42 U.S.C. 296a(b)(5)).

25. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).

26. Safe Drinking Water Act (sec. 2(a), see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j-9(e)).

27. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2261, 42 U.S.C. 300o-3(b)(1)(H)).

28. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).

29. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).

30. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

31. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1466(f)).

32. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 496, as amended; 42 U.S.C. 1500c-3).

33. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592i).

34. Special Health Revenue Sharing Act of 1975 (sec. 303, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689(a)(5)).

35. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).

36. Headstart, Economic Opportunity, and Community Partnership Act of 1974 (sec. 11, see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 2992a).

37. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).

38. Older Americans Act of 1965 (sec. 502, Pub. L. 89-73, as amended by sec. 501, Pub. L. 93-29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).

39. Public Works and Economic Development Act of 1965 (sec. 712, 79 Stat. 575 as amended; 42 U.S.C. 3222).

40. Juvenile Delinquency Prevention Act (sec. 1, 86 Stat. 536; 42 U.S.C. 3884).

41. New Communities Act of 1968 (sec. 410.82 Stat. 516; 42 U.S.C. 3909).

42. Urban Growth and New Community Development Act of 1970. (sec. 727(f), 64 Stat. 1803; 42 U.S.C. 4529).

43. Domestic Volunteer Service Act of 1973 (sec. 406, 87 Stat. 410; 42 U.S.C. 5046).

44. Housing and Community Development Act of 1974 (secs. 110, 802(g), 83 Stat. 649, 724; 42 U.S.C. 5310, 1440(g)).

45. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 488; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

46. National Energy Conservaion Policy Act (sec. 312, 92 Stat. 3254; 42 U.S.C. 6371j).

47. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6708; also sec. 208, 90 Stat. 1003; 42 U.S.C. 6728).

48. Energy Conservation and Production Act (sec. 45(h), 90 Stat. 1168; 42 U.S.C. 6881(h)).

49. Solid Waste Disposal Act (sec. 2, 90 Stat. 2828; 42 U.S.C. 6979).

50. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

51. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

52. Highway speed ground transportation study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1036(b)).

53. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

54. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(i)).

55. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat. 40; 42 U.S.C. 632(b)(4)).

Note.—Repealed Dec. 9, 1969 and labor standards incorporated in sec. 1-1431 of the District of Columbia Code).

56. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89-694, but not in the United States Code).

57. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87-328) [considered a statute for purposes of this part but not in the United States Code].

Appendix B

Boston Region

For the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, JFK Federal Building, Government Center, Room 1612C, Boston, Massachusetts 02203 (telephone: 617-223-5565).

New York Region

For the States of New Jersey and New York and for the Canal Zone, Puerto Rico, and the Virgin Islands:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 1515 Broadway, Room 3309, New York, New York 10036 (telephone: 212-389-5443).

Philadelphia Region

For the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, and the District of Columbia:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, Gateway Building, Room 15220, 3535 Market Street, Philadelphia, Pennsylvania 19104 (telephone 215-596-1193).

Atlanta Region

For the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 1371 Peachtree Street, N.E., Room 305, Atlanta, Georgia 30309 (telephone: 404-831-4801).

Chicago Region

For the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 230 South Dearborn Street, 8th Floor, Chicago, Illinois 60604 (telephone: 312-353-7249).

Dallas Region

For the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 555 Griffin Square Building, Young and Griffin Streets, Dallas, Texas 75202 (telephone: 214-767-6891).

Kansas City Region

For the States of Iowa, Kansas, Missouri, and Nebraska:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, Federal Office Building, Room 2000, 911 Walnut Street, Kansas City, Missouri 64106 (telephone: 816-374-5389).

Denver Region

For the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, Federal Office Building, Room 1440, 1981 Stout Street, Denver, Colorado 80294 (telephone: 304-837-4613).

San Francisco Region

For the States of Arizona, California, Hawaii, and Nevada:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 450 Golden Gate Avenue, Room 10353, San Francisco, California 94102 (telephone: 415-556-3592).

Seattle Region

For the States of Alaska, Idaho, Oregon, and Washington:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, Federal Office Building, Room 4141, 909 First Avenue, Seattle, Washington 98174 (telephone: 206-442-1916).

Appendix C

All Agency Memorandum No. 130
To: All Government Contracting Agencies
and the District of Columbia

From: Xavier M. Veia, Administrator
Subject: Application Of The Standard Of Comparison "Projects Of A Character Similar" Under The Davis-Bacon And Related Acts

The purpose of this memorandum is to set forth present policies of the Wage and Hour Division with regard to the determination of "projects of a character similar to the contract work" for wage determination purposes. The guidelines contained in the memorandum are to be used by the contracting agencies in selecting the proper schedules(s) of wage rates from the Federal Register and in instructing contractors regarding the application of multiple schedules. This memorandum supersedes All Agency Memorandum No. 68 (July 19, 1936).

The Davis-Bacon and related Acts require the Secretary of Labor to determine the prevailing wage rates for corresponding classes of laborers and mechanics on projects in the area which are of a "character similar" to the proposed contract work to which the determination will be applied. The Department's Wage Appeals Board in a decision specifically relating to high-rise apartment buildings (WAB Case No. 70-11, dated January 27, 1977) stated:

The test of whether a project is of a character similar to another project varies to the nature of the project itself in a construction sense, not to whether union or nonunion wages are paid or whether union or nonunion workers are employed. Since the 1935 amendments to the Davis-Bacon Act, the statutory focus has always been on the character of the project itself rather than on who was employed on the project or how much he or she was being paid.

Again, in a decision relating to a water treatment plant project (WAB Case No. 77-20, dated September 30, 1977), the Board stated: "When it is clear from the nature of the project itself in a construction sense that

it is to be categorized as either building, heavy, or highway construction it is not necessary to resort to an area practice survey to determine the appropriate categorization of the project."

Generally construction projects are classified as either Building, Heavy, Highway or Residential. Below are descriptions of these classifications with an illustrative listing of the kinds of projects that are generally included within the classification. Contracting agencies should utilize these descriptions and illustrations in carrying out their responsibilities, to insure a uniform and consistent administration of the Davis-Bacon and related prevailing wage statutes. The advertised and contract specifications should identify as specifically as possible the segments of work to which the schedules will apply. Note, however, that the descriptions and illustrations are guides. Contracting agencies should seek a determination from the Department of Labor on close questions or when the appropriate classification is in dispute. In making this determination where a project does not readily fall within any category, the Department of Labor may consider wages being paid on analogous projects as an indication of the proper category. As stated by the Wage Appeals Board in WAB Case No. 77-23, dated December 30, 1977: "Wages, however, are only one indication. It is also necessary to look at other characteristics of the project, including the construction techniques, the material and equipment being used on the project, the type of skills called for on the project work and other similar factors which would indicate the proper category of construction."

Building Construction

Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction of such structures, the installation of utilities and the installation of equipment, both above and below grade level, as well as incidental grading, utilities and paving. Additionally, such structures need not be "habitable" to be building construction. The installation of heavy machinery and/or equipment does not generally change the project's character as a building.

Generally, for wage determination purposes, a project consists of all construction necessary to complete a facility regardless of the number of contracts involved so long as all contracts awarded are closely related in purpose, time and place. For example, demolition or site work preparatory to building construction is considered a part of the building project for wage determination purposes. Where a project, such as a water and sewage treatment plant, includes construction items that in themselves would be otherwise classified, a multiple classification may be justified if such construction items are a substantial part of the project. Further, however, a separate classification would not apply if such construction items are merely incidental to the total project to which they are closely related in function. For example, water or sewer line work which is a part of a building project would not generally be separately classified. Where construction is "incidental" in function, 20 percent of project cost is used as a rough guide for determining when construction is also "incidental" in amount to the overall project.

Examples

Alterations and additions to buildings
 Apartment buildings (5 stories and above)
 Arenas (enclosed)
 Auditoriums
 Automobile parking garages
 Banks and financial buildings
 Barracks
 Churches
 City halls
 Civic centers
 Commercial buildings
 Court houses
 Detention facilities
 Dormitories
 Farm buildings
 Fire stations
 Hospitals
 Hotels
 Industrial buildings
 Institutional buildings
 Libraries
 Mausoleums
 Motels
 Museums
 Nursing and convalescent facilities
 Office buildings
 Out-patient clinics
 Passenger and freight terminal buildings
 Police stations
 Post offices
 Power plants
 Prefabricated buildings
 Remodeling buildings
 Renovating buildings
 Repairing buildings
 Restaurants
 Schools
 Service stations
 Shopping centers
 Stores
 Subway stations
 Theaters
 Warehouses
 Water and sewage treatment plants (buildings only)

Residential Construction

Residential projects for Davis-Bacon purposes are those involving the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height. This includes all incidental items such as site work, parking areas, utilities, streets and sidewalks.

Examples

Town or row houses
 Apartment buildings (4 stories or less)
 Single family houses
 Mobile home developments
 Multi-family houses
 Married student housing

Heavy Construction

Heavy projects are those projects that are not properly classified as either "building", "highway", or "residential". Unlike these classifications, heavy construction is not a homogeneous classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules issued. For example, separate

schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

Examples

Antenna towers
 Bridges (major bridges designed for commercial navigation)²
 Breakwaters
 Caissons (other than building or highway)
 Canals
 Channels
 Channel cut-offs
 Chemical complexes or facilities (other than buildings)
 Cofferdams
 Coke ovens
 Dams
 Demolition (not incidental to construction)
 Dikes
 Docks
 Drainage projects
 Dredging projects
 Electrification projects (outdoor)
 Flood control projects
 Industrial incinerators (other than building)
 Irrigation projects
 Jetties
 Kilns
 Land drainage (not incidental to other construction)
 Land leveling (not incidental to other construction)
 Land reclamation
 Levees
 Locks, waterways
 Oil refineries (other than buildings)
 Pipe lines
 Ponds
 Pumping stations (prefabricated drop-in units—not buildings)
 Railroad construction
 Reservoirs
 Revetments
 Sewage collection and disposal lines
 Sewers (sanitary, storm, etc.)
 Shoreline maintenance
 Ski tows
 Storage tanks
 Swimming pools (outdoor)
 Subways (other than buildings)
 Tipples
 Tunnels
 Unsheltered piers and wharves
 Viaducts (other than highway)
 Water mains
 Waterway construction
 Water supply lines (not incidental to building)
 Water and sewage treatment plants (other than buildings)
 Wells

Highway Construction

Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

Examples

Alleys

²Major bridges contain elements of both heavy and highway construction. See WAB Case No. 77-2 (October 21, 1977).

Base courses

Bituminous treatments
 Bridle paths
 Concrete pavement
 Curbs
 Excavation and embankment (for road construction)
 Fencing (highway)
 Grade crossing elimination (overpasses or underpasses)
 Guard rails on highway
 Highway signs
 Highway bridges (overpasses; underpasses; grade separation)
 Medians
 Parking lots
 Parkways
 Resurfacing streets and highways
 Roadbeds
 Roadways
 Runways
 Shoulders
 Stabilizing courses
 Storm sewers incidental to road construction
 Street Paving
 Surface courses
 Taxiways
 Trails

In applying these guidelines contracting agencies are reminded that they have the authority only in the first instance to designate the appropriate wage schedule(s) from the *Federal Register*, and to determine the application of multiple schedules issued by the Wage and Hour Division in project wage determinations. Any questions regarding the application of the guidelines set forth in this memorandum to a particular project or any disputes regarding the application of the wage schedules are to be referred to the Wage and Hour Division for resolution, and the instructions of the Wage and Hour Division are to be observed in all instances. Furthermore, where multiple schedules are issued by the Wage and Hour Division, they must be utilized in the contract specifications unless the agency requests and receives a change in the wage determination from the Wage and Hour Division. To ensure that appropriate schedules are issued, contracting agencies are advised to provide the Wage and Hour Division in their requests for wage determinations with a sufficiently specific description of the project to be able to determine its character.

July 14, 1978.

All Agency Memorandum No. 131.

To: All Government contracting agencies and the District of Columbia.

From: Xavier M. Vela, Administrator.

Subject: Clarification of All Agency

Memorandum No. 130.

The purpose of this memorandum is to clarify Memorandum No. 130, dated March 17, 1978. Although the Wage and Hour Division has received a positive reaction from most contracting agencies who work regularly with the issues raised, some questions have arisen over specific aspects of the memorandum.

Memorandum No. 130 is intended to be a guide to categories of projects in a construction sense and is to be applied uniformly by the contracting agencies in the absence of specific direction on the wage determination or advice by the Wage and Hour Division. However, the Wage and Hour

Division is aware that in some circumstances the category of a project may appear to be unclear or a literal application of the guidelines may be inappropriate. For example, questions frequently arise over pumping stations, which may vary greatly in sophistication and construction techniques. Therefore, if the contracting agency has any questions regarding application of the guidelines in a specific case, or if a question is raised with the agency by interested parties, the issue of application of the wage rate schedules should be referred to the Wage and Hour Division. This referral should include a complete description of the project, any evidence available of area practice regarding wages paid on similar projects, comments by interested parties which may have been submitted to the agency, and the agency's recommendation. Where the nature of the project in a construction sense is not clear, area practice regarding wages paid will be taken into consideration together with other factors such as construction techniques and classifications of workers required on the project. See WAB Case No. 77-23 (December 30, 1977).

Questions have also arisen regarding the circumstances in which multiple schedules of wage rates are issued for a project which includes construction items that in themselves would be different categories of construction. Because of the complexities in application of multiple schedules, the contracting agency should consult with the Wage and Hour Division whenever it appears that more than one schedule of rates is appropriate for a project, unless the wage decision(s) as issued indicates that multiple schedules are applicable.

Generally, multiple schedules are issued if the construction items are substantial in relation to project cost—more than approximately 20 percent. Only one schedule is issued if construction items are "incidental" in function to the over-all character of a project (e.g., paving of parking lots or an access road on a building project), and if there is not a substantial amount of construction in the second category. Note, however, that 20 percent is a rough guide. For example, when a project is very large, items of work of a different character may be sufficiently substantial to warrant a separate schedule even though these items of work do not specifically amount to 20 percent of the total project cost.

Although the example given is that of incidental paving and utilities, the same principles are applied to other categories, such as building construction on a heavy or highway project. Thus, in a recent case, the Wage and Hour Division deleted the building schedule when it learned that a small building under a contract primarily for runway construction was approximately 4 percent of project cost. Another example of general interest is the applicability of the building schedule to a building in a rest area of a highway. In this situation, applying the principles of *MARTA*, WAB Case No. 75-5, for extensive projects, the project for comparison purposes is the rest area itself, rather than the entire highway.

These principles regarding incidental construction are not in conflict with the Wage

and Hour Division's recognition in certain circumstances (WAB Case No. 77-19) of a clearly established practice of paying different wage rates on specific portions of building projects. For example, different rates may be paid for incidental paving and utilities than are paid in the construction of buildings on building projects. These projects are building projects, and the wage rates issued by the Wage and Hour Division for incidental paving and utilities reflect wages paid on such work on building projects.

Contracting agencies are reminded of their responsibility to advise contractors on the application of multiple wage schedules issued by the Wage and Hour Division or obtained by the agency from the *Federal Register*. If any questions arise regarding application of the schedules to the project in accordance with these guidelines, or if it appears that a wage schedule may have been issued in error, a ruling should be requested from the Wage and Hour Division. On these issues, as in all other matters in the administration of the Davis-Bacon and related acts, we will continue to work cooperatively with the contracting agencies. For convenience, Memorandum No. 130 is attached.

[FR Doc. 79-39598 Filed 12-27-79; 8:45 am]

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Friday
December 28, 1979

Part VIII

Department of Labor

Wage and Hour Division

Employment Standards Administration

Service Contract Act; Labor Standards
for Federal Service Contracts

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Services Contracts

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend Regulations on Labor Standards for Federal Service Contracts, Part 4 issued under the Service Contract Act. Thorough substantive updating and clarification have not taken place since 1969 with respect to this regulation. Most proposed changes are made to reflect longstanding policies, rulings, and interpretations developed in the course of our experience in administering and enforcing the Act over the years. Overall, this proposed revision will codify these policies, rulings, and interpretations for the information and guidance of various interested parties, including employees and their representatives, contractors or potential contractors and their associations and Federal Procurement agencies.

DATE: Comments must be received on or before February 26, 1980.

ADDRESS: Comments should be sent to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, D.C. 20210; Telephone: 202-523-6333.

SUPPLEMENTAL INFORMATION: It is proposed to revise, update, and clarify Regulations, 29 CFR Part 4, so that contracting agencies, contractors or potential contractors, and employees can be more fully apprised of their responsibilities and rights under the Service Contract Act and be made aware of the policies and interpretations followed by the Department of Labor in administering and enforcing the Act.

Numerous changes, clarifications, and revisions have been proposed to reflect in the regulations the policies, rulings, and interpretations developed over the years by the Department. In addition, several changes are proposed which address certain concerns expressed by contracting agencies relative to the efficient administration of the Act as it

relates to the procurement process. Many editorial and clarifying changes have also been made in keeping with the Administration's objective of clear and concise regulations.

Regulations, 29 CFR Part 6 (Rules of Practice) will also be revised and a new 29 CFR Part 8, which will establish a Board of Service Contract Appeals to provide formal appellate procedures for matters arising under the Act, is also being developed. Major changes in Part 4 are summarized or highlighted below.

1. Section 4.1b(2) This section now proposes that any new collective bargaining agreement entered into after the award of a negotiated procurement or execution of a contract option or an extension of a contract term will not be recognized for purpose of implementing Section 4(c) of the Act, provided that performance commences within 30 days of the award, option, or extension. This differs from the present regulations which recognizes collective bargaining agreements in negotiated procurements until 10 days prior to commencement.

2. Section 4.4(a)—This section proposes that contracting agencies file SF-90s (Notice of Intention to Make a Service Contract) not less than 90 days (rather than the current 30 days) prior to invitations for bids, requests for proposals, etc. As noted above, we will also propose a new Part 8 establishing a Board of Service Contract Appeals, which, among other things, will have the authority to review wage determinations issued under the Act. Since a wage determination is generally not renewable after award of a contract containing such a determination (or after bid opening in the case of advertised contracts, absent cancellation of bids), this additional lead time is proposed in order to provide interested parties with a meaningful opportunity to utilize the proposed appellate review procedure, if so desired, and is deemed necessary so that the Department of Labor can issue the initial and any required revised determinations in a timely manner.

This section also emphasizes the requirements that a new wage determination is required on the annual anniversary date of a multi-year contract subject to annual appropriated funds (see also § 4.145 of the Regulations) and every two years in the case of a multi-year contract not subject to annual appropriated funds (see also § 4.145(b) of the Regulations), and also that contracting agencies must submit questions as to the application of the Act to the Administrator, Wage and Hour Division, for determination.

3. Section 4.5(a)(2)—It is proposed that revisions of a wage determination received by a Federal agency after

award in the case of procurements not entered into pursuant to competitive bidding procedures, shall not be effective provided that contract performance commences within 30 days after such award.

4. Section 4.5(c)(2)—This proposed revision requires contracting agencies to include contract stipulations of the Act and any applicable wage determination in a contract within 30 days of notification by the Department of Labor where it is determined by the Department that the agency made an erroneous decision that the Act did not apply.

5. Section 4.6(b)(2)—This proposed revision adds new and clarified procedures and time frames to be followed in conforming wage rates and/or fringe benefits for unlisted classes of employees to those classifications contained in a wage determination.

6. Section 4.6(n)—This section provides a new proposed requirement that a contractor certify it is not a debarred person or firm and thus not ineligible for contract award.

7. Section 4.6(p)—This section provides clarification regarding the terms and conditions for the utilization of apprentices on contract work subject to the Act.

8. Section 4.10—This proposed revision clarifies the procedures relative to requests for "substantial variance" hearings pursuant to section 4(c) of the Act. Revised procedures, including time limitations regarding such hearings, will be provided in proposed revised Regulations, Part 6, to be issued for comment shortly.

9. Section 4.11—This section provides proposed new hearing procedures relative to questions on "arm's-length negotiations" arising under section 4(c) of the Act.

10. Section 4.12—This section provides proposed new hearing procedures relative to questions on "substantial interest" arising under section 5 of the Act.

11. Subpart B—This new proposed Subpart explains generally the Department's policies and procedures relating to the issuance and review of wage determinations. Current Subpart B, which deals with the computations of cash equivalent payments in lieu of providing fringe benefits, has been revised and placed in various subsections in new Subpart D, "Compensation Standards".

12. Section 4.101—This proposed revision clarifies the purpose and effect of the rulings and interpretations in Subpart C.

13. Section 4.117—This section (formerly § 4.122) which will discuss the application of the exemption in section

7(2) of the Act for work subject to the Walsh-Healey Public Contracts Act is temporarily reserved pending completion of an in-depth review of this question.

14. Sections 4.130-4.134—The proposed revision of these sections expands and clarifies discussion on the types of contracts subject to the Act.

15. Section 4.163—This section provides a new proposed section discussing the application of Section 4(c) of the Act.

16. Sections 4.170-4.177—The proposed revisions of these sections explain and clarify the Department's policies regarding the methods and rules for complying with the monetary wage and fringe benefits requirements of the Act.

17. Section 4.173—While no policy change has been proposed regarding the general requirements for the vesting of vacation benefits (i.e., upon individual employee anniversary date of employment), comments and suggestions are requested as to the advisability and feasibility (particularly with regard to possible problems on a changeover date) of adopting an accrual method for providing vacation benefits, similar to that used for Federal workers i.e., X hours per week, depending on length of service.

18. Section 4.187—This proposed revision sets forth the Department's position relative to the recovery of underpayments of back wages, priority of withheld funds, and liability of the "party responsible" for violations of the Act.

19. Section 4.183—This proposed revision sets forth detailed criteria regarding "unusual circumstances" and "substantial interest" under section 5 of the Act.

Regulatory Analysis: It has been determined that the proposed changes to these regulations do not warrant or require preparation of a regulatory analysis within the meeting of Executive Order No. 12044 and Department of Labor guidelines (44 FR 5570).

Accordingly, it is proposed to revise Part 4 of Title 29 as follows:

Signed at Washington, D.C. this 21st day of December 1979.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Subpart A—Service Contract Labor Standards Provisions and Procedures

Sec.

- 4.1 Purpose and scope.
4.1a Definitions and use of terms.

Sec.

- 4.1b Payment of minimum compensation based on collectively bargained wage rates and fringe benefits applicable to employment under predecessor contract.
4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.
4.3 Wage determinations.
4.4 Notice of intention to make a service contract.
4.5 Contract specification of determined minimum wages and fringe benefits.
4.6 Labor standards clauses for Federal service contracts exceeding \$2,500.
4.7 Labor standards clause for Federal service contracts not exceeding \$2,500.
4.8 Notice of awards.
4.9 [Reserved]
4.10 Substantial variance proceedings under section 4(c) of the Act.
4.11 Arm's-length proceedings.
4.12 Substantial interest proceedings.

Subpart B—Wage Determination Procedures

- 4.50 Types of wage and fringe benefit determinations.
4.51 Prevailing in the locality determinations.
4.52 Collective bargaining agreement (successorship) determinations.
4.53 Locality basis of wage and fringe benefit determinations.
4.54 Issuance and revision of wage determinations.
4.55 Review and reconsideration of wage determinations.

Subpart C—Application of the McNamara-O'Hara Service Contract Act

Introductory

- 4.101 Official rulings and interpretations in this subpart.
4.102 Administration of the Act.
4.103 The Act.
4.104 What the Act provides, generally.
4.105 The Act as amended.
4.106 [Reserved]

Agencies Whose Contracts May Be Covered

- 4.107 Federal contracts.
4.108 District of Columbia contracts.
4.109 [Reserved]

Covered Contracts Generally

- 4.110 What contracts are covered.
4.111 Contracts "to furnish services".
4.112 Contracts to furnish services "in the United States".
4.113 Contracts to furnish services "through the use of service employees".
4.114 Subcontracts.

Specific Exclusions

- 4.115 Exemptions and exceptions generally.
4.116 Contracts for construction activity.
4.117 Work subject to requirements of Walsh-Healey Act.
4.118 Contracts for carriage subject to published tariff rates.
4.119 Contracts for services of communications companies.
4.120 Contracts for public utility services.
4.121 Contracts for individual services.
4.122 Contracts for operation of postal contract stations.

Sec.

- 4.123 Administrative limitations, variations, tolerances, and exemptions.

Particular Application of Contract Coverage Principles

- 4.130 Types of covered service contracts illustrated.
4.131 Furnishing services involving more than use of labor.
4.132 Services and other items to be furnished under a single contract.
4.133 Beneficiary of contract services.
4.134 Contracts outside the Act's coverage.
4.135 [Reserved]
4.136 [Reserved]
4.137 [Reserved]
4.138 [Reserved]
4.139 [Reserved]

Determining Amount of Contract

- 4.140 Significance of contract amount.
4.141 General criteria for measuring amount.
4.142 Contracts in an indefinite amount.

Changes in Contract Coverage

- 4.143 Effects of changes or extensions of contracts, generally.
4.144 Contract modifications affecting amount.
4.145 Extended term contracts.

Period of Coverage

- 4.146 Contract obligations after award, generally.
4.147 [Reserved]
4.148 [Reserved]
4.149 [Reserved]

Employees Covered by the Act

- 4.150 Employee coverage generally.
4.151 Employees covered by provisions of section 2(a).
4.152 Employees subject to prevailing compensation provisions of sections 2(a) (1) and (2) and 4(c).
4.153 Inapplicability of prevailing compensation provisions to some employees.
4.154 Employees covered by sections 2(a) (3) and (4).
4.155 Employee coverage does not depend on form of employment contract.
4.156 Employees in bona fide executive, administrative, or professional capacity.

Subpart D—Compensation Standards

- 4.159 General minimum wage.
4.160 Effect of section 6(e) of the Fair Labor Standards Act.
4.161 Minimum monetary wages under contracts exceeding \$2,500.
4.162 Fringe benefits under contracts exceeding \$2,500.
4.163 Section 4(c) of the Act.
4.164 [Reserved]

Compliance With Compensation Standards

- 4.165 Wage payments and fringe benefits—in general.
4.166 Wage payments—unit of payment.
4.167 Wage payments—medium of payment.
4.168 Wage payments—deductions from wages paid.
4.169 Wage payments—work subject to different rates.
4.170 Furnishing fringe benefits or equivalents.

Sec.

- 4.171 "Bona fide" fringe benefits.
 4.172 Meeting requirements in particular fringe benefits—in general.
 4.173 Meeting requirements for vacation fringe benefits.
 4.174 Meeting requirements for holiday fringe benefits.
 4.175 Meeting requirements for health, welfare, and/or pension benefits.
 4.176 Payment of fringe benefits to temporary and part-time employees.
 4.177 Discharging fringe benefit obligations by equivalent means.
 4.178 Computation of hours worked.
 4.179 Identification of contract work.

Overtime Pay of Covered Employees

- 4.180 Overtime pay—in general.
 4.181 Overtime pay provisions of other Acts.
 4.182 Overtime pay of service employees entitled to fringe benefits.

Notice to Employees

- 4.183 Employees must be notified of compensation required.
 4.184 Posting of notice.

Records

- 4.185 Recordkeeping requirements.
 4.186 [Reserved]

Subpart E—Enforcement

- 4.187 Recovery of underpayments.
 4.188 Ineligibility for further contracts when violations occur.
 4.189 Administrative proceedings relating to enforcement of labor standards.
 4.190 Contract cancellation.
 4.191 Complaints and compliance assistance.

Authority: 41 U.S.C. 351, et seq., 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358; 41 U.S.C. 38 and 29; and 5 U.S.C. 301.

Subpart A—Service Contract Labor Standards Provisions and Procedures**§ 4.1 Purpose and scope.**

This part contains the Department of Labor's rules relating to the administration of the McNamara-O'Hara Service Contract Act of 1965, as amended, referred to hereinafter as the Act. Rules of practice for administrative proceedings under the Act and for the review of wage determinations are contained in Parts 6 and 8 of this chapter. See Part 1925 of this title for the safety and health standards applicable under the Service Contract Act.

§ 4.1a Definitions and use of terms.

As used in this part, unless otherwise indicated by the context—

(a) "Act," "Service Contract Act," "McNamara-O'Hara Act," or "Service Contract Act of 1965" shall mean the Service Contract Act of 1965 as amended by Public Law 92-473, 86 Stat. 789 effective October 9, 1972, Pub. L. 93-57, 87 Stat. 140, effective July 6, 1973, and Pub. L. 94-489, 90 Stat. 2358, effective October 13, 1976 and any subsequent amendments thereto.

(b) "Secretary" includes the Secretary of Labor, the Assistant Secretary of Labor for Employment Standards, and their authorized representatives.

(c) "Administrator" means the Administrator of the Wage and Hour Division, or the authorized representative as set forth in this part. In the absence of the Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division, is designated to act for the Administrator under this part. Except as otherwise provided in this part, the Assistant Administrator for Government Contract Wage Standards is the authorized representative of the Administrator for the performance of functions relating to the making of wage determinations and the enforcement of the Service Contract Act of 1965, as amended, and this part.

(d) "Office of Government Contract Wage Standards" or "OGCWS" means the organizational unit in the Wage and Hour Division, Employment Standards Administration, to which is assigned the performance of functions of the Secretary under the Service Contract Act of 1965 as amended.

(e) "Contract" includes any contract subject wholly or in part to provisions of the Service Contract Act of 1965 as amended, and any bid specification or subcontract of any tier thereunder. (See §§ 4.107-4.134.)

(f) "Contractor" includes a subcontractor whose subcontract is subject to provisions of the Act. Also, the term "employer" means, and is used interchangeably with, the terms "contractor" and "subcontractor" in various sections in this part. The U.S. Government, its agencies, and instrumentalities are not contractors, subcontractors, employers or joint employers for purposes of compliance with the provisions of the Act.

(g) "Affiliate" or "affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with a contractor or subcontractor as a parent, subsidiary, or otherwise; and an officer or agent of such corporation. An affiliation is also deemed to exist where, directly or indirectly, one business concern or individual controls or has the power to control the other or where a third party controls or has the power to control both.

(h) "Wage determination" includes any determination of minimum wage rates or fringe benefits made pursuant to the provisions of sections 2(a) and 4(c) of the Act for application to the

employment in a locality of any class or classes of service employees in the performance of any contract in excess of \$2,500 which is subject to the provisions of the Service Contract Act of 1965.

§ 4.1b Payment of minimum compensation based on collectively bargained wage rates and fringe benefits applicable to employment under predecessor contract.

(a) Section 4(c) of the Service Contract Act of 1965 as amended provides special minimum wage and fringe benefit requirements applicable to every contractor and subcontractor under a contract which succeeds a contract subject of the Act and under which substantially the same services as under the predecessor contract are furnished for the same location. Section 4(c) provides that no such contractor or subcontractor shall pay any service employee employed on the contract work less than the wages and fringe benefits provided for in a collective bargaining agreement as a result of arms-length negotiations, to which such services employees would have been entitled if they were employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for in such collective bargaining agreement. If, however, the Secretary finds after a hearing in accordance with the regulations set forth in § 4.10 of this subpart and Parts 6 and 8 of this title that in any of the foregoing circumstances such wages and fringe benefits are substantially at variance with those which prevail for service of a character similar in the locality, those wages and/or fringe benefits in such collective bargaining agreement which are found to be substantially at variance shall not apply.

If the contract has been awarded and work begun prior to a finding that the wages and fringe benefits contained in the new wage determination shall be applicable as of the date of the Administrative Law Judges' decision. (See also § 4.163(c).)

(b) Pursuant to section 4(b) of the Act, the application of section 4(c) is made subject to the following variation in the circumstances and under the conditions described: The wage rates and fringe benefits provided for in any collective bargaining agreement applicable to the performance of work under the predecessor contract which is consummated during the period of performance of such contract shall not be effective for purposes of the successor contract under the provisions of section 4(c) of the Act or under any

wage determination implementing such section issued pursuant to section 2(a) of the Act, if—

(1) In the case of a successor contract for which bids have been invited by formal advertising, notice of the terms of such new or changed collective bargaining agreement is received by the contracting agency less than 10 days before the date set for opening of bids, provided that the contracting agency finds that there is not reasonable time still available to notify bidders; or

(2) Notice of the terms of a new or changed collective bargaining agreement is received by the agency after award of a successor contract to be entered into pursuant to negotiations or as a result of the execution of a renewal option or an extension of the initial contract term, provided performance of such contract commences within 30 days after such award or renewal option or extension. If performance of such procurement does not commence within this 30-day period, any notice of the terms of a new or changed collective bargaining agreement received by the agency not less than 10 days before commencement of the contract will be effective for purposes of the successor contract under section 4(c); and

(3) The limitations in paragraph (b) (1) or (2) of this section shall apply only if the contracting officer has given both the incumbent (predecessor) contractor and his employees' collective bargaining representative written notification at least 30 days in advance of any estimated procurement date, such as issue of bid solicitation, bid opening, date of award, or the commencement date of a contract resulting from a negotiation, option, or extension, as the case may be.

§ 4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.

Section 2(b)(1) of the Service Contract Act of 1965 provides in effect that, regardless of contract amount, no contractor or subcontractor performing work under any Federal contract the principal purpose of which is to furnish services through the use of service employees shall pay any of his employees engaged in such work less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (\$2.65 per hour beginning January 1, 1978, \$2.90 per hour beginning January 1, 1979, \$3.10 per hour beginning January 1, 1980, and \$3.35 per hour after December 31, 1980).

§ 4.3 Wage determinations.

(a) The minimum monetary wages and fringe benefits for service employees which the Act requires to be specified in contracts and bid specifications subject to section 2(a) thereof will be set forth in wage determinations issued by the Administrator. Wage determinations shall be issued as soon as administratively feasible for all contracts subject to section 2(a) of the Act, and will be issued for all contracts entered into under which more than 5 service employees are to be employed.

(b) Such wage determinations will set forth for the various classes of service employees to be employed in furnishing services under such contracts in the appropriate localities, minimum monetary wage rates to be paid and minimum fringe benefits to be furnished them during the periods when they are engaged in the performance of such contracts, including, where appropriate under the Act, provisions for adjustments in such minimum rates and benefits to be placed in effect under such contracts at specified future times. The wage rates and fringe benefits set forth in such wage determinations shall be determined in accordance with the provisions of sections 2(a)(1), (2), and (5), 4(c) and 4(d) of the Act from those prevailing in the locality for such employees or from pertinent collective bargaining agreements with respect to the implementation of section 4(c), with due consideration of the rates that would be paid for direct Federal employment of any classes of such employees whose wages, if federally employed, would be determined as provided in 5 U.S.C. 5341 or 5 U.S.C. 5332. The wage rates and fringe benefits so determined for any class of service employees to be engaged in furnishing covered contract services in a locality shall be made applicable by contract to all service employees of such class employed to perform such services in the locality under any contract subject to section 2(a) of the Act which is entered into thereafter and before such determination has been rendered obsolete by a withdrawal, modification, or superseding.

(c) Wage determinations will be available for public inspection during business hours at the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, and copies will be made available on request at Regional Offices of the Wage and Hour Division.

§ 4.4 Notice of intention to make a service contract.

(a) For any contract exceeding \$2,500 which may be subject to the Act, the contracting agency shall file with the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, Department of Labor, its notice of intention to make a service contract. Such notices shall be filed not less than 90 days (nor more than 120 days, except with the approval of the Wage and Hour Division) prior to (1) any invitation for bids, (2) request for proposals, (3) commencement of negotiations, (4) annual anniversary date of a multi-year contract subject to annual fiscal appropriations of the Congress, or (5) on each bi-annual anniversary date of a multi-year contract not subject to such annual appropriations, if so authorized by the Wage and Hour Division. (See § 4.4(d).) If there exists any question or doubt as to the possible application of the Act to a particular procurement, the contracting agency shall submit such question in a timely manner to the Administrator for determination. Such notice shall be submitted on Standard Form 93, Notice of Intention to Make a Service Contract, and Standard Form 98-A or a statement containing the information in paragraph (b) of this section and shall be completed in accordance with the instruction provided and shall be supplemented by the information required under paragraphs (c) and (d) of this section. Supplies of Standard Forms 98 and 98-A are available in all GSA supply depots under stock numbers 7540-926-8972 and 7540-118-1008, respectively.

(b) The contracting agency shall file with its Notice of Intention to Make a Service Contract (SF-98) either a Standard Form 98-A or a statement in writing, containing the following information concerning the service employees expected by the agency to be employed by the contractor and any subcontractors in performing the contract:

(1) The number of such employees of all classes, or a statement indicating whether such number will or will not exceed 5, the number for which the inclusion of a wage determination in the contract is mandatory under the provisions of section 10 of the Act as set forth in § 4.3(a); and

(2) A listing of those classes of service employees expected to be employed under the contract which, if employed by the agency, would be subject to the wage provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332, together with a specification of the rates of wages and fringe benefits that would be paid by the Government

to employees of each such class if such statute were applicable to them. (Under section 2(a)(5) of the Act and § 4.6 the inclusion of such a statement in the service contract is also required.)

(c) If the services to be furnished under the proposed contract will be substantially the same as services being furnished for the same location by an incumbent contractor whose contract the proposed contract will succeed, and if such incumbent contractor is furnishing such services through the use of service employees whose wage rates and fringe benefits are the subject of one or more collective bargaining agreements, the contracting agency shall file with its Notice of Intention to Make a Service Contract (SF-98) a copy of each such collective bargaining agreement together with any related documents specifying the wage rates and fringes benefits currently or prospectively payable under such agreement. If such services are being furnished for more than one location and the collectively bargained wage rates and fringe benefits are different for different locations or do not apply for one or more locations, the agency shall identify the locations to which such agreements have application. If the collective bargaining agreement does not apply to all service employees under the contract, the agency shall identify the employees and/or work subject to the collective bargaining agreement. In the event that the agency has reason to believe that any such collective bargaining agreement was not entered into as a result of arms-length negotiations, a full statement of the facts so indicating shall be transmitted with the copy of such agreement. If the agency has information indicating that any such collectively bargained wage rates and fringe benefits are substantially at variance with those prevailing for services of a similar character in the locality, the agency shall so advise the Office of Government Contract Wage Standards and, if it believes a hearing thereon pursuant to section 4(c) of the Act is warranted, shall file its request for such hearing pursuant to § 4.10 at the time of filing the Notice of Intention to Make a Service Contract (Form SF-98).

(d) If the proposed contract is for a multi-year period subject to other than annual appropriations, the contracting agency shall file with its Standard Form 98 a statement in writing concerning the type of funding and the contemplated term of the proposed contract. Unless otherwise advised by the Wage and Hour Division that a Standard Form 98 must be filed on the annual anniversary

date, a new Standard Form 98 shall be submitted on each bi-annual and anniversary date of the proposed multi-year contract in the event its term is for a period in excess of two years.

(e) Any Standard Form 98 submitted by a contracting agency without the information required under paragraphs (b), (c), or (d) of this section will be returned to the agency for further action.

(f) If exceptional circumstances prevent the filing of the notice of intention and supplemental information required by this section on a date at least 90 days prior to any invitation for bids, request for proposals, or commencement of negotiations for a proposed contract subject to section 2(a) of the Act, the notice shall be submitted to the Office of Government Contract Wage Standards as soon as practicable with a detailed explanation of the special circumstances which prevented timely submission. In the event the proposed contract involves performance by more than 5 service employees and an emergency situation requires an immediate award, the contracting agency shall contact the Office of Government Contract Wage Standards, Wage and Hour Division, by telephone for guidance prior to any such award. In no event may a contract on which more than 5 service employees are contemplated to be employed be awarded without an appropriate wage determination. (section 10 of the Act.)

(g) If any invitation for bids, request for proposals, or commencement of negotiations for a proposed contract for which a wage determination was provided in response to a Standard Form 98 has been delayed, for whatever reason, more than 30 days from the date of such procurement activity as indicated on the submitted Standard Form 98, the contracting agency shall contact the Office of Government Contract Wage Standards, Wage and Hour Division, for the purpose of determining whether the wage determination issued pursuant to the initial submission is still current. Any revision of a wage determination received by the contracting agency as a result of such communication or upon discovery by the Department of Labor of a delay, shall supersede and replace the earlier response as the wage determination applicable to such procurement.

§ 4.5 Contract specification of determined minimum wages and fringe benefits.

(a) Any contract agreed upon in excess of \$2,500 shall contain an attachment specifying the minimum wages and fringe benefits for service employees to be employed thereunder,

as determined in any applicable currently effective wage determination, including any expressed in any document referred to in paragraphs (a) (1) or (2) of this section;

(1) Any communication from the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, Department of Labor, responsive to the notice required by § 4.4; or

(2) Any revision of a wage determination issued prior to the award of the contract or contracts which specifies minimum wage rates or fringe benefits for classes of service employees whose wages or fringe benefits were not previously covered by wage determinations, or which changes previously determined minimum wage rates and fringe benefits for service employees employed on covered contracts in the locality. However, revisions received by the Federal agency later than 10 days before the opening of bids, in the case of contracts entered into pursuant to competitive bidding procedures, shall not be effective if the Federal agency finds that there is not a reasonable time still available to notify bidders of the revision. In the case of procurements entered into pursuant to negotiations (or in the case of the execution of an option or an extension of the initial contract term) revisions received by the agency after award (or execution of an option or extension of term, as the case may be) of the contract shall not be effective provided performance of such contract commences within 30 days after such award (or execution of an option or extension of term). If performance of such procurement does not commence within this 30-day period, any notice of a revision received by the agency not less than 10 days before commencement of the contract shall be effective. In situations arising under section 4(c) of the Act, the provisions in § 4.1b(b) apply.

(b)(1) The following exemptions from the compensation requirements of section 2(a) of the Act apply, subject to the limitations set forth in paragraphs (b) (2), (3), and (4) of this section: To avoid serious impairment of the conduct of Government business it has been found necessary and proper to provide exemption (i) from the determined wage and fringe benefits section of the Act (section 2(a) (1), (2)) but not the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (section 2(b) of this Act), of contracts under which five or less service employees are to be employed, and for which no such wage

or fringe benefit determination has been issued;

(2) The exemptions provided in paragraph (b)(1) of this section, which were adopted pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, do not extend to undetermined wages or fringe benefits in contracts for which one or more, but not all, classes of service employees are the subject of an applicable wage determination. The procedure for determination of wage rates and fringe benefits for any classes of service employees engaged in performing such contracts whose wages and fringe benefits are not specified in the applicable wage determination is set forth in § 4.6(b).

(3) The exemptions provided in paragraph (b)(1) of this section do not apply to any contract for which section 10 of the Act as amended and § 4.3 of this part require an applicable wage determination.

(4) The exemptions provided in paragraph (b)(1) of this section do not exempt any contract from the application of the provisions of section 4(c) of the Act as amended.

(c)(1) If the notice of intention required by § 4.4 is not filed with the required supporting documents within the time provided in such section, the contracting agency shall, within 30 days of receipt of a wage determination through the exercise of any and all of its power and authority that may be needed (including, where necessary, its authority to negotiate, its authority to pay any necessary additional costs, and its authority under any provision of the contract authorizing changes) to include in the contract any wage determinations communicated to it by the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

(2) Where the Department of Labor discovers and determines, whether before or subsequent to contract award, that a contracting agency made an erroneous determination that the Service Contract Act did not apply to a particular procurement, the contracting agency, within 30 days of notification by the Department of Labor, shall include in the contract the stipulations contained in § 4.6 and any applicable wage determination issued by the Administrator or his authorized representative through the exercise of any and all authority that may be needed (including, where necessary, its authority to negotiate or amend, its authority to pay any necessary additional costs, and its authority under any contract provision authorizing changes, cancellation, and termination).

(G. L. Christian & Associates v. U.S., 312 F. 2d 418 (Ct. Cl. 1963), rearg. denied 320 F. 2d 345, cert. denied 375 U.S. 954, reh. denied 376 U.S. 929, reh. denied 377 U.S. 1010 (53 Comp. Gen. 412, (1973); *Curtiss-Wright Corp. v. McLucas*, 381 F. Supp. 657 (D.N.J. 1974); *Marine Engineers Beneficial Assn., District 2 v. Military Sealift Command*, 86 CCH Labor Cases ¶33,782 (D.D.C. 1979); *Brinks, Inc. v. Board of Governors of the Federal Reserve System*, 86 CCH Labor Cases ¶33,792 (D.D.C. 1979). (See also 32 CFR 1-403.)

(d) In cases where the contracting agency has filed its SF-98 within the time limits discussed in § 4.4(a) and has not received a response from the Department of Labor, the contracting agency shall, with respect to any contract for which section 10 of the Act and § 4.3 of this Part mandate an applicable wage determination, contact the Office of Government Contract Wage Standards, Wage and Hour Division by telephone for guidance.

§ 4.6 Labor standards clauses for Federal service contracts exceeding \$2,500.

The clauses set forth in the following paragraphs shall be included in full by the contracting agency in every contract (and any bid specification therefor) entered into by the United States or the District of Columbia, in excess of \$2,500, or in an indefinite amount, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965, as amended: This contract, is subject to the Service Contract Act of 1965, as amended (41 U.S.C. 351) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (this Part 4).

(b)(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract. Unless specified otherwise in the wage determination, the contractor must consider an employee's length of service with the predecessor contractor(s), if any, in determining the employee's wage and fringe benefit entitlements.

(2)(i) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service employee which is not listed therein and which is to be employed under the contract, be

classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined by bona fide agreement of the interested parties, who shall be deemed to be the contracting officer, the contractor, and the unlisted class of employees who will perform on the contract or their authorized representatives.

(ii) Such conforming procedure shall be initiated by the contractor at the time of the contract commencement date, or prior to the performance of contract work by such unlisted class of employee if a need for an additional class(es) arises, and shall be concluded no later than 30 days after such unlisted class of employees performs any contract work. A report of the proposed conforming action shall be promptly submitted in writing by the contractor, including evidence in writing of agreement by the employees involved, to the contracting officer who shall review this action, and if he or she agrees, shall promptly submit a report of the action to the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review and approval or disapproval. If the conforming procedure cannot be concluded within the 30-day time period, the contracting officer shall submit an explanation of the special circumstances which prevent a timely agreement to the Office of Government Contract Wage Standards together with a request for additional time for resolution of the matter.

(iii) If the parties do not reach an agreement or acknowledgement of disagreement within this 30-day period on a proper classification which is, in fact, conformable, the contracting officer shall promptly submit the question, together with his or her recommendations and all pertinent information, including the positions of employees if in disagreement, to the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, of the Department of Labor for final determination.

(iv) The process of establishing wage rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances.

Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s), is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(v) Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Office of Government Contract Wage Standards retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(vii) Failure by the contractor to comply with its responsibilities in sections (b)(2) (i) through (vi) of this section shall also be a violation of the Act and this contract. Upon discovery of such violation, the Office of Government Contract Wage Standards shall then make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(viii) Any agreement reached by the interested parties will not be considered a bona fide agreement unless the affected employees in the unlisted classification(s) have been provided with a full explanation of the conformance procedures, and the basis for arriving at the proposed conformed classification (and wage rate and/or fringe benefits). The affected employees shall be afforded an opportunity to agree or disagree without threat of job reprisal. Upon final determination of this action by the Office of Government Contract Wage Standards, each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished

thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subpart D of Regulations, Part 4, and not otherwise.

(d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work, (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits, provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of § 4.1b(b) apply or unless the Secretary of Labor or his authorized representative determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result

of arms-length negotiations, or finds, after a hearing as provided in § 4.10 of this part that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality. Where the Department finds after a hearing in accordance with the review procedures provided in 29 CFR 4.10 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrative Law Judge, or Board of Service Contract Appeals, as the case may be irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen. 401 (1973).

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under Part 1925 of this title.

(g) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1) through (5) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour

Division, Employment Standards Administration of the U.S. Department of Labor.

(1) Name and address and social security number of each employee.

(2) The correct work classification of classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(3) The number of daily and weekly hours so worked by each employee.

(4) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (b)(2)(ii) of this section shall be deemed to be such a list.

(6) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(7) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite.

Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(h) The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the

Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act, all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(k) As used in these clauses, the term "service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following statement is included in contracts pursuant to section 2(a)(5) of the Act and is for information purposes only:

The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates, of wages and fringe benefits:

Employee class	Monetary wage-fringe benefits
.....	
.....	
.....	

(l)(1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government

prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (§ 4.173 of Regulations, 29 CFR Part 4), the incumbent prime contractor shall furnish to the contracting officer a notarized list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract.

(m) All rulings and interpretations of the Service Contract Act of 1965, as amended, expressed in Regulations, 29 CFR Part 4 are hereby incorporated by reference in this contract.

(n)(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (Parts 520, 521, 524, and 525 of this title).

(ii) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (Parts 520, 521, 524, and 525 of this title).

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training

Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. It should be noted, however, that the employment of trainees at less than the prescribed rate for the work performed, unless a trainee classification is listed in an applicable wage determination, is not permitted under the Service Contract Act.

(q) An employee engaged in an occupation in which he or she customarily and regularly receives more than \$30 a month in tips may have the amount of tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with section 3 (m) of the Fair Labor Standards Act and Regulations, Part 531 of this Title: Provided, however, That the amount of such credit may not exceed \$1.32 per hour beginning January 1, 1978, \$1.30 per hour beginning January 1, 1979, \$1.24 per hour beginning January 1, 1980, and \$1.34 per hour after December 31, 1980, to utilize this proviso:

(1) the employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) the employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) the employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;

(4) the use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

§ 4.7 Labor standards clause for Federal service contracts not exceeding \$2,500.

Every contract with the Federal Government which is not in excess of \$2,500 but has as its principal purpose

the furnishing of services through the use of service employees shall contain the following clause:

Service Contract Act. Except to the extent that an exemption, variation or tolerance would apply if this were a contract in excess of \$2,500, the contractor and any subcontractor hereunder shall pay all of his employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. All regulations and interpretations of the Service Contract Act of 1965 expressed in 29 CFR Part 4 are hereby incorporated by reference in this contract.

§ 4.8 Notice of awards.

Whenever an agency of the United States or the District of Columbia awards a contract which may be in excess of \$2,500 subject to the Act, it shall furnish the Office of Government Contract Wage Standards, Wage and Hour Division, ESA, an original and one copy of Standard Form 99, Notice of Award of Contract. The form shall be completed as follows:

(a) Items 1 through 7 and 12 and 13: Self-explanatory;

(b) Item 8: Enter the notation "Service Contract Act";

(c) Item 9: Leave blank;

(d) Item 10: (1) Enter the notation "Major Category," and indicate beside this entry the general service area into which the contract falls (e.g., food services, grounds maintenance, computer services, installation or facility support services, custodial-janitorial service, garbage collection, insect and rodent control, laundry and drycleaning services, etc.);

(e) Item 11: Enter the dollar amount of the contract, or the estimated dollar value with the notation "estimated" (if the exact amount is not known). If neither the exact nor the estimated dollar value is known, enter "indefinite," or "not to exceed \$—." Supplies of Standard Form 99 are available in all GSA supply depots under stock number 7540-634-4049.

§ 4.9 [Reserved]

§ 4.10 Substantial variance proceedings under section 4(c) of the Act.

(a) *Statutory provision.* Under section 4(c) of the Act, and under wage determinations made as provided in section 2(a)(1) and (2) of the Act, contractors and subcontractors performing contracts subject to the Act generally are obliged to pay to service employees employed on the contract work wages and fringe benefits not less than those to which they would have

been entitled under a collective bargaining agreement if they were employed on like work under a predecessor contract. (see §§ 4.1b, 4.3, 4.6(d)(2).) Section 4(c) of the Act provides, however, that "such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality".

(b) *Prerequisites for hearing.* (1)(i) A request for a hearing under this section may be made by the contracting agency or other person affected or interested, including contractors or prospective contractors and associations of contractors, representatives of employees, and other interested Governmental agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, to the attention of the Office of Government Contract Wage Standards, and shall include the following:

(A) The number of any wage determination at issue, the name of the contracting agency whose contract is involved, and a brief description of the services to be performed under the contract;

(B) A statement regarding the status of the procurement and any estimated procurement dates, such as bid opening, contract award, commencement date of the contract or its follow-up option period;

(C) A statement of the applicant's case, setting forth in detail the reasons why the applicant believes that a substantial variance exists with respect to some or all of the wages and/or fringe benefits, attaching available data concerning wages and/or fringe benefits prevailing in the locality;

(D) Names and addresses (to the extent known) of interested parties.

(ii) If the information in paragraph (b)(1)(i) of this section is not submitted with the request, the Administrator may deny the request or request supplementary information, in his/her discretion. No particular form is prescribed for submission of a request under this section.

(2) No hearing will be provided pursuant to this section and section 4(c) of the Act unless the Administrator determines from information available or submitted with a request for such a hearing that there may be a substantial variance between some or all of the wage rates and/or fringe benefits provided for in a collective bargaining

agreement to which the service employees would otherwise be entitled by virtue of the provisions of section 4(c) of the Act, and those which prevail for services of a character similar in the locality.

(3) Pursuant to section 4(b) of the Act, requests for a hearing shall not be considered unless received as specified below, except in those situations where the Administrator determines that extraordinary circumstances exist:

(i) For advertised contracts, prior to ten days before the award of the contract;

(ii) For negotiated contracts and for contracts with provisions extending the initial term by option, prior to the commencement date of the contract or the follow-up option period, as the case may be.

(c) *Referral to the Chief Administrative Law Judge.* When the Administrator determines from the information available or submitted with a request for a hearing that there may be a substantial variance, the Administrator on his own motion or on application of any interested person may by order refer the issue to the Chief Administrative Law Judge, for designation of an Administrative Law Judge who shall conduct such a fact finding hearing as may be necessary to render a decision solely on the issue of whether the wages and fringe benefits contained in the collective bargaining agreement which was the basis for the wage determination at issue are substantially at variance with those which prevail for services of a character similar in the locality. No authority is delegated under this section to hear and/or decide any other issues pertaining to the Service Contract Act. As provided in section 4(a) of the Act, the provisions of §§ 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38, 39) shall be applicable to such proceeding, which shall be conducted in accordance with the procedures set forth at 29 CFR Part 6, Subpart B and Part 8.

(d) The Administrator shall be an interested party and shall have the opportunity to participate in the proceeding to the degree he/she considers appropriate.

§ 4.11 Arm's length proceedings.

(a) *Statutory provision.* Under Section 4(c) of the Act, the wages and fringe benefits provided in the predecessor contractor's collective bargaining agreement must be reached "as a result of arm's-length negotiations." This provision precludes arrangements by parties to a collective bargaining agreement who, either separately or

together, acted with an intent to manipulate, exploit or otherwise take advantage of the wage determination scheme provided for in Sections 2(a) and 4(c) of the Act. A finding as to whether a collective bargaining agreement or particular wages and fringe benefits therein are reached as a result of arm's-length negotiations may be made through investigation, hearing or otherwise pursuant to the Secretary's authority under Section 4(a) of the Act.

(b)(1) A request for a determination under this section may be made by a contracting agency or other person affected or interested, including contractors or prospective contractors and associations of contractors, representatives of employees, and interested Governmental agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, to the attention of the Office of Government Contract Wage Standards. Although no particular form is prescribed for submission of a request under this section, such request shall include the following information:

(i) A statement of the applicant's case setting forth in detail the reasons why the applicant believes that the wages and fringe benefits contained in the collective bargaining agreement were not reached as a result of arm's-length negotiations;

(ii) A statement regarding the status of the procurement and any estimated procurement dates, such as bid opening, contract award, commencement date of the contract or its follow-up option period;

(iii) Names and addresses (to the extent known) of interested parties.

(2) Pursuant to Section 4(b) of the Act, requests for a hearing shall not be considered unless received as specified below except in those situations where the Administrator determines that extraordinary circumstances exist:

(i) For advertised contracts, prior to ten days before the award of the contract;

(ii) For negotiated contracts and for contracts with provisions extending the term by option, prior to the commencement date of the contract or the follow-up option period, as the case may be.

(c)(1) The Administrator, on his/her own motion or after receipt of a request for a determination, may make a finding on the issue of arm's-length negotiations.

(2) If the Administrator determines that there may not have been arm's-length negotiations, but finds that there is insufficient evidence to render a final

decision thereon, the Administrator may refer the issue to the Chief Administrative Law Judge in accordance with subsection (d).

(3)(i) If the Administrator finds that the collective bargaining agreement or wages and fringe benefits at issue were reached as a result of arm's-length negotiations or that arm's-length negotiations did not take place, the interested parties, including the parties to the collective bargaining agreement, will be notified of the Administrator's findings, which shall include the reasons therefor, and such parties shall be afforded an opportunity to request that a hearing be held to render a decision on the issue of arm's-length negotiations.

(ii) Such parties shall have 20 days from the date of the Administrator's ruling to request a hearing. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing.

(iii) If no hearing is requested within the time mentioned in paragraph (ii) of this section above, the Administrator's ruling shall be final, and a new wage determination will be issued for the contract.

(d) Referral to the Chief Administrative Law Judge. The Administrator on his/her own motion, under paragraph (c)(2) or upon a request for a hearing under paragraph (c)(4)(ii) where the Administrator determines that relevant facts are in dispute, shall by order refer the issue to the Chief Administrative Law Judge for designation of an Administrative Law Judge, who shall conduct such hearings as may be necessary to render a decision solely on the issue of arm's-length negotiations. However, in situations where there is also a question as to whether some or all of the collectively bargained wage rates and/or fringe benefits are substantially at variance (see § 4.10), the referral shall include both issues for resolution in one proceeding. As provided in Section 4(a) of the Act, the provisions of Sections 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38, 39) shall be applicable to such proceeding, which shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

(e) Referral to the Board of Service Contract Appeals. When a party requests a hearing under paragraph (c)(4)(ii) and the Administrator determines that no material facts are in dispute, the Administrator shall refer the issue and the record compiled thereon to the Board of Service Contract Appeals

to render a decision solely on the issue of arm's-length negotiations. Such proceeding shall be conducted in accordance with the procedures set forth at 29 CFR Part 8.

§ 4.12 Substantial interest proceedings

(a) *Statutory provision.* Under Section 5(a) of the Act, no contract of the United States (or the District of Columbia) shall be awarded to the persons or firms appearing on the list distributed by the Comptroller General giving the names of persons or firms who have been found to have violated the Act until 3 years have elapsed from the date of publication of the list. Section 5(a) further states that "no contract of the United States shall be awarded * * * to any firm, corporation, partnership, or association in which such persons or firms have a substantial interest * * *". A finding as to whether persons or firms whose names appear on the debarred bidders list have a substantial interest in any other firm, corporation, partnership, or association may be made through investigation, hearing, or otherwise pursuant to the Secretary's authority under Section 4 (a) of the Act.

(b) *Irreducibility.* See § 4.168 of this part for the Secretary's rulings and interpretations with respect to substantial interest.

(c)(1) A request for a determination under this section may be made by any interested party, including contractors or prospective contractors, and associations of contractors, representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, to the attention of the Office of Government Contract Wage Standards.

(2) The request shall include a statement setting forth in detail why the petitioner believes that a person or firm whose name appears on the debarred bidders list has a substantial interest in any firm, corporation, partnership, or association which is seeking or has been awarded a contract of the United States or the District of Columbia. No particular form is prescribed for the submission of a request under this section.

(d)(1) The Administrator, on his/her own motion or after receipt of a request for a determination, may make a finding on the issue of substantial interest.

(2) If the Administrator determines that there may be a substantial interest, but finds that there is insufficient

evidence to render a final ruling thereon, the Administrator may refer the issue to the Chief Administrative Law Judge in accordance with subsection (e).

(3) If the Administrator finds that no substantial interest exists, or that there is not sufficient information to warrant the initiation of an investigation, the requesting party, if any, will be so notified and no further action taken.

(4)(i) If the Administrator finds that a substantial interest exists, the person or firm affected will be notified of the Administrator's finding, which shall include the reasons therefor, and such person or firm shall be afforded an opportunity to request that a hearing be held to render a decision on the issue of substantial interest.

(ii) Such person or firm shall have 20 days from the date of the Administrator's ruling to request a hearing. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing.

(iii) If no hearing is requested within the time mentioned in subparagraph (ii) above, the Administrator's finding shall be final and the Administrator shall so notify the Comptroller General.

(e) *Referral to the Chief Administrative Law Judge.* The Administrator on his/her own motion, or upon a request for a hearing where the Administrator determines that material facts are in dispute, shall by order refer the issue to the Chief Administrative Law Judge, for designation of an Administrative Law Judge who shall conduct such hearings as may be necessary to render a decision solely on the issue of substantial interest. As provided in Section 4(a) of the Act, the provisions of Sections 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38, 39) shall be applicable to such proceedings, which shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

(f) Referral to the Board of Service Contract Appeals. When the person or firm requests a hearing and the Administrator determines that relevant facts are not in dispute, the Administrator will refer the issue and the record compiled thereon to the Board of Service Contract Appeals to render a decision solely on the issue of substantial interest. Such proceeding shall be conducted in accordance with the procedures set forth at 29 CFR Part 8.

Subpart B—Wage Determination Procedures

§ 4.50 Types of wage and fringe benefit determinations.

The Administrator specifies the minimum monetary wages and fringe benefits to be paid as required under the Act in two types of determinations:

(a) *Prevailing in the Locality.*

Determinations that set forth minimum monetary wages and fringe benefits determined to be prevailing for various classes of service employees in the locality (sections 2(a)(1) and 2(a)(2) of the Act) after giving "due consideration" to the rates applicable to such service employees if directly hired by the Federal Government (section 2(a)(5) of the Act); and

(b) *Collective Bargaining Agreement—(Successorship).*

Determinations that set forth the wage rates and fringe benefits, including accrued and prospective increases, contained in a collective bargaining agreement applicable to the service employees under the predecessor contract.

§ 4.51 Prevailing in the locality determinations.

(a) *Information considered.* The minimum monetary wages and fringe benefits set forth in determinations of the Secretary are based on all available pertinent information as to wage rates and fringe benefits being paid at the time the determination is made. Such information is most frequently derived from area surveys made by the Bureau of Labor Statistics, U.S. Department of Labor, or other Labor Department personnel. Information may also be obtained from Government contracting officers and from other available sources, including employees and their representatives and employers and their associations. The determinations may be based on the wage rates and fringe benefits contained in collective bargaining agreements where they have been determined to prevail in a locality for specified occupational class(es) of employees.

(b) *Determination of Prevailing Rates.* Where a single rate is paid to a majority (50 percent or more) of the workers in a class of service employees engaged in similar work in a particular locality, that rate is determined to prevail. The wage rates and fringe benefits in a collective bargaining agreement covering 2,001 janitors in a locality, for example, prevail if it is determined that no more than 4,000 workers are engaged in such janitorial work in that locality. In the case of information developed from surveys, statistical measurements of

central tendency such as a median (a point in a distribution of wage rates where 50 percent of the surveyed workers receive that or a higher rate and an equal number receive a lesser rate) or the mean (average) are considered reliable indicators of the prevailing rate. Which of these statistical measurements will be applied in a given case will be determined after a careful analysis of the overall survey, separate classification data, patterns existing between survey periods, and the way the separate classification data interrelate. Use of the median is the general rule. However, the mean (average) rate may be used in situations where, after analysis, it is determined that the median is not a reliable indicator. Examples where the mean may be used include situations where:

(1) The number of workers studied for the job classification constitutes a relatively small sample and the computed median results in an actual rate that is paid to few of the studies workers in the class;

(2) Statistical deviation such as a skewed (bimodal or multimodal) frequency distribution biases the median rate due to large concentrations of workers toward either end of the distribution curve and the computed median results in an actual rate that is paid to few of the studies workers in the class; or

(3) The computed median rate distorts historic wage relationships between job levels within a classification family, (i.e., Electronic Technician Classes A, B, and C levels within the Electronic technician classification family), between classifications of different skill levels (i.e., a maintenance electrician as compared with a maintenance carpenter), or, for example, yields a wage movement inconsistent with the pattern shown by the survey overall or with related and/or similarly skilled job classifications.

(c) *Due consideration.* In making wage and fringe benefit determinations, section 2(a)(5) of the Act requires that due consideration be given to the rates that would be paid by the Federal agency to the various classes of service employees if § 5341 or § 5332 of Title 5, United States Code, were applicable to them. Section 4341 refers to the Wage Board or Coordinated Federal Wage System for "blue collar" workers and § 5332 refers to the General Schedule pay system for "white collar" workers. The term "due consideration" implies the exercise of discretion on the basis of the facts and circumstances surrounding each determination, recognizing the legislative objective of narrowing the gap between the wage rates and fringe

benefits prevailing for service employees and those established for Federal employees. Each wage determination is based on a survey or other information on the wage rates and fringe benefits being paid in a particular locality and also takes into account those wage rates and fringe benefits which would be paid under Federal pay systems.

§ 4.52 Collective bargaining agreement (successorship) determinations.

Determinations based on the collective bargaining agreement of a predecessor contractor set forth by job classification each provision relating to wages (such as the established straight time hourly or salary rate, cost-of-living allowance, and any shift, hazardous, and other similar pay differentials) and to fringe benefits (such as holiday pay, vacation pay, sick leave pay, life, accidental death, disability, medical, and dental insurance plans, retirement or pension plans, severance pay, supplemental unemployment benefits, saving and thrift plans, stock-option plans, funeral leave, jury/witness leave, or military leave) contained in the predecessor's collective bargaining agreement, as well as conditions governing the payment of such wages and fringe benefits. Accrued wages and fringe benefits and prospective increases therein are also included. Each wage determination is limited in application to a specific contract succeeding a contract which had been performed by a contractor with a collective bargaining agreement, and contains a notice to prospective bidders regarding their obligations under section 4(c) of the Act.

§ 4.53 Locality basis of wage and fringe benefit determinations.

(a) Under section 2(a) of the Act, the Secretary or his authorized representative is given the authority to determine the minimum monetary wages and fringe benefits prevailing for various classes of service employees "in the locality". Although the term "locality" has reference to geographic area, it has an elastic and variable meaning and contemplates consideration of the existing wage structures which are pertinent to the employment of particular classes of service employees on the varied kinds of service contracts in defining the limits of that area. Because wage structures are extremely varied, there can be no precise single formula which would define the geographic limits of a "locality" that would be relevant or appropriate for the determination of prevailing wage rates and prevailing fringe benefits in all

situations under the Act. The locality within which a wage or fringe benefit determination is applicable is, therefore, defined in each such determination upon the basis of all the facts and circumstances pertaining to that determination. Locality is ordinarily limited geographically to a particular county or cluster of counties comprising a metropolitan area, but may be defined as for example, a city, a State, a region, or the entire country, depending on the geographical scope of the data on which the determination was based, the nature of the services being contracted for, and the procurement method used. For example, a survey by the Bureau of Labor Statistics of the Baltimore, Maryland Standard Metropolitan Statistical Area includes the counties of Baltimore, Harford, Howard, Anne Arundel, and the City of Baltimore. A wage determination based on such information would define locality as the same geographic area included within the scope of the survey.

(b) *Locality when the place of performance is not known at the time of bid advertising.* Where the services in a particular bid advertisement are to be performed at a Federal facility or installation, the location where the work will be performed often cannot be ascertained at the time of bid advertising. In these circumstances, the appropriate locality may be a composite area consisting of all the places in which the services sought by the Government could be performed by interested bidders. The composite area is established in advance of bid advertising from the Federal agency's list of interested bidders or other sources such as bid abstracts from prior solicitations for similar services. The wage determination, which applies to all prospective bidders, is based on the wage and fringe benefit information available in all of the various places at which the contract work may be performed within the composite locality, which may be defined, depending on the circumstances, as a State, a group of States, or the entire country.

(c) Where the wage rates and fringe benefits contained in a collective bargaining agreement applicable to the predecessor contract are set forth in a determination, locality in such a determination is typically described as the geographic area in which the Federal facility is situated. The determination applies to any successor contractor, regardless of place of performance and

whether the place of performance is known at the time of bid advertising.

§ 4.54 Issuance and revision of wage determinations.

(a) Section 4.4 of Subpart A requires that the awarding agency file a notice of intention to make a service contract which is subject to the Act with the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, prior to any invitation for bids or the commencement of negotiations for any contract exceeding \$2,500. Upon receipt of the notice, the Office of Government Contract Wage Standards may issue a new determination of minimum monetary wages and fringe benefits for the classes of service employees who will perform work on the contract or may revise a determination which is currently in effect.

(b) Determinations will be reviewed periodically and where prevailing wage rates or fringe benefits have changed, such changes will be reflected in revised determinations. For example, in a locality where it is determined that the wage rate which prevails for a particular class of service employees is the rate specified in a collective bargaining agreement(s) applicable in that locality, and such agreement(s) specifies increases in such rates to be effective on specific dates, the determinations would be revised to reflect such changes as they become effective. Revised determinations shall be applicable to contracts in accordance with the provisions of § 4.5(a)(2) of Subpart A.

(c) Determinations issued by the Office of Government Contract Wage Standards with respect to particular contracts are required to be incorporated in the invitations for bids or negotiation documents issued by the contracting agencies, and are to be incorporated in the contract specifications in accordance with § 4.5 of subpart A. In this manner, prospective contractors and subcontractors are advised of the minimum monetary wages and fringe benefits required under the most recently applicable determination to be paid the service employees who perform the contract work. These requirements are, of course, the same for all bidders so none will be placed at a competitive disadvantage.

§ 4.55 Review and reconsideration of wage determinations.

(a) *Review by the Administrator.* (1) Any interested person affected by a wage determination issued under section 2(a) of the Act may request review and reconsideration by the

Administrator. A request for review and reconsideration may be made by the contracting agency or other interested person, including contractors or prospective contractors and associations of contractors, representatives of employees, and other interested Governmental agencies. In no event shall a request for review of any aspect of a wage determination, including its accuracy or its applicability, be considered after the opening of bids in the case of a competitively advertised procurement, or after the commencement of a contract in the case of a negotiated procurement. This limitation is necessary in order to ensure competitive equality and an orderly procurement process.

(2) The Administrator shall, upon receipt of a request for reconsideration, review the data sources relied upon as a basis for the wage determination, any evidence furnished by the person requesting review or reconsideration, and, if necessary to resolve the matter, any additional information found to be relevant to determining prevailing wage rates and fringe benefits in a particular locality. The Administrator, pursuant to a review of available information, may issue a new wage determination, may cause the wage determination to be revised, or may affirm the wage determination issued. The person requesting review and reconsideration shall be advised in writing of any changes in the wage determination or of the basis for a decision reaffirming the wage determination issued.

(b) Review by the Board of Service Contract Appeals. Any decision of the Administrator under paragraph (a) of this section may be appealed to the Board of Service Contract Appeals within 10 days of issuance of the Administrator's decision. Any such appeal shall be in accordance with the provisions of Part 8 of this title.

Subpart C--Application of the McNamara-O'Hara Service Contract Act

§ 4.101 Official rulings and interpretations in this subpart.

(a) The purpose of this subpart is to provide, pursuant to the authority cited in § 4.102, official rulings and interpretations with respect to the application of the McNamara-O'Hara Service Contract Act for the guidance of the agencies of the United States and the District of Columbia which may enter into and administer contracts subject to its provisions, the persons desiring to enter into such contracts with these agencies, and the contractors,

subcontractors, and employees who perform work under such contracts.

(b) These rulings and interpretations are intended to indicate the construction of the law and regulations which the Department of Labor believes to be correct and which will be followed in the administration of the Act unless and until directed otherwise by Act of Congress or by authoritative ruling of the courts, or if it is concluded upon reexamination of an interpretation that it is incorrect. See for example, *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944); *Roland Co. v. Walling*, 326 U.S. 657 (1946); *Endicott Johnson Corp. v. Perkins*, 317 U.S. 501, 507-509 (1943); *Perkins v. Lukens Steel Co.*, 310 U.S. 113, 128 (1940); *United States v. Western Pacific Railroad Co.*, 352 U.S. 59 (1956). The Department of Labor (and not the contracting agencies) has the primary and final authority and responsibility for administering and interpreting the Act, including making determinations of coverage. See *Nello L. Teer Co. v. United States*, 348 F.2d 533, 539-540 (Ct. Cl. 1965), cert. denied, 383 U.S. 934 (Davis-Bacon Act); *North Georgia Building & Construction Trades Council v. U.S. Department of Transportation*, 399 F. Supp. 58, 63 (N.D. Ga. 19075) (Davis-Bacon Act); *Zachry Co. v. United States*, 344 F.2d 352 (Ct. Cl. 1965) (Davis-Bacon Act); *Curtiss-Wright Corp. v. McLucas*, 364 F. Supp. 750, 769-72 (D.N.J. 1973); and 43 Atty. Gen. Ops. — (March 9, 1979); 53 Comp. Gen. 647, 649-51 (1974); 57 Comp. Gen. 501, 506 (1978).

(c) Court decisions arising under the Act (as well as under related remedial labor standards laws such as the Walsh-Healey Public Contracts Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Fair Labor Standards Act) which support policies and interpretations contained in this part are cited where it is believed that they may be helpful. On matters which have not been authoritatively determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (*Skidmore v. Swift & Co.*, 323 U.S. 134 (1944)). In order that these positions may be made known to persons who may be affected by them, official interpretations and rulings are issued by the Administrator with the advice of the Solicitor of Labor, as authorized by the Secretary (Secretary's Order No. 16-75, Nov. 21, 1975, 40 FR 55913; Employment Standards Order No. 2-76, Feb. 23, 1976, 41 FR 9016). These interpretations are a

proper exercise of the Secretary's authority. *Idaho Sheet Metal Works v. Wirtz* 383 U.S. 190, 208 (1966), reh. den. 383 U.S. 963 (1966). References to pertinent legislative history, decisions of the Comptroller General and of the Attorney General, and Administrative Law Judge's decisions are also made in this part where it appears they will contribute to a better understanding of the stated interpretations and policies.

(d) the interpretations of the law contained in this part are official interpretations which may be relied upon. The Supreme Court has recognized that such interpretations of the Act "provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" and "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance" (*Skidmore v. Swift & Co.*, 323 U.S. 134 (1944)). Interpretations of the agency charged with administering an Act are generally afforded deference by the courts. (*Griggs v. Duke Power Co.*, 401 U.S. 424, 433-34 (1971); *Udall v. Tallman*, 380 U.S. 1 (1965).) Some of the interpretations in this part relating to the application of the Act are interpretations of provisions which appeared in the original Act before its amendments in 1972 and 1976. Accordingly, the Department of Labor considers these interpretations to be correct, since there were no amendments of the statutory provisions which they interpret. (*United States v. Davison Fuel & Dock Co.*, 371 F.2d 705, 711-12 (C.A. 4, 1967).)

(e) On and after final publication of this part in the Federal Register, the interpretations contained herein shall be ineffect and shall remain in effect until they are modified, rescinded, or withdrawn. This part supersedes and replaces certain interpretations previously published in the Federal Register and Code of Federal Regulations as Part 4 of this chapter. Prior opinions, rulings, and interpretations and prior enforcement policies which are not inconsistent with the interpretations in this part or with the Act as amended are continued in effect; all other opinions, rulings, interpretations, and enforcement policies on the subjects discussed in the interpretations in this part, to the extent they are inconsistent with the rules herein stated, are superseded, rescinded, and withdrawn.

(f) Principles governing the application of the Act as set forth in this subpart are clarified or amplified in particular instances by illustrations and

examples based on specific fact situations. Since such illustrations and examples cannot and are not intended to be exhaustive, or to provide guidance on every problem which may arise under the Act, no inference should be drawn from the fact that a subject or illustration is omitted.

(g) It should not be assumed that the lack of discussion of a particular subject in this subpart indicates the adoption of any particular position by the Department of Labor with respect to such matter or to constitute an interpretation, practice, or enforcement policy. If doubt arises or a question exists, inquiries with respect to matters other than safety and health standards should be directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, or to any regional office of the Wage and Hour Division. Safety and health inquiries should be addressed to the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210, or to any OSHA regional office. A full description of the facts and any relevant documents should be submitted if an official ruling is desired.

§ Administration of the Act.

As provided by section 4 of the Act and under provisions of sections 4 and 5 of the Walsh-Healey Public Contracts Act (49 Stat. 2036, 41 U.S.C. 33, 39) which are made expressly applicable for the purpose, the Secretary of Labor is authorized and directed to administer and enforce the provisions of the McNamara-O'Hara Service Contract Act, to make rules and regulations, issue orders, make decisions, and take other appropriate action under the Act. The Secretary is also authorized to make reasonable limitations and to make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from provisions of the Act (except section 10), but only in special circumstances where it is determined that such action is necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business and is in accord with the remedial purposes of the Act to protect prevailing labor standards. The authority and enforcement powers of the Secretary under the Act are coextensive with the authority and powers under the Walsh-Healey Act. *Curtiss Wright Corp. v. McLucas* 364 F. Supp. 750, 769 (D.N.J. 1973).

§ 4.103 The Act.

The McNamara-O'Hara Service Contract Act of 1965 (Pub. L. 89-286, 79

Stat. 1034, 41 U.S.C. 351 et seq.), hereinafter referred to as the Act, was approved by the President on October 22, 1965 (1 Weekly Compilation of Presidential Documents 428). It establishes standards for minimum compensation and safety and health protection of employees performing work for contractors and subcontractors on service contracts entered into with the Federal Government and the District of Columbia. It applies to contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after January 20, 1966. It has been amended by Pub. L. 92-473, 86 Stat 798; by Pub. L. 93-57, 87 Stat. 140; and by Pub. L. 94-489, 90 Stat. 2358.

§ 4.104 What the Act provides, generally.

(a) The provisions of the Act apply to contracts, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States through the use of service employees. Under its provisions, every contract subject to the Act (and any bid specification therefor) entered into by the United States or the District of Columbia in excess of \$2,500 must contain stipulations as set forth in § 4.6 of this Part requiring (a) that specified minimum monetary wages and fringe benefits determined by the Secretary of Labor (based on wage rates and fringe benefits prevailing in the locality or, in specified circumstances, the wage rates and fringe benefits contained in a collective bargaining agreement applicable to employees who performed on a predecessor contract) be paid to service employees employed by the contractor or any subcontractor in performing the services contracted for; (b) that working conditions of such employees which are under the control of the contractor or subcontractor meet safety and health standards; and (c) that notice be given to such employees of the compensation due them under the minimum wage and fringe benefits provisions of the contract. Contractors performing work subject to the Act thus enter into competition to obtain Government business on terms of which they are fairly forewarned by inclusion in the contract (*Endicott Johnson Corp. v. Perkins*, 317 U.S. 501, 507 (1943)). The Act's purpose is to impose obligations upon those favored with Government business by precluding the use of the purchasing power of the Federal Government in the unfair depression of wages and standards of employment. (See H.R. Rep. No. 948, 89th Cong., 1st Sess. 2-3 (1965); S. Rep. No. 798, 89th Cong., 1st Sess. 3-4 (1965).) The Act does not permit the monetary wage rates specified in such a contract to be

less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(a)(1)). In addition, it is a violation of the Act for any contractor or subcontractor under a Federal contract subject to the Act, regardless of the amount of the contract, to pay any of his employees engaged in performing work on the contract less than such Fair Labor Standards Act minimum wage. Contracts of \$2,500 or less are not, however, required to contain the stipulations described above. These provisions of the Service Contract Act are implemented by the regulations contained in this Part 4 and are discussed in more detail in subsequent sections of subparts C, D, and E.

§ 4.105 The Act as amended.

(a) The provisions of the Act (see §§ 4.102-4.103) were amended, effective October 9, 1972, by Public Law 92-473, signed into law by the President on that date. By virtue of amendments made to paragraphs (1) and (2) of section 2(a) and the addition to section 4 of a new subsection (c), the compensation standards of the Act (see §§ 4.159-4.179) were revised to impose on successor contractors certain requirements (see § 4.1b) with respect to payment of wage rates and fringe benefits based on those agreed upon for substantially the same services for the same location in collective bargaining agreements entered into by their predecessor contractors (unless such agreed compensation is substantially at variance with that locally prevailing or the agreement was not negotiated at arm's length). The Secretary of Labor is to give effect to the provisions of such collective bargaining agreements in his wage determinations under section 2 of the Act. A new paragraph (5) added to section 2(a) of the Act requires a statement in the government service contract of the rates that would be paid by the contracting agency in the event of its direct employment of those classes of service employees to be employed on the contract work who, if directly employed by the agency, would receive wages determined as provided in 5 U.S.C. 5341. The Secretary of Labor is directed to give due consideration to such rates in determining minimum monetary wages and fringe benefits under the Act's provisions. Other provisions of the 1972 amendments include the addition of a new section 10 to the Act to insure extension of coverage by wage determinations of the Secretary to substantially all service contracts subject to section 2(a) of the Act at the earliest administratively feasible time; an amendment to section

4(b) of the Act to provide, in addition to the conditions previously specified for issuance of administrative limitations, variations, tolerances, and exemptions (see § 4.123), that administrative action in this regard shall be taken only in special circumstances where the Secretary determines that it is in accord with the remedial purpose of the Act to protect prevailing labor standards; and a new subsection (d) added to section 4 of the Act providing for the award of service contracts for terms not more than 5 years with provision for periodic adjustment of minimum wage rates and fringe benefits payable thereunder by the issuance of wage determinations by the Secretary of Labor during the term of the contract. A further amendment to section 5(a) of the Act requires the names of contractors found to have violated the Act to be submitted for the debarment list (see (§ 4.188) not later than 90 days after the hearing examiner's finding of violation unless the Secretary recommends relief, and provides that such recommendations shall be made only because of unusual circumstances.

(b) The provisions of the Act were amended by Pub. L. 93-57, 87 Stat. 140, effective July 6, 1973, to extend the Act's coverage to Canton Island.

(c) The provisions of the Act were amended by Pub. L. 94-489, 90 Stat. 2358, approved October 13, 1976, to extend the Act's coverage to white collar workers. Accordingly, the minimum wage protection of the Act now extends to all workers, both blue collar and white collar, other than persons employed in a bona fide executive, administrative, or professional capacity as those terms are used in the Fair Labor Standards Act and in Part 541 of Title 29, Pub. L. 94-489 accomplished this change by adding to Section 2(a)(5) of the Act a reference to 5 U.S.C. 5332, which deals with white collar workers, and by amending the definition of service contract employee in Section 8(b) of the Act.

(d) Included in this Part 4 and in Part 6 of this subtitle are provisions to give effect to the amendments mentioned in this section.

§ 4.105 [Reserved]

Agencies Whose Contracts May Be Covered

§ 4.107 Federal contracts.

(a) Section 2(a) of the Act covers contracts (and any bid specification therefor) "entered into by the United States" and section 2(b) applies to contracts entered into "with the Federal Government." Within the meaning of these provisions, contracts entered into by the United States and contracts with

the Federal Government include generally all contracts to which any agency or instrumentality of the U.S. Government becomes a party pursuant to authority derived from the Constitution and laws of the United States. The Act does not authorize any distinction in this respect between such agencies and instrumentalities on the basis of their inclusion in or independence from the executive, legislative, or judicial branches of the Government, the fact that they may be corporate in form, or the fact that payment for the contract services is not made from appropriated funds. Thus, contracts of wholly owned Government corporations, such as the Postal Service, and those of nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces, or of other Federal agencies, such as Federal Reserve Banks, are included among those subject to the general coverage of the Act. (*Brinks, Inc. v. Board of Governors of the Federal Reserve System*, 86 CCH Labor Cases ¶ 33,792 (D.D.C. 1979), 43 Atty. Gen. Ops. — (September 26, 1978).) Contracts with the Federal Government and contracts entered into "by the United States" within the meaning of the Act do not, however, include contracts for services entered into on their own behalf by agencies or instrumentalities of other Governments within the United States such as those of the several States and their political subdivisions, or of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(b) Where a Federal agency exercises its contracting authority to procure services desired by the Government, the method of procurement utilized by the contracting agency is not controlling in determining coverage of the contract as one entered into by the United States. Such contracts may be entered into by the United States either through a direct award by a Federal agency or through the exercise by another agency (whether governmental or private) of authority granted to it to procure services for or on behalf of a Federal agency. Thus, sometimes authority to enter into service contracts of the character described in the Act for and on behalf of the Government and on a cost-reimbursable basis may be delegated, for the convenience of the contracting agency, to a prime contractor with the Government under the terms of a contract having a principal purpose other than the furnishing of services through the use of service employees (as, for example, a contract in which the prime contractor has the responsibility for all work to be done in connection

with the operation and management of a Federal plant, installation, facility, or program, along with the legal authority to act as agency for and on behalf of the Government and to obligate Government funds in the procurement of all services and supplies necessary to carry out the entire program of operation). The contracts entered into by such a prime contractor with secondary contractors for and on behalf of the Federal agency pursuant to such delegated authority, which have such services as their principal purpose, are deemed to be contracts entered into by the United States and contracts with the Federal Government within the meaning of the Act. However, service contracts entered into by Federal contractors or State or local public bodies with purveyors of services are not deemed to be entered into by the United States merely because such services are paid for with funds of the contractor or public body which have been received from the Federal Government as payment for contract work or as a grant under a Federal program. For example, a contract entered into by a municipal housing authority for tree trimming, tree removal, and landscaping for an urban renewal project financed by Federal funds is not a contract entered into by the United States and is not covered by the Service Contract Act. Similarly, contracts let under the Medicaid program which are financed by Federally-assisted grants to the States, and contracts which provide for insurance benefits to a third party, as under the Medicare program, are not subject to the Act.

§ 4.108 District of Columbia contracts.

Section 2(a) of the Act covers contracts (and any bid specification therefor) in excess of \$2,500 which are "entered into by the * * * District of Columbia." The contracts of all agencies and instrumentalities which procure contract services for or on behalf of the District or under the authority of the District Government are contracts entered into by the District of Columbia within the meaning of this provision. Such contracts are also considered contracts "entered into with the Federal Government" within the meaning of section 2(b) of the Act. The legislative history indicates no intent to distinguish District of Columbia contracts from the other contracts made subject to the Act, and traditionally, under other statutes. District Government contracts have been made subject to the same labor standards provisions as contracts of other agencies and instrumentalities of the United States.

§ 4.109 [Reserved]

Covered Contracts Generally

§ 4.110 What contracts are covered.

(a) The Act covers service contracts of the Federal agencies described in §§ 4.107-4.108. Except as otherwise specifically provided (see §§ 4.115 et seq.), all such contracts, the principal purpose of which is to furnish services in the United States through the use of service employees, are subject to its terms. This is true of contracts entered into by such agencies with States or their political subdivisions, as well as such contracts entered into with private employers. Contracts between a Federal or District of Columbia agency and another such agency are not within the purview of the Act; however, "subcontracts" awarded under "prime contracts" between the Small Business Administration and another Federal agency pursuant to various preferential set-aside programs, such as the 8(a) program, are covered by the Act. It makes no difference in the coverage of a contract whether the contract services are procured through negotiation or through advertising for bids. Also, the mere fact that an agreement is not reduced to writing does not mean that the contract is not within the coverage of the Act. The amount of the contract is not determinative of the Act's coverage, although the requirements are different for contracts in excess of \$2,500 and for contracts of a lesser amount. The Act is applicable to the contract if the principal purpose of the contract is to furnish services, if such services are to be furnished in the United States, and if service employees will be used in providing such services. These elements of coverage will be discussed separately in the following sections.

(b) "Contract" as including "any bid specification". The Act, by its express terms, applies to "every contract (and any bid specification therefor) * * * the principal purpose of which is to furnish services in the United States through the use of service employees". Thus, as noted in subsequent sections discussing the application of the Act to particular contracts, the Act's provisions may be applicable to separate specifications for services in a contract but not to other contract specifications such as construction or supply specifications. Accordingly, except where otherwise noted, the term "contract" as used in this part shall be deemed to include any contract subject wholly or in part to the provisions of the Act. (See § 4.1a(d).)

§ 4.111 Contracts "to furnish services."

(a) *"Principal purpose" as criterion.* Under its terms, the Act applies to a "contract (and any bid specification therefor) * * * the principal purpose of which is to furnish services * * *." The principal purpose criterion applies only in determining whether a contract or bid specification is for services. Covered contracts need not be performed "principally in the United States" or "principally through the use of service employees." (See §§ 4.112 and 4.113.) If the principal purpose is to provide something other than services of the character contemplated by the Act and any such services which may be performed are only incidental to the performance of a contract or bid specification for another purpose, the Act does not apply. However, as will be seen by examining the illustrative examples of covered contracts in §§ 4.130 et seq., no hard and fast rule can be laid down as to the precise meaning of the term "principal purpose". This remedial Act is intended to be applied to a wide variety of contracts, and the Act does not define or limit the types of services which may be contracted for under a contract the principal purpose of which is to furnish services. Further, the nomenclature or particular form of contract used by procurement agencies is not determinative of coverage. Whether the principal purpose of a particular contract is the furnishing of services through the use of service employees is largely a question to be determined on the basis of all the facts in each particular case. Even where tangible items of substantial value are important elements of the subject matter of the contract, the facts may show that they are of secondary import to the furnishing of services in the particular case. This principle is illustrated by the examples set forth in § 4.131.

(b) *Determining whether a contract is for "services"; generally.* Except indirectly through the definition of "service employee" the Act does not define, or limit, the types of "services" which may be contracted for under a contract "the principal purpose of which is to furnish services". As stated in the congressional committee reports on the legislation, the types of service contracts covered by its provisions are varied. Among the examples cited are contracts for laundry and dry cleaning, for transportation of the mail, for custodial, janitorial, or guard service, for packing and crating, for food service, and for miscellaneous housekeeping services. Covered contracts for services would also include those for other types of

services which may be performed through the use of the various classes of service employees included in the definition in section 8(b) of the Act (see § 4.113). Examples of some such contracts are set forth in §§ 4.130 et seq. In determining questions of contract coverage, due regard must be given to the apparent legislative intent to include generally as contracts for "services" those contracts which have as their principal purpose the procurement of something other than the construction activity described in the Davis-Bacon Act or the materials, supplies, articles, and equipment described in the Walsh-Healey Act. The Committee reports in both House and Senate, and statements made on the floor of the House, took note of the labor standards protections afforded by these two Acts to employees engaged in the performance of construction and supply contracts and observed: "The service contract is now the only remaining category of Federal contracts to which no labor standards protections apply" (H. Rept. 948, 89th Cong., 1st Sess., p. 1; see also S. Rept. 798, 89th Cong., 1st Sess., p. 1; daily Congressional Record Sept. 20, 1965, p. 23497). A similar understanding of contracts principally for "services" as embracing contracts other than those for construction or supplies is reflected in the statement of President Johnson upon signing the Act (1 Weekly Compilation of Presidential Documents, p. 428).

§ 4.112 Contracts to furnish services "in the United States."

(a) The Act covers contract services furnished "in the United States". The geographical area included in the "United States" is defined in section 8(d) as "any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Islands, Eniwetok Atoll, Kwajalein Atoll, Johnston Island and Canton Island." The definition expressly excludes any other territory under the jurisdiction of the United States (e.g. the Canal Zone) and any United States base or possession within a foreign country. Services to be performed on a vessel operating exclusively in international waters outside the geographic areas named in section 8(d) would not be services furnished "in the United States" within the meaning of the Act.

(b) A service contract to be performed in its entirety outside the geographic limits of the United States as thus defined is not covered and is not subject to the labor standards of the Act. However, if a service contract is to be

performed in part within and in part without these geographic limits, the stipulations required by § 4.6 or § 4.7, as appropriate, must be included in the invitation for bids or negotiation documents and in the contract, and the labor standards must be observed with respect to that part of the contract services that is performed within these geographic limits. In such a case, the requirements of the Act and of the contract clauses will not be applicable to the services furnished outside the United States.

§ 4.113 Contracts to furnish services "through the use of service employees".

(a) *Use of "service employees" in a contract performance.* (1) As indicated in § 4.110, the Act covers service contracts in which "service employees" will be used in performing the services which it is the purpose of the contract to procure. A service contract otherwise subject to the Act ordinarily will meet this condition if any of the services which it is the principal purpose of the contract to obtain will be furnished through the use of any service employee or employees. Even where it is contemplated that the services (of the kind performed by service employees) will be performed individually by the contractor, the contract cannot be considered outside the reach of the Act unless it is known in advance that the contractor or any subcontractor will in no event use any service employee during the term of the contract in furnishing the services called for. If the contracting officer knows when advertising for bids or concluding negotiations that no such employee will be used by the contractor in any event in providing the contract services, the Act will not be deemed applicable to the contract and the contract clauses required by § 4.6 or § 4.7 may be omitted. However, in all other cases such clauses must be included in the contract documents, for application in the event service employees are used in furnishing the services. The fact that the required services will be performed by municipal employees or employees of a State would not remove the contract from the purview of the Act, as this Act does not contain any exemption for contracts performed by such employees. Also, where the services the Government wants under the contract are principally of a type that will require the use of any service employees as defined in section 8(b) of the Act, the contract is not taken out of the purview of the Act by the fact that the manner in which the services of such employees are performed will be subject to the continuing overall supervision of

professional personnel to whom the Act does not apply.

(2) The coverage of the Act does not extend, however, to contracts which have as their principal purpose the procurement of a type of service in the furnishing of which no service employees will be used. A contract for medical services by professional medical personnel is an example of such a contract. So are other contracts under which the desired services called for by the Government are to be performed exclusively or nearly so by bona fide executive, administrative, or professional personnel as defined in Part 541 of this title (see paragraph (b) of this section). Also, any contract for professional services which is performed essentially by professional employees, with the use of service employees bring only a minor factor in the performance of the contract is not covered by the Act. While the incidental employment of service employees will not render a contract for professional services subject to the Act, a contract which may involve the use of service employees to a significant or substantial extent would be covered even though there is some use of professional employees in performance of the contract.

Under these principles, many contracts for research and development, statistical surveys, engineering research and designing, computer services, etc., would generally be subject to the Act because the contracts may involve the use of a significant number of service employees. Laboratory technicians, interviewers, draftsmen, computer operators, and data entry personnel are a few examples of the classes of service employees that may be employed on such contracts. While the work of such service employees may be performed under the supervision and direction of professional personnel and the final analysis and reporting may be performed by professionals, nevertheless, the work performed by the service employees is a significant and important part of the overall contract requirements.

(b) *"Service employees" defined.* In determining whether or not any of the contract services will be performed by service employees, the definition of "service employee" in section 8(b) of the Act is controlling. It provides:

The term "service employee" means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive,

administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

It will be noted that the definition expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as defined in Part 541 of this title and as discussed further in § 4.156. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

§ 4.114 Subcontracts.

(a) *"Contractor" as including "subcontractor."* Except where otherwise noted or where the term "Government prime contractor" as used in this Part 4 shall be deemed to include a subcontractor. The term "contractor" as used in the contract clauses required by Subpart A in any subcontract under a covered contract shall be deemed to refer to the subcontractor, or, if in a subcontract entered into by such a subcontractor, shall be deemed to refer to the lower level subcontractor. (See § 4.1a(e).)

(b) *Liability of Prime Contractor.* When a contractor undertakes a contract subject to the Act, the contractor agrees to assume the obligation that the Act's labor standards will be observed in furnishing the required services. This obligation may not be relieved by shifting all or part of the work to another, and the prime contractor is jointly and severally liable with any subcontractor for any acts, omissions, or underpayments on the part of a subcontractor which would constitute a violation of the prime contract. The prime contractor is required to include the prescribed contract clauses (§§ 4.6-4.7) and applicable wage determination in all subcontracts and the appropriate enforcement sanctions provided under the Act may be invoked against both the prime contractor and the subcontractor in the event of failure to comply with any of the Act's requirements.

Specific Exclusions**§ 4.115 Exemptions and exceptions generally.**

(a) The Act, in section 7, specifically excludes from its coverage certain contracts and work which might otherwise come within its terms as procurements the principal purpose of

which is to furnish services through the use of service employees.

(b) In addition, as noted in § 4.102, provision is made in section 4 of the Act for administrative action by the Secretary of Labor providing reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from provisions of the Act in accordance with standards set forth in the section. These provisions of the Act apply as explained in the following discussion. The limitations stated in this subpart in defining the scope of the statutory exemptions are reasonable limitations that were found necessary and proper in the public interest in accordance with the provisions of section (4)b of the Act.

(c) The statutory exemptions in section 7 of the Act are as follows:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healy Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals.

(7) Any contract with the Post Office Department, (now the U.S. Postal Service) the principal purpose of which is the operation of postal contract stations.

§ 4.116 Contracts for construction activity.

(a) *General scope of exemption.* The Act, in paragraph (1) of section 7, exempts from its provisions "any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works." This language corresponds to the language used in the Davis-Bacon Act to describe its coverage (40 U.S.C. 270a). The legislative history of the McNamara-O'Hara Service Contract Act indicates that the purpose of the provision is to avoid overlapping coverage of the two acts by excluding from the application of the McNamara-

O'Hara Act those contracts (and any bid specification therefor) to which the Davis-Bacon Act is applicable and in the performance of which the labor standards of that Act are intended to govern the compensation payable to the employees of contractors and subcontractors on the work. (See H. Rept. 798, pp. 2, 5, and H. Rept. 948, pp. 1, 5, also Hearing, Special Subcommittee on Labor, House Committee on Education and Labor, p. 9 (89th Cong., 1st sess.)). The intent of section 7(1) is simply to exclude from the provisions of the Act those construction contracts which involve the employment of persons whose wage rates and fringe benefits are determinable under the Davis-Bacon Act.

(b) *Contracts not within exemption.* (1) Section 7(1) does not exempt contracts which, for purposes of the Davis-Bacon Act, are not considered to be of the character described by the corresponding language in that Act, and to which the provisions of the Davis-Bacon Act are therefore not applied. Such contracts are accordingly subject to the McNamara-O'Hara Act where their principal purpose is to furnish services in the United States through the use of service employees. For example, a contract for clearing timber or brush from land or for the demolition or dismantling of buildings or other structures located thereon may be a contract for construction activity subject to the Davis-Bacon Act where it appears that the clearing of the site is to be followed by the construction of a public building or public work at the same location. If, however, no further construction activity at the site is contemplated the Davis-Bacon Act may be considered inapplicable to such clearing, demolition, or dismantling work. In such event, the exemption in section 7(1) of the McNamara-O'Hara Act has no application and the contract will be subject to the Act in accordance with its general coverage provisions. It should be noted that the fact a contract may be labeled as one for the sale and removal of property, such as salvage material, does not negate coverage under the Act even though title to the removable property passes to the contractor. While the value of the property being sold in relation to the services performed under the contract is a factor to be considered in determining coverage, the principal purpose of removal, dismantling, and demolition contracts is to furnish services through the use of service employees and thus these contracts are subject to the Act. (See also § 4.131.)

(c) *Partially exempt contracts.* (1) Instances may arise in which, for the convenience of the Government, instead of awarding separate contracts for construction work subject to the Davis-Bacon Act and for services of a different type to be performed by service employees, the contracting officer may include separate specifications for each type of work in a single contract calling for the performance of both types of work. For example, a contracting agency may invite bids for the installation of a plumbing system or in the installation of a security alarm system in a public building and for the maintenance of the system for one year, under separate bid specifications. In such a case, the exemption provided by section 7(1) will be deemed applicable only to that portion of the contract which calls for construction activity subject to the Davis-Bacon Act. The contract documents are required to contain the clauses prescribed by § 4.6 for application to the contract obligation to furnish services through the use of service employees, and the provisions of the McNamara-O'Hara Act will apply to that portion of the contract. This is a reasonable limitation of the application of the exemption found to be necessary and proper in the public interest in accordance with the provisions of section 4(b) of the Act.

(2) Supply, services, or maintenance contracts involving construction work. The provisions of both the Davis-Bacon Act and the Service Contract Act would generally apply to contracts involving construction and nonconstruction work. The exemption provided by section 7(1) of the Act would be applicable to construction contract work in such hybrid contracts where

(i) The contract contains specific requirements for substantial amounts of construction, reconstruction, alteration, or repair work (hereinafter referred to as construction) or it is ascertainable that a substantial amount of construction work will be necessary for the performance of the contract (the work "substantial" relates to the type and quantity of construction work to be performed and not merely to the total value of construction work (whether in absolute dollars or cost percentages) as compared to the total value of the contract); and

(ii) The construction work is physically or functionally separate from, and as a practical matter is capable of being performed on a segregated basis from, the other work called for by the contract.

§ 4.117 *Work subject to requirements of Walsh-Healey Act (Reserved).*

§ 4.118 *Contracts for carriage subject to published tariff rates.*

The Act, in paragraph (3) of section 7, exempts from its provisions "any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect". In order for this exemption to be applicable, the contract must be for such carriage by a common carrier described by the terms used. It does not, for example, apply to contracts for taxicab or ambulance service, because taxicab and ambulance companies are not among the common carriers specified by the statute. Also, a contract for transportation service does not come within this exemption unless the service contracted for is actually governed by published tariff rates in effect pursuant to State or Federal law for such carriage. The contracts excluded from the reach of the Act by this exemption are typically those where there is on file with the Interstate Commerce Commission or an appropriate State or local regulatory body a tariff rate applicable to the transportation involved, and the transportation contract between the Government and the carrier is evidenced by a bill of lading citing the published tariff rate.

An administrative exemption has been provided for certain contracts where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act. See § 4.123(d). It should be noted further that only such contracts for the carriage of "freight or personnel" are exempt. Further, the exemption cannot apply where the contracts are principally for packing, crating, handling, loading, and/or storage of goods, with local drayage constituting and incidental part of the contract work. Also this exemption thus does not exclude any contracts for the transportation of mail from the application of the Act, because the term "freight" does not include the mail. (For an administrative exemption of certain contracts with common carriers for carriage of mail, see § 4.123(d).)

§ 4.119 *Contracts for services of communications companies.*

The Act, in paragraph (4) of section 7, exempts from its provisions "any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934." This exemption is applicable to contracts with such companies for communication services regulated under the

Communications Act. It does not exempt from the Act any contracts with such companies to furnish any other kinds of services through the use of service employees.

§ 4.120 *Contracts for public utility services.*

The Act, in paragraph (5) of section 7, exempts from its provisions "any contract for public utility services, including electric light and power, water, steam, and gas." This exemption is applicable to contracts for such services with companies whose rates therefore are regulated under State, local, or Federal law governing operations of public utility enterprises. Contracts entered into with public utility companies to furnish services through the use of service employees, other than those subject to such rate regulation, are not exempt from the Act. Among the contracts included in the exemption would be those between Federal electric power marketing agencies and investor-owned electric utilities, Rural Electrification Administration cooperatives, municipalities and State agencies engaged in the transmission and sale of electric power and energy. (See H. Rept. No. 948 89th Cong., 1st sess., p. 4.)

§ 4.121 *Contracts for individual services.*

The Act, in paragraph (6) of section 7, exempts from its provisions "any employment contract providing for direct services to a Federal agency by an individual or individuals." This exemption, which applies only to an "employment contract" for "direct services," makes it clear that the Act's application to Federal contracts for services is intended to be limited to service contracts entered into with independent contractors. If a contract to furnish services (to be performed by a service employee as defined in the Act) provides that they will be furnished directly to the Federal agency by the individual under conditions or circumstances which will make him an employee of the agency in providing the contract service, the exemption applies and the contract will not be subject to the Act's provisions. The exemption does not exclude from the Act any contract for services of the kind performed by service employees which is entered into with an independent contractor whose individual services will be used in performing the contract, but as noted earlier in § 4.113, such a contract would be outside the general coverage of the Act if only the contractor's individual services would be furnished and no service employee

would in any event be used in its performance.

§ 4.122 *Contracts for operation of postal contract stations.*

The Act, in paragraph (7) of section 7, exempts from its provisions "any contract with the Post Office Department, [now the U.S. Postal Service], the principal purpose of which is the operation of postal contract stations." The exemption is limited to postal service contracts having the operation of such stations as their principal purpose. A provision of the legislation which would also have exempted contracts with the U.S. Postal Service having as their principal purpose the transportation, handling, or delivery of the mails was eliminated from the bill during its consideration by the House Committee on Education and Labor (H. Rept. 948, p. 1, 89th Cong., 1st sess.).

§ 4.123 *Administrative limitations, variances, tolerances, and exemptions.*

(a) *Authority of the Secretary.* Section 4(b) of the Act as amended in 1972 authorizes the Secretary to "provide such reasonable limitations" and to "make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act (other than § 10), but only in special circumstances where he determines that such limitation, variation, tolerances, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Government business, and is in accord with the remedial purpose of this Act to protect prevailing labor standards." This authority is similar to that vested in the Secretary under section 6 of the Walsh-Healey Public Contracts Act (41 U.S.C. 40) and under section 105 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3310).

(b) *Administrative action under section 4(b) of the Act.* The authority conferred on the Secretary by section 4(b) of the Act will be exercised with due regard to the remedial purpose of the statute to protect prevailing labor standards and to avoid the undercutting of such standards which could result from the award of Government work to contractors who will not observe such standards, and whose saving in labor cost therefrom enables them to offer a lower price to the Government than can be offered by the fair employers who maintain the prevailing standards. Administrative action consistent with this statutory purpose may be taken under section 4(b) with or without a request therefor, when found necessary

and proper in accordance with the statutory standards. No formal procedures have been prescribed for requesting such action, except as provided in paragraph (b)(2) of this section. However, a request for exemption from the Act's provisions will be granted only upon a strong and affirmative showing that it is necessary and proper in the public interest or to avoid serious impairment of Government business, and is in accord with the remedial purpose of the Act to protect prevailing labor standards. If the request for administrative action under section 4(b) is not made by the headquarters office of the contracting agency to which the contract services are to be provided, the views of such office on the matter should be obtained and submitted with the request or the contracting officer may forward such a request through channels to the agency headquarters for submission with the latter's views to the Administrator of the Wage and Hour Division, Department of Labor, whenever any wage payment issues are involved. Any request relating to an occupational safety or health issue shall be submitted to the Assistant Secretary for Occupational Safety and Health, Department of Labor.

(c) *Documentation of official action under section 4(b).* All papers and documents made a part of the official record of administrative action pursuant to section 4(b) of the Act are available for public inspection in accordance with the regulations in 29 CFR Part 70. Limitations, variations, tolerances and exemptions of general applicability and legal effect promulgated pursuant to such authority are published in the Federal Register and made a part of the rules incorporated in this Part 4. For convenience in use of the rules, they are generally set forth in the sections of this part covering the subject matter to which they relate. (See, for example, the exemption provided in §§ 4.5(b), 4.6(a), and the limitations set forth in §§ 4.115 et seq.) Any rules that are promulgated under section 4(b) of the Act relating to subject matter not dealt with elsewhere in this Part 4 will be set forth immediately following this paragraph.

(d) In addition to the statutory exemptions in § 7 of the Act (see § 4.115(c)), the following types of contracts have been exempted from all the provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

(1) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom.

(2) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that such owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness, or accident.

(3) Contracts for the carriage of freight or personnel where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act.

§§ 4.124—4.129 [Reserved]

§ 4.130 Types of covered service contracts illustrated.

(a) The types of contracts, the principal purpose of which is to furnish services through the use of service employees, are too numerous and varied to permit an exhaustive listing. The following list is illustrative, however, of the types of services called for by such contracts that have been found to come within the coverage of the Act. Other examples of covered contracts are discussed in other sections of this subpart.

- (1) Aerial spraying
- (2) Aerial reconnaissance for fire detection
- (3) Ambulance service
- (4) Barber and beauty shop services
- (5) Cafeteria and food service
- (6) Carpet laying (other than part of construction) and cleaning
- (7) Cataloging services
- (8) Chemical testing and analysis
- (9) Clothing alteration and repair
- (10) Computer service
- (11) Concessionaire services
- (12) Custodial, janitorial, and housekeeping services
- (13) Data collection and/or analysis services
- (14) Demolition, dismantling and/or removal of buildings and other real property (other than part of construction)
- (15) Drafting and illustrating
- (16) Electronic equipment maintenance and operation and engineering support services
- (17) Exploratory drilling (other than part of construction)

- (18) Film processing
- (19) Fire fighting and protection
- (20) Fueling services
- (21) Furniture repair and rehabilitation
- (22) Geological field surveys and testing
- (23) Grounds maintenance
- (24) Guard and watchman security service
- (25) Inventory services
- (26) Key punching and key verifying contracts
- (27) Laboratory analysis services
- (28) Landscaping (other than part of construction)
- (29) Laundry and dry cleaning
- (30) Linen supply services
- (31) Lodging and meals
- (32) Mail hauling
- (33) Mailing and addressing services
- (34) Maintenance and repair of all types of equipment, e.g., aircraft, engines, electrical motors, vehicles, and automated data processing, electronic, telecommunications, office and related business, and construction equipment
- (35) Mess attendant services
- (36) Mortuary services
- (37) Motor pool operation
- (38) Nursing home services
- (39) Operation, maintenance, or logistic support of a Federal facility
- (40) Packing and crating
- (41) Parking services
- (42) Pest control
- (43) Property management
- (44) Snow removal
- (45) Stenographic reporting
- (46) Support services at military installations
- (47) Surveying and mapping services (preliminary but not directly related to construction)
- (48) Taxicab services
- (49) Telephone and field interview services
- (50) Timber removal/sale contracts
- (51) Tire and tube repairs
- (52) Transporting property or personnel (except as explained in § 4.118)
- (53) Trash and garbage removal
- (54) Vending machine services
- (55) Visual and graphic arts
- (56) Warehousing or storage
- (b) [Reserved]

§ 4.131 Furnishing services involving more than use of labor.

(a) If the principal purpose of a contract is to furnish services in the performance of which service employees will be used, the Act will apply to the contract, in the absence of an exemption, even though the use or furnishing of nonlabor items may be an important element in the furnishing of the services called for by its terms. The Act is concerned with protecting the

labor standards of workers engaged in performing such contracts, and is applicable if the statutory coverage test is met, regardless of the form in which the contract is drafted. The proportion of the labor cost to the total cost of the contract and the necessity of furnishing or receiving tangible nonlabor items in performing the contract obligations will be considered but are not necessarily determinative. A procurement that requires tangible items to be supplied to the Government or the contractor as a part of the service furnished is covered by the Act so long as the facts show that the contract is chiefly for services, and that the furnishing of tangible items is of secondary importance.

(b) Some examples of covered contracts illustrating these principles may be helpful. One such example is a contract for the maintenance and repair of typewriters. Such a contract may require the contractor to furnish typewriter parts, as the need arises, in performing the contract services. Since this does not change the principal purpose of the contract, which is to furnish the maintenance and repair services through the use of service employees, the contract remains subject to the Act.

(c) Another example of the application of the above principle is a contract for the recurrent supply to a Government agency of freshly laundered items on a rental basis. It is plain from the legislative history that such a contract is typical of those intended to be covered by the Act. S. Rept. 798, 89th Cong., 1st Sess., p. 2; H. Rept. 948, 89th Cong., 1st Sess., p. 2. Although tangible items owned by the contractor are provided on a rental basis for the use of the Government, the service furnished by the contractor in making them available for such use when and where they are needed, through the use of service employees who launder and deliver them, is the principal purpose of the contract.

(d) Similarly, a contract in the form of rental of equipment with operators for the plowing and reseeding of a park area is a service contract. The Act applies to it because its principal purpose is the service of plowing and reseeding, which will be performed by service employees, although as a necessary incident the contractor is required to furnish equipment. For like reasons the contracts for aerial spraying and aerial reconnaissance listed in § 4.130 are covered, even though the use of airplanes, an expensive item of equipment, is essential in performing such services. In general, contracts under which the contractor agrees to

provide the Government with vehicles or equipment on a rental basis with drivers or operators for the purpose of furnishing services are covered by the Act. Such contracts are not considered contracts for furnishing equipment within the meaning of the Walsh-Healey Public Contracts Act. On the other hand, contracts under which the contractor provides equipment with operators for the purpose of construction of a public building or public work, such as road resurfacing or dike repair, even where the work is performed under the supervision of Government employees, would be within the exemption in section 7(1) of the Act as contracts for construction subject to the Davis-Bacon Act. (See § 4.116.)

(e) Contracts for data collection, statistical surveys, computer services, and the like are within the general coverage of the Act even though the contractor may be required to furnish such tangible items as written reports or computer printouts, since items of this nature are considered to be of secondary importance to the services which it is the principal purpose of the contract to procure.

(f) Contracts under which the contractor receives tangible items from the Government in return for furnishing services (which items are in lieu of or in addition to monetary consideration granted by either party) are covered by the Act where the facts show that the furnishing of such services is the principal purpose of the contracts. For example, so-called "timber sales" contracts under which the contractor furnishes tree removal and related services of direct benefit to the Government are subject to the Act. The fact that such contracts may enable the contractor to receive a substantial amount of timber is of secondary importance to the services which it is the principal purpose of the Government contract to procure. The same principal applies with respect to so-called property removal or disposal contracts which involve demolition of buildings or other structures.

§ 4.132 Services and other items to be furnished under a single contract.

If the principal purpose of a contract or bid specification (i.e., a line item in a bid or contract) is to furnish services through the use of service employees within the meaning of the Act, the contract to furnish such services is not removed from the Act's coverage merely because, as a matter of convenience in procurement, it is combined in a single contract document with specifications for the procurement of different or unrelated items. For example, a

contracting agency may invite bids for supplying a quantity of new typewriters and for the maintenance and repair of the typewriters under separate bid specifications. The principal purpose of the latter, but not the former, would be the furnishing of services through the use of service employees; however, the specifications for each might be included in a single contract with a typewriter company for the convenience of the parties. In such a case, the contract obligation to furnish the maintenance and repair services would be subject to the provisions of the Act. The "principal purpose" test would be applicable to the specification for such services rather than to the combined contract. The Act would not apply in such case to the contract obligation to furnish new typewriters, although its performance would be subject to the provisions of the Walsh-Healey Public Contracts Act if the amount was in excess of \$10,000. With respect to contracts which contain separate specifications for the furnishing of services and construction activity, see § 4.116(c).

§ 4.133 Beneficiary of contract services.

(a) The Act does not say to whom the services under a covered contract must be furnished. So far as its language is concerned, it is enough if the contract is "entered into" by and with the Government and if its principal purpose is "to furnish services in the United States through the use of service employees". It is clear that Congress intended to cover at least contracts for services of direct benefit to the Government, its property, or its civilian or military personnel for whose needs it is necessary or desirable for the Government to make provision for such services. For example, the legislative history makes specific reference to such contracts as those for furnishing food service and laundry and dry cleaning service for personnel at military installations. Furthermore, there is no limitation in the Act regarding the beneficiary of the services, nor is there any indication in the legislative history of any intent that only contracts for services of direct benefit to the Government, as distinguished from the general public, are subject to the Act. Therefore, where the principal purpose of the Government contract is to provide services through the use of service employees, the contract is within the general coverage of the Act, regardless of the direct beneficiary of the services or the source of the funds from which the contractor is paid for the service, and irrespective of whether the contractor performs the work in its own

establishment, on a Government installation, or elsewhere. The fact that the contract requires or permits the contractor to provide the services directly to individual personnel as a concessionaire, rather than through the contracting agency, does not negate coverage by the Act.

(b) Because of some indications that members of Congress considered that a contract to operate a concession in a National Park for the purpose of furnishing food or lodging services to the general public, rather than to the Government or to personnel engaged in its business, should not be considered subject to the Act, the Department of Labor does not require the application of the Act to such contracts.

§ 4.134 Contracts outside the Act's coverage.

(a) Contracts entered into by agencies other than those of the Federal Government or the District of Columbia as described in §§ 4.107-4.108 are not within the purview of the Act. Thus, the Act does not cover service contracts entered into with any agencies of Puerto Rico, the Virgin Islands, American Samoa, or Guam acting in behalf of their respective local governments. Similarly, it does not cover service contracts entered into by agencies of States or local public bodies, not acting as agents for or on behalf of the United States or the District of Columbia, even though Federal financial assistance may be provided for such contracts under Federal law or the terms and conditions specified in Federal law may govern the award and operation of the contract.

(b) Further, as already noted in §§ 4.111-4.113, the Act does not apply to Government contracts or bid specifications which do not have as their principal purpose the furnishing of services, or which call for no services to be furnished within the United States or through the use of service employees as those terms are defined in the Act. Clearly outside the Act's coverage for these reasons are such contracts as those for the purchase of tangible products which the Government needs (e.g., vehicles, office equipment, and supplies), for the logistic support of an air base in a foreign country, or for the services of a lawyer to examine the title to land. Similarly, where the Government contracts for a lease of building space for Government occupancy and as an incidental part of the lease agreement the building owner agrees to furnish general janitorial and other building services through the use of service employees, the leasing of the space rather than the furnishing of the building services is the principal

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purpose of the contract, and the Act does not apply. However, if the contract contains a separate line item or items which requires the contractor to furnish specified levels and frequencies of janitorial, security, or other maintenance services, the requirement for such services is considered to be a separate specification the principal purpose of which is the furnishing of services, and as set forth in § 4.132, the Act would apply to such specification. Another type of contract which is outside the coverage of the Act because it is not for the principal purpose of furnishing services may be illustrated by a contract for the rental of parking space under which the Government agency is simply given a lease or license to use the contractor's real property. Such a contract is to be distinguished from contracts for the live storage of vehicles which are delivered into the possession or custody of the contractor, who will provide the required services including the parking or retrieval of the vehicles.

(c) There are a number of types of contracts which, while outside the Act's coverage in the usual case, may be subject to its provisions under the conditions and circumstances of a particular procurement, because these may be such as to require a different view of the principal purpose of the contract. Thus, the ordinary contract for the recapping of tires would have as its principal purpose the manufacture and furnishing of rebuilt tires for the Government rather than the furnishing of services through the use of service employees, and thus would be outside the Act's coverage. Similarly, contracts calling for printing, reproduction, and duplicating ordinarily would appear to have as their principal purpose the furnishing in quantity of printed, reproduced or duplicated written materials rather than the furnishing of reproduction services through the use of service employees. However, in a particular case, the terms, conditions, and circumstances of the procurement may be such that the facts would show its purpose to be chiefly the furnishing of services (e.g. repair services, typesetting, photocopying, editing, etc.), and where such services require the use of service employees the contract would be subject to the Act unless excluded therefrom for some other reason.

§§ 4.135-4.139 [Reserved]

Determining Amount of Contract

§ 4.140 Significance of contract amount.

As set forth in § 4.104 and in the requirements of §§ 4.6-4.7, the obligations of a contractor with respect to labor standards differ in the case of a

covered and nonexempt contract, depending on whether the contract is or is not in excess of \$2,500. Rules for resolving questions that may arise as to whether a contract is or is not in excess of this figure are set forth in the following sections.

§ 4.141 General criteria for measuring amount.

(a) In general, the contract amount is measured by the consideration agreed to be paid, whether in money or other valuable consideration, in return for the obligations assumed under the contract. Thus, even though a contractor, such as a wrecker entering into a contract with the Government to raze a building on a site which will remain vacant, may not be entitled to receive any money from the Government for such work under his contract or may even agree to pay the Government in return for the right to dispose of the salvaged materials, the contract will be deemed one in excess of \$2,500 if the value of the property obtained by the contractor, less anything he might pay the Government, is in excess of such amount. In addition, concession contracts are considered to be contracts in excess of \$2,500 if the contractor's gross receipts under the contract may exceed \$2,500.

(b) All bids from the same person on the same invitation for bids will constitute a single offer, and the total award to such person will determine the amount involved for purposes of the Act. Where the procurement is made without formal advertising, in arriving at the aggregate amount involved, there must be included all property and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising. Therefore, if an agency procures continuing services through the issuance of monthly purchase orders, the amount of the contract for purposes of application of the Act is not measured by the amount of an individual purchase order. In such cases, if the continuing services were procured through formal advertising, the contract term would typically be for one year, and the monthly purchase orders must be grouped together to determine whether the yearly amount may exceed \$2,500. However, a purchase order for services which are not continuing but are performed on a one-time or sporadic basis and which are not performed under a requirements contract, need not be equated to a yearly amount. (See § 4.142(b)). In addition, where an invitation is for services in an amount in excess of \$2,500 and bidders are

permitted to bid on a portion of the services not amounting to more than \$2,500, the amounts of the contracts awarded separately to individual and unrelated bidders will be measured by the portions of the services covered by their respective contracts.

(c) Where a contract is issued in an amount in excess of \$2,500 this amount will govern for purposes of application of the Act even though penalty deductions, deductions for prompt payment, and similar deductions may reduce the amount actually expended by the Government to \$2,500 or less.

§ 4.142 Contracts in an indefinite amount.

(a) Every contract subject to this Act, (and any bid specification therefor) which is indefinite in amount is required to contain the clauses prescribed in § 4.6 for contracts in excess of \$2,500, unless the contracting officer has definite knowledge in advance that the contract will not exceed \$2,500 in any event.

(b) Where contracts or agreements between a Government agency and prospective purveyors of services are negotiated, which provide terms and conditions under which services will be furnished through the use of service employees in response to individual purchase orders or calls, if any, which may be issued by the agency during the life of the agreement, these agreements would ordinarily constitute contracts within the intent of the Act under principles judicially established in *United Biscuit Co. v. Wirtz*, 17 WH Cases 146 (C.A.D.C.), a case arising under the Walsh-Healey Public Contracts Act. Such a contract, which may be in the nature of a bilateral option contract and not obligate the Government to order any services or the contractor to furnish any, nevertheless governs any procurement of services that may be made through purchase orders or calls issued under it terms. Since the amount of the contract is indefinite, it is subject to the rule stated in paragraph (a) of this section. The amount of the contract is not determined by the amount of any individual call or purchase order.

Changes in Contract Coverage

§ 4.143 Effects of changes or extensions of contracts, generally.

(a) Sometimes an existing service contract is modified, amended, or extended in such a manner that the changed contract is considered to be a new contract for purposes of the application of the Act's provisions. The general rule with respect to such contracts is that, whenever changes affecting the labor requirements are made in the terms of the contract, the

provisions of the Act and the regulations thereunder will apply to the changed contract in the same manner and to the same extent as they would to a wholly new contract. However, contract modifications or amendments (other than contract extensions) that are unrelated to the labor requirements of a contract will not be deemed to create a new contract for purposes of the Act. In addition, only significant changes related to labor requirements will be considered as creating new contracts. This limitation on the application of the Act has been found to be in accordance with the provisions of section 4(b) of the Act.

(b) Also, whenever the term of an existing contract is extended, pursuant to an option clause or otherwise, so that the contractor furnishes services over an extended period of time, rather than being granted extra time to fulfill his original commitment, the contract extension is considered to be a new contract for purposes of the application of the Act's provisions. All such "new" contracts as discussed above require the insertion of a new or revised wage determination in the contract as provided in § 4.5.

§ 4.144 Contract modifications affecting amount.

Where a contract which was originally issued in an amount not in excess of \$2,500 is later modified so that its amount may exceed that figure, all the provisions of section 2(a) of the Act, and the regulations thereunder are applicable from the date of modification to the date of contract completion. In the event of such modification, the contracting officer will immediately request a wage determination from the Department of Labor and insert the required contract clauses and any wage determination issued into the contract. In the event that a contract for services subject to the Act in excess of \$2,500, compliance with the provisions of section 2(a) of the Act and the contract clauses required thereunder ceases to be an obligation of the contractor when such modification becomes effective.

§ 4.145 Extended term contracts.

(a) Sometimes service contracts are entered into for a term of years; however, their continuation in effect is subject to the appropriation by Congress of funds for each new fiscal year. In such event, for purposes of this Act, a contract shall be deemed entered into at the beginning of each new fiscal year during which the terms of the original contract are made effective by an appropriation for the purpose. In other

cases a service contract, entered into for a specified term by a Government agency, may contain a provision such as an option clause under which the agency may unilaterally extend the contract for a period of the same length or other stipulated period. Since the exercise of the option results in the rendition of services for a new or different period not included in the term for which the contractor is obligated to furnish services or for which the Government is obligated to pay under the original contract in the absence of such action to extend it, the contract for the additional period is a wholly new contract with respect to application of the Act's provisions and the regulations thereunder.

(b) With respect to multi-year service contracts which are not subject to annual appropriations (for example, concession contracts which are funded through the concessionaire's sales, certain research and development contracts which are funded with so-called "no year money" or contracts awarded by instrumentalities of the United States, such as the Federal Reserve Banks, which do not receive appropriated funds), section 4(d) of the Act allows such contracts to be awarded for a period of up to five years on the condition that the multi-year contracts will be amended no less often than once every two years to incorporate any new Service Contract Act wage determination which may be applicable. Accordingly, unless the contracting agency is notified to the contrary (see § 4.4(d)), at the end of the second year and again at the end of the fourth year, etc. such contracts are treated as wholly new contracts for purposes of the application of the Act's provisions and regulations thereunder. The two year period is considered to begin on the date that the contractor commences performance on the contract (i.e., anniversary date) rather than on the date of contract award.

Period of Coverage

§ 4.146 Contract obligations after award, generally.

A contractor's obligation to observe the provisions of the Act arises on the date the contractor is informed that award of the contract has been made, not necessarily the date of formal execution. However, the contractor is required to comply with the provisions of the Act and regulations thereunder only while the employees are performing on the contract, provided the contractor's records make clear the period of such performance. (See also § 4.179.) If employees of the contractor

are required by the contract to complete certain preliminary training or testing prior to the commencement of the contract services, or if there is a phase-in period which allows the new contractor's employees to familiarize themselves with the contract work so as to provide a smooth transition between contractors, the time spent by employees undertaking such training or phase-in work is considered to be hours worked on the contract and must be compensated for even though the principal contract services may not commence until a later date.

§§ 4.147-4.149 [Reserved]

Employee Covered by the Act

§ 4.150 Employee coverage generally.

The Act, in section 2(b), makes it clear that its provisions apply generally to all employees engaged in performing work on a covered contract entered into by the contractor with Federal Government, regardless of whether they are the contractor's employees or those of any subcontractor under such contract. All employees who, on or after the date of award, are engaged in working on or in connection with the contract, either in performing the specific services called for by its terms or in performing the duties necessary to the performance of the contract, are thus subject to the Act unless a specific exemption (see §§ 4.115 et seq.) is applicable. All such employees must be paid wages at a rate not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206(a)(1)), as amended. Payment of a higher minimum monetary wage and the furnishing of fringe benefits may be required under the contract, pursuant to the provisions of sections 2 (a)(1), (2), and 4(c) of the Act.

§ 4.151 Employees covered by provision of section 2(a).

The provisions of sections 2(a) and 4(c) of the Act prescribe labor standards requirements applicable, except as otherwise specifically provided, to every contract in excess of \$2,500 which entered into by the United States or the District of Columbia for the principal purpose of furnishing services in the United States through the use of service employees. These provisions apply to all service employees engaged in the performance of such a contract or any subcontract thereunder. The Act, in section 8(b) defines the term "service employee". The general scope of the definition is considered in § 4.113(b) of this subpart.

§ 4.152 Employees subject to prevailing compensation provisions of sections 2(a)(1) and (2) and 4(c).

(a) Under section 2(a)(1) and (2) of the Act, minimum monetary wages and fringe benefits to be paid or furnished the various classes of service employees performing such contract work are determined by the Secretary of Labor or his authorized representative in accordance with prevailing rates and fringe benefits for such employees in the locality or in accordance with the rates contained in a predecessor contractor's collective bargaining agreement, as appropriate, and are required to be specified in such contracts and subcontracts thereunder. All service employees of the classes who actually perform the specific services called for by the contract (e.g., janitors performing on a contract for office cleaning; stenographers performing on a contract for stenographic reporting) are covered by the provisions specifying such minimum monetary wages and fringe benefits for such classes of service employees.

(b) The duties which an employee actually performs govern the classification and the rate of pay to which the employee is entitled under the applicable wage determination. Some job classifications listed in an applicable wage determination are descriptive by title and have commonly understood meanings, (e.g., janitors, security guards, pilots, etc.). In such situations, detailed position descriptions may not be included in the wage determination. However, in cases where additional descriptive information is needed to inform users of the scope of duties included in the classification, the wage determination will generally contain detailed position descriptions based on the data source relied upon for the issuance of the wage determination.

(c) Some wage determinations will list a series of classes within a job classification family, i.e., Computer Operators, Class A, B, and C, or Electronic Technicians, Class A, B, and C, or Clerk Typist, Class A and B. Generally, the lowest level listed for a job classification family is considered to be the entry level and establishment of a lower level through conformance (§ 4.6(b)(2)) is not permissible. Likewise, unless listed in an applicable wage determination, so-called trainee classifications are not permissible and cannot be conformed under § 4.6(b)(2). Helpers in skilled maintenance trades (for example, electricians, machinists, automobile mechanics, etc.) whose duties constitute, in fact, separate and distinct jobs, may be conformed. However, conformance may not be used

to artificially split or subdivide classifications listed in the wage determination. In other words, conforming procedures may not be used if the work which an employee performs under the contract is within the scope of any classification listed on the wage determination, regardless of job title. Subminimum rates for apprentices, student learners, and handicapped workers are permissible under the conditions discussed in § 4.6(o).

§ 4.153 Inapplicability of prevailing compensation provisions to some employees.

There may be employees used by a contractor or subcontractor in performing a service contract in excess of \$2,500 which is subject to the Act, whose services, although necessary to the performance of the contract, are not subject to minimum monetary wage or fringe benefit provisions contained in the contract pursuant to section 2(a). This may occur because such employees are not directly engaged in performing the specified contract services. An example might be a laundry contractor's billing clerk performing billing work with respect to the items laundered. In all such situations, the employees who are necessary to the performance of the contract but not directly engaged in the performance of the specified contract services, are nevertheless, subject to the minimum wage provision of section 2(b) (see § 4.150) requiring payment of not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act to all employees working on a covered contract, unless specifically exempt. However, in situations where minimum monetary wages and fringe benefits have not been specified in the contract for a particular class or classes of service employees because the wage and fringe benefit determinations applicable to the locality have been made only for other classes of service employees who will perform the contract work, the employer will be required to pay the monetary wages and fringe benefits which may be specified for such classes of employees pursuant to the conformance procedures provided in § 4.6(b). In no event, however, may the minimum wage rate for any class of service employees be less than the minimum wage rate specified under section 6(a)(1) of the Fair Labor Standards Act.

§ 4.154 Employees covered by sections 2(a)(3) and (4).

The safety and health standards of section 2(a)(3) and the notice requirements of section 2(a)(4) of the Act (see § 4.183) are applicable, in the

absence of a specific exemption, to every service employee engaged by a contractor or subcontractor to furnish services under a contract subject to section 2(a) of the Act.

§ 4.155 Employee coverage does not depend on form of employment contract.

The Act, in section 8(b), makes it plain that the coverage of service employees depends on whether their work for the contractor or subcontractor on a covered contract is that of a service employee as defined in section 8(b) and not on any contractual relationship that may be alleged to exist between the contractor or subcontractor and such persons. In other words, any person, except those discussed in § 4.156 below, who performs work called for by a contract subject to the Act is, per se, a service employee. Thus, for example, a person's alleged status as an "owner-operator" or an "independent contractor" is immaterial in determining coverage under the Act and all such persons performing the work of service employees must be compensated in accordance with the Act's requirements.

§ 4.156 Employees in bona fide executive, administrative, or professional capacity.

The term "service employee" as defined in Section 8(b) of the Act does not include persons employed in a bona fide executive, administrative, or professional capacity as those terms are defined in 29 CFR Part 541. Employees within the definition of service employee who are employed in an executive, administrative, or professional capacity are not excluded from coverage, however, even though they are highly paid, if they fail to meet the tests set forth in 29 CFR Part 541. Thus, such employees as laboratory technicians, draftsmen, and air ambulance pilots, though they require a high level of skill to perform their duties and may meet the salary requirements of the regulations in Part 541 of this title, are ordinarily covered by the Act's provisions because they do not typically meet the other requirements of those regulations.

Subpart D—Compensation Standards

§ 4.159 General minimum wage.

The Act, in section 2(b)(1), provides generally that no contractor or subcontractor under any Federal contract subject to the Act shall pay any employee engaged in performing work on such a contract less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act. Section 2(a)(1) provides that the minimum monetary wage specified in

any such contract exceeding \$2,500 shall in no case be lower than this Fair Labor Standards Act minimum wage. Section 2(b)(1) is a statutory provision which applies to the contractor or subcontractor without regard to whether it is incorporated in the contract; however, §§ 4.6-4.7 provide for inclusion of its requirements in covered contracts and subcontracts. Because this statutory requirement specifies no fixed monetary wage rate and refers only to the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act, and because its application does not depend on provisions of the contract, any increase in such Fair Labor Standards Act minimum wage during the life of the contract is, on its effective date, also effective to increase the minimum wage payable under section 2(b)(1) to employees engaged in performing work on the contract. The minimum wage rate under section 6(a)(1) of the Fair Labor Standards Act is \$2.65 per hour beginning January 1, 1978, \$2.90 per hour beginning January 1, 1979, \$3.10 per hour beginning January 1, 1980, and \$3.35 per hour after December 31, 1980.

§ 4.160 Effect of section 6(e) of the Fair Labor Standards Act.

Contractors and subcontractors performing work on contracts subject to the Service Contract Act are required to pay all employees, including those employees who are not performing work on or in connection with such contracts, not less than the general minimum wage standard provided in section 6(a)(1) of the Fair Labor Standards Act, as amended (Pub. L. 95-151).

§ 4.161 Minimum monetary wages under contracts exceeding \$2,500.

The standards established pursuant to the Act for minimum monetary wages to be paid by contractors and subcontractors under service contracts in excess of \$2,500 to service employees engaged in performance of the contract or subcontract are required to be specified in the contract and in all subcontracts (see § 4.6). Pursuant to the statutory scheme provided by sections 2(a)(1) and 4(c) of the Act, every covered contract (and any bid specification therefor) which is in excess of \$2,500 shall contain a provision specifying the minimum monetary wages to be paid the various classes of service employees engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative in accordance with prevailing rates for such employees in the locality, or, where a collective bargaining agreement applied to the

employees of a predecessor contractor, in accordance with the rates for such employees provided for in such agreement; including prospective wage increases as provided in such agreement as a result of arm's-length negotiations. In no case may such wages be lower than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. (For a detailed discussion of the application of section 4(c) of the Act, see § 4.163.) If some or all of the determined wages in a contract fall below the level of the Fair Labor Standards Act minimum by reason of a change in that rate by amendment of the law, these rates become obsolete and the employer is obligated under section 2(b)(1) of the Service Contract Act, to pay the minimum wage rate established by the amendment as of the date it becomes effective. A change in the Fair Labor Standards Act minimum by operation of law would also have the same effect on advertised specifications or negotiations for covered service contracts, i.e., it would make ineffective and would supplant any lower rate or rates included in such specifications or negotiations whether or not determined. However, unless affected by such a change in the Fair Labor Standards Act minimum wage, by contract changes necessitating the insertion of new wage provisions (see §§ 4.143-4.145 or by the requirements of section 4(c) of the Act (see § 4.163)), the minimum monetary wage rate specified in the contract for each of the classes of service employees for which wage determinations have been made under section 2(a)(1) will continue to apply throughout the period of contract performance. No change in the obligation of the contractor or subcontractor with respect to minimum monetary wages will result from the mere fact that higher or lower wage rates may be determined to be prevailing for such employees in the locality after the award and before completion of the contract. Such wage determinations are effective for contracts not yet awarded, as provided in § 4.5(a).

§ 4.162 Fringe benefits under contracts exceeding \$2,500.

(a) Pursuant to the statutory scheme provided by sections 2(a)(2) and 4(c) of the Act, every covered contract in excess of \$2,500 shall contain a provision specifying the fringe benefits to be furnished the various classes of service employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such

employees in the locality. Where a collective bargaining agreement applied to the employees of a predecessor contractor, the various classes of service employees engaged in the performance of the contract or any subcontract must be provided the fringe benefits, including prospective or accrued fringe benefit increases, provided for in such agreement as a result of arm's-length negotiations. (For a detailed discussion of section 4(c) of the Act, see § 4.163.) Such fringe benefits shall include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor.

(b) Under this provision, the fringe benefits, if any, which the contractor or subcontractor is required to furnish his service employees engaged in the performance of the contract are specified in the contract documents (see § 4.6). How he may satisfy this obligation is dealt with in §§ 4.170-4.177 of this part. A change in the fringe benefits required by the contract provision will not result from the mere fact that other or additional fringe benefits are determined to be prevailing for such employees in the locality at a time subsequent to the award but before completion of the contract. Such fringe benefit determinations are effective for contracts not yet awarded (see § 4.5(a)), or in the event that changes in an existing contract requiring their insertion for prospective application have occurred (see §§ 4.143-4.145). However, none of the provisions of this subsection may be construed as altering a successor contractor's obligations under section 4(c) of the Act. (See § 4.163.)

§ 4.163 Section 4(c) of the Act.

(a) Section 4(c) of the Act provides that no "contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective bargaining agreement as a result of arm's-length negotiations, to

which such service employees would have been entitled if they were employed under the predecessor contract: Provided, that in any of the foregoing circumstances such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality."

Under this provision, the successor contractor's sole obligation is to insure that all service employees are paid no less than the wages and fringe benefits to which such employees would have been entitled if employed under the predecessor's collective bargaining agreement (i.e., irrespective of whether the successor's employees were or were not employed by the predecessor contractor). The obligation of the successor contractor is limited to the wage and fringe benefit requirements of the predecessor's collective bargaining agreement and does not extend to other items such as seniority, grievance procedures, work rules, overtime, etc.

(b) Section 4(c) is self-executing. Under section 4(c), a successor contractor is statutorily obligated to pay no less than the wage rates and fringe benefits which the predecessor contractor paid pursuant to a collective bargaining agreement. This is a direct statutory obligation and requirement placed on the successor contractor by section 4(c) and is not contingent or dependent upon the issuance or incorporation in the contract of a wage determination based on the predecessor contractor's collective bargaining agreement. Pursuant to section 4(b) of the Act, a variation has been granted which limits the self-executing application of section 4(c) in the circumstances and under the conditions described in § 4.1(b) of this part. It must be emphasized, however, that the variation in § 4.1(b) is applicable only if the contracting officer has given both the incumbent (predecessor) contract and the employees' collective bargaining representative notification at least 30 days in advance of any estimated procurement date.

(c) *Variance hearings.* The regulations and procedures for hearings pursuant to section 4(c) of the Act are contained in § 4.10 of Subpart A and Parts 6 and 8 of this title. If, as the result of such hearing, some or all of the wage rate and/or fringe benefit provisions of a predecessor contractor's collective bargaining agreement are found to be substantially at variance with the wage rates and/or fringe benefits prevailing in

the locality, the Administrator will cause a new wage determination to be issued in accordance with the decision of the Administrative Law Judge or the Board of Service Contract Appeals. Since "it was the clear intent of Congress that any revised wage determinations resulting from a section 4(c) proceeding were to have validity with respect to the procurement involved" (53 Comp. Gen. 401 402, 1973), the solicitation, or the contract if already awarded, must be amended to incorporate the newly issued wage determination. Such new wage determination shall be made applicable to the contract as of the date of the Administrative Law Judge's decision or as of the date of the decision of the Board of Service Contract Appeals. The legislative history of the 1972 Amendments makes clear that the collectively bargained "wages and fringe benefits shall continue to be honored * * * unless and until the Secretary finds, after a hearing, that such wages and fringe benefits are substantially at variance with those prevailing in the locality for like services" (S. Rept. 92-1131, 92nd Cong., 2d Sess. 5). Thus, variance decisions do not have application retroactive to the commencement of the contract.

(d) Sections 2(a) and 4(c) must be read in conjunction. The Senate report accompanying the bill which amended the Act in 1972 states that "Sections 2(a)(1), 2(a)(2), and 4(c) must be read in harmony to reflect the statutory scheme." (S. Rept. 92-1131, 92nd Cong., 2d Sess. 4.) Therefore, since section 4(c) refers only to the predecessor contractor's collective bargaining agreement, the reference to collective bargaining agreements in sections 2(a)(1) and 2(a)(2) can only be read to mean a predecessor contractor's collective bargaining agreement. The fact that a successor contractor may have its own collective bargaining agreement does not negate the clear mandate of the statute that the wages and fringe benefits called for by the predecessor contractor's collective bargaining agreement shall be the minimum payable under a new (successor) contract. 48 Comp. Gen. 22, 23-24 (1968). In addition, because section 2(a) only applies to covered contracts in excess of \$2,500, the requirements of section 4(c) likewise apply only to successor contracts which may be in excess of \$2,500. However, if the successor contract is in excess of \$2,500, section 4(c) applies regardless of the amount of the predecessor contract. (See §§ 4.141-4.142 for determining contract amount.)

(e) The operative words of section 4(c) refer to "contract" not "contractor". Section 4(c) begins with the language "[n]o contractor or subcontractor under a contract, which succeeds a contract subject to this Act" (emphasis supplied). Thus, the statute is applicable by its terms to a successor contract without regard to whether the successor contractor was also the predecessor contractor. A contractor may become its own successor because it was the successful bidder on a recompetition of an existing contract, because the contracting agency exercises an option or otherwise extends the term of the existing contract, etc. (See §§ 4.143-4.145). Further, since sections 2(a) and 4(c) must be read in harmony to reflect the statutory scheme, it is clear that the provisions of section 4(c) apply whenever the Act or the regulations require that a new wage determination be incorporated into the contract (53 Comp. Gen. 401, 404-6 (1973)).

(f) *Collective bargaining agreement must be applicable to work performed on the predecessor contract.* Section 4(c) will be operative only if the employees who worked on the predecessor contract were actually paid in accordance with the wage and fringe benefit provisions of a predecessor contractor's collective bargaining agreement. Thus, for example, section 4(c) would not apply if the predecessor contractor entered into a collective bargaining agreement which did not become effective until after the expiration of the predecessor contract. Likewise, the requirements of section 4(c) would not apply if the predecessor contractor's collective bargaining agreement applied only to other employees of the firm and not to the employees working on the contract or if the predecessor contract contained a Service Contract wage determination requiring the payment of wage rates or fringe benefits in excess of those required by the predecessor's collective bargaining agreement. In the latter situation, the predecessor would be in violation of the Act if the employees working on the contract were paid only the wages and fringe benefits provided for in the collective bargaining agreement.

(g) *Contract reconfigurations.* As a result of changing priorities, mission requirements, or other considerations, contracting agencies may decide to restructure their support contracts. Thus, specific contract requirements from one contract may be broken out and placed in a new contract or combined with requirements from other contracts into a consolidated contract. However, the protections afforded service employees

under section 4(c) are not lost or negated because of such contract reconfigurations, and the successor contractor's collectively bargained rates follows identifiable contract work requirements into new or consolidated contracts.

(h) *Interruption of contract services.* Other than the requirement that substantially the same services be furnished, the requirement for arm's-length negotiations and the provision for variance hearings, the Act does not impose any other restrictions on the application of section 4(c). Thus, the application of section 4(c) is not negated because contracting authority may change and the successor contract is awarded by a different contracting agency. Also, there is no requirement that the successor contract commence immediately after the completion or termination of the predecessor contract, and an interruption of contract services does not negate the application of section 4(c). Contract services may be interrupted because the Government facility is temporarily closed for renovation, or because a predecessor defaulted on the contract or because a bid protest has halted a contract award requiring the Government to perform the services with its own employees. In all such cases, the requirements of section 4(c) would apply to any successor contract which may be awarded after the temporary interruption or hiatus.

The basic principle in all of the preceding examples is that successorship provisions of section 4(c) apply to the full term successor contract. Therefore, temporary interim contracts, which allow a contracting agency sufficient time to solicit bids for a full term contract, also do not negate the application of section 4(c) to a full term successor contract.

(i) *Place of performance.* The successorship requirements of section 4(c) apply to all contracts for substantially the same services as were furnished under the predecessor contract. The Act does not distinguish between successor contracts performed at the location of a successful bidder, and the requirements of section 4(c) apply equally to both types of contracts.

(j) *Interpretation of wage and fringe benefit provisions of wage determinations issued pursuant to sections 2(a) and 4(c).* Wage determinations which are issued for successor contracts subject to section 4(c) are intended to accurately reflect the rates and fringe benefits set forth in the predecessor's collective bargaining

agreement. However, failure to include in the wage determination any job classification, wage rate, or fringe benefit encompassed in the collective bargaining agreement does not relieve the successor contractor of the statutory requirement to comply at a minimum with the terms of the collective bargaining agreement insofar as wages and fringe benefits are concerned. Since the successor's obligations are governed by the terms of the collective bargaining agreement, any interpretation of the wage and fringe benefit provisions of the wage determination must be based on the intent of the parties to the collective bargaining agreement to the extent that such interpretation is not violative of law. Therefore, some of the principles discussed in §§ 4.170-4.177 regarding specific interpretations of the fringe benefit provisions of prevailing wage determinations may not be applicable to wage determinations issued pursuant to section 4(c). However, as provided in section 2(a)(2), a contractor may satisfy its fringe benefit obligations under any wage determination "by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash" in accordance with the rules and regulations set forth in § 4.177 of this Subpart.

(k) No provision of this section shall be construed as permitting a successor contractor to pay its employees less than the wages and fringe benefits to which such employees would have been entitled under the predecessor contractor's collective bargaining agreement. Thus, some of the principles discussed in § 4.167 may not be applicable in section 4(c) successorship situations. For example, if the predecessor contractor's collective bargaining agreement did not provide for the deduction from employees wages, the reasonable cost or fair value for providing board, lodging, or other facilities, then the successor also may not include such costs as part of the applicable minimum wage specified in the wage determination. Likewise, unless the predecessor contractor's agreement allowed any tip credit (§ 4.6(q)), the successor contractor may not take a tip credit toward satisfying the minimum wage requirements under sections 2(a)(1) and 4(c).

§ 4.164 [Reserved]

§ 4.165 Wage payments and fringe benefits—in general.

(u)(1) Monetary wages specified under the Act shall be paid to the employees to whom they are due promptly and in

no event later than one pay period following the end of the pay period in which they are earned. No deduction, rebate, or refund is permitted, except as hereinafter stated. The same rules apply to cash payments authorized to be paid with the statutory monetary wages as equivalents of determined fringe benefits (see § 4.177).

(2) The Act makes no distinction, with respect to its compensation provisions, between temporary, part-time, and full-time employees, and the wage and fringe benefit determinations apply, in the absence of an express limitation, equally to all such service employees engaged in work subject to the Act's provisions (See § 4.176 regarding fringe benefit payments to temporary and part-time employees.)

(b) The Act does not prescribe the length of the pay period. However, for purposes of administration of the Act, and to conform with practices required under other statutes that may be applicable to the employment, wages and hours worked must be calculated on the basis of a fixed and regularly recurring workweek of seven consecutive 24-hour workday periods, and the records must be kept on this basis. It is appropriate to use this workweek for the pay period. A bi-weekly or semimonthly, pay period may, however, be used if agreed upon by the employer and his employees. A pay period longer than semi-monthly is not recognized as appropriate for service employees and wage payments at greater intervals will not be considered as constituting proper payments in compliance with the Act.

(c) The prevailing rate established by a wage determination under the Act is a minimum rate. A contractor is not precluded from paying wage rates in excess of those determined to be prevailing in the particular locality. Nor does the Act affect or require the changing of any provisions of union contracts specifying higher monetary wages or fringe benefits than those contained in an applicable determination. However, if a determination for a class of service employees contains a wage or fringe benefit provision which is higher than that specified in an existing union agreement, the determination's provision will prevail for any work performed on a contract subject to the determination.

§ 4.166 Wage payments—unit of payment.

The standard by which monetary wage payments are measured under the Act is the wage rate per hour. An hourly wage rate is not, however, the only unit for payment of wages that may be used

persons for employees subject to the Act. Employees may be paid on a daily, weekly, or other time basis, or by piece or task rates, so long as the measure of work and compensation used, when translated or reduced by computation to an hourly basis each workweek, will provide a rate per hour that will fulfill the statutory requirement. Whatever system of payment is used, however, must ensure that each hour of work in performance of the contract is compensated at not less than the required minimum rate. Failure to pay for certain hours at the required rate cannot be transformed into compliance with the Act by reallocating portions of payments made for other hours which are in excess of the specified minimum.

§ 4.167 Wage payments—Medium of payment.

The wage payment requirements under the Act for monetary wages specified under its provisions will be satisfied by the timely payment, finally and unconditionally or "free and clear", of such wages to the employee either in cash or negotiable instrument payable at par. Scrip, tokens, credit cards, "dope checks", coupons, and similar devices which permit the employer to retain and prevent the employer from acquiring control of money due for the work until some time after the pay day for the period in which it was earned, are not proper mediums of payment under the Act. If, as is permissible, they are used as a convenient device for measuring earnings or allowable deductions during a single pay period, the employee cannot be charged with the loss or destruction of any of them and the employer may not, because the employee has not actually redeemed them credit itself with any which remain outstanding on the pay day. In determining whether it has met the requirements of the Act, the employer may not include the cost of fringe benefits or equivalents furnished as required under section 2(a)(2) of the Act, as a credit toward the monetary wages it is required to pay under section 2(a)(1) or 2(b) of the Act (see § 4.170). However, the employer may generally include, as a part of the applicable minimum wage which it is required to pay under the Act, the reasonable cost or fair value, as determined by the Administrator, of furnishing an employee with "board, lodging, or other facilities," as defined in Part 531 of this title, in situations where such facilities are customarily furnished to employees, for the convenience of the employees, and the employees' acceptance of them is voluntary and uncoerced. The determination of reasonable cost or fair value will be in

accordance with the Administrator's regulations under the Fair Labor Standards Act, contained in such Part 531 of this title. While employment on contracts subject to the Act would not ordinarily involve situations in which service employees would receive tips from third persons, the treatment of tips for wage purposes in the situations where this may occur should be understood. For purposes of this Act, tips may generally be included in wages in accordance with the regulations under the Fair Labor Standards Act, contained in Part 531 (See also § 4.6(g)). The general rule under that Act is that the amount paid a tipped employee by his employer is deemed to be increased on account of tips by an amount determined by the employer, not in excess of 50 percent of the minimum wage applicable under section 6 of that Act, through December 31, 1978, 45 percent effective January 1, 1979 and 40 percent effective January 1, 1980. In no event shall the sum credited be in excess of the value of tips actually received by the employee. Thus, the tip credit taken by an employer subject to the Service Contract Act may not exceed \$1.32 per hour beginning January 1, 1978, \$1.30 per hour beginning January 1, 1980 and \$1.34 per hour after December 31, 1980. (See § 4.163(k) for exceptions in section 4(c) situations.)

§ 4.168 Wage payments—deductions from wages paid.

(a) The wage requirements of the Act will not be met where unauthorized deductions, rebates, or refunds reduce the wage payment made to the employee below the minimum amounts required under the provisions of the Act and the regulations thereunder, or where the employee fails to receive such amounts free and clear because he "kicks back" directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to him. Authorized deductions are limited to those required by law, such as taxes payable by employees required to be withheld by the employer and amounts due employees which the employer is required by court order to pay to another; deductions allowable for the reasonable cost or fair value of board, lodging, and facilities furnished as set forth in § 4.167; and deductions of amounts which are authorized to be paid to third persons for the employee's account and benefit pursuant to his voluntary assignment or order or a collective bargaining agreement with bona fide representatives of employees which is applicable to the employer. Deductions for amounts paid to third

persons on the employee's account which are not so authorized or are contrary to law or from which the contractor, subcontractor or any affiliated person derives any payment, rebate, commission, profit, or benefit directly or indirectly, may not be made if they cut into the wage required to be paid under the Act. The principles applied in determining the permissibility of deductions for payments made to third persons are explained in more detail in §§ 531.38 - 531.40 of this title.

(b) *Cost of maintaining and furnishing uniforms.* If the employees are required to wear uniforms either by the employer, the nature of the job, or the Government contract, then the cost of furnishing and maintaining the uniforms is deemed to be a business expense of the employer and such cost may not be borne by the employees to the extent that to do so would reduce the employee's compensation below that required by the Act. Since it may be administratively difficult and burdensome for employers to determine the actual cost incurred by all employees for maintaining their own uniforms, payment in accordance with the following standards is considered sufficient for the contractor to satisfy its wage obligations under the Act:

(1) The contractor furnishes all employees with an adequate number of uniforms without cost to the employees or reimburses employees for the actual cost of the uniforms. (2) Where uniform cleaning and maintenance is made the responsibility of the employee, the contractor reimburses all employees for such cleaning and maintenance at the rate of \$2.90 per week (or 58 cents a day), increasing to \$3.10 a week (or 62 cents a day) as of January 1, 1980 and to \$3.35 a week (or 67 cents a day) as of January 1, 1981. Since employees are generally required to wear a clean uniform each day regardless of the number of hours the employee may work that day, the preceding weekly amounts generally may be reduced to the stated daily equivalent but not an hourly equivalent. A contractor may reimburse employees at a different rate if the contractor furnishes affirmative proof as to the actual cost to the employees maintaining their uniforms or if a different rate is provided for in a bona fide collective bargaining agreement covering the employees working on the contract.

(c) Stipends, allowances or other payments made directly to an employee by a party other than the employer (such as a stipend for training paid by the Veteran Administration) are not part of "wages" and the employer may not

claim credit for such payments toward its monetary obligations under the Act.

§ 4.169 Wage payments—work subject to different rates.

If an employee during a workweek works in different capacities in the performance of the contract and two or more rates of compensation under section 2 of the Act are applicable to the classes of work which he performs, he must be paid the highest of such rates for all hours worked in the workweek unless it appears from the employer's records or other affirmative proof which of such hours were included in the periods spent in each class of work. The rule is the same where such an employee is employed for a portion of the workweek in work not subject to the Act, for which compensation at a lower rate would be proper if the employer by his records or other affirmative proof, segregated the worktime thus spent.

§ 4.170 Furnishing fringe benefits or equivalents.

(a) *General.* Fringe benefits required under the Act shall be furnished, separate from and in addition to the specified monetary wages, by the contractor or subcontractor to the employees engaged in performance of the contract, as specified in the determination of the Secretary or his authorized representative and prescribed in the contract documents. Section 2 (a)(2) of the Act provides that the obligation to furnish the specified benefits "may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary." The governing rules and regulations for furnishing such equivalents are set forth in § 4.177 of this Subpart. An employer cannot offset an amount of monetary wages paid in excess of the wages required under the determination in order to satisfy his fringe benefit obligations under the Act.

(b) *Meeting the requirement, in general.* The various fringe benefits listed in the Act are illustrative of those which may be found prevailing for services in a particular locality. The benefits which an employer will actually be required to furnish employees performing on a particular contract will be specified in the contract documents. A contractor may dispose of certain of the fringe benefit obligations which may be required by an applicable fringe benefit determination, such as pension, retirement, or health insurance, by irrevocably paying the specified contributions for fringe benefits to an

independent trustee or other third person pursuant to an existing "bona fide" fund, plan, or program on behalf of employees engaged in work subject to the Act's provisions. Where such a plan or fund does not exist, a contractor must discharge his obligation relating to fringe benefits by furnishing either an equivalent combination of "bona fide" fringe benefits or by making equivalent payments in cash to the employee, in accordance with the regulations in § 4.177 of this Subpart.

§ 4.171 "Bona fide" fringe benefits.

(a) To be considered a "bona fide" fringe benefit for purposes of the Act, a fringe benefit plan, fund, or program must constitute a legally enforceable obligation which meets the following criteria:

(1) The provisions of a plan, fund, or program adopted by the contractor, or by contract as a result of collective bargaining, must be specified in writing, and must be communicated in writing to the affected employees. Contributions must be made pursuant to the terms of such plan, fund, or program. The plan may be either contractor financed or a joint contractor-employee contributory plan. However, any contributions made by employees must be voluntary, and if such contributions are made through payroll deductions, such deductions must be made in accordance with § 4.168. No contribution toward fringe benefits made by the employer's themselves, or fringe benefit is provided from monies deducted from the employee's wages may be included or used by an employer in satisfying any part of any fringe benefit obligation under the Act.

(2) The primary purpose of the plan must be to provide systematically for the payment of benefits to employees on account of death, disability, advanced age, retirement, illness, medical expenses, hospitalization, supplemental unemployment benefits, and the like.

(3) The plan must contain a definite formula for determining the amount to be contributed by the contractor and a definite formula for determining the benefits for each of the employees participating in the plan or the benefits provided under the plan must be specified or definitely determinable on an actuarial basis.

(4) As set forth in § 4.170(b), the contractor's contributions must be paid irrevocably to a trustee or other third person pursuant to an insurance agreement, trust or other funded arrangement. The trustee must assume the usual fiduciary responsibilities imposed upon trustees by applicable law. The trust or fund must be set up in

such a way that in no event will the contractor be able to recapture any of the contributions paid in nor in any way divert the funds to his own use or benefit.

(5) The benefit plans or trust must be approved by the Internal Revenue Service as satisfying the requirements of section 401(a) of the Internal Revenue Code and meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq. and regulations thereunder.

(c) It should also be noted that such plans must meet certain other criteria as set forth in § 778.215 of 29 CFR 778 in order for any contributions to be excluded from computation of the regular rate of pay for overtime purposes under the Fair Labor Standards Act (§§ 4.180-4.182).

(b) Self-insured fringe benefit plans (other than fringe benefits such as vacations and holidays which by their nature are normally unfunded) under which contractors typically maintain their own accounts to cover fringe benefit payments are not considered "bona fide" plans or equivalent benefits for purposes of the Act.

(c) No benefit required by any other Federal law or by any State or local law such as unemployment compensation, workers' compensation, or social security, is a "bona fide" fringe benefit for purposes of the Act.

(d) The furnishing to an employee of board, lodging, or other facilities under the circumstances described in § 4.167, the cost or value of which is creditable toward the monetary wages specified under the Act, may not be used to offset any fringe benefits specified under the Act, may not be used to offset any fringe benefits specified in the contract, as such items and facilities are not fringe benefits or equivalent benefits for purposes of the Act.

(e) The furnishing of facilities which are primarily for the benefit or convenience of the contractor or the cost of which is properly a business expense of the contractor is not the furnishing of a "bona fide" fringe benefit or

equivalent benefit or the payment of wages. This would be true of such items, for example, as relocation expenses, travel and transportation expenses incident to employment, incentive or suggestion awards, and recruitment bonuses, as well as tools and other materials and services incidental to the employer's performance of the contract and the carrying on of his business, and the cost of furnishing, laundering, and maintaining uniforms and/or related apparel or equipment where employees are required by the contractor by the contractor's Government contract, by

law, or by the nature of the work to wear such items. See also § 4.168.

(f) Contributions by contractors for such items as social functions or parties for employees, flowers, cards, or gifts on employee birthdays, anniversaries, etc. (sunshine funds), employee rest or recreation rooms, paid coffee breaks, magazine subscriptions, and professional association or club dues, may not be used to offset any wages or fringe benefits specified in the contract, as such items are not "bona fide" wages or fringe benefits or equivalent benefits for purposes of the Act.

§ 4.172 Meeting requirements in particular fringe benefits—in general.

Where a fringe benefit determination specifies the amount of the employer's contribution to provide the benefit, the amount specified is the actual cash amount that must be provided by the employer for the employee. No deduction from the specified amount may be made to cover any administrative costs which may be incurred by the contractor in providing the benefits, as such costs are properly a business expense of the employer. If prevailing fringe benefits for insurance or retirement are determined in a stated amount, and the employer provides such benefits through contribution in a lesser amount, he will be required to furnish the employee with the difference between the amount stated in the determination and the actual cost of the benefits which he provides. Unless otherwise specified in the particular wage determination, such as one reflecting collectively bargained fringe benefit requirements, issued pursuant to Section 4(c) of the Act, every employee performing on a covered contract must be furnished the fringe benefits required by that determination for all hours spent working (and paid for) on that contract up to a maximum of 40 hours per week and 2,080 (i.e., 52 weeks of 40 hours each) per year, as these are the typical number of nonovertime hours of work in a week, and in a year, respectively. Since the Act's fringe benefit requirements are applicable on a contract-by-contract basis, employees performing on more than one contract subject to the Act must be furnished the full amount of fringe benefits to which they are entitled under each contract and applicable wage determination. Where a fringe benefit determination has been made requiring employer contributions for a specified fringe benefit in a stated amount per hour, a contractor employing employees part of the time on contract work and part of the time on other work, may only credit against the hourly amount required for

the hours spent on the contract work, the corresponding proportionate part of a weekly, monthly, or other amount contributed by him for such fringe benefits or equivalent benefits for such employees. If, for example, the determination requires health and welfare benefits in the amount of 10 cents an hour and the employer provides hospitalization insurance for such employees at a cost of \$3.50 a week, the employer may credit 8.75 cents an hour (40 ÷ 350) toward his fringe benefit obligation for an employee, in a particular workweek. If an employee works 35 hours on the contract work and 5 hours on other work, the employer cannot allocate the entire \$3.50 to the 35 hours spent on contract work and take credit for 10 cents per hour in that manner, but must spread the cost over the full forty hours.

§ 4.173 Meeting requirements for vacation fringe benefits.

(a) Determining length of service for vacation eligibility. It has been found that for many types of service contracts performed at Federal facilities a successor contractor will utilize the employees of the previous contractor in the performance of the contract. The employees typically work at the same location providing the same services to the same clientele over a period of years, with periodic, often annual, changes of employer. The incumbent contractor, when bidding on a contract, must consider his liability for vacation benefits for those workers in his employ. If prospective contractors who plan to employ the same personnel were not required to furnish these employees with the same prevailing vacation benefits, it would place the incumbent contractor at a distinct competitive disadvantage as well as denying such employees entitlement to prevailing vacation benefits.

(1) Accordingly, most vacation fringe benefit determinations issued under the Act require an employer to furnish to employees working on the contract a specified amount of paid vacation upon completion of a specified length of service with a contractor or successor. This requirement may be stated in the determination, for example, as "one week paid vacation after one year of service with a contractor or successor" or by a determination which calls for "one week's paid vacation after one year of service". Unless specified otherwise in an applicable fringe benefit determination, an employer must take the following two factors into consideration in determining when an employee has completed the required

length of service to be eligible for vacation benefits:

(i) The total length of time spent by an employee in any capacity in the continuous service of the present (successor) contractor, including both the time spent in performing on regular commercial work and the time spent in performing on the Government contract itself, and

(ii) Where applicable, the total length of time spent in any capacity as an employee in the continuous service of any predecessor contractor(s) who carried out similar contract functions at the same Federal facility.

(2) The application of these principles may be illustrated by the example given above of a fringe benefit determination calling for "one week paid vacation after one year of service with a contractor or successor". In that example, if a contractor has an employee who has worked for him for 18 months on regular commercial work and only for 6 months on a Government service contract, that employee would be eligible for the one week vacation since his total service with the employer adds up to more than 1 year. Similarly, if a contractor has an employee who worked for 16 months under a janitorial service contract on a particular Federal base for two different predecessor contractors, and only 8 months with the present employer, that employee would also be considered as meeting the "after one year of service" test and would thus be eligible for the specified vacation.

(3) The "contractor or successor" requirement set forth in paragraph (a)(1) of this section is not affected by the fact that a different contracting agency may have contracted for the services previously or by the agency's dividing and/or combining contract function. However, prior service as a Federal employee is not counted toward an employee's eligibility for vacation benefits under fringe benefit determinations issued pursuant to the Act.

(4) Some fringe benefit determinations may require an employer to furnish a specified amount of paid vacation upon completion of a specified length of service with the employer, for example, "one week paid vacation after one year of service with an employer". Under such determinations, only the time spent in performing on commercial work and on Government contract work in the employment of the present contractor need be considered in computing the length of service for purposes of determining vacation eligibility.

(5) Whether or not the predecessor contract(s) was covered by a fringe benefit determination is immaterial in

determining whether the one year of service test has been met. This qualification refers to work performed before, as well as after, an applicable fringe benefit determination is incorporated into a contract. Also, the fact that the labor standards in predecessor service contract(s) were only those required under the Fair Labor Standards Act has no effect on the applicable fringe benefit determination contained in a current contract.

(b) Eligibility requirement—continuous service. Under the principles set forth above, if an employee's total length of service adds up to at least one year, the employee is eligible for one week's vacation with pay. However, such service must have been rendered continuously for a period of not less than one year for vacation eligibility. The term "continuous service" does not require the combination of two entirely separate periods of employment. Whether or not there is a break in the continuity of service so as to make an employee ineligible for a vacation benefit is dependent upon all the facts in the particular case. No fixed time period has been established for determining whether an employee has a break in service. Rather, as illustrated below the reason(s) for an employee's absence from work is the primary factor in determining whether a break in service occurred.

(1) In cases where employees have been granted leave with or without pay by their employer, or are otherwise absent with permission for such reasons as sickness or injury, or otherwise perform no work on the contract because of reasons beyond their control, there would not be a break in service. Likewise, the absence from work for a few days, with or without notice, does not constitute a break in service, without a formal termination of employment. The following specific examples are illustrative situations where it has been determined that a break in service did not occur:

(i) An employee absent for five months due to illness but employed continuously for three years.

(ii) A strike after which employees returned to work.

(iii) An interim period of three months between contracts caused by delays in the procurement process during which time personnel hired directly by the Government performed the necessary services. However, the successor contractor in this case was not held liable for vacation benefits for those employees who had anniversary dates of employment during the interim period because no employment relationship existed during such period.

(iv) A mess hall closed three months for renovation. Contractor employees were considered to be on temporary layoff during the renovation period and did not have a break in service.

(2) Where an employee quits, is fired for cause, or his employment is otherwise terminated (except for temporary layoffs), there would be a break in service even if the employee were rehired at a later date. However, an employee may not be discharged and rehired as a subterfuge to evade the vacation requirement.

(c) Vesting and payment of vacation benefits.

(1) In the example given in (a)(1) of this section of a fringe benefit determination calling for "one week paid vacation after 1 year of service with a contractor or successor", an employee who renders the "one year of service" continuously becomes eligible for the "one week paid vacation" (i.e., 40 hours of paid vacation, unless otherwise specified in an applicable wage determination) upon his anniversary date of employment and upon each succeeding anniversary date thereafter. However, there is no accrual or vesting of vacation eligibility before the employee's anniversary date of employment, and no segment of time smaller than one year need be considered in computing the employer's vacation liability, unless specifically provided for in a particular fringe benefit determination. For example, an employee who has worked 13 months for an employer subject to such stipulations and is separated without receiving any vacation benefit is entitled only to one full week's (40 hours) paid vacation. He would not be entitled to the additional fraction of one-twelfth of one week's paid vacation for the month he worked in the second year unless otherwise stated in the applicable wage determination. An employee who has not met the "one year of service" requirement would not be entitled to any portion of the "one week paid vacation".

(2) Eligibility for vacation specified in a particular wage determination is based on completion of the stated period of past service. The individual employee's anniversary date (and each annual anniversary date of employment thereafter) is the reference point for vesting of vacation eligibility, but does not necessarily mean that the employee must be given the vacation or paid for it on the date on which it is vested. The vacation may be scheduled according to a reasonable plan mutually agreed to and communicated to the employees. A "reasonable" plan may be interpreted to be a plan which allows the employer to

maintain uninterrupted contract services but allows the employee some choice, by seniority or similar factor, in the scheduling of vacations. However, the required vacation must be given or payment made in lieu thereof before the next anniversary date, before completion of the current contract, or before the employee terminated employment, whichever occurs first.

(d) Contractor liability for vacation benefits.

(1) The liability for an employee's vacation is not prorated among contractors unless specifically provided for under a particular fringe benefit determination. The contractor by whom a person is employed at the time the vacation right vests, i.e., the employee's anniversary date of employment, must provide the full benefit required by the determination which is applicable on that date. For example, an employee, who had not previously performed similar contract work at the same facility, was first hired by a predecessor contractor on July 1, 1978. July 1 is the employee's anniversary date. The predecessor's contract ended June 30, 1979, but the employee continued working on the contract for the successor. Since the employee did not have an anniversary date of employment during the predecessor's contract, the predecessor would not have any vacation liability with respect to this employee. However, on July 1, 1979 the employee's entitlement to the full vacation benefit vested and the successor contractor would be liable for the full amount of the employee's vacation benefit.

(2) The requirements for furnishing data relative to employee hiring dates in situations where such employees worked for "predecessor" contractors are set forth in § 4.6. However, a contractor is not relieved from any obligation to provide vacation benefits because of difficulty in obtaining such data.

(e) Rate applicable to computation of vacation benefits.

(1) If an applicable wage determination requires that the hourly wage rate be increased during the period of the contract, the rate applicable to the computation of any required vacation benefits is the hourly rate in effect in the workweek in which the actual paid vacation is provided or the equivalent is paid, as the case may be, and would not be the average of the two hourly rates. This rule would not apply to situations where a wage determination specified the method of computation and the rate to be used.

(2) As set forth in § 4.172, unless specified otherwise in an applicable

fringe benefit determination, service employees must be furnished the required amount of fringe benefits for all hours paid for up to a maximum of 40 hours per week and 2,080 hours per year. Thus, an employee on paid vacation leave would accrue and must be compensated for any other applicable fringe benefits specified in the fringe benefit determination, and if any of the other benefits are furnished in the form of cash equivalents, such equivalents must be included with the applicable hourly wage rate in computing vacation benefits or a cash equivalent therefor. The rules and regulations for computing cash equivalents are set forth in § 4.177.

§ 4.174 Meeting requirements for holiday fringe benefits.

(a) Determining eligibility for holiday benefits—in general.

(1) Most fringe benefit determinations list a specific number of named holidays for which payment is required. Unless specified otherwise in an applicable determination, an employee who performs any work during the workweek in which a named holiday occurs is entitled to the holiday benefit, regardless of whether the named holiday falls on a Sunday, another day during the workweek on which the employee is not normally scheduled to work, or on the employee's day off. In addition, holiday benefits cannot be denied because the employee has not been employed by the contractor for a designated period prior to the named holiday or because the employee did not work the day before or the day after the holiday, unless such qualifications are specifically included in the determination.

(2) An employee who performs no work during the workweek in which a named holiday occurs is generally not entitled to the holiday benefit. However, an employee who performs no work during the workweek because he is on paid vacation or sick leave in accordance with the terms of the applicable fringe benefit determination is entitled to holiday pay or another day off with pay to substitute for the named holiday. In addition, an employee who performs no work during the workweek because of a layoff does not forfeit his entitlement to holiday benefits if the layoff is merely a subterfuge by the contractor to avoid the payment of such benefits.

(3) The obligation to furnish holiday pay for the named holiday may be discharged if the contractor furnishes another day off with pay in accordance with a plan communicated to the employees involved. However, in such instances the holidays named in the

fringe benefit determination are the reference points for determining whether an employee is eligible to receive holiday benefits. In other words, if an employee worked in a workweek in which a listed holiday occurred, the employee fully vests entitlement to pay for that holiday. Some determinations may provide for a specific number of holidays without naming them. In such instances the contractor is free to select the holidays to be taken in accordance with a plan communicated to the employees involved, and the agreed-upon holidays are the reference points for determining whether an employee is eligible to receive holiday benefits.

(b) Determining eligibility for holiday benefits—newly hired employees. The contractor generally is not required to compensate a newly hired employee for the holiday occurring prior to the hiring of the employee. However, if a named holiday falls in the first week of a contract, all employees who work during the first week would be entitled to holiday pay for that day. For example, if a contract to provide services for the period January 1 through December 31 contained a fringe benefit determination listing New Year's Day as a named holiday, and if New Year's Day were officially celebrated on January 2 in the year in question because January 1 fell on a Sunday, employees hired to begin work on January 3 would be entitled to holiday pay for New Year's Day.

(c) Payment of holiday benefits.

(1) A full-time employee who is eligible to receive payment for a named holiday must receive a full day's pay up to 8 hours unless a different standard is used in the fringe benefit determination, such as one reflecting collectively bargained holiday benefit requirements issued pursuant to Section 4(c) of the Act or a different historic practice in an industry or locality. Thus, for example, a contractor must furnish 7 hours of holiday pay to a full-time employee whose scheduled workday consists of 7 hours. An employee whose scheduled workday is 10 hours would be entitled to a holiday payment of 8 hours unless a different standard is used in the determination. As set forth in § 4.172, such holiday pay must include the full amount of fringe benefits to which the employee is entitled.

(2) Unless a different standard is used in the wage determination, a full-time employee who works on the day designated as a holiday must be paid, in addition to the amount he ordinarily would be entitled to for that day's work, the cash equivalent of a full-day's pay up to 8 hours or be furnished another day off with pay.

(3) If the fringe benefit determination lists the employee's birthday as a paid holiday and that day coincides with another listed holiday, the contractor may discharge his obligation to furnish payment for the second holiday by either substituting another day off with pay with the consent of the employee, furnishing holiday benefits of an extra day's pay, or if the employee works on the holiday in question, furnish holiday benefits of two extra days' pay.

(4) As stated in (a)(1) of this section, an employee's entitlement to holiday pay fully vests by working in the workweek in which the named holiday occurs. Accordingly, any employee who is terminated before receiving the full amount of holiday benefits due him must be paid the holiday benefits as a final cash payment.

(5) The rules and regulations for furnishing holiday pay to temporary and part-time employees are discussed in § 4.176.

(6) The rules and regulations for furnishing equivalent fringe benefits or cash equivalents in lieu of holiday pay are discussed in § 4.177.

§ 4.175 Meeting requirements for health, welfare, and/or pension benefits.

(a) Determining the required amount of benefits.

(1) Most fringe benefit determinations containing health and welfare and/or pension requirements specify a fixed payment per hour on behalf of each service employee. These payments are usually also stated as weekly or monthly amounts. As set forth in § 4.172, unless specified otherwise in the applicable determination such payments are due for all hours paid for, including paid vacation, sick leave, and holiday hours, up to a maximum of 40 hours per week and 2,080 hours per year. The application of this rule can be illustrated by the following examples:

(i) An employee who works 4 days a week, 10 hours a day is entitled to 40 hours of health and welfare and/or pension benefits. If an employee works 3 days a week, 12 hours a day, then such employee is entitled to 36 hours of these benefits.

(ii) An employee who works 32 hours in a workweek and also receives 8 hours of holiday pay is entitled to the maximum of 40 hours of health and welfare and/or pension payments in that workweek. If the employee works more than 32 hours and also received 8 hours of holiday pay, the employee is still only entitled to the maximum of 40 hours of health and welfare and/or pension payments.

(iii) If an employee is off work for two weeks on vacation and received 80

hours of vacation pay, the employee must also receive payment for the 80 hours of health and welfare and/or pension benefits which accrue during the vacation period.

(iv) An employee entitled to two weeks paid vacation who instead works the full 52 weeks in the year, receiving the full 2,080 hours worth of health and welfare and/or pension benefits, would be due an extra 80 hours of vacation pay in lieu of actually taking the vacation; however, such an employee would not be entitled to have an additional 80 hours of health and welfare and/or pension benefits included in his vacation pay.

(2) A fringe benefit determination calling for a specified benefit such as health insurance contemplates a fixed and definite contribution to a "bona fide" plan (as that term is defined in § 4.171) by an employer on behalf of each employee, based on the monetary cost to the employer rather than on the level of benefits provided. Therefore, in determining compliance with an applicable fringe benefit determination, the amount of the employer's contribution on behalf of each individual employee governs. Thus, as set forth in § 4.172, if a determination should require a contribution to a plan providing a specified fringe benefit and that benefit can be obtained for less than the required contribution, it would be necessary for the employer to make up the difference in cash to the employee, or by furnishing equivalent benefits, or a combination thereof. The following illustrates the application of this principle: A fringe benefit determination requires a rate of \$36.40 per month employee for a health insurance plan. The employer obtains the health insurance coverage specified at a rate of \$20.45 per month for a single employee, \$30.60 for an employee with spouse, and \$40.90 for an employee with a family. The employer is required to make up the difference in cash or equivalent benefits to the first two classes of employees in order to satisfy the determination, notwithstanding that coverage for an employee would be automatically changed by the employer if the employee's status should change (e.g., single to married) and notwithstanding that the employer's average contribution per employee may be equal to or in excess of \$36.40 per month.

(b) Some fringe benefit determinations specifically provide for health and welfare and/or pension benefits in terms of average cost. Under this concept, a contractor's contributions per employee to a "bona fide" fringe benefit

plan are permitted to vary depending upon the individual employee's marital or employment status. However, the firm's total contributions for all service employees enrolled in the plan must average at least the fringe benefit determination requirement per hour per service employee. If the contractor's contributions average less than the amount required by the determination, then the firm must make up the deficiency by making cash equivalent payments or equivalent fringe benefit payments to all service employees in the plan who worked on the contract during the payment period. Where such deficiencies are made up by means of cash equivalent payments, the payments must be made promptly on the following payday. The following illustrates the application of this principle: The determination requires an average contribution of \$0.84 an hour. The contractor makes payments to bona fide fringe benefit plans on a monthly basis. During a month the firm contributes \$15,000 for the service employees employed on the contract who are enrolled in the plan, and a total of 20,000 man-hours had been worked by all service employees during the month. Accordingly, the firm's average cost would have been $\$15,000 \div 20,000$ hours or \$0.75 per hour, resulting in a deficiency of \$0.09 per hour. Therefore, the contractor owes the service employees in the plan who worked on the contract during the month an additional \$0.09 an hour for each hour worked on the contract, payable on the next regular payday for wages. Unless otherwise provided in the applicable wage determination, contributions made by the employer for non-service employees may not be credited toward meeting Service Contract Act fringe benefit obligations.

(c) Employees excluded from participating in fringe benefit plans.

(1) Some health and welfare and pension plans contain eligibility exclusions for certain employees. For example, temporary and part-time employees may be excluded from participating in such plans. Also, employees receiving benefits through participation in plans of an employer other than the Government contractor or by a spouse's employer may be prevented from receiving benefits from the contractor's plan because of prohibitions against "double coverage". While such exclusions do not invalidate an otherwise bona fide insurance plan, employer contributions to such a plan cannot be considered to be made on behalf of the excluded employees. Accordingly, under fringe benefit

determination requirements as described in the preceding subparagraph (a)(2), the employees excluded from participation in the health insurance plan must be furnished equivalent bona fide fringe benefits or be paid a cash equivalent payment during the period that they are not eligible to participate in the plan.

(2) It is not required that all employees participating in a fringe benefit plan be entitled to receive benefits from that plan at all times. For example, under some plans, newly hired employees who are eligible to participate in an insurance plan from their first day of employment may be prohibited from receiving benefits from the plan during a specified "waiting period". Contributions made on behalf of such employees would serve to discharge the contractor's obligation to furnish the fringe benefit. However, if no contributions are made for such employees, no credit may be taken toward the contractor's fringe benefit obligations.

(d) Payment of health and welfare and pension benefits.

(1) Health and welfare and/or pension payments to a "bona fide" insurance plan or trust program may be made on a periodic payment basis which is not less often than quarterly. However, where fringe benefit determinations contemplate a fixed contribution on behalf of each employee, and a contractor exercises his option to make hourly cash equivalent or differential payments, such payments must be made promptly on the regular payday for wages. (See § 4.165.)

(2) The rules and regulations for furnishing health and welfare and pension benefits to temporary and part-time employees are discussed in § 4.176.

(3) The rules and regulations for furnishing equivalent fringe benefits or cash equivalents in lieu of health and welfare and pension benefits are discussed in § 4.177.

§ 4.176 Payment of fringe benefits to temporary and part-time employees.

(a) As set forth in § 4.165(a)(2), the Act makes no distinction, with respect to its compensation provisions, between temporary, part-time, and full-time employees. Accordingly, in the absence of express limitations, the provisions of an applicable fringe benefit determination apply to all temporary and part-time service employees engaged in covered work. However, in general, such temporary and part-time employees are only entitled to an amount of the fringe benefits specified in an applicable determination which is proportionate to the amount of time

spent in covered work. The application of these principles may be illustrated by the following examples:

(1) Assuming the paid vacation for full-time employees is one week, a part-time employee working a regularly scheduled workweek of 16 hours is entitled to 16 hours of paid vacation time or its equivalent each year, if all other qualifications are met.

(2) In the case of holidays, a part-time employee working a regularly scheduled workweek of 16 hours would be entitled to two-fifths of the holiday pay due full-time employees. It is immaterial whether or not the holiday falls on a normal workday of the part-time employee. Of course, a temporary or casual employee hired during a holiday week, but after the holiday, would be due no holiday benefits for that week.

(3) Holiday or vacation pay obligations to temporary and part-time employees working an irregular schedule of hours may be discharged by paying such employees a proportion of the holiday or vacation benefits due full-time employees based on the number of hours each such employee worked in the workweek in which the holiday occurs or, with respect to vacations, the number of hours which the employee worked in the year preceding the employee's anniversary date of employment. For example:

(i) An employee works 10 hours during the week of July 4, a designated holiday. The employee is entitled to 10/40 of the holiday pay to which a full-time employee is entitled (i.e., 10/40 times 8 = 2 hours holiday pay).

(ii) A part-time employee works 520 hours during the 12 months preceding the employee's anniversary date. Since the typical number of nonovertime hours in a year of work is 2,080, if a full-time employee would be entitled to one week (40 hours) paid vacation under the applicable fringe benefit determination, then the part-time employee would be entitled to 520/2,080 times 40 = 10 hours paid vacation.

(4) A part-time employee working a regularly scheduled workweek of 20 hours would be entitled to one-half of the health and welfare and/or pension benefits specified in the applicable fringe benefit determination. Thus, if the determination requires \$36.40 per month for health insurance, the contractor could discharge his obligation towards the employee in question by providing a health insurance policy costing \$18.20 per month.

(b) A contractor's obligation to furnish the specified fringe benefits to temporary and part-time employees may be discharged by furnishing equivalent benefits, cash equivalents, or a

combination thereof in accordance with the rules and regulations set forth in § 4.177.

§ 4.177 Discharging fringe benefit obligations by equivalent means.

(a) In general.

(1) Section 2(a)(2) of the Act, which provides for fringe benefits that are separate from and in addition to the monetary compensation required under section 2(a)(1), permits an employer to discharge his obligation to furnish the fringe benefits specified in an applicable fringe benefit determination by furnishing any equivalent combinations of "bona fide" fringe benefits or by making equivalent or differential payments in cash. However, credit for such payments is limited to the employer's fringe benefit obligations under section 2(a)(2), since the Act does not authorize any part of the monetary wage required by section 2(a)(1) and specified in the wage determination and the contract, to be offset by the fringe benefit payments or equivalents which are furnished or paid pursuant to section 2(a)(2).

(2) When a contractor substitutes fringe benefits not specified in the fringe benefit determination contained in the contract for fringe benefits which are so specified, the substituted fringe benefits, like those for which the contract provisions are prescribed, must be "bona fide" fringe benefits, as that term is defined in § 4.172(a).

(3) When a contractor discharges his fringe benefit obligation by furnishing, in lieu of those benefits specified in the applicable fringe benefit determination, other "bona fide" fringe benefits, cash payments, or a combination thereof, the substituted fringe benefits and/or cash payments must be "equivalent" to the benefits specified in the determination. As used in this subpart, the terms "equivalent fringe benefit" and "cash equivalent" mean equal in terms of monetary cost to the contractor. Thus, as set forth in § 4.172, if an applicable fringe benefit determination calls for a particular fringe benefit in a stated amount and the contractor furnished this benefit through contributions in a lesser amount, the contractor must furnish the employee with the difference between the amount stated in the determination and the actual cost of the benefit which the contractor provides. This principle may be illustrated by the example given in § 4.175(a)(2).

(b) Furnishing equivalent fringe benefits.

(1) A contractor's obligation to furnish fringe benefits which are stated in a specified cash amount may be discharged by furnishing any

combination of "bona fide" fringe benefits costing an equal amount. Thus, if an applicable determination specifies that 20 cents per hour is to be paid into a pension fund, this fringe benefit obligation will be deemed to be met if, instead, hospitalization benefits costing not less than 20 cents per hour are provided. The same obligation will be met if hospitalization benefits costing 10 cents an hour and life insurance benefits costing 10 cents an hour are provided. As set forth in § 4.171(c), no benefit required to be furnished the employee by any other law, such as workers' compensation, may be credited toward satisfying the fringe benefit requirements of the Act.

(2) A contractor who wishes to furnish equivalent fringe benefits in lieu of those benefits which are not stated in a specified cash amount, such as "one week paid vacation", must first determine the equivalent cash value of such benefits in accordance with the rules set forth in paragraph (c) of this section.

(c) Furnishing cash equivalents.

(1) Fringe benefit obligations may be discharged by paying to the employee on his regular payday, in addition to the monetary wage required, a cash amount per hour in lieu of the specified fringe benefits, provided such amount is equivalent to the cost of the fringe benefits required. If, for example, an employee's monetary rate under an applicable determination is \$4.50 an hour, and the fringe benefits to be furnished are hospitalization benefits costing 20 cents an hour and retirement benefits costing 20 cents an hour, the fringe benefit obligation is discharged if instead of furnishing the required fringe benefits, the employer pays the employee, in cash, 40 cents per hour as the cash equivalent of the fringe benefits in addition to the \$4.50 per hour wage rate required under the applicable wage determination.

(2) The hourly cash equivalent of those fringe benefits which are not stated in the applicable determination in terms of hourly cash amounts may be obtained by mathematical computation through the use of pertinent factors such as the monetary wages paid the employee and the hours of work attributable to the period, if any, by which fringe benefits are measured in the determination. If the employee's regular rate of pay is greater than the minimum monetary wage specified in the wage determination and the contract, the former must be used for this computation, and if the fringe benefit determination does not specify any daily or weekly hours of work by which benefits are to be measured, a

standard 8-hour day and 40-hour week will be considered applicable. The application of these rules in typical situations is illustrated in paragraphs (c) (3) through (7) of this section.

(3) Where fringe benefits are stated as a percentage of the monetary rate, the hourly cash equivalent is determined by multiplying the stated percentage by the employees' regular or basic (i.e., wage determination) rate of pay, whichever is greater. For example, if the determination calls for a 5 percent pension fund payment and the employee is paid a monetary rate of \$4.50 an hour, or if the employee earns \$4.50 an hour on a piece-work basis in a particular workweek, the cash equivalent of that payment would be 22½ cents an hour.

(4) If the determination lists a particular fringe benefit in such terms as \$8 a week, the hourly cash equivalent is determined by dividing the amount stated in the determination by the number of working hours to which the amount is attributable. For example, if a determination lists a fringe benefit as "pension—\$8 a week", and does not specify weekly hours, the hourly cash equivalent is 20 cents per hour, i.e., \$8 divided by 40, the standard number of non-overtime working hours in a week.

(5) In determining the hourly cash equivalent of those fringe benefits which are not stated in the determination in terms of a cash amount, but are stated, for example, as "nine paid holidays per year" or "1 week paid vacation after one year of service", the employee's hourly monetary rate of pay is multiplied by the number of hours making up the paid holidays or vacation. Unless the hours contemplated in the fringe benefit are specified in the determination, a standard 8-hour and 40-hour week is considered applicable. The total annual cost so determined is divided by 2,080, the standard number of non-overtime hours in a year of work, to arrive at the hourly cash equivalent. This principle may be illustrated by following examples:

(i) If a particular determination lists as a fringe benefit "nine holidays per year" and the employee's hourly rate of pay is \$4.50, the \$4.50 is multiplied by 72 (9 days of 8 hours each) and the result, \$324, is then divided by 2,080 to arrive at the hourly cash equivalent, \$0.1557 an hour. See § 4.174(c)(4).

(ii) If the determination requires "one week paid vacation after one year of service", and the employee's hourly rate of pay is \$4.50, the \$4.50 is multiplied by 40 and the result, \$180.00, is then divided by 2,080 to arrive at the hourly cash equivalent, \$0.0865 an hour.

(6) Where an employer elects to pay an hourly cash equivalent in lieu of a

paid vacation, which is computed in accordance with paragraph (c)(5) of this section, such payments need commence only after the employee has satisfied the "after one year of service" requirement. However, should the employee terminate his employment for any reason before he has received the full amount of vested vacation benefits due him, the employee must be paid the full amount of any difference remaining as the final cash payment. For example, any employee becomes eligible for a week's vacation pay on March 1. The employer elects to pay this employee an hourly cash equivalent beginning that date; the employee terminates employment on March 31. Accordingly, as this employee has received only ½ of the vacation pay to which he/she is entitled, the employee is due the remaining ½ upon termination. As set forth in § 4.173(e), the rate applicable to the computation of cash equivalents for vacation benefits is the hourly wage rate in effect at the time such equivalent payments are actually made.

(d) *Furnishing a combination of equivalent fringe benefits and cash payments.* Fringe benefit obligations may be discharged by furnishing any combination of cash or fringe benefits as illustrated in the preceding paragraphs of this section, in monetary amounts the total of which is equivalent, under the rules therein stated, to the determined fringe benefits specified in the contract. For example, if an applicable determination specifies that 20 cents per hour is to be paid into a pension fund, this fringe benefit obligation will be deemed to be met if instead, hospitalization benefits costing 15 cents an hour and a cash equivalent payment of 5 cents an hour are provided.

(e) *Effect of equivalents in computing overtime pay.* Section 6 of the Act excludes from the regular or basic hourly rate of an employee, for purposes of determining the overtime pay to which the employee is entitled under any other Federal law, those fringe benefit payments computed under the Act which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 7(e) (formerly designated as section 7(d)) of that Act (29 U.S.C. 207(e)). Fringe benefit payments which qualify for such exclusion are described in Subpart C of Regulations, 29 CFR Part 778. When such fringe benefits are required to be furnished to service employees engaged in contract performance, the right to compute overtime pay in accordance with the above rule is not lost to a contractor or subcontractor because it discharges its obligation under this Act

to furnish such fringe benefits through alternative equivalents as provided in this section. If it furnishes equivalent benefits or makes cash payments, or both, to such an employee as authorized herein, the amounts thereof, which discharge the employer's obligation to furnish such specified fringe benefits, may be excluded pursuant to this Act from the employee's regular or basic rate of pay in computing any overtime pay due the employee under any other Federal law. No such exclusion can operate, however, to reduce an employee's regular or basic rate of pay below the monetary wage rate specified as the applicable minimum wage rates under sections 2(a)(1), 2(b), or 4(c) of this Act or under other law or an employment contract.

§ 4.178 Computation of hours worked.

Since employees subject to the Act are entitled to the minimum compensation specified under its provisions for each hour worked in performance of a covered contract, a computation of their hours worked in each workweek when such work under the contract is performed is essential. Determinations of hours worked will be made in accordance with the principles applied under the Fair Labor Standards Act as set forth in Part 785 of this title. In general, the hours worked by an employee include all periods in which the employee is suffered or permitted to work whether or not required to do so, and all time during which the employee is required to be on duty to be on the employer's premises or to be at a prescribed workplace. The hours worked which are subject to the compensation provisions of the Act are those in which the employee is engaged in performing work on contracts subject to the Act; however, unless such hours are adequately segregated, as indicated in § 4.179, compensation in accordance with the Act will be required for all hours of work in any workweek in which the employee performs, any work in connection with the contract, in the absence of affirmative proof to the contrary that such work did not continue throughout the workweek.

§ 4.179 Identification of contract work.

Contractors and subcontractors under contracts subject to the Act are required to comply with its compensation requirements throughout the period of performance on the contract and to do so with respect to all employees who in any workweek are engaged in performing work on such contracts. If such a contractor during any workweek is not exclusively engaged in performing such contracts, or if while so engaged it

has employees who spend a portion but not all of their worktime in the workweek in performing work on such contracts, it is necessary for the contractor to identify accurately in its records, or by other means, those periods in each such workweek when the contractor and each such employee performed work on such contracts. In cases where contractors are not exclusively engaged in Government contract work, and there are adequate records segregating the periods in which work was performed on contracts subject to the Act from periods in which other work was performed, the compensation specified under the Act need not be paid for hours spent on non-contract work. However, in the absence of records adequately segregating non-covered work from the work performed on or in connection with the contract, all employees working in the establishment or department where such covered work is performed shall be presumed to have worked on or in connection with the contract during the period of its performance, unless affirmative proof establishing the contrary is presented. Similarly, in the absence of such records, an employee performing any work on or in connection with the contract in a workweek shall be presumed to have continued to perform such work throughout the workweek, unless affirmative proof establishing the contrary is presented. Even where a contractor can segregate Government from non-Government work, it is necessary that the contractor comply with the requirements of section 6(e) of the FLSA discussed in § 4.160.

Overtime Pay of Covered Employees

§ 4.150 Overtime pay—in general.

The Act does not provide for compensation of covered employees at premium rates for overtime hours of work. Section 6 recognizes however, that other Federal laws may require such compensation to be paid to employees working on or in connection with contracts subject to the Act (see § 4.181) and prescribes, for purposes of such laws, the manner in which fringe benefits furnished pursuant to the Act shall be treated in computing such overtime compensation as follows: "In determining any overtime pay to which such service employees are entitled under any Federal law, the regular or basic hourly rate of such an employee shall not include any fringe benefit payments computed hereunder which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 7(d) [now section 7(e)] thereof." Fringe benefit payments

which qualify for such exclusion are described in Part 778, Subpart C of this title. The interpretations there set forth will be applied in determining the overtime pay to which covered service employees are entitled under other Federal statutes. The effect of section 6 of the Act in situations where equivalent fringe benefits or each payments are provided in lieu of the specified fringe benefits is stated in § 4.177(e) of this part, and illustrated in § 4.182.

§ 4.181 Overtime pay provisions of other Acts.

(a) Fair Labor Standards Act.

Although provision has not been made for insertion in Government contracts of stipulations requiring compliance with the overtime provisions of the Fair Labor Standards Act, contractors and subcontractors performing contracts subject to the McNamara-O'Hara Service Contract Act may be required to compensate their employees working on or in connection with such contracts for overtime work pursuant to the overtime pay standards of the Fair Labor Standards Act. This is true with respect to employees engaged in interstate or foreign commerce or in the production of goods for such commerce (including occupations and processes closely related and directly essential to such production) and employees employed in enterprises which are so engaged, subject to the definitions and exceptions provided in such Act. Such employees, except as otherwise specifically provided in such Act, must receive overtime compensation at a rate of not less than 1½ times their regular rate of pay for all hours worked in excess of the applicable standard in a workweek. See Part 778 of this title. However, the Fair Labor Standards Act provides no overtime pay requirements for employees, not within such interstate commerce coverage of the Act, who are subject to its minimum wage provisions only by virtue of the provisions of section 6(e), as explained in § 4.160.

(b) *Contract Work Hours and Safety Standards Act.* (1) The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332) applies generally to Government contracts, including service contracts in excess of \$2,500, which may require or involve the employment of laborers and mechanics. Guards, watchmen, and many other classes of service employees are laborers or mechanics within the meaning of such Act. However, employees rendering only professional services, seamen, and as a general rule those whose work is only clerical or supervisory or nonmanual in nature, are not deemed laborers or mechanics for purposes of the Act. The

wages of every laborer or mechanic for his performance of work on such contracts must include compensation at a rate not less than 1½ times his basic rate of pay for all hours worked in any workweek in excess of 40 or in excess of eight on any calendar days therein, whichever is the greater number of overtime hours. Exemptions are provided for transportation and communications contracts, contracts for the purchase of supplies ordinarily available in the open market, and work required to be done in accordance with the provisions of the Walsh-Healey Act.

(2) Regulations concerning this Act are contained in Subparts A and C of 29 CFR 5 which permit overtime pay to be computed in the same manner as under the Fair Labor Standards Act, subject of course to the differences in computations required by reason of the daily overtime provision of the Contract Work Hours and Safety Standards Act, which has no counterpart in the Fair Labor Standards Act.

(3) Although the application of the Contract Work Hours and Safety Standards Act does not depend on inclusion of its requirements in provisions physically made part of the contract, the regulations of the Secretary require such provisions to be set forth in contract clauses. (See § 5.5(c) of this subtitle.)

(c) *Walsh-Healey Public Contracts Act.* As pointed out in § 4.117, while some Government contracts may be subject both to the McNamara-O'Hara Service Contract Act and to the Walsh-Healey Public Contracts Act, the employees performing work on the contract which is subject to the latter Act are, when so engaged, exempt from the provisions of the former. They are, however, subject to the overtime provisions of the Walsh-Healey Act if, in any workweek, any of the work performed for the employer is subject to such Act and if, in such workweek, the total hours worked by the employee for the employer (whether wholly or only partly on such work) exceed 40 hours in the workweek or 8 hours in any day therein. In any such workweek the Walsh-Healey Act requires payment of overtime compensation at a rate not less than 1½ times the employee's basic rate for such weekly or daily overtime hours, whichever are greater in number. The overtime pay provisions of the Walsh-Healey Act are discussed in greater detail in 41 CFR 50-201.

§ 4.182 Overtime pay of service employees entitled to fringe benefits.

Reference is made in § 4.180 to the rules prescribed by section 6 of the Act which permit exclusion of certain fringe

benefits and equivalents provided pursuant to section 2(a)(2) of the Act from the regular or basic rate of pay when computing overtime compensation of a service employee under the provisions of any other Federal law. As provided in § 4.177, not only those fringe benefits excludable under section 6 as benefits determined as specified under section 2(a)(2), but also equivalent fringe benefits and cash payments furnished in lieu of the specified benefits may be excluded from the regular or basic rate of such an employee. The application of this rule may be illustrated by the following examples:

(a) The A company pays a service employee \$4.50 an hour in cash under a wage determination which requires a monetary rate of not less than \$4 and a fringe benefit contribution of 50 cents which would qualify for exclusion from the regular rate under section 7(e) of the Fair Labor Standards Act. The contractor pays the 50 cents in cash because he made no contributions for fringe benefits specified in the determination and the contract. Overtime compensation in this case would be computed on a regular or basic rate of \$4 an hour.

(b) The B company has some time been paying \$4.25 an hour to a service employee as his basic cash wage plus 25 cents an hour as a contribution to a welfare and pension plan, which contribution qualifies for exclusion from the regular rate under the Fair Labor Standards Act. For performance of work under a contract subject to the Act a monetary rate of \$4 and a fringe benefit contribution of 50 cents (also qualifying for such exclusion) are specified because they are found to be prevailing for such employees in the locality. The contractor may credit the 25 cent welfare and pension contribution toward the discharge of his fringe benefit obligation under the contract but must also make an additional contribution of 25 cents for the specified or equivalent fringe benefits or pay the employee an additional 25 cents in cash. These contributions or equivalent payments may be excluded from the employee's regular rate which remains \$4.25, the rate agreed upon as the basic cash wage.

(c) The C company has been paying \$4 an hour as its basic cash wage on which the firm has been computing overtime compensation. For performance of work on a contract subject to the Act the same rate of monetary wages and a fringe benefit contribution of 50 cents an hour (qualifying for exclusion from the regular rate under the Fair Labor Standards Act) are specified in accordance with a determination that these are the monetary wages and fringe benefits prevailing for such employees in the locality. The contractor is required to continue to pay at least \$4 an hour in monetary wages and at least this amount must be included in the employee's regular or basic rate for overtime purposes under applicable Federal law. The fringe benefit obligation under the contract would be discharged if 50 cents of the contributions for fringe benefits were for the fringe benefits specified in the contract or equivalent benefits as defined in § 4.177. The

company may exclude such fringe benefit contributions from the regular or basic rate of pay of the service employee in computing overtime pay due.

Notice to Employees

§ 4.183 Employees must be notified of compensation required.

The Act, in section 2(a)(4), and the regulations thereunder in § 4.6(e), require all contracts subject to the Act which are in excess of \$2,500 to contain a clause requiring the contractor or subcontractor to notify each employee commencing work on a contract to which the Act applies of the compensation required to be paid such employee under section 2(a)(1) and the fringe benefits required to be furnished under section 2(a)(2). A notice form (WH Publication 1313 and any applicable wage determination) provided by the Wage and Hour Division is to be used for this purpose. It may be delivered to the employee or posted as stated in § 4.184.

§ 4.184 Posting of notice.

Posting of the notice provided by the Wage and Hour Division shall be in a prominent and accessible place the worksite, as required by § 4.6(e). The display of the notice in a place where it may be seen by employees performing on the contract will satisfy the requirement that it be in a "prominent and accessible place". Should display be necessary at more than one site, in order to assure that it is seen by such employees, additional copies of the poster may be obtained without cost for the Division. The contractor or subcontractor is required to notify each employee of the compensation due or attach to the poster any applicable wage determination specified in the contract listing all minimum monetary wages and fringe benefits, to be paid or furnished to the classes of service employees performing on the contract.

Records

§ 4.185 Recordkeeping requirements.

The records which a contractor or subcontractor is required to keep concerning employment of employees subject to the Act are specified in § 4.6(g) of Subpart A of this part. They are required to be maintained for 3 years from the completion of the work, and must be made available for inspection and transcription by authorized representatives of the Administrator. Such records must be kept for each service employee performing work under the contract, for each workweek during the performance of the contract. If the required records are not separately kept for the service

employees performing on the contract, it will be presumed, in the absence of affirmative proof to the contrary, that all service employees in the department or establishment where the contract was performed were engaged in covered work during the period of performance. (See § 4.179.)

§ 4.186 [Reserved]

Subpart E—Enforcement

§ 4.187 Recovery of underpayments.

(a) The Act, in section 3(a) provides that any violations of any of the contract stipulations required by sections 2(a)(1), 2(a)(2), or 2(b) of the Act, shall render the party responsible liable for the amount of any deductions, rebates, refunds, or underpayments (which includes non-payment) of compensation due to any employee engaged in the performance of the contract. So much of the accrued payments due either on the contract or on any other contract (whether subject to the Service Contract Act or not) between the same contractor and the Government may be withheld in a deposit fund as is necessary to pay the employees. In the case of requirements-type contracts, it is the contracting agency, and not the using agencies, which has the responsibility for complying with a withholding request by the Secretary or authorized representative. The Act further provides that on order of the Secretary (or authorized representatives), any compensation which the head of the Federal agency or the Secretary has found to be due shall be paid directly to the underpaid employees from any accrued payments withheld. In order to effectuate the efficient administration of this provision of the Act, such withheld funds shall be transferred to the Department of Labor for disbursement to the underpaid employees on order of the Secretary, the authorized representatives, Administrative Law Judge, or Board of Service Contract Appeals, and are not paid directly to such employees by the contracting agency without the express prior consent of the Administrator. (See Decision of the Comptroller General, B-170784, February 12, 1971.) It is mandatory for a contracting officer to adhere to a request from the Department of Labor to withhold funds where such funds are available. (Decision of the Comptroller General, B-109257, October 14, 1952, arising under the Walsh-Healey Act.) Contract funds which are or may become due a contractor under any contract with the United States may be withheld prior to the institution of administrative proceedings by the

Secretary. (*McCaslan v. U.S. Postal Service*, 82 CCH Labor Cases ¶ 33,607 (N.D. N.Y. 1977).)

(b) *Priority to withheld funds.*

The Comptroller General has afforded employee wage claims priority over an Internal Revenue Service levy for unpaid taxes. [See also Decisions of the Comptroller General, B-170784, February 17, 1971; B-189137, August 1, 1977; 546 Comp. Gen. 499 (1977); 55 Comp. Gen. 744 (1976), arising under the Davis-Bacon Act; B-178198, August 30, 1973; B-161460, May 25, 1967.]

(1) As the Comptroller General has stated, "[t]he legislative histories of these labor statutes [Service Contract Act and Contract Work Hours and Safety Standards Act, 41 U.S.C. 327, *et seq.*] disclose a progressive tendency to extend a more liberal interpretation and construction in successive enactments with regard to worker's benefits, recovery and repayment of wage underpayments. Further, as remedial legislation, it is axiomatic that they are to be liberally construed." (Decision of the Comptroller General, B-170784, February 17, 1971.)

(2) Since section 3(a) of the Act provides that accrued contract funds withheld to pay employees wages must be held in a deposit fund, it is the position of the Department of Labor that monies so held may not be used or set aside for agency procurement costs. To hold otherwise would be inequitable and contrary to public policy, since the employees have performed work from which the Government has received the benefit (see *National Surety Corporation v. U.S.*, 132 Ct. Cl. 724, 728, 135 F. Supp. 381 (1955), cert. denied, 350 U.S. 902.), and that to give contracting agency procurement claims priority would be to require employees to pay for the breach of contract between the employer and the agency. The Comptroller General has sanctioned priority being afforded wage underpayments over the procurement costs of the contracting agency following a contractor's default or termination for cause. Decision of the Comptroller General, B-167000, June 26, 1969; B-178198, August 30, 1973; and B-189137, August 1, 1977.

(3) Wage claims have priority over procurement costs and tax liens without regard to when the competing claims were raised. Decisions of the Comptroller General, B-161460, May 25, 1967; B-189137, August 1, 1977.

(4) Wages due underpaid workers have priority over any assignee of the contractor, including assignments made under the Assignment of Claims Act, 311 U.S.C. 203, 41 U.S.C. 115, to funds withheld, since an assignee can acquire

no greater rights to withheld funds to the extent employees were underpaid than the assignor has in the absence of an assignment. See *Modern Industrial Bank v. U.S.*, 101, Ct. Cl. 808 (1944); *Royal Indemnity Co. v. United States*, 178 Ct. Cl. 46, 371 F. 2d 462 (1967), cert. denied, 389 U.S. 833; *Newark Insurance Co. v. U.S.*, 149 Ct. Cl. 170, 181 F. Supp. 246 (1960); *Henningsen v. United States Fidelity and Guaranty Company*, 208 U.S. 404 (1908). Where employees have been underpaid, the assignor has no right to assign funds since the assignor has no property rights to amounts withheld from the contract to cover underpayments of workers which constitutes a violation of the law and the terms, conditions, and obligations under the Contract. (Decision of the Comptroller General, B-164881, August 14, 1968; B-178198, August 30, 1973; 56 Comp. Gen. 499 (1977); 55 Comp. Gen. 744 (1976); *The National City Bank of Evansville v. United States* 143 Ct. Cl. 154, 163 F. Supp. 846 (1958); *National Surety Corporation v. United States*, 132 Ct. Cl. 724, 135 F. Supp. 381 (1955), cert. denied, 350 U.S. 902.)

(5) The Comptroller General, recognizing that unpaid laborers have an equitable right to be paid from contract retainages, has also held that wage underpayments under the Act have priority over any claim by the trustee in bankruptcy. 56 Comp. Gen. 499 (1977), citing *Pearlman v. Reliance Insurance Company*, 371 U.S. 132 (1962); *Hadden v. United States*, 132 Ct. Cl. 529 (1955) in which the courts gave priority to sureties who had paid unpaid laborers over the trustee in bankruptcy. The same result was reached by the United States District Court for the District of Utah in *Matter of Sargent Security System, Inc., Bankruptcy No. B-930-71 (April 27, 1972) (not reported)*, holding that it has no jurisdiction to grant the trustee's petition that funds found to be due for unpaid wages and duly withheld from the bankrupt be turned over to the trustee rather than distributed to the underpaid workers. See also *Matter of Raul Salas Catala et al., Bankruptcy No. B-78-238/39 (D.C. P.R. 1978, not reported)*.

(c) Section 5(b) of the Act provides that if the accrued payments withheld under the terms of the contract are insufficient to reimburse all service employees with respect to whom there has been a failure to pay the compensation required pursuant to the Act, the United States may bring action against the contractor, subcontractor, or any sureties in any court of competent jurisdiction to recover the remaining amount of underpayments. The Service

Contract Act is not subject to the statute of limitations in the Portal to Portal Act, 29 U.S.C. 255, and contains no prescribed period within which such an action must be instituted; it has therefore been held that the general period of six years prescribed by 28 U.S.C. 2415 applies to such actions. *United States of America v. Deluxe Cleaners and Laundry, Inc.*, 511 F. 2d 929 (C.A. 4, 1975). Any sums thus recovered by the United States shall be held in the deposit fund and shall be paid, on the order of the Secretary, directly to the underpaid employees. Any sum not paid to an employee because of inability to do so within 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

(d) Release or waivers executed by employees for unpaid wages and fringe benefits due them are without legal effect. As stated by the Supreme Court in *Brooklyn Savings Bank v. O'Neil*, 324 U.S. 697, 704, (1945), arising under the Fair Labor Standards Act:

"Where a private right is granted in the public interest to effectuate a legislative policy, waiver of a right so charged or colored with the public interest will not be allowed where it would thwart the legislative policy which it was designed to effectuate."

See also *Schulte, Inc. v. Gangi*, 328 U.S. 108 (1946); *United States v. Morley Construction Company*, 98 F. 2d. 781 (C.A. 2, 1938), cert. denied, 305 U.S. 651.

Further, as noted above, monies not paid to employees to whom they are due because of violation are covered into the U.S. Treasury as provided by section 5(b) of the Act.

(e)(i) The term "party responsible" for violations in section 3(a) of the Act is the same term as contained in the Walsh-Healey Public Contracts Act, and therefore, the same principles are applied under both Acts. An officer of a corporation who actively directs and supervises the contract performance, including employment policies and practices and the work of the employees working on the contract, is a party responsible and liable for the violations, individually and jointly with the company (*S & G Coal Sales, Inc.*, Decision of the Hearing Examiner, PC-946, January 21, 1965, affirmed by the Administrator June 8, 1965; *Tennessee Processing Co., Inc.*, Decision of the Hearing Examiner, PC-790, September 28, 1965).

(2) The failure to perform a statutory public duty under the Service Contract Act is not only a corporate liability but also personal liability of each and every officer charged by reason of his or her corporate office while performing that

duty. *United States v. Sancelmar Industries, Inc.*, 347 F. Supp. 404, 408 (E.D. N.Y. 1972). Accordingly, it has been held by administrative decisions and by the courts that the term "party responsible", as used in section 3(a) of the Act, imposes personal liability for violations of any of the contract stipulations required by sections 2(a)(1) of (2) of 2(b) of the Act on corporate officers who control, or are responsible for control of, the corporate entity, as they, individually, have an obligation to assure compliance with the requirements of the Act, the regulations, and the contracts. See, for example, *Waite, Inc.*, Decision of the ALJ, SCA 530-566, October 19, 1976, *Spruce-Up Corp.*, Decision of the Administrator SCA 366-370, August, 19, 1976, *Ventilation and Cleaning Engineers, Inc.*, Decision of the ALJ, SCA 176, August 23, 1973, Assistant Secretary, May 17, 1974, Secretary, September 27, 1974; *Fred Van Elk*, Decision of the ALJ, SCA 254-58, May 28, 1974, Administrator, November 25, 1974; *Murcole, Inc.*, Decision of the ALJ, SCA 195-198, April 11, 1974; *Emile J. Bouchel*, Decision of the ALJ, SCA 38, February 24, 1970; *Darwyn L. Grover*, Decision of the ALJ, SCA 485, August 15, 1976; *United States v. Islip Machine Works, Inc.*, 179 F. Supp. 585 (E.D. N.Y. 1959); *United States v. Sancelmar Industries, Inc.*, 347 F. Supp. 404 (E.D. N.Y. 1972).

(3) In essence, individual liability attaches to the corporate official who is responsible for, and therefore, causes or permits, the violation of the contract stipulations required by the act, i.e., corporate officers who control the day-to-day operations and management policy are personally liable for underpayments because they cause or permit violations of the Act.

(4) It has also been held that the personal responsibility and liability of individuals for violations of the Act is not limited to the officers of a contracting firm or to signatories to the Government contract who are bound by and accept responsibility for compliance with the Act and imposition of its sanctions set forth in the contract clauses in § 4.6, but includes all persons, irrespective of proprietary interest, who exercise control, supervision, or management over the performance of the contract including the labor policy or employment conditions regarding the employees engaged in contract performance, and who, by action or inaction, cause or permit a contract to be breached. *U.S. v. Islip Machine Works, Inc.*, 179 F. Supp. 585 (E.D. N.Y. 1959); *U.S. v. Sancelmar Industries, Inc.*, 347 F. Supp. 404 (E.D. N.Y. 1972); *Oscar*

Hestrom Corp., Decision of the Administrator, PC-257, May 7, 1946, affirmed, *U.S. v. Hedstrom*, 8 Wage Hour Cases 302 (N.D. Ill. 1948); *Craddock-Terry Shoe Corp.*, Decision of the Administrator, PC-330, October 3, 1947; *Reynolds Research Corp.*, Decision of the Administrator, PC-381, October 24, 1951; *Etowah Garmet Co., Inc.*, Decision of the Hearing Examiner, PC-632, August 9, 1957, Decision of the Administrator, April 29, 1958; *Cardinal Fuel and Supply Co.*, Decision of the Hearing Examiner, PC-890, June 17, 1963.

(5) Reliance on advice from contracting agency officials (or Department of Labor officials without the authority to issue rulings under the Act) is not a defense against a contractor's liability for back wages under the Act. *Standard Fabrication Ltd.*, Decision of the Secretary, PC-297, August 3, 1948; *Airport Machining Corp.*, Decision of the ALJ, PC -1177, June 15, 1973; *James D. West*, Decision of the ALJ, SCA 397-398, November 17, 1975; *Metropolitan Rehabilitation Corp.*, WAB Case No. 78-25, August 2, 1979; *Fry Brothers Corp.*, WAB Case No. 76-6, June 14, 1977.

(f) The appellate rights of a contractor or subcontractor regarding violations of the Act, including back wage liability or the disposition of funds withheld by the agency for such liability are contained in Parts 6 and 8 of this Title. Appeals in such matters have not been delegated to the contracting agencies and such matters cannot be appealed under the disputes clause in the contractor's contract.

(g) While the Act provides that action may be brought against a surety to recover underpayments of compensation, there is no statutory provisions requiring that contractors furnish either payment or performance bonds before an award can be made. The courts have held, however, that when such a bond has been given, even one denominated as a performance rather than payment bond, and such a bond guarantees that the principal shall fulfill "all the undertakings, covenants, terms, conditions, and agreements" of the contract, or similar words to the same effect, the surety-guarantor is jointly liable for underpayments by the contractor of the wages and fringe benefits required by the Act up to the amount of the bond. *U.S. v. Powers Building Maintenance Co.*, 366 F. Supp. 819 (W.D. Okla. 1972); *U.S. v. Gillespie*, 72 CCH Labor Cases ¶ 33,986 (C.D. Cal. 1973) *U.S. v. Glens Falls Insurance Co.*, 279 F. Supp. 236, (E.D. Tenn. 1967); *United States v. Hudgins-Dize Co.*, 83 F.

Supp. 593 (E.D. Va. 1949); *U.S. v. Continental Casualty Company*, 85 F. Supp. 573 (E.D. Pa. 1949), affirmed per Curiam, 182 F.2d 941 (C.S. 3, 1950).

§ 4.188 Ineligibility for further contracts when violations occur.

(a) Section 5 of the Act directs the Comptroller General to distribute a list to all agencies of the Government giving the names of persons or firms that the Federal agencies or the Secretary have found violated this Act. Unless the Secretary otherwise recommends because of unusual circumstances, no contract of the United States or the District of Columbia (whether or not subject to the Act) shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons of firms have a substantial interest until 3 years have elapsed from the date of publication of the list containing the names of such persons of firms. This prohibition against the award of a contract to an ineligible contractor applies to the contractor in its capacity as either a prime contractor or a subcontractor. Because the Act contains no provision authorizing removal from the list of the names of such persons or firms prior to the expiration of the three-year statutory period, the Secretary is without authority to accomplish such removal (other than in situations involving mistake or legal error). On the other hand, there may be situations in which persons or firms already on the list are found in a subsequent administrative proceeding to have again violated the Act and their debarment ordered. In such circumstances, a new, three-year debarment term will commence with the republication of such names on the list, to run concurrently with the previous debarment period.

(b)(1) The term "unusual circumstances" is not defined in the Act. Accordingly, the determination must be made on a case-by-case basis in accordance with the particular facts present. It is clear, however, that the effect of the 1972 Amendments is to limit the Secretary's discretion to relieve violators from the debarred list (H. Rept. 92-1251, 92d Cong., 2d Sess. 5; S. Rept. 92-1131, 92d Cong., 2d Sess. 3-4) and that the violator of the Act has the burden of establishing the existence of unusual circumstances to warrant relief from the debarment sanction. *Ventilation and Cleaning Engineers, Inc.*, SCA-176, Administrative Law Judge, August 23, 1973, Assistant Secretary, May 22, 1974, Secretary, October 2, 1974. It is also clear that unusual circumstances do not include

any circumstances which would have been insufficient to relieve a contractor from the ineligible list prior to the 1972 amendments, or those circumstances which commonly exist in cases where violations are found, such as, negligent or willful disregard of the contract requirements and of the Act and regulations, including a contractor's plea of ignorance of the Act's requirements where the obligation to comply with the Act is plain from the contract, failure to keep necessary records and the like. *Emerald Maintenance Inc.*, Supplemental Decision of the ALJ, SCA-153, April 5, 1973.

(2) The Subcommittee report following the oversight hearings conducted just prior to the 1972 amendments makes it plain that the limitation of the Secretary's discretion through the unusual circumstances language was designed in part to prevent the Secretary from relieving a contractor from the ineligible list provisions merely because the contractor paid what he was required by his contract to pay in the first place and promised to comply with the Act in the future. See, House Committee on Education and Labor, Special Subcommittee on Labor, The Plight of Service Workers under Government Contracts 12-13 (Comm. Print 1971). As Congressman O'Hara stated: "Restoration . . . [of wages and benefits] is not in and of itself a penalty. The penalty for violation is the suspension from the right to bid on Government contracts . . . The authority [to relieve from blacklisting] was intended to be used in situations where the violation was a minor one, or an inadvertent one, or one on which disbarment . . . would have been wholly disproportionate to the offense." House Committee on Education and Labor, Special Subcommittee on Labor, Hearings on H.R. 6244 and H.R. 6245, 92d Cong., 1st Sess. 3 (1971).

(3) The Department of Labor has developed criteria for determining when there are unusual circumstances within the meaning of the Act. See, e.g., *Washington Moving & Storage Co.*, Decision of the Assistant Secretary, SCA 68, August 16, 1973, Secretary, March 12, 1974; *Quality Maintenance Co.*, Decision of the Assistant Secretary, SCA 119, January 11, 1974. Thus, where the respondent's conduct in causing or permitting violations of the Service Contract Act provisions of the contract is willful, deliberate or of an aggravated nature or where the violations are a result of culpable conduct such as culpable neglect to ascertain whether practices are in violation, culpable disregard of whether they were in

violation or not, or culpable failure to comply with recordkeeping requirements (such as falsification of records), relief from the debarment sanction cannot be in order. Furthermore, relief from debarment cannot be in order where a contractor has a history of similar violations, where a contractor has repeatedly violated the provisions of the Act, or where previous violations were serious in nature. A good compliance history, cooperation in the investigation, repayment of moneys due, and sufficient assurances of future compliance are generally prerequisites to relief. Where these prerequisites are present and none of the aggravated circumstances in the preceding paragraph exist, a variety of factors must still be considered, including whether the contractor has previously been investigated for violations of the Act, whether the contractor has committed recordkeeping violations which impeded the investigation, whether liability was dependent upon resolution of a bona fide legal issue of doubtful certainty, the contractor's efforts to ensure compliance, the nature, extent, and seriousness of any past or present violations, including the impact of violations on unpaid employees, and whether the sums due were promptly paid.

(4) A contractor has an affirmative obligation to ensure that its pay practices are in compliance with the Act, and cannot resolve questions which arise itself, but rather must seek advice from the Department of Labor. *Murcole, Inc.*, Decision of the ALJ, SCA 195-198, April 10, 1974; *McLaughlin Storage, Inc.*, Decision of the ALJ, SCA 362-365, November 5, 1975, Administrator, March 25, 1976; *Able Building & Maintenance & Service Co.*, Decision of the ALJ, SCA 389-390, May 29, 1975, Assistant Secretary, January 13, 1976; *Aarid Van Lines, Inc.*, Decision of the Administrator, SCA 423-425, May 13, 1977.

(5) Furthermore, a contractor cannot be relieved from debarment by attempting to shift his/her responsibility to subordinate employees. *Security Systems, Inc.*, Decision of the ALJ, SCA 774-775, April 10, 1978; *Ventilation & Cleaning Engineers, Inc.*, Decision of the Secretary, SCA 176, September 27, 1974; *Ernest Roman*, Decision of the Secretary, SCA 275, May 6, 1977. As the Comptroller General has stated in considering debarment under the Davis-Bacon Act, "[n]egligence of the employer to instruct his employees as to the proper method of performing his work or to see that the employee obeys

his instructions renders the employer liable for injuries to third parties resulting therefrom. . . . The employer will be liable for acts of his employee within the scope of the employment regardless of whether the acts were expressly or impliedly authorized. . . . Willful and malicious acts of the employee are imputable to the employer under the doctrine of respondent superior although they might not have been consented to or expressly authorized or ratified by the employer." (Decision of the Comptroller General, B-145606, August 1, 1961.)

(6) Nor does negligence *per se* constitute unusual circumstances. Relief on no basis other than negligence would render the effect of section 5(a) a nullity, since it was intended that only responsible bidders be awarded Government contracts. *Greenwood's Transfer & Storage, Inc.*, Decision of the Secretary, SCA 321-326, June 1, 1976; *Ventilation & Cleaning Engineers, Inc.*, Decision of the Secretary, SCA 176, September 27, 1974.

(c) Similarly, the term "substantial interest" is not defined in the Act. Accordingly, this determination, too, must be made on a case-by-case basis in light of the particular facts, and cognizant of the legislative intent "to provide to service employees safeguards similar to those given to employees covered by the Walsh-Healey Public Contracts Act". *Federal Food Services, Inc.*, Decision of the ALJ, SCA 585-592, November 22, 1977. Thus, guidance can be obtained from cases arising under the Walsh-Healey Act, which uses the concept "controlling interest". See *Regal Mfg. Co.*, Decision of the Administrator, PC-245, March 1, 1946; *Acme Sportswear Co.*, Decision of the Hearing Examiner, PC-275, May 8, 1946; *Gearcraft, Inc.*, Decision of the ALJ, PCX-1 May 3, 1972. In a supplemental decision of February 23, 1979, in *Federal Food Services, Inc.* the Judge ruled as a matter of law that the term "does not preclude every employment or financial relationship between a party under sanction and another . . . [and that] it is necessary to look behind titles, payments, and arrangements and examine the existing circumstances before reaching a conclusion in this matter."

(1) Where a person or firm has a direct or beneficial ownership or control of more than 5 percent of any firm, corporation, partnership, or association, a "substantial interest" will be deemed to exist. Similarly, where a person is an officer or director in a firm or the debarred firm shares common management with another firm, a

"substantial interest" will be deemed to exist. Furthermore, wherever a firm is an affiliate as defined in § 4.1(a)(g) of Subpart A, a "substantial interest" will be deemed to exist, or where a debarred person forms or participates in another firm in which he/she has comparable authority, he/she will be deemed to have a "substantial interest" in the new firm and such new firm would also be debarred (*Etowah Garment Co., Inc.*, Decision of the Hearing Examiner, PC-632, August 9, 1957).

(2) Nor is interest determined by ownership alone. A debarred person will also be deemed to have a "substantial interest" in a firm if such person has participated in contract negotiations, is a signatory to a contract, or has the authority to establish, control, or manage the contract performance and/or the labor policies of a firm. A "substantial interest" may also be deemed to exist, in other circumstances, after consideration of the facts of the individual case. Factors to be examined include, among others, sharing of common premises or facilities, occupying any position such as manager, supervisor, or consultant to, any such entity, whether compensated on a salary, bonus, fee, dividend, profit-sharing, or other basis of remuneration, including indirect compensation by virtue of family relationships or otherwise. A firm will be particularly closely examined where there has been an attempt to sever an association with a debarred firm or where the firm was formed by a person previously affiliated with the debarred firm or a relative of the debarred person.

(3) Firms with such identity of interest with a debarred person or firm will be placed on the debarred bidders list after the determination is made pursuant to procedures in Part 6, Subpart A, or § 4.12 and Part 6, Subpart D. Where a determination of such "substantial interest" is made after the initiation of the debarment period, contracting agencies are to terminate any contract with such firm entered into after the initiation of the original debarment period since all persons in which the debarred person or firm has a substantial interest are also ineligible to receive Government contracts.

§ 4.189 Administrative proceedings relating to enforcement of labor standards.

The Secretary is authorized pursuant to the provisions of section 4(a) of the Act to hold hearings and make decisions based upon findings of fact as are deemed to be necessary to enforce the provisions of the Act. Pursuant to section 4(a) of the Act, the Secretary's findings of fact after notice and hearing

are conclusive upon all agencies of the United States and, if supported by the preponderance of the evidence, conclusive in any court of the United States, without a trial de novo. *United States v. Powers Building Maintenance Co.*, 336 F. Supp. 819 (W.D. Okla. 1972). Rules of practice for administrative proceedings are set forth in Part 6 of this Title.

§ 4.190 Contract cancellation.

(a) As provided in section 3 of the Act, where a violation is found of any contract stipulation, the contract is subject upon written notice to cancellation by the contracting agency, whereupon, the United States may enter into other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor.

(b) Every contractor shall certify pursuant to § 4.6(n) of Subpart A that it is not disqualified for the award of a contract by virtue of its name appearing on the debarred bidders list or because any such currently listed person or firm has a substantial interest in said contractor, as described in § 4.188. Upon discovery of such false certification or determination of substantial interest in a firm performing on a Government contract, as the case may be, the contract is similarly subject upon written notice to immediate cancellation by the contracting agency and any additional cost for the completion of the contract charged to the original contractor as specified in subsection (a), *supra*. Such contract is without warrant of law and has no force and effect and is void ab initio, 33 Comp Gen. 63; Decision of the Comptroller General, B-115051, August 6, 1953. Furthermore, any profit derived from said illegal contract if forfeit (*Paisner v. U.S.*, 138 Ct. Cl. 420, 150 F. Supp. 835 (1957), Cert. denied, 355 U.S. 941.)

§ 4.191 Complaints and compliance assistance.

(a) Any employer, employee, labor or trade organization, or other interested person or organization may report to any office of the Wage and Hour Division (or to any office of the Occupational Safety and Health Administration, in instances involving the safety and health provisions), a violation, or apparent violation of the act, or of any of the rules or regulations prescribed thereunder. Such offices are also available to assist or provide information to contractors or subcontractors desiring to insure that their practices are in compliance with the act. Information furnished is treated confidentially. It is the policy of the

Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of an employee who makes a confidential written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal his identity, will not be disclosed without the prior consent of the employee. Disclosure of employee statements shall be governed by the provisions of the "Freedom of Information Act" (5 U.S.C. 522, see 29 CFR Part 70) and the "Privacy Act of 1974" (5 U.S.C. 552a). (b) A report of breach or violation relating solely to safety and health requirements may be in writing and addressed to the Regional Administrator of an Occupational Safety and Health Administration Regional Office, U.S. Department of Labor, or to the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

(c) Any other report of breach or violation may be in writing and addressed to the Assistant Regional Administrator of a Wage and Hour Division's regional office, U.S. Department of Labor, or to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210.

(d) In the event that an Assistant Regional Administrator for the Wage and Hour Division, Employment Standards Administration, is notified of a breach or violation which also involves safety and health standards, the Regional Administrator of the Employment Standards Administration shall notify the appropriate Regional Administrator of the Occupational Safety and Health Administration who shall with respect to the safety and health violation take action commensurate with his responsibilities pertaining to safety and health standards.

(e) The report should contain the following:

- (1) The full name and address of the person or organization reporting the breach or violations.
- (2) The full name and address of the person against whom the report is made.
- (3) A clear and concise statement of the facts constituting the alleged breach or violation of any of the provisions of the McNamara-O'Hara Service Contract Act, or of any of the rules or regulations prescribed thereunder.

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Federal Register

Friday
December 28, 1979

Part IX

Department of Labor

Wage and Hour Division

Labor Standards Provisions Applicable to
Contracts Covering Federally Financed
and Assisted Construction (Also Labor
Standards Provisions Applicable to
Nonconstruction Contracts Subject to the
Contract Work Hours and Safety
Standards Act)

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend Regulations on labor standards covering construction and contracts subject to the Contract Work Hours and Safety Standards Act, Part 5, Subpart A. These regulations are issued pursuant to the Secretary's authority under Reorganization Plan No. 14 of 1950 an 40 U.S.C. 276c. These regulations have not been clarified or brought up to date for several years. There are proposed changes in the contract clauses required in construction contracts, revisions of apprenticeship requirements, revisions of debarment and enforcement procedures, provisions for withholding of money for underpayments on other Federal and Federally assisted contracts when insufficient monies remain under the contract, reclassification of workers for whom no wage was determined on the wage determination, provisions that no debarred contractor may become either a contractor or subcontractor on Federal or Federally assisted work, and also provisions to reduce the agencies' burden of submitting enforcement reports to the Department of Labor.

DATES: Comments must be received on or before February 26, 1980.

ADDRESS: Comments should be sent to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: 202-523-8333.

SUPPLEMENTARY INFORMATION: Pursuant to the Secretary's responsibility under Reorganization Plan No. 14 of 1950 to assure coordination of administration and consistency of enforcement, it is proposed to revise, update, and clarify Subpart A of Regulations, 29 CFR Part 5.

Substantial revisions have been proposed to the labor standards clauses which contracting agencies are required to insert in the contracts. Such proposed changes will affect clauses concerning the method of conforming rates and classifications, the payment of apprentices, the resolution of labor standards disputes, withholding of wage underpayments, debarment of contractors and subcontractors, and the payroll reporting requirements. Consistent with the Secretary's responsibility to prescribe appropriate standards and procedures for contracting agencies to observe in accomplishing their enforcement responsibilities, existing definitions of terms have been clarified and new terms have been added. Also, certain changes have been proposed to ease the contracting agencies' burden of submitting enforcement reports to the Secretary and of informing the Department of decisions concerning the assessment of liquidated damages. Similarly, revisions have been proposed to the procedures for resolving disputes and debarment actions initiated by the Department against contractors. Several other editorial and clarifying changes have also been proposed in keeping with the Administration's objective of clear and concise regulations.

Regulations, 29 CFR Part 6 (Rules of Practice) has also been revised. New procedures have been established for the processing of Davis-Bacon and Related Act (including the Contract Work Hours and Safety Standards Act and Copeland Act) disputes and debarments in a manner similar to those now in existence for Service Contract Act matters. In addition, new Subparts to 29 CFR Part 5, are currently under development, which will codify the policies, rulings, and interpretations under the Davis-Bacon and Related Acts, including the Contract Work Hours and Safety Standards Act and the Copeland Act. These proposals will be published shortly for comment. Major proposed changes are highlighted below.

1. Section 5.2(1)—This new paragraph sets forth in the Regulations the definition of "site of work" currently followed by the Department of Labor.

2. Section 5.5(a)(1)(i)—This revision would include in the contract clauses a statement that laborers and mechanics must be paid the applicable rate for the classification of work performed, without regard to skill.

3. Section 5.5(a)(1)(ii)—This revision expands and clarifies the contract clause regarding the conformance procedure for wage rates and classifications which are not listed on the applicable wage determination. Specifically, this revision provides that

the Administrator will approve, reverse, or modify all proposed conformances within 30 days of receipt, and makes clear that conformances will not be issued where there is already a classification on the wage determination which performs the work in question.

4. Section 5.5(a)(2)—This revision provides for the withholding of monies from another Federal contract or Federally assisted contract subject to Davis-Bacon prevailing wage requirements, to satisfy the back wage liability on a contract where violations exist and there are not sufficient funds available for withholding. A similar revision is proposed for § 5.5(b)(3) to cover similar situations under the Contract Work Hours and Safety Standards Act.

5. Section 5.5(a)(3)(ii)—This revision would make it clear that contractors may submit the required payroll information in any form, such as computer print outs or copies of their regular payrolls. Optional Form WH-347 may be used to report the required information if a contractor so desires.

6. Section 5.5(a)(4)—Revisions in this paragraph make it clear that a contractor is required to pay full fringe benefits to apprentices unless the contractor's apprenticeship program stipulates otherwise, or unless the Administrator determines that the payment of less than the full amount of fringe benefits for apprentices is prevailing. These same standards are also being proposed for trainees.

7. Section 5.5(a)(7)—This revision would prevent a debarred firm from performing as a subcontractor.

8. Section 5.5(a)(9)—This revision provides that all labor standards disputes would be resolved in accordance with the procedures set forth in 29 CFR Parts 5, 6, and 7.

9. Section 5.5(a)(10)—This revision provides that a contractor and its subcontractors certify that they are not debarred pursuant to section 3(a) of the Davis-Bacon Act or the proposed 29 CFR 5.12(a)(1).

10. Sections 5.6(b), 5.7, 5.8, and 5.15(c)(3)—These paragraphs would reduce the reporting requirements between the Federal contracting agencies and the Department of Labor.

11. Section 5.11—This revision would eliminate the Administrator from the appellate process in the processing of disputes in order to expedite the resolution of such matters. In addition, this revision provides for debarment to be considered in connection with a hearing to resolve a dispute.

12. Section 5.12—This section would substantially revise the debarment procedures. Any debarment action initiated by the Administrator or an

authorized representative would be forwarded for a hearing before an administrative law judge if requested by the affected parties. Also, in conformance with § 5.11, it is proposed to eliminate the Administrator from the appellate process.

13. Section 5.12(c)—This revision clarifies the removal procedures from the ineligible bidders list for contractors debarred under the statutes listed in § 5.1(a) (except the Davis-Bacon Act) and proposes criteria for removal. Also, this revision provides that a contractor or subcontractor debarred for violations of the labor standards provisions of the statutes listed in § 5.1(a) may not petition for removal until after being debarred for six months.

14. Section 5.14—This section (formerly § 5.13) emphasizes that the Secretary does not have the authority to grant waivers from the statutory Davis-Bacon prevailing wage standards.

It has been determined that the proposed amendments to these regulations do not warrant preparation of a regulatory analysis within the meaning of Executive Order 12044 and the Department of Labor's guidelines (44 FR 5570).

Accordingly, it is proposed to revise Subpart A of Part 5 as set forth below.

Signed at Washington, D.C., on this 21st day of December 1979.

Donald Elisberg,

Assistant Secretary of Labor, Employment Standards Administration.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

Sec.

- 5.1 Purpose and scope.
- 5.2 Definitions.
- 5.3 [Reserved].
- 5.4 [Reserved].
- 5.5 Contract provisions and related matters.
- 5.6 Enforcement.
- 5.7 Reports to the Secretary of Labor.
- 5.8 Review of recommendations for an appropriate adjustment in liquidated damages under the Contract Work Hours and Safety Standards Act.
- 5.9 Suspension of funds.
- 5.10 Restitution, criminal action.
- 5.11 Department of Labor hearings.
- 5.12 Department proceedings.
- 5.13 Rulings and interpretations.
- 5.14 Variations, tolerances, and exemptions from Part 1 of this subtitle and this part.

5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

5.16 Training plans approved or recognized by the Department of Labor prior to August 20, 1975.

5.17 Withdrawal of approval of a training program.

5.18 Appeal from Bureau of Apprenticeship and Training's decision.

* * * * *

§ 5.1 Purpose and scope.

(a) The regulations contained in this part are promulgated under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 and the Copeland Act in order to coordinate the administration and enforcement of the labor standards provisions of each of the following acts by the Federal agencies responsible for their administration and of such additional statutes as may from time to time confer upon the Secretary of Labor additional duties and responsibilities similar to those conferred upon the Secretary of Labor under Reorganization Plan No. 14 of 1950:

1. The Davis-Bacon Act (sec. 1-7, 46 Stat. 1949, as amended; Pub. L. 74-403, 40 U.S.C. 276a-276a-7).
2. Copeland Act (40 U.S.C. 276c).
3. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).
4. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).
5. Housing Act of 1950 (college housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 681; 12 U.S.C. 1749a(f)).
6. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86-372, 73 Stat. 681; 12 U.S.C. 1701q(c)(3)).
7. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).
8. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).
9. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).
10. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).
11. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendments of 1969 (sec. 423 as added by Pub. L. 91-230, title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92-318; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is extended to all programs administered by the Commissioner of Education.
12. The Federal-Aid Highway Act of 1956 (sec. 108(b), 70 Stat. 378, recodified at 72 Stat. 895; U.S.C. 113(a), as amended), see particularly the amendments in the Federal-Aid Highway Act of 1968 (Pub. L. 90-495, 62 Stat. 815).

13. Indian Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).

14. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).

15. Rehabilitation Act of 1973 (sec. 306(b)(5), 87 Stat. 384, 29 U.S.C. 776(b)(5)).

16. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 88 Stat. 1845; 29 U.S.C. 986; also sec. 604, 88 Stat. 1846; 29 U.S.C. 964(b)(3)).

17. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 86 Stat. 933; 31 U.S.C. 1246(a)(6)).

18. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 894; 33 U.S.C. 1372).

19. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(8)).

20. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 728 as amended; 39 U.S.C. 410(b)(4)(C)).

21. National Visitors Center Facilities Act of 1968 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).

22. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).

23. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 308(h)(2) thereof, 88 Stat. 370, as amended by 90 Stat. 378; 42 U.S.C. 242m(h)(2)).

24. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5)).

25. Health Professions Educational Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2256, 42 U.S.C. 293a(c)(7)).

26. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 384; 42 U.S.C. 296a(b)(5)).

27. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).

28. Safe Drinking water Act (sec. 2(a) see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j-9(e)).

29. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2261, 42 U.S.C. 300o-3(b)(1)(H)).

30. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).

31. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).

32. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

33. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f)).

34. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 496, as amended; 42 U.S.C. 1500c-3).

35. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592j).

36. Special Health Revenue Sharing Act of 1975 (sec. 303, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689j(a)(5)).

37. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).

38. Headstart. Economic Opportunity, and Community Partnership Act of 1974 (sec. 11,

see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 2992a).

39. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).

40. Older Americans Act of 1965 (sec. 502, Pub. L. 89-73, as amended by sec. 501, Pub. L. 93-29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).

41. Public Works and Economic Development Act of 1965 (sec. 712; 79 Stat. 575 as amended; 42 U.S.C. 3222).

42. Juvenile Delinquency Prevention Act (sec. 1.86 Stat. 536; 42 U.S.C. 3884).

43. New Communities Act of 1968 (sec. 410, 82 Stat. 516; 42 U.S.C. 3909).

44. Urban Growth and New Community Development Act of 1970 (sec. 727(f), 84 Stat. 1803; 42 U.S.C. 4529).

45. Domestic Volunteer Service Act of 1973 (sec. 408, 87 Stat. 410; 42 U.S.C. 5046).

46. Housing and Community Development Act of 1974 (secs. 110, 802(g), 88 Stat. 649, 724; 42 U.S.C. 5310, 1440(g)).

47. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 488; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

48. National Energy Conservation Policy Act (sec. 312 92 Stat. 3254, 42 U.S.C. 6371j).

49. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6708; also sec. 208, 90 Stat. 1008; 42 U.S.C. 6728).

50. Energy Conservation and Production Act (sec. 451(h), 90 Stat. 1168; 42 U.S.C. 6881(h)).

51. Solid Waste Disposal Act (sec. 2, 90 Stat. 2823; 42 U.S.C. 6979).

52. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

53. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

54. Highway Speed Ground Transportation Study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1636(b)).

55. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

56. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281i).

57. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat. 644; 40 U.S.C. 682(b)(4). Note.—Repealed December 9, 1969, and labor standards incorporated in sec. 1-1431 of the District of Columbia Code).

58. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89-694, but not in the United States Code).

59. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87-328) (considered a statute for purposes of the plan but not in the United States Code).

(b) Part 1 of this subtitle contains the Department's procedural rules governing requests for wage determinations and the issuance and use of such wage determinations under the Davis-Bacon Act and its related statutes as listed in that part.

§ 5.2 Definitions.

(a) The term "Secretary" includes the Secretary of Labor, the Assistant Secretary of Labor for Employment

Standards, and their authorized representatives.

(b) The term "Administrator" means the Administrator of the Wage and Hour Division, or the authorized representative as set forth in this part. In the absence of the Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division, is designated to act for the Administrator under this Part. Except as otherwise provided in this Part, the Assistant Administrator for Government Contract Wage Standards is the authorized representative of the Administrator in the administration of the statutes listed in § 5.1.

(c) The term "Federal agency" means the agency or instrumentality of the United States which enters into the contract or provides assistance through loan, grant, loan guarantee or insurance, or otherwise, to the project subject to a statute listed in § 5.1.

(d) The term "Agency Head" means the principal official of the Federal agency and includes those persons duly authorized to act in the behalf of the Agency Head.

(e) The term "Contracting Officer" means the individual, a duly appointed successor, or authorized representative who is designated and authorized to enter into contracts on behalf of the Federal agency, or other administering agency, such as grant or loan recipients.

(f) The term "labor standards" as used in this part means the requirements of the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act (other than those relating to safety and health), the Copeland Act, and the prevailing wage provisions of the other statutes listed in § 5.1, and the regulations in Part 1 and this part.

(g) The term "United States or the District of Columbia" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the foregoing departments, establishments, agencies, instrumentalities, and including non-appropriated fund instrumentalities.

(h) The term "contract" means any contract in excess of \$2,000 which is subject wholly or in part to the labor standards provisions of any of the acts listed in § 5.1 and any subcontract of any tier thereunder, let under the prime contract, which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public

work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution, except where in different meaning is expressly indicated. Under statutes where construction performed by the recipient of Federal assistance is subject to prevailing wage requirements, the terms "contractor" and "contract" as used in this part shall be deemed to include the recipient performing the construction with its own work force and the agreement providing assistance for the construction.

(i) The terms "building" or "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not a "building" or "work" within the meaning of the regulations in this part unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

(j) The terms "construction", "prosecution", "completion", or "repair" mean all types of work done on a particular building or work at the site thereof or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project, including without limitation, altering, remodeling, installation (where appropriate) of items fabricated off-site painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or

furnishing of materials, articles, supplies or equipment on the site of the building or work (or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project), by persons employed by the contractor or subcontractor. However, the term "initial construction" in the Federal-Aid Highway Act of 1956, as amended, does not include repair or maintenance work.

(k) The term "public building" or "public work" includes building or work, the construction, prosecution, completion, or repair of which, as defined above, is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.

(l) The term "site of the work" is defined as follows:

(1) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and to other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site" because of its proximity.

(2) Fabrication Plants, "mobile factories," batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work" provided they are dedicated exclusively, or nearly so, to performance of the contract and are so located in proximity to the actual construction location that it would be reasonable to include them.

(3) Not included in the "site of the work" are permanent home offices or branch plant establishments of a contractor or subcontractor, its fabrication plant and tool yard establishments, whose locations and continuance are governed by its general business operations.

(m) The term "laborer" or "mechanic" includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term "laborer" or "mechanic" includes apprentices and trainees, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in Part 541 of this title are not deemed to be laborers or mechanics. Working foremen who devote more than 20

percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of Part 541, are laborers and mechanics for the time so spent.

(n) The terms apprentice and trainee are defined as follows:

(1) "Apprentice" means (i) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or (ii) a person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice;

(2) "Trainee" means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training as meeting its standards for on-the-job training programs and which has been so certified by that Bureau.

(o) Every person performing the duties of a laborer or mechanic in the construction, prosecution, completion, or repair of a public building or public work, or building or work financed in whole or in part by loans, grants, or guarantees from the United States is "employed" regardless of any contractual relationship alleged to exist between the contractor or such person.

(p) The term "wages" means the basic hourly rate of pay; and the contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon Act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits, life

insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other Federal, State, or local law.

(q) The term "wage determination" includes the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the provisions of the original decision. The use of the wage determination shall be subject to the provisions of § 1.7 of this title.

(r) The term "any affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with the contractor or subcontractor as parent, subsidiary, or otherwise, and an officer or agent of such corporation.

§§ 5.3-5.4 [Reserved]

§ 5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract subject to the labor standards provisions of any of the acts listed in § 5.1, except those subject only to the Contract Work Hours and Safety Standards Act, the following clauses:

(1) *Minimum wages.* (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid (or furnished bona fide fringe benefits) unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act and 29 CFR 5.110 and 5.111) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof; regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this

section, also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to the skill, except as provided in § 5.5(a)(4). The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified conformably to the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is generally recognized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, agree with the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The administrator, or an authorized representative, will respond within 30 days of receipt thereof and will approve, reverse, or modify every additional classification action.

(C) In the event the contractor, or the laborers or mechanics to be employed in the classification or their representatives, do not agree with the contracting officer on the proposed classification and wage rate (including

the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof, as determined in accordance with Subpart B of 29 CFR Part 5.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, however, The Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.* The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages

required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.* (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates or contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid, whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(ii) The contractor shall submit weekly a copy of all payrolls to the (write in name of appropriate Federal agency) if the agency is a party to the contract, but if the agency is not such a party the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be for transmission to the (write in name of agency). The payrolls shall set out accurately and completely the name and address of each laborer or mechanic, his or her correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose. Each payroll shall be accompanied by a "Statement of Compliance" as set forth on the reverse side of Optional Form WH-347 or on any form with identical wording, signed

by the employer or his or her agent indicating that the payrolls are correct and complete, that the wage rates and fringe benefits or cash equivalents shown therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work performed. The prime contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The contractor or subcontractor will make the records required under the labor standards clauses of the contract available for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and will permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to make the required records available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the contracting agencies that they are registered in an approved program and shall identify the program.

(4) *Apprentices and trainees—(i) Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (ii) of

this subparagraph or is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in plan(s) registered for that locality shall be observed. The contractor or subcontractor will be required to furnish to the contracting officer written evidence of the registration of the program, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable program, prior to using any apprentices on the contract work. The basic hourly wage rate paid apprentices shall not be less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not mention fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

(ii) *Trainees.* Except as provided in 29 CFR 5.16 trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee

program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. The contractor or subcontractor will be required to furnish the contracting officer written evidence of the certification of the program, the registration of the trainees, and the ratios and wage rates (expressed in percentages of the journeyman hourly rate) prescribed in that program prior to using any trainees on the contract work. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of Subpart D of 29 CFR Part 5, which are herein incorporated by reference in this contract.

(6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Part 5 are herein incorporated by reference in this contract.

(9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) *Certification of Eligibility.* (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) *Contract Work Hours and Safety Standards Act.* The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract subject to the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or § 4.6 of Part 4 of this title. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a

rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is greater.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in subparagraph (1), the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause set forth in subparagraph (1), in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1).

(3) *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or

require the contracting officer to insert a clause requiring the maintenance of records containing the information specified in § 5.16.2(a) of this title. Records containing such information shall be preserved for a period of three years from the completion of the contract. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be available for inspection, copying, or transcription, in the manner that inspection of records is available under the terms of paragraph (a)(3)(ii) of this section.

(d) In contracts subject to section 803 of the National Housing Act, the Agency Head shall cause or require the contracting officer to insert the following clause: Every laborer and mechanic employed by the contractor or any subcontractor engaged in the construction of the project, shall receive compensation at a rate of not less than one and one-half times his or her basic or regular rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek whichever is greater.

§ 5.6 Enforcement.

(a)(1) It shall be the responsibility of the Federal agency to ascertain whether the clauses required by § 5.5 have been inserted in the contracts subject to the labor standards provisions of the Acts contained in § 5.1. Agencies which do not directly enter into such contracts shall promulgate the necessary regulations or procedures to require the recipient of the Federal assistance to insert in its contracts the provisions of § 5.5. No payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency unless the agency insures that the clauses required by § 5.5 and the appropriate wage determination of the Secretary of Labor are contained in such contracts. Furthermore, no payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency after the beginning of construction unless there is on file with the agency a certification by the contractor that the contractor and its subcontractors have complied with the provisions of § 5.5 or unless there is on file with the agency a certification by the contractor that there is a substantial dispute with respect to the required provisions.

(2) The Federal agency shall make such examination of the submitted payrolls and statements of compliance as may be necessary to assure compliance with the labor standards

clauses required by § 5.5 and the applicable statutes listed in § 5.1. In connection with such examination particular attention should be given to the correctness of classifications and disproportionate employment of laborers, of helpers where they are listed on the wage determination, and of apprentices or trainees registered in approved programs. Such payrolls and statements shall be preserved by the agency for a period of 3 years from the date of completion of the contract and shall be produced at the request of the Department of Labor at any time during the 3-year period.

(3) In addition to the examination of payrolls and statements required by paragraph (a)(2) of this section, the Federal agency shall cause such investigations to be made as may be necessary to assure compliance with the labor standards clauses required by § 5.5 and the applicable statutes listed in § 5.1. Projects where the contract is of short duration (6 months or less) will be investigated before the work is accepted, if feasible. In the case of contracts which extend over a long period of time the investigations will be made with such frequency as may be necessary to assure compliance. Such investigations shall include interviews with employees, which shall be taken in confidence, and examinations of payroll data and evidence of registration and certification with respect to apprenticeship and training plans to determine the correctness of classifications and disproportionate employment of laborers, of helpers where they are listed on the wage determination, and of apprentices or trainees registered in approved programs. Such investigations shall also include evidence of fringe benefit plans and payments thereunder. Complaints of alleged violations shall be given priority. It is the policy of the Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of an employee who makes a written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal the employee's identity, shall not be disclosed in any manner to anyone other than Federal officials without the prior consent of the employee. Disclosure of employee statements shall be governed by the provisions of the "Freedom of Information Act" (5 U.S.C. 552, see 29 CFR Part 70) and the "Privacy Act of 1974" (5 U.S.C. 552a).

(4) In accordance with normal operating procedures, the contracting

agency may be furnished various investigatory material from the investigation files of the Department of Labor. None of the material, other than computations of back wages and liquidated damages and the summary of back wages due, may be disclosed in any manner to anyone other than Federal officials charged with administering the contract or program providing Federal assistance to the contract, without requesting the permission and views of the Department of Labor.

(b) The Administrator shall cause to be made such investigations as deemed necessary, in order to obtain compliance with the labor standards provisions of the applicable statutes listed in § 5.1, or to affirm or reject the recommendations by the Agency Head with respect to labor standards matters arising under the statutes listed in § 5.1. Federal agencies, contractors, subcontractors, sponsors, applicants, or owners shall cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all other aspects of the investigations. The findings of such an investigation may not be altered or reduced in any way without the approval of the Department of Labor. Where the underpayments disclosed by such an investigation total \$1,000 or more, where there is reason to believe that the violations are aggravated or willful, or where liquidated damages may be assessed under the Contract Work Hours and Safety Standards Act, the Department of Labor will furnish the Federal agency an enforcement report detailing the labor standards violations disclosed by the investigation and any action taken by the contractor to correct the violative practices, including any payment of back wages. In other circumstances, the Federal agency will be furnished a letter of notification summarizing the findings of the investigation.

§ 5.7 Reports to the Secretary of Labor.

(a) *Enforcement reports.* (1) Where underpayments by a contractor or subcontractor total less than \$1,000, and where there is no reason to believe that the violations are aggravated or willful, and where restitution has been effected and future compliance assured, the Federal agency need not submit its investigative findings and recommendations to the Administrator, unless the investigation was made at the request of the Department of Labor. In the latter case, the Federal agency shall submit a factual summary report detailing any violations including any data on the amount of restitution paid,

the number of workers who received restitution, liquidated damages assessed under the Contract Work Hours and Safety Standards Act, corrective measures taken (such as "letters of notice"), and any information that may be necessary to review any recommendations for an appropriate adjustment in liquidated damages under § 5.8.

(2) Where underpayments by a contractor or subcontractor total \$1,000 or more, or where there is reason to believe that the violations are aggravated or willful, the Federal agency shall furnish within 60 days after completion of its investigation, a detailed enforcement report to the Administrator. The report should be prepared in accordance with the "Investigation and Enforcement Manual" published by the Department of Labor with respect to "Labor Standards Provisions Applicable to Contracts Covering Federally-Financed and Assisted Construction". In cases involving underpayments under the Davis-Bacon Act, the report should meet the reporting requirements contained in Comptroller General's Letter B-3368, dated March 19, 1957.

(b) *Semi-annual enforcement reports.* To assist the Secretary in fulfilling the responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the Administrator by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in memoranda issued to Federal agencies by the Administrator.

(c) *Additional information.* Upon request, the Agency Head shall transmit to the Administrator such information available to the Agency with respect to contractors and subcontractors, their contracts, and the nature of the contract work as the Administrator may find necessary for the performance of his or her duties with respect to the labor standards provisions referred to in this part.

(d) *Contract termination.* Where a contract is terminated by reason of violations of the labor standards provisions of the statutes listed in § 5.1, a report shall be submitted promptly to the Administrator and to the Comptroller General (if the contract is subject to the Davis-Bacon Act) giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, and the name and

address of the contractor or subcontractor, if any, who is to complete the work, the amount and number of the contract, and the description of the work to be performed.

§ 5.8 Review of recommendations for an appropriate adjustment in liquidated damages under the Contract Work Hours and Safety Standards Act.

(a) *Findings and recommendations of the Agency Head.* Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due under section 104(a) of the Contract Work Hours and Safety Standards Act is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Contract Work Hours and Safety Standards Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, and the amount of the liquidated damages computed for the contract is in excess of \$500, the Agency Head may make recommendations to the Secretary that an appropriate adjustment in liquidated damages be made or that the contractor or subcontractor be relieved of liability for such liquidated damages. Such findings with respect to liquidated damages shall include findings with respect to any wage underpayments for which the liquidated damages are determined. If the Agency Head does not recommend adjustment or relief from liquidated damages, it is not necessary to seek the concurrence of the Department of Labor, but the Administrator shall be advised of the action taken.

(b) The recommendations of the Agency Head for adjustment or relief from liquidated damages under paragraph (a) of this section shall be reviewed by the Administrator or an authorized representative who shall issue an order concurring in the recommendations, partially concurring in the recommendations, or rejecting the recommendations, and the reasons therefor. The order shall be the final decision of the Department of Labor, unless a petition for review is filed pursuant to Part 7 of this title, and the Wage Appeals Board in its discretion reviews such decision and order.

(c) Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due under section 104(a) of the Contract Work Hours and Safety Standards Act for a contract is \$500 or less and the Agency Head finds that the sum of liquidated damages is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Contract Work Hours and Safety

Standards Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, an appropriate adjustment may be made in such liquidated damages or the contractor or subcontractor may be relieved of liability for such liquidated damages without submitting recommendations to this effect or a report to the Department of Labor. This delegation of authority is made under section 105 of the Contract Work Hours and Safety Standards Act and has been found to be necessary and proper in the public interest to prevent undue hardship and to avoid serious impairment of the conduct of Government business.

§ 5.9 Suspension of funds.

In the event of failure or refusal of the contractor or any subcontractor to comply with the labor standards clauses contained in section 5.5 and the applicable statutes listed in section 5.1, the Federal agency, upon its own action or upon written request of an authorized representative of the Department of Labor, shall take such action as may be necessary to cause the suspension of the payment, advance or guarantee of funds until such time as the violations are discontinued or until sufficient funds are withheld to compensate employees for the wages to which they are entitled and to cover any liquidated damages which may be due.

§ 5.10 Restitution, criminal action.

(a) In cases other than those forwarded to the Attorney General of the United States under paragraph (b), of this section, where violations of the labor standards clauses contained in § 5.5 and the applicable statutes listed in § 5.1 result in underpayment of wages to employees, the Federal agency or an authorized representative of the Department of Labor shall request that restitution be made to such employees or on their behalf to plans, funds, or programs for any type of bona fide fringe benefits within the meaning of section 1(b)(2) of the Davis-Bacon Act.

(b) In cases where the Agency Head or the Administrator finds substantial evidence that such violations are willful and in violation of as criminal statute, the payment of wage underpayments shall not be requested and the matter shall be forwarded to the Attorney General of the United States for prosecution if the facts warrant. In all such cases the Administrator shall be informed simultaneously of the action taken.

§ 5.11 Department of Labor hearings.

In the event of disputes concerning the payment of prevailing wage rates, overtime compensation, or proper classifications which involve significant sums of money, large groups of employees, or novel or unusual situations, upon request by a Federal agency or on the Administrator's own motion, the Administrator may direct a hearing to be held. In cases where the Administrator determines that a hearing may be appropriate, the Administrator will notify the contractor or subcontractor(s) and responsible officers, if any, by registered or certified mail, of the investigation findings and shall advise that a hearing may be requested by letter postmarked within 20 days of receipt of the letter from the Administrator. If the Administrator determines that there is reasonable cause to believe that the contractor or subcontractor should also be subject to debarment action under § 5.12(a)(1) or § 3(a) of the Davis-Bacon Act, the letter shall so indicate. If no hearing is requested within 20 days, the Administrator's findings shall be final except with respect to recommendations regarding debarment under the Davis-Bacon Act as set forth in § 5.12(a)(2). If the contractor or subcontractor requests a hearing, its response to the Administrator shall set forth those findings which are in dispute and the reasons therefor, including any affirmative defenses which may be raised, with respect to the violations and/or debarment as appropriate. Upon receipt of such a request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached an authenticated copy of the letter from the Administrator and the response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to resolve the disputed matters. The hearing shall be conducted in accordance with the procedures set forth in 29 CFR Part 6.

§ 5.12 Debarment proceedings.

(a)(1) Whenever any contractor or subcontractor is found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of any of the applicable statutes listed in § 5.1, other than the Davis-Bacon Act, such contractor or subcontractor or any firm, corporation, partnership, or association in which such contractor or subcontractor has a substantial interest shall be ineligible for a period not to exceed 3 years (from the date of publication by the Comptroller General of the name or

names of said contractor or subcontractor on the ineligible list as provided below) to receive any contracts or subcontracts subject to any of the statutes listed in § 5.1.

(2) In cases arising under contracts covered by the Davis-Bacon Act, the Administrator shall transmit to the Comptroller General the names of the contractors or subcontractors and their responsible officers, if any, (and any firms in which the contractors or subcontractors are known to have an interest), who have been found to have disregarded their obligations to employees, and the recommendation of the Secretary of Labor or authorized representative regarding debarment. The Comptroller General will distribute a list to all Federal agencies giving the names of such ineligible person or firms, who shall be ineligible to be awarded any contract or subcontract of the United States or the District of Columbia and any contract or subcontract subject to the labor standards provisions of the statutes listed in § 5.1.

In addition to cases under which debarment action is initiated pursuant to § 5.11, (b) whenever as a result of an investigation conducted by the Federal agency or the Department of Labor, and where the Administrator finds reasonable cause to believe that a contractor or subcontractor has committed willful or aggravated violations of the labor standards provisions of any of the statutes listed in § 5.1 (other than the Davis-Bacon Act), or has committed violations of the Davis-Bacon Act which constitute a disregard of its obligations to employees or subcontractors under § 3(a) thereof, the Administrator shall notify by registered or certified mail the contractor or subcontractor and its responsible officers, if any (and any firms in which the contractor or subcontractor are known to have a substantial interest), of the finding. The Administrator shall afford such contractor or subcontractor and any other parties notified an opportunity for a hearing as to whether debarment action should be taken under paragraph (a)(1) of this section or 3(a) of the Davis-Bacon Act. The Administrator shall furnish to those notified a summary of the investigative findings. If the contractor or subcontractor or any other parties notified wish to request a hearing as to whether debarment action should be taken, such a request shall be made by letter postmarked within 20 days of receipt of the letter from the Administrator, and shall set forth any findings which are in dispute and the reasons therefor, including any

affirmative defenses to be raised. Upon receipt of such request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached an authenticated copy of the letter from the Administrator and the response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to determine the matters in dispute. In considering debarment under any of the statutes listed in § 5.1 other than the Davis-Bacon Act, the Administrative Law Judge shall issue an order concerning whether the contractor or subcontractor is to be debarred in accordance with paragraph (a)(1) of this section. In considering debarment under the Davis-Bacon Act, the Administrative Law Judge shall issue a recommendation as to whether the contractor or subcontractor should be debarred under 3(a) of the Act.

Hearings under this section shall be conducted in accordance with 29 CFR Part 6. If no hearing is requested within 20 days of receipt of the letter from the Administrator, the Administrator's findings shall be final, except with respect to recommendations regarding debarment under the Davis-Bacon Act, as set forth in paragraph (a)(2) of this section.

(c) Any person or firm debarred under § 5.12(a)(1) may in writing request removal from the debarment list after six months from the date of publication by the Comptroller General of such person or firm's name on the ineligible list. Such a request should be directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, and shall contain a full explanation of the reasons why such person or firm should be removed from the ineligible list. In cases where the contractor or subcontractor failed to make full restitution to all underpaid employees, a request for removal will not be considered until such underpayments are made. In all other cases, the Administrator will examine the facts and circumstances surrounding the violative practices which caused the debarment, and issue a decision as to whether or not such person or firm has demonstrated a current responsibility to comply with the labor standards provisions of the statutes listed in § 5.1, and therefore should be removed from the ineligible list. Among the factors to be considered in reaching such a decision are the severity of the violations, the contractor or subcontractor's attitude towards

compliance, and the past compliance history of the firm. In no case will such removal be effected unless the Administrator determines after an investigation that such person or firm is in compliance with the labor standards provisions applicable to Federal contracts and Federally assisted construction work subject to any of the applicable statutes listed in § 5.1 and other labor statutes providing wage protection, such as the Service Contract Act, the Walsh-Healey Public Contracts Act, and the Fair Labor Standards Act. If the request for removal is denied, the person or firm may petition for review by the Wage Appeals Board pursuant to 29 CFR Part 7.

§ 5.13 Rulings and interpretations.

All questions relating to the application and interpretation of wage determinations (including the classifications therein) issued pursuant to Part 1 of this subtitle, of the rules contained in this part and in Part 1, and of the labor standards provisions of any of the statutes listed in § 5.1 shall be referred to the Administrator for appropriate ruling or interpretation. The rulings and interpretations shall be authoritative and those under the Davis-Bacon Act may be relied upon as provided; for in § 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings and interpretations should be addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

§ 5.14 Variations, tolerances, and exemptions from part 1 of this subtitle and this part.

The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of this part and those of Part 1 of this subtitle whenever the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship. Variations, tolerances, and exemptions may not be made from the statutory requirements of any of the statutes listed in § 5.1 unless the statute specifically provides such authority.

§ 5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

(a) *General.* Upon his or her own initiative or upon the request of any Federal agency, the Secretary of Labor may provide under section 105 of the Contract Work Hours and Safety Standards Act reasonable limitations and allow variations, tolerances, and

exemptions to and from any or all provisions of that Act whenever the Secretary finds such action to be necessary and proper in the public interest to prevent injustice, or undue hardship, or to avoid serious impairment of the conduct of Government business. Any request for such action by the Secretary shall be submitted in writing, and shall set forth the reasons for which the request is made.

(b) *Exemptions.* Pursuant to section 105 of the Contract Work Hours and Safety Standards Act, the following classes of contracts are found exempt from all provisions of that Act in order to prevent injustice, undue hardship, or serious impairment of Government business:

(1) Contracts of \$2,000.00 or less.
(2) Purchases and contracts other than construction contracts in the aggregate amount of \$2,500.00 or less. In arriving at the aggregate amount involved, there must be included all property and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising.

(3) Contract work performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: A State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; Eniwetok Atoll; Kwajalein Atoll, and Johnston Island;

(4) Agreements entered into by or on behalf of the Commodity Credit Corporation providing for the storing in or handling by commercial warehouses of wheat, corn, oats, barley, rye, grain sorghums, soybeans, flaxseed, rice, naval stores, tobacco, peanuts, dry beans, seeds, cotton, and wool.

(5) Sales of surplus power by the Tennessee Valley Authority to States, counties, municipalities, cooperative organization of citizens or farmers, corporations and other individuals pursuant to section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 8311).

(c) *Tolerances.* (1) The "basic rate of pay" under section 102 of the Contract Work Hours and Safety Standards Act may be computed as an hourly equivalent to the rate on which time-and-one-half overtime compensation may be computed and paid under section 7 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207), as interpreted in Part 778 of this title.

This tolerance is found to be necessary and proper in the public interest in order to prevent undue hardship.

(2) Concerning the tolerance provided in paragraph (c)(1) of this section, the provisions of section 7(d)(2) of the Fair Labor Standards Act and § 778.7 of this title should be noted. Under these provisions, payments for occasional periods when no work is performed, due to vacations, and similar causes are excludable from the "regular rate" under the Fair Labor Standards Act. Such payments, therefore, are also excludable from the "basic rate" under the Contract Work Hours and Safety Standards Act.

(3) See § 5.8(c) providing a tolerance subdelegating authority to the heads of agencies to make appropriate adjustments in the assessment of liquidated damages totaling \$500 or less under specified circumstances.

(4)(i) Time spent in an organized program of related, supplemental instruction by laborers or mechanics employed under bona fide apprenticeship or training programs may be excluded from working time if the criteria prescribed in paragraphs (c)(4)(ii) and (iii) of this section are met.

(ii) The apprentice or trainee comes within the definition contained in § 5.2(f).

(iii) The time in question does not involve productive work or performance of the apprentice's or trainee's regular duties.

(d) *Variations.* (1) In order to prevent undue hardship, a workday consisting of a fixed and recurring 24-hour period commencing at the same time on each calendar day may be used in lieu of the calendar day in applying the daily overtime provisions of the Act to the employment of firefighters or fireguards, under the following conditions: (i) Where such employment is under a platoon system requiring such employees to remain at or within the confines of their post of duty in excess of eight hours per day in a standby or on-call status; and (ii) if the use of such alternate 24-hour day has been agreed upon between the employer and such employees or their authorized representatives before performance of the work; and (iii) provided that, in determining the daily and the weekly overtime requirements of the Act in any particular workweek of any such employee whose established workweek begins at an hour of the calendar day different from the hour when such agreed 24-hour day commences, the hours worked in excess of 8 hours in any such 24-hour day shall be counted in the established workweek (of 168 hours commencing at the same time each

week) in which such hours are actually worked.

(2) In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours and Safety Standards Act, if the funds withheld by Federal agencies for the violations are not sufficient to pay fully both the unpaid wages due laborers and mechanics and the liquidated damages due the United States, the available funds shall be used first to compensate the laborers and mechanics for the wages to which they are entitled (or an equitable portion thereof when the funds are not adequate for this purpose); and the balance, if any, shall be used for the payment of liquidated damages.

(3) In the performance of any contract entered into pursuant to the provisions of 38 U.S.C. 620 to provide nursing home care of veterans, no contractor or subcontractor under such contract shall be deemed in violation of Section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 8 hours in any calendar day or 40 hours in the workweek to any individual employed by an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the workweek of 7 consecutive days for the purpose of overtime compensation and if such individual receives compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than 1½ times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended.

§ 5.16 Training plans approved or recognized by the Department of Labor prior to August 20, 1975.

(a) Notwithstanding the provisions of § 5.5(a)(4)(ii) relating to the utilization of trainees on Federal and federally assisted construction, no contractor shall be required to obtain approval of a training program which, prior to August 20, 1975, was approved by the Department of Labor for purposes of the Davis-Bacon and Related Acts, was established by agreement of organized labor and management and therefore recognized by the Department, and/or was recognized by the Department under Executive Order 11246, as

amended. A copy of the program and evidence of its prior approval, if applicable shall be submitted to the Employment and Training Administration, Bureau of Apprenticeship and Training, which shall certify such prior approval or recognition of the program. In every other respect, the provisions of § 5.5(a)(4)(ii)—including those relating to registration of trainees, permissible ratios, and wage rates to be paid—shall apply to these programs.

(b) Every trainee employed on a contract executed on and after August 20, 1975, in one of the above training programs must be individually registered in the program in accordance with BAT procedures, and must be paid at the rate specified in the program for the level of progress. Any such employee listed on the payroll at a trainee rate who is not registered and participating in a program certified by BAT pursuant to this section, or approved and certified by BAT pursuant to § 5.5(a)(4)(ii), must be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The ratio of trainees to journeymen shall not be greater than permitted by the terms of the program.

(c) In the event a program which was recognized or approved prior to August 20, 1975, is modified, revised, extended, or renewed, the changes in the program or its renewal must be approved by the Bureau of Apprenticeship and Training before they may be placed into effect.

§ 5.17 Withdrawal of approval of a training program.

If at any time the Employment and Training Administration, Bureau of Apprenticeship and Training determines, after opportunity for a hearing, that the standards of any program, whether it is one recognized or approved prior to August 20, 1975, or a program subsequently approved, have not been complied with, or that such a program fails to provide adequate training for participants, a contractor will no longer be permitted to utilize trainees at less than the predetermined rate for the classification of work actually performed until an acceptable program is approved. If the contractor files an appeal pursuant to § 5.18 within 30 days of receipt of a certified letter withdrawing the Bureau of Apprenticeship and Training's approval, the effect of the withdrawal of approval of the program will be delayed until a decision is rendered on the appeal.

§ 5.18 Appeal from Bureau of Apprenticeship and Training's decisions.

(a) Appeal from a withdrawal of approval of a training program by the Bureau of Apprenticeship and Training pursuant to § 5.17 may be made to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, D.C. 20210. Appeals brought more than 30 days after the contractor's receipt of notice of withdrawal of approval of a program will be processed, but the effects of withdrawal of approval of the program will not be delayed during consideration of such an appeal.

(b) Appeal from disapproval of new training programs whose approval is requested pursuant to these regulations may be made to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, D.C. 20210.

(c) The Assistant Secretary for Employment and Training (or designee) shall examine the complete record on the basis of which the denial was issued, including the application for the program, supporting data, Bureau of Apprenticeship and Training decision, and any written argument which the applicant may submit, and any reply thereto by the Bureau of Apprenticeship and Training. Copies of any such reply shall be served on the applicant. The Assistant Secretary, or designee, shall approve or disapprove the decision of the Bureau or shall advise what modifications are necessary for approval of the program. This decision by the Assistant Secretary or designee shall be final.

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test report federal register

Friday
December 28, 1979

Part X

Department of Agriculture

Animal and Plant Health Inspection
Service

Horse Protection; Notice of Certified
Designated Qualified Person Programs
and Licensed Designated Qualified
Persons

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Horse Protection; Notice of Certified DQP Programs and Licensed DQP's

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Certified DQP Programs and Licensed DQP's pursuant to 9 CFR 11.7(b)(8).

PURPOSE: This notice is to advise the general public and the horse industry of the current Designated Qualified Person (DQP) programs certified by the Department and the currently licensed Designated Qualified Persons (DQP's) under each certified program. The certified DQP programs and the DQP's licensed by each certified program are as follows:

Walking Horse Owners' Association of America, Inc., Murfreesboro, TN 37130

Licensed DQP's

Mr. M. F. Bower, Keyston, IN 46759
Mr. Ray "Tut" Brown, Hohenwald, TN 38485
Mr. Dewey S. Carpenter, Jr., Forest City, NC 28043
Mr. Carl Cartwright, Jr., Tazewell, VA 24651
Mr. Jimmy C. Coffey, Russell Springs, KY 42642
Mr. Tom E. Cundiff, Somerset, KY 42501
Mr. John Allen Dadisman, Lawrenceburg, KY 40342
Mr. Terry Etheridge, Macon, GA 31206
Mr. James Albert Farris, Morehead, KY 40351
Mr. Kenneth Gilpin, Louisville, KY 40222
Mr. Samuel D. Hall, Clinton, MS 39056
Mr. Clyde W. Hayes, Lowgap, NC 27024
Mr. Wayne Henry, Ooltewah, TN 37363
Mr. Mike Hooper, Etowah, TN 37331
Mr. James C. House, Ringgold, GA 30736
Mr. Hugh E. Johnson, Richmond, KY 40475
Mr. Gary Kinmons, Dickson, TN 37055
Mr. Edward T. Lundergan, Ripley, OH 45167
Mr. Donnie May, Richmond, KY 40475
Mr. G. K. Mease, Murrels Inlet, SC 29576
Mr. Lonnie Messick, Murfreesboro, TN 37130
Mr. Everett L. Rayburn, Lawrenceburg, KY 40342
Mr. Bill Reece, Yadkinville, NC 27055
Mr. Danny C. Rylee, Gillsville, GA 30543
Mr. James L. Singleton, Ashton, WV 25503
Mr. Robert G. Stoger, Versailles, KY 40383
Mr. Albert (Bo) Turner, Stone Mountain, GA 30083
Mr. Charles D. Varnadore, Concord, TN 37720
Mr. Kent Wagoner, Richmond, KY 40475
Mr. W. Gerald Welborn, Anderson, SC 29621
Mr. Harold S. White, Franklin, TN 37064
Mr. Johnnie J. Zeller, Eubank, KY 42567
National Walking Horse Regulatory Committee, Shelbyville, TN 37160
Licensed DQP's
Mr. George W. Bacon, Rockwood, TN 37854
Mr. Leland S. Bacon, Rockwood, TN 37854
Mr. Don Bills, Shelbyville, TN 37160

Mr. Larry C. Brachnell, Orrville, AL 36767
Mr. Frank Brown, Frankfort, KY 40601
Mr. Johnny Cabe, Unionville, TN 37180
Mr. James D. Campbell, Murfreesboro, TN 37130
Mr. James E. Cole, Jackson, TN 38301
Mr. Danny R. Davis, Unionville, TN 37180
Mr. Frank Dawson, Elkmont, AL 35620
Mr. Don E. Everett, Lewisburg, TN 37091
Mr. Thomas E. Garland, Mayfield, KY 42066
Mr. Jack O. Kinkade, Elk Grove, CA 95624
Mr. Bill Maack, Jr., Goodson, MO 65659
Mr. Mack Motes, Eagleville, TN 37060
Mr. L. M. Murphy, Shelbyville, TN 37160
Mr. John Price, Lewisburg, TN 37091
Mr. Kenneth Range, New Boston, MI 48164
Mr. Harry Richardson, New Boston, MI 48164
Mr. Harland Smith, Jr., Shelbyville, TN 37160
Mr. W. E. Sullivan, Fort Deposit, AL 36032
Mr. Rick G. Trull, Waverly, TN 37185
Mr. Ronnie Williams, Winchester, TN 37398
Mr. Gene Sills, Wartburg, TN 37887
Mr. R. A. Jack, Moscow, ID 83843
Dr. Dwaine McIntosh, Moses Lake, WA 98837
Ms. Marianne L. Howard, Seattle, WA 98122
Mr. Robert D. Smith, Elma, WA 98541
Mr. S. H. Reames, Jackson, MS 39212
Mr. M. D. Smith, Eupora, MS 39744
Mr. William A. Hartman, Norco, CA 91760
Ms. Janet Briner, McCleary, WA 98557
Mr. Skip Bickford, McCleary, WA 98557
Dr. Samuel F. Gill, Portland, OR 97221
Ms. Barbara A. Hibbard, Reno, NV 89511
Mr. Les Hyatt, Grants Pass, OR 97526
Mr. Jake Price, Carlton, OR 97111
Mr. Lon Whitworth, Gilroy, CA 95020
Ms. Sharon McCaleb, Fair Oaks, CA 95628
Mr. Freeman M. (Lane) Curry, Maple Valley, WA 98038
Mr. Russ Thompson, Chino, CA 91710
Mr. Jimmy K. Sullivan, Raymond, MS 39154
Mr. Ken Willis, Alabaster, AL 35007
Mr. Grady Parsons, Bessemer, AL 35020
Mr. David A. Parsons, Birmingham, AL 35209
Mr. Keith Robinson, Springfield, MO 65804
Mr. George Blades, Billings, MO 65610
Mr. Michael C. Parker, Headland, AL 36345
Mr. Jack Miller, McKinney, TX 75069
Mr. Jerry McKeechie, Pikeville, TN 37367
Mr. Jimmy Small, Benton, KY 42023
Mr. Lee Liles, Germantown, TN 38138
Mr. Lambert Martin, Bedford, VA 24523

Heart of America Walking Horse Association, Inc., Kansas City, MO 64151

No Licensed DQP's at This Time

SUPPLEMENTARY INFORMATION: Section 11.7(b)(8) of the Horse Protection Regulations (9 CFR 11.7(b)(8)) states in relevant part that, "A current list of certified DQP programs and licensed DQP's will be published in the Federal Register at least once each year, and as may be further required for the purpose of deleting programs and names of DQP's that are no longer certified or licensed, and of adding the names of programs and DQP's that have been certified or licensed subsequent to the publication of the previous list." This is the first list of certified programs and licensed DQP's published under regulations which became effective January 5, 1979, and will serve as notice

to the general public and the horse industry that the above-mentioned programs have been certified, and the individuals licensed, according to regulations.

Done at Washington, D.C., this 21st day of December, 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-39601 Filed 12-27-79; 8:45 am]

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Test Report

Friday
December 28, 1979

Part XI

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 38 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedes
Decisions to General Wage
Determination Decisions

Modifications and supersedes decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedes decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedes decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Connecticut—	CT79-2011.....	Apr. 6, 1979.
Florida—	FL79-1064.....	Apr. 13, 1979
Maryland—	MD78-3002.....	Mar. 3, 1978
North Carolina:		
	NC78-1027.....	Mar. 24, 1978.
	NC78-1035; NC78-1036; NC78-1037...	Apr. 14, 1978.
	NC79-1057.....	Mar. 30, 1979.
	NC79-1085.....	May 18, 1979.
Pennsylvania:		
	PA79-3000.....	Jan. 25, 1979.
	PA79-3003.....	Mar. 1979.
	PA79-3012.....	May 19, 1979.
South Carolina:		
	SC79-1016; SC79-1020.....	Feb. 2, 1979.
	SC79-1037.....	Mar. 9, 1979.
	SC79-1038.....	Feb. 23, 1979.
	SC79-1045.....	Mar. 9, 1979.
	SC79-1047; SC79-1048.....	Mar. 16, 1979.
	SC79-1102.....	June 29, 1979.
	SC79-1105.....	July 6, 1979.
	SC79-1124.....	Sept. 7, 1979.
	SC79-1128.....	Sept. 14, 1979.

Superseded Decision to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama; AL79-1001 (AL79-1150); AL79-1001 (AL79-1151); AL79-1001 (AL79-1152); January 26, 1979.

Cancellation of General Wage
Determination Decision

None.
Signed at Washington, D.C., this 21st day of December 1979.

Dorothy P. Come,
Assistant Administrator, Wage and Hour
Division.

BILLING CODE 4510-27-M

MODIFICATIONS P. 2

DECISION NO. MD78-3002 MOD. #6 (42 FR 9076 - March 3, 1978) Allegany & Garrett Counties, Maryland	Fringe Benefits Payments				Basic Hourly Rates
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
OMIT: Front end loaders (up to & including 2 yds.) from Group 3 of the Classification Def- inition for Power Equipment Operators under both Heavy and Highway Construction Front end loader (over 2 yds.) from Group 1 of Classifica- tion Definitions for Power Equipment Operators under both Heavy and Highway Con- struction ADD: Front end loader (1 3/4 yds. and over) to Group 1 of the Classification Definitions for Power Equipment Operators under both Heavy and Highway Construction Front end loader (under 1 3/4 yds.) to Group 2 of the Classification Definitions for Power Equipment Operators under both Heavy and High- way Construction	.65 .50 .50 .80 .80 .60	.40 .60 .60 33+.70 33+.70		.02 1.8 1.8	\$11.19 11.62 11.88 11.40 11.80 11.72
CHANGE: BRICKLAYERS CARPENTERS CEMENT MASONS ELECTRICIANS Allegany County Garrett County IRONWORKERS: Structural & Reinforcing LABORERS: Group 1 Group 2 Group 3 Group 4 Group 5					8.78 8.90 8.97 8.57 9.08

MODIFICATIONS P. 1

DECISION NO. CT79-2011 - MOD. #8 (44 FR 20921 - April 6, 1979) Hartford, Middlesex, New Haven, New London, & Tol- land Counties, Connecticut	Fringe Benefits Payments				Basic Hourly Rates
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
Change: ELECTRICIANS: Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville & Southington New Haven Co.: Remainder of Co.: New London Co.: E. Lyme, New London, Fishers Island Sound Old Lyme, Groton, Water- ford & Ledyard (Sub- marine Based Only)	1.07 1.07	31+.65 31+.65			\$11.80 11.90
DECISION #FL79-1064 - MOD. #6 (44 FR 22308 - April 13, 1979) Orange County, Florida					\$6.94
Change: Carpenters					

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MODIFICATIONS P. 3

DECISION NO. MD78-3002
(MOD. #6 Cont'd)
42 FR 9076 - March 3, 1978

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LABORERS: (Cont'd)					
Group 6	.80	1.10			
Group 7	.80	1.10			
Group 8	.80	1.10			
Group 9	.80	1.10			
PILEDRIVERS:					
TRUCK DRIVERS:					
Group 1	11.91	.60			.02
Group 2	8.71	1.10			
Group 3	8.86	1.10			
Group 4	9.06	1.10			
Group 5	9.26	1.10			
Group 6	9.49	1.10			
POWER EQUIPMENT OPERATORS:					
Heavy Construction					
Group 1	11.01	1.00			.13
Hourly additional pay for long boom cranes (includ- ing jibs), pile driver machines with leads:					
130' to 169' plus 40¢					
170' to 209' plus 60¢					
210' to 249' plus 80¢					
250' to 299' plus \$1.00					
300' and over \$1.25					
Group 2	10.59	1.00			.13
Group 3	10.25	1.00			.13
Group 4	10.25	1.00			.13
Group 5	9.93	1.00			.13
Group 6	9.54	1.00			.13
Group 7	11.41	1.00			.13
Highway Construction					
Group 1	10.83	1.00			.13
Hourly additional pay for long boom cranes (includ- ing jibs), pile driver machines with leads:					
130' to 169' plus 40¢					
170' to 209' plus 60¢					
210' to 249' plus 80¢					
250' to 299' plus \$1.00					
300' and over \$1.25					
Group 2	10.37	1.00			.13
Group 3	10.07	1.00			.13

MODIFICATIONS P. 4

DECISION NO. MD78-3002
(MOD. #6 Cont'd)
42 FR 9076 - March 3, 1978

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS:					
Highway Construction Cont'd					
Group 4	.95	1.00			.13
Group 5	.95	1.00			.13
Group 6	.95	1.00			.13
Group 7	.95	1.00			.13
Basic Hourly Rates	\$10.07				
	9.72				
	9.37				
	11.23				

MODIFICATIONS P. 5

DECISION #NC78-1027 - Mod. #3
(43 FR 12602 - March 24, 1978)
Gascon, Lincoln, Necklenburg,
and Union Counties, North
Carolina

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LABORERS:					
Unskilled	3.10				
Sprinkler Fitters (Necklenburg and Union Counties)	10.28	.75	1.05		.08
DECISION #NC78-1035 - Mod. #2 (43 FR 16095 - April 16, 1978) Chatham, Harnett, Lee, and Moore Counties, North Carolina					
Unit:					
Laborers:					
Mason Tenders	3.00				
Power Equipment Operators:					
Forklifts	3.00				
Front end loaders	3.00				
Scrapers	3.00				
Change:					
Laborers:					
Sprinkler fitters (Chatham and Lee Counties)	3.10				
	10.28	.75	1.05		.08

DECISION #NC78-1036 - Mod. #2
(43 FR 16095 - April 16, 1978)
Guilford County, North Carolina

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LABORERS:					
Unskilled	3.10				
Sprinkler fitters	10.28	.75	1.05		.08

MODIFICATIONS P. 6

DECISION #NC78-1037 - Mod. #2
(43 FR 16096 - April 14, 1978)
New Hanover County, North
Carolina

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LABORERS:					
Unskilled	3.10				
Sprinkler fitters	10.28	.75	1.05		.08
Truck Drivers	3.10				

DECISION #NC79-1057 - Mod. #1
(44 FR 19125 - March 30, 1979)
Burke, Catawba, Cleveland,
Lincoln, Polk, and Rutherford
Counties, North Carolina

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LABORERS:					
Unskilled	3.10				

DECISION #NC79-1095 - Mod. #1
(44 FR 29253 - May 18, 1979)
Craven, Carteret, Duplin,
Green, Johnson, Jones, Lenoir,
Onslow, Pamlico, and Wayne
Counties, North Carolina

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
LABORERS:					
Unskilled	3.10				

MODIFICATIONS P. 7

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA79-3000 MOD. NO. 6 (44 FR 5025 - January 25, 1979) Rutler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin & Potter Counties, Pennsylvania CHANGE: LINE CONSTRUCTION: ZONE 2 Journeyman Experience Winch Truck Op. Experience Truck Driver Experience Groundman				3/8%
DECISION NO. PA79-3003 MOD. NO. 2 (44 FR 13228 - March 9, 1979) Lawrence & Mercer Counties, Pennsylvania CHANGE: Modification NO. 4, in 44 FR 72809, dated December 14, 1979 to read Modification NO. 1.				3/8%

MODIFICATIONS P. 8

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA79-3012 MOD. NO. 3 (44 FR 29253 May 18, 1979) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, Dauphin, Juniata, York Cos. CHANGE: LINE CONSTRUCTION: Adams, Cumberland, Dauphin, Lancaster, Lebanon, Juniata, Perry & York Cos. Journeyman Lineman Experience Winch Truck Op. Experience Truck Driver Experience Groundman Berks, & Lehigh Cos. Journeyman Lineman Experience Winch Truck Op. Experience Truck Driver Experience Groundman				3/8%

MODIFICATIONS P. 9

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC79-1016 - Mod. #1 (44 FR 6888 - February 2, 1979) Beaufort, Colleton, Hampton, & Jasper Counties, South Carolina Change: Laborers Sprinkler Fitters	\$3.10 10.28	.75	1.05	.08
DECISION #SC79-1020 - Mod. #1 (44 FR 6888 - February 2, 1979) Chester, Chesterfield, Fairfield, Kershaw, and Lancaster Counties, South Carolina Change: Laborers Truck Drivers Sprinkler Fitters (Fairfield & Kershaw Counties)	3.10 3.10 10.28	.75	1.05	.08
DECISION #SC79-1037 - Mod. #1 (44 FR 13230 - March 9, 1979) Sumter County, South Carolina Change: Laborers Truck Drivers	3.10 3.10			
DECISION #SC79-1038 - Mod. #1 (44 FR 10934 - February 23, 1979) Cherokee, Union, & York Counties, South Carolina Change: Laborers Unskilled Sprinkler Fitters Truck Drivers	3.10 10.28 3.10	.75	1.05	.08

MODIFICATIONS P. 10

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC79-1045 - Mod. #1 (44 FR 13232 - March 9, 1979) Abbeville, Edgefield, Greenwood, Laurens, McCormick, Newberry, and Saluda Counties, South Carolina Change: Laborers Laborers, unskilled	\$3.10			
DECISION #SC79-1047 - Mod. #1 (44 FR 16322 - March 16, 1979) Greenville County, South Carolina Change: Ironworkers, Structural and Ornamental Laborers Laborers, unskilled Sprinkler Fitters	10.00 3.10 10.28	.60 .75	.50 1.05	.02 .08
DECISION #SC79-1048 - Mod. #1 (44 FR 16295 - March 16, 1979) Spartanburg County, South Carolina Change: Laborers Laborers, unskilled Sprinkler fitters	3.10 10.28	.75	1.05	.08
DECISION #SC79-1102 - Mod. #1 (44 FR 38105 - June 29, 1979) Abbeville, Greenwood, Laurens, McCormick, Newberry, and Saluda Counties, South Carolina Change: Laborers Truck Drivers	3.10 3.10			

SUPERSEDEAS DECISION

STATE: Alabama
DECISION NUMBER: AL79-1150
Supersedes Decision No.: AL79-1001, dated January 26, 1979 in
44 FR-5601
COUNTY: Jefferson County Zone 1
DATE: Date of Publication
DESCRIPTION OF WORK: Highway construction projects (does not
include bridges over navigable waters; tunnels; building structures
in rest area projects and railroad construction)

DECISION #SC79-1105 - Mod. #1 (44 FR 39934 - July 6, 1979) Clarendon, Darlington, Dillon, Florence, Lee, Marion, Marlboro, Sumter, and Williamsburg Counties, South Carolina	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vocation	
Unit: Pipelayers Change: Laborers: Laborers, unskilled Truck drivers	\$3.10				
DECISION #SC79-1124 - Mod. #1 (44 FR 52578 - September 7, 1979) Aiken, Allendale, Bamberg, Barnwell, Calhoun, Edgefield, and Orangeburg Counties, South Carolina Change: Laborers: Laborers, unskilled Truck Drivers	3.10 3.10				
DECISION #SC79-1128 - Mod. #1 (44 FR 53661 - September 14, 1979) Lexington and Richland Counties, South Carolina Change: Laborers: Unskilled Sprinkler fitters	3.10 10.28	.75	1.05		.08

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
Bricklayers	3.65			
Carpenters	5.66			
Concrete finishers	5.23			
Concrete saw	3.05			
Electricians	12.05	.55		
Ironworkers:		38+.40		1/2 of 18
Structural	9.25			
Reinforcing	5.19			
Laborers:				
Air tool operators	3.25			
Asphalt rakers	4.35			
Concrete laborers:	4.00			
Pipelayers	3.45			
Powderman and blasters	4.00			
Saw	3.50			
Side rail or form setters	5.00			
Unskilled	3.10			
Wagon drill	4.00			
Painters	5.75			
Piledrivers	5.60			
Truck Drivers:				
Under 1 1/2 tons	3.25			
Single rear axle	3.25			
Multi-rear axle or heavy				
duty, off road, single				
axle				
Winch truck & A-Frame	3.48			
	3.70			
Welders - Receive rate for				
craft				
<u>POWER EQUIPMENT OPERATORS:</u>				
Aggregate spreaders	4.10			
Air compressors	3.25			
Asphalt distributor	5.51			
Asphalt spreader	6.65			
Asphalt mixers and pug				
mills & batch plants	3.95			

Basic Hourly Rates	H & W	Fringe Benefits Payments		
		Pensions	Vacation	Education and/or Appr. Tr.
3.95				
6.00				
3.25				
3.25				
3.95				
3.95				
3.95				
6.55				
3.25				
3.95				
5.00				
6.28				
3.25				
3.25				
3.95				
3.25				
6.00				
5.94				
3.25				
4.55				
3.25				
3.25				
5.72				
6.00				
3.25				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Scallemon	3.25				
Scrapers	6.00				
Seeding and mulching machines	4.00				
Stripping machines (paint)	4.75				
Tractors and loaders (farm rubber tired)	3.50				
Tractor & loaders (80 H.P. or less) (draw-bar capacity)	4.98				
Tractors and loaders (over 80 H.P.)	6.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses(29 CFR, 5.5 a)(1)(ii)

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SUPERSEDES DECISION

STATE: Alabama
DECISION NUMBER: AL79-1151
Supersedes Decision No: AL79-1001, dated January 26, 1979 in 44-FR-5601
COUNTY: Mobile Zone II
DATE: Date of Publication
DESCRIPTION OF WORK: Highway Construction Projects (does not include bridges over navigable waters; tunnels; building structures in rest area projects and railroad construction)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Bricklayers	3.65				
Carpenters	5.00				
Concrete finishers	5.50				
Concrete saw	3.10				
Electricians	12.05	.55	38+.40	.05	
Ironworkers:					
Structural	6.50				
Reinforcing	6.00				
Laborers:					
Air tool operators	3.25				
Asphalt rakers	3.75				
Concrete laborers	4.00				
Pipelayers	3.75				
Powderman and blasters	4.00				
Saw	3.50				
Side rail or form setters	5.00				
Unskilled	3.10				
Wagon drill	4.00				
Painters	5.75				
Piledrivers:	6.75				
Truck Drivers:					
Under 1 1/2 tons	3.25				
Single rear axle	3.25				
Multi-rear axle or heavy duty, off road, single axle					
Winch truck and A-Frame	3.83				
Welders - Receive rate for Craft.	3.25				
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader Operator	4.10				
Air compressor	3.15				
Asphalt distributor	5.00				
Asphalt spreader	5.38				
Asphalt mixers and pug mills & batch plants	3.95				
Asphalt plant driers.	3.95				

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Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS:					
Bulldozers	4.50				
Bull floats	3.44				
Concrete mixers (3-bags and under)	3.44				
Concrete mixers (over 3-bags)	3.95				
Concrete paving machine	3.95				
Concrete paving finishing machine	3.95				
Concrete paving spreaders	3.95				
Cranes, clamshells, backhoes, derricks, draglines or shovels	7.00				
Conveyors	3.25				
Crusher and screening plants	3.95				
Drilling machines	5.00				
Elevating graders, gradalls or trenching	5.25				
Firemen	3.25				
Form graders	3.25				
Hoist (2-drums or 2-cages or more)	3.95				
Hoist (1 drum)	3.44				
Mechanics	6.41				
Motor patrols	5.85				
Oilers and greasemen	4.00				
Paving subgraders	3.25				
Piledrivers	4.85				
Pumps	3.25				
Pumpcretes	3.25				
Rollers, self-propelled	3.50				
Rollers, self-propelled (on asphalt bases and pavements)	5.08				
Scale operators	3.25				
Scalmen	3.25				
Scrapers	4.50				
Seeding and mulching machines	4.00				
Striping machines (paint)	4.00				
Tractors and loaders (farm rubber tired)	3.50				
Tractor & loader (80 H.P. or less) (draw-bar capacity)	4.00				
Tractors and loaders (over 80 H.P.)	4.75				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (i))

SUPERSEDES DECISION

STATE: Alabama
DECISION NUMBER: AL79-1152
Supersedes Decision No.: AL79-1001, dated January 26, 1979 in 44-FR-5601
COUNTIES: *See below
DATE: Date of Publication
DESCRIPTION OF WORK: Highway Construction Projects (does not include bridges over navigable waters; tunnels; building structures in rest area projects and railroad construction)

*Zone III Counties: Calhoun, Etowah, St. Clair, Shelby, Talladega, Tuscaloosa and Walker

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Bricklayers	3.65				
Carpenters	5.27				
Concrete finishers	4.75				
Concrete saw	3.05				
Electricians	12.05	.55	38+.40	1/2 of 14	
Ironworkers:					
Structural	5.80				
Reinforcing	4.50				
Laborers:					
Air tool operators	3.25				
Asphalt rakers	4.60				
Concrete laborers	3.25				
Pipelayers	3.50				
Powderman and blasters	4.60				
Saw	3.50				
Side rail or form setters	3.72				
Unskilled	3.10				
Wagon drill	4.00				
Painters	5.50				
Piledrivers:	5.40				
Truck Drivers:					
Under 1 1/2 tons	3.25				
Single rear axle	3.25				
Multi-rear axle or heavy duty, off road, single axle					
Winch truck and A-Frame	3.34				
Welders - receive rate for Craft	3.25				
POWER EQUIPMENT OPERATORS:					
Aggregate spreader	4.10				
Air compressors	3.15				
Asphalt distributor	5.25				
Asphalt spreader	5.25				
Asphalt mixers and pug mills & batch plant	3.95				

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Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS:					
CON'T'D					
Asphalt plant driers	3.95				
Bulldozers	5.72				
Bull floats	3.25				
Concrete mixers (3 bags and under)	3.25				
Concrete mixers (over 3-bags)	3.95				
Concrete paving machines	3.95				
Concrete paving finishing machines	3.95				
Concrete paving spreaders	3.95				
Cranes, clamshells, backhoes, derricks, draglines or shovels	5.58				
Conveyors	3.25				
Crusher and screening plants	3.95				
Drilling machines	5.00				
Elevating graders, gradalls or trenching	4.75				
Firemen	3.25				
Form graders	3.25				
Hoist (2-drums or 2-cages or more)	3.95				
Hoist (1 drum)	3.25				
Mechanics	6.00				
Motor patrols	5.91				
Oilers and greasemen	4.00				
Paving subgraders	3.25				
Piledrivers	3.25				
Pumps	3.25				
Pumpcretes	3.25				
Rollers, self-propelled	4.00				
Rollers, self-propelled (on asphalt bases and pavements)	4.11				

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	Basic Hourly Rates	Fringe Benefits, Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Scale operators	3.25				
Scalmen	3.25				
Scrapers	6.00				
Seeding and mulching machines	4.00				
Stripping machines (paint)	4.10				
Tractors and loaders (farm rubber tired)	3.46				
Tractor & loaders (80 H.P. or less) (draw-bar capacity)	4.00				
Tractors and loaders (over 80 H.P.)	5.17				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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Friday
December 28, 1979

Part XII

Department of Energy

Economic Regulatory Administration

Voluntary Guideline on Procedures for
Termination of Electric Service and Gas
Service Under the Public Utility
Regulatory Policies Act of 1978

DEPARTMENT OF ENERGY

Economic Regulatory Administration

(Docket No. ERA-R-79-47)

Voluntary Guideline on Procedures for Termination of Electric Service and Gas Service Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Voluntary Guideline.

SUMMARY: Titles I and III of the Public Utility Regulatory Policies Act of 1978 (PURPA) establish certain Federal purposes and policy standards for the regulation of gas and electric utilities and impose certain obligations upon State regulatory authorities and certain nonregulated utilities with respect to the standards established by sections 111, 113 and 303.

Pursuant to section 131 of PURPA and the Secretary of Energy's inherent authority to render statements of policy, opinion or interpretation where deemed necessary or appropriate to effectuate national energy policy objectives, the Secretary of Energy may prescribe voluntary guidelines respecting consideration of standards for electric and gas utilities. On October 15, 1979, the Department of Energy (DOE) issued a Notice of Proposed Voluntary Guideline for the Procedures for Termination of Electric Service and Gas Service Standards Under the Public Utility Regulatory Policies Act of 1978 (44 FR 60658, October 19, 1979). This Notice summarizes in the Preamble the public comments DOE received and presents the guideline in its final form as the Appendix hereto.

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Laura Rockwood, Office of General Counsel, Department of Energy, 20 Massachusetts Avenue, N.W., Room 3228, Washington, D.C. 20585, telephone (202) 376-9469.

I. Background

On November 8, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et*

seq. (16 U.S.C. 2601 *et seq.*), as one part of the National Energy Act.

Section 113(b)(4) of Title I of PURPA establishes a standard on Procedures for Termination of Electric Service for State regulatory authorities and certain nonregulated electric utilities. The standard applies to those electric utilities whose annual retail sales exceed 500 million kilowatt-hours in any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. Section 115(g) sets forth certain special rules regarding this standard.

A similar Federal policy standard is established by section 303(b)(1) of Title III of PURPA for gas utilities. This standard applies to those gas utilities who annual retail sales exceed 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. Section 304(a) sets forth certain special rules regarding this standard.

The Termination of Service Standard for both gas and electric utilities, which must be considered by State regulatory authorities and certain nonregulated utilities in a manner specified by PURPA, provides that:

(1) No electric (gas) service to an electric (gas) consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) During any period when termination of service to an electric (gas) consumer would be especially dangerous to health as determined by the State regulatory authority (with respect to an electric (gas) utility for which it has ratemaking authority) or nonregulated electric (gas) utility and such consumer establishes that—

(A) He is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) He is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

In the Federal Register notice of October 19, 1979, DOE solicited public comment on the content of the proposed guideline. DOE also sought the views of hundreds of private organizations, State and local agencies, Federal agencies and other interested persons through a special mailing. Testimony was received from 22 speakers at the public hearing

held in Washington, D.C. on November 20, 1979. Written comments were received from about 60 additional respondents. Among those commenting were State utility commissions, publicly and privately-owned electric and gas utilities, and consumer organizations.

DOE carefully evaluated the proposed guideline in light of the comments received, each of which was read and analyzed. When, after discussion and review, DOE determined that a comment was of sufficient importance to warrant changes in the proposed guideline, the guideline was modified accordingly. When the rational supporting the proposed guideline was stronger than the arguments challenging it, the guideline was left unchanged. Part III of the Preamble describes by section the more significant comments received and how DOE responded to them.

II. Purpose

The purpose of this voluntary guideline is to assist State regulatory authorities and nonregulated utilities in their consideration of the Procedures for Termination of Electric Service and Gas Service standards established under Title I and Title III of PURPA, respectively. The guideline addresses four major issues raised in PURPA sections 115(g) and 304(a): reasonable prior notice, reasonable opportunity to dispute, protection during health emergencies, and special provisions for elderly and handicapped.

DOE wishes to reiterate that the policy guidance set forth herein is advisory in nature and is not legally binding. It does, however, constitute DOE's views on the manner in which the termination standard should be implemented. Accordingly, the guideline complements, and is fully consistent with, the other activities undertaken by DOE pursuant to PURPA.

Section 131 of PURPA authorizes the Secretary of Energy to prescribe voluntary guidelines for the PURPA standards which relate to electric utilities. Section 303(b)(1) of PURPA establishes a termination of service standard for natural gas utilities parallel to that established by Title I of PURPA for electric utilities. Because of the importance of this standard for both electric and gas consumers, it is DOE's opinion that State regulatory authorities and nonregulated utilities should consult the proposed guideline when considering the termination of service standard for natural gas utilities, as well as when considering the termination of service standard for electric utilities.

The importance of the service termination standard is such that reconsideration of the standard may be

warranted even in those jurisdictions where earlier proceedings have been previously deemed to constitute adequate consideration.

III. Discussion of Comments and DOE's Response

The following is a discussion of comments received and DOE's response to these comments. This discussion is organized according to general comments, definitions, and the four major issues surrounding the termination of service standard.

A. General. (1) *Objectives of Guidelines.* Some commenters indicated that detailed guidelines were unnecessary and that only the final result desired should be stated thereby allowing any State regulatory authority or nonregulated utility to achieve the final result in its own way.

DOE agrees that the objectives of the guideline should be clearly stated and has rewritten Part A of the Appendix accordingly. If the purpose of the standard can best be achieved by means other than those set forth in this guideline, it would be appropriate to employ those means provided that they include the four major features specified in PURPA: reasonable prior notice; reasonable opportunity to dispute; protection during health emergencies; and reasonable provisions for the elderly and the handicapped. This guideline represents DOE's opinion of the minimum efforts necessary to achieve the intent of the termination of service standard and is not designed to substitute for policies providing even greater protection.

(2) *"Safety" as a Reason for Not Terminating Service.* DOE has removed references to "safety" of the consumer as a justification for not terminating service. This deletion was made because the PURPA standards do not mention the word "safety" but refer instead to any period especially dangerous to health.

(3) *Authority to Include Gas Utilities.* Several commenters questioned whether DOE has authority to issue a voluntary guideline on termination of gas service. Title III of PURPA does not give DOE express authority comparable to that provided by section 131 with respect to electric utilities to issue guidelines relating to gas utility standards.

However, the Secretary of Energy has inherent authority to render statement of policy, opinion or interpretation where deemed necessary or appropriate to effectuate national energy policy objectives or particular missions of DOE. Such objectives and missions include protection of the interests of consumers in the availability of an

adequate and reliable supply of energy under reasonable terms and conditions. Moreover, issuance of a voluntary guideline related to a specific Federal statutory standard for termination of service by gas utilities furthers the purpose of, and is consistent with, the additional authorities, e.g., intervention authority, provided to the Secretary of Energy by PURPA.

(4) *Financial Impact on the Utility.* Several commenters expressed concern about the expected costs of the termination policy to the utility, those consumers primarily protected by the termination policy, and other ratepayers.

DOE realizes that certain costs are involved in implementing a termination of service policy but believes that these are outweighed by the benefits. As a matter of sound regulatory policy, any change in uncollectible accounts, once a termination of service policy is implemented, should be quantitatively analyzed to determine that portion actually associated with that policy. The change in uncollectible accounts associated with the termination of service policy should then be compared with those net changes in late payment revenues also associated with that policy. The recovery by the utility, within a reasonable period of time, of all costs, including uncollectibles, arising from adoption of a service termination policy ought to be assured by the regulatory authority in a manner which is equitable to ratepayers and stockholders.

(5) *Nature of Guideline.* Several commenters suggested that the guideline should be more specific in its recommendations in order to provide consumers the protection intended by Congress. Several others expressed the belief that the guideline should be more general to permit greater flexibility by State regulatory authorities and nonregulated utilities in dealing with the particular conditions confronting them at the State and local levels.

DOE sees merit in both of these viewpoints. Accordingly, certain of the recommendations in the guideline were made less specific where it became apparent that a specific recommendation would not be appropriate for all situations, and other recommendations were made more specific when lack of specificity provided inadequate guidance.

(6) *Social Impact.* Several commenters indicated that the utility should not be used as a social welfare agency. Others indicated that the utility should more fully participate in easing the financial burden on poor, elderly and handicapped consumers.

DOE believes that utilities, being providers of an essential service, should to the maximum extent practicable provide such service in a manner that furthers the national effort to ease the burdens that many poor, elderly, and handicapped consumers can experience in paying escalating energy bills, especially during the heating season in cold climates. If utilities act in this manner, those most in need will be given proper and appropriate consideration and assistance in paying their utility bills.

DOE recognizes that this guideline and the actions taken by State regulatory authorities and nonregulated utilities with respect to termination of service cannot eliminate the serious problems confronted by the poor, the elderly and the handicapped in times of rising energy prices. However, this guideline and the termination of service policies adopted by State regulatory authorities and nonregulated utilities can provide an effective complement to other actions taken in both the public and private sectors to respond to these problems.

(7) *Combination Utilities.* The comment was made that those utilities providing both gas and electric service should not terminate both services when a consumer's payment is only sufficient to cover the bill for one service.

DOE agrees with this comment and has incorporated it in the Coverage section of the Appendix. The gas and electric services provided by combination utilities should be separately considered when termination of service for nonpayment is involved.

(8) *Consumer Classes Covered.* Some commenters recommended that the guideline apply only to residential consumers.

DOE believes that reasonable prior notice and reasonable opportunity to dispute the reasons for termination should be available to all consumer classes. However, in accordance with PURPA legislative history, the provisions in the guideline relating to inability to pay during any period when termination would be especially dangerous to health are intended to apply principally to residential consumers (including tenants and homeowners).

(9) *Termination Ban.* Some commenters argued that a ban on service termination during certain specified periods would lead to abuses by both lower and upper income groups, increase uncollectibles, be unfair to other consumers, and be ultimately unfair to the poor because of large accumulated bills which must eventually be paid to avoid termination.

DOE is not altering its advice that termination of service should not take place during any period when termination would be especially dangerous to health and the consumer is unable to pay.

DOE believes that any problems with such a policy can be guarded against by careful thought in establishing and administering that policy. Abuses can be discouraged by establishing reasonable and cost-related late payment charges, identifying at an early date those qualifying as elderly or handicapped, and working with the poor and agencies providing financial assistance to provide for a smooth transfer of funds when the need arises, or by making provisions for deferred payment plans. With proper planning, termination notices, late payments, uncollectibles, and consumer dissatisfaction may be kept to a minimum.

B. Definitions. Several commenters indicated that the guideline should provide definitions for the terms "elderly," "handicapped," "appliances essential for maintenance of health," and "periods especially dangerous to health."

DOE agrees that further guidance on those items would be helpful and has amended the guideline to include such definitions. For the purposes of this guideline, the definition of elderly is based on the early Social Security retirement age of 62 years. The definitions of handicapped and appliances essential for the maintenance of health are based on a composite of comments received. Since it is not possible to define, on a national basis, all periods when termination would be dangerous to health, DOE has provided only a general definition and has left specific determinations to be made on the local level by the appropriate regulatory authority.

It should be noted that the guideline, consistent with the PURPA Conference Report, makes a distinction between the consumer (the individual to whom the electric energy or gas is sold) and any other members of the consumer's household.

C. Reasonable Prior Notice. (1) *Exceptions to Prior Notice.* Several commenters argued that there should be allowances in the guideline for termination of service without prior notice. Examples of special circumstances recommended for exception by the commenters were (a) existence of hazardous conditions, (b) unauthorized use of electricity, and (c) tampering with company property.

DOE agrees that notice may not be possible prior to service termination for specific situations such as storms, cable

breaks, accidents, and other cases involving emergency maintenance or hazardous conditions. Such terminations are usually of short duration with service restored as soon as possible and are usually looked upon as an interruption of service rather than a termination of service. However, DOE does not believe there should be exceptions to permit immediate termination for alleged violations such as unauthorized use of electricity or gas or tampering with company property as such exceptions would place the utility in the position of taking punitive action before the consumer has had an opportunity to investigate the matter and respond to the allegation.

(2) *Method of Providing Termination Notices.* Commenters objected to the use of registered or certified mail, subsequent to the first termination notice, due to its cost as well as the possibility that consumers may not be at home when the mail is delivered.

DOE agrees that registered or certified mail does not guarantee that the consumer will be notified and, for this reason, is not necessarily superior to first class mail. Therefore, first class mail or personal contact is acceptable for any notice except when elderly and handicapped consumers are involved. For an elderly and a handicapped consumer, personal contact with that individual or with another adult at the service address is recommended for the final notice. If an attempt to make personal contact is unsuccessful, the final termination notice should be posted at the residence in a conspicuous location. Final termination notice should be received by the elderly and the handicapped and the State regulatory authority, governing body of the nonregulated utility or a designated alternate agency at least 48 hours prior to actual termination. This time period excludes weekends and holidays and was selected to permit the elderly and the handicapped and the designated authority time to take appropriate action regarding the proposed termination.

(3) *Minimum Days Notice Prior to Termination.* Commenters urged that the guidelines specify a minimum time between the first termination notice and actual termination (periods from one to a few weeks were recommended).

DOE agrees that some minimum reasonable time should be provided between the mailing of the first termination notice and the actual termination to allow the consumer sufficient time to take necessary action to avoid termination. Therefore, DOE is recommending that a minimum of 10 calendar days be provided between the first notice of termination and the date

after which termination could take place. The selection of this time period was based on considerations of mail delivery schedules and a reasonable time for the recipient of the notice to take action to avoid termination.

(4) *Statement of Termination Policy.* Some commenters felt that providing the termination of service policy statement to all consumers would be costly and only marginally useful since most consumers would not need such information.

DOE rejects this comment because it believes that all consumers should be informed of utility policies with respect to service termination just as they are apprised of billing policies and rate structures. It is impossible to predict which consumers will require knowledge of termination of service policies, including the statement of rights and remedies.

(5) *Content of Statement of Termination Policy and Notice of Proposed Termination.* Many commenters offered suggestions on items to be added, deleted or reworded in the policy statement and notice of proposed termination.

The major change in the guideline as a result of these comments is that the notice of rights and remedies has been included in the statement of termination policy so that consumers can be informed initially of their responsibilities as well as their rights. The item "general starting and ending dates of the payment period" has been removed from the list of items to be provided in the statement of termination policy since these dates could vary greatly for different consumers served by a utility. The item "dates of meter readings for period of unpaid service" has been removed from the list of items to be provided in the notice of proposed termination due to the expense involved in providing this information and because the item "time period over which the amount was incurred" should be sufficient.

The following items were added to the general policy statement to provide further information to the consumers: grounds for termination, steps which must occur before service may be terminated for nonpayment, and steps necessary to have service reinstated. An additional statement in the notice of rights and remedies advises elderly and handicapped consumers that they are responsible for notifying utilities of their status. The statement regarding a consumer's obligation concerning disputed bills has been modified, and a section on procedures to dispute the decision of the utility has been added.

The items in the general policy statement and notice of proposed termination have been reorganized for clarity.

(6) *Sources of Financial Aid.* Some commenters stated that utilities were not social referral agencies and should not be required to provide consumers with a list of possible sources of financial assistance.

DOE believes that neither the utility nor the consumer will benefit by hasty terminations resulting in uncollectibles. Many consumers, unable to pay their bill, may not be aware of possible sources of financial assistance or may be confused as to where to apply for such aid. The utility, with limited effort, could provide this information and thereby benefit the poor, other ratepayers and stockholders. Such listings, updated at reasonable intervals, should not impose an unreasonable burden on utilities.

(7) *Notification of Tenants.* Some commenters objected to providing individual termination notice to tenants in master-metered apartment buildings where the tenants are not directly responsible for paying the utility bill.

DOE believes tenants in master-metered buildings, although not explicitly included under the definition of consumer, should have prior notice of termination in order to properly prepare themselves for the hardships to be experienced in the event of termination. In addition, the tenants should have a reasonable opportunity to take appropriate action to avoid termination. However, DOE understands that individual notification may not be possible in all instances and has therefore suggested means of providing collective notification.

(8) *Landlord Privacy Rights.* Several commenters objected to tenant notification of the utility's intent to terminate service because such action might violate a landlord's right of privacy.

DOE believes that the interest of the tenant in being notified of imminent termination of his heat, lights, and appliances outweighs a landlord's interest in preventing publication of his nonpayment of utility bill.

(9) *Advising Tenants.* Commenters objected to the utility being required to provide advice to tenants on their rights vis-a-vis a landlord's rights in instances of potential services termination.

DOE does not intend that the utility provide legal counsel to tenants, but simply relay those acceptable and workable alternatives to termination which are familiar to the utility as a result of its day-to-day operations. DOE removed the item "recourse through

agencies responsible for enforcing housing codes" from the list of alternatives because it is a component of the item "other possibilities available in the jurisdiction involved."

(10) *Inability to Pay.* Several commenters requested some guidance on how to establish a consumer's inability to pay.

DOE is not providing specific guidance on this issue since it would be unrealistic to establish firm criteria on a national basis. Such criteria should consider local conditions, such as seasonal employment, average income, and cost of living, and special circumstances of the individual consumer, such as illness, credit history, family size, outstanding debts, employment status, liquid assets, etc. Therefore, such criteria should be established in general terms by the State regulatory authority and is specific terms by the utility based on the economic and environmental conditions prevalent in the State and service area involved.

D. Opportunity to Dispute. (1) *Disputed and Undisputed Portions of Bills.* Some commenters wanted DOE to state that consumers do not have to pay that portion of a bill which is in dispute while the dispute is being processed.

DOE agrees with this position but emphasizes that the consumer is responsible for paying those portions of a bill which are not in dispute if termination is to be avoided.

(2) *Written Decisions on Disputed Matters.* Some commenters objected to the expense involved in providing consumers with written decisions if a decision unfavorable to the consumer is reached. Other commenters recommended that all decisions be rendered in writing.

It is common business practice to communicate decisions regarding any dispute in writing. Therefore, DOE has revised the guideline to advise that all decisions be rendered in writing.

(3) *Regulatory Authority Dispute Procedures.* Some commenters questioned whether the dispute procedures applicable to a State regulatory authority were meant to apply also to the governing body of a nonregulated utility.

DOE is advising, in the guideline, that the governing body of the nonregulated utility resolve disputes which cannot be settled by the utility's staff in order to give consumers of nonregulated utilities protection comparable to that afforded consumers of regulated utilities.

(4) *Formal and Informal Complaint Procedures.* A commenter questioned whether DOE was only advocating

formal hearings to resolve disputes at the regulatory authority level.

DOE recognizes that all disputes may not require a formal hearing and has modified the guideline to provide for informal complaint procedures if these would provide the consumer with an effective opportunity to dispute the reasons for termination.

E. Protection During Health Emergencies. (1) *Periods Especially Dangerous to Health.* Many commenters pointed out that the entire winter season is not a dangerous health period in all parts of the nation.

DOE agrees with this comment and has revised the guideline in this respect. A definition of "periods especially dangerous to health" is provided in the Definitions section. The definition allows substantial flexibility for the appropriate regulatory authority to make a determination of which periods are especially dangerous to health.

(2) *Postponement of Termination for Serious Illness.* Several commenters suggested that DOE not imply that postponement of termination for serious illness could be limited to a certain number of times since PURPA states that service should not be terminated during any period when termination would be especially dangerous to health and the consumer is unable to pay.

DOE has removed the reference to the number of times postponement would be granted for serious illness from the list of items that the State regulatory authority or nonregulated utility should establish in its policy regarding protection during health emergencies. However, the State regulatory authority or nonregulated utility should establish procedures for recertification (verifying continuation) of serious illness, where applicable.

F. Elderly and Handicapped. The comment was made that utility notification of the regulatory authority prior to terminating service to an elderly or handicapped consumer serves no purpose, since the guideline does not indicate what the authority should do with this knowledge.

DOE believes that the State regulatory authority or the governing body of the nonregulated utility should be notified when an elderly or handicapped consumer is scheduled for service termination. Certain individuals in these categories, especially if the sole member of the household, may need particular care at any time during the year, if service is terminated. The guideline has been amended to reflect DOE's intent that based on the information about imminent termination, the authority take whatever action it deems necessary. DOE recommends that the governing

body of the nonregulated utility be provided with this information in order that elderly and handicapped consumers served by a nonregulated utility be afforded protection comparable to that provided such consumers of regulated utilities. The State regulatory authority or governing body of the nonregulated utility need not handle each individual situation but might delegate that function to some responsible local public welfare or health agency for appropriate action. To permit such action to be taken in a timely manner, the guideline requires the utility to give the appropriate agency at least 48 hours notice prior to actual termination. This notice would be in addition to that provided to any other third party previously designated by the elderly or handicapped consumer.

G. Other Comments. Numerous comments were received suggesting additional topics DOE should address in this guideline. DOE did not incorporate all of these suggested changes because they were outside the scope of the guideline authority under PURPA which is to provide guidance on the PURPA standard without expanding the standard.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, D.C., on December 21, 1979.

Jerry L. Pfeffer,
Assistant Administrator for Utility Systems,
Economic Regulatory Administration.

Appendix.—PURPA Guideline No. 1: Procedures for Termination of Electric Service and Gas Service

A. Introduction. This guideline provides general advisory assistance to State regulatory authorities and nonregulated utilities on the manner in which the Department of Energy (DOE) believes the termination of service standard should be implemented. It is recognized that implementation of this guideline may require changes in State laws or regulations under which such authorities and utilities now operate.

The purposes of this guideline are to suggest and discuss procedural matters pertinent to safeguarding consumer rights and remedies with respect to the termination of electric and gas utility service, and to further the basic objective of preventing serious illness or death when a consumer is unable to pay for service during any period when termination would be especially dangerous to health. If these results can best be achieved by means other than

those set forth in this guideline, it might be appropriate to employ those means.

For the elderly, the handicapped, and the ailing, termination of electric and gas service can result in real risks to health. Accordingly, DOE believes (a) that electric and gas service should not be terminated, if a consumer is unable to pay, when termination would be especially dangerous to the health of the consumer or a resident in the consumer's household, (b) that the unique problems of elderly and handicapped consumers should receive special consideration before electric and gas service is terminated, and (c) that all consumers are entitled to reasonable prior notice and a reasonable opportunity to dispute the reasons for termination before service is terminated, except under emergency situations (storms, accidents, emergency repairs, etc.).

B. Coverage. This guideline covers the PURPA standards on Procedures for Termination of Electric Service and Procedures for Termination of Natural Gas Service. The gas and electric services provided by combination utilities should be separately considered when termination of service for nonpayment is involved.

C. Definitions. As used in this guideline, except as otherwise specifically provided—

"Appliances essential for maintenance of health" means any electric or gas energy-using device which is certified by a licensed physician as being essential to prevent (or provide relief from) serious illness or sustain the life of a member of the household and for which there is no reasonable alternative.

"Elderly" means any residential electric (gas) consumer, aged 62 or older, who resides at the service address.

"Electric consumer" means any person, State agency or Federal agency to which electric energy is sold other than for purposes of resale.

"Electric utility" means any person, State agency, or Federal agency, which sells electric energy.

"Gas consumer" means any person, State agency, or Federal agency, to which natural gas is sold other than for purposes of resale.

"Gas utility" means any person, State agency, or Federal agency, engaged in the local distribution of natural gas, and the sale of natural gas to any ultimate consumer of natural gas.

"Handicapped" means any residential electric (gas) consumer who resides at the service address and has any physical or mental impairment which substantially limits one or more of such person's life activities, and such person

(a) is certified as being physically disabled by a licensed physician, or (b) is certified as being mentally disabled by a licensed psychiatrist or registered psychologist, Veterans Administration, Social Security Administration, or local board of health.

"Nonregulated electric utility" means any electric utility other than a State regulated electric utility.

"Nonregulated gas utility" means any gas utility other than a State regulated gas utility.

"Periods especially dangerous to health" means (a) existing or anticipated prolonged periods of extreme environmental conditions which may adversely affect the health of a residential consumer or party residing at the consumer's address if service is terminated and also means (b) periods when a residential consumer or party residing at the consumer's address is likely to become seriously ill or more seriously ill if service is terminated. The State regulatory authority or nonregulated utility, as appropriate, will determine the periods of extreme weather conditions, within its jurisdiction, which are especially dangerous to health.

"State" means a State, the District of Columbia and Puerto Rico.

"State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy (natural gas) by any electric (gas) utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

D. Organization and Content. The guideline is organized around four major issues surrounding the termination of service standard:

1. Reasonable Prior Notice—What constitutes reasonable prior notice of termination?

2. Reasonable Opportunity to Dispute—What constitutes a reasonable opportunity to dispute the reasons for termination?

3. Protection During Health Emergencies—What provisions are reasonable to protect consumers who are unable to pay their bills or who are only able to pay in installments during a period when termination of service would be especially dangerous to health?

4. Reasonable Provisions for Elderly and Handicapped—What provisions should be made for elderly and handicapped consumers?

Each of these issues and important factors which must be taken into account when addressing them are discussed in turn.

1. Reasonable Prior Notice. Section 115(g)(1) and section 304(a)(1) of PURPA require that reasonable prior notice (including notice of rights and remedies) be given to electric consumers and gas consumers prior to termination. It is DOE's opinion that reasonable prior notice requires utilities to provide consumers in writing with both a statement of termination policy and a clear and informative notice of proposed termination.

(a) *Statement of termination policy.* A current general policy statement should be sent or delivered to all existing consumers and to all new consumers when they initiate service. Where a substantial percentage of a utility's residential consumers do not speak English, the statement should also be printed in an appropriate second language and distributed to the consumers. The general policy statement should include the following information in clear and understandable language:

(1) Grounds for termination,

(2) The time allowed to pay outstanding bills,

(3) Steps which must occur before service may be terminated for nonpayment,

(4) Steps necessary to have service reinstated,

(5) Instructions for residential consumers to designate the following:

(i) A third party (agency or individual) to receive a copy, by first class mail, of all termination notices;

(ii) Elderly or handicapped status of the consumer; and

(iii) Presence of appliances at the service address which are essential for maintenance of health of one or more of the residents;

(6) A notice of rights and remedies which should contain the following:

(i) The time allowed to initiate a complaint;

(ii) Appropriate administrative or other action to take in order to avoid termination;

(iii) Procedures to dispute and appeal the termination notice, including the office address and telephone number of the utility representatives available to handle inquiries or complaints;

(iv) Provisions relating to elderly and handicapped residential consumers and procedures for utilizing those provisions;

(v) A statement that elderly or handicapped residential consumers are responsible for notifying the utility of their status and that households which have appliances essential for health are

responsible for notifying the utility of such fact;

(vi) Provisions for residential consumers who are unable to pay their bills, and steps necessary to make a claim of inability to pay, as well as information on the availability of alternative payment arrangements;

(vii) Sources of financial assistance for residential consumers;

(viii) Procedures to dispute and appeal an unfavorable decision of the utility, including the address and telephone number of the appropriate regulatory authority's representatives available to handle complaints or inquiries; and

(ix) A statement that a consumer does not have to pay that portion of a bill which is in dispute while the dispute process is underway.

(b) *Notice of proposed termination.* The following general information should be included in all notices:

(1) Identification of consumer and service account affected by proposed termination,

(2) Statement of reason(s) for termination,

(3) Date on or after which proposed termination would occur,

(4) Reconnection fee schedule, if any, and

(5) Notice of rights and remedies (see 1(a)(6) above).

In cases where termination is based on failure to pay, each notice of termination should include the following additional information:

(6) Designation of the bill in question as actual or estimated, and

(7) Amount owed and time period over which amount was incurred.

Notices of proposed termination should be provided, in clear and understandable language, and in sufficient number and frequency to allow a consumer a reasonable opportunity to respond properly.

The first notice should be sent by first class mail at least 10 calendar days prior to the date after which termination could occur. If the utility receives no response, the second notice should be delivered by first class mail, or by personal contact with an adult on the premises (telephone or visit). First class mail is sufficient for nonresidential consumers. All notices should be provided to the account name and address and, if different, to the address where service is provided, as well as any other party previously designated by a residential consumer to receive a copy of a termination notice(s). As with the general statement of policy, the notice(s) should be provided to residential consumers in alternate languages where appropriate.

Tenants who pay for electric (gas) service as part of their rent (or as part of purchase payments) in master-metered buildings should be individually notified, when possible, of any proposed termination. In addition, tenants should be collectively notified by posting termination notice(s) in conspicuous locations such as near mailboxes, building entrances and exits, and other areas of common usage. In general, termination of service should not occur until after all affected tenants are advised of possible alternatives to termination such as (a) paying for continued service individually or collectively, and/or (b) other possibilities available in the jurisdiction involved.

2. Reasonable Opportunity to Dispute. Section 115(g)(1) and section 304(a)(1) of PURPA require that the consumer be given a reasonable opportunity to dispute the reasons for termination of service prior to termination. It is DOE's opinion that reasonable opportunity to dispute a notice of termination requires that prior notice be given in the manner defined above and that procedures for disputing the reasons for termination with the utility and before the State regulatory authority, governing body of the nonregulated utility, or a designated alternate agency, be clearly defined. DOE believes that service should not be terminated while the dispute is being processed in accordance with established procedures, provided any amounts not in dispute are paid when due.

(a) *Utility dispute procedures.* The steps required to file and process a complaint or dispute with the utility, and the procedures required to be adhered to by a utility in handling disputes should be clearly set forth in the rules and regulations of the State regulatory authority or the nonregulated utility. These procedures should include a requirement that the utility involved promptly render in writing to the consumer all decisions concerning a complaint or dispute.

(b) *State regulatory authority or governing body of nonregulated utility procedures.* Procedures should be adopted which provide that disputes which cannot be resolved by the utility and the consumer may be brought by either party to the State regulatory authority, governing body of the nonregulated utility, or a designated alternate agency for timely resolution. An indigent residential consumer should not be required to pay an advance filing fee.

The steps required to file and process a complaint or dispute with the State regulatory authority, governing body of

the nonregulated utility, or a designated alternate agency, and the procedures to be followed in hearing disputes between the utility and consumer should be set forth in clear and understandable language in the rules and procedures of the appropriate regulatory authority. These rules and procedures should include at least the following:

- (1) Definition of right of representation,
- (2) Definition of power of subpoena,
- (3) Definition of right to present evidence and testimony, oral and written argument,
- (4) Definition of right to confront witnesses,
- (5) Location of burden of proof,
- (6) Applicable rules of evidence,
- (7) Possible methods of recording any proceeding,
- (8) Identity of hearing office,
- (9) Requirement of findings and decision, and
- (10) Right of appeal.

These procedures should be designed to provide an effective opportunity for the consumer to present any opposition or alternatives to the proposed termination. Informal complaint procedures which would provide this opportunity may be substituted.

3. Protection During Health Emergencies. Section 115(g)(2) and section 304(a)(2) of PURPA provide that during any period when termination would be especially dangerous to health, as determined by the State regulatory authority or nonregulated utility, service may not be terminated if a consumer establishes inability to pay for service in accordance with the requirements of the utility's billing practices or the ability to pay only in installments.

To provide reasonable protection during periods dangerous to health, the State regulatory authority or nonregulated utility should define or establish the following:

- (a) Periods when postponement of termination should be granted for those unable to pay;
- (b) All steps required of a consumer asserting that he or a party residing at the consumer's address is likely to become seriously ill or more seriously ill if service is terminated, as well as procedures for recertification of serious illness, if applicable;
- (c) All steps required of a consumer asserting inability to pay or ability to pay only in installments;
- (d) All steps required of a utility in responding to assertions of inability to pay or ability to pay only in installments;
- (e) Procedures for resolving disputes about assertions of inability to pay or of serious illness;

(f) Availability of installment plans which permit flexibility based on the amount of money owed, consumer's ability to pay, consumer's payment history, time that the debt has been outstanding, reasons why the debt has been outstanding, and any other relevant factors; and

(g) All steps required of a utility in the event a consumer does not meet the requirements of the agreed upon installment plan.

4. Reasonable Provisions for Elderly and Handicapped. According to section 115(g) and section 304(a) of PURPA, the procedures for termination of service shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

The specific provisions applicable to elderly and handicapped consumers should be set forth clearly within the State regulatory authority's rules and regulations or the nonregulated utility's policy governing termination of service and ought to apply throughout the year.

Elderly and handicapped consumers should be given at least two notices of proposed termination. The final notice should be made by personal contact with such a consumer or with another adult at the service address at least 48 hours (2 working days) prior to the date after which termination could occur. If personal contact cannot be made, the notice should be posed in a conspicuous location at the service address at least 48 hours (2 working days) prior to the date after which termination could occur.

Prior to terminating service to elderly or handicapped consumers, the utility should be required to notify the State regulatory authority, the governing body of the nonregulated utility, or an alternate agency designated by the appropriate regulatory authority, for any further action deemed necessary by that authority or agency. This notification should be received by that authority or agency at least 48 hours (2 working days) prior to the date after which termination could occur.

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Friday
December 28, 1979

Part XIII

Department of Energy

Economic Regulatory Administration

Mandatory Petroleum Price Regulations;
Propane Increased Non-Product Costs

Department of Energy
Federal Register

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-33]

Mandatory Petroleum Price Regulations; Propane Increased Non-Product Costs

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting amendments to the Mandatory Petroleum Price Regulations to increase the non-product costs permitted to be passed through by refiners, resellers and retailers in the wholesale and retail selling prices of propane.

The major amendments adopted will:

(1) Increase to seven cents a gallon the cents-per-gallon passthrough of increased non-product costs permitted small retailers of propane.

(2) Increase the categories of increased non-product costs that may be passed through by resellers and retailers of propane.

(3) Increase to seven cents a gallon, the marketing costs permitted to be passed through by refiners in retail sales of propane.

(4) Provide an alternative marketing cost recovery method whereby refiners may elect to recoup all actual increased marketing costs in certain propane sales, and

(5) Remove refiner increased retail marketing costs from the scope of the equal application rule as it applies to propane.

DATE: Effective January 1, 1980.

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SUPPLEMENTARY INFORMATION:

- I. Background
- II. Summary of Comments
- III. Amendments Adopted
- IV. Regulatory Analysis
- V. Other Matters

I. Background

On June 29, 1979, the ERA issued a notice of proposed rulemaking (44 FR 40324, July 10, 1979) for the purpose of amending the Mandatory Petroleum Price Regulations regarding the wholesale and retail selling prices for propane.

Under the current Mandatory Petroleum Price Regulations resellers and retailers which have sales of propane, butane and natural gasoline of five million gallons or more per year must compute non-product cost increases for propane based on the actual costs incurred under specific cost categories which include labor; utilities; interest; Federal, State, and local taxes; maintenance; depreciation; and overhead. The proposed rulemaking indicated that consideration was being given to expanding the overhead cost category to include rent of personal property, bad debts, travel, meetings, dues, publications, commission agent fees, and adding a category which would permit the passthrough of increased salaries of equity owners.

Resellers and retailers which have sales of propane, butane and natural gasoline of less than five million gallons per year may compute propane increased non-product costs incurred under the cost categories specified for larger firms, or, as an alternative, claim a specified cents-per-gallon increment (up to three cents per gallon with respect to all retail sales of propane, except for sales to the petrochemicals industry, public utilities and to synthetic natural gas plants where up to one cent per gallon may be passed through.) The proposed rulemaking indicated that consideration was being given to increasing the allowable cents-per-gallon amounts of increased non-product costs permitted to be passed through by these small resellers and retailers. The proposal solicited comments on the appropriate level of non-product costs available for passthrough by propane marketers to permit such marketers to recover actual marketing costs incurred.

Refiners and gas processors engaged in the wholesale and retail marketing of propane are permitted justifiable price increases for non-product costs under cost categories similar to those permitted resellers and retailers with sales of five million gallons or more per year. Refiners of propane are permitted to recover a cents-per-gallon amount for

marketing cost which is similar to that permitted small independent propane marketers. The proposed rulemaking indicated that consideration was being given to (a) raising the maximum amount of marketing costs permitted refiners, and (b) modifying the equal application rule to permit refiners to pass through all marketing costs otherwise permitted to be passed through in retail sales of propane without being deemed to have passed through equal amounts of marketing costs in wholesale sales of propane.

II. Summary of Comments

At a public hearing held on August 8, 1979, fifteen interested parties presented testimony on the issues proposed. In addition, twenty-four formal written comments regarding the outstanding proposed issues were received by the September 7 closing date. Comments were received from representatives of major refiners, mid-level marketers, propane retailers, various industry trade associations, state organizations, and other individuals.

The large majority of comments received were directed toward two issues, that is, the current cost levels and categories of non-product costs permitted to be passed through under the regulations, and the disparity in retail prices between refiners and independent propane marketers.

The large majority of the oral and written comments received concurred with the adoption of the proposed amendments to Subpart F applicable to retailers and resellers. The commenters generally indicated that an increase in the amount of non-product costs available for passthrough, as well as an expansion of the non-product cost categories, would tend to mitigate the financial hardships propane marketers claimed they were experiencing. No dissenting recommendations were received with respect to the proposed Subpart F amendments, with the exception of our alternate proposal to permit recovery of a fixed margin per gallon over cost of acquisition similar to that currently permitted gasoline retailers. Commenters felt that gasoline and propane retailing were dissimilar operations which would not lend themselves to similar regulatory provisions.

Many of the commenters indicated that a major problem is created by the way in which the refiner equal application rule may limit a refiner's recovery of increased marketing costs otherwise permitted under the regulations. Although the refiner price rules generally permit the passthrough of marketing costs in the amount of one-

half cent per gallon at the wholesale level and three cents per gallon at retail, the equal application rule, as applied to propane, prohibits the passthrough of unequal amounts of marketing costs to different classes of purchaser. Some refiners indicated that they had not been passing through the full three cents per gallon of allowable increased marketing costs at their retail outlets because the equal application rule would require them to absorb a two and one-half cent recovery on all gallons sold at the wholesale level when they recouped the three cents marketing cost on retail sales.

The independent marketers commented that this action by some major refiners, as well as the allowance of only three cents per gallon to reflect refiner retail marketing costs, has the effect of holding refiners' retail selling prices as much as ten cents a gallon below what an independent retailer must charge to remain financially viable. We received testimony that, as a result of the operation of these provisions, many independent marketers had terminated their operations or declared bankruptcy, thereby reducing the level of competition in the marketplace.

Those commenters felt that the equal application rule, as well as the retail marketing cost allowance permitted refiners, should be modified as follows:

(a) The cents-per-gallon marketing cost passthrough should be increased and marketing costs should be permitted to be assigned to the types of sales on which they were incurred.

(b) The equal application rule should be amended to permit unequal marketing costs to be assigned and passed through at each sales level, without the requirement of imputing recoveries based on the highest level of marketing costs passed through.

The final rule adopted today generally incorporates the above comments. The provisions will be discussed below in greater detail.

Those firms representing the petrochemical industry pointed out that the petrochemical industry utilizes propane primarily as a feedstock rather than a fuel and recommended that revisions be made to Section 212.83 to eliminate the disproportionate allocation of costs to petrochemical uses. We did not adopt such revisions because we believed that they were largely outside the scope of this rulemaking.

Although, as previously mentioned, all commenters were in favor of the adoption of the additional cost categories, some ancillary comments were made which we consider are worthy of mention. Some commenters

recommended (1) that the categories of increased non-product costs include all costs recognized as business expenses for tax purposes; (2) that the categories of increased non-product costs be expanded to include all operational expenses incurred; and (3) that the permissible non-product cost passthrough be increased by an increment which would generate additional capital for equipment replacement or modernization.

All of these suggestions were considered, but were not adopted for the following reasons:

(1) We believe that the categories of non-product costs adopted place the independent propane retailers on a par with refiners and gas processors under Subparts E and K of our regulations. To revise the categories as suggested, in our opinion, could result in a larger disparity in prices between refiners and independent propane marketers. The resolution of this disparity was one of the purposes of this rulemaking.

(2) We do not believe that an additional incremental cents-per-gallon passthrough could be implemented by this rulemaking in order to generate additional working capital for equipment replacement or modernization in view of the fact that this issue was not proposed. We are considering raising this issue in a separate proposed rulemaking which may be issued in the near future.

Other ancillary comments from refiners and gas processors recommended that ERA take the following action:

(1) Amend Subpart K to permit gas processors to recover increased costs under categories similar to those adopted in Subpart F under this rulemaking.

(2) Permit marketing costs to be computed on a similar basis under Subparts F and K.

(3) Permits the fixed cents-per-gallon markup on retail sales to be adjusted automatically, on a semiannual basis, according to the GNP deflator.

(4) Permits refiners to calculate propane increased costs, other than marketing costs, on a regional basis.

While we consider that these matters were generally outside the scope of this rulemaking, we have determined that further consideration should be given to them. Accordingly, we may in the near future, institute a further rulemaking proceeding to consider such amendments to the price regulations.

III. Amendments Adopted

A. Increased Non-Product Cost Allowance on Retail Sales

We have decided, based on data, testimony, and comments provided during the conduct of this rulemaking, to increase by four cents per gallon the allowable amounts of increased non-product costs which may be passed through by propane retailers with sales of less than five million gallons of propane, butane, and natural gasoline per year. We do not intend to increase the cents-per-gallon increments contained in § 212.93(b)(4)(iii)(A) for retail sales to the petrochemical industry, public utilities, synthetic natural gas plants, or other sales, as no data was provided during the conduct of this rulemaking which would justify the passthrough of additional non-product cost increases on these types of sales beyond those currently allowed.

We have based the additional increment of four cents per gallon on the following data:

(1) A recent study conducted by the National LP Gas Association indicates that the average operating cost of propane marketers increased by 3.2 cents per gallon between December 31, 1974 and December 31, 1978. After adjustment of this amount to the current June 30, 1979 period, as well as consideration of those cost categories not included in the study, an additional 0.8 cents per gallon increment was deemed appropriate. This, we believe, supports the adoption of an additional four cents per gallon for increased non-product costs incurred by small propane marketers.

(2) A study conducted by the National LP Gas Association in 1975 indicated that the total average margin per gallon for LP gas marketers as of December 31, 1974 was 11.8 cents per gallon. Applying the 35.3 percent increase in the GNP deflator experienced between the end of the last quarter of 1974 and the end of the second quarter of 1979 to the total average operating margin of 11.8 cents per gallon, an increase of four cents per gallon would appear reasonable.

(3) All propane marketers which commented indicated that they had experienced increases in non-product costs of at least seven cents per gallon over May 1973 levels.

B. Non-Product Cost Categories

We have decided, based on data, surveys, testimony, and comments provided during the conduct of this rulemaking, to adopt, as proposed, the expansion of the overhead cost categories at § 212.93(b)(4)(iii)(B)(VII), as well as the addition of a new

category at § 212.63(h)(4)(iii)(B)(VIII), which would permit the passthrough of increased salaries to equity owners.

Based upon our reconsideration of the issue of permitting the passthrough of increased salaries to equity owners, we have made two changes to the proposal in this final rulemaking.

In the proposed rule we stated that "owner salaries will not be permitted as an allowable cost for any owner who did not draw a salary during May 1973 or the initial quarter of the firm's operations." Upon reconsideration, we believe that such a restriction would penalize the owner of a firm if, because of economic or other financial considerations, the owner did not draw a salary during these periods.

Accordingly, the amendment we are adopting will permit the passthrough of that portion of an owner's current salary which equals the weighted average "percentage increase" in salaries granted to other employees of the firm since May 15, 1973 or the initial quarter of the firm's operations. Such salary is required to have been recorded on the books of the firm by May 1, 1979 to be available for passthrough. For example, if an owner were currently drawing a salary of \$20,000 per annum which he began drawing January 1, 1979 and employees of the firm had been granted salary increases totaling 40 percent since May 15, 1973, \$8,000 of the owner's salary could be passed through as an increased cost.

Although consideration was given to permitting total increased or newly established salaries to be passed through when an owner did not draw a salary during either May 1973, the initial quarter of the firm's operations or subsequent to May 1, 1979, these options were not selected because of concerns over possible discrimination against those owners who did draw salaries in May 1973, as well as possible abuses that might occur in the amount available for passthrough.

We have also adopted language to make clear that salaries of owners must be reasonable and bear a direct relationship to services performed in order to be eligible for passthrough. Owner salaries are not intended to represent or permit a reallocation of the net profits from operations to the "owner salary" category solely for the purpose of increasing the amount available for passthrough.

C. Refiners and Gas Processors

We have determined, based on data, surveys, testimony and comments, to increase from three to seven cents per gallon the maximum allowable amount of marketing costs that may be passed

through by refiners on all retail sales (except those to the petrochemical industry, to public utilities, and to synthetic natural gas plants). This action reflects the fact that refiner marketing costs have increased in similar proportion to the marketing costs of independent marketers, and thus will permit refiners to recover marketing costs which more accurately reflect the actual retail marketing costs incurred. This amendment increasing the amount of marketing costs that may be recovered in retail sales does not change the requirement that the amount passed through be cost-justified, that is, the amount passed through must reflect increased marketing costs actually incurred.

We are adding an alternative method by which refiners may recover marketing costs actually incurred in retail propane sales. Where a refiner has records which clearly identify marketing costs associated with particular retail sales (not including sales to the petrochemical industry, to public utilities, and to synthetic natural gas plants) that refiner may elect to recoup these costs directly in the sales from which they arise, rather than adding them to the marketing cost pool. Accordingly, a refiner may recoup marketing costs of more than seven cents per gallon in particular retail sales of propane, provided it can document the actual amount of marketing costs incurred in such transactions. We wish to make clear that a refiner which elects this alternative method of recovery, for a particular sale or sales may not bank any of the marketing costs associated with the transaction for which the election is made, and it may not otherwise pass through these marketing costs pursuant to other provisions of the price regulations.

We are giving refiners this additional flexibility of passing through actual costs in particular retail sales primarily to protect the competitive viability of independent retailers in markets where costs are unusually high. Unless this flexibility is given to refiners, the seven-cents per-gallon limitation may hold refiners in their retail sales in those markets to levels that would force their independent competitors either to price at uneconomic levels or lose their market shares to integrated suppliers.

D. Equal Application Rule

As discussed above a substantial number of the commenters complained that the majority of their problems arose as a result of provisions of § 212.63(h) known as the equal application rule.

First, refiners indicated that in many cases they had not passed through the

full three cents marketing cost increase permitted at the retail level because under provisions of the equal application rule they would be deemed to have recouped three cents on all sales of propane, including wholesale sales where only one-half cent per gallon of marketing cost increase may be passed through. In these circumstances the amount of increased cost available for banking would be reduced.

Independent marketers indicated that as a result of the equal application rule the prices charged by refiners were held at artificially low levels and independent marketers could not compete and remain financially viable. Our proposed rule contained an exception to the equal application rule for refiner sales of propane at the retail level in order to maintain healthy competition in the propane industry. Since the comments generally supported the proposal in this regard, we are amending the rule to provide that the equal application rule does not apply to marketing costs passed through at retail (except retail sales to the petrochemical industry, public utilities, and synthetic natural gas plants). This will permit refiners to pass through disproportionate amounts of increased marketing costs at retail without being deemed to have passed through the highest amount of increased marketing cost in all sales. Under the amendment a refiner may pass through marketing costs (other than in retail sales to petrochemical industry, public utilities and synthetic natural gas plants) unequally: (1) to classes of purchaser at different marketing levels (i.e., wholesale and retail); (2) among retail classes of purchaser, and (3) within retail classes of purchaser.

This exception to the equal application rule applies only to retail marketing cost calculated and passed through in accordance with the provisions of paragraph (VI) of the F¹ factor of the refiner price rule, as amended today. We wish to point out that increased marketing costs passed through in violation of these provisions (for example, costs that exceed the seven cent ceiling or are not documented and applicable to specific transactions) would not fall within the exception to the equal application rule and would be deemed to have been passed through in all sales, pursuant to the provisions of the equal application rule.

Although we believe that this amendment adequately addresses the concerns of the commenters, we wish to make clear that these more flexible provisions of the equal application rule are not intended to sanction

discriminatory pricing practices towards any class of purchaser.

Some commenters also expressed concerns with regard to the equal application rule as it applies to sales of propane to the petrochemical industry. Although these contentions may have merit, we feel that any amendment to change this impact would require a specific proposal and more direct consideration than has been afforded by this rulemaking proceeding.

With respect to a contention by some commenters that an integrated refiner may pass through less costs to its own petrochemical subdivisions than it does to independent marketers, we believe that no further regulatory action is necessary as such practice, if it exists, is specifically prohibited by the provisions of Ruling 1974-27 dated December 19, 1974 (39 FR 44415).

IV. Regulatory Analysis

In accordance with Executive Order No. 12044, on Improving Government Regulation (43 FR 12661, March 24, 1978), DOE Order 2030.1, Procedures for the Development and Analysis of Regulations, Standards and Guidelines (44 FR 1032), January 3, 1979, and based on the comments and testimony received in conjunction with this proposal, we have prepared a final regulatory analysis which examines the estimated impact of the regulations adopted. Copies of this final regulatory analysis may be obtained from ERA's Office of Public Information, Room B-210, 2009 M Street, N.W., Washington, D.C.

The final regulatory analysis makes the following conclusions with respect to the economic impacts associated with the amendments adopted to Subparts E, F, and K of the Mandatory Petroleum Pricing Regulations:

Subpart E (Refiners)

We estimate that approximately 20 percent by volume of retail propane sold by refiners does not include the previous permissible three cents marketing cost passthrough in the final selling price due to the way some refiners interpreted the equal application rule. The amendment of 10 CFR 212.63(h)(2)(ii) to permit these refiners to pass through previous the maximum allowable marketing cost at the retail level will result in an expected economic impact of between \$7 million and \$10 million per annum.

We are also adding four cents per gallon to the previous three cents per gallon standard markup for refiners for recovery of marketing costs at the retail level. We estimate that this provision will result in a dollar impact of between \$19 million and \$63 million per annum.

Subpart K (Natural Gas Processing Facilities)

By allowing equity owner salaries to be passed through in product prices, with an estimated five percent of total U.S. propane production subject to this additional cost, it is estimated that the maximum impact per gallon will be 1.8 cents. We estimate that the total economic impact of this final rule will be between \$5 million and \$7 million per annum, assuming an average 41.3 percent salary increase over May 15, 1973 salaries for equity owners.

Subpart F (Reseller/Retailers)

Forty percent of all propane sales are by firms with less than \$2 million in annual sales. We estimate that approximately 35 percent of the small independent propane reseller-retailers will compute actual non-product cost increases rather than use the cents-per-gallon markup which is permitted for firms with sales of less than five million gallons annually. For those resellers or retailers using the standard retail markup for propane non-product cost, we estimate that the total economic impact of this final rule will range between \$63 million and \$84 million per annum. For those resellers or retailers computing actual costs, we estimate that expanding the permissible cost categories will add approximately 1.3 cents per gallon to propane prices. The total impact would range between \$59 million and \$77 million per annum.

In conclusion, the total economic impact of these amendments is estimated as follows:

Applicable pricing sections	Economic impact (millions)	
	High	Low
Subpart E	73	56
Subpart F	161	122
Subpart K	7	5
Total	241	183

When the range of the economic impact of this final rule is divided by the total of 13 million users of propane, the net impact per user would range between a maximum of \$19.40 to a minimum of \$10.15 per year.

VI. Other Matters

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (Pub. L. 95-91), the proposed rule was referred to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission indicated

in a letter to the Secretary dated August 30, 1979 that the Commission had decided not to exercise its discretion to determine that the proposed rule significantly affects any function within the jurisdiction of the Commission. Accordingly, the Commission has not requested referral of this matter under the procedures of section 404 of the DOE Act.

After reviewing the final rule pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) DOE has determined that this rule does not constitute major Federal action significantly affecting the quality of the human environment and will not produce a measurable impact on the national environment.

Subsection (d)(1) of Section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) provides that the required publication of a rule be made at least 30 days before the effective date of the rule unless the rule relieves a restriction. Our action relieves price restrictions and therefore fits the exemption in section 553(d)(1).

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-365, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23105; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., December 21, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

1. Subparagraph VI of the F¹ factor in § 212.63(c)(2)(iii)(E) is amended to read as follows:

§ 212.63 Price rule.

(c) Allocation of increased costs.

(2) Formulae.

(iii) Definitions.

(E) The "N" factor.

F¹ = * * *
(VI) (aa) Allows an increase in the price of propane, in sales after

December 31, 1979 above the prices otherwise permitted to be charged for propane pursuant to the provisions of this part by an amount not in excess of seven cents per gallon with respect to all retail sales except those to the petrochemicals industry, to public utilities and to synthetic natural gas plants; one cent per gallon with respect to retail sales to the petrochemical industry, to public utilities, and to natural gas plants and one-half cent per gallon with respect to all other sales; (bb) notwithstanding the provisions of subparagraph (aa) of this paragraph (VI), if a refiner has records which document the increased marketing costs actually incurred with respect to one or more particular retail sales of propane, except those to the petrochemicals industry, to public utilities, and to synthetic natural gas plants, such marketing costs may be recouped in such sales in lieu of the marketing costs that would otherwise be permitted by this paragraph, provided that such costs are not included in any calculations of increased costs made pursuant to any other provisions of this Part; and

2. Subparagraph (h)(2)(ii) of § 212.83 is amended to read as follows:

(h) *Equal application among classes of purchaser.*

(2) *Special rules.*

(i) *Propane.* (A) Notwithstanding the provisions of paragraph (h)(1) of this section, and subject to the provisions of paragraph (h)(2)(ii)(B) of this section, a refiner may apply unequal amounts of increased costs to the weighted average May 15, 1973, selling price of propane to classes of purchaser of propane, provided that the highest amount of increased cost applied to the weighted average May 15, 1973, selling price to any class of purchaser shall not exceed by more than 100 percent the amount of increased costs applied to the weighted average May 15, 1973, selling price of propane in sales to any class of purchaser that includes either an independent marketer, as defined in § 211.51 of this Chapter, or a purchaser that uses the product for residential use, as defined in § 211.51 of this Chapter, than is applied to the weighted average May 15, 1973, selling price of propane in sales to any other class of purchaser. (B) The provisions of paragraph (h)(1) of this section do not apply to increased marketing costs permitted to be applied to the weighted average May 15, 1973, selling price of propane in retail sales, except those to the petrochemicals industry, to public utilities, and to

natural gas plants, pursuant to the provisions of paragraph (VI) of the F¹ term of the N¹ formulae of § 212.83(c)(2)(iii)(E), which specifies the limitations on propane marketing costs that may be charged to various purchasers.

3. In § 212.93, paragraphs (b)(4)(iii)(A) and (b)(4)(iii)(B)(VII) are revised; and paragraph (b)(4)(iii)(B)(VIII) is added to read as follows:

§ 212.93 Price rule.

(b) * * *

(4) * * *

(iii) *Maximum allowable amounts of increased nonproduct cost.* * * *

(A) Seven cents per gallon with respect to all retail sales of propane except those to the petrochemicals industry, to public utilities and to synthetic natural gas plants; one cent per gallon with respect to retail sales of propane to the petrochemicals industry, to public utilities and to synthetic natural gas plants; and one-half cent per gallon with respect to all other sales of propane.

(B)

(VII) *Overhead cost increase.*

Overhead cost increase is computed by applying the formula for "E_n" above. For purposes of this computation "C" is the dollar amount of costs of rent of real property, postage, office supplies, normal gas losses, insurance, employees' uniforms, outside legal and accounting fees, rent of personal property, bad debts, travel and meetings, dues and publications, commission agent fees (based on volumetric payment) and transportation costs directly attributable to propane, butane, and natural gasoline sales operations and not included in the calculation of increased product cost, provided that such costs are computed according to generally accepted accounting practices and historically and consistently applied.

(VIII) *Equity-Owner Salaries Cost Increase.*

Cost increases relating to the equity-owner salaries are computed by applying the formula for E_n¹ above. For purposes of this computation, "C" refers to the costs attributable to those salaries which are paid to personnel who own all, or any portion of, or receive profits from, the firm involved, who participate directly in the management or sales operations of the firm. A portion of an owner's current salary can be shown as an increased cost, up to the weighted average percentage increase in salaries

granted to all other employees of the firm since May 15, 1973 or the initial quarter of the firm's operations, and to the extent that such salaries are reasonable and bear a direct relationship to services devoted to the firm's activities. Owner salary increases are prohibited as an allowable cost for any owner who did not draw a salary during May 1973, or the initial quarter of operations of the firm except where an owner has drawn a salary prior to May 1, 1979, but did not draw a salary during May 1973 or the initial quarter of the firm's operations because of economic or other financial considerations. In such a case, a portion of the owner's current salary can be shown as an increased cost, up to the weighted average percentage increase in salaries granted to all other employees of the firm since May 15, 1973 or the initial quarter of the firm's operations. The reallocation of "net profits" from operations to "owner salaries" for the sole purpose of increasing the costs available for pass through is not permitted.

4. In § 212.165, paragraphs (b)(2)(ii) and (v) are revised to read as follows:

§ 212.165 Increased processing costs.

(b) *Calculation of increased processing costs.* * * *

(2) *Allowable cost.* * * *

(i) *Labor cost.* Labor cost is the total amount of direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation for those personnel employed at a gas plant or directly involved in gas plant operations, including that portion of the costs of any contract with an unrelated entity attributable to personnel other than employees that perform such services. Costs in this category may include salaries paid to personnel who own all or any portion of, or receive profits from, the firm involved, for personal services that are wholly and specifically attributable to gas plant operations. Owner salary cost increases are limited to the weighted average percentage increase in salaries granted to all employees of the firm since May 15, 1973. Such salaries are not permitted as an allowable cost for any owner who did not draw a salary during May 1973 or the initial quarter of gas plant operations except where an owner has drawn a salary prior to May 1, 1979, but did not draw a salary during May 1973 or the initial quarter of the firm's operations because of economic or other financial considerations. In such a case a portion of the owner's current salary

can be shown as an increased cost, up to the weighted average percentage increase in salaries granted to all other employees of the firm since May 15, 1973 or the initial quarter of the firm's operations. Salaries of owners must be reasonable and bear a direct relationship to services devoted to the firm's gas plant activities. The reallocation of "net profits" from operations to "owner salaries" for the sole purpose of increasing the costs available for passthrough will not be permitted. For purposes of this paragraph (b)(2)(ii), an "unrelated entity" is an entity which is not part of the firm and which has no equity interest in any gas plant or plants (or in the natural gas liquids or natural gas liquid products produced therefrom) in which the firm has such an interest.

(v) *General and administrative costs.*

General and administrative costs are the ordinary and necessary expenses of management and administration (including overhead) attributable to gas plant operations under generally accepted accounting principles historically and consistently applied by the firm, provided that any such costs which are attributable to, or incurred by, a corporate or other organizational administrative unit not directly and exclusively involved with gas plant operations shall not be an allowable cost. Costs in this category include legal and accounting fees, inter-plant gas transportation cost, and salaries paid to personnel who own all or any portion of, or receive profits from, the firm involved, for personal services that are wholly and specifically attributable to gas plant operations. Owner salary cost increases are limited to the weighted average percentage increase in salaries granted to all employees of the firm since May 15, 1973. Owner salaries are not permitted as an allowable cost for any owner who did not draw a salary during May 1973 or the initial quarter of gas plant operations, except where an owner has drawn a salary prior to May 1, 1979, but did not draw a salary during May 1973 or the initial quarter of the firm's operations because of economic or other financial considerations. In such a case a portion of the owner's current salary can be shown as an increased cost, up to the weighted average percentage increase in salaries granted to all other employees of the firm since May 15, 1973 or the initial quarter of the firm's operations. Salaries of owners must be reasonable and bear a direct relationship to services devoted to the firm's activities. The reallocation of "net profits" from operations to

"owner salaries" for the sole purpose of increasing the costs available for passthrough is not permitted.

5. In § 212.166 paragraph (b)(2)(i) is revised to read as follows:

§ 212.166 Increased marketing costs.

(b) *Calculation of increased marketing costs.* * * *

(2) *Allowable cost.* * * *

(i) *Labor cost.* Labor cost is the total dollar amount of direct and indirect remuneration or inducement for personal services, which are reasonably subject to valuation, for those personnel employed by the firm and directly involved in the sales operations of natural gas liquids and natural gas liquid products. This category includes salaries which are paid to personnel who own all, or any portion of, or receive profits from, the firm involved, for personal services that are wholly and specifically attributable to the firm's activities. Owner salary cost increases are limited to the weighted average percentage increase in salaries granted to all other employees of the firm since May 15, 1973. Such salaries are not permitted as an allowable cost for any owner who did not draw a salary during May 1973 or the initial quarter of the firm's operations except where an owner has drawn a salary prior to May 1, 1979, but did not draw a salary during May 1973 or the initial quarter of the firm's operations because of economic or other financial considerations. In such a case a portion of the owner's current salary can be shown as an increased cost, up to the weighted average percentage increase in salaries granted to all other employees of the firm since May 15, 1973 or the initial quarter of the firm's operations. Salaries of owners must be reasonable and bear a direct relationship to services devoted to the firm's activities. The reallocation of "net profits" from operations to "owner salaries" for the sole purpose of increasing the costs available for passthrough is not permitted.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- FEDERAL HOME LOAN BANK BOARD**
67089 11-23-79 / Loan in excess of 80 percent of value; Three-family and Four-family dwelling
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Food and Drug Administration—
67112 11-23-79 / Fee requirement for processing of medicated feed applications
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
Federal Housing Commissioner—Office of Assistant Secretary for Housing—
67932 11-23-79 / Carpet cushion; minimum property standards
- SECURITIES AND EXCHANGE COMMISSION**
67107 11-23-79 / Information required in solicitation of proxies other than by the issuer

List of Public Laws

Last Listing December 26, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

- H.R. 3875 / Pub. L. 96-153 "Housing and Community Development Amendments of 1979". (Dec. 21, 1979; 93 Stat. 1101) Price \$1.75
- H.R. 5359 / Pub. L. 96-154 "Department of Defense Appropriation Act, 1980". (Dec. 21, 1979; 93 Stat. 1139) Price \$1.50
- S. 1874 / Pub. L. 96-155 To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein. (Dec. 21, 1979; 93 Stat. 1165) Price \$.75

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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(Revised as of July 1, 1979)

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	Title 40—Protection of Environment (Parts 50 to 59)	\$12.00	\$
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[A cumulative checklist of CFR issuances for 1979 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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12-31-79
Vol. 44 No. 251
Pages 77125-77490

U.S. GOVERNMENT FEDERAL REGISTER

Monday
December 31, 1979

NOTE:

Due to a shortage of newsprint, today's Federal Register is printed on a higher quality paper. As supplies become available, the Federal Register will resume the use of newsprint.

Highlights

- 77125 **Panama Military Education and Training Assistance** Presidential determination
- 77264 **Medicare Supplementary Medical Insurance Program** HEW/Sec'y announces monthly adequate actuarial rates for aged and disabled; effective 7-1-80
- 77267 **Educational and Socioeconomic Programs** Interior/BIA sets aside funds to establish Osage Tribal Educational Committee, and accepts applications for financial assistance for second semester 1979-80 academic year
- 77294 **State Science, Engineering, and Technology Program** NSF proposes guidelines and criteria; comments by 1-30-80
- 77490 **Housing For the Elderly or Handicapped Direct Loan Program** HUD/FHC announces availability of Fiscal Year 1980 loan authority (Part VIII of this issue)
- 77233, 77286, 77294 **Privacy Act** CPSC, NTPSC and Treasury/Sec'y publish documents affecting systems of records (3 documents)
- 77460, 77235 **Privacy Act** FRS and CPSC issue annual publication of systems of records (2 documents)
- CONTINUED INSIDE



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Highlights

- 77356 Revenue Sharing** Treasury/RSO proposes rules regarding nondiscrimination on the basis of age or handicap, and technical and procedural amendments; comments by 2-29-80 (Part III of this issue)
- 77328, 77348 Freight Cars, Locomotives, Passenger Cars and Cabooses** DOT/FRA adopts safety standards; effective 1-31-80 and 3-1-80 (Part II of this issue) (2 documents)
- 77155 Income Tax** Treasury/IRS issues temporary regulations relating to the foreign earned income exclusion; effective 12-31-77
- 77161 Unleaded Gasoline Availability** EPA issues enforcement policy; effective 12-31-79
- 77210 Seat Belts** DOT/NHTSA proposes to specify additional performance requirements for both manual and automatic safety belt assemblies; comments by 4-1-80
- 77199 Light Trucks** DOT/NHTSA proposes establishment of average fuel economy standards for trucks manufactured in model years 1982-85; comments by 1-30-80 on proposed 1982 standards; comments by 3-31-80 on proposed 1983-85 standards
- 77440, 77447, 77454, 77456, 77458 Surface Coal Mining and Reclamation Operations** Interior/SMRE amends rules and proposes rules regarding interim and permanent regulatory programs, and holds hearing and extends comment period on Wyoming Permanent Regulatory Program; various effective and comment dates, hearing 1-7-80 (5 documents) (Part IV of this issue)
- 77470 Health and Safety Data Reporting** EPA proposes submission of health and safety studies on specifically listed chemicals; comments by 2-29-80 (Part VI of this issue)
- 77293 Federal-Aid Highway Projects** DOT/FHWA publishes interim instructions regarding implementation of regulations issued by CEQ under NEPA; effective 11-30-79
- 77298 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 77328 Part II, DOT/FRA**
77356 Part III, Treasury/RSO
77440 Part IV, Interior/SMRE
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Federal Register

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Monday, December 31, 1979

Presidential Documents

Title 3—

Presidential Determination No. 80-8 of December 18, 1979

The President

Determination Under Section 28 of the International Security Assistance Act of 1979—Panama

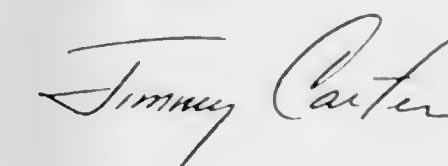
Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 28 of the International Security Assistance Act of 1979, I hereby determine that the provision of International Military Education and Training under Chapter 5 of Part II of the Foreign Assistance Act of 1961, as amended, to Panama in the fiscal year 1980 would further the national interests of the United States.

You are requested on my behalf to report this determination to the Congress, as required by law.

This determination shall be published in the Federal Register.

THE WHITE HOUSE,
Washington, December 18, 1979.



[FR Doc. 79-39907
Filed 12-27-79; 2:03 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register

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Monday, December 31, 1979

77127

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

1 CFR Part 445

Removal of Regulations

Editorial Note: The National Transportation Policy Study Commission was terminated, effective December 28, 1979.

Since the National Transportation Policy Study Commission is legally terminated and its regulations are no longer in force and effect, the Office of the Federal Register is removing 1 CFR Part 445 from the Code of Federal Regulations, in compliance with the provisions of 1 CFR 8.2.

BILLING CODE 6520-36-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Federal Home Loan Bank Board; Environmental Protection Agency; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document corrects the paragraph designations of two excepted service appointing authorities published by the Office of Personnel Management on November 6, 1979, and November 27, 1979. These are editorial changes only.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, Issuance System Manager (202)-254-7086.

SUPPLEMENTARY INFORMATION: (1) FR Document 79-34263, published November 6, 1979, at 44 FR 64065,

incorrectly added § 213.3354(b) to Title 5, CFR. Since paragraph (b) already existed, this document redesignates the paragraph to read § 213.3354(i). (2) FR Document 79-36281, published November 27, 1979, at 44 FR 67620, incorrectly added § 213.3318(a)(2) to Title 5, CFR. Since paragraph (a)(2) already existed, this document redesignates that paragraph to read § 213.3318(a)(3).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 213)

Office of Personnel Management,

Beverly M. Jones,

Issuance System Manager.

(FR Doc. 79-39830 Filed 12-28-79; 8:45 am)

BILLING CODE 6325-01

5 CFR Part 771

Agency Administrative Grievance System

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: This document revises OPM's regulations governing agency administrative grievance systems. It provides criteria for the establishment and publication of an administrative grievance system by each agency and defines the employee and action coverage governing the system. The revision was undertaken to provide coverage in accordance with provisions of the Civil Service Reform Act.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Wilma Lehman, Workforce Effectiveness and Development Group (202) 632-7647.

SUPPLEMENTARY INFORMATION: A proposed Part 771, Agency Administrative Grievance System, was published in the Federal Register on August 3, 1979, (44 FR 45629) and comments were invited. A total of 20 different agencies, labor organizations, and individuals submitted comments and recommendations. Of these, eight recommended publication as a final rule with no material change. Following is a section by section analysis of the comments together with the resulting modifications.

§ 771.201 *Purpose.* No comments were expressed with regard to this section.

§ 771.202 *Definitions. Bargaining unit employee.* A clarified definition of bargaining unit employee was submitted and adopted.

Employee. The comments about the definition of "employee" were all concerned with the inclusion of former employees: a former employee should be excluded, a former employee should be limited to one who had been actually employed within a definite and recent time period, and a former employee should be permitted to grieve only matters concerning the former employment with the agency for which a valid remedy could be provided. Former employees have been covered in the past and so far as OPM knows there has been little or no difficulty with legitimate grievances for such persons. With respect to limitations on grievances for former employees, the definition of a grievance requires "personal relief in a matter of concern or dissatisfaction relating to the employment . . . which is subject to the control of agency management." The definition of personal relief requires "a specific remedy directly benefiting the grievant. . . ." When the two definitions are read together, OPM believes that proper grievances from former employees are covered and at the same time grievances which cannot or should not be remedied are excluded. It is expected that agency grievance procedures will include appropriate time limits on the filing of grievances. We believe that such time limits as applied to all grievances are more appropriate than time restrictions in a definition of former employee.

Grievance. There were no comments on the definition of grievance.

Grievance file. A definition of "grievance file" was added at the request of one who commented.

Personal relief. One of those commenting requested that examples of personal relief be included. Examples will be included in the Federal Personnel Manual chapter 771. OPM believes that explanatory material is more appropriately included in guidance material rather than in regulation. Another suggested that relief should include action against another employee. This was rejected since OPM does not believe that disciplinary action against another employee is a proper remedy under the administrative grievance system. The agency may,

however, decide to take some action against another employee as a result of facts uncovered by a grievance inquiry.

Two clarifying suggestions, that an "s" be added to grievant to cover group grievances and that the word "directly" be substituted for "only", have been made.

A proposed new definition of personal relief, "a specific remedy which lessens or eliminates the personal effect of the matter grieved", was not adopted because we believe that the definition as amended more clearly expresses the intent of OPM.

§ 771.203 *Agency coverage.* No comments were received on this section.

§ 771.204 *Employee coverage.*

(a) *Required coverage.* Two recommendations dealt with limiting employees to those with other than temporary appointments. We believe that the grievance system should be available to all employees, whether their appointments are competitive or excepted, temporary or career; that the grievance system should not be reserved for those with certain kinds of appointments if the matter being grieved can be appropriately remedied. Another recommendation was to include bargaining unit employees when negotiated procedures are not available for reviewing the matter. We assume that this refers to matters which the labor organization and the agency have agreed to exclude from coverage of the negotiated grievance procedure. Such coverage under the administrative procedure is properly subject to the discretionary authority of the agency and is provided for in paragraph (b) of this section.

A final comment recommended that the paragraph be changed to read, "Except as provided in § 771.206, this part should cover all nonbargaining unit employees of the agency and those bargaining unit employees who are not covered under a negotiated grievance procedure." As stated in the previous paragraph, OPM believes that the inclusion of bargaining unit employees should be left to the discretion of agencies.

(b) *Discretionary coverage.* Two of those commenting recommended that applicants for employment with the agency be deleted from the discretionary coverage. Since agencies have been delegated examining functions formerly performed by OPM (or the Civil Service Commission), we believe that agencies may wish to consider covering applicants. One remark questioned the meaning of "other" employees. We have amended the paragraph to read "bargaining unit" employees. A final criticism on this

paragraph was that an agency should not have authority to extend coverage to bargaining unit employees for matters covered by negotiated procedures. We agree that any extension of coverage to bargaining unit employees can occur only when the agency and the labor organization, in accordance with the provisions of chapter 71 of title 5, United States Code, have agreed to exclude a matter from coverage of the negotiated procedures. Part 771 does not and could not authorize an agency to extend coverage in violation of statute.

§ 771.205 *Grievance Coverage.* One of those commenting proposed a paragraph (b) of this section which would permit an agency to extend the administrative grievance coverage to any or all of the exclusions in § 771.206(c). One of the differences between coverage for the administrative grievance system and that of the negotiated system is the exclusion of matters appealable to the Merit Systems Protection Board or reviewable by the Office of Personnel Management or the Equal Employment Opportunity Commission. OPM does not believe that a change in administrative grievance coverage for appealable matters is timely. It is the intent of OPM that matters excluded from negotiated procedures by statute shall also be excluded from agency administrative grievance procedures.

§ 771.206 *Exclusions.* (a) *Agencies excluded.* There were no comments on this paragraph.

(b) *Employees excluded.* Failures to exclude (1) Schedule C employees and (2) all individuals paid from nonappropriated funds were two concerns expressed about this subsection. On the other hand, the exclusion of any person paid from nonappropriated funds was also criticized. OPM sees no reason to exclude Schedule C employees from the administrative grievance system because of the confidential or policy making nature of the appointments. With respect to those paid from nonappropriated funds, the exclusions are based on provisions of statute. For example, section 2105(c) of title 5 defines certain individuals paid from nonappropriated funds as employees only for certain specific purposes. At the same time, there are others who are paid from nonappropriated funds who have competitive service appointments and who are covered by Part 771.

One of those commenting recommended that paragraph (b)(6) of this section be eliminated, i.e., delete the authority of OPM to consider and exclude a class of employees upon recommendation by the head of the

agency. A second expressed the concern that agencies would misuse this exclusion. OPM would like to point out that the agency does not make additional exclusions; the agency may recommend an exclusion to OPM for consideration. OPM will consider a class of employees for exclusion for which there is good justification.

(c) *Matters excluded.* OPM has reorganized this paragraph. Discussion will be based on the old numbering; the new number of a paragraph will be included in parenthesis.

(1) *(Now 1)(iii).* Three suggestions were made regarding this exclusion: that "matter" be substituted for "decision"; that the exclusion should read "A decision which is subject to final administrative review outside the agency under law, Executive order or Government-wide regulation"; and that those matters reviewable outside be enumerated and a statement added that "concerns in these areas may be pursued in accordance with the procedures in other regulations."

We have used the general term, matters, to refer to the entire paragraph (c). We believe that "decision" is the term which most nearly describes the matters reviewable by an outside agency. We made specific reference to the Merit Systems Protection Board, the Office of Personnel Management, and the Equal Employment Opportunity Commission because we did not intend to exclude matters on which a complaint may be filed with the Special Counsel from administrative grievance procedures. Under the regulations of the Special Counsel, it is stated that the Special Counsel will generally defer to administrative appeals procedures (including administrative grievance procedures). Finally, OPM does not believe that Part 771, governing the agency administrative grievance system, should enumerate matters covered by law or other regulations. It is planned to include in FPM chapter 771 a detailed discussion regarding the relationship of agency administrative grievances to other appealable or reviewable matters.

(2) *(Now 1)(ii).* There was one suggestion that the phrase "but not the interpretation of" should be added to the exclusion concerning the content of published agency regulations and policy. To adopt the suggested amendment would change the exclusion. Agency policy and regulations are management rights which are not subject to question except as they are applied to an individual.

(3) *(Now 1)(iii).* Concerns regarding the exclusion of nonselection for promotion from a group of properly ranked and certified candidates, were: it

needs clarification, it should be amended to read "nonselection for promotion or reassignment from a group of final candidates that include the grievant", and it should be deleted. OPM firmly believes that selection for promotion from a list of properly ranked and certified candidates is a function of management. The FPM chapter 771 will discuss the meaning of the exclusion. OPM has not adopted the suggested language since it interprets the current language to require that the grievant be in the group of final candidates to grieve nonselection. It was not intended to exclude a grievance from a candidate concerning an incorrect rating. Further, we do not believe that reassignment belongs in this exclusion since that action is not generally a competitive action. Finally, we do not believe that the exclusion should be deleted.

(4) *(Now 1)(vi).* Those commenting recommended that the exclusion be deleted, that the time period be reduced to six months, and that the exclusion be clarified. OPM does not believe that an employee who has accepted a temporary promotion should be permitted to grieve the return to his or her former position or to one which is not at a lower grade or pay unless the action is based on misconduct or unacceptable performance. The employee when accepting a temporary promotion agrees to its temporary character and to the return to the previous grade and pay as a condition of the promotion. The language of the exclusion has been amended for the purpose of clarification. In addition, the FPM chapter will include guidance concerning its application.

Finally, the two-year time period for temporary promotion has been in effect since 1968. A time period of six months has been found not to be adequate to cover the uses for which the temporary promotion authority has been approved.

(5) *(Now 1)(viii).* Recommendations that it be made clear that this exclusion includes negative decisions as well as positive ones and one that it be deleted as an exclusion were submitted. The exclusion has been rewritten in response to the first recommendation. It is OPM's position that decisions regarding awards, employee suggestions, and awards of rank are management decisions which are not grievable.

(6) *(Now 1)(ix).* One recommendation to omit this exclusion was received. OPM believes that the same reasons as those for exclusion (5) apply to decisions regarding performance awards in the Senior Executive Service and quality step increases.

(7) *(Now 1)(x).* Of those submitting comments, five recommended either that the exclusion for merit pay determinations and cash or honorary recognition should be discretionary with the agency or not excluded. The basis for the comments is section 5402(b)(2)(C) of title 5, United States Code, which states that determinations to provide pay increases under this paragraph shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency. This provision has been implemented in the OPM regulation on merit pay. Further, since an employee's performance appraisal is grievable and since the agency plan for merit pay determinations must establish a link between performance and merit pay, to cover merit pay decisions under Part 771 could result in duplicate grievances, on the performance appraisal itself and on the resulting merit pay decision. OPM has, therefore, retained this exclusion.

(8) *(Now 1)(v).* It was suggested that OPM express more precisely the language of the statute in this exclusion. This has been done.

(9) *(Now 1)(vii).* This paragraph has been edited for clarification based on three suggestions. Two other comments recommended that the substance of the critical elements and performance standards established in accordance with the requirements of law and regulation be grievable at the discretion of the agency; a third felt that they should be grievable. OPM believes that application of the critical elements and performance standards is a grievable matter, i.e., the performance appraisal based on established critical elements and performance standards is grievable but that critical elements and performance standards per se when they have been established in accordance with applicable law and regulation, are not grievable.

(10) *(Now 1)(iv).* One concern expressed was that a preliminary warning or notice of an action which, if effected, would be covered under the grievance system or excluded from coverage by paragraph (c)(1) (now (c)(1)(ii)) needs further explanation. This will be done in the FPM chapter.

(11) *(Now 2)(i).* It was pointed out that the satisfactory completion of the probationary period under subpart H of Part 315 is part of the examining process and, as such, is excluded from negotiated grievance procedures. Since it is our intention not to include in the administrative grievance process any matter excluded from coverage of the negotiated system, a new exclusion (c)(1)(xi) has been added. Exclusion (2)(i) remains discretionary with the

agency since it deals not with removal but only with the return to a former position of an employee serving an initial appointment as a supervisor or manager, an employee who has previously served the probationary period for employment in the competitive service.

(12) *(Now 1)(xii).* One comment remarked that the exclusion of a performance evaluation under subchapter II of chapter 43 should be identified with the Senior Executive Service. OPM believes that since subchapter II deals only with the Senior Executive Service, this is sufficient. A second recommended that this exclusion be discretionary. OPM believes the exclusion must be mandatory because the law provides review procedures for performance appraisals of members of the SES.

(13) *(Now 2)(ii).* The discretionary exclusion of a separation action not previously excluded has been revised so that it no longer includes the separation of a probationer under subchapter H of Part 315. Further clarification will be included in FPM chapter 771.

There were three general comments on paragraph (c), one that questioned the number of exclusions from the administrative grievance system, another which suggested adding a new exclusion for any matter subject to reconsideration under a separate administrative procedure consistent with the fact-finding procedures under section 771.302(b), and a third which recommended an exclusion from the grievance procedure for oral admonishments or warnings regarding an employee's performance or conduct. With regard to the first, OPM believes that the number of exclusions is not excessive. Administrative grievances are defined by the exclusions; any "matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of agency management" for which personal relief can be granted, is grievable unless the employee or the matter is excluded.

OPM has not adopted the suggestion of an additional exclusion for separate administrative procedures. We believe that agency grievance procedures should cover all matters which are subject to internal review by an agency. Recognition is, however, made of the need for different procedures within the agency grievance system, procedures which are appropriate for the matter being grieved. We firmly believe that all internal review procedures should be administered under the criteria in Part 771 governing administrative grievances.

The third comment regarding oral admonishments or warnings was not adopted as a separate exclusion because we fail to see how these meet the definition of a grievance in that there is no apparent personal relief.

§ 771.301 *Establishment and publication.* No comments were received on this section.

§ 771.302 *Criteria.* (a) No comments were received on this subsection. (b) OPM has revised this paragraph in response to several recommendations. Guidance has been included regarding when a hearing is appropriate. The paragraph now reads:

"Procedures . . . shall provide for factfinding, when appropriate, which shall include a hearing when one is suitable to fully develop the circumstances concerning the grievance . . ."

It is OPM's intent that fact-finding be used whenever there is a dispute over facts. Fact-finding, however, may vary from a request, for example, to an engineer to determine the amount of light in a specific work area to a full adversary-type hearing. It can consist of an investigation, informal interviews, or discussion between the parties. A hearing is to be provided when the facts can best be determined through that method.

One of those commenting suggested that a definition of fact-finding be included. OPM will include in the FPM chapter 771 a discussion of the various kinds of fact-finding.

Another expressed a concern that informal inquiries should not be excluded. OPM agrees that grievances should be resolved, whenever possible, at the supervisory level and as simply as possible. In many instances, this can be achieved by a discussion between the grievant and the supervisor. Still another held the belief that hearings should be mandated whenever questions of fact are contested. As stated above, OPM does not agree that hearings are suitable in all circumstances.

Finally, it was suggested that this paragraph specify who chooses the fact-finder, outline his or her scope of authority, and clarify and reduce the restrictions that (1) the fact-finder shall not "have been involved in" the matter being grieved and (2) the term "subordinate to" any official who recommended, etc. It is beyond the authority of OPM to mandate specific agency delegations of authority. OPM has prescribed characteristics which it believes the fact-finder must meet. OPM will include in the FPM chapter 771 a discussion of the qualifications of the fact-finder.

(c)(1) One of those commenting asked that a statement that the agency can take disciplinary action for abuse of the grievance system be added. OPM agrees that, under certain circumstances, it may be appropriate for the supervisor to restrict the amount of official time when an employee spends an inordinate amount of worktime preparing and presenting a number of grievances which have no basis in fact.

(c)(2) One statement criticized this paragraph for not listing specific instances of circumstances under which a representative must be disallowed. OPM believes that this is not feasible and that the disallowance of a representative must depend upon the circumstances in each grievance. Another response stated that a representative should not be disallowed unless the agency clearly demonstrates that a direct conflict of interest exists and that the disallowance be subject to appeal. We agree that the question of the appropriateness of a disallowance of a representative is a matter which the grievant may include as a threshold issue in his or her grievance for decision by the deciding official.

(c)(3) Two comments stated that official time should include time to prepare the grievance while a third recommended that a specific statement be added that official time does not include preparation time. Part 771 in the past has required official time only for the presentation of the grievance. The granting of additional time for preparation has been left to agency discretion. No reasons have been presented which indicate a need for change with respect to official time. Additionally, OPM sees no need to prevent an agency from allowing a reasonable amount of official time for preparation.

(c)(4) Two criticisms were received on this paragraph that as worded it could require unnecessary escalation. OPM has amended this statement to read:

The right to communicate with the servicing personnel office or a counselor of the agency.

One of those commenting asked what type of counselor was meant. OPM did not intend to limit the type of counselor.

(d) No comments were submitted on this paragraph.

(e) Two comments recommended that the grievant be given a copy of the grievance file. OPM believes that it is unnecessary to duplicate the grievance file so long as the grievant has free and reasonable access to all of the material in the file. Two of those commenting recommended that a grievance file be established at any time a grievance is

filed and that Part 771 should describe the minimum contents of the file. OPM regulation establishes minimum requirements. There would be no objection if any agency required the establishment of a file on a grievance that was settled informally. OPM does not believe, however, that the establishment of such a requirement in Part 771 would serve a useful purpose. A definition of grievance file has been included in § 771.202 which includes a brief statement of its contents.

(f) Those concerned with this paragraph indicated that the decision should be in writing at all times, that the decision should be in writing only when the employee is required to put the grievance in writing, and that the written requirement will have the effect of circumventing informal resolution and raise the matter past the supervisor. Agencies may wish to have a written record of all grievances, whether settled informally or whether decided after fact-finding procedures. On the other hand, OPM sees no reason to require a written decision when the supervisor and the grievant have settled the matter informally. We did not intend that a requirement for a written decision when the grievance is presented in writing discourage the informal resolution of administrative grievances.

Additionally, one of those commenting questioned the authority of the fact-finder in making the decision. OPM feels that either the fact-finder or another official who has not previously been involved in the grievance (except when the deciding official is head of the agency) may make the final decision. Delegations of authority are made by the head of the agency within the restrictions prescribed by OPM. Some agencies will delegate authority to the fact-finder to make a final decision while others will authorize this individual only to make findings of fact and recommend a decision.

Two comments requested clarification of the restriction on the deciding official that he or she be at a higher level than any employee involved in any phase of the grievance. OPM will include a discussion in the FPM of the meaning of "involved".

771.303 *Obligation of the Grievant.* A new section concerning the obligation of the grievant has been inserted at the request of one of those submitting comments. The new section requires the employee filing a grievance, whether orally or in writing, to do so within any appropriate time limits established in the agency procedures, to explain his or her concerns, and to identify the personal relief being sought.

771.304 (*Incorrectly numbered 771.302 in the proposed regulation*) *Review by the Office of Personnel Management.*

Two comments were received on this section: that OPM should approve agency administrative grievance plans before implementation and that OPM should review individual complaints that an agency administrative grievance system violates regulatory requirements. OPM believes that the administration of a plan is more important than the plan itself. OPM may undertake a review of an allegation that some provision of an agency administrative grievance system violates Part 771 upon receipt of factual information specifically describing the alleged system violation. OPM does not, however, have authority to review individual grievances.

The Office of Personnel Management would like to express its appreciation for the observations, criticisms, suggestions, and recommendations submitted by individuals, agencies, and labor organizations. The comments have been most helpful in drafting the final Part 771.

The Director of the Office of Personnel Management finds that because of the need to clarify the coverage of the administrative grievance system for new programs being implemented under the Civil Service Reform Act, good cause exists for suspending the 30-day delay in effecting final rules required by 5 U.S.C. 553(d).

Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management is revising 5 CFR Part 771 to read as follows:

PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

Subpart A—[Reserved]

Subpart B—General

Sec.

771.201	Purpose.
771.202	Definitions.
771.203	Agency coverage.
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Subpart C—Establishment of Agency Administrative Grievance System

771.301	Establishment and publication.
771.302	Criteria.
771.303	Obligation of the grievant.
771.304	Review by the Office of Personnel Management.

Authority: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 9830, 3 CFR 1943-1948 Comp., pp. 606-624; E.O. 11222, 3 CFR 1964-1969 Comp., p. 306.

Subpart A—[Reserved]

Subpart B—General s

§ 771.201 Purpose.

This part sets forth the regulations under which each agency shall establish an agency administrative grievance system.

§ 771.202 Definitions.

In this part:

"Bargaining unit employee" means an employee included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition.

"Employee" includes a former employee of an agency for whom a remedy can be provided.

"Grievance", except as provided in § 771.206 of this part, means a request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of agency management.

"Grievance file" means a separate file which contains all documents related to the grievance, including but not limited to any statements of witnesses, records or copies thereof, the report of the hearing when one is held, statements made by the parties to the grievance, and the decision.

"Personal relief" means a specific remedy directly benefiting the grievant(s) and may not include a request for disciplinary or other action affecting another employee.

§ 771.203 Agency coverage.

Except as provided in § 771.206(a), this part applies to the executive agencies and military departments as defined by sections 102 and 105 of title 5, United States Code, and to those organizational units of the legislative and judicial branches having positions in the competitive service.

§ 771.204 Employee coverage.

(a) *Required coverage.* Except as provided in § 771.206(b), this part shall cover all nonbargaining unit employees of the agency.

(b) *Discretionary coverage.* An agency may extend the coverage of this part to bargaining unit employees consistent with the provisions of 5 U.S.C. 7121, or to applicants for employment with the agency.

§ 771.205 Grievance coverage.

Except as provided in § 771.206(c), this part applies to any matter of concern or dissatisfaction relating to the

employment of an employee which is subject to the control of agency management, including any matter on which an employee alleges that coercion, reprisal, or retaliation has been practiced against him or her.

§ 771.206 Exclusions.

(a) *Agencies excluded.* This part does not apply to the Central Intelligence Agency, the Federal Bureau of Investigation, the Defense Intelligence Agency, the National Security Agency, the Nuclear Regulatory Commission, the Tennessee Valley Authority, the Postal Rate Commission, and the U.S. Postal Service.

(b) *Employees excluded.* This part does not apply to:

(1) A noncitizen appointed under Civil Service Rule VIII, § 8.3 of this title;

(2) An alien appointed under section 1471(5) of title 22, United States Code;

(3) An individual paid from funds as defined in section 2105(c) of title 5 or section 4202(5) of title 38, United States Code;

(4) A physician, dentist, nurse, or other employee appointed under chapter 73 of title 38, United States Code;

(5) A member of the Foreign Service of the United States covered under the Foreign Service Grievance System as defined in Part J of Title VI of the Foreign Service Act of 1946, as amended; or

(6) An employee otherwise included under § 771.204(a) of this subpart when he or she is a member of a class of employees excluded from coverage by the Office on the recommendation of the head of the agency concerned.

(c) *Matters excluded.* (1) This part does not apply to:

(i) The content of published agency regulations and policy;

(ii) A decision which is appealable to the Merit Systems Protection Board or subject to final administrative review by the Office of Personnel Management or the Equal Employment Opportunity Commission under law or regulations of the Office or the Commission.

(iii) Nonselection for promotion from a group of properly ranked and certified candidates;

(iv) A preliminary warning notice of an action which, if effected, would be covered under the grievance system or excluded from coverage by paragraph (c)(1)(ii) of this section;

(v) A return of an officer or employee from the Senior Executive Service to the General Schedule during the one year period of probation or for less than fully successful executive performance under section 3592 of title 5, United States Code;

(vi) An action which terminates a temporary promotion within a maximum period of two years and returns the employees to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted;

(vii) The substance of the critical elements and performance standards of an employee's position which have been established in accordance with the requirements of subchapter I of chapter 43 of title 5, United States Code, and Part 430 of this title;

(viii) The granting of or failure to grant an employee performance award or the adoption of or failure to adopt an employee suggestion or invention under sections 4503-4505, or the granting of or failure to grant an award of the rank of meritorious or distinguished executive under section 4507 of title 5, United States Code;

(ix) The receipt of or failure to receive a performance award under section 5384 of title 5, United States Code, or a quality salary increase under section 5326 of title 5, United States Code;

(x) A merit pay determination or a merit pay increase or the lack of a merit pay increase under the Merit Pay System, or a decision on the granting of or failure to grant cash or honorary recognition under Chapter 54 of Title 5, United States Code, and Part 540 of this title;

(xi) The termination under Subpart H of Part 315 of this title of a probationer for unsatisfactory performance;

(xii) A performance evaluation under subchapter II of chapter 43 of title 5, United States Code.

(2) This part does not apply to the following actions unless the agency extends the coverage to any aspect of them:

(i) A return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period under section 3321(a)(2) of title 5, United States Code, and Subpart I of Part 315 of this title; and

(ii) A separation action not excluded by paragraph (c)(1) of this section.

Subpart C—Establishment of Agency Administrative Grievance System

§ 771.301 Establishment and publication.

(a) *Establishment.* Each agency covered by this part shall establish and administer an agency grievance system in accordance with the criteria in § 771.302 of this subpart.

(b) *Publication.* Each agency shall publish and make available to employees copies of its administrative grievance procedures.

§ 771.302 Criteria.

The following criteria shall govern the establishment and administration of an agency administrative grievance system:

(a) Prompt consideration of each grievance, including reasonable time limits for processing the grievance.

(b) Procedures appropriate for the matter being grieved which provide the employee a reasonable opportunity to present a grievance and receive fair consideration of the matter being grieved. The procedures shall provide for fact-finding, when appropriate, which shall include a hearing when one is suitable to ascertain the circumstances concerning the grievance. Fact-finding procedures shall be carried out by a person(s) who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who recommended, advised, made a decision on, or who otherwise is or was involved in, the matter being grieved.

(c) Assurance to the grievant of:

(1) Freedom from restraint, interference, coercion, discrimination or reprisal in presenting a grievance;

(2) The right to be accompanied, represented, and advised by a representative of his or her own choosing, except that an agency may disallow the choice of an individual as a representative which would result in a conflict of interest or position, which would conflict with the priority needs of the agency, or which would give rise to unreasonable costs to the Government;

(3) A reasonable amount of official time to present the grievance if the employee is otherwise in a duty status; and

(4) The right to communicate with the servicing personnel office or a counselor of the agency.

(d) Assurance to the employee's representative of:

(1) Freedom from restraint, interference, coercion, discrimination or reprisal; and

(2) A reasonable amount of official time to present the grievance if the representative is an employee of the agency and is otherwise in a duty status;

(e) When fact-finding is utilized, establishment of a grievance file which is made available to the grievant and his or her representative for review and comment;

(f) At any time an employee places a grievance in writing, a written decision, which includes a report of findings and reasons for the determination, made by:

(1) An official at a higher level than any employee involved in any phase of the grievance, except when the head of the agency has been involved, or

(2) The official(s) designated to determine the disputed facts.

§ 771.303 Obligation of the grievant.

An employee in exercising the entitlement to present a grievance under this part shall:

(a) Comply with appropriate time limits established by the agency;

(b) Furnish sufficient detail to clearly identify the matter being grieved; and

(c) Specify the personal relief being requested.

§ 771.304 Review by the Office of Personnel Management.

The Office of Personnel Management shall review from time to time each agency administrative grievance system developed under this part to determine whether the administrative grievance system meets the requirements of this part. The Office shall require corrective action to bring a system which fails to meet the requirements into conformity. The Office does not act on a request by an employee to review the processing of, or the decision on, an individual grievance.

[FR Doc. 79-39529 Filed 12-28-79; 8:45 am]

BILLING CODE 5325-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 103]

Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (7 CFR 401.101-401.111) by adding additional counties where tomato, and canning and freezing sweet corn crop insurance is available effective for the 1980 and succeeding crop years. The counties listed in this amendment were approved by the Board of Directors of the Federal Crop Insurance Corporation under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 31, 1979.

ADDRESS: Suggestions or comments on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance

Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Wednesday, January 3, 1979, the Federal Crop Insurance Corporation published in the Federal Register Amendment No. 101 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (44 FR 749-761), which listed those counties designated by the Manager of the Corporation for various crop insurance programs effective with the 1979 crop year.

On November 23, 1979, the Board of Directors of the Corporation approved additional counties where tomato, and canning and freezing sweet corn crop insurance programs will be available effective with the 1980 crop year.

This notice is being issued to update the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years to include those newly approved counties. Inasmuch as the publication of counties designated by the Manager of the Corporation merely adds approved counties where tomato, and canning and freezing sweet corn are available, and since producers need to be informed of these additions immediately, it is found and determined by James D. Deal, Manager, that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c), and Executive Order No. 12044).

Final Rule

Accordingly, under the authority contained in the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (32 FR 15911, November 21, 1967) as found in 7 CFR Part 401, are hereby amended by adding the following appendix to § 401.101 effective for the 1980 and succeeding crop years. The counties designated in the following appendix are in addition to those designated in Amendment No. 101 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (44 FR 749-761, Wednesday, January 3, 1979).

§ 401.101 [Amended]

Appendix

The counties where additional programs of crop insurance are authorized to be offered and the crops on which such insurance is offered under the provisions of 7 CFR Part 401 are as follows:

Counties Designated for Canning and Freezing Sweet Corn Crop Insurance:

Wisconsin

Fond du Lac, Green Lake, Waushara. Counties Designated for Tomato Crop Insurance:

California

San Joaquin.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Issued in Washington, D.C., on December 11, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Approved by:

James D. Deal,

Manager.

Dated: December 19, 1979.

[FR Doc. 79-39822 Filed 12-28-79; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 471, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment relieves restrictions on the handling of California-Arizona navel oranges by permitting the shipment of navel oranges which are larger than 3.70 inches in diameter (size 48) during the period December 21, 1979, through January 17, 1980. The supply of larger size oranges has not materialized in the volume anticipated and action is needed to permit shipment of the larger sizes during the specified period in recognition of market demand for such sizes in the interest of producers and consumers.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This amendment is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon recommendations and information submitted by the Navel Orange

Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The size requirements, herein specified, for fresh shipments of California-Arizona navel oranges reflect the Department's appraisal of the current and prospective demand for such oranges during the specified period. Because of the growing conditions in the production area, the amount of larger sized fruit is less than was anticipated and there is a need to permit shipment of the larger size fruit as specified. The 1979-80 navel orange crop is forecast at 58,000 carloads, about one-third larger than the 43,496 carloads produced in 1978-79. The committee has estimated that about 36,500 carloads will be needed to fill demand in regulated fresh market outlets.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this amendment warrants publication without opportunity for further public comment. The amendment has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

Accordingly, § 907.771 Navel Orange Regulation 471; 44 FR 75376, is hereby amended by revising paragraph (a), redesignating paragraph (b) as paragraph (c) and inserting a new paragraph (b). As so amended § 907.771 reads as follows:

§ 907.771 Navel Orange Regulation 471.

(a) During the period December 21, 1979, through January 17, 1980, no handler shall handle any navel oranges grown in Districts 1, 2, 3, or 4 which are smaller than 2.32 inches in diameter, such 4; meter to be the largest measurement at a right angle to a

straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.32 inches in diameter.

(b) During the period January 18, 1980, through February 14, 1980, no handler shall handle any navel oranges grown in Districts 1, 2, 3, or 4 which are of a size larger than 3.70 inches in diameter or which are of a size smaller than 2.32 inches in diameter, such diameter to be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of oranges in any type of container may measure larger than 3.70 inches in diameter and not to exceed 5 percent, by count, of oranges in any type of container may measure smaller than 2.32 inches in diameter.

(c) As used in this section, "handle", "District 1," "District 2," "District 3," and "District 4" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 21, 1979.
D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
[FR Doc. 79-39745 Filed 12-28-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 928

[Papaya Reg. 10]

Papayas Grown in Hawaii; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets grade and size requirements for papayas grown in Hawaii for the 1980 season and is needed to provide orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: January 1-December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. On December 6, 1979, notice was published in the Federal Register (44 FR 70176) inviting written comments not later than December 21, 1979, on proposed grade and size requirements applicable to shipments of Hawaiian papayas during the 1980 season. None were received.

This regulation is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling

of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Papaya Administrative Committee, and upon other information.

Practically all the U.S. commercial papaya production is grown in Hawaii. The fruit is not well known to consumers in many market areas, and the thrust of the committee's promotional activity carried out under the marketing agreement and order is to introduce the fruit to prospective consumers as well as to encourage increased purchases by those who already are acquainted with the fruit. To expand and to maintain markets it is essential that the fruit offered to consumers be of a quality that will result in consumer satisfaction.

The regulation is based upon an appraisal of the prospective supply and market situation for papayas during the period January 1-December 31, 1980. It is designed to assure consumers of an adequate supply of acceptable quality papayas consistent with the quality and size composition of the crop. The committee estimates that 1980 production of Hawaiian papayas will total 60 million pounds. Disposition objectives are for 53 million pounds to fresh sales and the remaining 7 million pounds to processing outlets. In-state fresh sales are projected at 13.5 million pounds for 1980, compared to 10.5 million pounds estimated for 1979. It is anticipated that out-of-state fresh sales will amount to 39.5 million pounds, 15 million pounds more than in 1979.

After consideration of all relevant matters presented, including the proposal in the notice and other available information, it is hereby found that the following regulation is in accordance with the marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of papayas will be regulated only through December 31, 1979, by Papaya Regulation 10, as amended, and, in order to effectuate the declared policy of the act, this regulation should be effective not later than January 1, 1980, to provide continuity of regulation; (2) this regulation is the same as that which was specified in the notice to which no exceptions were submitted; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto

which cannot be completed by the effective date hereof.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." A final impact analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

§ 928.310 Papaya Regulation 10.

Order. (a) No handler shall ship any container of papayas (except immature papayas handled pursuant to § 928.152 of this part):

(1) During the period January 1 through April 15, 1980, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that allowable tolerances for defects may total 10 percent: *Provided*, That not more than 5 percent shall be for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(2) During the period April 16 through December 31, 1980, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided*, That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 13 ounces each.

(3) During the period January 1 through April 15, 1980, to any export destination unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects may total 10 percent: *Provided*, That not more than 5 percent shall be for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(4) During the period April 16 through December 31, 1980, to any export destination unless said papayas grade at least Hawaii No. 1, except that they shall be free from injury caused by bruises and free from deep scars; and scars, when scaly, cracked or not smooth, shall not aggregate a circle greater than 1 inch in diameter, or when smooth shall not aggregate more than 7.5 percent of the surface of the fruit, except that the total tolerance for all defects shall not exceed 3 percent: *Provided*, That of this amount not more than 1

percent shall be for immature fruit and not more than 1 percent shall be for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(b) When used herein, "Hawaii No. 1" shall have the same meaning as set forth in the Standards for Hawaii Crown Papayas, as amended, Subsection 5.32, Section 5, Regulation 1, Division of Marketing and Consumer Services, Department of Agriculture, State of Hawaii, issued pursuant to Section 147-4, Part I, and Section 147-22, Part II, Chapter 147, Title 11, Volume 3, Hawaii Revised Statutes. All other terms shall have the same meaning as when used in the marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated December 26, 1979, to become effective January 1, 1980.

Charles R. Brader,
Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 79-39746 Filed 12-28-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1004

[Milk Order No. 4]

Milk in the Middle Atlantic Marketing Area; Order Suspending a Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends an order provision affecting the regulatory status of fluid milk distributing plants. The suspension makes inoperative for December 1979 and January 1980 the requirement that a distributing plant use at least 40 percent of its milk for fluid use before it is eligible to have all of its milk pooled and priced under the order. This action was requested by a regulated handler and will permit producers who have been regularly supplying the market to continue to have their milk pooled and priced under the order.

DATE: Order of suspension is effective December 31, 1979, for the months of December 1979 and January 1980.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-8273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of proposed suspension—issued December 4, 1979, published December 7, 1979 (44 FR 70483).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Middle Atlantic marketing area.

Notice of proposed rulemaking was published in the Federal Register (44 FR 70483) concerning a proposed suspension of a provision of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

§ 1004.7 [Amended]

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of December 1979 and January 1980 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1004.7(a) the words "not less than 40 percent".

Statement of Consideration

The suspension will make inoperative for December 1979 and January 1980 the provision that at least 40 percent of the receipts of milk at a pool distributing plant be disposed of as Class I milk. The suspension was requested by Michaels Dairies, Inc., a proprietary handler who operates a pool distributing plant.

Michaels Dairies, Inc. indicates that it expects its Class I disposition to be less than 40 percent of the milk supply associated with its distributing plant because of the cancellation of a substantial Class I milk contract with Dover Air Force Base, Dover, Delaware. The failure of proponent's plant to meet the pooling requirements would result in the milk of producers who are regular suppliers of proponent's fluid milk requirements not being priced and pooled under the order.

Maryland and Virginia Milk Producers Association, Inc. supports the suspension action. The cooperative agrees that the pooling problem faced by proponent represents sufficient need to take suspension action for the months of December 1979 and January 1980. No opposition to the proposed suspension was received.

Suspension of the pooling provision will afford the handler time to make changes in its milk procurement and/or its Class I sales to remedy its pooling problem. Without suspension action there is a threat that producers supplying proponent's plant will not be able to share uniformly with other producers supplying the market the

proceeds from the Class I sales in the market. Thus suspension action is necessary to promote orderly marketing conditions.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that milk of some producers who regularly supply the fluid market otherwise would be excluded from the pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of December 1979 and January 1980.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C., on December 21, 1979.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and
Transportation Services.

[FR Doc. 79-39728 Filed 12-28-79; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Guidelines for Enforcement of Transportation Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Guidelines for Enforcement of Final Rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) amended on October 29, 1979 its regulations for packaging and transportation of radioactive material. The amendments were published in the Federal Register on November 2, 1979 (44 FR 63083) and became effective on December 3, 1979. The amendments require all shipments of radioactive material made by NRC licensees, other than shipments subject to the regulations of the U.S. Postal

Service, to be made in accordance with the regulations of the U.S. Department of Transportation. The regulations were amended to allow the NRC to inspect the activities of its licensees involved with shipment of radioactive materials.

The NRC has issued guidelines which state how the NRC will enforce the new regulations. On December 3, 1979, the NRC issued the following letter to inform all its licensees subject to this regulation of the new enforcement procedures:

FOR FURTHER INFORMATION CONTACT: James H. Sniezek (301) 492-8980.

SUPPLEMENTARY INFORMATION: To: All NRC Licensees.

CRITERIA FOR ENFORCEMENT ACTION FOR FAILURE TO COMPLY WITH 10 CFR 71: The Commission on October 29, 1979, amended its regulations in 10 CFR Part 71, effective December 3, 1979, pertaining to the packaging and shipment of radioactive material for transportation. 44 Fed. Reg. 63083 (Nov. 2, 1979). The amended regulations reflect a concern that the basic cause of many of the growing number of incidents involving shipment of radioactive material can be attributed to the use of defective shipping containers or to improper loading and preparation of packages for shipment. The amendments do not alter any substantive requirements but will permit the Commission to increase its inspection activities and take enforcement action where warranted. Therefore, the Criteria for Determining Enforcement Action and Categories of Noncompliance with AEC Regulatory Requirements, dated December 31, 1974, is being supplemented to advise licensees of the guidelines the Office of Inspection and Enforcement will be using to determine enforcement action in the area of transportation.

Accordingly, this is to notify you (1) that failures to comply with the requirements of 10 CFR 71 will be categorized in one of the four severity levels described in the attached guidelines and, (2) that severity level I or II noncompliance will normally result in either civil penalties or more severe enforcement action.

General Guidelines for Determining Severity Levels for Transportation Enforcement Action¹

Severity level	1974 criteria
I.....	Violation.
II.....	Violation.
III.....	Infraction.
IV.....	Deficiency.

¹The severity levels listed below correspond to the severity levels in the December 31, 1974 criteria as follows:

Severity Level I

- Any noncompliance which contributes to a breach of package integrity resulting in surface contamination or external radiation levels in excess of NRC or DOT requirements.
- Any noncompliance which contributes to the existence of surface contamination or external radiation levels a factor of two above NRC or DOT requirements but did not result from a breach of package integrity.
- Any noncompliance with NRC or DOT transportation requirements that contributed to personnel exposure in excess of the limits set forth in 10 CFR 20.
- Failure to make required initial notifications associated with the foregoing noncompliance.

Severity Level II

- Any noncompliance with NRC or DOT transportation requirements which contributes to a breach of package integrity resulting in surface contamination or external radiation levels which are not in excess of NRC or DOT requirements.
- Any noncompliance which contributes to the existence of surface contamination or external radiation levels in excess of, but less than a factor of two above NRC or DOT requirements and which did not result from a breach of package integrity.
- Noncompliance with marking, labelling, placarding, shipping paper, or other requirements which could result in:
 - Improper identification of the type, quantity, or form of material or;
 - The failure of the carrier or recipient to exercise adequate controls or;
 - An increase in the potential for personnel exposure or contamination.
- Failure to make required initial notifications associated with the foregoing noncompliance.

Severity Level III

- Any noncompliance involving package selection or preparation which does not result in a breach of package integrity nor surface contamination or external radiation levels in excess of NRC or DOT requirements.

Severity Level IV

- Noncompliance with administrative requirements which reasonably would not result in improper identification of radioactive material, adequate carrier or recipient controls, nor an increase in the potential for personnel exposure or contamination.

Dated at Bethesda, Maryland this 14th day of December, 1979.

For the Nuclear Regulatory Commission.

Victor Siello, Jr.,
Director, Office of Inspection and Enforcement.

[FR Doc. 79-30578 Filed 12-28-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 107, 114, 120-125 and 9008

[Notice 1979-26]

Presidential Election Campaign Fund: Federal Financing of Presidential Nominating Conventions

AGENCY: Federal Election Commission.

ACTION: Final Rule: Announcement of Effective Date and Deletion of Existing Regulations.

SUMMARY: On Thursday, November 1, 1979 (44 FR 63036-63045) the Commission published the text of revised regulations to implement the Federal Financing of Presidential Nominating Conventions which were submitted to Congress on October 26, 1979, pursuant to 26 U.S.C. 9009(c). Technical corrections are being published in a separate rule today. The revised regulations designated as 11 CFR, Chapter I, Subchapter F, Part 9008 supersede the regulations presently in 11 CFR, Chapter I, Subchapter B, Parts 120 through 125.

The Commission announces that the revised regulations will become effective as of December 31, 1979, and currently deletes existing regulations appearing in 11 CFR, Chapter I, Subchapter B, and 11 CFR Part 107.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463. (202) 523-4143.

SUPPLEMENTARY INFORMATION: 26 U.S.C. 9009(c) requires that any rule or regulation prescribed by the Commission to implement Chapter 95 Title 26, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves the regulations within 30 legislative days after their transmittal, the Commission may finally prescribe the regulations in question. The revised regulations being made effective by this notice were transmitted to Congress October 26, 1979. Thirty legislative days passed as of the close of business December 20, 1979.

11 CFR, Chapter I, Subchapter A, Part 107; 11 CFR 114.1(a)(2)(viii); and 11 CFR, Chapter I, Subchapter F, Part 9008 (44 FR 6309-63045, as corrected by FR Doc. 79-39609) are effective as of December 31, 1979. Regulations presently appearing at 11 CFR Part 107 and 11 CFR Parts 120 through 125 are hereby deleted as of December 31, 1979.

Dated: December 21, 1979.

Robert O. Tiernan,
Chairman, Federal Election Commission.

PART 107 [DELETED]

PARTS 120-125 [DELETED]

11 CFR is amended by deleting Parts 107 and 120-125 and adding a new Part 9008. (See 44 FR 63036 as corrected by FR Doc. 79-39609 appearing elsewhere in this issue of the Federal Register.)

[FR Doc. 79-39901 Filed 12-28-79; 8:45 am]

BILLING CODE 6715-01-M

11 CFR Parts 107, 114, and 9008

[Notice 1979-25]

Presidential Election Campaign Fund: Federal Financing of Presidential Nominating Convention; Correction

AGENCY: Federal Election Commission.

ACTION: Final rule: Correction.

SUMMARY: The Commission makes technical corrections to the Transmittal of Regulations to Congress to implement the Federal Financing of Conventions published on November 1, 1979, at 44 FR 63036-63045.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20453. (202) 523-4143.

The following technical corrections hereby made to 11 CFR: Parts 107, 114, and 9008:

1. 11 CFR 9008.8(b)(3)(v)(C): delete "11 CFR 9008.8(b)(3)(vi)" and insert "11 CFR 9008.8(b)(4)(v)."

2. 11 CFR 9008.8(b)(4)(v)(D): delete "11 CFR 9008.8(b)(3)(vi)" and insert "11 CFR 9008.8(b)(4)(v)."

3. 11 CFR 9008.10(g)(2): delete "national party" and insert "national committee."

4. 11 CFR Part 107: After the heading insert: "Authority: 2 U.S.C. § 437."

5. 11 CFR Part 114: After the heading insert: "Authority: 2 U.S.C. § 441b."

Dated: December 21, 1979.

Robert O. Tiernan,
Chairman, Federal Election Commission.

[FR Doc. 79-39609 Filed 12-28-79; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TREASURY

Comptroller of the Currency

12 CFR Part 12

Recordkeeping and Confirmation Requirements for Certain Transactions Effected by National Banks

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: The Comptroller of the Currency, on July 24, 1979, adopted 12 CFR Part 12 ("Part 12") which requires that national banks that effect certain securities transactions for customers provide confirmation of and maintain records with respect to such transactions. The provisions of Part 12 are effective as of January 1, 1980. Similar regulations were adopted by the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation. At the time of adoption, the three agencies also requested comment on the confirmation requirements and on the bank officers and employees reporting requirements as they apply to transactions in certain government obligations. Seventeen letters of comment were received. The Comptroller has considered the comments and is amending the regulation to limit the applicability of recordkeeping requirements, internal policies, and officer and employee reporting relating to government securities. Other minor amendments are also being made.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dean E. Miller, Deputy Comptroller for Specialized Examinations, Office of the Comptroller of the Currency, Washington, D.C. 20219. (202-447-1731).

SUPPLEMENTARY INFORMATION: The Comptroller of the Currency on July 24, 1979, adopted 12 CFR Part 12 ("Part 12") (44 FR 43252). Part 12 requires national banks to establish uniform procedures and records relating to the handling of securities transactions for certain accounts. The provisions of Part 12 are effective as of January 1, 1980. Any national bank that effects securities transactions for customers is required to maintain specified records and furnish confirmations of transactions to customers. Similar regulations have been adopted by the Board of Governors

of the Federal Reserve System and the Federal Deposit Insurance Corporation. At the time of adoption, the three agencies also requested comment on the confirmation requirements and on the bank officers and employees reporting requirements as they apply to transactions in certain government obligations.

Although comment was solicited only with respect to the confirmation requirements as they apply to transactions in U.S. government, federal agency and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. government or federal agency obligations, several commentators commented on sections of the regulation which had been adopted previously in final form. The Comptroller found some of the comments to have merit and has amended certain previously adopted sections in response to these comments.

The following is a summary of the revisions hereby made with respect to the subjects upon which comment was solicited and with respect to other sections upon which comment was received. Subjects raised upon which no change was made are also discussed.

1. Section 12.5(c) requires a national bank which exercises investment discretion for an account in an agency capacity to furnish an itemized statement at least once every three months or upon request of the customer to furnish individual transaction confirmations within an alternative time. In response to a comment, Section 12.5(c)(2) has been amended to state that a bank may charge accounts over which it exercises investment discretion in an agency capacity for confirmations made on a per transaction basis. This change merely reflects the Comptroller's prior intent that banks could charge for furnishing individual confirmations in agency accounts where the bank exercises investment discretion.

2. Two banks commented that Section 12.5(c) should be amended to permit the bank and its customers to agree to a different arrangement than the quarterly statement which is required. The Comptroller has decided that the quarterly requirement is desirable and is not so unduly burdensome as to justify permitting less frequent notifications. It is noted that this requirement is comparable to the reporting system required of non-bank investment advisors.

3. Section 12.5(a) allows a bank and a customer of a nondiscretionary agency account to agree in writing to a different arrangement of notification than set forth in Section 12.5. One commentator

stated his understanding that the intent of the banking agencies in drafting Section 12.5(a) was to permit a bank and an agency account customer to agree on a suitable alternative reporting system. The commentator noted that the placement of this authority under the "Time of Notification," Section 12.5, might be interpreted as a grant of authority for customer and bank to agree to a different time of notification, but not to a different form of notification. This was not the Comptroller's intent when adopting the regulation; however, the Comptroller does not object to a different form of notification. Accordingly, Section 12.5(a) has been amended to clarify that a bank and its agency customers may mutually agree upon alternative forms of notification. The Comptroller advises national banks that any such alternative form of notification for non-discretionary agency accounts must be affirmatively approved by the customer. A national bank will not be considered to be in compliance with this Section if it interprets a customer's non-response to a bank communication as constituting customer approval.

4. Subparagraph (d) of Section 12.6, Securities trading policies and procedures, requires that bank officers and employees who make or participate in making investment recommendations or who, in connection with their duties, obtain certain information, report to the bank on a quarterly basis all securities transactions made by them or on their behalf or in which they have a beneficial interest. Several commentators suggested changes to various parts of Section 12.6(d). Many commentators suggested that bank officers and employees who purchase U.S. government and federal agency securities should not have to report transactions in those securities. One commentator noted that "Since the purpose of the disclosure is to detect misuse of inside information and manipulation of the market, and since such activity seems particularly unlikely in the marketplace for government securities, we feel that these securities should be excepted from the disclosure requirements." The Comptroller has concluded that the benefit that would result from requiring disclosure of transactions in U.S. government and federal agency securities is outweighed by the increased reporting burden. The rule as amended exempts transactions in U.S. government and federal agency securities from the reporting requirements applicable to bank officers and employees, and also exempts bank officers and employees whose duties do

not involve knowledge of or transactions in securities other than U.S. governments and federal agency obligations.

5. Section 12.7(a) exempts banks from certain recordkeeping requirements if the bank has an average of less than 200 securities transactions per year for customers over the prior three calendar year period. The comment letters pointed out the importance of transactions in U.S. government and federal agency securities in determining the scope of the 200 securities transactions exemption. One commentator noted that by including transactions in U.S. government and federal agency securities in the 200 securities transactions per year, the exemption is not as helpful in relieving the recordkeeping requirements as it may appear. The Comptroller has concluded that the intended purpose of the 200 securities transactions exemption can best be accomplished by excluding transactions in U.S. government and federal agency securities from the securities transactions which are to be counted for purposes of the 200 securities transactions exemption and has accordingly amended Section 12.7(a).

6. A related comment noted that the requirements of Sections 12.6(a) through 12.6(c), which require written supervisory policies and procedures relating to supervision of officers and employees, fair and equitable allocation of securities and fair and equitable crossing or orders could be triggered by performance of a single customer accommodation transaction. The 200 securities transactions exemption set forth in Section 12.7(a) has now been modified to exempt banks coming within the exemption from the policy and procedures requirements of Sections 12.6(a) through 12.6(c).

7. Section 12.4, Form of Notification, requires that bank furnish a written confirmation for transactions in U.S. government securities (other than U.S. Savings Bonds), federal agency obligations and municipal securities (where the bank is not already required to comply with the rules of the Municipal Securities Rulemaking Board). The Comptroller received a few adverse comments concerning the burden imposed by extension of confirmation requirements to transactions in U.S. government and federal agency securities. After consideration of these comments, the Comptroller has determined that application of the confirmation requirements to transactions in U.S. government and federal agency securities is necessary to

provide customers with appropriate disclosure. Accordingly, no change has been made in these requirements as adopted previously.

8. Comments were received as to the possible inapplicability of some of the requirements of Section 12.3, Recordkeeping, to U.S. government and federal agency obligations. For example, the requirement of time stamping was raised, and the need for disclosure of the name of the broker where the bank is a dealer (and not acting as agent) and is selling the security to the customer. In both cases the Comptroller is of the opinion that the regulation should be followed, to permit supervision and examination of the functions and provide appropriate disclosure to the customer.

9. For the purpose of Part 12, the term "security" is defined to mean any interest or instrument commonly known as a security, whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness or any participation in the right to subscribe to or purchase any of the foregoing. One commentator requested that shares of money market mutual funds be excluded from the definition of security pointing out that the regulation excludes from its definition alternative sources of temporary investment of fiduciary funds which are in themselves usually included in the portfolio of money market mutual funds, such as certificates of deposit, variable amount master notes and short-term Treasury bills. The Comptroller is of the opinion that the fact that a money market mutual fund involves the intervention of another manager than the bank deciding the mix of these investments renders desirable the disclosure and recordkeeping requirements of the regulation. It is noted that the regulation permits the use of a single order for multiple account transactions, which should reduce the potential costs of recordkeeping. Furthermore, the comptroller noted that transactions in money market fund shares derive primarily from accounts over which the banks exercise investment discretion and therefore are not required to be confirmed on an individual basis except upon customer request (Section 12.5(b) and Section 12.5(c)).

10. A question was raised with regard to the applicability of Part 12 to employee benefit accounts for which a national bank acts as Investment Manager, as defined in Section 3(38) of the Employees Retirement Income Security Act of 1974, with another entity acting as trustee and/or custodian of the

assets. The Investment Manager concept permits one bank to be sole trustee of a pension plan ("Master Trustee"), rendering to the plan sponsor uniform accounting reports including cash statements and valuation statements, while accepting investment direction as to specified parts of the pension plan assets from Investment Managers (another bank, an insurance company, or a registered investment advisor).

In the case of a Master Trust the requirements of the regulation will be served if either the Master Trustee or the Investment Manager maintains the specified records and gives prescribed statements and confirmations in accordance with the requirements of Part 12. Any national bank serving either as Master Trustee or Investment manager should ensure that the requirements of the regulation are being met, either through performing the functions required by the regulation itself or contracting with another party that that party should do so.

DRAFTING INFORMATION: The principal drafter of this ruling is Ralph Janvey, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219.

Authority: 12 U.S.C. 24 and 12 U.S.C. 92a.

Adoption of Amendment. Accordingly, the Comptroller amends 12 CFR Part 12 as set forth below.

PART 12—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

1. Section 12.5 is amended by revising paragraphs (a) and (c) to read as follows:

§ 12.5 Time of notification.

The time for mailing or otherwise furnishing the written notification described in 12 CFR 12.4 shall be five business days from the date of the transaction, or if a broker/dealer is utilized, within five business days from the receipt by the bank of the broker/dealer's confirmation, but the bank may elect to use the following alternative procedures if the transaction is effected for:

(a) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement as to the time and content of the notification; provided, however, that such agreement makes clear the customer's right to receive the written notification within the prescribed time period at no additional cost to the customer;

(c) Accounts where the bank exercises investment discretion in an agency capacity, in which instance (1) the bank shall mail or otherwise furnish to each customer not less frequently than once every three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period, and (2) if requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the written notification described in 12 CFR 12.4. The bank may charge a reasonable fee for providing the information described in 12 CFR 12.4;

2. Paragraph (d) of § 12.6 is revised.

§ 12.6 Securities trading policies and procedures.

Every national bank effecting securities transactions for customers shall establish written policies and procedures providing:

(d) That bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares or U.S. government or federal agency obligations, and all transactions involving in the aggregate \$10,000 or less during the calendar quarter.

3. Paragraph (a) of § 12.7 is revised.

§ 12.7 Exceptions.

The following exceptions to this Part shall apply:

(a) The requirements of 12 CFR 12.3(b) through 12 CFR 12.3(d) and 12 CFR 12.6(a) through 12 CFR 12.6(c) shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three

calendar year period, exclusive of transactions in U.S. government and federal agency obligations.

Dated: December 21, 1979.
John G. Heimann,
Comptroller of the Currency.
[FR Doc. 79-38649 Filed 12-28-79; 8:45 am]
BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0239]

Truth in Lending; Calculation and Disclosure of Annual Percentage Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting revisions in the requirements of Regulation Z, Truth in Lending, with regard to the calculation and disclosure of the annual percentage rate and other credit terms. The most important changes are: (1) adoption of a tolerance of $\frac{1}{8}$ of 1 percentage point in either direction from the exact annual percentage rate, in place of the existing rounding rule; (2) adoption of simplified rules for treating minor payment schedule variations; and (3) expansion of the protection available to creditors who have relied in good faith on faulty calculation tools. The revisions, which are set forth below, include amendments to §§ 226.5 and 226.8 of the regulation, deletion of several Board Interpretations, and expansion of Supplement I to Regulation Z. The issues addressed were the subject of a prior proposal published by the Board (44 FR 45141, August 1, 1979).

EFFECTIVE DATE: January 10, 1980, but compliance optional until October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Dolores S. Smith, Section Chief (202-452-2412), Ellen Maland, Attorney (202-452-3867), or Margaret Stewart, Attorney (202-452-2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Regarding the economic impact analysis: Thomas A. Durkin, Economist (202-452-2503), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) Introduction. In January 1979, the

Board's staff undertook an extensive review of the provisions of Regulation Z relating to calculation and disclosure of the annual percentage rate. This rate expresses in percentage terms the cost of a consumer credit transaction. Because of its usefulness as a tool for comparing various credit sources, this term is considered to be the most important disclosure required by the Truth in Lending Act. The Act directs the Board, as part of its rulemaking responsibilities, to prescribe rules for calculating and disclosing this rate.

The review focused primarily on the variety of special rules in the regulation regarding annual percentage rate determination and the absence of specific guidance in certain areas. The study was prompted by adoption in January 1979 of uniform guidelines for the enforcement of Regulation Z (44 FR 1222, January 4, 1979), efforts by Congress and the Board to simplify the requirements of the Act and Regulation Z, and the Board's Regulatory Improvement Project.

The proposal published by the Board last January (44 FR 1116, January 4, 1979) described five areas in which the Board believed clarification or further guidance was necessary, together with alternative ways of dealing with the issues raised. Based on the more than 300 comments received in response to this publication, the Board in August 1979 (44 FR 45141, August 1, 1979), published specific regulatory changes which it proposed to make regarding these issues. The August publication proposed amendments to §§ 226.5 and 226.8 of the regulation, revision of the Board's Supplement I (the rules for determination of the annual percentage rate), and revision of Volume I of the Board's Annual Percentage Rate Tables.

Approximately 235 commenters responded to the August proposal. The great majority of comments were from banks and other financial institutions. Based on these comments and the Board staff's analysis, the Board now adopts amendments to §§ 226.5 and 226.8, together with revisions to Supplement I to Regulation Z. These changes are discussed below. The Board has decided not to make the proposed changes to Volume I of the Board's Annual Percentage Rate Tables.

In order to assist creditors in adapting to the requirements of the regulation as amended, the Board will not require them to comply with the revised regulation until October 1, 1980. However, the Board notes that many of the revisions, such as the $\frac{1}{4}$ of 1 percentage point tolerance, provide creditors with greater protection than is available to them under the existing

regulation. Therefore, the Board has determined that the revised provisions should be effective concurrently with the existing regulation until October 1, 1980. Creditors who have the capability and who wish to comply with the revisions before that time may do so, while creditors who require a longer period of adjustment may continue to operate under the existing rules in the interim. After October 1, 1980, all creditors will be required to comply with the new rules.

Set forth below is a discussion of the changes to be made and the economic impact of the changes, followed by the text of the amendments to §§ 226.5 and 226.8, and the revised Supplement I to Regulation Z.

(2) Regulatory Provisions. *Tolerance.* Section 226.5(b)(1) sets forth the general standard of accuracy for calculation and disclosure of the annual percentage rate in closed end credit transactions. An annual percentage rate will be considered accurate, subject to the exceptions discussed below, if it is within $\frac{1}{4}$ of 1 percentage point above or below the exact annual percentage rate. Currently, the annual percentage rate must be disclosed either as an exact rate or rounded to the nearest $\frac{1}{4}$ of 1 percentage point.

The Board notes that the $\frac{1}{4}$ of 1 percentage point tolerance is in accord with the Truth in Lending amendments now being considered by Congress and that a large majority of the commenters addressing this issue supported such a tolerance. The comments indicated no basis for applying different tolerance rules depending on such factors as length of the transaction or type of credit extended. Therefore, the tolerance will be available, as a general rule, without regard to any distinguishing factors.

The regulation continues to recognize both the actuarial method and the United States Rule method in calculation of the annual percentage rate. Under the actuarial method, the unpaid balance of the obligation is increased by the finance charge earned during each unit-period (or fractional unit-period), and decreased by any payments made at the end of that period. Under the United States Rule method, which is used by many credit unions, any earned, unpaid finance charge is not added to the unpaid balance of the obligation, but is accumulated separately until such time as payments are sufficient to pay the earned unpaid finance charge. A second characteristic distinguishing this method from the actuarial method is that no interest calculation is made until a payment is received.

In application of the $\frac{1}{4}$ of 1 percentage point tolerance, the accuracy of the disclosed annual percentage rate will be judged in accordance with whichever of these two methods was used in calculating the disclosed rate. In transactions involving equal payments and equal periods, either method will produce the same annual percentage rate. In irregular transactions, however, there may be slight variations in the annual percentage rate.

Supplement I. Supplement I to Regulation Z, which was first adopted 10 years ago, sets forth equations and instructions for determining the exact annual percentage rate. This material, which is incorporated by reference in the regulation, is not intended for day-to-day use by creditors in their lending operations. Rather, it is used by manufacturers of calculation tools in producing and verifying their products. These products are in turn used by a great majority of creditors; in this sense, the supplement provides a standard of accuracy for the credit industry.

In its August proposal, the Board suggested revising Supplement I to expand the number and variety of examples, to include explanations and equations for determining the annual percentage rate in accordance with the United States Rule as well as the actuarial method, and to provide further guidance on determination of unit-periods and fractional unit-periods.

With the exception of the material relating to the United States Rule, the revisions proposed in Supplement I have been adopted by the Board. The material relating to the United States Rule has not been adopted because the comments and other information available to the Board indicated that there is no compelling need for this material. In view of the apparent lack of necessity for such an expansion, the Board has determined that Supplement I should continue to be based solely on the actuarial method. As indicated above, however, the supplement has been expanded to provide further examples and more specificity regarding the determination of unit-periods and fractional unit-periods. The existing Supplement I permits fractional unit-periods in the denominator for the actuarial method equation to be expressed in either a linear or an exponential form. In order to provide a more uniform standard, the new supplement requires the use of the linear form, which is widely used in the credit industry.

Board tables and other tools. Section 226.5(b)(2)(i) describes Volumes I and II of the Annual Percentage Rate Tables. This material provides creditors with a

readily-usable calculation tool applying the technical information contained in Supplement I. An annual percentage rate computed in accordance with the instructions in the tables is deemed to comply with the regulation, even in those cases where its use may produce an annual percentage rate that falls outside the general rule on accuracy. Volume I, the more commonly-used of the tables, applies to credit transactions involving equal payment amounts and periods, as well as to transactions with an odd first payment, odd first period, or odd final payment.

In its August proposal, the Board had suggested revising Volume I by expanding the explanatory material regarding its use, amending the adjustments needed to accommodate certain irregularities, and reprinting the factor tables in $\frac{1}{4}$ of 1 percentage point rather than $\frac{1}{4}$ of 1 percentage point increments. The Board has now determined that the proposed changes are not warranted. In making this decision, the Board was particularly mindful of the possible difficulties creditors would experience in adjusting to the new material, as compared to the relatively slight increase in accuracy produced by the revisions. The Board also notes that this volume has been widely distributed throughout the credit industry in the last 10 years, compounding the difficulty of disseminating new material.

Section 226.5(b)(2)(ii) authorizes the use of any other computation tool, including charts, tables, computers and calculators, which produces the same degree of accuracy as called for by § 226.5(b)(1).

Single add-on rate. Section 226.5(b)(3) permits creditors assessing finance charges in a certain manner to disclose an annual percentage rate which may not meet the general accuracy requirements of the regulation. Where a single add-on rate is applied to all transactions up to 60 months in length, the creditor may disclose for all those transactions the single highest annual percentage rate. For example, an add-on rate of \$10 per \$100 per year would produce the following annual percentage rates at various maturities: at 3 months, 14.9%; at 21 months, 18.18%; and at 60 months, 17.27%. Under this provision, the creditor may disclose for all transactions up to 60 months an annual percentage rate of 18.18% (the highest annual percentage rate). This provision reflects the current Board Interpretation § 226.502. In its August proposal, the Board had suggested limiting this special rule to transactions with maturities greater than 9 months since short-term

transactions produce the greatest degree of overstatement. As an alternative, the Board also requested comment on whether the rule could be eliminated entirely.

The available evidence indicates that the present rule may still be necessary for certain creditors, for short term transactions as well as those over 9 months in length. Therefore, the Board is retaining the current rule enunciated in Interpretation § 226.502. For organizational purposes, however, the Board is eliminating the interpretation and placing this special rule in the body of the regulation itself, as reflected in § 226.5(b)(3). The Board emphasizes that this provision continues to be available only in transactions which are payable in equal installments at equal intervals.

Range of balances. Section 226.5(b)(4), like the preceding paragraph, represents an exception to the general rule on accuracy of disclosed rates, for creditors assessing finance charges by a certain method. This special rule is currently reflected in § 226.5(c)(2)(iv). Under this rule, creditors applying a single finance charge to all balances within a specified range may understate the annual percentage rate by up to 8% of the actual rate for the lowest balance, by disclosing for all balances within that range the annual percentage rate computed on the median balance. That is, if a finance charge of \$9 applies to all balances between \$91 and \$100, an annual percentage rate of 10% (the rate on the median balance) may be disclosed as the annual percentage rate for all balances, even though a \$9 finance charge applied to the lowest balance (\$91) would actually produce an annual percentage rate of 10.7%.

In its August publication, the Board had proposed two alternatives: (1) limit the special rule to transactions involving orders by mail or telephone, or (2) eliminate the special provision entirely. The available evidence indicates that a need may continue to exist for this provision, but only with respect to the preliminary disclosures made on series of sales agreements and orders by mail or telephone. Therefore, the Board is limiting § 226.5(b)(4) to annual percentage rates disclosed pursuant to §§ 226.8(g)(1) and (2) and 226.8(h)(1).

Minor irregularities—annual percentage rate.—The Board is adopting two provisions, §§ 226.5(b)(5) and 226.8(r), that deal with the impact of minor payment schedule irregularities on the annual percentage rate, finance charge and other disclosures. A common irregularity is an initial payment period that is longer or shorter than the other periods; another involves one payment

that differs in amount from the other payments.

The new § 226.5(b)(5) states that, for purposes of computing an annual percentage rate, the irregularity of an initial payment period may be disregarded if it is within a specified number of days longer or shorter than a regular period. Since first period irregularities have a greater impact on the rate in short-term than in long-term transactions, the provision makes distinctions based on the length of the term. The degree of first period irregularity that may be ignored under the new provision is shown in the following table:

For a term of the transaction of:	Up to 1 yr.	At least 1 yr. Less than 10 yrs	10 yrs and over.
The first period may be treated as regular if it differs from regular by up to this many days.	6 shorter, 13 longer.	11 shorter, 21 longer.	Any number shorter, 32 longer.

In addition, any payment irregularity that results from an irregularity in the first period within these specified ranges could also be disregarded.

This new provision replaces the minor irregularities provisions in the existing § 226.5(d) of the regulation and Board Interpretation § 226.503. It provides a similar approach in defining which irregularities in the first period may be disregarded by comparing the number of days in the irregular period to the number of days in a regular period. The new rules are simpler to apply, however, since they make no distinctions based on the length of the unit-period. Elimination of that distinction appears justified since the effect of first period variations on the annual percentage rate is more closely related to the term of the transaction than to the unit-period's length; furthermore, dropping the distinction permits a simpler and more understandable rule for determining which irregularities may be disregarded. The ranges of irregularities specified are basically those that have been applicable to transactions payable monthly under the existing rules. This choice was made because a month is the most common unit-period and because those ranges are the most generous.

The new provision also differs from the existing version in its treatment of variations in payment amounts. The existing rule requires that the irregular payment be measured against the regular payment to see if it falls within 25% or 50% (depending on the transaction's term) of the regular payment. If it met that test, it could be disregarded. The new rule simply states

that any payment irregularity that results from a first period irregularity within the specified ranges may be ignored. By describing the variation in payment amount in terms of its cause, the most common minor irregularity will be taken care of, while the need to independently measure the irregular payment is eliminated.

In its August proposal, the Board had offered three alternative ways of dealing with the effect on the annual percentage rate of payment schedule irregularities. The most stringent of the alternatives was to eliminate the minor irregularities provisions and require all creditors to disclose a rate meeting the general standard of accuracy of $\frac{1}{2}$ of 1 percentage point. There was relatively little support for this approach among the commenters. The second alternative suggested was to continue the approach currently taken and simply improve the regulatory language. This alternative received the greatest support from the commenters. The third option was to replace the existing provision with one permitting a larger degree of overstatement (but a smaller degree of understatement) where an initial payment or payment period is irregular.

The board has chosen the second of the three alternatives by adopting a provision that provides essentially the same protections now available to creditors computing an annual percentage rate, while simplifying the determination of which irregularities fall within the specified ranges.

Minor irregularities—finance charge. The new § 226.8(r) provides a similar minor irregularities provision for purposes of computing and disclosing the finance charge and the schedule of payments. It is parallel to the annual percentage rate provision discussed above, new § 226.5(b)(5), in that it defines in the same way the first period irregularities that may be disregarded. It differs from both Board Interpretation § 226.503 (which it replaces) and the new § 226.5(b)(5), however, in that it permits disregarding only variations in the final payment that result from first period irregularities. The Board believes that this limitation is warranted, on the grounds that adjustments made in other ways do not require this special treatment. If an adjustment is made to the first payment to account for an irregular first period (for example, where a first payment due January 1 on a mortgage loan made on November 20 is increased to pay the extra 10 days' interest) or where the charge for the odd first period is spread out among all the payments, it is a simple matter to reflect the adjustments when disclosing the

finance charge and the payment schedule.

The minor irregularities protection is needed, however, when the adjustment for an irregular first period is made at the end of the transaction. For example, a credit union making a loan on November 20 with the first payment due January 1 will frequently collect payments that are determined as if there were a regular first period, but will accrue interest based on the actual time the principal is outstanding and will adjust the final payment to account for the effect of the long first period. The new § 226.8(r) permits the credit union to disregard the effect of such a practice in disclosing the finance charge and payment schedule.

This provision differs from the one proposed in August in several ways. Its applicability is not limited to certain so-called simple interest obligations. Furthermore, it permits less overstatement (resulting from long first periods), while countenancing some degree of understatement (resulting from short first periods). The comments suggested that long first periods are far more common than short ones and that the minor irregularities provision should be expanded to cover them. In addition, the provision adopted has the advantage of providing parallel rules for defining period irregularities for purposes of both annual percentage rate and finance charge computation.

It should be noted in connection with both of the minor irregularities provisions that creditors are always free to arrange payment schedules with irregularities that fall outside the categories defined in those provisions. In such cases, a creditor has two choices: it can take specific account of the effect such irregularities have on the disclosures; alternatively, in the case of the annual percentage rate, it can ignore the irregularity provided the disclosed rate is not more than $\frac{1}{2}$ of 1 percentage point from the true rate.

Certain creditor practices. The new § 226.8(s) states that, when making calculations and disclosures, creditors may ignore the effect of certain facts or practices, namely, collecting of payments in whole cents, changing dates of payments and advances when the scheduled date falls on a weekend or holiday, and the fact that months have different numbers of days. These things have very slight effects on disclosures and the Board believes the negligible benefit to consumers of taking account of such matters does not justify the burden of doing so.

This provision differs from the August proposal in that the authorization to treat all months as equal is not

restricted to simple interest creditors, and the requirement to mark as an estimate the finance charge disclosed in reliance on such a provision has been deleted.

Faulty calculation tools. Section 226.5(c) represents an extension of the existing § 226.5(c)(3). Under the latter provision, an annual percentage rate or finance charge error that results from an error in the chart or table used by the creditor does not violate Regulation Z. The Board proposed in its August publication to extend this provision to errors resulting from the use of faulty calculators and computers, or, in the alternative, to eliminate the provision entirely. The first alternative—extension of the protection to all types of calculation tools—would not have extended to the software or programming elements of electronic calculation tools. This proposal was suggested in an effort to limit the protection of the rule to errors beyond the creditor's control and to alleviate possible enforcement difficulties in confirming errors in software.

The comments received by the Board on this issue clearly supported the extension of the provision to all calculation tools, including software elements of calculators and computers. The Board believes that this protection should be made available for all calculation tools, without regard to type, and new § 226.5(c), set forth below, reflects this decision. In the Board's view, the vast majority of creditors do not possess the specialized technical knowledge necessary to evaluate calculation tools internally and must continue to rely on the producers of those tools to provide that knowledge.

The inaccuracies which may be countenanced by this provision will, in the Board's view, be offset by the restrictions imposed on the availability of the protection. First, the creditor's reliance on the tool must be in good faith. This imposes on the creditor a reasonable degree of responsibility for assuring that the tool in question provides the degree of accuracy required by the regulation. For example, the creditor might verify the results obtained by use of the tool by comparing those results to the figures obtained by use of another calculation tool. The creditor might also reasonably rely on the expertise of the enforcement agency in making such a determination.

Second, any creditor with reason to believe that the tool is in fact inaccurate must promptly discontinue use of that tool and notify the Federal Reserve Board of the error. That is, a creditor who was aware of the error and continued to use the tool for disclosure

purposes would no longer have the protection of § 226.5(c) as to inaccurate disclosures made after that time. The Board imposes no specific requirement on creditors with regard to the information contained in the notification to the Board. However, the description of the tool in question must be specific enough to identify the tool. The Board envisions that the notification would normally include the name of the manufacturer or producer of the tool, a trade name, or a model name or number. In describing the error, the creditor need not identify the specific source of the error, as for example by determining the steps in a calculator program which produced the inaccurate results. While the creditor is encouraged to include its opinion regarding the source of the error, a description of the erroneous results and the transactions to which they relate would be sufficient for purposes of this requirement.

Open end credit. Section 226.5(a), relating to the determination of the annual percentage rate in open end credit, has been retained in its present form except for the addition of the $\frac{1}{2}$ of 1 percentage point tolerance. Thus, an annual percentage rate calculated and disclosed pursuant to § 226.5(a) would be subject to the same standard of accuracy as that set forth for closed end credit transactions. The Board staff's analysis, together with the comments, indicates no basis for making any other changes in the provisions of § 226.5(a) at this time.

Effective date. In accordance with 5 U.S.C. 553(d)(1) and (3), the Board has determined that the effective date of these amendments need not be delayed 30 days, but may be issued effective immediately since these amendments for the most part are less restrictive than the provisions that they replace. In addition, compliance with the amendments is not required until 9 months have elapsed, thus providing persons subject to these provisions sufficient time to analyze their procedures and tools in light of the changes made and adjust to the new requirements. Although mandatory compliance is not immediately required, the Board has determined that both the new and existing provisions shall be in effect concurrently during the 9-month interim period so that creditors wishing and able to take advantage of the new provisions at this time may do so.

(3) Economic Impact Analysis. According to § 102 of the Act, Truth in Lending was intended "to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit

terms available to him and avoid the uninformed use of credit. . . ." However, in the 10 years since the effective date of the Act, the complexity of the Act and its implementing regulation has presented serious compliance difficulties. Despite indications that most financial institutions have made good-faith attempts to comply with Regulation Z, technical violations are common. In its *Annual Report on Truth in Lending for the Year 1978*, the Board reported that more than four-fifths of the banks and almost three-fifths of the credit unions examined that year by the Federal regulatory agencies were found not to be in complete compliance with Regulation Z. This *Annual Report* indicated, though, that "for both kinds of institutions most violations were nonsubstantive." (See p. 11, *Annual Report for 1978*.) Nonsubstantive violations include such things as errors that might arise on account of misunderstanding the regulation, clerical errors, carelessness, and oversights that do not materially affect the accuracy of the most important disclosures. The difficulties of complying in good faith with a complex law and regulation, along with indications that not all current provisions of Truth in Lending are helpful to consumers in shopping for credit, have prompted Congressional calls for Truth in Lending simplification.

Earlier this year, as part of its own efforts to simplify its regulations, the Board requested public comment on certain relatively technical issues concerning methods of calculating and disclosing annual percentage rates and finance charges under Regulation Z (44 FR 1116, January 4, 1979, and 44 FR 45141, August 1, 1979). Each of the changes resulting from this review appears to be consistent with the goal of simplifying the regulation. In general, the amendments should increase somewhat the levels of technical compliance with the regulation without requiring creditors to make costly adjustments in their operations. Also, although technical compliance is made somewhat easier, it is done without sacrificing important consumer protections.

The first major amendment concerns the degree of tolerance allowed in disclosures of annual percentage rates which would comply with Regulation Z. Existing § 226.5(b) of Regulation Z requires, as a general rule, that the annual percentage rate disclosed be either the precise rate or the precise rate rounded to the nearest $\frac{1}{4}$ of 1 percentage point. Apparently some creditors have interpreted this provision to be a true tolerance, which it is not.

The amendment will permit a fixed tolerance of $\pm \frac{1}{4}$ of 1 percentage point on all transactions, which is the tolerance proposed in the Truth in Lending Simplification Act that has passed the Senate. The amendment will have the effect of bringing into compliance some transactions which are, technically, not in compliance because of misconceptions about or errors in using the rounding rule. Consumer protections should not be sacrificed because the tolerance allowed to aid compliance is relatively narrow. At present, there is no available evidence that consumers make credit decisions on the basis of variations in annual percentage rates as small as $\frac{1}{4}$ of 1 percentage point. In terms of dollars and cents, a tolerance of $\frac{1}{4}$ of 1 percentage point is about 7 cents per \$100 financed on 12-month loans and about 22 cents per \$100 on 36-month loans. On larger, longer-term loans like mortgages where $\frac{1}{4}$ of 1 percentage point may be more significant in absolute dollar terms, it is still a small proportion of the annual percentage rate at current market levels.

The second major amendment concerns the part of Regulation Z known as the minor irregularities rule. A relatively narrow tolerance, such as the tolerance resulting from either the $\frac{1}{4}$ of 1 percentage point rule or the rule of rounding to the nearest $\frac{1}{4}$ of 1 percentage point, may not be sufficient to ease certain compliance problems in cases involving irregular payments. Creditors often arrange, mostly for the convenience of their customers, payment patterns which allow minor irregularities in the schedule of payments. A common example is an abnormally long first period so that monthly payments can be due on the customer's payday. The problem is that on loans with relatively short maturities a long (or short) first payment or other irregularity may cause the true annual percentage rate to deviate from the disclosed rate by more than the allowed tolerance. The result is an added burden for creditors attempting to comply with the regulation in good faith but also trying to satisfy the payment period desires of their customers. For this reason Regulation Z allows, in effect, wider tolerances for certain variations in payment amounts and patterns that fall within the minor irregularities provisions.

The existing minor irregularities rule is complex. It allows a payment to be classified as regular for purposes of computing an annual percentage rate if it varies in size from regular payments by no more than a certain percentage. It

also permits a first payment period to be treated as regular if it varies from the other periods by no more than a certain number of days. The number of days in first periods that may be counted as regular depends upon the frequency of payment and upon the original maturity of the loan contract. All other payments must be equal in size and be scheduled at equal intervals.

The new minor irregularities provisions appear to be a useful simplification because they achieve the basic purpose of the minor irregularities rule—reducing the compliance burden for creditors attempting to accommodate customers—and it makes the present rule clearer and easier to understand. This approach, together with the tolerance rule, should aid good-faith compliance efforts somewhat, especially for newer or smaller creditors not as familiar with the technicalities of Regulation Z but attempting to comply without the aid of expensive legal advice or calculating equipment. For two reasons it does not seem that understatement or overstatement of the annual percentage rate disclosed as a result of the minor irregularities rule is harmful to consumers. First, if a long first period or a smaller first payment is counted as regular under the minor irregularities rule, to the extent that the disclosed rate varies from the exact annual percentage rate, the exact rate will be lower. Since a long first period is probably the most frequent minor irregularity, consumers generally will not be burdened with annual percentage rates higher than those disclosed. Second, minor irregularities in the first period are often arranged for the convenience of consumers after the essentials of the credit offer are accepted. As a result, variations in annual percentage rates resulting from minor irregularities in such cases are not likely to be very useful in credit shopping.

The third major provision concerns extending to users of calculating equipment the existing protection from liability provided to creditors relying in good faith on faulty charts or tables. In many cases the sophistication of the technical skills needed to evaluate the performance of these tools requires creditors to rely on the assurances of manufacturers. On occasion, minor errors beyond their control could subject creditors to major litigation costs and civil penalties. Although the $\frac{1}{2}$ of 1 percentage point tolerance may obviate the need for protection from some minor errors, protection for a creditor using calculating devices and computers in good faith appears reasonable.

Consumer's interests should be protected by the fact that conscious errors or continued use of devices known to produce erroneous results would subject creditors to the penalties of Truth in Lending, as with any other violation. Furthermore, protection for creditors using calculating devices and computers in good faith should facilitate the adoption of improved calculating equipment.

(4) Text of Amendments. In consideration of the foregoing and pursuant to the authority granted in § 105 of the Truth in Lending Act (15 U.S.C. 1604 (1970)), the Board amends Regulation Z (12 C.F.R. Part 226) as follows:

§ 226.5. [Amended]

1. Effective October 1, 1980, existing § 226.5(a) is amended by deleting both the title "General rule—open end credit accounts" and the first sentence beginning "The annual percentage rates for open end credit" and ending "nearest quarter of 1 percent."; §§ 226.5 (b) through (e), Interpretations §§ 226.500, 226.503, and 226.505, and Supplement I to Regulation Z are rescinded.

2. Effective January 10, 1980 § 226.5 is amended by amending paragraph (a) and revising paragraphs (b) and (c) in their entirety. Section 226.8 is amended by adding paragraphs (r) and (s) and Supplement I to Regulation Z, to read as follows:

§ 226.5. Determination of annual percentage rate.

(a) *Open end credit—general rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate. An annual percentage rate shall be considered accurate if it is not more than $\frac{1}{2}$ of 1 percentage point above or below the annual percentage rate determined in accordance with this section.

(b) *Credit other than open end. (1) General rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, which relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method and shall be considered accurate if it is not more than $\frac{1}{2}$ of 1 percentage point above or below the annual percentage rate determined in accordance with whichever method is used. Explanations, equations and instructions for determining the annual

percentage rate is accordance with the actuarial method are set forth in Supplement I, which is incorporated in this Part by reference.

(2) *Computation tools.* (i) The Regulation Z Annual Percentage Rate Tables produced by the Board may be used to determine the annual percentage rate, and any such rate determined from these tables in accordance with the instructions contained therein will comply with the requirements of this section. Volume I of the tables applies to single advance transactions involving up to 480 monthly payments or 104 weekly payments. It may be used for regular transactions, and for transactions with any of the following irregularities: an odd first period, an odd first payment, and an odd final payment. Volume II applies to transactions involving multiple advances and any type of payment or period irregularity.

(ii) Creditors may use any other computation tool in determining the annual percentage rate so long as the annual percentage rate so determined equals the annual percentage rate determined in accordance with Supplemental I, within the degree of accuracy set forth in paragraph (b)(1) of this section.

(iii) Supplement I and Volumes I and II may be obtained from any Federal Reserve Bank or from the Board in Washington, D.C. 20551.

(3) *Single add-on rate transactions.* If a single add-on rate is applied to all transactions with maturities up to 60 months and if all payments are equal in amount and period, a single annual percentage rate may be disclosed for all such transactions, provided that it is the highest annual percentage rate for any such transaction.

(4) *Certain transactions involving ranges of balances.* For purposes of disclosing the annual percentage rate referred to in §§ 226.8(g) (1) and (2) (Orders by mail or telephone) and 226.8(h)(1) (Series of sales), if the same finance charge is imposed on all balances within a specified range of balances, the annual percentage rate computed for the median balance may be disclosed for all of the balances. However, if the annual percentage rate computed for the median balance understates the annual percentage rate computed for the lowest balance by more than 8% of the latter rate, the annual percentage rate shall be computed on whatever lower balance will produce an annual percentage rate which does not result in an understatement of more than 8% of the rate determined on the lowest balance.

(5) *Payment schedule irregularities.* In determining and disclosing the annual

percentage rate, a creditor may disregard an irregularity in the first period ^{1*} that falls within the limits described below and any payment schedule irregularity that results from the irregular first period:

(i) For transactions in which the term ^{1*} is less than 1 year: a first period not more than 6 days shorter or 13 days longer than a regular period;

(ii) For transactions in which the term is at least 1 year and less than 10 years: a first period not more than 11 days shorter or 21 days longer than a regular period; or

(iii) For transactions in which the term is at least 10 years: a first period shorter than or not more than 32 days longer than a regular period.

(c) *Errors in calculation tools.* An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this Part if:

(1) The error resulted from a corresponding error in any calculation tool, such as a chart, table, calculator or computer, used in good faith by the creditor; and

(2) Upon discovery of the error, the creditor promptly

(i) Discontinues use of that calculation tool for disclosure purposes, and

(ii) Notifies the Board in writing of the error in the calculation tool. The notification shall include an identification of the tool and a description of the error, and shall be addressed to the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

§ 226.9 Credit other than open end—specific disclosure.

(r) *Payment schedule irregularities.* In determining and disclosing the finance charge and the payment schedule under paragraph (b)(3) of this section, a creditor may disregard an irregular final payment or portion of a final payment that results from an irregular first period ^{1*} within the limits described below and may treat the irregular first period as if it were regular:

^{1*} For purposes of this paragraph, the "first period" is the period from the date on which the finance charge begins to be earned to the date of the first payment, and the "term" is the period from the date on which the finance charge begins to be earned to the date of the final payment.

^{1*} For purposes of this paragraph, the "first period" is the period from the date on which the finance charge begins to be earned to the date of the first payment, and the "term" is the period from the date on which the finance charge begins to be earned to the date of the final payment.

(i) For transactions in which the term ^{1*} is less than 1 year: a first period not more than 6 days shorter or 13 days longer than a regular period;

(ii) For transactions in which the term is at least 1 year and less than 10 years: a first period not more than 11 days shorter or 21 days longer than a regular period; or

(iii) For transactions in which the term is at least 10 years: a first period shorter than or not more than 32 days longer than a regular period.

(s) *Disregarding certain practices.* In making calculations and disclosures, a creditor need not take into account the effects of the following:

(1) The fact that payments are collected in whole cents;

(2) The fact that the dates of payments and advances are changed because the scheduled date falls on a Saturday, Sunday, or holiday; and

(3) The fact that months have different numbers of days.

Supplement I to Regulation Z

Rules for Determining the Annual Percentage Rate for Other than Open End Credit Transactions Pursuant to § 226.5(b) of Regulation Z

I. Introduction

Section 226.5(b) of Regulation Z provides that the annual percentage rate for other than open end credit transactions shall be determined in accordance with either the actuarial method or the United States Rule method. This supplement contains an explanation of the actuarial method as well as equations, instructions and examples of how this method applies to single advance and multiple advance transactions and transactions involving required deposit balances (as defined in § 226.8(e) of the regulation).

Under the actuarial method, at the end of each unit-period (or fractional unit-period) the unpaid balance of the amount financed is increased by the finance charge earned during that period and is decreased by the total payment (if any) made at the end of that period. The determination of unit-periods and fractional unit-periods shall be consistent with the definitions and rules in Sections II (C), (D) and (E) and the general equation in Section II (H).

In contrast, under the United States Rule method, at the end of each payment period, the unpaid balance of the amount financed is increased by the finance charge earned during that payment period and is decreased by the payment made at the end of that payment period. If the payment is less than the finance charge earned, the adjustment of the unpaid balance of the amount financed is postponed until the end of the next payment period. If at that time the sum of the two payments is still less than the total accrued finance charge for the two payment periods, the adjustment of the unpaid balance of the amount financed is postponed still another payment period, and so forth.

II. Instructions and Equations for the Actuarial Method

(A) *General rule.* The annual percentage rate shall be the nominal annual percentage rate determined by multiplying the unit-period rate by the number of unit-periods in a year.

(B) *Term of the transaction.* The term of the transaction begins on the date of its consummation, except that if the finance charge or any portion of it is earned beginning on some other date, the term begins on that other date. The term ends on the date the last payment is due, except that if an advance is scheduled after that date, the term ends on the later date. For computation purposes, the length of the term shall be equal to the time interval between any point in time on the beginning date to the same point in time on the ending date.

(C) *Definitions of time intervals.* (1) A period is the interval of time between advances or between payments and includes the interval of time between the date the finance charge begins to be earned and the date of the first advance thereafter or the date of the first payment thereafter, as applicable.

(2) A common period is any period that occurs more than once in a transaction.

(3) A standard interval of time is a day, week, semimonth, month, or a multiple of a week or a month up to, but not exceeding, 1 year.

(4) All months shall be considered equal. Full months shall be measured from any point in time on a given date of a given month to the same point in time on the same date of another month. If a series of payments (or advances) is scheduled for the last day of each month, months shall be measured from the last day of the given month to the last day of another month. If payments (or advances) are scheduled for the 29th or 30th of each month, the last day of February shall be used when applicable.

(D) *Unit-period.* (1) In all transactions other than a single advance, single payment transaction, the unit-period shall be that common period, not to exceed 1 year, that occurs most frequently in the transaction, except that

(a) If 2 or more common periods occur with equal frequency, the smaller of such common periods shall be the unit-period; or

(b) If there is no common period in the transaction, the unit-period shall be that period which is the average of all periods rounded to the nearest whole standard interval of time. If the average is equally near 2 standard intervals of time, the lower shall be the unit-period.

(2) In a single advance, single payment transaction, the unit-period shall be the term of the transaction, but shall not exceed 1 year.

(E) *Number of unit-periods between 2 given dates.* (1) The number of days between 2 dates shall be the number of 24-hour intervals between any point in time on the first date to the same point in time on the second date.

(2) If the unit-period is a month, the number of full unit-periods between 2 dates shall be the number of months measured back from the later date. The remaining fraction of a unit-period shall be the number of days

measured forward from the earlier date to the beginning of the first full unit-period, divided by 30. If the unit-period is a month, there are 12 unit-periods per year.

(3) If the unit-period is a semimonth or a multiple of a month not exceeding 11 months, the number of days between 2 dates shall be 30 times the number of full months measured back from the later date, plus the number of remaining days. The number of full unit-periods and the remaining fraction of a unit-period shall be determined by dividing such number of days by 15 in the case of a semimonthly unit-period or by the appropriate multiple of 30 in the case of a multimonethly unit-period. If the unit-period is a semimonth, the number of unit-periods per year shall be 24. If the number of unit-periods is a multiple of a month, the number of unit-periods per year shall be 12 divided by the number of months per unit-period.

(4) If the unit-period is a day, a week, or a multiple of a week, the number of full unit-periods and the remaining fraction of a unit-period shall be determined by dividing the number of days between the 2 given dates by the number of days per unit-period. If the unit-period is a day, the number of unit-periods per year shall be 365. If the unit-period is a week or a multiple of a week, the number of unit-periods per year shall be 52 divided by the number of weeks per unit-period.

(5) If the unit-period is a year, the number of full unit-periods between 2 dates shall be the number of full years (each equal to 12 months) measured back from the later date. The remaining fraction of a unit-period shall be:

(a) The remaining number of months divided by 12 if the remaining interval is equal to a whole number of months, or

(b) The remaining number of days divided by 365 if the remaining interval is not equal to a whole number of months.

(6) In a single advance, single payment transaction in which the term is less than a year and is equal to a whole number of months, the number of unit-periods in the term shall be 1, and the number of unit-periods per year shall be 12 divided by the number of months in the term.

(7) In a single advance, single payment transaction in which the term is less than a year and is not equal to a whole number of months, the number of unit-periods in the term shall be 1, and the number of unit-periods per year shall be 365 divided by the number of days in the term.

(F) *Percentage rate for a fraction of a unit-period.* The percentage rate of finance charge for a fraction (less than 1) of a unit-period shall be equal to such fraction multiplied by the percentage rate of finance charge per unit-period.

(G) *Symbols.* The symbols used to express the terms of a transaction in the equation set forth in Section II (H) are defined as follows:

A_k = The amount of the k th advance.
 q_k = The number of full unit-periods from the beginning of the term of the transaction to the k th advance.
 e_k = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the k th advance.
 m = The number of advances.

P_j = The amount of the j th payment.

t_j = The number of full unit-periods from the beginning of the term of the transaction to the j th payment.

f_j = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the j th payment.

n = The number of payments.

i = The percentage rate of finance charge per unit-period, expressed as a decimal equivalent.

Symbols used in the examples shown in this supplement are defined as follows:

$\ddot{a}_{\overline{x}|i}$ = The present value of 1 per unit-period for x unit-periods, first payment due immediately.

$$= 1 + \frac{1}{(1+i)} + \frac{1}{(1+i)^2} + \dots + \frac{1}{(1+i)^{x-1}}$$

w = The number of unit-periods per year.

$I = wi \times 100$ = The nominal annual percentage rate.

(H) *General equation.* The following equation sets forth the relationship among the terms of a transaction:

$$\frac{A}{(1+e_1)(1+i)^1} + \frac{A}{(1+e_2)(1+i)^2} + \dots + \frac{A}{(1+e_m)(1+i)^m} = \frac{P_1}{(1+f_1)(1+i)^1} + \frac{P_2}{(1+f_2)(1+i)^2} + \dots + \frac{P_n}{(1+f_n)(1+i)^n}$$

(I) *Solution of general equation by iteration process.* The general equation in Section II (H), when applied to a simple transaction in which a loan of \$1,000 is repaid by 36 monthly payments of \$33.61 each, takes the special form:

$$A = \frac{33.61 \ddot{a}_{\overline{36}|i}}{(1+i)}$$

$$I = I_1 + .1 \left[\frac{(A - A')}{(A'' - A')} \right] \\ = 12.50 + .1 \left[\frac{(1000.000000 - 1004.674391)}{(1003.235366 - 1004.674391)} \right] = 12.82483042\%$$

Step 4:

First iteration, let $I_1 = 12.82483042\%$ and repeat

Steps 1, 2, and 3 obtaining a new $I = 12.82557859\%$

Second iteration, let $I_1 = 12.82557859\%$ and repeat

Steps 1, 2, and 3 obtaining a new $I = 12.82557529\%$

In this case, no further iterations are required to obtain the annual percentage rate correct to two decimal places, 12.83%.

When the iteration approach is used, it is expected that calculators or computers will be programmed to carry all available decimals throughout the calculation and that enough iterations will be performed to make virtually certain that the annual percentage rate obtained, when rounded to two decimals, is correct.

Annual percentage rates in the examples below were obtained by using a 10 digit programmable calculator and the iteration procedure described above.

III. Examples for the Actuarial Method

(A) *Single advance transaction, with or without an odd first period, and otherwise regular.* The general equation in Section II (H) can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+f_1)(1+i)} \left(P + \frac{P \ddot{a}_{\overline{n-1}|i}}{(1+i)} \right)$$

Example (A)(1): Monthly payments (regular first period)

Amount advanced (A) = \$5000. Payment (P) = \$230.

Number of payments (n) = 24.

Unit-period = 1 month. Unit-periods per year (w) = 12.

Advance, 1-10-78. First payment, 2-10-78. From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)

Annual percentage rate (I) = wi = .0969 = 9.69%

Example (A)(2): Monthly payments (long first period)

Amount advanced (A) = \$6000. Payment (P) = \$200.

Number of payments (n) = 36.

Unit-period = 1 month. Unit-periods per year (w) = 12.

Advance, 2-10-78. First payment, 4-1-78. From 3-1-78 through 4-1-78 = 1 unit-period. (t = 1)

From 2-10-78 through 3-1-78 = 19 days. (f = 19/30)

Annual percentage rate (I) = wi = .1182 = 11.82%

Example (A)(3): Semimonthly payments (short first period)

Amount advanced (A) = \$5000. Payment (P) = \$219.17.

Number of payments (n) = 24.

Unit-period = 1/2 month. Unit-periods per year (w) = 24.

Advance, 2-23-78. First payment, 3-1-78. Payments made on 1st and 16th of each month.

From 2-23-78 through 3-1-78 = 6 days. (t = 0; f = 6/31)

Annual percentage rate (I) = wi = .1034 = 10.34%

Example (A)(4): Quarterly payments (long first period)

Amount advanced (A) = \$10,000. Payment (P) = \$385.

Number of payments (n) = 40.

Unit-period = 3 months. Unit-periods per year (w) = 4.

Advance, 5-23-78. First payment, 10-1-78. From 7-1-78 through 10-1-78 = 1 unit-period. (t = 1)

From 6-1-78 through 7-1-78 = 1 month = 30 days. From 5-23-78 through 6-1-78 = 9 days. (f = 9/30)

Annual percentage rate (I) = wi = .0897 = 8.97%

Example (A)(5): Weekly payments (long first period)

Amount advanced (A) = \$500. Payment (P) = \$17.60.

Number of payments (n) = 30.

Unit-period = 1 week. Unit-periods per year (w) = 52.

Advance, 3-20-78. First payment, 4-21-78. From 3-24-78 through 4-21-78 = 4 unit-periods. (t = 4)

From 3-20-78 through 3-24-78 = 4 days. (f = 4/7)

Annual percentage rate (I) = wi = .1496 = 14.96%

(B) *Single advance transaction, with an odd first period, with or without an odd first period, and otherwise regular.* The general equation in Section II (H) can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+f_1)(1+i)} \left(P + \frac{P \ddot{a}_{\overline{n-1}|i}}{(1+i)} \right)$$

Example (B)(1): Monthly payments (regular first period and irregular first payment)

Amount advanced (A) = \$5000. First payment (P₁) = \$250.

Regular payment (P) = \$230. Number of payments (n) = 24.

Unit-period = 1 month. Unit-periods per year (w) = 12.

Advance, 1-10-78. First payment, 2-10-78. From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)

Annual percentage rate (I) = wi = .1008 = 10.08%

Example (B)(2): Payments every 4 weeks (long first period and irregular first payment)

Amount advanced (A) = \$400. First payment (P₁) = \$39.50.

Regular payment (P) = \$38.31. Number of payments (n) = 12.

Unit-period = 4 weeks. Unit-periods per year (w) = 13.

Advance, 3-18-78. First payment, 4-20-78. From 3-23-78 through 4-20-78 = 1 unit-period. (t = 1)

From 3-18-78 through 3-23-78 = 5 days. (f = 5/31)

Annual percentage rate (I) = wi = .2850 = 28.50%

(C) *Single advance transaction, with an odd final payment, with or without an odd first period, and otherwise regular.* The general equation in Section II (H) can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+f_1)(1+i)} \left(P + \frac{P \ddot{a}_{\overline{n-1}|i}}{(1+i)} + \frac{P_n}{(1+i)^{n-1}} \right)$$

Example (C)(1): Monthly payments (regular first period and irregular final payment).

Amount advanced (A) = \$5000. Regular payment (P) = \$230.

$$A = \frac{1}{(1+f_1)(1+i)} \left(P + \frac{P \ddot{a}_{\overline{n-1}|i}}{(1+i)} + \frac{P_n}{(1+i)^{n-1}} \right)$$

Example (C)(2): Monthly payments (regular first period, irregular first payment, and irregular final payment)

Amount advanced (A) = \$5000. First payment (P₁) = \$250.

Regular payment (P) = \$230. Final payment (P_n) = \$280.

Number of payments (n) = 24. Unit-period = 1 month.

Unit-periods per year (w) = 12. Advance, 1-10-78. First payment, 2-10-78. From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)

Annual percentage rate (I) = wi = .1090 = 10.90%

Example (C)(3): Payments every two months (short first period, irregular first payment, and irregular final payment)

Amount advanced (A) = \$8000. First payment (P₁) = \$449.36.

Regular payment (P) = \$465. Final payment (P_n) = \$200.

Form 1 - Term less than 1 year:

$$I = 100w \left(\frac{P}{A} - 1 \right)$$

Form 2 - Term more than 1 year but less than 2 years:

$$I = \frac{50}{f} \left\{ \left[(1+f)^2 + 4f \left(\frac{P}{A} - 1 \right) \right]^{1/2} - (1+f) \right\}$$

Form 3 - Term equal to exactly a year or exact multiple of a year.

$$I = 100 \left[\left(\frac{P}{A} \right)^{1/t} - 1 \right]$$

Form 4 - Special form for iteration procedure (no restriction on term)

$$A = \frac{P}{(1+f_1)(1+i)}$$

Example (E)(1): Single advance, single payment (term of less than 1 year, measured in days)

Amount advanced (A) = \$1000. Payment (P) = \$1080.

Final payment (P_n) = \$280. Number of payments (n) = 24.

Unit-period = 1 month. Unit-periods per year (w) = 12.

Advance, 1-10-78. First payment, 2-10-78. From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)

Annual percentage rate (I) = wi = .1050 = 10.50%

Example (C)(2): Payments every 2 weeks (short first period and irregular final payment)

Amount advanced (A) = \$200. Regular payment (P) = \$9.50.

Final payment (P_n) = \$30. Number of payments (n) = 20.

Unit-period = 2 weeks. Unit-periods per year (w) = 26.

Advance, 4-3-78. First payment, 4-11-78. From 4-3-78 through 4-11-78 = 8 days. (t = 0; f = 8/31)

Annual percentage rate (I) = wi = .1222 = 12.22%

(D) *Single advance transaction, with an odd first payment, odd final payment, with or without an odd first period, and otherwise regular.* The general equation in Section II (H) can be put in the following special form for this type of transaction:

Amount advanced (A) = \$200. Regular payment (P) = \$9.50.

Final payment (P_n) = \$30. Number of payments (n) = 20.

Unit-period = 2 weeks. Unit-periods per year (w) = 26.

Advance, 4-3-78. First payment, 4-11-78. From 4-3-78 through 4-11-78 = 8 days. (t = 0; f = 8/31)

Annual percentage rate (I) = wi = .1222 = 12.22%

(E) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Number of payments (n) = 20. Unit-period = 2 months.

Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 22/30)

Annual percentage rate (I) = wi = .0730 = 7.30%

(F) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Unit-period = 2 months. Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 22/30)

Annual percentage rate (I) = wi = .0730 = 7.30%

(G) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Unit-period = 2 months. Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 22/30)

Annual percentage rate (I) = wi = .0730 = 7.30%

(H) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Unit-period = 2 months. Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 22/30)

Annual percentage rate (I) = wi = .0730 = 7.30%

(I) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Unit-period = 2 months. Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 22/30)

Annual percentage rate (I) = wi = .0730 = 7.30%

(J) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Unit-period = 2 months. Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 22/30)

Annual percentage rate (I) = wi = .0730 = 7.30%

(K) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Unit-period = 2 months. Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 22/30)

Annual percentage rate (I) = wi = .0730 = 7.30%

(L) *Single advance, single payment transaction.* The general equation in Section II (H) can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of Section II (I) and can be used for all single advance, single payment transactions regardless of term.

Unit-period = 2 months. Unit-periods per year (w) = 12/2 = 6. Advance, 1-10-78. First payment, 3-1-78. From 2-1-78 through 3-1-78 = 1 month.

Annual percentage rate
(I) = $w_i = .1145 = 11.45\%$. (Use Form 1 or 4.)

Example (E)(2): Single advance, single payment (term of less than 1 year, measured in exact calendar months)
Amount advanced (A) = \$1000. Payment (P) = \$1044.

Unit-period = 6 months. Unit-periods per year (w) = 2.
Advance, 7-15-78. Payment, 1-15-79.
From 7-15-78 through 1-15-79 = 6 mos. ($t_1 = 1$; $f = 0$)

Annual percentage rate
(I) = $w_i = .0880 = 8.80\%$. (Use Form 1 or 4.)

Example (E)(3): Single advance, single payment (term of more than 1 year but less than 2 years, fraction measured in exact months)

Amount advanced (A) = \$1000. Payment (P) = \$1135.19.

Unit-period = 1 year. Unit-periods per year (w) = 1.

Advance, 7-17-78. Payment, 1-17-80.
From 1-17-79 through 1-17-80 = 1 unit period. ($t = 1$)

From 7-17-78 through 1-17-79 = 6 mos. ($f = 6/12$)

Annual percentage rate
(I) = $w_i = .0876 = 8.76\%$. (Use Form 2 or 4.)

Example (E)(4): Single advance, single payment (term of exactly 2 years)

Amount advanced (A) = \$1000. Payment (P) = \$1240.

Unit-period = 1 year. Unit-periods per year (w) = 1.

Advance, 1-3-78. Payment, 1-3-80.

From 1-3-78 through 1-3-79 = 1 unit-period. ($t = 2$; $f = 0$)

Annual percentage rate
(I) = $w_i = .1136 = 11.36\%$. (Use Form 3 or 4.)

(F) Complex single advance transaction.

Example (F)(1): Skipped payment loan (payments every 4 weeks)

A loan of \$2135 is advanced on 1-25-78. It is to be repaid by 24 payments of \$100 each. Payments are due every 4 weeks beginning 2-20-78. However, in those months in which 2 payments would be due, only the first of the two payments is made and the following payment is delayed by 2 weeks to place it in the next month.

Unit-period = 4 weeks. Unit periods per year (w) = $52/4 = 13$.

First series of payments (single payment) occurs 26 days after 1-25-78. ($t_1 = 0$; $f_1 = 26/28$)

Second series of payments begins 9 unit-periods plus 2 weeks after start of second series. ($t_2 = 10$; $f_2 = 12/28$)

Third series of payments begins 6 unit-periods plus 2 weeks after start of second series. ($t_3 = 16$; $f_3 = 26/28$)

Last series of payments begins 6 unit-periods plus 2 weeks after start of third series. ($t_4 = 23$; $f_4 = 12/28$)

The general equation in Section II (H) can be written in the special form:

$$2135 = \frac{100 \ddot{a}_{\overline{9}|i}}{(1+(26/28)i)(1+i)} + \frac{100 \ddot{a}_{\overline{6}|i}}{(1+(12/28)i)(1+i)} + \frac{100 \ddot{a}_{\overline{10}|i}}{(1+(26/28)i)(1+i)} + \frac{100 \ddot{a}_{\overline{3}|i}}{(1+(12/28)i)(1+i)}$$

Annual percentage rate
(I) = $w_i = .1200 = 12.00\%$

Example (F)(2): Skipped payment loan plus single payments

A loan of \$7350 on 3-3-78 is to be repaid by three monthly payments of \$1000 each beginning 9-15-78, plus a single payment of \$2000 on 3-15-79, plus 3 more monthly payments of \$750 each beginning 9-15-79, plus a final payment of \$1000 on 2-1-80.

Unit-period = 1 month. Unit-periods per year (w) = 12.

$$7350 = \frac{1000 \ddot{a}_{\overline{6}|i}}{(1+(12/30)i)(1+i)} + \frac{2000}{(1+(12/30)i)(1+i)} + \frac{750 \ddot{a}_{\overline{18}|i}}{(1+(12/30)i)(1+i)} + \frac{1000}{(1+(29/30)i)(1+i)}$$

Annual percentage rate (I) = $w_i = .1022 = 10.22\%$

Example (F)(3): Mortgage with varying payments

A loan of \$39,688.56 (net) on 4-10-78 is to be repaid by 360 monthly payments beginning 6-1-78. Payments are the same for 12 months at a time as follows:

Year	Monthly payment
1	\$291.81
2	300.18
3	308.78
4	317.61
5	326.65
6	335.92
7	345.42
8	355.15
9	365.12
10	375.39
11	385.78
12	385.42
13	385.03
14	384.62
15	384.17

$$39,688.56 = \frac{291.81}{(1+(21/30)i)(1+i)} + \frac{300.18}{(1+i)} + \frac{308.78}{(1+i)} + \dots + \frac{369.50}{(1+i)}$$

Annual percentage rate (I) = $w_i = .0980 = 9.80\%$

(G) Multiple advance transactions.

Example (G)(1): Construction loan

Three advances of \$20,000 each are made on 4-10-79, 6-12-79, and 9-18-79. Repayment is by 240 monthly payments of \$612.36 each beginning 12-10-79.

Unit-period = 1 month. Unit-periods per year (w) = 12.

$$20,000 = \frac{612.36 \ddot{a}_{\overline{240}|i}}{(1+i)} + \frac{20,000}{(1+(2/30)i)(1+i)} + \frac{20,000}{(1+(8/30)i)(1+i)}$$

Annual percentage rate (I) = $w_i = .1025 = 10.25\%$

Example (G)(2): Student loan

A student loan consists of 8 advances: \$1800 on 9-5-78, 9-5-79, 9-5-80, and 9-5-

First series of payments begins 6 unit-periods plus 12 days after 3-3-78. ($t_1 = 6$; $f_1 = 12/30$)

Second series of payments (single payment) occurs 12 unit-periods plus 12 days after 3-3-78. ($t_2 = 12$; $f_2 = 12/30$)

Third series of payments begins 18 unit-periods plus 12 days after 3-3-78. ($t_3 = 18$; $f_3 = 12/30$)

Final payment occurs 22 unit-periods plus 29 days after 3-3-78. ($t_4 = 22$; $f_4 = 29/30$)

The general equation in Section II (H) can be written in the special form:

Year	Monthly payment
16	383.67
17	383.13
18	382.54
19	381.90
20	381.20
21	380.43
22	379.60
23	378.68
24	377.69
25	376.60
26	375.42
27	374.13
28	372.72
29	371.18
30	369.50

Unit-period = 1 month. Unit-periods per year (w) = 12.

From 5-1-78 through 6-1-78 = 1 unit-period. ($t = 1$)

From 4-10-78 through 5-1-78 = 21 days. ($f = 21/30$)

The general equation in Section II (H) can be written in the special form:

$$39,688.56 = \frac{291.81}{(1+i)} + \frac{300.18}{(1+i)} + \frac{308.78}{(1+i)} + \dots + \frac{369.50}{(1+i)}$$

From 4-10-79 through 6-12-79 = $(2 + 2/30)$ unit-periods.

From 4-10-79 through 9-18-79 = $(5 + 8/30)$ unit-periods.

From 4-10-79 through 12-10-79 = (6) unit-periods.

The general equation in Section II (H) is changed to the single advance mode by treating the 2nd and 3rd advances as negative payments:

81; plus \$1000 on 1-5-79, 1-5-80, 1-5-81, and 1-5-82. The borrower is to make 50 monthly payments of \$240 each beginning 7-1-78 (prior to first advance).

Unit-period = 1 month. Unit-periods per year (w) = 12.

Zero point is date of first payment since it precedes first advance.

From 7-1-78 to 9-5-78 = $(2 + 4/30)$ unit-periods.

From 7-1-78 to 9-5-79 = $(14 + 4/30)$ unit-periods.

From 7-1-78 to 9-5-80 = $(26 + 4/30)$ unit-periods.

From 7-1-78 to 9-5-81 = $(38 + 4/30)$ unit-periods.

From 7-1-78 to 1-5-79 = $(6 + 4/30)$ unit-periods.

$$-240 = \frac{240 \ddot{a}_{\overline{49}|i}}{(1+i)} - \frac{1800}{1+(4/30)i} \left[\frac{1}{(1+i)^2} + \frac{1}{(1+i)^{14}} + \frac{1}{(1+i)^{26}} + \frac{1}{(1+i)^{38}} \right] - \frac{1000}{1+(4/30)i} \left[\frac{1}{(1+i)^6} + \frac{1}{(1+i)^{18}} + \frac{1}{(1+i)^{30}} + \frac{1}{(1+i)^{42}} \right]$$

Annual percentage rate (I) = $w_i = .3204 = 32.04\%$

(H) Transaction involving required deposit balance.

Example (H)(1): Required constant deposit balance

Creditor advances \$1000 on 4-12-79 and requires borrower to maintain a deposit balance of \$200 throughout the 12 month loan. The loan is to be repaid by 12 equal monthly payments of \$90 each beginning 5-12-79. The deposit balance will be released on 4-12-80.

Unit-period = 1 month. Unit-periods per year (w) = 12.

From 4-12-79 through 5-12-79 = 1 unit-period.

From 4-12-79 through 4-12-80 = 12 unit-periods.

The general equation in Section II (H) can be written as:

$$800 + \frac{200}{(1+i)} = \frac{90 \ddot{a}_{\overline{12}|i}}{(1+i)}$$

or for iteration solution as:

$$800 = \frac{90 \ddot{a}_{\overline{12}|i}}{(1+i)} - \frac{200}{(1+i)}$$

Annual percentage rate (I) = $w_i = .2223 = 22.23\%$

Example (H)(2): Required periodic deposits into a restricted account

Creditor advances \$1000 on 6-15-79. Borrower is required to make 12 monthly payments of \$110 each beginning 7-15-79, of which \$20 is to be deposited into an account. The account will be released to the borrower at time of final payment on 6-15-80.

Unit-period = 1 month. Unit-periods per year (w) = 12.

From 6-15-79 through 7-15-79 = 1 unit-period.

The general equation in Section II (H) can be written as:

$$-240 = \frac{240 \ddot{a}_{\overline{49}|i}}{(1+i)} - \frac{1800}{1+(4/30)i} \left[\frac{1}{(1+i)^2} + \frac{1}{(1+i)^{14}} + \frac{1}{(1+i)^{26}} + \frac{1}{(1+i)^{38}} \right] - \frac{1000}{1+(4/30)i} \left[\frac{1}{(1+i)^6} + \frac{1}{(1+i)^{18}} + \frac{1}{(1+i)^{30}} + \frac{1}{(1+i)^{42}} \right]$$

From 7-1-78 to 1-5-80 = $(18 + 4/30)$ unit-periods.

From 7-1-78 to 1-5-81 = $(30 + 4/30)$ unit-periods.

From 7-1-78 to 1-5-82 = $(42 + 4/30)$ unit-periods.

Since the zero point is date of first payment, the general equation in Section II (H) is written in the single advance form below by treating the first payment as a negative advance and the 8 advances as negative payments:

From 7-1-78 to 9-5-80 = $(26 + 4/30)$ unit-periods.

From 7-1-78 to 9-5-81 = $(38 + 4/30)$ unit-periods.

From 7-1-78 to 1-5-79 = $(6 + 4/30)$ unit-periods.

$$-240 = \frac{240 \ddot{a}_{\overline{49}|i}}{(1+i)} - \frac{1800}{1+(4/30)i} \left[\frac{1}{(1+i)^2} + \frac{1}{(1+i)^{14}} + \frac{1}{(1+i)^{26}} + \frac{1}{(1+i)^{38}} \right] - \frac{1000}{1+(4/30)i} \left[\frac{1}{(1+i)^6} + \frac{1}{(1+i)^{18}} + \frac{1}{(1+i)^{30}} + \frac{1}{(1+i)^{42}} \right]$$

$$1000 + \frac{240}{(1+i)} = \frac{110 \ddot{a}_{\overline{12}|i}}{(1+i)}$$

$$1000 = \frac{110 \ddot{a}_{\overline{12}|i}}{(1+i)} - \frac{240}{(1+i)}$$

Annual percentage rate (I) = $w_i = .1779 = 17.79\%$

By order of the Board of Governors,
December 21, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-39811 Filed 12-28-79; 8:45 am]

BILLING CODE 6210-01-M

or for iteration solution as:

$$1000 = \frac{110 \ddot{a}_{\overline{12}|i}}{(1+i)} - \frac{240}{(1+i)}$$

Annual percentage rate (I) = $w_i = .1779 = 17.79\%$

By order of the Board of Governors,
December 21, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-39811 Filed 12-28-79; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3000]

RR International, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Wilmington, Del. firm and two corporate officers engaged in the advertising, sale and distribution of a product known, among other names, as the G. R. Valve, to cease representing, without reliable substantiation, that installing the G. R. Valve or any substantially similar

automobile retrofit device in a motor vehicle will result in fuel economy improvement. They are also barred from using any endorsement or testimonial which has not been properly authorized; and prohibited from misrepresenting a product endorser's expertise in a field of knowledge, and the conclusions of tests or surveys pertaining to energy consumption or energy saving characteristics of automobile retrofit devices. Additionally, the order requires that product advertising disclose any material connection that may exist between endorser and the firm or its corporate officers.

DATES: Complaint and order issued Nov. 28, 1979.¹

FOR FURTHER INFORMATION CONTACT: FTC/PE, Linda C. Dorian, Washington, D.C. 20580. (202) 724-1524.

SUPPLEMENTARY INFORMATION: On Monday, July 16, 1979, there was published in the Federal Register, 44 FR 41218, a proposed consent agreement with analysis in the Matter of RR International, Inc., a corporation; Eduard A. Hamala, Cary Bunin, individually and as officers of the corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.110 Endorsements, approval and testimonials; § 13.135 Nature of product or service; § 13.170 Qualities or properties of product or service; 13.170-34 Economizing or saving; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.255 Surveys. Subpart-Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly. Subpart-Corrective Actions and/or Requirements: § 13.533-20 Disclosures; 13.533-45 Maintain records. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1665 Endorsements; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys.

¹ Copies of the Complaint and Decision and Order filed with the original document.

Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,
Secretary.

(FR Doc. 79-39823 Filed 12-28-79; 8:45 am)
BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Commission Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of Revised Statement of Organization and Functions.

SUMMARY: The Consumer Product Safety Commission is publishing a revised statement of organization and functions to reflect organizational changes made since the last publication of Part 1000, to reflect expansion of the Commission's Hotline service, to advise the public of the existence of the Commission's Directives System, and to make editorial changes.

DATES: This Part is effective when published (December 31, 1979), since it involves only agency organization and practice.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, Telephone 202-634-7770.

SUPPLEMENTARY INFORMATION: The Office of Strategic Planning and the Office of Communications, old sections 1000.14 and 1000.16, have been eliminated. The proposed Office of Public Participation, old section 1000.18, will not be implemented; its functions have been absorbed by the Office of the Secretary, as described in new section 1000.18. Three new organizational units are described, the Office of Media Relations in section 1000.17, the Office of Budget, Program Planning and Evaluation in section 1000.23, and the Directorate of Communications in section 1000.30. The description of the Hotline, formerly part of old section 1000.3, has been assigned a separate

new section, 1000.3, and has been revised to reflect changed and expanded services. A description of the Commission's Directives System appears for the first time in a new section 1000.13.

The following changes have been made in the descriptions of the Commission's ongoing functions and organizational units.

(a) Section 1000.5, Petitions, has been revised to delete the citation to 21 CFR 2.65 since the cited section no longer exists.

(b) Section 1000.6, Commission Decisions and Records, has been expanded to reflect the fact that the Commission now records its official actions in minutes of meetings in addition to, or instead of, records of individual actions, and to inform the public that these documents are available in the Commission's public reading room.

(c) Section 1000.8, Meetings and Hearings; Public Notice, has been expanded to indicate that notices of meetings, hearings, and other activities are published in the Commission's Public Calendar. Other editorial changes in this section do not involve substantive matters.

(d) Section 1000.11, Delegation of Functions, now indicates that delegations are published in the Commission's Directives System.

(e) Section 1000.12, Organization Structure, has been revised to correspond to the organizational units described in this Part.

(f) Section 1000.14, Office of the General Counsel, has been slightly revised to reflect the fact that this Office now supervises all Commission litigation. A non-substantive editorial change has also been made.

(g) Section 1000.16, Office of Administrative Law Judge, has been expanded to reflect that the Office has duties in connection with rulemaking as well as adjudication.

(h) Section 1000.18, Office of the Secretary, has been substantially revised to include the Office's role in publishing the Public Calendar, administering public participation activities, and issuing Federal Register notices. Substantial editorial changes have also been made.

(i) Section 1000.19, Office of Internal Audit, has been expanded to reflect the Office's concern with the cost of Commission programs and organization.

(j) Section 1000.20, Office of Equal Employment Opportunity and Minority Enterprise, has been revised to more accurately describe the Office's functions with respect to the Small Business Act.

(k) Section 1000.21, Office of the Executive Director, has been expanded to include a listing of the two Offices now reporting to the Executive Director.

(l) Section 1000.22, Office of Program Management, now includes the Office's responsibilities in connection with the Commission's program on emerging hazards.

(m) Section 1000.27, Directorate for Compliance and Enforcement, has been revised to reflect the fact that corrective action plans may deal with the recall of noncomplying, as well as defective, products.

(n) Section 1000.28, Directorate for Field Operations, incorporates non-substantive editorial changes.

(o) Section 1000.29, Directorate for Administration, has been revised by deleting the functions now assigned to the Office of Budget, Program Planning and Evaluation, described in section 1000.23, and adding the functions of financial management and organizational analysis.

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

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Authority: 5 U.S.C. 552(a), Administrative Procedure Act.

§ 1000.1 The Commission.

(a) The Consumer Product Safety Commission is an independent

regulatory agency which was formed on May 14, 1973, under the provisions of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, et seq.)). The purposes of the Commission under the CPSA are:

(1) To protect the public against unreasonable risks of injury associated with consumer products;

(2) To assist consumers in evaluating the comparative safety of consumer products;

(3) To develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) To promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

(b) The Commission is composed of five members appointed by the President, by and with the advice and consent of the Senate, for terms of seven years.

§ 1000.2 Laws administered.

The Commission administers five acts: (a) The Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, et seq.))

(b) The Flammable Fabrics Act (Pub. L. 90-189, 67 Stat. 111, as amended (15 U.S.C. 1191, et seq.))

(c) The Federal Hazardous Substances Act (Pub. L. 86-613, 74 Stat. 330, as amended (15 U.S.C. 1261, et seq.))

(d) The Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, 84 Stat. 1670, as amended (15 U.S.C. 1471, et seq.))

(e) The Refrigerator Safety Act of 1956 (Pub. L. 84-930, 70 Stat. 953, 15 U.S.C. 1211, et seq.)

§ 1000.3 Hotline.

(a) The Commission operates a toll-free telephone Hotline by which the public can communicate with the Commission. The number for use in the 48 contiguous states, except Maryland, is 800-638-8328. The number for use in Maryland is 800-492-8363. The number for use in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands is 800-638-8333.

(b) The Commission also operates a toll-free Hotline by which deaf or speech-impaired persons can communicate by teletypewriter with the Commission. The teletypewriter number for use in all states except Maryland is 800-638-8270. The teletypewriter number for use in Maryland is 800-492-8101.

§ 1000.4 Commission addresses.

(a) The principal offices of the Commission are in Washington, D.C. All written communications with the

Commission should be addressed to the Consumer Product Safety Commission, Washington, D.C. 20207, unless otherwise specifically directed.

(b) The main headquarters of the Commission are at 1111 18th Street NW., Washington, D.C. At this location are the offices of the Chairman and Commissioners, Office of Administrative Law Judge, Office of Congressional Relations, Office of the General Counsel, Office of Media Relations, and Office of the Secretary. A public reading room is maintained in the Office of the Secretary, at this location.

(c) The Executive Director and operating offices under his or her authority are located at 5401 Westbard Avenue, Bethesda, Md.

(d) The Commission has 13 area offices which are located at the following addresses and which serve the states indicated:

(1) Atlanta Area Office, 1330 West Peachtree St. NW., Atlanta, Ga. 30309; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(2) Boston Area Office, 100 Summer St., room 1607, Boston, Mass. 02110; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(3) Chicago Area Office, 230 South Dearborn St., room 2945, Chicago, Ill. 60604; Illinois and Indiana.

(4) Cleveland Area Office, Plaza 9 Building, 55 Erieview Plaza, Cleveland, Ohio 44114; Michigan and Ohio.

(5) Dallas Area Office, 500 South Ervav, room 410C, Dallas, Tex. 75201; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(6) Denver Area Office, Guaranty Bank Bldg., Suite 938, 817 17th Street, Denver, Colo. 80202; Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

(7) Kansas City Area Office, Traders National Bank Bldg., 1125 Grand Avenue, Suite 1500, Kansas City, Mo. 64108; Iowa, Kansas, Missouri, and Nebraska.

(8) Los Angeles Area Office, 3660 Wilshire Blvd., Suite 1100, Los Angeles, Calif. 90010; Arizona and the following Counties in California: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.

(9) Minneapolis Area Office, Federal Bldg., room 650, Fort Snelling, Twin Cities, Minn. 55111; Minnesota and Wisconsin.

(10) New York Area Office, 6 World Trade Center, Vesey Street, 6th Floor, New York, N.Y. 10048; New Jersey, New York, Puerto Rico, and Virgin Islands.

(11) Philadelphia Area Office, 400 Market Street, 10th Floor, Philadelphia, Pa. 19106; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

(12) San Francisco Area Office, 100 Pine Street, Suite 500, San Francisco, Calif. 94111; Hawaii, Nevada, and all Counties in California not covered by Los Angeles Area Office.

(13) Seattle Area Office, 392 Federal Bldg., 915 Second Avenue, Seattle, Wash. 98174; Alaska, Idaho, Oregon, and Washington.

§ 1000.5 Petitions.

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Any petition under the Consumer Product Safety Act must meet the requirements of 16 CFR Part 1110. Petitions regarding products regulated under the other acts the Commission administers are governed by the Administrative Procedure Act (5 U.S.C. 553(e)) and, where applicable, existing Commission procedures at 16 CFR 1607.4, 16 CFR 1500.82, and 16 CFR 1500.201. However, the Commission encourages persons filing such petitions to follow as closely as possible the requirements and recommendations in 16 CFR 1110.7.

§ 1000.6 Commission decisions and records.

(a) Each decision of the Commission, acting in an official capacity as a collegial body, is recorded in Minutes of Commission meetings or as a separate Record of Commission action. Copies of Minutes or of a Record of Commission action may be obtained upon written request from the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or may be examined in the public reading room at Commission headquarters. Requests should identify the subject matter of the Commission action and the approximate date of the Commission action, if known.

(b) Other records in the custody of the Commission may be requested in writing from the Office of the Secretary pursuant to the Commission's Procedures for Disclosure or Production of Information under the Freedom of Information Act (16 CFR Part 1015).

§ 1000.7 Advisory opinions and interpretations of regulations.

(a) *Advisory opinions.* Upon written request, the General Counsel provides written advisory opinions interpreting the acts the Commission administers.

Advisory opinions represent the legal opinions of the General Counsel and may be changed or superseded by the Commission. Requests for issuance of advisory opinions should be sent to the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Requests for copies of particular previously issued advisory opinions or a copy of an index of such opinions should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

(b) *Interpretations of regulations.* Upon written request, the Associate Executive Director for Compliance and Enforcement will issue written interpretations of Commission regulations pertaining to the safety standards and the enforcement of those standards. Requests for such interpretations should be sent to the Associate Executive Director for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207. Requests for interpretations of administrative regulations (e.g., Freedom of Information Act regulations) should be sent to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

§ 1000.8 Meetings and hearings; public notice.

(a) The Commission may meet and exercise all its powers in any place.

(b) Meetings of the Commission are held as ordered by the Commission and, unless otherwise ordered, are held at the principal office of the Commission at 1111 18th Street, N.W., Washington, D.C. Meetings of the Commission for the purpose of jointly conducting the formal business of the agency, including the rendering of official decisions, are generally announced in advance and open to the public, as provided by the Government in the Sunshine Act (5 U.S.C. 552b) and the Commission's Meetings Policy (16 CFR Part 1012).

(c) The Commission may conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. It will publish notice of any proposed hearing in the Federal Register and will afford a reasonable opportunity for interested persons to present relevant testimony and data.

(d) Notices of Commission meetings, Commission hearings, and other Commission activities are published in a Public Calendar, as provided in the Commission's Meetings Policy (16 CFR Part 1012).

§ 1000.9 Quorum.

Three members of the Commission constitute a quorum for the transaction of business.

§ 1000.10 The Chairman and Vice Chairman.

(a) The Chairman is the principal executive officer of the Commission and, subject to the general policies of the Commission and to such regulatory decisions, findings, and determinations as the Commission is by law authorized to make, he or she exercises all of the executive and administrative functions of the Commission.

(b) The Commission annually elects a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the Office of the Chairman.

§ 1000.11 Delegation of functions.

Section 27(b)(3) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(3)) authorizes the Commission to delegate any of its functions and powers, other than the power to issue subpoenas, to any officer or employee of the Commission. Delegations are published in the Commission's Directives System.

§ 1000.12 Organization structure.

The Consumer Product Safety Commission is composed of the principal units listed in this section.

(a) The following units report directly to the Chairman of the Commission:

- (1) Office of the General Counsel
- (2) Office of Congressional Relations
- (3) Office of Administrative Law Judge
- (4) Office of Media Relations
- (5) Office of the Secretary
- (6) Office of Internal Audit
- (7) Office of Equal Employment Opportunity and Minority Enterprise
- (8) Office of the Executive Director

(b) The following units report directly to the Executive Director of the Commission:

- (1) Office of Program Management
- (2) Office of Budget, Program Planning and Evaluation
- (3) Directorate for Hazard Identification and Analysis
- (4) Directorate for Engineering and Science
- (5) Directorate for Compliance and Enforcement
- (6) Directorate for Field Operations
- (7) Directorate for Administration
- (8) Directorate for Communications

§ 1000.13 Directives system.

The Commission maintains a Directives System which contains delegations of authority and descriptions of Commission programs, policies, and procedures. A copy is available for inspection in the public reading room at Commission headquarters.

§ 1000.14 Office of the General Counsel.

The Office of the General Counsel provides advice and counsel to the

Commissioners and organizational components of the Commission on matters of law arising from operations of the Commission. It prepares the Commission's legislative program and comments on relevant legislative proposals originating elsewhere. The Office, in conjunction with the Department of Justice, is responsible for the conduct of litigation to which the Commission is a party. The Office also reviews and approves the litigation aspects of enforcement matters. The Office provides final legal review of and makes recommendations to the Commission on proposed product safety standards, rules, laws, regulations, petition actions, and substantial hazard actions. It also provides legal review of certain procurement, personnel, and administrative actions and drafts documents for publication in the Federal Register.

§ 1000.15 Office of Congressional Relations.

The Office of Congressional Relations is the principal contact with the committees and members of Congress. It performs liaison duties for the Commission, provides information and assistance to Congress on matters of Commission policy, and coordinates testimony and appearances by Commissioners and agency personnel before Congress.

§ 1000.16 Office of Administrative Law Judge.

The Office of Administrative Law Judge performs duties in connection with matters of adjudication and rulemaking as prescribed by the Commission and required by statute.

§ 1000.17 Office of Media Relations.

The Office of Media Relations distributes health and safety information to the public through the news media. It writes and issues press releases and detailed fact sheets, prepares and distributes to news media a monthly summary of product recalls, responds to reporters' inquiries, and helps prepare speeches for the Commissioners. It also prepares and distributes materials to employees to keep them informed of Commission policies, plans, and activities.

§ 1000.18 Office of the Secretary.

The Office of the Secretary prepares the Commission's agenda, schedules and coordinates Commission business at official meetings, and records, issues, and stores the official records of Commission actions. The Office prepares and publishes the Public Calendar under the Commission's Meetings Policy. It also administers the

Commission's public participation activities, including provisions for the financial compensation of participants, and manages activities of the Commission's advisory committees. The Office exercises joint responsibility with the Office of the General Counsel for the interpretation and application of the Privacy Act, Freedom of Information Act, Federal Advisory Committee Act, and the Government in the Sunshine Act, and prepares or coordinates reports required by these acts. It issues Commission decisions, orders, rules, and other official documents, including Federal Register notices, for and on behalf of the Commission and controls the use of the Commission seal. The Office supervises and administers the dockets of adjudicative proceedings before the Commission. The Office also supervises and administers the public reading room.

§ 1000.19 Office of Internal Audit.

This Office reviews, analyzes, and reports on Commission programs and organization to assess compliance with relevant laws, regulations, and principles of efficiency, effectiveness, and economy.

§ 1000.20 Office of Equal Employment Opportunity and Minority Enterprise.

The Office of Equal Employment Opportunity and Minority Enterprise assures the agency complies with all laws, regulations, rules and internal policies relating to equal employment opportunity. It assures compliance with the Small Business Act as it relates to small and disadvantaged business utilization. The Office also conducts the Upward Mobility Program.

§ 1000.21 Office of the Executive Director.

The Executive Director, under the broad direction of the Chairman and in accordance with Commission policy, acts as the chief operating manager of the agency, supporting the development of the agency's budget and operating plan before and after Commission approval, and managing the execution of those plans. The Executive Director has direct line authority over six operating directorates: Hazard Identification and Analysis, Engineering and Science, Compliance and Enforcement, Field Operations, Communications, and Administration, as well as the Office of Program Management, and the Office of Budget, Program Planning and Evaluation.

§ 1000.22 Office of Program Management.

The Office of Program Management manages the hazard related programs delineated in the Commission's

operating plan or assigned by the Executive Director. It provides continual and consistent direction to all projects, including voluntary standards and petitions, and emerging hazards especially where functional responsibility extends across and between directorates. The program managers' authority works in a complementary fashion with the functional authority vested in the Associate Executive Directors to be certain that relevant legal, technical, environmental, economic, and social impacts of projects are comprehensively and objectively presented to the Commission for decision. The Office exercises program review over the progress of projects to maintain priorities.

§ 1000.23 Office of Budget, Program Planning and Evaluation.

The Office of Budget, Program Planning and Evaluation is responsible for the development of the Commission's goals and objectives, program and resource plans, budget development and analysis, and evaluation of program accomplishment. It prepares the Commission's Operating Plan in consultation with other offices and directorates. It develops and uses analytical methods, standards and techniques in the measurement of program accomplishments, recommending changes to enhance effectiveness of the Commission's program and activities.

§ 1000.24 Directorate for Hazard Identification and Analysis.

The Associate Executive Director for Hazard Identification and Analysis manages the Directorate for Hazard Identification and Analysis and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for technical policy; maintenance of technical quality and productivity; planning input; review; and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes injury data analysis to identify hazards or hazard patterns, economic impact analysis of remedial regulations, and preparation of assessment and environmental impact statements. The Directorate collects data on consumer product-related hazards and potential hazards; determines the frequency, severity, and distribution of the various types of injuries; and investigates their causes. It assesses the effects of product safety standards and programs on consumer injuries, conducts

epidemiological studies and research in the fields of consumer-related injuries, and provides data describing the human factors aspects of injury. It maintains an injury data clearinghouse and manages the National Electronic Injury Surveillance System (NEISS). The Directorate also collects data and conducts analyses of both economic and environmental factors which are required to support the development and implementation of remedial strategies. The Directorate also provides analysis and advice to assure that technical standards requirements are compatible with human anthropometric, perception, and other performance tolerances. It assists in reviewing hazard patterns and epidemiological analysis to clarify possible injury patterns attributed to human factors and advises on all other Commission activities requiring human factors input.

§ 1000.25 Directorate for Engineering and Science.

The Associate Executive Director for Engineering and Science manages the Directorate of Engineering and Science and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for technical policy, maintenance of technical quality and productivity; planning input; review, and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes development and evaluation of product safety standards and test methods based on engineering, chemical, biological, and other physical and medical sciences and the conduct and relevant evaluation of specific product testing to support general agency regulatory activity. The Directorate develops and evaluates performance criteria, design specifications, and quality control standards for consumer products and provides scientific and technical expertise to the Commission. It conducts and evaluates engineering tests and test methods, participates in the engineering development of product safety standards, and provides advice on proposed standards. It performs or monitors research in the engineering sciences and provides technical supervision to Commission field engineering laboratories and other engineering test facilities. It collects scientific and technical data and reviews and evaluates scientific, technical and medical reports to determine the physiological effects of injury and potential injury treatment to provide technical and medical support

in the promulgation of product safety standards. It conducts tests and evaluates toxicological and chemical hazards and provides technical supervision to agency field chemical laboratories and other chemical and toxicological testing facilities. The Directorate also provides technical support to the Commission's information and education program and to its compliance and enforcement program.

§ 1000.26 [Reserved]

§ 1000.27 Directorate for Compliance and Enforcement.

The Associate Executive for Compliance and Enforcement manages the Directorate for Compliance and Enforcement and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for surveillance and enforcement policy; maintenance of legal case quality, consistency, and productivity; planning input; review; and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes identifying and acting on any defective consumer product already in distribution, and establishing industry compliance with existing safety standards through planning and implementation of surveillance and enforcement programs, and the conduct of enforcement litigation. Inherent in this area of responsibility is the provision of consistent legal advice and case guidance to field offices and participation in the development of standards prior to promulgation to assure enforceability of the final product. The Directorate is responsible for the identification of, or response to notification of, any products which may or do possess substantial product safety defects. It reviews consumer complaints, in-depth investigations, and other data to identify those consumer products containing such defects. It assists firms to assess their responsibilities and actively encourages firms to identify and report product defects with present possible substantial hazards. The Directorate negotiates and subsequently monitors corrective action plans designed to recall defective or noncomplying products and gives public warning to consumers where appropriate. It gathers information on generic product hazards which may lead to subsequent initiation of safety standard setting procedures. The Directorate develops surveillance strategies and programs designed to assure compliance with Commission

standards and regulations. It originates surveillance and enforcement instruction to field offices and provides subsequent interpretations or legal guidance for field surveillance and enforcement activities. Inherent in this function is the authority to conduct or supervise the conduct of enforcement activity under all administered acts and to provide advice and guidance to regulated industries on complying with all administered acts. The Directorate reviews standards and rules being developed to ensure clarity and enforceability.

§ 1000.28 Directorate for Field Operations.

(a) The Associate Executive Director for Field Operations executes direct line authority over all Commission field operations; develops, issues, approves, or clears proposals and instructions affecting the field activities; and provides a central point within the Commission from which Headquarters' officials can obtain field support services. This office provides direction and leadership to the Area Office Directors; and promulgates policies and operational guidelines which form the framework for management of Commission field operations. This office works closely with the other Headquarters functional units and the Area Offices to assure effective Headquarters-Field relationships, proper allocation of resources to support Commission priorities in the field, effective performance of field tasks, represents the field and prepares field programs documents. It coordinates direct contact procedures between Headquarters and Area Offices. This office is responsible for liaison with State, local and other Federal agencies on product safety programs in the field.

(b) Area Offices are responsible for carrying out investigation, compliance, and communication activities within their areas. They support and maintain liaison with components of the Commission, other Area Offices, and appropriate Federal, State, and local government offices. They implement and encourage compliance with the laws and regulations enforced by the Commission. Selected Area Offices possess laboratory capabilities.

§ 1000.29 Directorate for Administration.

The Associate Executive Director for Administration manages the Directorate of Administration and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for general administrative policy; maintenance of timeliness, quality, and

efficiency of services; planning input, review; and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes all general and delegated administrative functions supporting the Commission in the areas of financial management, management and organizational analysis, personnel, training, automated data systems, telecommunications, the reference library, and the physical plant. The Directorate is responsible for the execution of payment, financial control, accounting, and reporting of all expenditures within the Commission. It is responsible for all aspects of personnel management for the Commission, including recruitment and placement, classification standards and policies, and employee and labor-management relations. It evaluates the need for, develops, and implements all training programs for the Commission, including employee training, executive development, and training programs involving outside parties. The Directorate designs, implements, and operates all automated data systems and telecommunications. It provides support services for space management, supply and property management, security, printing and reproduction, records management, transportation, warehousing, utilities, and mail. It is responsible for all CPSC contracts and procurement of services and supplies. It develops, implements, and maintains management information systems and distributes summary reports on data accumulated by those systems. The Directorate also maintains and updates the reference library, performs data and bibliographic research for the agency and its constituency, and administers the ordering, receiving, and distribution of all publications requested by or for CPSC personnel.

§ 1000.30 Directorate for Communications.

The Directorate for Communications assists consumers in evaluating the comparative safety of products, conducts educational activities, transmits information, and develops strategies to affect consumer awareness, attitudes, knowledge and behavior toward product safety. The Directorate designs and produces publications and informational and educational matters, multi-media materials, films and public service announcements. Also, the Directorate provides advice for the development of public statements, operates a speakers' service for appearances by agency representatives and produces an agency newsletter. The Directorate plans, directs, and evaluates

comprehensive national consumer product safety information and education programs. Also, it conducts national surveys to assess public awareness of product safety, and carries out studies to assess the impact of its activities. Further, the staff collaborates with industry, consumer groups, and other agency staffs to carry out agency communications projects.

Dated: December 26, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-39917 Filed 12-28-79; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 1

[Docket No. RM79-32]

Canceling Public Hearing

Issued: December 18, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of cancelation of public hearing.

SUMMARY: Order 24-A, issued November 27, 1979 under Docket No. RM79-32, amended § 1.41 of the Commission's rules of practice and procedure to provide for waiver of procedures which implement section 502(c) of the Natural Gas Policy Act of 1978 (procedures for adjustments from Commission rules or orders issued under the NGPA). 44 FR 69284 (December 3, 1979). In Order 24-A the Commission set a date for the oral presentation of data, views, and arguments on the waiver provisions and stipulated that requests to participate in that presentation should be filed by December 19, 1979. There being no such requests filed, the hearing for oral presentations is canceled.

DATE: Notice issued December 18, 1979.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100-K, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8150.

In the matter of procedures for adjustments of rules and orders issued by the Federal Energy Regulatory Commission under the NGPA.

On November 27, 1979 the Commission issued Order 24-A¹ to

¹ 44 Fed. Reg. 69284 (December 3, 1979).

amend interim regulations implementing procedures whereby any person may seek, pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), an adjustment from Commission rules and orders issued under the NGPA.² By that order the Commission explicitly provided for a waiver of the procedures of § 1.41 for those cases which, while not filed under or in accordance with the provisions of that section, should nonetheless be considered for adjustments because of the issues they raise.

In that Order 24-A amended a regulation issued under the NGPA, the Commission provided an opportunity for the oral presentation of data, views and arguments on the order as required by Section 502(b) of the NGPA. That opportunity was to be by hearing convened on Wednesday, December 19, 1979 at the Offices of the Commission; and requests to participate in that hearing were to be directed to the Office of the Secretary of the Commission by December 14, 1979. There being no record of any such request having been received by the Commission, the hearing is therefore cancelled.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39810 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5B

[T.D. 7654]

Temporary Income Tax Regulations Under the Foreign Earned Income Act of 1978; the Foreign Earned Income Exclusion

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the foreign earned income exclusion. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. These regulations affect individuals residing in camps located in hardship areas.

DATE: The regulations apply to taxable years beginning after December 31, 1977.

FOR FURTHER INFORMATION CONTACT: Mary E. Dean of the Legislation and

² The original interim regulations implementing Section 502(c) of the NGPA were issued as § 1.12 of the Commission's rules and regulations, Order 24, Docket No. RM79-32 (March 22, 1979), 44 Fed. Reg. 18961 (March 30, 1979).

Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T; 202-566-3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 911 of the Internal Revenue Code of 1954. The amendments are being proposed to conform the regulations under section 911 relating to the foreign earned income exclusion to section 202 of the Foreign Earned Income Act of 1978 (Pub. L. No. 95-615, 92 Stat. 3098). The temporary regulations provided by the document will remain in effect until superseded by final regulations on this subject.

Explanation of Provision

This Treasury decision contains only amendments to § 5b.911-1(c) relating to the definition of camp. The amended temporary regulations, § 5b.911-1(c) amplify the statutory definition of camp. Paragraph (c)(1) of § 5b.911-1 sets forth the general definition of camp. A rule has been added, providing that two or more common areas or enclaves which house employees who work on the same project are considered to be one common area or enclave in determining whether the lodging accommodates 10 or more employees performing services at the taxpayer's worksite.

Paragraph (c)(2) of § 5b.911-1 provides that lodging will be considered to be substandard if it is appreciably below the standard of housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of an employee of the United States who is compensated at an annual rate paid for step 1 of grade GS-14. A list of facts and circumstances to be considered in determining whether lodging is substandard is provided. In addition a list of presumptions is provided.

Paragraph (c)(3) of § 5b.911-1 provides a new definition of remote area which focuses on the availability of satisfactory housing. A list of facts and circumstances to be considered in determining whether an area is remote is provided. In addition a list of presumptions is provided.

Drafting Information

The principal author of the regulation is Mary E. Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service

and Treasury Department participated in developing the regulation, both on matters of substance and style. *Adoption of amendments to the regulations*

The amendments to 26 CFR Part 5b are as follows:

Paragraph 1. Section 5b.911-1(c) is revised to read as follows:

§ 5b.911-1 Individuals qualifying for the exclusion.

(c) *Camp*—(1) *In general.* A camp is lodging which is all of the following:

(i) Substandard;
(ii) Provided by or on behalf of the employer for the convenience of the employer because the place where the taxpayer renders services is in a remote area where satisfactory housing is not available to the taxpayer on the open market;

(iii) Located as near as practicable to, and in the vicinity of, the worksite of the taxpayer; and

(iv) Furnished in a common area or enclave which is not available to the general public for lodging or accommodations and which normally accommodates 10 or more persons who are either employees of the taxpayer's employer or other employees performing services at the taxpayer's worksite.

For purposes of paragraph (c)(1)(ii) of this section, the term "for the convenience of the employer" has the same meaning which it has for purposes of section 119. For purposes of paragraph (c)(1)(iv) of this section, a cluster of housing units is not a common area or enclave if it is adjacent to or surrounded by substantially similar housing available to the general public. For purposes of paragraph (c)(1)(iv) of this section, two or more common areas or enclaves which house employees who work on the same project (for example, a highway project) are considered to be one common area or enclave in determining whether they normally accommodate 10 or more employees performing services at the taxpayer's worksite.

(2) *Substandard lodging*—(i) *In general.* Lodging is considered to be substandard if, under all the relevant facts and circumstances, it is appreciably below the standard of housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of an employee of the United States who is compensated at an annual rate paid for step 1 of grade GS-14. Relevant facts and circumstances which may indicate

that lodging is substandard include (but are not limited to) the following:

(A) Inadequate living space;
(B) Lack of privacy occasioned by communal dining halls or other shared facilities;

(C) Temporary nature of the lodging, such as that inherent in prefabricated housing set in position or cinder blocks or housing consisting of movable units such as mobile homes, trailers, or portable camp facilities;

(D) An immediate environment that exposes the occupants of the housing to unsanitary or unhealthy conditions (for example, open sewers immediately adjacent to the housing) or to unusual risk of personal harm or property loss due to terrorism or civil unrest;

(E) Lack of improvements typically found in residential areas in the United States, such as paved and lighted streets, recreational areas, sewage facilities, and landscaping; or

(F) The cost per square foot of the lodging if constructed in the United States would be substantially less than the median cost per square foot to construct housing in the United States.

The general environment in which lodging is located (e.g., the climate, prevalence of insects, etc.) does not of itself make lodging substandard. The general environment is relevant, however, if lodging is inadequate to protect the occupants from environmental conditions. The individual employee's income level is under no circumstances relevant to whether lodging is substandard. Thus, lodging occupied by a particular employee which is substantially inferior to the housing previously occupied by that individual in the United States is not substandard unless it is also substantially inferior to housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of a GS-14, step 1, U.S. Government employee.

(ii) *Presumptions.* Lodging will generally be considered to be substandard if it consists of any of the following:

(A) Portable, temporary, or movable housing occupied by employees who are not accompanied by spouse or dependents, in which the living space intended to be occupied by each employee is less than 250 square feet;

(B) Portable, temporary, or movable housing occupied by employees who are accompanied by spouse or dependents, in which the total interior living space intended to be occupied by a family unit is less than 800 square feet plus 200

square feet for each family member, other than the employee's spouse, who is expected to reside with the employee, and is no more than 1200 square feet;

(C) Housing which lacks adequate and reliable heating or air conditioning if appropriate for the climate, or adequate and reliable utilities such as electricity or sewage facilities; or

(D) Housing which lacks private sleeping quarters for unrelated individuals, private bath or toilet facilities for unrelated individuals, or fresh hot and cold piped water.

Notwithstanding the fact that lodging is described in paragraph (c)(2)(ii) (A), (B), or (C), lodging will not be considered substandard if it is clearly not inferior to housing typically occupied in the United States by individuals whose income equals the lesser of the median salary paid to American employees residing in the common area or the salary of a GS-14, step 1, U.S. Government employee. For purposes of paragraph (c)(2)(ii) (A) and (B), living space does not include shared areas, such as dining halls, lavatories, or storage facilities which are used by unrelated employees. For purposes of paragraph (c)(2)(ii) (A) and (B), housing is not portable, temporary or movable merely because it is prefabricated.

(iii) *Determination of median salary.* In determining the median salary of American employees residing in the common area, any reasonable method may be used. For example, the median salary may be determined by taking the average of the median salaries of American employees at the beginning and end of the calendar year.

(3) *Remote area.* Solely for purposes of section 911, a remote area is a place where satisfactory housing is unavailable to the taxpayer on the open market within a reasonable commuting distance of the place at which the taxpayer renders services.

(i) *Facts and circumstances.* Facts and circumstances to be considered in determining if satisfactory housing is unavailable within a reasonable commuting distance include (but are not limited to):

(A) The inaccessibility to available housing due to geographic factors or the quality of the roads;

(B) The number of housing units available on the open market within a reasonable commuting distance in relation to the number of housing units required for the employer's employees;

(C) The cost of housing available on the open market; or

(D) Terrorism or civil unrest present in the area where housing would be available which would subject U.S.

citizens to unusual risk of personal harm or property loss.

(ii) *Presumptions.* Satisfactory housing will generally be considered to be unavailable to the employee on the open market if any of the following conditions is satisfied:

(A) The foreign government requires the employer to provide housing for its employees other than housing available on the open market;

(B) An unrelated person awarding work to an employer requires that the employer's employees occupy housing specified by such person; or

(C) The place at which the employee renders services is not within a reasonable commuting distance of a community with a population of 50,000 or more individuals.

The conditions of paragraph (c)(3)(ii) (A) and (B) are not fulfilled if the requirement described therein applies primarily to American employers or employees of American employees and there is a significant number of foreign employers or employees other than Americans.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: December 19, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 79-39743 Filed 12-26-79; 2:53 pm]
BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 656-79]

Redesignation of the Office of Public Affairs in the Department of Justice

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Order redesignates the Office of Public Affairs formerly known as the Office of Public Information. The change is designed to more accurately reflect the duties, responsibilities and functions of this Office. The duties, responsibilities and functions of this Office remain virtually unchanged. This Order also clarifies the relationship between the Office of Public Affairs and the Attorney General. The Director serves as a Special Assistant to the Attorney General.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Robert J. Havel, Deputy Director, Office of Public Information, Department of Justice, Washington, D.C. 20530, telephone: (202) 633-2019.

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, § 0.17 of Subpart C of Part 0, of Chapter I of Title 28, Code of Federal Regulations is revised to read as follows:

§ 0.17 Office of Public Affairs.

(a) The Office of Public Affairs is headed by a Director of Public Affairs. Subject to the general supervision of the Attorney General, and direction of the Deputy Attorney General, the Director shall:

(1) Handle matters pertaining to relations with the public generally.

(2) Disseminate information to the press, the radio and television services, the public, members of Congress, officials of Government, schools, colleges, and civic organizations.

(3) Coordinate the relations of the Department of Justice with news media.

(4) Serve as a central agency for information relating to the work and activities of all agencies of the Department.

(5) Prepare public statements and news releases.

(6) Coordinate Departmental publications.

(b) The Director shall serve as a Special Assistant to the Attorney General.

Dated: December 19, 1979.
Benjamin R. Civiletti,
Attorney General.

[FR Doc. 79-39236 Filed 12-28-79; 8:45 am]

BILLING CODE 4410-01-M

Attorney General

28 CFR Parts 0 and 42

[Order No. 655-79]

Nondiscrimination; Equal Employment Opportunity; Policies and Procedures; Implementation of Title III of the Civil Service Reform Act of 1978

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Title III of the Civil Service Reform Act of 1978 (Pub. L. 95-454) amended 5 U.S.C. 7201 to require that each agency develop a recruitment program designed to eliminate underrepresentation of minority groups in specific Federal job categories. In accordance with the requirements of 5 U.S.C. 7201, as amended, the Equal Employment Opportunity Commission

published "Guidelines for the Development of a Federal Recruitment Program to Implement 5 U.S.C. Section 7201, as amended" (44 FR 22034 (April 13, 1979)). At the same time, the Office of Personnel Management published regulations amending Part 720 of 5 CFR, "Federal Equal Opportunity Recruitment Program" (44 FR 22029). Those regulations require that each agency "specifically assign responsibility for program implementation to an appropriate agency official" and state that "[a]ll agency officials who have responsibility for the program will be evaluated on their effectiveness in carrying it out as part of their periodic performance appraisals." This Order designates the Associate Attorney General as the official in the Department of Justice who will be responsible for establishing and implementing the Department of Justice Equal Opportunity Recruitment Program.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT:

William J. Snider, Administrative Counsel, Justice Management Division, Washington D.C. 20530 (202-633-3452).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510; 5 U.S.C. 301, and Section 310 of the Civil Service Reform Act of 1978 (5 U.S.C. 7201), it is hereby ordered as follows:

Part 0—Organization of the Department of Justice

1. Section 0.19 of Subpart C-1, Part 0, Chapter I of Title 28, Code of Federal Regulations is amended by adding the following new paragraph (a)(6):

§ 0.19 Associate Attorney General.

(a) * * *
(6) Establish and implement the Department of Justice Equal Opportunity Recruitment Program (5 U.S.C. 7201).

* * * * *

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

2. Subpart A of Part 42, Title 28, Code of Federal Regulations, is revised by adding the following new section 42.3:

§ 42.3 Responsibility for Department of Justice Equal Opportunity Recruitment Program.

The Associate Attorney General shall be responsible for establishing and implementing the Department of Justice Equal Opportunity Recruitment Program under 5 U.S.C. 7201.

Dated: December 17, 1979.
Benjamin R. Civiletti,
Attorney General.
[FR Doc. 79-39827 Filed 12-28-79; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 316, 332 and 339

Offering of United States Savings Bonds, Series E and H; Termination

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Notice of termination.

SUMMARY: This notice is being published to terminate the sale of United States savings bonds of Series E and H, including the exchange offering of Series H bonds, effective at the close of business December 31, 1979.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. A. E. Martin, Office of the Chief Counsel, Bureau of the Public Debt, Washington, D.C. 20226, (202) 376-0636.

SUPPLEMENTAL INFORMATION:

Department of the Treasury Circulars Nos. 653, Ninth Revision, and 905, Sixth Revision, respectively, offer for sale United States Savings Bonds of Series E and Series H. The sale of these bonds will terminate as of December 31, 1979, except for the sale of Series E bonds through payroll savings plans, which will terminate no later than June 30, 1980.

With the termination of the sale of Series H bonds, the offering of Series H bonds in exchange for United States Savings Bonds of Series E and United States Savings Notes (Freedom Shares) under the terms of Department of the Treasury Circular No. 1036 is also withdrawn. The several circulars will be amended accordingly.

The termination of sale of Series E and H bonds does not affect the status of outstanding bonds of these series, which will continue to earn interest until they reach final maturity.

Dated: December 21, 1979.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-39337 Filed 12-28-79; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

32 CFR Parts 1-39

Defense Acquisition Regulation (DAR)

AGENCY: Department of Defense.

ACTION: Revision of the 1976 Edition of the Defense Acquisition Regulation.

SUMMARY: In this document, the Department of Defense (DOD) gives notice that it is revising the 1976 *Code of Federal Regulations* (CFR) edition of the Defense Acquisition Regulation (DAR) (formerly Armed Services Procurement Regulation (ASPR)), codified in 32 CFR Parts 1-39, Volumes I, II, and III, by incorporating changes made by Defense Procurement Circulars (DPC) 76-1 through 76-14 and Defense Acquisition Circulars (DAC) 76-15 through 76-19. The Office of the Federal Register (OFR) has scheduled a complete revision of 32 CFR Part 1-39, Volumes I, II, and III, revised as of July 1, 1979. The DOD also gives notice that the 19 Circulars are on file with the OFR.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Brady M. Cole, CAPT, USN, Acting Director, Defense Acquisition Regulatory Council, Room 3D1080, Pentagon, Washington, D.C. 20301, Telephone: 202-697-6710.

SUPPLEMENTARY INFORMATION: The basic DAR, July 1976 edition, was adopted into the CFR on August 3, 1977 (42 FR 39213). The DAR is available to the public in two publications. The DOD publishes and distributes through the Government Printing Office (GPO) a loose-leaf edition of the DAR. Subscribers to this loose-leaf edition periodically receives amendments through DAC replacement pages.

The DAR is codified in 32 CFR Parts 1-39, Volumes I, II, and III in the CFR. The OFR last published a bound edition of the DAR, revised as of July 1, 1976. The 1979 CFR edition was prepared by photographing the DOD loose-leaf DAR, so the formats of the two publications are identical.

On November 3, 1978 (43 FR 51391), the DOD announced that it was amending the 1976 CFR edition of the DAR by incorporating changes made by DPC's 76-1 through 76-10 and that the OFR had agreed to schedule for publication a supplement to 32 CFR Parts 1-39, containing DPC's 76-1 through 76-10. At this time, the OFR also approved incorporation of the DAR into the CFR in this manner until July 1, 1979. The approval was granted until July 1, 1979, because the Office of Federal Procurement Policy was concurrently drafting the Federal Acquisition

Regulation (FAR) to replace all existing systems of procurement regulations. The DOD and the OFR anticipated the issuance of the FAR during 1979. However, the drafting of the FAR has not been completed, and the FAR will not be adopted in 1979. Issuance of the FAR is now expected in late 1980. The OFR has agreed, therefore, to extend its approval of the existing procedures until July 1, 1980, and to expand the approval to include Circulars 76-11 to 76-19.

Amendments to 32 CFR Parts 1-39

Between November 1978 and July 1979 the DOD filed with the OFR Circulars 76-11 through 76-19. It became apparent that issuing a supplement containing only Circulars 76-1 through 76-10 would not represent an up-to-date DAR and that issuing a supplement containing Circulars 76-1 through 76-19 would exceed one thousand pages, and would be unwieldy for the user. Therefore, the OFR has decided to republish 32 CFR Parts 1-39 in its entirety, revised as of July 1, 1979. The July 1, 1979 edition will be prepared by photographing a collated version provided by DOD consisting of regulations from the 1976 CFR edition of ASPR and replacement pages from Circulars 76-1 through 76-19. This edition of 32 CFR Parts 1-39 will consist of three volumes divided as follows: Volume I (DAR Sections I-VI), Volume II (DAR Sections VII-XV), and Volume III (DAR Sections XVI-XXVI and Appendices A-Q). When published, the text will be identical to the loose-leaf version published and distributed through the GPO.

For the purpose of updating the 1976 CFR edition of the DAR, the DOD has filed copies of Circulars 76-1 through 76-19 with the OFR. The circulars can be inspected at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C., and at the Office of the Defense Acquisition Regulatory Council.

The DOD gave notice on November 3, 1978 (43 FR 51391) that the 1976 edition of the DAR was amended by DPC 76-1 through DPC 76-10. At this time DOD gives notice that the 1976 edition is further amended by DPC 76-11 through DPC 76-14 and DAC 76-15 through DAC 76-19, bringing 32 CFR Parts 1-39 up to date through July 1, 1979.

Therefore, the July 1, 1979 edition of the DAR is hereby promulgated in Title 32, CFR, Subchapter A, Parts 1-39, Volumes I, II, and III, thereby replacing in its entirety the 1976 edition of the ASPR previously promulgated in the CFR.

(5 U.S.C. 301, 10 U.S.C. 202, DOD Directives 5126.22 and 5000.35, and DAR 1-106).

Brady M. Cole,
Captain, SC, USN, Acting Director, Defense Acquisition, Regulatory Council.

DPC 76-14

Any amendments made to the loose-leaf editions of DAR through DAC replacement pages that are subsequent to DAC 76-19 will be published in the Federal Register as amendments to the DAR that appears in the CFR. The two publications of the DAR will be identical.

The following is a list of those DAR sections affected by Circulars 76-11 through DAC 76-19. (For a list of DAR sections affected by DPC 76-1 through 76-10, see 43 FR 53191.) These listings have been compiled by the staff of the OFR as an editorial aid to the user. Inclusion or omission of a DAR section or paragraph reference is not legally binding.

DPC 76-11

no changes

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[FR Doc. 79-39765 Filed 12-28-79; 8:45 am]

BILLING CODE 3810-70-M

PANAMA CANAL COMMISSION

35 CFR Part 9

Organization, Functions, and Availability of Records—Panama Canal Commission

AGENCY: Panama Canal Commission.
ACTION: Final rule.

SUMMARY: The Panama Canal Commission's schedule of fees for search and duplication of records in response to a Freedom of Information Act request is hereby amended to reflect the current direct costs of providing those services.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Hazel M. Murdock, Assistant to the Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street, N.W., Washington, D.C. 20004. (Telephone: 202/724-0104).

SUPPLEMENTARY INFORMATION: On November 30, 1979 (44 FR 68868), the Panama Canal Commission gave notice that it proposed to amend 35 CFR 9.5, its schedule of fees for search and duplication of records in response to a Freedom of Information Act request. The notice stated that all comments received on or before December 21 would be considered. No comments were received by the agency. The amendment is, therefore, adopted without change.

The amended fee schedule reflects increases in direct costs to the Panama Canal Commission of performing certain services and sets uniform fees for other services not previously specified in the schedule, such as converting microfilm to paper copy, duplication of tape recordings, and duplication of photographs.

This agency recently revised Title 35, Code of Federal Regulations, in accordance with the requirements of the Panama Canal Act of 1979, Public Law 96-70, 93 Stat. 452, and Executive Order 12173 of November 29, 1979 (44 FR 69271). This major revision was published as a final rule on December 19, 1979 (44 FR 75306) in order to provide immediate guidance with respect to the provisions contained in the regulations, and to conform the Panama Canal regulations to the changes required by the Panama Canal Treaty of 1977 and related agreements and the Panama Canal Act of 1979, which implements the Treaty. The effective date of the revised regulation is December 31, 1979.

As part of the major revision of 35 CFR, the regulations implementing the Freedom of Information Act in this agency (Part 9, 35 CFR) were rewritten in simplified language and reorganized.

As a result of that revision, § 9.5, which contained the schedule of fees, was redesignated as § 9.11. The Panama Canal Commission determined that since the major revision was to be published as a final rule just prior to the termination of the 30-day notice period for the amended fee schedule, and since it was expected that both the proposed amended fee schedule and the major revision would take effect on December 31, 1979, there was good cause to publish the proposed amended fee schedule again in the Federal Register as a part of the major revision. This was done for the convenience of the users of the Federal Register and 35 CFR, i.e., so all amended parts of the 35 CFR would be included in one document for ease of reference and handling.

The foregoing explanation for including the new schedule of fees in the publication of the major revision prior to the termination of the 30-day notice period was inadvertently omitted from the preamble to the final rule notice published at 44 FR 75306.

§ 9.5 Redesignated as § 9.11

The amended and redesignated § 9.11 of Title 35, Code of Federal Regulations as published at 44 FR 75306 is hereby adopted, to become effective December 31, 1979.

Dated: December 21, 1979.

Thomas M. Constant,
Secretary, Panama Canal Commission.

[FR Doc. 79-39623 Filed 12-28-79; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-1381-1]

Regulation of Fuel and Fuel Additives; Unleaded Gasoline Availability—Enforcement Policy

AGENCY: Environmental Protection Agency.

ACTION: Notice of Enforcement Policy.

SUMMARY: EPA will not enforce the unleaded gasoline availability requirement against retail outlets which run out of unleaded gasoline provided all pumps are attendant-operated. Further, retailers must provide notice that the retail outlets are out of unleaded gasoline, and make good faith efforts to quickly secure supplies of unleaded gasoline. By meeting these requirements, retailers may remain open and sell leaded gasoline after running out of unleaded gasoline without risk of penalty.

DATES: This policy is effective December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Robert A. Weissman, Attorney, Office of Enforcement, at (202) 755-4835.

SUPPLEMENTARY INFORMATION: On January 10, 1973, the Environmental Protection Agency (EPA) promulgated a regulation requiring gasoline retail outlets with over a certain volume of business to offer for sale at least one grade of unleaded gasoline of at least 91 Research Octane Number (38 FR 1254). This regulation, if strictly enforced, would require stations which run out of unleaded gasoline but still have leaded product to sell either to stop operating the station as a gasoline retail outlet or face civil penalties for violating the availability requirement.

In the event of a gasoline shortage, EPA would like to insure that no gasoline that is available for sale to the public is unnecessarily removed from the market place. However, we are greatly concerned that a situation where retailers sell only leaded fuel is likely to lead to increased levels of use of leaded gasoline in vehicles requiring unleaded fuel, particularly if the drivers of unleaded vehicles have waited in lines and the leaded fuel is available at self-service.

To balance these concerns, EPA is today adopting a policy regarding enforcement of the availability requirement set out at 40 CFR 80.22(b). It must be emphasized that this policy is only applicable to retailers of retail outlets who have made the investment in the necessary tankage and pumps to routinely carry unleaded gasoline and who face only a temporary interruption in supply of unleaded gasoline.

Where a retail outlet has run out of unleaded gasoline and where a retailer continues to sell leaded gasoline at that outlet, EPA will not enforce the unleaded gasoline availability requirement of 40 CFR 80.22(b) against the retailer, provided (1) all pumps are attendant operated only, (2) attendants do not introduce leaded gasoline into vehicles which require unleaded gasoline, (3) notice is provided to potential customers that unleaded gasoline is not available by either (a) flying a flag consistent with Department of Energy regulation or local regulation, if applicable, or if no other regulation is applicable, (b) posting a sign clearly visible from the roadway indicating the unavailability of unleaded gasoline, and (4) the retailer makes good faith efforts to secure supplies of unleaded gasoline as soon as possible.

We will continue to actively enforce violations of the 40 CFR 80.22(a)

prohibition on improper introductions of leaded fuel into vehicles which require unleaded fuel. However, adoption of the above policy will further the Agency's intent to suppress fuel switching while not significantly disrupting the marketing of gasoline.

Dated: December 20, 1979

Barbara Blum,
Deputy Administrator.

[FR Doc. 79-39720 Filed 12-28-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5761]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4012) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that

as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant

to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for

the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date ¹
Georgia	Douglas	do	130306	Jan. 31, 1975, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Mar. 5, 1976	Jan. 2, 1980.
Illinois	Lake	Lindenhurst, village of	170379A	Dec. 27, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Mar. 4, 1974 Feb. 20, 1976	Do.
Do	Do	Round Lake Heights, village of	170390A	Aug. 8, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Mar. 29, 1974 June 18, 1976	Do.
Do	Winnabago	South Bolot, city of	170725A	Mar. 25, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	June 7, 1974 July 9, 1976	Do.
Indiana	Hamilton	Cicero, town of	180320	Mar. 24, 1975, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Feb. 1, 1974 Oct. 21, 1977	Do.
Do	Lake	New Chicago, town of	180140A	Mar. 13, 1975, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	May 31, 1974 May 21, 1976	Do.
Kansas	Douglas	Baldwin City, city of	200083A	June 23, 1975, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Feb. 15, 1974 Nov. 7, 1975	Do.
Do	Wyandotte	do	200562A	Mar. 7, 1975, emergency, Dec. 18, 1979, regular Jan. 2, 1980, suspended.	May 6, 1977	Do.
Massachusetts	Hampshire	Granby, town of	250162A	July 3, 1975, emergency Jan. 2, 1980, regular Jan. 2, 1980, suspended.	Sept. 6, 1974 Jan. 14, 1977	Do.
Minnesota	Kittson	Hallock, city of	270226A	July 3, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	May 17, 1974 May 14, 1976	Do.
Mississippi	Madison	do	280228	July 17, 1975, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Aug. 11, 1978	Do.
Do	Newton	do	280231	Apr. 23, 1979, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Sept. 16, 1977	Do.
New Jersey	Essex	Essex Falls, borough of	340575	July 28, 1975, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Dec. 3, 1976	Do.
Do	Camden	Runnemede, borough of	340144	Aug. 7, 1973, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Dec. 7, 1973 June 24, 1977	Do.
New York	Albany	Watervliet, city of	363016A	Nov. 29, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Feb. 1, 1974 Aug. 13, 1976	Do.
Do	Westchester	White Plains, city of	360935A	Oct. 20, 1972, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Mar. 16, 1973 July 2, 1976	Do.
North Carolina	Transylvania	do	370230	Jan. 21, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Jan. 20, 1978	Do.
Ohio	Ashland	Ashland, city of	390007A	Sept. 18, 1973, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Apr. 12, 1974 Aug. 6, 1978	Do.
Oklahoma	Sequoyah	Sallisaw, city of	400199	Jan. 30, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Apr. 5, 1976 June 18, 1976	Do.
Pennsylvania	Delaware	Ridley Park, borough of	420430A	Aug. 29, 1974, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	July 19, 1974 June 4, 1976	Do.
West Virginia	Mason	do	540112	Apr. 25, 1975, emergency, Jan. 2, 1980, regular, Jan. 2, 1980, suspended.	Apr. 25, 1975	Do.

¹ Date certain Federal assistance no longer available in special flood hazard area

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: December 21, 1979.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 79-39994 Filed 12-28-79; 8:45 am]

BILLING CODE 6718-03-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1067

Revision of Subpart 1067.6 Access to Publications; Federal Register and the Code of Federal Regulations

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Office of the Federal Register has redesignated CSA's October 1, 1979, issue of the Code of Federal Regulations as Title 45 Parts 500 to 1199 (formerly Title 45 Parts 500 to end). Therefore, CSA is amending its regulations on access to publications to reflect this change.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Rita C. Kane, 1200 19th Street, NW., Washington, D.C. 20506, Telephone: (202) 254-5047.

45 (CFR) Subpart 1067.6—Access to Publications: Federal Register and the Code of Federal Regulations, which appeared in the Federal Register on November 26, 1979 (44 FR 67424) is amended as follows:

1. In the preamble to the document appearing on page 67424, column one, the last paragraph should read as follows:

Upon publication of the October 1, 1979 Volume of the Code of Federal Regulations (CFR), Title 45, Part 500 to 1199, which will be available for distribution (and purchase) in the Spring of 1980, CSA will use the CFR and the daily issues of the Federal Register as the systems for making available for public use its rules and regulations. At that time CSA will discontinue the issuance of its Instructions.

2. On page 67424, § 1067.6-2, paragraph (b) is revised to read as follows:

§ 1067.6-2 Policy.

(b) Grantees are also required to

purchase the Code of Federal Regulations (CFR), Title 45, Part 500 to 1199 (only) beginning with the October 1, 1979 edition which should be available in the spring of 1980. The price of this edition and the subscription form will be published in the Federal Register. These two publications, the Federal Register and the Code of Federal Regulations will provide grantees with a complete and up-to-date set of all current CSA rules.

(Sec. 602, 78 Stat. 530, 42 U.S.C. 2942)

John Gabusi,

Assistant Director, Office of Community Action.

[FR Doc. 79-39613 Filed 12-28-79; 8:45 am]

BILLING CODE 6315-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[BC Docket No. 79-62; RM-3224]

FM Assignment to Covington, Ind.

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Covington, Indiana, as that community's first FM

assignment, in response to a petition filed by DOXA, Inc. The channel could be used to bring a first local aural broadcast service to the community.

EFFECTIVE DATE: February 4, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: Report and Order (Proceeding Terminated)

Adopted: December 17, 1979.

Released: December 20, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Covington, Indiana).

By the Acting Chief, Policy and Rules Division:

1. The Commission has before it a Notice of Proposed Rule Making, adopted March 22, 1979, 44 FR 18998, proposing the assignment of Channel 224A to Covington, Indiana. The Notice was issued in response to a petition filed by DOXA, Inc. ("DOXA"). Supporting comments were filed by petitioner.¹ Comments were also filed by Twin Cities Broadcasting, Inc. ("WXUS"), licensee of FM Station WXUS, Lafayette, Indiana, to which DOXA replied.²

2. Covington (pop. 2,641)³, in Fountain County (pop. 18,257), is located approximately 64 kilometers (40 miles) southwest of Lafayette, Indiana, and 113 kilometers (70 miles) west northwest of Indianapolis, Indiana. There is no local aural broadcast service in Covington or Fountain County.

3. Although DOXA originally proposed the assignment on a hyphenated basis to Covington and Veedersburg, we stated in the Notice that we would propose the assignment to Covington, the larger community and the county seat. DOXA, in comments, states that the broadcast service it proposes would be of equal importance

¹ DOXA's comments were filed late with an acceptance request. The filing was only two days late and since there has been no objection to our acceptance of these comments, they will be accepted.

² DOXA's reply comments were also late-filed. Although the certificate of service indicated that a copy of WXUS's comments were mailed to DOXA, DOXA attests that it did not receive such copy. When it became aware of the need for a reply, DOXA requested that it be permitted to file late in order to determine whether any alternate channels could be assigned to Covington. We shall accept these comments since there has been no objection to our acceptance and the information will be helpful in resolving this case.

³ Population figures are taken from the 1970 U.S. Census.

to both communities since neither one has a first local service and therefore again requests that the channel be assigned on a hyphenated basis. It contends that although the channel would be available for use at Veedersburg under Section 73.203(b) of the Rules, it is not the intent of DOXA to serve one community or the other, but both.

4. In comments, WXUS points out that it has been operating Station WXUS on Channel 224A at Lafayette, Indiana, pending a channel change made necessary by an authorization by the Commission for a new station at Munice, Indiana. The Munice station, we are told, is obligated to reimburse WXUS for a change to Channel 228A at Lafayette. See *Munice, Indiana, Report and Order*, 41 Fed. Reg. 47931 (1976). The proposed Covington assignment would be 46 kilometers (25 miles) short-spaced to the current Lafayette operation. In the meantime, WXUS urges that it not be required to change frequencies before it can be reimbursed.

5. In reply comments, DOXA states that since the use of Channel 224A at Covington is precluded for an indeterminate period, it is proposing an alternate channel, 276A, for assignment which would meet the minimum spacing requirements. It reiterates it request to have the channel assigned to Covington and Veedersburg on a hyphenate basis.

6. Because Channel 224A is not available for assignment to Covington under the present circumstances, and since DOXA has proposed a substitute channel, we are assigning Channel 276A to Covington, Indiana. We see no need to issue a further notice proposing the substitute channel since a Class A channel has already been proposed for Covington. As to DOXA's request that the assignment be made on a hyphenated basis to Covington and Veedersburg, it appears that DOXA's intent is to have its station identify with both communities. Under Section 73.1202(b)(2) of the Commission's Rules, a station may be authorized to include in its official station identification the name of an additional community or communities, but the community to which the station is licensed must be named first. DOXA could request such authorization if it becomes the ultimate licensee on Channel 276A. In any event, DOXA has not substantiated the inability of a station to support itself if identified with only one community. That is the test for being licensed on a hyphenated basis.

7. In view of the foregoing, the Commission believes the assignment of Channel 276A to Covington, Indiana, is warranted. A demand has been shown

for the proposed assignment and it would provide Covington with a needed first local aural broadcast service. It can be assigned in conformity with the applicable minimum distance separation requirements.

8. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

9. Accordingly, it is ordered, That effective February 4, 1980, the FM Table of Assignments, Section 73.202(b) of the Rules, as regards Covington, Indiana, is amended to read as follows:

City	Channel No.
Covington, Indiana	276A

10. It is further ordered, That this proceeding be terminated.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1086, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Henry L. Beaumann,

Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 79-39812 Filed 12-28-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 0, 5, 21, 22, 23, 25, 73, 74, 78, 81, 87, 90, 94, 95, 97, and 99

[Gen. Docket No. 78-365; FCC 79-831]

Amendment to Rules Relative to the Protection of FCC Monitoring Stations From Radio Interference

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: New rules providing exact location of FCC monitoring stations and describing, for all radio services, coordination procedures intended to protect FCC monitoring stations from strong radio signal interference.

EFFECTIVE DATE: January 31, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Field Operations Bureau, (202) 632-7593—Mr. David L. Means.

In the matter of Amendments to Parts 0, 5, 21, 22, 23, 25, 73, 74, 78, 81, 87, 90, 94, 95, 97, and 99 of the Commission's Rules Relative to the Protection of FCC Monitoring Stations from Radio Interference; Gen. Docket 78-365, No. 78-365.

Report and Order

Adopted: December 10, 1979.

Released: December 27, 1979.

By the Commission:

1. The Commission adopted a Notice of Proposed Rule Making in the above entitled matter on November 6, 1978, which was published in the *Federal Register* on November 20, 1978 (43 FR 54106). Interested parties were invited to file comments on or before January 22, 1979, and reply comments on or before February 21, 1979. The time for filing comments and reply comments was subsequently extended to March 22, 1979, and April 23, 1979, respectively.

2. The Notice proposed to provide, within Part 0 of the Rules, the precise location of each of the Commission's 13 monitoring stations, and also to provide, within the body of the Rules for each of the various radio services, a non-mandatory procedure for coordination prior to filing a license application with the Commission. The procedure would notify potential applicants for transmitting facilities near monitoring stations of the need to protect the stations from harmful interference. The rules would also publish the existing practice of FCC case-by-case review of certain applications for such facilities. A major intent of the Notice and these new rules is to let the public know what FCC procedures are, and to suggest a way of expediting FCC processing in the event of some problem.

3. Both formal and informal comments were received from numerous individuals and organizations. As the comments received were so numerous, it is not practicable to discuss each herein. However, every comment has been given careful consideration by the Commission, and the substance of every argument raised has been included and dealt with.

4. A great many of the comments were from radio amateurs and amateur organizations which, by their basic misinterpretation of the scope of the rulemaking, appear not to have actually read the Notice. It is suspected that they were moved to comment on this proceeding by an editorial entitled "Clouds on the Horizon" in the "It Seems to Us . . ." section of the January, 1979, issue of *QST* magazine, a publication of the American Radio Relay League, Inc., which is widely read in amateur circles. This editorial omitted any mention of the fact that the proposed rules changes applied to all radio services, possibly giving the impression that it applied only to amateurs. This is evidenced by the number of individual amateur respondents who complained that the

Amateur Radio Service is being singled out for special treatment. Had they read the actual Notice, it would have been obvious that the rule making applies to all services. Several of these respondents appeared to be commenting on the editorial, rather than the substantive issues of the rule making. The American Radio Relay League, Inc., in its January 8, 1979, petition to the Commission for an extension of time in which to file comments, stated that "the release date of the Notice of Proposed Rule Making . . . was too late to permit publication of the notice or a comprehensive summary in the January, 1979, issue of the League's monthly journal, *QST*. A last-minute change permitted only a brief eleven-line comment in that issue." The above mentioned full-page editorial appeared in that same issue, in addition to the 11 line comment.

5. All but 13 of the 89 comments and one reply comment were identifiable as being written by or in behalf of radio amateurs or radio amateur organizations. Included among these were petitions signed by 180 licensed amateurs and 12 others. Opposition from the amateur community to the rule making in its proposed form was almost unanimous. Most urged deletion of Part 97 from those Rule parts affected by the proposal, while many others were altogether opposed to the rule making. A few suggested other specific changes.

6. It is obvious from the comments that the Notice of Proposed Rule Making struck an emotional chord in the amateur community, with a variety of objections raised on philosophical, as well as technical, issues. The predominant argument in opposition to the rule making is that at least some of the Commission's 13 monitoring stations are poorly located. Most respondents feel that the problem of the deteriorating ambient electromagnetic environment around the monitoring stations would be best solved by moving them to more remote sites, rather than by placing an "additional" regulatory burden on amateur licensees. Similar views were expressed by most non-amateur respondents. While it is true that moving monitoring stations to less populated areas would, in some instances, reduce the strong-signal and wideband noise interference problems, it may, for other reasons, reduce their overall ability to carry out their intended functions. Selection of monitoring station locations involves a carefully considered compromise of many factors: land availability and cost, site suitability for long range direction finder installations, ground conductivity, direction finding

baselines, and, of course, the electromagnetic environment. The present monitoring station sites were chosen because they presented, at the time they were chosen, a nearly optimal compromise of these factors. Several respondents suggested that "profits" from the sale of valuable, presently-owned land could be used to buy new land and finance the move. However, the Commission is not permitted by law to sell real property, but must declare it as excess to the General Services Administration which, in turn, makes it available first to other Federal agencies, then to state agencies, local governments, and finally to the public if no government entity is interested. Any receipts for sale of such property, absent special Congressional authorization, do not go to the Commission, but rather directly to the U.S. Treasury. 40 U.S.C. 304a, 471-495. Any funds for moving monitoring stations would have to come from existing appropriations which are already strained to their limits by ongoing essential programs. Considering the great cost to the public that moving each of these monitoring stations would entail (1 to 10 million dollars, depending on the location), we believe that the slight burden this rule making would impose on radio licensees does not warrant moving the monitoring stations. Future monitoring stations would certainly be located with the goal of minimizing the total ambient field in mind, while, as in the past, balancing this goal against the other critical factors.

7. Many of the respondents from the amateur community feel that this rule making runs contrary to the spirit of deregulation which has been prevalent in the Amateur Radio Service in the past few years. They are pointing out the fact the Commission already has existing rules intended to prevent interference and the authority to modify licenses, which should be sufficient to protect the monitoring station, if exercised. These respondents seem to be missing the point we attempted to make in paragraphs 4 and 5 of the Notice, namely that the Commission is well aware of the rules and authority at its disposal and has routinely exercised this authority over the past three decades. *This rule making does not give the Commission any new authority or create any new regulatory requirements*, but rather, it publishes notification to potential applicants that the Commission may place limitations on stations which may interfere with monitoring stations and only recommends that potential applicants consult the Field Operations Bureau if

they expect the field strength from their facility will exceed 10 mV/m over a monitoring station. For those having no way of estimating their field, a suggested guide for determining whether coordination is recommended is provided. In this light, we fail to see how the proposed rule making runs contrary to the spirit of deregulation.

8. Some comments from amateurs objected to lumping the Amateur Radio Service into the same rule wording as broadcasters and other commercial radio services, pointing out that relatively low maximum power limitations, widespread use of single-sideband/suppressed carrier emissions, relatively low duty cycle of individual transmitter operation, and widespread use of directional antennas make the potential for interference from the Amateur Radio Service quite low. This is quite true. Indeed, several respondents pointed out that the Commission, in response to a Freedom of Information Act query, was unable to produce any documented evidence of amateur interference to monitoring stations. Concerns were also expressed that the logistics of implementing the coordination scheme as it appears in the Notice would be incompatible with the amateur licensing structure which permits much flexibility in transmitting facilities, and would impair the rapid establishment of disaster communications networks. Most amateur respondents stressed the excellent record of cooperation from amateurs, and therefore suggested that the rule making is not needed in the Amateur Radio Service. Taking these arguments collectively, the Commission agrees that the Amateur Radio Service would most appropriately be treated differently from the commercial users. Therefore, the rule making is amended to recommend coordination only from those amateurs proposing a transmitting facility to be located within one mile of any monitoring station.

9. Similarly, several respondents urged that the other Personal Radio Services also not be lumped with commercial services for the purpose of this rule making. These include the General Mobile Radio Service, the Radio Control Service, and the Citizens Band Radio Service. The point is moot for the latter two services, as all of the stations in these services are considered mobiles and are therefore excluded from the proposed rule. Because of the typically high antenna gains, and moderate output power of fixed General Mobile Radio Service stations, we believe the potential for interference from a nearby station in this service is sufficiently high

to warrant applying the same rule language to them as the commercial services.

10. The National Association of Broadcasters, the American Broadcasting Companies, Inc., and numerous amateur respondents suggested that the Commission's interference problems may be due, at least in part, to using less than state-of-the-art receiving equipment and interference rejection techniques, and that the Commission may be attempting to unnecessarily place the burden of its interference problems on the spectrum users. Several respondents suggest that the coordination threshold value of 10 mV/m may be unnecessarily low for that reason. This is not the case. The Commission's monitoring stations are using top quality, state-of-the-art equipment, built to military specifications and selected with interference rejection capability as a primary consideration, for their primary receivers. Commission field engineers are well aware of, and are using where practicable, filtering, preselection, and directional antenna techniques to minimize unwanted signals.

11. Many of the respondents have approached the 10 mV/m coordination threshold and the suggested guidelines citing power and distance as though they were absolute upper limits on the amount of signal a Commission monitoring station can tolerate, and therefore will allow. Again, this is not the case. The Commission would simply like to be aware of plans to build transmitting facilities which would produce high signal levels in order that it may have a chance to review the proposals on a case-by-case basis so that potential problems might be detected before the applicant goes to the time, effort, and possible expense of filing a formal application. The amount of signal a given monitoring station can tolerate without actual interference at a given time and at a given frequency varies considerably and is influenced not only by the strength of a single signal, but also by the root-sum-square value of all the signals impinging upon it at a given time. A blanket set of guidelines capable of predicting whether an applicant's signal will actually cause harmful interference would be incredibly complex, if at all possible to derive.

12. Two respondents, the Johns Hopkins University Applied Physics Laboratory Amateur Radio Club and Thomas A. Pendleton, went to considerable lengths to derive technical examples that show that, under certain circumstances, stations within the

recommended coordination distances may produce a field of less than 10 mV/m over the monitoring stations and stations beyond the distances may produce a field greater than 10 mV/m. Other respondents pointed out the same phenomena with less sophisticated examples. Their examples are generally technically valid, but they seem to have missed the point that the Commission is merely establishing simple guidelines for the public's benefit and publishing the fact that applications and licenses are reviewed anyway. We fully realize that the recommended power and distance guidelines do not in every case directly correlate to the 10 mV/m guideline, but it is not absolutely critical to our intentions that they do so. These simple guidelines will allow the applicant who has the technical sophistication to calculate the expected field strength to enable a decision as to whether or not he or she might coordinate, and will also allow the applicant who lacks this ability to make the same decision. Once this less technically sophisticated applicant has contacted us, the Commission staff can easily calculate the expected field.

13. The Johns Hopkins University Applied Physics Laboratory urged that governmentally sponsored experimental activities be exempted from the rule making because of their belief that the proposed rule would impose a burden on their own as well as the Commission's staff. As the communication (phone or letter) and calculations required for coordination are minimal in the great majority of cases, and considering the fact that experimental radiators often radiate continuously and therefore may have a high potential for causing harmful interference, we believe that such a blanket exemption is not warranted.

14. The American Telephone and Telegraph Company pointed out that, as the Commission does not ordinarily monitor frequencies above 1000 MHz from fixed locations (with the exception of facilities monitoring satellite transmissions), coordination above this frequency is unnecessary. The Commission agrees and has amended the language of the rule making to exclude transmitting facilities which operate above 1000 MHz, except where in the vicinity of a monitoring station which has been designated as regularly involved in satellite monitoring activity. Only one monitoring station is presently so designated; satellite monitoring functions are planned for at least two others in several years, at which time the appropriate editorial changes will be made.

15. AT&T and several other respondents also pointed out that the proposed rule language recommended coordination by all applicants for operation in the vicinity of a monitoring station and did not discriminate as to whether such applications were for new or changed facilities, or merely renewal applications. AT&T proposed that only new stations or those seeking an increase in power above that previously authorized should coordinate. We agree in principle, however, we believe it is more appropriate to use changes in field strength produced over the monitoring station as a criterion. The rule language in the radio services other than amateur, therefore, has been modified to recommend coordination only for those applicants requesting authority for new transmitting facilities or a change in facilities which would increase the field strength over the monitoring station. In the Amateur Radio Service, where the licensing structure does not authorize specific transmitting facilities, we have adopted appropriate language suggesting coordination before new stations are activated and before any changes are made in the transmitting facility which would increase its field strength over the monitoring station.

16. Section 90.177(d) has been created to incorporate deleted Sections 89.15(f), 91.8(n), and 93.9(d) because of the consolidation of former Rule Parts 89, 91, and 93 into Part 90 since the release of the Notice of Proposed Rule Making.

17. For further information on this Report and Order, or explanation of the proceedings, contact David L. Means, Engineering Division, telephone 632-7593.

18. We find the attached amendments to the Rules are necessary and desirable for the execution of the Commission's duties. Authority for adoption of these amendments is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

19. Accordingly, *It is ordered*, that, effective January 31, 1980, Parts 0, 5, 21, 22, 23, 25, 73, 74, 78, 81, 87, 90, 94, 95, 97, and 99 of the Commission's Rules are amended as set forth in the attached Appendix.

20. *It is further ordered*, that this proceeding is terminated.

Federal Communications Commission.
(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,
Secretary.

Appendix

1. Part O of the Commission's Rules is amended by revising Section 0.121(c) as follows:

§ 0.121 Location of field installations.

(c) . . . "Monitoring stations are located at the following addresses and geographical coordinates:

. . . Allegan, Michigan 49010
42°36'20"N. Latitude
85°57'20"W. Longitude
. . . Anchorage, Alaska 99502
61°09'43"N. Latitude
149°59'55"W. Longitude
. . . Belfast, Maine 04915
44°25'42"N. Latitude
69°04'58"W. Longitude
. . . Canadigua, New York (Delete Entire Entry)
. . . Chillicothe, Ohio (Delete Entire Entry)
. . . Douglas, Arizona 85607
31°30'06"N. Latitude
109°39'10"W. Longitude
. . . Ferndale, Washington 98240
48°57'21"N. Latitude
122°33'13"W. Longitude
. . . Fort Lauderdale, Florida 33314
26°06'08"N. Latitude
80°16'42"W. Longitude
. . . Grand Island, Nebraska 68801
40°55'24"N. Latitude
98°25'59"W. Longitude
. . . Kingsville, Texas 78363
27°26'29"N. Latitude
97°53'00"W. Longitude
. . . Laurel, Maryland 20810*
39°09'54" N. Latitude
76°49'17" W. Longitude
. . . Livermore, California 94550
37°43'30" N. Latitude
121°45'12" W. Longitude
. . . Powder Springs, Georgia 30073
33°51'44" N. Latitude
84°43'26" W. Longitude
. . . Sabana Seca, Puerto Rico 00749
18°27'23" N. Latitude
66°13'37" W. Longitude
. . . Waipahu, Hawaii 96797
21°22'45" N. Latitude
157°59'54" W. Longitude

§§ 5.67, 21.113, 22.113, 23.20, 25.203, 73.1030, 74.12, 78.19, 81.31, 87.31, 90.117, 94.25, 95.17, 99.11 [Amended]

2. The Commission's Rules are amended by inserting new §§ 5.67(d), 21.113(c), 22.113(c), 23.20(e), 25.203(h), 73.1030(c), 74.12(d), 78.19(f), 81.31(c), 87.31(d), 90.117(d), 94.25(i), 95.17(f), 99.11(i), each of which will read as follows:

* * * * *
Protection for Federal Communications Commission monitoring stations:

(1) Applicants in the vicinity of an FCC monitoring station for a radio station authorization to operate new transmitting facilities or changed transmitting facilities which would increase the field strength produced over the monitoring station over that previously authorized are advised to give consideration, prior to filing

*Satellite Monitoring Facility.

applications, to the possible need to protect the FCC stations from harmful interference. Geographical coordinates of the facilities which require protection are listed in Section 0.121(c) of the Commission's Rules. Applications for stations (except mobile stations) which will produce on any frequency a direct wave fundamental field strength of greater than 10 mV/m in the authorized bandwidth of service (-65.8 dBW/m^2 power flux density assuming a free space characteristic impedance of 120 ohms) at the referenced coordinates, may be examined to determine extent of possible interference. Depending on the theoretical field strength value and existing root-sum-square or other ambient radio field signal levels at the indicated coordinates, a clause protecting the monitoring station may be added to the station authorization.

(2) In the event that calculated value of expected field exceeds 10 mV/m (-65.8 dBW/m^2) at the reference coordinates, or if there is any question whether field strength levels might exceed the threshold value, advance consultation with the FCC to discuss any protection necessary should be considered. Prospective applicants may communicate with: Chief, Field Operations Bureau, Federal Communications Commission, Washington, D.C. 20534, Telephone (202) 632-6980.

(3) Advance consultation is suggested particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figure indicated would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether an applicant should coordinate:

(i) All stations within 2.4 kilometers (1.5 statute miles);

(ii) Stations within 4.8 kilometers (3 statute miles) with 50 watts or more average effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(iii) Stations within 16 kilometers (10 statute miles) with 1 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(iv) Stations within 80 kilometers (50 statute miles) with 25 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(4) Advance coordination for stations operating above 1000 MHz is recommended only where the proposed station is in the vicinity of a monitoring station designated as a satellite

monitoring facility in Section 0.121(c) of the Commission's Rules and also meets the criteria outlined in paragraphs (2) and (3) above.

(5) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Federal Communications Commission or modification of any authorization which will cause harmful interference.

3. Part 97 of the Commission's Rules is amended by inserting new Section 97.41(d), as follows:

§ 97.41 Applications for station license.

(d) Protection for Federal Communications Commission Monitoring Stations:

(1) Applicants for an amateur radio station license to operate in the vicinity of an FCC monitoring station are advised to give consideration, prior to filing applications, to the possible need to protect the FCC stations from harmful interference. Geographical coordinates of the facilities which require protection are listed in Section 0.121(c) of the Commission's Rules. Applications for stations (except mobile stations) in the vicinity of monitoring stations may be reviewed by Commission staff on a case-by-case basis to determine the potential for harmful interference to the monitoring station. Depending on the theoretical field strength value and existing root-sum-square or other ambient radio field signal levels at the indicated coordinates, a clause protecting the monitoring station may be added to the station license.

(2) Advance consultation with the Commission is suggested prior to filing an initial application for station license if the proposed station will be located within one mile of any of the above-referenced monitoring station coordinates and is to be operated on frequencies below 1000 MHz. Such consultations are also suggested for proposed stations operating above 1000 MHz if they are to be located within one mile of any monitoring station designated in Section 0.121(c) as a satellite monitoring facility.

(3) Regardless of any coordination prior to filing initial applications, it is suggested that licensees within one mile of a monitoring station consult the Commission before initiating any changes in the station which would increase the field strength produced over the monitoring station.

(4) Applicants and licensees desiring such consultations should communicate with: Chief, Field Operations Bureau,

Federal Communications Commission, Washington, D.C. 20554, Telephone (202) 632-6980.

(5) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Federal Communications Commission or modification of any authorization which will cause harmful interference.

[FR Doc 79-39813 Filed 12-28-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Opening of Chincoteague National Wildlife Refuge to Public Access, Use and Recreation

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public access, use and recreation of Chincoteague National Wildlife Refuge is compatible with the objectives for which the area was established and will provide additional recreational opportunity to the public through a non-consumptive use. This document amends and completely replaces the special regulations governing this use published on page 10925, Federal Register Volume 43, No. 52, Thursday, March 16, 1978.

DATES: January 25, 1980 through December 31, 1982.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, (617-965-5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Public access, use and recreation is permitted on Chincoteague National Wildlife Refuge in accordance with 50 CFR 26 and the following Special Regulations. Portions of the refuge which are open to public access, use and recreation are designated by signs and/or shown on maps available from addresses indicated below. No vehicle travel is permitted except on designated roads and trails. Special regulations applying to Chincoteague Refuge are listed on leaflets available at refuge headquarters

and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objective for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following special regulations:

§ 26.34 Special regulations; public access use and recreation; for individual wildlife refuge areas.

Public access, use and recreation is permitted on the Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, Virginia 23336. Contact J. C. Appel, Refuge Manager at 804-336-6122. Special Conditions: Entry into the refuge is permitted between the hours of 4:00 AM to 10:00 PM daily from April 1 to November 30 and from one-half hour before sunrise to one-half hour after sunset from December 1 to March 31 for the purposes of sightseeing, nature study, wildlife observation, photography, hiking, beachcombing, kite flying, sunbathing and fishing, including clamming and crabbing, as posted. Swimming and surfing are permitted as posted on the ocean beach. Fishing, kite flying, and possession of glass containers are prohibited within the protected beach areas. The use or possession of metal detectors is not permitted on the refuge. Entry into the refuge by boat is permitted at the designated public use areas at Tom's Cove Hook and the public use area operated by the Town of Chincoteague at Assateague Point. Picknicking and

contained fires are permitted at Tom's Cove Hook in designated areas. Open fires by special permit only. All fires must be extinguished by water. Operation of registered motor vehicles and bicycles is permitted on designated access roads, trails, and parking areas. No vehicle may be left on the area during closed hours except by special permit. Motorcycles or mopeds with motor in operation are not permitted on the Wildlife Drive or on other trails designated for foot or bicycle use. The use of mopeds or motorized bicycles shall be governed as follows: as a bicycle when motor is not in operation; as a motorcycle when motor is in operation; the methods of operation, equipment, license and registration requirements shall be the same as those set by the State of Virginia. Riding of horses and other saddle animals is permitted only along the shoulder of the access road to the Coast Guard crossover and thence only within designated areas along the beach. Pets are not permitted on the refuge. Off-road travel by oversand vehicles is permitted only on designated routes within the public use areas at Tom's Cove Hook. Driving so as to cut circles or otherwise needlessly deface the sand dunes or vegetation is prohibited. Speed may not exceed 25 miles per hour. When approaching or passing within 100 feet of a pedestrian or person on horseback, speed must be reduced to 15 miles per hour. Pedestrians and horseback riders always have the right-of-way. Oversand vehicles may not be used to tow persons on any recreational device over sand, or in the water or air. An annual permit at a fee of \$5.00 is required for oversand vehicle use. Such permits are not transferable, shall be displayed as directed by the refuge manager, and shall be valid from April 15 to April 14 of the following year. All oversand vehicles must conform to applicable State laws having to do with licensing, registering, inspecting and insuring of such vehicles. Motorcycles and mopeds must remain on designated access roads and are not permitted in oversand vehicle areas. All oversand vehicles must carry at all times on the beach: shovel, jack, tow rope or chain, board or similar support for the jack and low pressure tire gauge. No permit will be issued for a vehicle which does not meet the following standards:

On four-wheel-drive vehicles:

Maximum vehicle length	26 feet.
Maximum vehicle width	8 feet.
Minimum ground clearance	7 inches.
Gross vehicle weight rating may not exceed	10,000 lbs.
Maximum number of axles	2.
Maximum number of wheels per axle	2.
Minimum number of wheels	4.

On two-wheel drive vehicles in addition to the seven items listed above: Minimum width of tire contact on the sand—8 in. each wheel. Tires with regular mud/snow treads are not acceptable. The refuge manager may issue a single trip permit for a vehicle of greater weight or length when such use is not inconsistent with the purposes of the regulations. Forty-two (42) oversand vehicles are permitted in the oversand zone. The refuge manager may temporarily close or limit access to the beach when this level is reached. Special event permits may be issued by the refuge manager. Oversand vehicle permits issued by the National Park Service for operation on the Assateague Island National Seashore will also be honored for operation on the designated oversand vehicle routes within the public use areas at Tom's Cove Hook.

Fishermen who hold special overnight beach-fishing permits may remain on the refuge during closed hours on the dates for which such permit is issued. At least one member of the fishing party must be actively engaged in fishing at all times while on the refuge, under the terms of the permit. Organized youth-group and backpack camping is permitted by advance reservation only. Daily fee for youth-group camping is \$3.00 per site.

On that portion of the Chincoteague National Wildlife Refuge known as Tom's Cove Hook and described as the area bounded on the north by the wildlife fence adjacent to the main parking lot, on the east and south by the Atlantic Ocean extending to Fishing Point, and on the west by the waters of Tom's Cove to and along the canal in Swan Cove adjacent to the main parking lot, authorized National Park Service personnel may enforce the above regulations utilizing policies, procedures of the Assateague Island National Seashore, or if properly deputized, may utilize policies, procedures and authorities normally associated with law enforcement procedures of the Chincoteague National Wildlife Refuge.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a

regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard D. Woon,

Acting Regional Director, U.S. Fish and Wildlife Service.

December 18, 1979.

[FR Doc. 79-39824 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 26

Public Entry and Use of Certain National Wildlife Refuges in Oklahoma and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public access, use and recreation of certain National Wildlife Refuges in Oklahoma and Texas is compatible with the objectives for which these areas were established, and will provide additional recreational opportunity to the public through a nonconsumptive use. This document establishes special regulations effective for the upcoming public entry and use season.

DATES: January 1, 1980, through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address and/or telephone number listed below in the body of these Special Regulations.

General

Public access, use, and recreation is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 26 and the following Special Regulations. Portions of refuges which are open to public access, use and recreation are designated by signs and/or delineated on maps available from the address indicated below.

No vehicle travel is permitted except on designated, maintained roads and trails. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 300 E. 8th Street, Room G-121, Austin, Texas 78701.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary

purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 26.34 Special regulations; public access, use and recreation; for individual wildlife refuge areas.

Oklahoma

Salt Plains National Wildlife Refuge, Route 1, Box 76, Jet, Oklahoma 73749, telephone 405-626-4794.

Special conditions: (1) The public is permitted to enter upon the Great Salt Plains from the west along designated routes of travel to collect gypsum (selenite) crystals from April 1 through October 15, 1980, and only on Saturdays, Sundays, and holidays. (2) For the purpose of collecting selenite crystals, vehicles will be allowed only along such travel lands and parking areas as are posted for such activity. (3) Each individual may collect for his/her personal use up to a maximum of 10 pounds plus one selenite crystal or selenite crystal cluster per day. (4) Digging for selenite crystals will be confined to areas posted for such activity.

Sequoyah National Wildlife Refuge, P.O. Box 695, Vian, Oklahoma, 74962, telephone 918-773-5251. Public Entry and Use.

Special conditions: (1) An area of approximately 2,200 acres, south of Vian Creek and east of the refuge tour road shall be closed, as posted, to all public access during the periods January 1 through March 15, 1980, inclusive and October 1 through December 31, 1980, inclusive. This land is set aside to provide an area of minimum disturbance for waterfowl and other wildlife during the winter months. (2) Some refuge roads may be closed to vehicle entry from January 1 through March 15, 1980, and from October 1 through December 31, 1980, as posted, to prevent disturbance of wintering and migrating

waterfowl. (3) Sightseeing, nature observation, photography and hiking are permitted. (4) Picnicking is permitted only at the Vian Creek Recreation Area. Picnic fires may be built at the recreation area only in fire grills provided or in camp stoves or charcoal grills. (5) Overnight camping is not permitted except for youth conservation groups supervised by adults. Permits must be obtained in advance from the Refuge Manager. All other recreational uses are restricted to the period 5 a.m. to 9 p.m. daily. (6) Firearms are prohibited except during authorized hunting seasons when only shotguns are permitted. Firearms being transported in a motor vehicle must be unloaded and dismantled or cased. Possession of any firearm on the refuge at night or in refuge areas closed to hunting is prohibited. (7) Boating is permitted in accordance with Federal and State regulations. (8) Waterskiing is prohibited in all refuge waters. (9) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured to restrict the movement of the pet. Dogs may be used for hunting in accordance with refuge hunting regulations. (10) Pecan picking is limited to one gallon per person per day.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460, telephone 405-371-2402. Public Entry and Use.

Special Conditions: (1) Portions of the Tishomingo National Wildlife Refuge are open to: wildlife observation, photography, sightseeing, hiking, fishing and boating, picnicking and camping incidental to wildlife oriented activities as posted and/or indicated on the refuge leaflet and map. (2) Camping is permitted only in designated areas. Individuals and/or camping facilities are limited to 3 consecutive camping days in the area near headquarters, to 9 consecutive camping days elsewhere, and to a total of 18 camping days during the calendar year. (3) During the periods of January 1, 1980, through February 29, 1980, and October 1, 1980, through December 31, 1980, the area known as the Tishomingo Wildlife Management Unit is closed to all public use activities except those specific hunting activities as may be designated. (4) Boating on Refuge water other than Lake Texoma and the Washita River is limited to no-wake speeds. (5) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured to restrict the movement of the pet. Pets must be prevented from harassing or disturbing wildlife or the visiting public. (6) The Refuge will be closed to all general recreational uses

during the special, controlled deer hunts in the fall as posted.

Washita National Wildlife Refuge, Route 2, Box 100, Butler, Oklahoma 73625, telephone 405-473-2205. Public Entry and Use.

Special conditions: (1) Wildlife/wildland observation and photography are permitted from the observation platform located in Owl Cove Recreation Area and from vehicles using established routes of travel. Visitors may walk into other areas of the refuge during the public use season, from April 1 through October 14, 1980. (2) Parking is permitted only in locations designated by signs in hunter access and recreation areas. (3) Boating is permitted from April 1 through October 14, 1980. (4) Swimming, waterskiing and overnight camping are prohibited. (5) Overnight stays for organized youth and education groups, with adult supervision, involved in wildlife/wildland-associated activities are permitted. (6) Camp stoves, charcoal burners and portable heaters may be used in recreational areas. Open fires are prohibited. (7) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured to restrict the movement of the pet.

Wichita Mountains Wildlife Refuge, P.O. Box 448, Cache, Oklahoma 73527, telephone 405-429-3222. Public Entry and Use.

Special Conditions: (1) Sightseeing, nature observation, and photography are permitted only during daylight hours. (2) Hiking is permitted during daylight hours only. (3) Camping is permitted only in those recreation areas that are designated for that activity. (4) Any activity that emits sound beyond the immediate campsite between the hours of 10:00 p.m. and 8:00 a.m. is prohibited. (5) No person other than campers shall enter or remain in a camping area between the hours of 10:00 p.m. and 8:00 a.m. (6) No person shall use electrical speakers at a volume which emits sound beyond the individual camp or picnic site without the permission of the refuge manager. (7) Exceeding posted capacities is prohibited. A written permit is required for stays exceeding 7 days. (8) Backcountry camping is permitted in the Charons Gardens Wilderness Area by permit only. Length of stay is limited to 3 days. Inquire at Refuge office for further information. Special conditions may be set by Refuge Manager which may include areas for camping, equipment used and prohibition of open fires. (9) Fires are prohibited, except in those recreation areas where camping or picnicking is permitted. They must be built in grates and grills provided for

that purpose. Dead fallen timber may be used. Fires must not be left unattended and must be completely extinguished before leaving the area. During periods of very high fire danger, open fires are prohibited. (10) Picnicking is allowed only in recreation areas that are designated for that activity. (11) Gasoline, electric, oar, or handpowered boating is permitted only on Elmer Thomas Lake; handpowered boats only on Jed Johnson, Rush, Quanah Parker and French Lakes. Boating is prohibited in marked scuba diving and swimming areas. State and Federal boating regulations apply. Fort Sill regulations apply on the military portion of Elmer Thomas Lake. Water skiing is prohibited. All floating devices are prohibited, except those permitted in boating, swimming, scuba diving, and sport fishing regulations. (12) Swimming, wading, and snorkeling are prohibited, except at the designated swimming beach on Elmer Thomas Lake and only when refuge lifeguards are on duty. Food, beverages, and pets are prohibited on the beach. Beach users must comply with the directions of authorized lifeguards. (13) Scuba diving is permitted in the refuge portion of Elmer Thomas Lake, but is prohibited in all other refuge waters. Diving areas must be marked with appropriate warning flags when outside marked swimming areas. Diving is permitted during daylight hours only. Inflatable vests must be worn during diving. (14) Pets must be kept on a leash, not to exceed 10 feet in length, one end of which must be secured to restrict the movement of the pet. Pets are prohibited at the swimming beach. (15) Motorized vehicles are permitted only on developed roads. Vehicle travel on roads closed by sign or barrier is prohibited. All vehicles must be operated safely and in accordance with posted speed limits and other regulatory signs. Stopping on roadways is prohibited. Parking or leaving unattended any vehicle is permitted only in areas designated for that purpose by sign or on refuge maps available to the public and only for the purpose of authorized activities. Vehicles found parked in any closed areas, or any area not designated as a parking area or in any area after the hours of authorized activities, may be removed from the refuge. Any changes or expenses incurred by such removal, including storage fees, shall be borne by the owner of the vehicle. (16) The public display or consumption of alcoholic beverages, including beer is prohibited. (17) Possession or use of any alcoholic beverage, including beer by persons under 18 years of age is prohibited. (18)

The transportation of any alcoholic beverage, including beer, that is accessible to the driver or any occupant of a moving vehicle is prohibited unless it is in the original container and the original cap or seal has not been removed or loosened.

Texas

Anahuac National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514, telephone 713-267-3337. Public Entry and Use.

Special conditions: (1) Overnight camping is permitted only adjacent to the shoreline of East Bay. Camping is limited to 3 days and 3 nights. (2) Campfires are permitted only adjacent to the shoreline of East Bay. (3) Boats may be launched from the refuge into East Bay.

Aransas National Wildlife Refuge, P.O. Box 100, Austwell, Tex. 77950, telephone 512-286-3559. Public Entry and Use.

Special conditions: (1) Camping is permitted only for organized youth groups that have obtained a special permit. (2) Touring, sightseeing, hiking, nature observation, photography, and sound recording of wildlife are permitted along designated routes of travel except where restricted by appropriate signs. (3) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which is secured to restrict the movement of the pet. (4) The refuge is open for public use from sunrise to sunset. (5) Visitors must register upon arrival. (6) Special conditions for the Matagorda Island Unit of the Aransas National Wildlife Refuge are (a) sightseeing, hiking, nature observation, beachcombing, camping, photography and sound recording of wildlife are permitted in areas so designated; (b) visitors have access to surf fishing and swimming; (c) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured, so as to restrict the movements of the pet; and (d) visitors must register upon arrival.

Buffalo Lake National Wildlife Refuge, P.O. Box 228, Umbarger, Texas 79091, telephone 806-946-3341. Public Entry and Use.

Special conditions: (1) Touring, sightseeing, hiking, nature observation, photography and sound recording of wildlife are permitted along designated routes of travel except where restricted by appropriate signs. (2) Camping and picnicking is permitted in designated areas. (3) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be

secured so as to restrict the movement of the pet.

Hagerman National Wildlife Refuge, Route 3, Box 123, Sherman, Texas 75090, telephone 214-786-2826. Public Entry and Use.

Special conditions: (1) Touring, sightseeing, nature study, photography and sound recording of wildlife are permitted along designated routes of travel except where restricted by appropriate signs. (2) Picnicking is permitted and fires may be built in access area fireplaces only and must be extinguished before leaving the area. (3) Pecan picking is permitted in areas not closed to access and is limited to one gallon per person per day. (4) Overnight camping is prohibited. (5) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured so as to restrict the movements of the pet.

Laguna Atascosa National Wildlife Refuge, P.O. Box 450, Rio Hondo, Texas 78583, telephone 512-748-2426. Public Entry and Use.

Special conditions: (1) Touring, sightseeing, hiking, nature observation, photography and sound recording of wildlife is permitted along designated routes of travel, except where restricted by appropriate signs. (2) Camping is permitted in the North Point and West Side Recreation Areas only. A 3-day maximum stay is allowed. (3) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured so as to restrict the movements of the pet. (4) Swimming within the refuge is prohibited.

Muleshoe National Wildlife Refuge, P.O. Box 549, Muleshoe, Texas 79347, telephone 806-946-3341. Public Entry and Use.

Special conditions: (1) Access for wildlife observation, nature study and photography is permitted by motor vehicle, foot, or horseback along designated routes of travel except where restricted by appropriate signs. (2) Groups of 10 or more people must register in advance to use the refuge. (3) Camping is permitted in designated sites only. (4) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured so as to restrict the movements of the animal.

Santa Ana National Wildlife Refuge, Route 1, Box 202A, Alamo, Tex. 78516, telephone 512-787-3079. Public Entry and Use.

Special conditions: (1) The refuge is open to visitation daily from sunrise to sunset. (2) Vehicular access is restricted to the scenic drive during the hours of 8 a.m. to 6 p.m. (3) Motorcycles are prohibited on the refuge except that

portion of the scenic drive from the north entrance to the headquarters parking lot. (4) Camping is permitted only by groups participating in environmental education or educational field trip activities on a reservation basis. Applications for reservations should be sent to the above address. (5) Pets must be confined or kept on a leash, not to exceed 10 feet in length, one end of which must be secured so as to restrict the movements of the pet.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposed requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Joseph R. Higham,
Area Manager, Austin, Tex.
[FR Doc. 79-30825 Filed 12-29-79, 8:45 am]
BILLING CODE 4310-55-M

50 CFR Part 33

Sport Fishing; National Wildlife Refuges in Florida, Georgia, and South Carolina

AGENCY: Fish and Wildlife Service.
ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which sport fishing will be permitted on portions of certain National Wildlife Refuges in Florida, Georgia, and South Carolina.

DATES: Effective December 31, 1979, for duration of calendar year 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Donald J. Hankla, Area Office Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Fla. 32207.
Telephone: 904-791-2267.
John P. Davis, Refuge Manager, Savannah (and Backbeard Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Georgia 31412. Telephone: 912-232-4321, Ext 415.
Del Pierce, Refuge Manager, J. N. "Ding" Darling National Wildlife Refuge, P.O.

Drawer B. Sanibel, Florida 33957. Telephone: 813-472-1100.

Bruce Blihovde, Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Florida 32028. Telephone: 904-985-4873.

Thomas W. Martin, Refuge Manager, Loxahatchee National Wildlife Refuge, Boynton Beach, Florida 33437. Telephone: 305-732-3684.

Stephen Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Florida 32780. Telephone: 305-867-4820.

John R. Eadie, Refuge Manager, Okefenokee National Wildlife Refuge, P.O. Box 117, Waycross, Georgia 31501. Telephone: 912-283-2580.

Ronnie L. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Georgia 31680. Telephone: 912-966-5441.

Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, Florida 32355. Telephone: 904-925-8121.

Martin Perry, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Florida 32320. Telephone: 904-653-8908.

SUPPLEMENTARY INFORMATION:**§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.****General**

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorized the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. Funds are available for the administration of the

recreational activities permitted by these regulations.

Sport fishing is permitted on the following refuges within those areas posted with signs and/or designated on a map. Sport fishing shall be in accordance with all applicable State regulations subject to the aforementioned general conditions and the following special conditions:

Florida**J. N. "Ding" Darling National Wildlife Refuge**

Sport and commercial fishing is permitted in 1,050 acres of tidal waters of the J. N. "Ding" Darling National Wildlife Refuge, Sanibel, Florida. Sport fishing only is permitted in 800 acres of freshwater impoundments on the Darling Tract and from the fishing pier located on Lighthouse Point. A valid Florida state fishing license is required for catching freshwater species from the Darling Tract impoundments. Boats are prohibited in the Darling Tract impoundments. The taking of live shellfish other than clams and oysters is prohibited in refuge waters. The following special regulations apply to the public fishing pier: Cast nets are limited to bait nets with a stretched mesh of ¾ inch or less; boats will not be allowed to tie up at the pier except during emergency situations; and fishermen will be limited to no more than two fishing poles, rods or lines.

Lake Woodruff National Wildlife Refuge

Sport fishing on the Lake Woodruff National Wildlife Refuge, DeLeon Springs, Florida is permitted on approximately 650 acres. The sport fishing season is open year-round on delineated refuge waters west of Norris Dead River, Lake Woodruff, Spring Garden Creek, Highland Park Canal, and the Canal bordering the east side of Norris Dead River. Refuge waters east of Norris Dead River Canal, Lake Woodruff and Spring Garden Creek will be open to fishing and access March 15 to October 15, 1980. Fishing and access on refuge waters are permitted during daylight hours only. Air thrust boats are prohibited.

Loxahatchee National Wildlife Refuge

Sport fishing is permitted in all waters (61,352 acres) of the Loxahatchee National Wildlife Refuge, Boynton Beach, Florida except the headquarters management area and those areas marked by signs as being closed. All public entry onto the refuge for any purpose is limited to the following points: (a) S-5A (Twenty-Mile Bend)

boat ramp; (b) Headquarters area; (c) Loxahatchee Recreation Area. Sport fishing is permitted year-round. Fishing is restricted to 1½ hours before sunrise until 1 hour after sunset. Boats must enter or leave the refuge through the three public ramps: (a) S-5A (Twenty-Mile Bend) boat ramp; (b) Headquarters boat ramp; (c) S-39 (Loxahatchee Recreation Area) boat ramps. Method of fishing allowed is with attended rod and reel and/or pole and line. Air thrust boat use is authorized only by special permit issued by the refuge manager. Speed boats and racing craft are prohibited.

Merritt Island National Wildlife Refuge

Sport fishing is permitted in the open waters of the Indian River, Banana River, Banana Creek, Mosquito Lagoon, Mosquito control impoundments and interior lakes except for the Kennedy Space Center security areas. No more than 20 total fish daily per person may be taken from the K.A.R.S. marina in the Banana River or Eddy Creek "trout hole" in Mosquito Lagoon during the period November 15—March 13 annually, by any individual sport fisherman. Sport fishing is permitted during daylight hours only. Night sport fishing from boats in the open waters on the Indian River, Banana River, and Mosquito Lagoon is permitted by fishermen with a refuge special use permit. The permit is free and can be obtained from the refuge headquarters. Fishing in close proximity to manatees is prohibited. Fishing lines must be attended at all times and discarding of tangled line into the waters of the refuge is prohibited.

St. Marks National Wildlife Refuge

Sport fishing is permitted in all waters of the St. Marks National Wildlife Refuge (approximately 65,000 acres), St. Marks, Florida except those marked by signs as being closed. The sport fishing season on the refuge extends from March 15 through October 15, 1980, with the exception of Otter Lake which is open year-round. Travel is restricted to established, designated roads only. Fishing is permitted ½ hour before sunrise until ½ hour after sunset during the open season. Boats with electric motors and gasoline engines up to and including 4 horsepower are permitted. Trotlines shall be taken up daily prior to closing hours of fishing. The taking of saltwater species in Apalachee Bay and tidal creeks is subject to State regulations. Year-round launching of saltwater fishing boats from the Lighthouse launch ramp is regulated. The launching of commercial boats and sport net boats is prohibited.

St. Vincent National Wildlife Refuge

Sport fishing on the St. Vincent National Wildlife Refuge, Franklin County, Apalachicola, Florida is permitted on 245 acres from March 1 through October 31, 1980. Fishermen are permitted on the refuge from ½ hour before sunrise to ½ hour after sunset. Boats with electric motors permitted; all other motors prohibited. Private boats may not be left on the refuge overnight. Use of live minnows as bait is prohibited.

Georgia**Blackbeard Island National Wildlife Refuge**

Fresh water sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Georgia is permitted on only two areas totaling 350 acres. The sport fishing season extends from March 15 through October 25, 1980. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than ½ hour after sunset. Boats with electric motors permitted. Gasoline powered motors prohibited. Use of live minnows as bait prohibited. Private boats may not be left on the refuge overnight.

Okefenokee National Wildlife Refuge

Sport fishing is permitted on the Okefenokee National Wildlife Refuge, Waycross, Georgia in the designated open water areas connected by established boat runs. Fishing permitted during posted hours only. Boats with motors not larger than 10 horsepower, canoes, and row boats permitted. Use of live minnows as bait prohibited. Trotlines, limblines, nets and other set tackle prohibited. Persons entering refuge from main access points must register with the respective concessioner. Persons using the Sill access ramp on the Pocket and Kingfisher Landing access ramp are required to sign the respective registers when they enter the swamp and again when they leave.

Piedmont National Wildlife Refuge

Sport fishing on the Piedmont National Wildlife Refuge, Round Oak, Georgia is permitted on approximately 87 acres during daylight hours. Fishing is allowed on the following areas in accordance with all applicable State regulations subject to the following restrictions. Open season: Falling Creek Bridge and Little Falling Creek Bridge open daily May 13 through September 13, 1980. Pond 2A open May 13 through September 13, 1980 on Tuesdays, Saturdays and national holidays; Boats

allowed; electric motors permitted; all other motors prohibited. Ponds 6A, 7A, 9A, 11A, and 11B open May 13 through September 13, 1980, on Tuesdays, Saturdays and national holidays; no boats allowed. 5 Points Lake open May 13 through September 13, 1980; fishing is permitted daily; no boats allowed. Ponds 21A and 22A open May 13 through September 13, 1980, on Tuesdays, Saturdays and national holidays; no boats allowed. Fishing on these two areas is restricted to youths 12 years of age or younger. Boats may not be left on the refuge overnight. No minnows allowed for bait. Littering, firearms, camping and alcoholic beverages are prohibited. Fishing shall be with rod and reel and/or pole and line only. Bank fishing permitted within posted areas only. Bass creel limit is 5 fish, 12 inches or longer.

Georgia and South Carolina**Savannah National Wildlife Refuge**

Sport fishing on the Savannah National Wildlife Refuge, portion of Jasper County, South Carolina, and Chatham and Effingham Counties, Georgia is permitted only on designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1980, for all impounded waters. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than ½ hour after sunset. Only electric motors are permitted on impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" signs are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

Dated: December 20, 1979.

Sam O. Drake, Jr.,
Acting Area Manager.

[FR Doc. 79-39808 Filed 12-29-79; 8:45 am]
BILLING CODE 4310-55-M

50 CFR Part 33**Sport Fishing; Opening of Certain National Wildlife Refuges to Sport Fishing in North Dakota**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges is compatible with the objectives for which

the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 15, 1979 through March 23, 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below.

Gilbert Key, Area Office Manager, U.S. Fish and Wildlife Service, 1500 Capitol Ave., Bismarck, ND 58501. Telephone: (701) 255-4011 X-401.

Ronald D. Shupe, Refuge Manager, Audubon National Wildlife Refuge, R.R. 1, Coleharbor, ND 58531. Telephone: (701) 442-5474.

John Venegoni, Refuge Manager, Des Lacs National Wildlife Refuge and Lake Ilo National Wildlife Refuge, Box 578, Kenmare, ND 58746. Telephone: (701) 385-4046.

SUPPLEMENTARY INFORMATION:**General**

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that (1) such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

North Dakota

Audubon National Wildlife Refuge

Sport fishing on the Audubon National Wildlife Refuge, Coleharbor, North Dakota, is permitted on approximately 10,500 acres. Snowmobiles are not permitted on the refuge.

Lake Ilo National Wildlife Refuge

Sport fishing on Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota, is permitted on approximately 1,050 acres. Fishing is permitted during daylight hours only.

Des Lacs National Wildlife Refuge

Sport fishing on the Des Lacs National Wildlife Refuge, Kenmare, North Dakota, is permitted on 700 acres of middle Des Lacs Lake. Fishing or parking is not permitted on County Road 2 or on the bridge over Des Lacs Lake.

Dated: December 18, 1979.

Gilbert E. Key,

Area Manager, Bismarck, North Dakota.

[FR Doc. 79-39831 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

Squid Fishery of the Northwest Atlantic

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Promulgation of final regulations.

SUMMARY: These final regulations implement the fishery management plan (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) for the Squid Fishery of the Northwest Atlantic Ocean under authority of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.*, as amended (the Act). These final regulations control domestic and foreign vessels within the United States fishery conservation zone (FCZ), fishing for Atlantic squid (*Illex illecebrosus* or *Loligo pealei*). The final regulations provide:

- (1) Annual catch quotas for both domestic and foreign fishermen;
- (2) A fishing year for both species of squid from April 1, 1979, through March 31, 1980;

(3) A fishing permit and recordkeeping system; and

(4) Criteria for reallocating portions of the domestic annual harvest (DAH) to the total allowable level of foreign fishing (TALFF).

All regulations governing foreign fishing for Atlantic squid contained in 50 CFR Part 611 are incorporated in these regulations. Those regulations are repromulgated to implement portions of the FMP.

Proposed regulations were published on June 26, 1979; public comment was invited for a 60-day period. Comments received are addressed in the supplementary information section of the preamble.

EFFECTIVE DATE: These final regulations are effective January 1, 1980, with the exception of §§ 655.4, 655.5, and 655.6, which are effective on February 15, 1980. The delay in implementing §§ 655.4-655.6 will allow domestic fishermen harvesting Atlantic squid to become familiar with the requirements for establishing fishing permits, recordkeeping, and vessel identification.

ADDRESS: Copies of the approved FMP and the final regulatory analysis (RA) may be obtained by writing to the person listed below.

FOR FURTHER INFORMATION CONTACT:

Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, Telephone: (617) 281-3600.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA, approved the FMP for the Squid Fishery of the Northwest Atlantic Ocean on June 6, 1979. The FMP was published on June 26, 1979, along with the proposed implementing regulations (44 FR 37252).

Public comments on the proposed regulations, NOAA's response to those comments, and several amendments made in these regulations are discussed on a section-by-section basis below. Other technical and editorial changes of a minor nature were made in the final regulations.

Section 655.2 Definitions. The definitions of "commercial fishing" and "personal use of squid" have been deleted from the proposed regulations. The intent of the FMP to exempt from permit requirements "recreational fishermen taking squid for their personal use" has been implemented by amending the permit § 655.4(a) (see below).

"Person who receives squid for a commercial purpose" has been defined to clarify who is required to maintain

fish dealer/processor reports under § 655.5(b).

Section 655.3 Relation to other laws. Paragraph (b) of the proposed section has been deleted, because it duplicated paragraph (b) of § 655.1.

Section 655.4 Vessel permits and fees. Paragraph 4(a) has been changed by exempting from the permit requirement vessels which catch no more than 100 pounds of squid per trip. Difficulties in defining the "personal use of squid" led the agency to substitute a simpler exemption for vessels which catch small amounts of squid.

The circumstances under which a permit expires have been expanded to include changes in length, gross tonnage, fish hold capacity of the vessel, home port, or regulated fisheries in which the vessel is engaged; these are in addition to changes in ownership or name of the vessel. The change is made to reflect the conditions and information stated on the permit.

Section 655.5 Recordkeeping and reporting. This section discusses recordkeeping required of fishing vessel operators and fish dealers/processors. An attempt is being made to standardize the recordkeeping provisions for all regulated Northwest Atlantic Ocean fisheries, because a single comprehensive recordkeeping form will be used for U.S. participants in these regulated fisheries. Many of the changes in this section are a result of this standardization process.

In regard to fishing vessels, the term "fishing logbook report" was used in the proposed regulations. This has been replaced with "fishing vessel record," in order to establish internal consistency between the paragraph's heading and text.

Language has been added to require negative reporting (i.e., that no regulated species were taken over the reporting period). Without such a provision, it is impossible to determine whether all permitted vessels are complying with the recordkeeping requirements. Exemptions to negative reporting may be granted for periods of two to ten months for vessels permitted under this Part which are not catching squid for that period of time. This exemption is intended to accommodate those vessels catching squid on a seasonal basis only, or vessels under repairs.

One commenter objected to the substance of the requirements for recordkeeping and reporting for fish dealers/processors. The objection was that these regulations contain the same requirements for price information that were objected to previously in the regulations governing the Atlantic Groundfish Fishery (50 CFR Part 651)

and the Atlantic Herring Fishery (50 CFR Part 653). There is presently an industry/government/Council task force working to develop an acceptable recordkeeping and reporting form for fish dealers/processors. NOAA will use this form for the dealer/processor reporting system as soon as it is developed. The commenter also expressed concern about the lack of provisions for confidentiality of reported data, as required under section 303(d) of the Act. Regulations to implement the confidentiality requirements of the Act were published as interim final regulations on December 7, 1979 (44 FR 70480).

The commenter expressed the opinion that no recordkeeping or reporting requirements should be proposed for any fishery prior to circulation for public comment of the task force's review of this matter. NOAA believes that basic reporting requirements must be included in regulations implementing an FMP to comply with the requirements of section 303(a)(5) of the Act.

Section 655.21 Allowable levels of harvest. Several commenters discussed the specified OY for *Illex* to the effect that modification of the maximum sustainable yield (MSY) of 40,000 mt to the optimum yield (OY) of 30,000 mt cannot be justified on the basis of the information in the FMP and in the preamble to the proposed regulations. Public comments stated that the specified MSY is biologically conservative; therefore, a reduction from MSY to the specified OY for biological reasons is inappropriate. In addition, they suggested that consideration of the role of *Illex* as an important prey for other fish and marine mammals is not valid in specifying OY.

The MSY for *Illex* of 40,000 mt from the territorial sea and FCZ of the United States, while conservative, is reasonable given the variability in estimates of population size over time and the lack of detailed understanding of the relationship between a given population size and subsequent recruitment of juvenile *Illex* into the fishable population. Estimates of *Illex* biomass on Georges Bank and the southern Scotian Shelf have ranged from 58,000 mt to 258,000 mt in recent years. Assuming that: (1) a moderate stock-recruitment relationship exists, and (2) most fishing mortality occurs during the summer, these biomass estimates indicate that catches of 21,000 mt to 95,000 mt could have been supported by the population. These data, however, are not considered highly reliable. At present, there is no basis for predicting the future abundance of *Illex*. Therefore,

the MSY is "conservative biologically" and "based on minimum estimates of biomass size" (44 FR 37272).

The Act states that optimum yield is the amount of fish "which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor" (section 3(18)(b)). The predator-prey relationship in the north Atlantic ecosystem is a "relevant" ecological factor and is discussed in the FMP (44 FR 37270). Accounting for these relationships in the design of a fisheries management system may result in a certain amount of resource being "lost" for purposes of human consumption. Yet, this will help to provide stability to natural ecosystem cycles which, in the long term, will serve to benefit a number of other fisheries.

Several commenters objected to the estimates of domestic annual harvest (DAH) of 14,000 mt of *Loligo* and 10,000 mt of *Illex*. In particular, one stated that the "allocations to domestic fishermen for the current fishing year so far exceed recent domestic catches in the fishery . . . that a significant waste of resources can be expected." Similarly, another commenter stated that "the estimated domestic annual harvests (DAH) of 10,000 mt of *Illex* and 14,000 mt of *Loligo* lack sufficient justification both in terms of the historical catch of the U.S. commercial and recreational fisheries and evidence of the capacity and intent of domestic fishermen to harvest those amounts." The Council's estimate of DAH reflects three factors: (1) past performance of the domestic fishery; (2) anticipated changes in traditional fishing patterns and practices; and (3) unquantified catches. In 1978, U.S. landings of squid from the Northwest Atlantic were approximately 1,900 mt. For the first ten months of 1979, domestic landings were reported to be 5,100 mt, and NOAA projects the entire 1979 domestic harvest to be 6,500 mt. This represents a 200 percent increase in the harvest. This upward trend is expected to continue as the industry's ability to provide high quality squid for export markets continues to improve. A new fishing vessel with flash freezer capacity aboard began operations this past summer and is expected to be involved in the squid fishery. NOAA has indications that two additional fishing vessels of similar design are under construction and will enter the fisheries in the summer of 1980.

The DAH specification is based on reasonable assumptions about the anticipated growth of the domestic fishery. If domestic fishermen fail to reach the anticipated levels of harvest, a

reallocation system provides for redistribution of the allowable catch to foreign fishermen. Furthermore, recordkeeping and reporting required under section 655.5 will enable the Council to project more accurately future domestic participation in the squid fishery.

Section 655.22 Reallocation. Several comments were received on both the criteria for in-season reallocation of Atlantic squid from DAH to TALFF, and the timing of such reallocations. The intent of the FMP is to provide for in-season reallocations in the event that the projected estimate of DAH is markedly different from actual harvests during the year. The dates for any potential reallocations are late in the fishing year due to domestic fishing practices.

Section 655.23 Closure of fishery. In the proposed regulations, the Regional Director could make a recommendation for closure of the fishery when 90 percent of the annual quota for the particular species was reported harvested. Upon review, NOAA believes that this does not provide the responsiveness necessary for timely action to prevent the quota from being exceeded. To provide for timely action, the percentage has been changed from 90 percent to 80 percent.

FMP Approval

The Assistant Administrator has reviewed comments received on the FMP, and finds that the plan is consistent with the national standards, other provisions of the Act, and other applicable law. Comments on the FMP have been forwarded to the Council for its consideration in future amendments.

National Environmental Policy Act of 1969 (NEPA)

Development and implementation of the FMP have been deemed a major federal action significantly affecting the quality of the human environment. An environmental impact statement (EIS) has been prepared and a notice of availability was published on June 9, 1978 (43 FR 25183). This EIS was supplemented and a notice of its availability was published on January 22, 1979 (44 FR 4545).

Executive Order 12044

A regulatory analysis, required by Executive Order 12044, has been prepared. Persons wishing to inspect this document may do so by contacting the Regional Director (see "addresses" above).

Administrative Procedure Cooling Period

The Assistant Administrator for Fisheries has determined that the 30-day "cooling" period required under the Administrative Procedure Act (APA) should be waived because the regulations implementing the preliminary fishery management plan will expire on January 1, 1980. Delay in implementing these final regulations would prevent foreign nations from prosecuting their fisheries for *Loligo* or *Illex*.

Signed at Washington, D.C. this 26th day of December, 1979.

(16 U.S.C. 1801 *et seq.*)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Regulations governing foreign fishing for Atlantic squid in 50 CFR Part 611 are hereby repromulgated. Part 655 is adopted as final to read as set forth below:

PART 655—SQUID FISHERY OF THE NORTHWEST ATLANTIC**Subpart A—General Provisions**

Sec.

- 655.1 Purpose and Scope.
- 655.2 Definitions.
- 655.3 Relation to Other Law.
- 655.4 Vessel Permits and Fees.
- 655.5 Recordkeeping and Reporting Requirements.
- 655.6 Vessel Identification.
- 655.7 Prohibitions.
- 655.8 Enforcement.
- 655.9 Penalties.

Subpart B—Management Measures

- 655.20 Fishing Year.
- 655.21 Allowable Levels of Harvest.
- 655.22 Reallocation Provisions.
- 655.23 Closure of Fishery.
- 655.24 Size Restrictions. [Reserved]
- 655.25 Gear/Vessel Equipment Restrictions. [Reserved]
- 655.26 Area/Time Restrictions [Reserved].

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions**§ 655.1 Purpose and scope.**

(a) These regulations in this Part: (1) implement the Fishery Management Plan for the Squid Fishery of the Northwest Atlantic Ocean, which was prepared and adopted by the Mid-Atlantic Fishery Management Council and approved by the Assistant Administrator; and (2) govern fishing for Atlantic squid by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority.

(b) The regulations governing fishing for Atlantic squid by foreign vessels in the fishery conservation zone are contained in 50 CFR Part 611.

§ 655.2 Definitions.

In addition to the definitions in the Act, the terms used in this Part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*

Assistant Administrator means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Atlantic squid means the species *Illex illecebrosus* (short-finned or summer squid) and *Loligo pealei* (long-finned or bone squid).

Authorized Officer means:

- (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;
- (c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with Secretary of Commerce and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or
- (d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Catch, take, or harvest includes, but is not limited to, any activity which results in mortality to any squid or in bringing any squid on board a vessel.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing includes any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

- (a) The catching, taking, or harvesting of squid;
- (b) The attempted catching, taking, or harvesting of squid;
- (c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of squid; or
- (d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) fishing; (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Operator, with respect to any fishing vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any fishing vessel, means:

- (a) Any person who owns that vessel in whole or in part;
- (b) Any charterer of the vessel, whether bareboat, time, or voyage;
- (c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or
- (d) Any agent designated as such by a person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any federal, state, local, or foreign government or any entity of any such government.

Person who receives Atlantic squid for a commercial purpose means any person (excluding governments and government entities) engaged in commerce who is the first purchaser of squid. The term includes, but is not limited to, dealers, brokers, processors, cooperatives, or fish exchanges. It does not include a person who only transports squid between a fishing vessel and a first purchaser.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone (617) 281-3600; or a designee.

Regulated species means any species for which fishing by a vessel of the United States is regulated pursuant to the Act.

United States harvested squid means squid caught, taken, or harvested by vessels of the United States under this part, whether or not such squid is landed in the United States.

Vessel of the United States means:

- (a) Any vessel documented or numbered by the United States Coast Guard under United States law; or
- (b) Any vessel registered under the laws of any State.

§ 655.3 Relation to other laws.

(a) Nothing in this Part 655 shall be construed as relieving any person from compliance with other requirements imposed by any regulation or statute of the United States of any State.

(b) All fishing activity, regardless of species sought, is prohibited pursuant to 15 CFR Part 924, on the U.S.S. Monitor Marine Sanctuary, which is located approximately 15 miles southwest of Cape Hatteras off the coast of North Carolina (35°00'23"N. 75°24'32"W.).

§ 655.4 Vessel permits and fees.

(a) *General.* Every fishing vessel, including party and charter boats, fishing for Atlantic squid under this Part must have a fishing permit issued under this section. Vessels are exempt from this requirement if they catch no more than 100 pounds of squid per trip.

(b) *Eligibility.* [Reserved]

(c) *Application.* (1) An application for a permit under this Part must be submitted and signed by the owner or operator of the vessel on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide all the following information:

- (i) The name, mailing address including ZIP code, and telephone number of the owner of the vessel;
 - (ii) The name of the vessel;
 - (iii) The vessel's United States Coast Guard documentation number or the vessel's State registration number for vessels not required to be documented under provisions of Title 46 of the United States Code;
 - (iv) The home port or principal port of landing, gross tonnage, radio call sign, and length of the vessel;
 - (v) The engine horsepower of the vessel and year the vessel was built;
 - (vi) The approximate fish hold capacity of the vessel;
 - (vii) The type and quantity of fishing gear used by the vessel;
 - (viii) The average size of the crew, which may be stated in terms of a normal range; and
 - (ix) Any other information concerning vessel and gear characteristics requested by the Regional Director.
- (3) Any change in the information specified in paragraph (c)(2) of this

section shall be submitted by the applicant in writing to the Regional Director within 15 days of the change.

(d) *Fees.* No fee is required for any permit issued under this Part.

(e) *Issuance.* The Regional Director shall issue a permit to the applicant not later than 30 days from the receipt of a completed application.

(f) *Expiration.* A permit shall expire upon any change in vessel ownership, registration, name, length, gross tonnage, fish hold capacity, home port, or the regulated fisheries in which the vessel is engaged.

(g) *Duration.* A permit shall continue in full force and effect until it expires or is revoked, suspended, or modified pursuant to 50 CFR Part 621.

(h) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit which has been intentionally altered, erased, or mutilated is invalid.

(i) *Replacement.* Replacement permits may be issued by the Regional Director when requested in writing by the owner or operator. An application for a replacement permit shall not be considered a new application.

(j) *Transfer.* A permit issued under this Part is not transferable or assignable. A permit shall be valid only for the fishing vessel and owner for which it is issued.

(k) *Display.* A permit issued under this Part must be carried on board the fishing vessel at all times. The operator of a fishing vessel shall present the permit for inspection upon the request of any Authorized Officer.

(l) *Sanctions.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of sanctions against a permit issued under this Part. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the permitted fishing vessel is used in the commission of an offense prohibited by the Act or these regulations, or if a civil penalty or criminal fine imposed under the Act is not paid.

§ 655.5 Recordkeeping and reporting.

(a) *Fishing vessel records.* (1) The operator of any fishing vessel issued a permit to fish for squid under this Part shall:

- (i) Maintain on board the vessel an accurate and complete fishing vessel record on forms supplied by the Regional Director, according to the requirements of § 655.5(a)(2);
- (ii) Make the fishing vessel record available for inspection or reproduction by an Authorized Officer, or an employee of the National Marine Fisheries Service designated by the Regional Director to make such

inspections, at any time during or after a fishing trip;

- (iii) Keep each fishing vessel record for one year after the date of the last entry in the fishing vessel record; and
- (iv) Submit fishing vessel records, as specified in § 655.5(a)(2).

(2) The owner or operator of any fishing vessel conducting any fishing operation subject to this Part shall:

- (i) Submit a complete fishing vessel record to a location designated by the Regional Director within 48 hours after the end of any fishing week or fishing trip (whichever time period is longer) during which regulated species were taken; or
- (ii) Submit a statement to a location designated by the Regional Director, 48 hours after the end of any calendar week within which no fishing for any regulated species occurred.

(3) Fishing vessel records shall contain information on a daily basis for the entirety of any trip during which squid or any other regulated species are caught, and shall contain information for all fish which are caught. Information on squid catches shall be provided separately for *Illex* and *Loligo*. To assist fishermen in complying with the requirement that catches be reported separately for *Illex* and *Loligo*, a diagram showing the major external differences between *Illex* and *Loligo* is reproduced as an Appendix to these regulations.

(4) A request for exemption from the provisions of 655.5(a)(2)(ii) shall be submitted, in writing, to the Regional Director. Such requests shall state the reason for the request and the period of time for which the exemption is to apply. The Regional Director may issue an exemption for a period of time greater than two months and less than ten months. If an exemption is issued, the Regional Director must be notified in writing of the operator's intent to resume fishing before fishing may be resumed.

(5) The Assistant Administrator may revoke, modify, or suspend the permit of a fishing vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section, in accordance with the provisions of 50 CFR Part 621.

(b) *Fish dealer or processor reports.* Any person who receives Atlantic squid for a commercial purpose from a fishing vessel subject to this Part shall:

- (1) File a weekly report (Sunday through Saturday) to a location designated by the Regional Director on forms supplied by the Regional Director within 48 hours of the end of any week in which squid is received. This report shall include information on all first

transfers, purchases, or receipts of squid (listing *Illex* and *Loligo* separately) and all other fish made during that week; and

(2) Permit an Authorized Officer, or an employee of the National Marine Fisheries Service designated by the Regional Director to make inspections, to inspect or reproduce any records or books relating to any first transfers, purchases, or receipts of squid. These inspections may take place at the principal place of business or at the location where these required records regularly are kept.

§ 655.6 Vessel identification.

(a) *Official Number.* Each fishing vessel subject to this Part and over 25 feet in length shall display its Official Number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The Official Number is the documentation number issued by the Coast Guard for documented vessels or the registration number issued by a State or the Coast Guard for undocumented vessels.

(b) *Numerals.* (1) The Official Number shall be at least 18 inches in height for fishing vessels over 65 feet in length and at least 10 inches in height for all other vessels over 25 feet in length.

(2) The Official Number must be in block Arabic numerals in contrasting color to the background.

(3) The Official Number shall be permanently affixed to or painted on the vessel. However, vessels carrying fishing parties on a per capita basis or by charter may use non-permanent markings to display the Official Number whenever the vessel is fishing for squid.

(c) *Vessel length.* The length of a vessel, for purposes of this section, is that length set forth in U.S. Coast Guard or State records.

(d) *Duties of operator.* The operator of each fishing vessel shall:

(1) Keep the Official Number clearly legible and in good repair; and

(2) Ensure that no part of the fishing vessel, its rigging, or its fishing gear obstructs the view of the Official Number from any enforcement vessel or aircraft.

§ 655.7 Prohibitions.

It is unlawful for any person to:

(a) Use any vessel for the taking, catching, harvesting, or landing of any Atlantic squid (except as provided for in section 655.4(a)), unless the vessel has a valid permit issued pursuant to this Part on board the vessel;

(b) Fail to report to the Regional Director within 15 days any change in

the information contained in the permit application for a vessel;

(c) Falsify or fail to make, keep, maintain, or submit any fishing vessel record or fish dealer/processor report, or other record or report required by this Part;

(d) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, landing, purchase, sale, or transfer of any Atlantic squid;

(e) Fail to affix and maintain vessel markings as required by § 655.6;

(f) Possess, have custody or control over, ship, transport, offer for sale, sell, purchase, import, export, or land any Atlantic squid taken in violation of the Act, this Part, or any other regulation promulgated under this Act;

(g) Fish for, take, catch, or harvest any Atlantic squid from the FCZ after the fishery has been closed pursuant to § 655.23;

(h) Transfer directly or indirectly, or attempt to so transfer, any United States harvested squid to any foreign fishing vessel, while such vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit, under section 204 of the Act, which authorizes the receipt by such vessel of United States harvested squid;

(i) Refuse to permit an Authorized Officer, or an employee of the National Marine Fisheries Service designated by the Regional Director to make such inspections, to inspect any fishing vessel record, fish dealer/processor reports, or other records relating to the taking, catching, harvesting, landing, first purchase, or sale of Atlantic squid;

(j) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or any other regulation promulgated under the Act;

(k) Fail to comply immediately with enforcement and boarding procedures specified in § 655.8;

(l) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with an Authorized Officer in the conduct of any search or inspection under the Act;

(m) Resist a lawful arrest for any act prohibited by this Part;

(n) Interfere with, obstruct, delay, or prevent by any means the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this Part;

(o) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Part;

(p) Violate any other provision of this Part, the Act, or any regulation promulgated pursuant thereto.

§ 655.8 Enforcement.

(a) *General.* The operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing vessel record, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft authorized to enforce provisions of the Act, the operator of the fishing vessel shall be alert for communications conveying enforcement instructions. VHF-FM radiotelephone is the normal method of communicating between vessels. Should radiotelephone communication fail, however, other methods of communication, including visual signals, may be employed. The following signals extracted from the International Code of Signals are among those which may be used, and are included here for the safety and information of fishing vessel operators:

(1) "L" meaning "You should stop your vessel instantly."

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA" etc., which is the call to an unknown station, to which the signaled vessel shall respond by illuminating the vessel's Official Number required by § 655.6.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his/her party to come aboard;

(2) Provide a safe ladder for the Authorized Officer and his/her party;

(3) When necessary to facilitate the boarding and/or when requested by an Authorized Officer, provide a man rope, safety line, and illumination for the ladder; and

(4) Take such other actions are necessary to ensure the safety of the Authorized Officer and his/her party to facilitate the boarding.

§ 655.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and to 50 CFR Part 620 (Citations) and Part 621 (Civil Procedures).

Subpart B—Management Measures

§ 655.20 Fishing year.

The fishing year for Atlantic squid is the 12-month period beginning on April 1 and ending on March 31 of the following year.

§ 655.21 Allowable levels of harvest.

(a) *Catch Quotas.* The allowed levels of harvest on a fishing year basis for Atlantic squid are 30,000 mt of *Illex illecebrosus* and 44,000 mt of *Loligo pealei*. These levels of harvest are divided into annual catch quotas for vessels of the United States and vessels of foreign nations as follows:

(1) The annual catch quotas for vessels of the United States are 10,000 mt of *Illex illecebrosus* and 14,000 mt of *Loligo pealei*.

(2) The annual catch quotas for vessels of foreign nations are 20,000 mt of *Illex illecebrosus* 30,000 mt of *Loligo pealei*.

(b) *Territorial waters.* These regulations do not limit harvests of Atlantic squid in the waters landward of the FCZ. Harvests from these waters, however, shall be subtracted from the annual domestic quotas set forth in paragraph (a)(1) of this section.

§ 655.22 Reallocation.

(a) *General.* This section establishes a procedure which will be followed to make timely reallocations to foreign fishing vessels of part of the domestic quota which will not be harvested by domestic fishermen during the fishing year. Any reallocation shall be consistent with the objectives of the Fishery Management Plan for the Squid Fishery of the Northwest Atlantic Ocean and in accordance with the criteria and procedures set forth in paragraphs (b) and (c) of this section.

(b) *Criteria.* (1) *Loligo.* The Assistant Administrator shall determine the domestic harvest of *Loligo* by reviewing fishing vessel record and fish dealer/processor record data and any other relevant landings statistics for the first six months of the fishing year (April 1–September 30). If reported domestic harvest (including off-loadings at sea) is equal to or greater than 50 percent of the annual domestic quota of 14,000 mt, no reallocation shall be made. If the reported domestic harvest for the first six months of the fishing year is less than 50 percent of the annual domestic quota, the Assistant Administrator may reallocate up to one-half the difference between reported domestic harvest and the annual domestic quota.

(2) *Illex.* The Assistant Administrator shall determine the domestic harvest of *Illex* by reviewing fishing vessel record

and fish dealer/processor report data and any other relevant landing statistics for the first five months of the fishing year (April 1–August 31). If reported domestic harvest (including off-loadings at sea) is equal to or greater than 40 percent of the annual domestic quota of 10,000 mt, no reallocation shall be made. If reported domestic harvest for the first five months of the fishing year is less than 40 percent of the annual domestic quota, the Assistant Administrator may reallocate up to one-half the difference between the reported domestic harvest and the annual domestic quota.

(c) *Procedure.* (1) *Initial Determination.* If the Assistant Administrator determines that a reallocation may be made for either species of Atlantic squid, he shall publish in the Federal Register a notice of intent to reallocate a specified amount of the unharvested portion of the domestic annual quota to the annual quotas established for foreign nations specified in § 655.21. Notice of an intent to reallocate also shall be sent to holders or permits issued under this Part, and to agents of foreign fishing vessels permitted to fish for squid under 50 CFR Part 611, on or before the date of publication of the notice in the Federal Register.

(2) *Public comment.* The public shall be given no less than 15 days from the date of publication of the notice of intent to reallocate to submit written comments concerning the amount of Atlantic squid to be reallocated. Comments shall be sent to the Regional Director.

(3) *Consultation.* During the 15-day public comment period, the Assistant Administrator or a designee shall consult with the appropriate committee of the Mid-Atlantic Fishery Management Council to determine whether the proposed reallocation of Atlantic squid is consistent with the objectives contained in the Fishery Management Plan for the Squid Fishery of the Northwest Atlantic Ocean.

(4) *Final determination.* the Assistant Administrator shall make a final determination of the amount of the species of Atlantic squid to be reallocated after taking into account:

(i) The intent and capability of U.S. fishing vessels to harvest the species of Atlantic squid during the remainder of the fishing year;

(ii) The consistency of any reallocation with the objectives contained in the Fishery Management Plan, for the Squid Fishery of the Northwest Atlantic Ocean;

(iii) The current harvest of the species of Atlantic squid by foreign nations as allowed pursuant to 50 CFR Part 611;

(iv) The most current information available concerning the biological status of the species of Atlantic squid; and

(v) Any other information determined by the Assistant Administrator to be relevant.

(5) *Publication of reallocations.* The Assistant Administrator shall publish regulations in the Federal Register to accomplish any reallocation of any species of Atlantic squid pursuant to paragraph (c)(4) of this section approximately 15 days prior to the effective date of the reallocation. Comments received during the public comment period, all relevant information used by the Assistant Administrator in making a final determination on reallocation, and the most recent catch statistics for domestic and foreign harvest of the species of Atlantic squid to be reallocated shall be summarized in the Federal Register.

(6) *Effective Dates.* (i) *Illex.* Any reallocation of *Illex* shall be effective on or after December 1, and remain in effect to the end of the fishing year on March 31.

(ii) *Loligo.* Any reallocation of *Loligo* shall be effective on or after January 1 and remain in effect to the end of the fishing year on March 31.

§ 655.23 Closure of Fishery.

(a) *General.* The Regional Director shall periodically monitor catches and landings of *Illex* and *Loligo*. The fishery for either species of squid shall be closed when the annual quota, less the anticipated incidental catch during a closure under paragraph (d) of this section, for that species is reached.

(b) *Recommendation of closure.* When 80 percent of either of the annual domestic quotas specified in § 655.21 has been harvested, the Regional Director may make a recommendation to the Assistant Administrator that the fishery for that species be closed, if projections based on fishing vessel record and fish dealer/processor report data that indicate that the annual quota for that species will be reached or exceeded before March 31.

(c) *Notice of closure.* If the Assistant Administrator determines, based on the recommendation of the Regional Director, that a closure of the squid fishery for the relevant species is necessary to prevent the annual species quota from being exceeded, the Assistant Administrator shall:

(1) Notify in advance the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils of the closure;

(2) Mail notifications to all holders of permits issued under § 655.5 of the

closure at least 72 hours prior to the effective date of the closure; and

(3) Publish a notice of closure in the Federal Register.

(d) *Incidental catch*. During a period of closure, fishing vessels may catch, take, or harvest the relevant species of squid incidental to fishing for other species of fish, provided that such species of squid constitutes no more than 10 percent by weight of the total catch of all other fish on board the vessel at the end of any fishing trip.

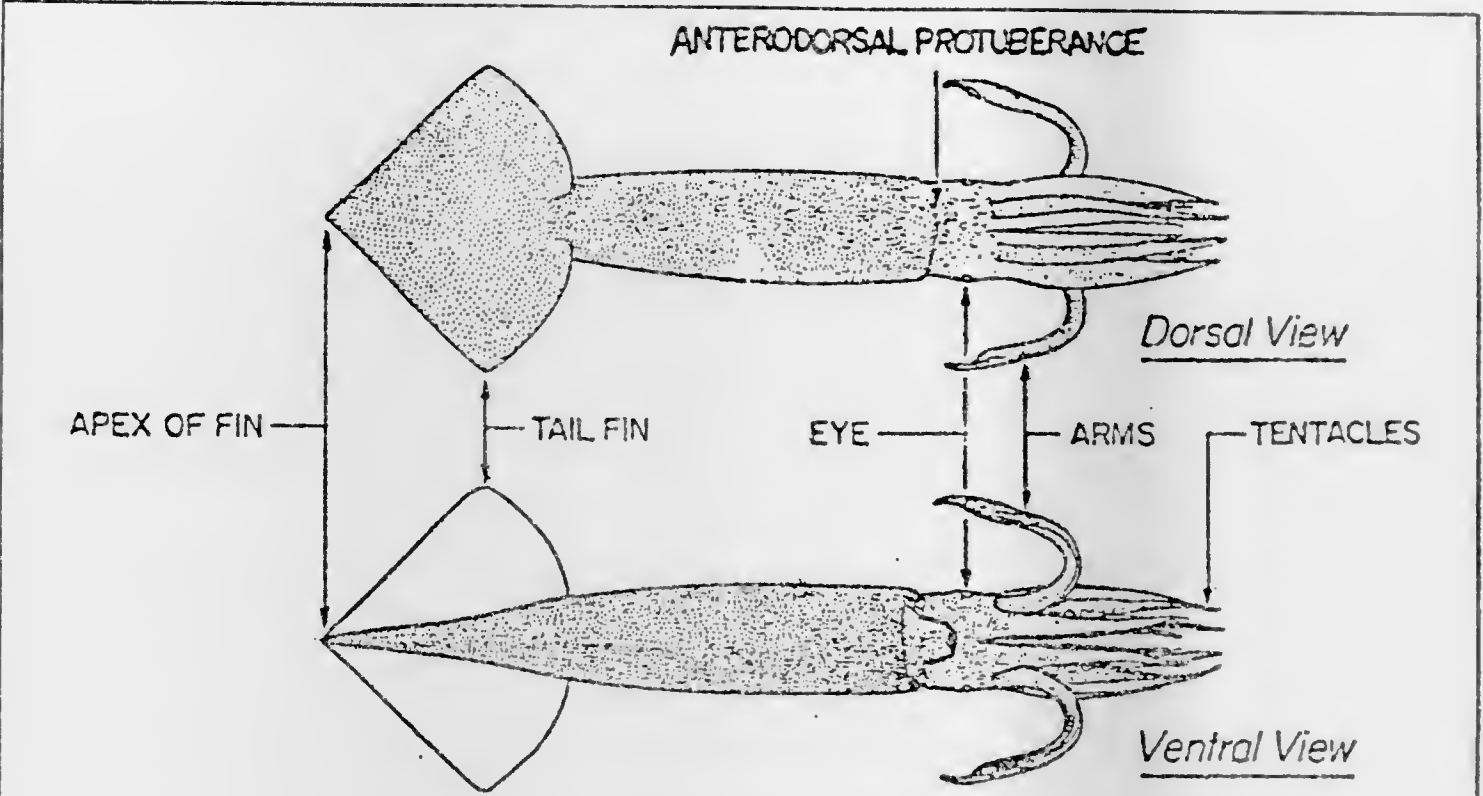
§ 655.24 Size Restrictions [Reserved]

§ 655.25 Gear/Vessel Equipment Restrictions [Reserved]

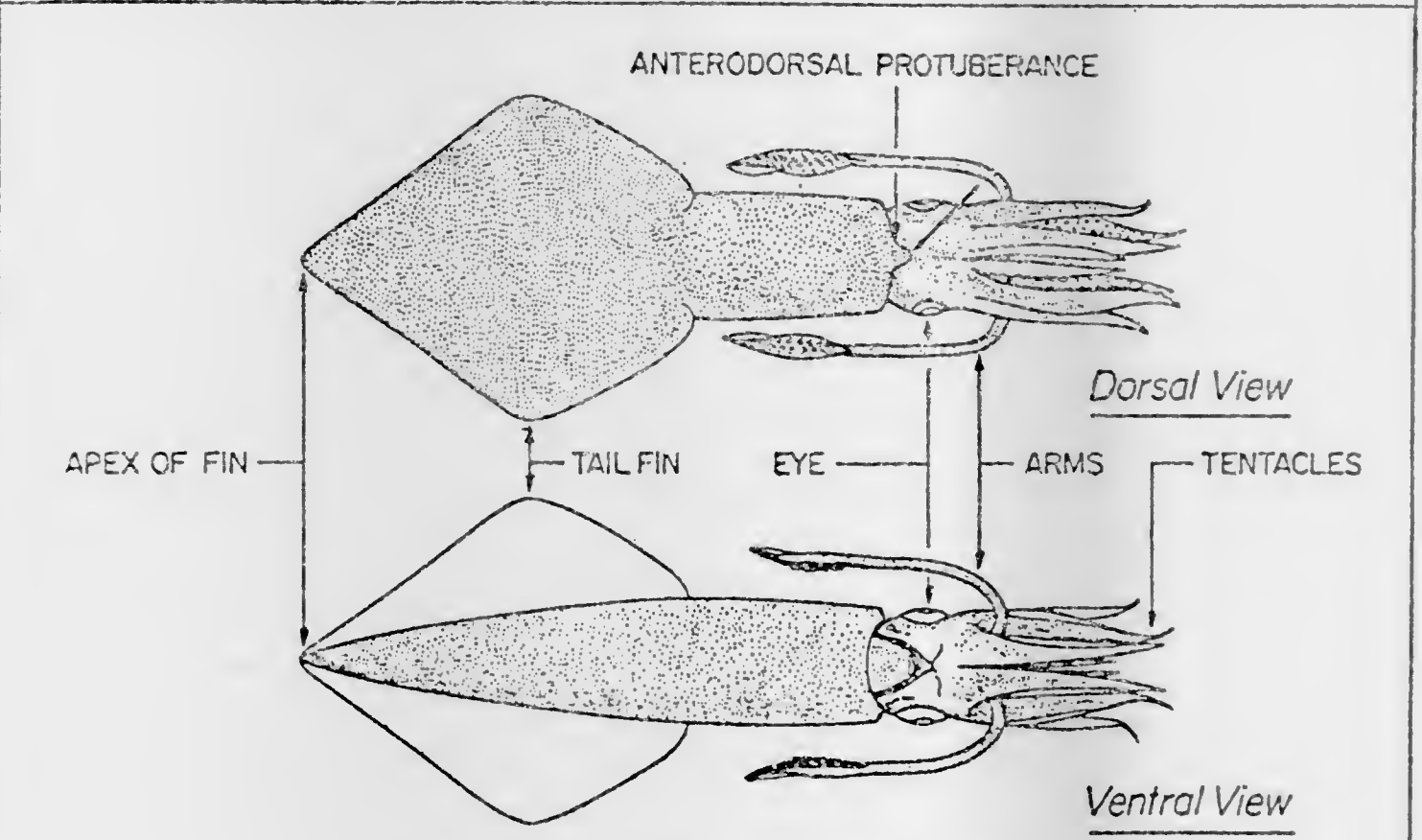
§ 655.26 Area/Time Restrictions [Reserved]

BILLING CODE 3510-22-M

APPENDIX



Illex illecebrosus, The Short-finned Squid



Loligo pealei, The Long-finned Squid

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Chapter III

Change in Chapter Heading

AGENCY: Industry and Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule redesignates the heading of Chapter III of Title 15, Code of Federal Regulations, from "Industry and Trade Administration" to "International Trade Administration," to reflect a change in the name of the organization which will become effective as of January 1, 1980. This change has been made as a part of the trade reorganization authorized by Reorganization Plan No. 3 of 1979 (44 FR 69273). The content of Chapter III remains unchanged.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Michael C. Monroe, Office of Management and Systems, Industry and Trade Administration, Department of Commerce, Washington, D.C. 20230, (202) 377-5436.

Accordingly, Chapter III of Title 15 of the Code of Federal Regulations, presently titled "Industry and Trade Administration," is changed to read "International Trade Administration."

Paul T. O'Day,
Acting Assistant Secretary for Industry and Trade.

December 26, 1979.

[FR Doc. 79-39020 Filed 12-31-79; 8:45 am]

BILLING CODE 3510-25-M

Proposed Rules

Federal Register

Vol. 44, No. 251

Monday, December 31, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1900

Appeal Procedure

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its appeal procedures to provide clarity, and make other changes that are aimed at reducing unnecessary hearings and review action. This action is taken as a result of an administrative review.

ADDRESSES: Submit an original and conformed copy of all written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

DATES: Comments must be received on or before February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Art Collings (202) 447-8448, Room 5305 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: FmHA proposes to amend subpart B of Part 1900, Chapter XVIII, Title 7 in the Code of Federal Regulations. The major changes are:

Section 1900.51 *Purpose:* Change to eliminate debt settlement actions, in Part 1864 of this chapter from coverage by this instruction.

Section 1900.52 (b) Examples of ineligibility for appeal dropped from this section and added to new (c).

Section 1900.52 (c) (new) Decisions not appealable: Added to provide examples where FmHA decisions are not appealable because of: (1) legal limitations and (2) published regulations.

Section 1900.52 (d) Relettered as (d).

Section 1900.52 (d) *Hearing Officer* relettered as (e). (e)(4) changed to prescribe hearing officer in acceleration cases involving multi-family and/or organizational loans.

Section 1900.52 (e) *Record* relettered as (f).

Section 1900.52 (f) *Review Officer* relettered as (g).

Section 1900.52 (g)(1) changed to add the State Director's designee as a review officer.

Section 1900.52 (g)(2) changed to make the appropriate Deputy Administrator or designee the review officer when the State Director or designee is the hearing officer.

Section 1900.52 (g)(4) changed to provide that only one review will take place in the National Office.

Section 1900.52 (h) (new) notice that the term District Director shall also apply to Assistant District Director.

Section 1900.52 (i) (new) definition of decision-maker added for clarification purposes.

Section 1900.53 (a) changed to add emphasis to FmHA preference that appellants choose meeting with decision-maker prior to requesting a hearing. The change is instituted because of the occurrence of too many hearing requests, where the difference could have been otherwise resolved.

Section 1900.53 (a)(4) (new) added to provide for a single, multi-faceted appeal when corollary issues are involved in a foreclosure action.

Section 1900.53 (b)(2)(iii) renumbered as (a)(5).

Section 1900.53 (b)(2) provides for a second letter notifying appellant of right of hearing, when the appellant's request is not granted as a result of meeting with the decision-maker.

Section 1900.53 (d)(2) changed to provide a 15-day limitation on extending hearing dates, except for verified medical reasons.

Section 1900.53 (d)(4)(vi) changed to reflect that the notes may be taken by the hearing officer. A new (A) added to clarify the type of notes to be taken. A new (C) prescribes that file documents and other written materials will be included as part of the FmHA record.

Section 1900.53 (d)(vii) added to clarify arrangements when a transcript of the hearing is made.

Section 1900.53 (d)(4)(viii) added to provide that either party must notify the other when commencing to tape

proceedings and either party may obtain a copy of any taped record for the cost of reproduction.

Section 1900.53 (d)(6) rewritten to emphasize that the hearing officer's decision shall be made without consulting other FmHA employees, except an official for whom the hearing officer is acting as a delegate.

Section 1900.53(d)(7) changed to provide that the decision will be made within 30 working days of the hearing, except where FmHA has ordered a transcript or copy of same, in which instance the decision will be made within 15 working days of receipt of the transcript.

Section 1900.53(g) added to provide for a conclusion to the appeal if no letter appealing the decision of the hearing or the review officer is received within 30 days of their decisions.

Section 1900.53 *Reporting requirements* (new) added to require an annual report by all FmHA offices, with a consolidated State Office report sent to the FmHA National Office.

This proposal has been reviewed under the US2A criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901-C, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969 Pub. L. 91-190 and Environmental Impact Statement is not required.

As proposed: Subpart B of Part 1900 reads as follows:

PART 1900—GENERAL

* * * * *

Subpart B—Farmers Home Administration Appeal Procedure

Sec.

- 1900.51 Purpose.
1900.52 Definitions.
1900.53 Appeal from an initial FmHA decision.
1900.54 Effect on appeal decision.
1900.55 Reporting requirements.
1900.56–1900.100 [Reserved]

Subpart B—Farmers Home Administration Appeal Procedure

§ 1900.51 Purpose.

This Subpart provides a uniform procedure whereby a person or organization may appeal any Farmers Home Administration (FmHA) program administrative action directly affecting such person or organization. This procedure does not apply to Guaranteed loans, debt settlement actions as found in Part 1864 of this Chapter (FmHA Instruction 456.1), Freedom of Information Act, or Privacy Act appeals and is not intended to affect the Suspension and Debarment procedure found at Subpart E of Part 1924 of this Chapter. This procedure takes precedence over all other FmHA appeals procedures affecting applicants, borrowers, or grantees. This procedure will be applicable to administrative decisions made after November 13, 1978.

§ 1900.52 Definitions.

- (a) *Appellant*. An appellant is an applicant for FmHA assistance or an FmHA borrower or grantee, either individual or organization, that is directly and adversely affected by an administrative decision by FmHA.
- (b) *Directly and adversely affected*. The term "directly and adversely affected" includes having a request for FmHA assistance denied in whole or in part or having FmHA assistance reduced, cancelled, or not renewed. The term "directly and adversely affected" does not include actions where persons or organizations are clearly not eligible such as in the examples cited in paragraph (c) of this Section.
- (c) *Decisions not appealable*. (1) Where the FmHA decision was based solely on a limitation of law, such as:
- (i) Denial of Section 502 Rural Housing Refinancing of a Debt that is less than five years old.
 - (ii) Denial of a Section 504 grant to an applicant less than 62 years of age.
 - (iii) Denial of a community facility loan or a water and waste disposal loan and/or grant when a city or town to be served has a population in excess of 10,000.
 - (iv) Denial of a community facility loan or a water and waste disposal loan

and/or grant to an organization not identified as an eligible applicant by the regulations.

(v) Applications for emergency loans not filed before a prescribed termination date.

(2) Where the FmHA decision was based solely and directly on objective standards in published regulations. Examples include:

- (i) Release of basic security for unauthorized purposes.
- (ii) Denial of a loan because of confirmed income that is above FmHA published limits.
- (iii) Interest credit reduction that is the result of a confirmed income increase.
- (iv) A determination of ineligibility for emergency loans based on confirmation or verification by the Agricultural Stabilization and Conservation Service (ASCS) or the Federal Crop Insurance Corporation (FCIC) that the applicant did not have the required production losses of 20 percent or more.
- (v) A finding that an applicant for an economic emergency loan is not eligible when it has been *confirmed* that less than 50 percent of such applicant's total income is from farming.
- (vi) Security requirements, made by the loan approval official, that are specifically required by FmHA instructions.
- (vii) Denial of compensation for construction defects when it has been determined that the contractor is willing and able to correct the deficiencies within the warranty, or otherwise.
- (viii) Requirements and conditions designates by law to be developed by agencies other than FmHA. They include, but are not limited to: Davis-Bacon wage rates; flood plain determinations; and archeological and historical areas.
- (ix) Property standards. An appeal may only be made where the appellant claims FmHA is misapplying the written standards.

(d) *Hearing*. A hearing, as used in this Subpart, is an informal proceeding at which an appeal from an adverse decision is heard.

(e) *Hearing officer*. The hearing officer will be:

- (1) In the case of an appeal of an initial decision by a County Supervisor, the hearing officer will be the District Director having jurisdiction over that County Office. If that District Director has a significant role in the initial determination, the District Director from a nearby geographical District Office will be designated by the State Director.
- (2) For purposes of this Subpart, the decision to accelerate an account except as provided in paragraph (e)(4) of this

section will be deemed to have been made by the County Supervisor initiating such action.

(2) In the case of an appeal of an initial decision by the County Committee, the hearing officer will be the State Director or Acting State Director. However, the District Director may conduct the hearing in behalf of the State Director and forward all material related to the hearing along with a recommendation to the State Director for determination. If the District Director having jurisdiction over the County Office has a significant role in the initial determination, the District Director from a nearby geographical District Office will be designated by the State Director to conduct the hearing in behalf of the State Director as described above.

(3) In the case of an appeal of an initial decision by a District Director, the hearing officer will be the State Director, who may designate a program chief or other State Office official to be the hearing officer.

(4) In the case of an appeal of an initial decision by a State Director, the hearing officer will be the appropriate Program Assistant Administrator or designee. This includes acceleration of multi-family or organizational loans.

(5) In the case of an appeal of an initial decision by an Assistant Administrator, the hearing officer will be the appropriate Deputy Administrator.

(f) *Record*. The term "record" means the FmHA file, papers filed by an appellant, notes or transcript (if any) of a hearing, and decisions made by FmHA officials.

(g) *Review officer*. When the hearing officer is:

- (1) The District Director the review officer will be the State Director or designee, except that when a decision to foreclose is appealed the review officer will be the Area Coordinator;
- (2) The State Director or designee, the review officer will be the appropriate Deputy Administrator or designee;
- (3) The Program Assistant Administrator or designee, the review officer will be the Administrator, or designee.
- (4) Regardless of the level of the decision maker and hearing officer, there will only be one review made in the National Office. However, the review provided for in 1900.53 (f)(6), and (h) will always be available except where the Administrator is there view officer.

(h) *District Director*. Wherever the term District Director is used, it will also mean Assistant District Director.

(i) *Decision maker*. The FmHA official who actually makes the specific

decision. For example, if a State Director reviews a preapplication from an organization and authorizes a District Director to include specific items in Form AD 622 "Notice of Preapplication Review Action," the State Director is the decision maker.

§ 1900.53 Appeal from an initial FmHA decision.

(a) If an applicant for FmHA assistance, an FmHA borrower, or an FmHA grantee is directly and adversely affected by an FmHA decision or action, the official taking such action or making the decision will inform that person or organization by letter of the action taken. The letter will include the following:

(1) A statement of the action taken or decision made and all of the specific reason(s) for so doing.

(2) An invitation to call at the decision-making official's office to discuss the decision with that official. The person (or organization) may bring to the meeting any additional information or a representative. A statement that, although FmHA would prefer the person (or organization) accept the invitation to meet with the decision maker, the person or organization may appeal the decision directly to the hearing officer. Except in acceleration notices the statement should read as follows:

"We would like the opportunity to explain in detail why your request has not been approved, explain any possible alternatives, and to explain your rights to appeal. Please call _____ for an appointment."

"FmHA prefers that you meet with us before making a formal appeal. However, you may appeal the above action by writing to (hearing officer) (address) within 30 calendar days of the date of this letter, giving the reasons why you believe this matter should be decided differently. This time may be extended an additional 30 days if you cannot notify the hearing officer for reasons beyond your control."

(3) A statement that if the person (or organization) wants the terminated or reduced assistance maintained at the existing level, the decision to reduce or terminate may be stayed pending appeal if requested by the person (or organization) at the discretion of the hearing officer. The appellant will agree to repay any assistance received during the stay for which the appellant is, upon completion of the appeal, determined to have been ineligible.

(4) When an appeal from a foreclosure action is instituted and includes appeal of corollary matters such as denial of moratorium or interest credits, the letter will include a statement that all matters are merged into a single appeal and conducted in accordance with procedures for appealing foreclosures.

(5) In acceleration notices, the statement shall read substantially as found in the "Notice of Acceleration" Exhibit C to Subpart A, Part 1955 of this Chapter.

(b) When the person or organization takes the opportunity for a meeting with the decision-making official, then:

(1) If the meeting results in a resolution of the problem, the official will send the person or organization a letter setting forth the resolution and the reasons for it.

(2) If, as a result of that meeting, the request is not granted, the official will send a letter to the person (or organization) stating the reasons for not doing so, and restating such person's (or organization's) right to a hearing. Except in acceleration notices the letter must be mailed within three working days of the meeting and contain the following:

"If you disagree with this decision and wish to appeal you may appeal the above action by writing to (hearing officer) (address) within 30 calendar days of the date of this letter, giving the reasons why you believe this matter should be decided differently. This time may be extended an additional 30 days if you cannot notify the hearing officer for reasons beyond your control."

(c) If a request is received to stay the decision, the hearing officer, based on the facts and circumstances, may stay the decision. An appropriate case for a stay would be if not to grant the stay would make an appeal useless.

(d) When an appellant appeals a decision and requests a hearing the appeal will be handled as follows:

(1) Upon the receipt of the appeal letter, the hearing officer will request the entire file from the decision-making official who will promptly forward the file on the matter to the hearing officer.

(2) The hearing officer will arrange for a hearing to be held as soon as possible but within 30 calendar days of the receipt of the appeal. The hearing will be held at a location convenient to the appellant, decision-making official and hearing officer. If no such place can be agreed on, the hearing officer will select the location. The hearing officer, after reviewing the file, will return it to the office of the decision-maker so that it will be available to the appellant or representative. If the appellant or the decision-maker for good reason is unable to attend a hearing within the 30 calendar day period, the hearing officer, after considering the circumstances, will reschedule the hearing within 15 days of the original hearing date. The 15 day extension may only be exceeded for verified medical reasons.

(3) Failure to appear.

(i) If the appellant or appellant's representative, without reasonable

cause fails to appear at the hearing, the appellant's appeal will be deemed to have been concluded.

(ii) If the failure to appear is with reasonable cause and the appellant can demonstrate inability to notify FmHA, the hearing officer will reschedule the hearing at a time convenient to all interested parties, but within 15 days of the initially scheduled date.

(4) The hearing.

(i) The hearing will be an informal proceeding at which the appellant will bear the burden of proving the initial decision erroneous. To do so the appellant may provide any information or witnesses the appellant believes should be considered in reaching a proper decision. The appellant may present evidence, witnesses and arguments in support of appellant's complaint, controvert evidence relied on by the FmHA, and question all witnesses. Any evidence may be received by the hearing officer without regard to whether that evidence could be employed in judicial proceedings. A suggested guide for the order of presentation at a hearing is:

(A) The appellant makes statement setting forth why the original decision was erroneous.

(B) The decision-maker, or successor, will explain why the original decision was correct.

(C) The appellant presents evidence, witnesses, and arguments supporting the appellant's position, including questioning of the decision-maker. The witnesses may be questioned by the decision-making official or other FmHA representatives.

(D) Decision-making official, or other FmHA person, presents evidence supporting original decision or rebutting appellant's arguments or evidence. Any witnesses used may be questioned by the appellant.

(E) Summary by appellant and FmHA.

(ii) The decision-making official (or successor) or delegate will be at the hearing and will present evidence if necessary. Any other witnesses or FmHA personnel the decision-making official thinks necessary to fully determine the matter will be at the hearing to present evidence.

(iii) The hearing officer may request additional witnesses to appear or request further information if in the hearing officer's opinion such is necessary to reach a proper decision.

(iv) Before the hearing, the appellant or appellant's representative, unless otherwise prohibited or exempt by law or regulation, may examine, and, at the appellant's expense, copy all relevant documents, records, and regulations of FmHA.

(v) The appellant may be represented by an attorney or any other person at the hearing. All witnesses may be questioned by the hearing officer, appellant (or representative), and the decision-making official (or successor).

(vi) An FmHA employee (not the decision-maker) will take notes at the hearing. The hearing officer may take the notes or assign this responsibility to another FmHA employee.

(A) The notes will *informally* reflect the essential positions, pertinent information presented, and comments made by both parties, *may be in outline form*, AND *need not repeat proceedings* verbatim. They will indicate if the appellant arranged for a transcript.

(B) A typed copy of the notes will be provided to the appellant within 10 working days of the hearing. The appellant will notify FmHA of any changes appellant thinks should be made within 5 working days of receipt of the copy. The suggested changes will be made part of the record even if not agreed to by FmHA.

(C) File documents and other written materials used in the hearing will be included as part of the FmHA record.

(vii) The taking of transcripts is neither required nor prohibited. Either party may arrange to have a transcript of the hearing made at their own expense. When one party has a transcript made the other will make their own arrangements to obtain a copy. Ordinarily FmHA will not have transcripts made. Prior approval of the Administrator is required when transcripts are made or copied for FmHA.

(viii) Either the appellant or FmHA may tape record the proceedings at their own expense. They must notify the other party when the taping begins. Either party may obtain a copy of any tape recording for the cost of reproduction.

(5) For good cause, the hearing officer on the request of either the appellant or an FmHA official may, at the hearing officer's complete discretion, continue the hearing to a future time.

(6) *The decision of the hearing officer shall be made without consulting FmHA employees other than the official a designee is representing* and be based on facts presented at the hearing, appropriate FmHA files, applicable statutes and regulations, and the hearing officer's general knowledge of FmHA program functions.

(7) Within 30 working days of the hearing, the hearing officer will determine what action to take with regard to the appeal, unless FmHA has ordered a transcript in which case the decision will be made within 15 days of receipt of the transcript.

(i) If the initial decision is reversed, the hearing officer will inform the appellant and original decision-making official by letter of the decision, the reason for it, and what action will be taken. Only the State Director or Acting State Director will execute the letter on County Committee decision reversals.

(ii) If the initial decision is upheld or modified but not reversed, the hearing officer will inform the appellant by letter of the decision giving specific reasons, with a copy to the decision-making official. The letter must contain the following statement:

"If you wish to have the above decision further reviewed, you may appeal in writing to (review officer/address) within 20 calendar days of the date of this letter explaining why you believe the decision is incorrect. Since this review will be based on the record, including papers filed, FmHA files, notes or transcripts of the appeal meeting, my decision, applicable statutes and regulations, and any *additional written* information you wish to submit, you should include any additional information you think is important and indicate whether you wish to present any information in person."

(c) If the appellant does not request in writing a review of the hearing officer's decision within the 20 calendar day period provided in the letter, the appeal will be considered concluded.

(f) If the appellant appeals to the review officer:

(1) Upon receipt of the appeal the review officer will request that the hearing officer forward the record to the review officer. The hearing officer will promptly do so.

(2) The review officer may obtain a copy of the transcript of the hearing if one was arranged for by the appellant.

(3) If no personal meeting was requested by the appellant, the review officer will review the record on the case and applicable law and regulations; any additional information furnished by the appellant and such additional information as the review officer deems necessary and render a decision within 30 days of receipt of the appeal.

(4) If the appellant indicates a desire to present information in person, the review officer will arrange a meeting for the sole purpose of receiving such additional information. The meeting will be held within 15 calendar days of receipt of the appeal and at the offices of the review official. A final decision will be rendered within 20 calendar days after the meeting.

(5) If the decision of the hearing officer is reversed, the appellant will be informed by letter of the decision and what action will be taken. The decision-making official and the hearing officer

will also be notified, with the reasons for reversal provided.

(6) If the hearing officer's decision is upheld or modified but not completely reversed, the appellant will be informed of the decision by letter giving the specific reasons for the decision, with a copy each to the decision-making official and hearing officer. The letter must contain the following statement:

"If you believe the above decision is arbitrary and capricious, that is lacking any rational, factual, or legal basis, you may write the Administrator, FmHA, 14th and Independence Avenue, SW., Washington, D.C. 20250, within 30 days, explaining why. The Administrator's review will be based only on the existing written record. A copy of your letter to the Administrator should be sent to me so that I can expeditiously forward the record to the Administrator."

(g) If a letter appealing the decision of the hearing or review officer is not received within 30 days the appeal will be concluded.

(h) Upon receipt of an appeal from a hearing review officer's decision, the Administrator or a delegate will review the record, which will have been forwarded by the review officer upon receipt of a copy of the letter and determine whether the decision was arbitrary and capricious. If not, the decision will be upheld and the appellant so notified. If the Administrator or a delegate finds the decision to have been arbitrary and capricious, the official will determine what action should be taken and notify all affected parties.

§ 1900.54 Effect on appeal decision.

(a) *Effective date.* When an appeal is concluded, the effective date of the action to be taken will be the originally proposed effective date of the initial decision from which the appeal was taken.

(b) *Legal effect.* When an appeal is concluded the decision will be administratively conclusive. The decision will not, however, be determinative of the legality of the action to be taken.

§ 1900.55 Reporting requirements.

Reports listing the number and type of appeals and disposition reports will be submitted annually to the National Office on Exhibit A. County and District Offices will submit their report to the State Office by the tenth of October. State Offices will prepare a consolidated State report which will be transmitted to the National Office by the twentieth of October.

§§ 1900.56-1900.100 [Reserved]

Attachment: Exhibit A

Check Appropriate Block

County Office District Office State Office National Office

FmHA Instruction 1900-B
Exhibit A

ANNUAL REPORT ON APPEALS

Location: _____
City and State _____

I Appeals to Decision Maker

Disposition	XXXXXX
1. Differences settled	_____
2. Appeal letters mailed	_____
3. Disposition still pending	_____

II Hearings

A. Number held	_____
B. Disposition	XXXXXX
1. Decision upheld	_____
2. Decision overruled	_____
3. Decision modified	_____
C. Pending hearings	_____

III Review of Appeals

	State Director	Area Coordinator	Assistant Administrator	Administrator
A. Number appeal reviews	_____	_____	_____	_____
B. Disposition	XXXXXX	XXXXXX	XXXXXX	XXXXXX
1. Decision upheld	_____	_____	_____	_____
2. Decision overruled	_____	_____	_____	_____
3. Decision modified	_____	_____	_____	_____
C. Reviews pending	_____	_____	_____	_____

Authorities: 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Dated: December 17, 1979.

James E. Thornton,
Associate Administrator, Farmers Home Administration.

[FR Doc. 79-39766 Filed 12-28-79; 8:45 am]

BILLING CODE 3410-07-M

Office of the Secretary

7 CFR Part 2900

Proposed Amendment Regarding Certification of Essential Agricultural Uses and Requirements; Natural Gas Policy Act

AGENCY: Office of the Secretary, USDA.
ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to amend its regulations certifying essential agricultural uses and requirements under the Natural Gas Policy Act. The proposed amendment is in the form of a definition of the term "process fuel" as it relates to the amounts of interstate natural gas needed for essential agricultural uses necessary for full food and fiber production. The proposed amendment is in response to a number of inquiries concerning whether any boiler fuel use of natural gas may be classed as a "process fuel" in certain agricultural processing activities.

DATES: Written comments are due by 4:30 PM, February 29, 1980.

ADDRESS: All written comments should be sent to Weldon Barton, Director, Office of Energy, USDA, Room 226-E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Weldon Barton, Director, Office of Energy, USDA, Room 226-E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C. 20250; Telephone Number: 202-447-2455.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Description of Proposal.
- III. Public Comment and Hearing Procedures.

I. Background

Under Section 401 of the Natural Gas Policy Act of 1978 (NGPA), the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential agricultural uses of natural gas and the amounts of natural gas for such essential agricultural uses necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary of Agriculture on May 17, 1979 (44 FR 28782).

The Secretary of Energy and the FERC have incorporated the USDA certification in their rules promulgating and implementing agricultural priority in curtailment plans of interstate pipelines, in accordance with the NGPA.

II. Description of Proposal

There have been a number of instances where requests have been made of the Secretary of Agriculture for an interpretation as to whether any boiler fuel use of natural gas may be regarded as a "process fuel", and therefore be certified under the definition of "essential agriculture use" in section 401(f)(1)(B) "as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food."

We have been apprised of a number of instances whereby natural gas is used in a boiler to produce steam which is a necessary part of the manufacturing process of products included under Section 401(f)(1)(B). For example, in the manufacture of ammonium nitrate fertilizer pure nitric acid is combined with anhydrous ammonia to produce liquid ammonium nitrate. The liquid nitrate is then passed through evaporators to remove most of the water. The semi-solid material is then passed through a series of dryers to remove all but 0.2 percent moisture, before treating with an anti-caking coating and storing for shipment.

Steam is used as the heat source in the evaporators, and the steam condensate from the evaporators is used in the nitric acid adsorption tower to produce the nitric acid which is a feedstock. In the drying stage the drums contain steam coil heaters that permit the material to be dried under the proper temperature in order to produce a uniform, saleable pelleted fertilizer product. The steam condensate from the drum heaters is also returned to the nitric acid adsorption tower to produce more nitric acid.

Unlike the manufacture of phosphate

and potash fertilizers which use natural gas in open flame heaters, ammonium nitrate fertilizers cannot be exposed to open flames or sparks. Ammonium nitrate is highly volatile and is often used as an explosive. The heat must be contained within a vessel.

Another example is the manufacture of vitamins essential as livestock feed supplements. The process of manufacturing vitamins requires the use of steam as a source of process catalyzation to complete the manufacture of a number of different products. Steam is essential to the process as direct fired vessels would destroy the products.

In instances where the manufacturing process includes the boiler use of natural gas as an integral part of the process, such as in the examples cited above, the fact that natural gas is used as a boiler fuel would not necessarily prevent its being used as a "process fuel" under Section 401(f)(1)(B) of the Natural Gas Policy Act. This is in addition to the more common use of "process gas" by direct flame application of natural gas in a manufacturing process and where natural gas is required to maintain temperatures within a critical range for a process to continue.

Where natural gas is used as a boiler fuel for purposes that are not an integral part of the manufacturing process, such as for space heating and generating hot water for plant cleaning, such uses cannot be interpreted as "process fuel" under Section 401(f)(1)(B) of the Natural Gas Policy Act.

III. Public Comment and Hearing Procedures

The public is invited to participate in any aspect of this proposed amendment by submitting data, views or arguments with respect to the proposals herein set forth.

Written comments must be submitted by 4:30 PM to the address indicated in the "Addresses" section of this preamble, and should be identified on the outside envelope and on the document with the designation: "Part 2900—Process Fuel." Five copies should be submitted. All comments received will be available for public inspection in Room 5173 South Building, 12th and Independence Avenue, SW, Washington, D.C. 20250 between the hours of 9:00 AM and 4:00 PM Monday through Friday. All comments received by 4:30 PM, February 29, 1980, and other relevant information will be considered by the Director, Office of Energy before

final action is taken on this proposed amendment.

Any information or data submitted which is considered by the party who submitted it to be confidential must be so identified and submitted in writing, one copy only. The Director reserves the right to determine the confidential status of the information or data and to treat it accordingly.

§ 2900.2 [Amended]

In consideration of the foregoing, it is proposed to amend Chapter XXIX of Title 7, § 2900.2 Code of Federal Regulations by adding "(e) 'Process fuel' means the direct use of natural gas in a manufacturing process, and that use of natural gas in a boiler where the manufacturing process includes the boiler use of natural gas as an integral part of the process."

(Pub. L. 95-621, 92 Stat. 3350 (15 U.S.C. 3301))

Environmental and Regulatory Analysis

After reviewing this proposed amendment pursuant to USDA's responsibilities under the Natural Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321), and the USDA criteria established to implement Executive Order 12044 "Improving Government Regulations," the USDA has determined that the proposed action does not alter the impacts disclosed or conclusions drawn in the Final Impact Analysis and Environmental Impact Statement prepared by the USDA, May 14, 1979, in connection with the Essential Agricultural Uses and Requirements certification rule. The inclusion of certain boiler uses of natural gas in the "process fuel" category relating to production of fertilizer, agricultural chemicals, animal feed, and food will add an unknown amount of natural gas, probably less than 10 billion cubic feet, to the total agricultural gas use of 1.392 billion cubic feet, and probably less than 1 percent of the interstate gas component identified as essential agricultural use in the Final Impact Analysis and Environmental Impact Statement. A copy of the Final Statement is available for inspection and copying in Room 5173 South Building, 12th and Independence, SW, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: December 21, 1979.

Jim Williams,
Acting Secretary.

(FR Doc. 79-39727 Filed 12-28-79; 8:45 am)
BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Economic Regulations Docket 34015, EDR-393; Dated: December 20, 1979]

Amendment of Statistical Reporting Requirements for Small Carriers and New Entrants, and Elimination of Certain Reporting Requirements for All Certificated Carriers

AGENCY: Civil Aeronautics Board.
ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is, on its own initiative, proposing to use a new form to obtain market data from all small carriers, and from larger newly certificated carriers until such time as the larger new carriers have developed the necessary automatic data processing capability that would enable them to comply with service segment data reporting requirements the CAB now imposes on incumbent carriers of comparable size. The CAB is also proposing to eliminate a number of other reporting requirements, and in response to a petition by the Air Transport Association, it is taking this opportunity to solicit comment on whether or not it should continue to receive financial information on a monthly basis.

DATES: Comments by February 26, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 34015, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue NW, Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW, Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW, Washington, D.C. 20428, (202) 673-6044.

SUPPLEMENTARY INFORMATION: On October 24, 1978, the President signed into law the Airline Deregulation Act of 1978 (Pub. L. 95-504), which permits certificated air carriers greater freedom to establish the prices and services they provide to the traveling public. With the enactment of this legislation, the Board now has a mandate to extend the initiative that have already been taken to ease the pricing and route authority constraints traditionally imposed on certificated carriers.

Within the framework of the new legislation and the initiatives that have already been taken in developing new fare methodologies and route authority programs, we have made a reevaluation of the current reporting requirements and are now taking the first steps to amend reporting requirements accordingly.

The details of the different features of the proposed rule are set out separately under the captions that follow. We view this as a first step in reevaluating the CAB Form 41 Report. In the months and years to come, other reporting requirements will be restructured or eliminated as the regulatory value of the data we are receiving diminishes. It may also be necessary, as time goes on, to develop new reports to meet new and different needs.

Small Carriers and New Entrants

Under current regulations, reporting requirements are scaled to the size of air carriers with smaller carriers subject to less burdensome requirements than larger carriers. This proposal would not alter that arrangement, but it would introduce a new statistical schedule entitled Schedule T-9, "Nonstop Market Report."

The new schedule would be required from all Group I and Group II air carriers. Its purpose is to enable the Board and its staff to analyze the activity in markets served by all smaller carriers, a capability we do not now have. The Board can analyze data on markets served by larger carriers by using service segment data, and, to a lesser degree, the markets served by commuter carriers using Schedule T-1 of CAB Form 298-C.

The new schedule would require disclosure of key traffic and capacity statistics, by flight segment, for all scheduled passenger operations including commuter operations conducted by carriers who hold dual certificated and commuter authority.

The proposed rule would permit large new entrants (those having annual revenues in excess of \$75 million during a calendar year) to use the new Schedule T-9 until such time as they have developed the necessary Automatic Data Processing programs to comply with the service segment data reporting requirements now imposed on carriers of comparable size.

We are aware that many of the new carriers have grown from the ranks of commuter air carriers and may be more comfortable with the statistical data reported on Schedule T-1 of CAB Form 298-C. While we believe the new Schedule T-9 is superior to the flight stage data now submitted by commuter

carriers, we are soliciting comment on whether the newly certificated carriers would favor reporting their scheduled service statistics in the commuter reporting format they have been using, or the newly designed Schedule T-9, "Nonstop Market Report."

In the final rule, based largely on the comments received, all small certificated carriers (Group I carriers) and medium-sized certificated carriers (Group II carriers) who do not now file service segment data in ADP format (magnetic tapes or punched cards) would use the same schedule to report all of these scheduled services, either the new Schedule T-9 or the CAB Form 298-C Schedule T-1, "Report of Revenue Traffic by On-line Origin and Destination," now being filed by commuter carriers.

Proposed Elimination of Schedules

Expressed in general terms we are proposing to eliminate ten schedules from the CAB Form 41 report that we believe have outlived their usefulness. The elimination of the ten schedules listed below, when coupled with the addition of the new service segment report discussed earlier, would reduce the number of schedules in the CAB Form 41 report from 57 to 48.

Schedule No.	Title
A-1	Status of Accounting Plans Required to be Filed.
B-2	General Notes to Financial Statements.
B-4	Allowance for Uncollectible Accounts.
B-11	Aging of Receivables and Payables.
B-14	Summary of Property Obtained Under Long-term Leases.
B-44	Transactions Between Air Carrier Affiliates—Annual Summary.
P-9.2	Distribution of Ground Servicing Expenses by Geographic Location—Group II and Group III Route Air Carriers.
G-42	Security Interests of All Officers and Directors and Compensation Paid to Principal Officers and Directors.
G-43	Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning \$20,000 or More During the Calendar Year.
G-44	Corporate and Securities Data.

Schedule A-1 has served no other purpose than to inform users of CAB Form 41 schedules of the status of Accounting Plans air carriers must file with the Board. The Accounting Plans are filed separately from CAB Form 41 schedules and describe certain accounting and reporting procedures used by carriers in preparing the CAB Form 41 Report.

We are proposing to eliminate Schedule A-1 because: (1) the schedule itself contains no substantive information; (2) changes in accounting and reporting procedures which

¹ CAB Form 41 filed with the Office of the Federal Register as part of the original document.

materially affect interpretations of carrier financial reports are required to be disclosed on Schedule P-2, "Notes to CAB Form 41 Report", and (3) users who are truly interested in the level of detail contained in Accounting Plans filed by the carriers can review them directly.

Schedule B-2 is filed by carriers who are required to file annual reports with the Securities and Exchange Commission. The information contained in this schedule is also contained in carrier annual reports filed under Part 240 of the Economic Regulations. In those instances where it is essential that information contained on Schedule B-2 be included with the Form 41 schedules, this information would be disclosed on Schedule P-2, "Notes to CAB Form 41 Report" along with all other substantive matters that materially affect interpretations of the financial statements.

Schedule B-4 has been identified as one of the CAB Form 41 schedules that was developed when detailed analysis of carrier accounts was more necessary than it is today. In the current environment, the Board can assess the reasonableness of expenses related to uncollectible accounts by using other B and P schedules in the CAB Form 41 Report. The beginning and ending balances of account 1290, "Allowance for Uncollectible Accounts" can be identified from Schedule B-1 and the monthly provisions charged to expense accounts can be determined from Schedules P-6 or P-7.

Schedule B-11 is filed only by charter carriers and there seems to be no pressing need to continue this schedule for this group of carriers at a time when more and more of them are providing scheduled services under new authority granted by the Board.

Schedule B-14 was originally adopted by the Board as a means of evaluating the nature and extent of air carrier leasing activities, particularly with respect to financing the acquisition of aircraft through long-term leases. Now that these capitalization has become a generally accepted accounting practice, with extensive disclosure requirements for capitalized and uncapitalized leases in notes to financial statements (the Board requires this information to be disclosed on Schedule P-2, "Notes to CAB Form 41 Report"). Schedule B-14 is no longer necessary.

Schedule B-44 is a complex and burdensome schedule that was intended to measure the flow of resources between the air carrier and its affiliates. In order to be used most effectively, the activity reported on this schedule must be evaluated in relation to the activity reported for prior years. Since the

schedule, in its present format, has been in effect for only two years it does not have an extensive history behind it to enhance its value. Nor does it have ahead of it any deep regulatory interest in transactions between an air carrier and its affiliates that cannot be satisfied by special inquiry should the need arise.

Schedule P-9.2 has been used for subsidy purposes to determine economic savings when service is suspended at a particular location. There is, at this point, no apparent reason for continuing to have unsubsidized carriers file it; and to the extent the information is needed from subsidized carriers it can be obtained from them directly under authority delegated to the Director, Bureau of Domestic Aviation.

Schedule G-42 has been used to monitor the security interests of all officers and directors and compensation paid to principal officers and directors. Insofar as security interests are concerned, the Board can rely on reports filed directly by officers and directors pursuant to Subpart A of Part 245 of the Board's Economic Regulations. The data on compensation paid to principal officers and directors has been available to the Board and its staff for rate and subsidy purposes. We are proposing to eliminate this schedule because it has not seen any recent use for rate purposes; nor is it likely to in the foreseeable future. Again, to the extent the information is used for subsidy purposes, it can be obtained under delegated authority from carriers directly concerned.

Schedule G-43 has been used to monitor payments for professional services (legal, medical, advertising, accounting and the like) and other services not routinely connected with the maintenance or routine physical operation of the carrier. It does not now serve any regulatory purpose, and we are proposing its elimination for this reason.

Schedule G-44 contains basic corporate information which seldom changes from year to year (change in legal name and corporate charter dates of consolidations and mergers during the year, etc.) and, in addition, data on stock options outstanding at the close of the fiscal year. Most, if not all of this information, is available elsewhere here at the Board. Carriers must petition the Board for changes of name (Part 215); consolidations and mergers affecting the public interest are normally handled in formal proceedings and mentioned in notes to financial statements. Pertinent information on stock options is also contained in notes to financial statements. We are, therefore, proposing the elimination of this schedule as well.

In addition, for unsubsidized carriers, we are proposing to eliminate the current requirement to file Schedule B-5, "Property and Equipment" and Schedule P-5(a), "Components of Flight Equipment Depreciation." These schedules were originally used to compare book depreciation with regulatory depreciation for both rate and subsidy purposes. They are no longer needed for rate purposes but only for subsidy purposes.

Accounting Procedures Statements

All air carriers are currently required to file statements describing the accounting and reporting procedures they use for certain activities. These procedures usually involve management discretion like the service lives and residual values used in depreciating property and equipment, the methods for funding pension plans, and the procedures used in allocating revenues and expenses between operating entities. There are 15 such statements required by various sections of Part 241 and enumerated in section 22(d) and they must be refiled with each policy change regardless of its significance.

All 15 of these statement requirements have been reviewed and we are proposing to eliminate 6 of them as no longer being necessary. In doing this, only the requirement to file the procedure statement will be eliminated. The accounting policy provisions will remain intact as a general guide for carrier accounting policies.

Within the Board, interest in these schedules has diminished in recent years. They came about during the time when almost every significant activity of the carriers was closely scrutinized for its ratemaking implications. This is no longer the case in today's more liberal regulatory environment where the Board has no need to keep abreast of every change in management prerogative in these areas.

A complete listing of the statements we are proposing to eliminate is set out below:

CAB form	Title	Required by
AP-2	Procedures for Retroactive Adjustments Made to Conform Accounts with Mail Rate Actions.	§ 2-4(d)
AP-7	Procedures for Amortization of Developmental and Preoperating Costs and Other Intangibles.	§ 5-5(b), § 6-1870(c), § 6-1880
AP-11	Procedures for Applying Maintenance Burden.	§ 10-5300(c), § 11-5300(c), § 24-Schedule P-6
AP-13	Procedures for the Accrual of Vacation Liability.	§ 6-2120(c)

CAB form	Title	Required by
AP-14	Procedures for Accounting for Investments in Investor Controlled and Other Associated Companies, Including Change in Status from Associated to Investor Controlled and vice versa.	§ 6-1510
AP-15	Procedures of Accounting for Pension Plans.	§ 2-19, § 13-57

Monthly Financial Information

Current regulations require route air carriers to report certain financial information with the Board each month. Large route carriers file balance sheets and statements of operations (income statements) with the Board each month while medium-sized and smaller carriers are filing only balance sheets.

On November 13, 1978, the Air Transport Association of America petitioned the Board for rulemaking to eliminate these reporting requirements. The ATA contended that: (1) The Board has never expressed a regulatory need for balance sheets and income statements on a monthly basis; (2) the termination of these monthly filings would be consistent with the national policy to eliminate unnecessary Federal reporting requirements; and (3) the possibility of an inequitable disclosure of financial information would be avoided if monthly statements were not filed with the Board where they are vulnerable to requests for information under the Freedom of Information Act (FOIA).

The Board is currently using monthly financial statements to keep abreast of changing economic developments in the industry as a whole and in monitoring changes in the financial condition of individual carriers with an eye toward detecting potential problems. Under the Deregulation Act of 1978, the Board has been directed to continue this sort of monitoring function. Section 401(r) of the Act extends the Board's regulatory responsibility to monitor the fitness and ability of all air carriers to provide air transportation service. In addition, Section 1601 of the Act clearly expresses a Congressional intent to have the Board monitor and report on industry economics during the transition to deregulation.

Nevertheless, we believe now would be an opportune time to explore alternatives to the current reporting that would yield the greatest benefit to the Board with the smallest burden to the carriers. In this rulemaking proceeding, it has been decided to solicit comments on each of the alternatives now being considered.

The first alternative would be to continue the current reporting but make

it consistent for all carrier groups. This means we would be requiring small scheduled service carriers to file an income statement as well as a balance sheet.

The second alternative would involve eliminating the requirement to file monthly balance sheets. For large carriers this would mean receiving only the monthly income statement. For medium-sized and smaller carriers we would substitute a requirement to file an income statement for the current requirement to file a balance sheet.

The third alternative would involve eliminating the monthly balance sheet and income statement and have carriers report six key income and expense data elements on a monthly basis. These six key income and expense elements are: (1) Total Operating Revenues, (2) Total Operating Expenses, (3) Operating Profit or Loss, (4) Net Income, (5) Passenger Revenues-Scheduled Service, and (6) Public Service Revenues (Subsidy).

Finally, because the Board does use the monthly information, we do not believe continuing this collection, or some variation thereof, is inconsistent with national policy or the Board's own report reduction program. Nor are we persuaded by the argument that the vulnerability of this information to FOIA requests for information does harm to the investing public by creating the possibility that enterprising investors could obtain information to substantially reduce their market risks at the expense of others.

Since the Board will be guided by a comparison of its needs in relation to the burdens each alternative would impose, we are requesting carriers to comment specifically on:

1. The man-hour and dollar costs associated with complying with the current requirements; 2. The man-hours and dollar costs associated with providing a monthly income statement only. Small and medium-sized carriers (classified as Group I and Group II carriers) should compare the trade off between filing a balance sheet and filing an income statement;

3. Whether monthly information could be provided sooner than 30 days after the close of the month assuming (a) a monthly balance sheet and income statement and (b) only an income statement; and

4. The impact on air carriers of eliminating confidential treatment of monthly financial statements now provided in Section 22(b) of Part 241 of the Economic Regulations.

Latin American Entity

The Airline Deregulation Act requires the Board to revise, on a semiannual

basis, the standard industry fare levels on the basis of changes in costs per available seat-mile of all domestic operations, including Puerto Rico and the Virgin Islands.

At present, these operations are being reported among Latin American operations by several carriers. Among the other changes being proposed, the definition of "Domestic" operations now contained in Part 241 would be redefined so as to include Puerto Rico and Virgin Islands operations. This change would comport with what was envisioned under the Act and, since it is a relatively minor change, it should not impose any significant burden on the carriers.

Interim Waiver of Filing Requirements

This rule proposes the elimination of ten CAB Form 41 schedules that are due at the Board on March 30, 1980. We recognize that responsible carriers will begin preparing these schedules while this proposal is still under consideration. In order to prevent the carriers from expending their resources in preparing these schedules that the Board may ultimately find are not needed, the requirement to file them on or before the due dates specified in Part 241 will be waived pending the outcome of this proceeding. This waiver will be issued under authority delegated to the Director, Office of Economic Analysis in 14 CFR 385.27(c). If the Board ultimately decides to retain any of these ten schedules, carriers will be notified and allowed 30 days to file the schedules for periods ended December 31, 1979.

All other aspects of this notice are intended to become effective June 30, 1980.

Proposed Rule

The Board proposes to amend Part 241, Uniform System of Accounts and Reports for Certificated Air Carriers (14 CFR Part 241) as follows:

1. The Table of Contents would be amended to revoke and reserve line 2-19 now entitled as Accounting for Pension Plans.

2. Section 03 would be amended to read:

Section 03 "Definitions for purposes of this system of accounts and reports"

* * * * *

Air carrier—any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation.

Air carrier, charter—an air carrier holding a certificate issued under Section 401(d)(3) of the Federal Aviation

Act of 1958, as amended, or a special operating authorization issued under Section 417 of the Act.

Air carrier, route—an air carrier holding a Certificate of Public Convenience and Necessity pursuant to Section 401(d) (1), (2), (5) or (7) of the Federal Aviation Act of 1958, as amended, authorizing it to engage in air transportation over a route, or routes, designated by the Board.

Air carrier, surviving—* * *

Air transportation—* * *

Air transportation, charter—air transportation authorized pursuant to section 401(d)(3) or Section 417 of the Act.

Airworthiness (or Airworthy)—* * *

Service, scheduled—transport service operated pursuant to published flight schedules, including extra sections and related nonrevenue flights.

3. Paragraph (c) of Section 04 would be amended to read:

Section 04 "Air Carrier Groupings and Standard Name Abbreviations"

(c) * * *

Name	Abbreviation	Subsidized (Yes or No)
Group I Air Carriers:		
Aero Mech, Inc.	Aero Mech	No.
Aerovias de Puerto Rico, Inc.	Aerovias	No.
Air Florida, Inc.	Air Florida	No.
Air Micronesia, Inc.	Air Micronesia	No.
Air Midwest, Inc.	Air Midwest	Yes.
Air New England, Inc.	Air New England	Yes.
Air Wisconsin, Inc.	Air Wisconsin	No.
Altair Airlines, Inc.	Altair	No.
Apollo Airways, Inc.	Apollo	No.
Aspen Airways, Inc.	Aspen	No.
Big Sky Airlines, Inc.	Big Sky	No.
Chicago Helicopter Airways, Inc.	Chicago Helicopter	No.
Cochise Airlines, Inc.	Cochise	Yes.
Coleman Air Transport Corporation	Coleman	No.
Colonial Airlines, Inc.	Colonial	No.
Conner Air Lines, Inc.	Conner	No.
DHL Airways, Inc.	DHL Airways	No.
Empire Airlines, Inc.	Empire	No.
Evergreen International Airlines, Inc.	Evergreen	No.
Federal Express Corp.	Federal Express	No.
Gem State Investors, Inc. d/b/a Gem State Airlines	Gem State	No.
Golden West Airlines, Inc.	Golden West	No.
Great Northern Airlines, Inc.	Great Northern	No.
Imperial Airlines, Inc.	Imperial	No.
Jet Executive International, Inc.	Jet Executive	No.
Jet Fleet Corporation	Jet Fleet	No.
Kodiak-Western Airlines, Inc.	Kodiak	Yes.
Alaska Airlines, Inc.	Alaska	No.
Mackey International, Inc.	Mackey	No.
McCulloch International Airlines, Inc.	McCulloch	No.
Midway Airlines, Inc.	Midway	No.
Midway (Southwest) Airlines	MSA	No.

Name	Abbreviation	Subsidized (Yes or No)
Mississippi Valley Airlines, Inc.	Mississippi Valley	No.
Modern Airways, Inc.	Modern	No.
Munz Northern Airlines, Inc.	Munz	No.
New Haven Airways, Inc.	New Haven	No.
New York Airways, Inc.	N.Y. Airways	No.
Reeve Aleutian Airways, Inc.	Reeve	No.
Rich International Air Lines, Inc.	Rich	No.
Sky West Aviation, Inc.	Sky West	Yes.
Southeast Airlines, Inc.	Southeast	No.
Southern Air Transport, Inc.	Southern Air	No.
Swift Air Lines, Inc.	Swift Air	No.
Trans Carb Air, Inc.	Trans Carb	No.
Wright Air Lines, Inc.	Wright	No.
Zantop International Airlines, Inc.	Zantop	No.
Group II Air Carriers:		
Air California, Inc.	Air-Cal	No.
Alaska Airlines, Inc.	Alaska	Yes.
Aloha Airlines, Inc.	Aloha	No.
Hawaiian Airlines, Inc.	Hawaiian	No.
Wien Air Alaska	Wien	Yes.
Group III Air Carriers:		
Airlift International, Inc.	Airlift	No.
American Airlines, Inc.	American	No.
Brantiff Airways, Inc.	Brantiff	No.
Capitol International Airways, Inc.	Capitol	No.
Continental Air Lines, Inc.	Continental	No.
Delta Air Lines, Inc.	Delta	No.
Eastern Air Lines, Inc.	Eastern	No.
The Flying Tiger Line, Inc.	Flying Tiger	No.
Frontier Airlines, Inc.	Frontier	Yes.
Hughes Air Corp., d/b/a Hughes Airwest	Airwest	Yes.
National Airlines, Inc.	National	No.
Northwest Airlines, Inc.	Northwest	No.
Overseas National Airways, Inc.	Overseas	No.
Ozark Air Lines, Inc.	Ozark	Yes.
Pan American World Airways, Inc.	Pan American	No.
Piedmont Aviation, Inc.	Piedmont	Yes.
PSA-Pacific Southwest Airlines, Inc.	PSA-Pacific Southwest	No.
Republic Airlines, Inc.	Republic	Yes.
Seaboard World Airlines, Inc.	Seaboard	No.
Southwest Airlines Company	Southwest	No.
Texas International Airlines, Inc.	Texas	No.
Transamerica Airlines, Inc.	Transamerica	No.
Trans World Airlines, Inc.	Trans World	No.
United Airlines, Inc.	United	No.
USAir, Inc.	USAir	No.
Western Air Lines, Inc.	Western	No.
World Airways, Inc.	World	No.

4. Paragraph (d) of Sec. 2-4 would be revised to read:

Sec. 2-4 Accounting period.

(d) Expenditures charged directly or amortized to operations within one accounting year shall not be reversed in a subsequent accounting year and reamortized or charged directly against operations of subsequent years except that retroactive adjustments are permitted where necessary to conform with adjustments required by the Civil Aeronautics Board for ratemaking purposes.

Sec. 2-19 [Reserved]

5. Section 2-19 accounting for pension plans would be revoked and reserved.

6. Paragraph (b) of Sec. 5-5 would be amended to read:

Sec. 5-5 Other assets.

(b) Deferred charges having a definite time incidence shall be amortized over the periods to which they apply.

Section 6—Amended

7. Section 6, *Objective classification of balance sheet elements* would be amended by:

1510 [Amended]

A. Revoking and reserving paragraph (b) of the instructions for Account 1510, *Investments in Associated Companies*.

1870 [Amended]

B. Revoking and reserving paragraph (c) of the instructions for Account 1870, *Property Acquisition Adjustment*.

C. Deleting the last sentence and the word "leasehold" from the instructions for Account 1880 so that the instruction reads:

1880 Intangible assets.

Record here the cost of patents, copyrights and other intangible properties, rights and privileges acquired as a part of a business from other air carriers and other intangibles not provided for elsewhere. This account shall be subdivided to reflect the nature of each intangible asset included in this account.

2120 [Amended]

D. Revoking paragraph (c) of the instructions for Account 2120, *Accrued Vacation Liability*.

8. Section 19-3 would be amended to read:

Sec. 19-3 Accessibility and transmittal of data.

Each air carrier shall maintain its prescribed operating statistics in a manner and at such locations as will permit ready availability for examination by representatives of the Board. All Group I and Group II carriers shall transmit to the Board on a monthly basis individual flight stage data for scheduled services as prescribed in the reporting instructions for Schedule T-9 in Section 25 of this Part. All Group III carriers shall transmit to the Board on a monthly basis individual flight stage data for scheduled services as prescribed in Section 19-5, summarized by flight number, service segment, service class, and aircraft type. Group III air carriers shall utilize either magnetic ADP tapes or ADP punched

cards for transmitting the prescribed data to the Board. All ADP-oriented records shall be transmitted in accordance with standard practices established by the Board's Office of Comptroller. All such data shall be received by the Civil Aeronautics Board at its offices in Washington, D.C., no later than 30 days following the close of the month to which applicable.

9. Paragraphs (c), (g), (h), and (i) of Section 21 would be amended to read:

Sec. 21 Introduction to system of reports.

(c) The prescribed system of reports provides that the frequency of reporting shall be monthly for some schedules, quarterly for some, semiannually for one, and annually for others. It also provides in some areas for the classification of air carriers into Group I, Group II, and Group III, with the form and content differentiated as between groups.

(g) Four separate air carrier entities shall be established for air carriers conducting scheduled service for the purpose of submitting the prescribed reports. They are as follows: (1) Domestic operations; (2) operations via the Atlantic Ocean; (3) operations via the Pacific Ocean; and (4) operations in Latin American areas. With respect to the first classification, the domestic entity shall embrace all operations within and between the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the United States Virgin Islands, and shall also include Canadian transborder operations. The reports to be submitted by each entity shall be comparable to those required of a distinct legal entity whether the reporting entity constitutes such an entity, a semiautonomous

physically separated operating division of the carrier, or an entity established for reporting purposes only.

(h) Each air carrier predominantly engaged in conducting charter activities shall comprise a single reporting entity; however, separate data shall be reported on Schedule P-3.1 and Schedule T-3.1 for domestic operations and international operations. The domestic entity will embrace all operations within and between the Commonwealth of Puerto Rico, and the United States Virgin Islands. All other operations shall be considered international.

(i) The entities for which separate reports shall be made by the different route and charter air carriers are set forth below:

Air carrier	Entities
Aero Mech, Inc.	Domestic
Aerovias de Puerto Rico, Inc.	Do.
Air California, Inc.	Domestic, Latin America.
Air Florida, Inc.	Domestic.
Air Micronesia, Inc.	Pacific.
Air Midwest, Inc.	Domestic.
Air New England, Inc.	Do.
Air Wisconsin, Inc.	Do.
Alaska Airlines, Inc.	Do.
Aloha Airlines, Inc.	Do.
Altair Airlines, Inc.	Do.
American Airlines, Inc.	Domestic, Latin America.
Apollo Airways, Inc.	Domestic.
Aspen Airways, Inc.	Do.
Big Sky Airlines, Inc.	Do.
Brantiff Airways, Inc.	Domestic, Latin America.
Capitol International Airways, Inc.	Domestic, International.
Chicago Helicopter Airways, Inc.	Domestic.
Cochise Airlines, Inc.	Do.
Coleman Air Transport Corporation	Do.
Colonial Airlines, Inc.	Do.
Conner Air Lines, Inc.	Do.
Continental Air Lines, Inc.	Domestic, Pacific.
Delta Air Lines, Inc.	Domestic, Latin America, Atlantic.
DHL Airways, Inc.	Domestic, Latin America.
Eastern Air Lines, Inc.	Domestic, International.
Empire Airlines, Inc.	Domestic.
Evergreen International Airlines, Inc.	Domestic, International.
Federal Express Corp.	Domestic.
The Flying Tiger Line, Inc.	Domestic, Pacific.
Frontier Airlines, Inc.	Domestic.
Gem State Investors, Inc. d/b/a Gem State Airlines	Do.
Golden West Airlines, Inc.	Do.
Great Northern Airlines, Inc.	Do.
Hawaiian Airlines, Inc.	Domestic, Pacific.
Hughes Air Corp. d/b/a Hughes Airwest	Domestic.
Imperial Airlines, Inc.	Do.
Jet Executive International, Inc.	Do.
Jet Fleet Corporation	Do.
Kodiak-Western Airlines, Inc.	Do.
Mackey International, Inc.	Do.
McCulloch International Airlines, Inc.	Do.
Midway Airlines, Inc.	Do.
Midway (Southwest) Airlines	Do.
Mississippi Valley Airlines, Inc.	Domestic, International.
Modern Airways, Inc.	Domestic.
Munz Northern Airlines, Inc.	Domestic, Latin America, Atlantic.
National Airlines, Inc.	Do.
New Haven Airways, Inc.	Domestic.
New York Airways, Inc.	Do.
Northwest Airlines, Inc.	Domestic, Pacific, Atlantic.
Overseas National Airways, Inc.	Domestic, International.
Ozark Air Lines, Inc.	Domestic.
Pan American World Airways, Inc.	Domestic, Latin America, Atlantic, Pacific.
Piedmont Aviation, Inc.	Domestic.
PSA-Pacific Southwest Airlines, Inc.	Do.
Republic Airlines, Inc.	Do.
Rich International Airlines, Inc.	Domestic, International.
Seaboard World Airlines, Inc.	Domestic, Atlantic.
Sky West Aviation, Inc.	Do.
Southeast Airlines, Inc.	Domestic, Latin America.
Southern Air Transport, Inc.	Domestic.
Southwest Airlines Company	Do.
Swift Air, Inc.	Do.
Texas International Airlines, Inc.	Domestic, Atlantic, Pacific.
Trans Carb Air, Inc.	Domestic, Atlantic.
Transamerica Airlines, Inc.	Domestic, International.
Trans World Airlines, Inc.	Domestic, Atlantic, Pacific.
United Airlines, Inc.	Do.
USAir, Inc.	Do.
Western Air Lines, Inc.	Domestic, Latin America.
Wien Air Alaska	Domestic.
World Airways, Inc.	Domestic, International.
Wright Airlines, Inc.	Domestic.
Zantop International Airlines, Inc.	Do.

Section 22 [Amended]

10. Section 22, *General reporting instructions* would be amended by:
A. Revising the list of schedules in CAB Form 41 Report to read:

List of Schedules in CAB Form 41 Report

Schedule title	Filing frequency	Applicability by carrier group		
		I	II	III
Schedule No.:				
A.....	Certification.....	Quarterly.....	X	X
A-2.....	Controlling Person's Certification.....	Annually.....	(*)	(*)
B-1.....	Balance Sheet.....	Monthly.....	X	X
B-3.....	Statement of Changes in Stockholder Equity.....	Quarterly.....	(*)	X
B-7.....	Property and Equipment.....	do.....	(*)	(*)
B-7(a).....	Reinvestment of Flight Equipment Capital Gains.....	do.....	(*)	(*)
B-7(b).....	Flight Equipment Acquired.....	do.....	(*)	(*)
B-8.....	Property and Equipment Retired.....	Quarterly.....	X	X
B-8(a).....	Flight Equipment Capital Gains Invested or Deposited for Investment in Flight Equipment.....	do.....	(*)	(*)
B-10.....	Unamortized Developmental and Preoperating Costs.....	Quarterly.....	X	X
B-12.....	Statement of Changes in Financial Position.....	do.....	X	X
B-13.....	Summary of Projected Financial Commitments and Related Deposits.....	do.....	(*)	X
B-41.....	Receivables, Payables and Investments Relating to Affiliates and Other Investment Data.....	Annually.....	X	X
B-43.....	Inventory of Airframes and Aircraft Engines.....	do.....	X	X
B-48.....	Long-term and Short-term Nontrade Debt.....	do.....	(*)	X
P-1.1.....	Statement of Operations.....	Quarterly.....	X	—

List of Schedules in CAB Form 41 Report—Continued

Schedule title	Filing frequency	Applicability by carrier group		
		I	II	III
P-1.2.....Statement of Operations.....do.....	Monthly	—	X	X
P-1(a).....Interim Statement of Operations.....do.....	Monthly	X	X	X
P-2.....Notes to CAB Form 41 Report.....do.....	Quarterly	X	—	X
P-2(a).....Revenue Market Report.....do.....	Quarterly	—	—	(*)
P-3.....Transport Revenues, Depreciation and Amortization; Nonoperating Income and Expense (Net).....do.....	Quarterly	(*)	(*)	(*)
P-3.1.....Transport Revenues.....do.....	Quarterly	(*)	(*)	(*)
P-3(a).....Income Taxes.....do.....	Quarterly	—	—	(*)
P-4.....Transport-related Revenues and Expenses; Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes on Prior Years; Explanation of Prior Period Adjustments and Dividends Declared.....do.....	Quarterly	(*)	(*)	(*)
P-5.1.....Aircraft Operating Expenses—Group I carriers.....do.....	Quarterly	X	—	—
P-5.2.....Aircraft Operating Expenses—Group III air carriers.....do.....	Quarterly	—	X	X
P-5(a).....Components of Flight Equipment Depreciation.....do.....	Quarterly	(*)	(*)	(*)
P-6.....Maintenance, Passenger Service and General and Administrative Expense Functions—All Air Carrier Groups.....do.....	Quarterly	X	X	X
P-7.....Aircraft and Traffic Servicing, Promotion and Sales, and General and Administrative Expense Function—Group II and Group III air carriers.....do.....	Quarterly	—	X	X
P-8.....Aircraft and Traffic Servicing, and Promotion and Sales Expense Subfunctions—Group III air carriers.....do.....	Quarterly	—	—	X
P-10.....Employment Statistics by Labor Category.....do.....	Annually	X	X	X
P-12.....Fuel Inventories and Consumption.....do.....	Monthly	X	X	X
P-12(a).....Fuel Consumption by Type of Service and Specific Operational Markets.....do.....	Monthly	X	X	X
T-1(a).....Traffic and Capacity Statistics by Class of Service.....do.....	Quarterly	X	X	X
T-1(b).....Traffic and Capacity Statistics by Class of Service—Scheduled Services.....do.....	Quarterly	—	X	X
T-1(c).....Traffic and Capacity Statistics by Class of Service—NonScheduled Services.....do.....	Quarterly	—	X	X
T-2(a).....Traffic, Capacity, Aircraft Operations, and Miscellaneous Statistics by Type of Aircraft.....do.....	Quarterly	X	X	X
T-2(b).....Traffic, Capacity, Aircraft Operations, and Miscellaneous Statistics by Type of Aircraft.....do.....	Quarterly	X	X	X
T-3(a).....Airport Activity Statistics—Revenue Service.....do.....	Quarterly	X	X	X
T-3(b).....Airport Activity Statistics—Revenue Service.....do.....	Quarterly	X	X	X
T-3(c).....Airport Activity Statistics—Nonscheduled Revenue Service.....do.....	Quarterly	X	X	X
T-3.....Statement of Traffic and Capacity Statistics.....do.....	Monthly	(*)	(*)	(*)
T-6.....Report of Civil Aircraft Charters.....do.....	Quarterly	(*)	(*)	(*)
T-7.....Statistical Market Report.....do.....	Monthly	—	—	X
T-8.....Report of Section 418 Operations.....do.....	Semiannually	(*)	(*)	(*)
T-9.....Nonstop Market Report.....do.....	Monthly	(*)	(*)	—
G-41.....Persons Holding More Than 5 Per Centum of Respondents Capital Stock or Capital.....do.....	Annually	X	X	X

* In accordance with the provisions of Section 235.4 and 235.5 of Part 235 of this Subchapter.

* Applicable to all carriers except local service carriers.

* Applicable only to local service carriers.

* Applicable only to subsidized carriers.

* Applicable to all carriers conducting scheduled operations.

* Applicable to charter carriers engaged in charter operations.

* Applicable to all carriers holding Section 418 certificates.

B. Revising the list of Due Dates of Schedules in CAB Form 41 Report to read:

Due Dates of Schedules in CAB Form 41 Report

Due Dates¹ and Schedule No.

January 20—P-12, P-12(a)
January 30—B-1, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-9
February 10²—A, B-1, B-3, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-10, T-8
February 20—P-12, P-12(a)
March 1—B-1, P-1(a), T-1, T-3.1, T-7, T-9
March 20—P-12, P-12(a)
March 30—A-2, B-1, B-41, B-43, B-46, P-1(a), G-41, T-1, T-3.1, T-7, T-9
April 20—B-12, P-12(a)
April 30—B-1, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-9

¹ Due dates falling on a Saturday, Sunday or national holiday will become effective the first following work day.

² B and P reporting dates are extended to March 30, if preliminary schedules are filed at the Board by February 10.

May 10—A, B-1, B-3, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8
May 20—P-12, P-12(a)
May 30—B-1, P-1(a), T-1, T-3.1, T-7, T-9
June 20—P-12, P-12(a)
June 30—B-1, P-1(a), T-1, T-3.1, T-7, T-9
July 20—P-12, P-12(a)
July 30—B-1, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-9
August 10—A, B-1, B-3, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, T-8
August 20—P-12, P-12(a)
August 30—B-1, P-1(a), T-1, T-3.1, T-7, T-9
September 20—P-12, P-12(a)
September 30—B-1, P-1(a), T-1, T-3.1, T-7, T-9
October 20—P-12, P-12(a)
October 30—B-1, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-9
November 10—A, B-1, B-3, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8
November 20—P-12, P-12(a)

November 30—B-1, P-1(a), T-1, T-3.1, T-7, T-9
December 20—P-12, P-12(a)
December 30—B-1, P-1(a), T-1, T-3.1, T-7, T-9

C. In paragraph (d), revoking and reserving paragraphs (d)(2), (d)(7), (d)(11), (d)(13), (d)(14) and (d)(15).

D. Revising paragraph (e) to read:

(e) All financial data reported on B, P, and G schedules shall reflect the status of the air carrier's books of account for the period for which report is being made and shall conform to the instructions of this Uniform System of Accounts and Reports. At the option of the air carrier financial data may be reported in thousands of dollars by Group III air carriers, and in whole dollars by Group I and Group II air carriers, by either dropping or rounding the hundreds of dollars and the cents, respectively, provided all amounts are balanced within and between schedules and zero digits are inserted for the actual money amounts eliminated.

Section 23 [Amended]

11. Section 23, *Certification and Balance Sheet Elements* would be amended by:

Schedule A-1 [Amended]

A. Revoking the title and reporting instructions for Schedule A-1, *Status of Accounting Plans Required to be Filed*.

B. Revising the paragraph (b) and revoking and reserving paragraph (c) of the reporting instructions for Schedule B-1 to read:

Schedule B-1—Balance Sheet

* * * * *

(b) This schedule shall reflect the balances at the close of business on the last day of each calendar month for the overall or system operations of each air carrier in conformance with the provisions of sections 4, 5, and 6.

(c) Reserved.

* * * * *

Schedule B-2 [Amended]

C. Revoking the title and reporting instructions for Schedule B-2, *General Notes to Financial Statements*

Schedule B-4 [Amended]

D. Revoking the title and reporting instructions for Schedule B-4, *Allowances for Uncollectible Accounts*

E. Revising paragraph (a) of the reporting instructions for Schedule B-5 to read:

Schedule B-5—Property and Equipment

(a) This schedule shall be filed by all subsidized carriers.

* * * * *

Schedule B-11 [Amended]

F. Revoking the title and reporting instructions for Schedule B-11, *Aging of Receivables and Payables*

Schedule B-14 [Amended]

G. Revoking the title and reporting instructions for Schedule B-14, *Summary of Property Obtained Under Long-Term Leases*

Schedule B-44 [Amended]

H. Revoking the title and reporting instructions for Schedule B-44, *Transactions Between Air Carriers and Affiliates—Annual Summary*

Section 24 [Amended]

12. Section 24, *Profit and Loss Elements* would be amended by:

A. Revising the titles and paragraphs (b), (c), and (d) of the reporting instructions for Schedule P-1.1 and Schedule P-1.2 to read:

Schedule P-1.1—Statement of Operations—Group I Air Carriers

Schedule P-1.2—Statement of Operations—Group II and Group III Air Carriers

* * * * *

(b) Route air carriers shall file separate statements of operations for each separate operating entity and for the overall, or system, operations.

(c) Charter air carriers shall report data only in the column headed "Quarter" for the overall or system operations of the air carrier. Cumulative "12-Months-to-Date" and "Year-to-Date" information is not required from charter air carriers but it is acceptable if the report is used for submission to the Securities and Exchange Commission as explained in section 22(k).

(d) Data reported in the "12-Months-to-Date" column shall represent for each individual item the sum of amounts reported in the "Quarter" column for the current and next previous three quarters. Data in the "Year-to-Date" column need not be provided when this schedule is not used for submission to the SEC. But when the schedule is used for SEC purposes, data reported in the "Year-to-Date" column shall represent, for the first three quarters of the carrier's fiscal year or calendar year, amounts from the beginning of the carrier's fiscal or calendar year to the end of the quarter for which the schedule is being submitted. For the fourth quarter of the air carrier's fiscal or calendar year, the "Year-to-Date" column should be used for the comparative presentation of data for the prior year.

* * * * *

B. Revising paragraph (a) of the reporting instructions for Schedule P-1(a) to read:

Schedule P-1(a)—Interim Statement of Operations

(a) This schedule shall be filed by all air carriers.

* * * * *

C. Revising paragraph (p) of the reporting instructions for Schedule P-2 to read:

Schedule P-2—Notes to CAB Form 41 Report

* * * * *

(p) Charter air carriers shall note on this schedule the balances in subaccounts 87 and 88.2 of profit and loss account 8100 as reported on the P-1 schedules, together with dividends declared in the current period on the stocks of investor controlled companies.

* * * * *

D. Revising paragraph (a) of the reporting instructions for Schedule P-3.1 to read:

Schedule P-3.1—Transport Revenues

(a) This schedule shall be filed by all charter air carriers.

* * * * *

E. Revising paragraph (c-1) of the reporting instructions for Schedule P-5.1 and Schedule P-5.2 to read:

Schedules P-5.1 and P-5.2—Aircraft Operating Expenses

* * * * *

(c-1) Charter air carriers shall file this schedule for quarterly data only. The caption "Operation" at the head of each column is not applicable to charter carriers.

* * * * *

F. Revising paragraphs (a) and (c) of the reporting instructions for Schedule P-5(a) to read:

Schedule P-5(a)—Components of Flight Equipment Depreciation

(a) This schedule shall be filed by all subsidized air carriers.

* * * * *

(c) Air carriers shall file this schedule

* * * * *

G. Revising paragraphs (a), (b), and (d) of the reporting instructions for Schedule P-6 to read:

Schedule P-6—Maintenance, Passenger Service and General Services and Administration Expense Functions

(a) This schedule shall be filed by all carriers.

(b) Route air carriers conducting scheduled operations shall file this schedule for each operating entity.

* * * * *

(d) Charter air carriers shall file this schedule for quarterly data only. The caption "Operation" at the head of each column is not applicable to charter carriers.

* * * * *

H. Revising paragraphs (d) and (e) of the reporting instructions for Schedule P-7 to read:

Schedule P-7—Aircraft and Traffic Servicing, Promotion and Sales and General and Administrative Expense Functions

* * * * *

(d) Charter air carriers shall file this schedule for quarterly data only. The caption "Operation" at the head of each column is not applicable to supplemental air carriers.

(e) Group II air carriers and Group III charter carriers shall report the

indicated data for all except subfunction 6100 Aircraft Servicing.

Schedule P-9.2 [Amended]

1. Revoking the title and reporting instructions for Schedule P-9.2 *Distribution of Ground Servicing Expenses by Geographic Location—Group II and Group III Route Air Carriers*

Section 25 [Amended]

13. Section 25—*Traffic and Capacity Elements* would be amended by:

A. Revising paragraphs (a) and (n) of the reporting instructions for Schedule T-3.1 to read:

Schedule T-3.1—Statement of Traffic and Capacity Statistics

(a) This schedule shall be filed by all charter carriers.

(n) Each air carrier shall . . .

B. Revising paragraph (a) of the reporting instructions for Schedule T-6 to read:

Schedule T-6—Report of Civil Aircraft Charters

(a) This schedule shall be filed by all Group III air carriers and Group I and Group II charter air carriers.

C. Inserting reporting instructions for a new Schedule T-9 following the reporting instructions for Schedule T-8 to read:

Schedule T-9—Nonstop Market Report

(a) This schedule shall be filed monthly by all Group I and Group II route air carriers and may be used by new entrants categorized as Group III route air carriers, with the approval of the Director, Office of Economic Analysis, until such time as the new entrants develop the capability to comply with Automatic Data Processing reporting requirements imposed on incumbent carriers of comparable size.

(b) Each schedule contains a five block carrier code and a four block date code. The five block carrier code is assigned to individual carriers by the Office of Comptroller. The four block date code will be used to record the year and the month. The first two blocks of the date code shall be used to record the year and the second two blocks shall be used to record the month in the calendar year. Months will be numbered consecutively beginning with 01 for January and continuing through 12 for December.

(c) Individual flight stages shall be reported on separate lines. Where

different aircraft types are used, separate lines will be used for those flight stages.

(d) In column 1, carriers shall report the line number as a point of reference for the data reported.

(e) In columns 2 and 3, respectively, carriers shall report the take off and landing for each flight stage.

(f) In column 4, carriers shall disclose the aircraft type used in accordance with standard abbreviations used for specific aircraft types.

(g) In column 5, "Interairport Distance," carriers shall report the great circle distance, in statute miles between airports served by each flight stage, as published in the Civil Aeronautics Board's Official Route and Mileage Manual.

(h) In column 6, "Revenue Aircraft Departures Performed," carriers shall report the number of revenue aircraft departures (take offs) performed (scheduled and extra sections).

(i) In columns 7 and 8, respectively, carriers shall report the actual number of First Class and Coach "Seats Available" on the particular aircraft with which each flight stage is performed.

(j) In column 9, "Tons Available," carriers shall report in pounds the payload capacity actually provided by the particular aircraft with which each flight stage is performed.

(k) In columns 10 and 11, respectively, carriers shall report the number of First Class and Coach "Revenue Passengers Transported" on each flight stage.

(l) In column 12, "Revenue Tons Transported," carriers shall report the number of pounds of revenue traffic carried on each flight stage.

(m) In columns 13 and 14, respectively, carriers shall report the number of First Class and Coach "Revenue Passengers Enplaned" at the take off point.

(n) In column 15, "Revenue Cargo Tons Enplaned," carriers shall report the total of revenue cargo pounds boarding an aircraft.

Section 26 [Amended]

14. Amend Section 26, *General Corporate Elements* by:

Schedule G-42 [Revoked]

A. Revoking the title and reporting instructions for Schedule G-42 *Security Interests of All Officers and Directors and Compensation Paid to Principal Officers and Directors*.

Schedule G-43 [Revoked]

B. Revoking the title and reporting instructions for Schedule G-43 *Compensation and Expenses of Persons*

and Firms (Other than Directors, Officers and Employees) Earning \$20,000 or More During the Calendar Year.

Schedule G-44 [Revoked]

C. Revoking the title and reporting instruction for Schedule G-44 *Corporate and Securities Data*.

CAB Form 41 [Added]

15. Add new CAB Form 41 Schedule T-9 as shown in Exhibit A (filed as part of the original document).

(Sections 204 and 407 of the Federal Aviation Act, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324 and 1377.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

(FR Doc. 79-39626 Filed 12-28-79; 8:45 am)

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1015

Procedures for Disclosure or Production of Information Under the Freedom of Information Act; Proposed Revisions for Briefing Packages and Draft Documents

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed Revisions to Freedom of Information Act regulation.

SUMMARY: In this notice the Consumer Product Safety Commission proposes to revise its Freedom of Information Act regulation to clarify the availability of draft Commission staff documents and Commission staff briefing packages. The present regulation appears to treat these documents differently from other Commission documents in that it fails to make clear that these documents will not be made available if disclosure is barred by statute or if the documents are exempt from mandatory disclosure and disclosure is contrary to the public interest. Under the proposed revision, draft staff documents that are agency records and staff briefing packages will be available upon request in the same manner as other Commission records. Additionally, the proposed revision provides that briefing packages or portions of briefing packages that would be released upon request under the FOIA and the Commission regulation will be made available in the Commission's public reference facility after they are transmitted to the Commissioners by the Office of the Secretary.

DATES: Written comments on the proposed revisions must be received no later than January 30, 1980. Those comments received after this date will be considered to the extent practicable. The Commission has determined that only a thirty day comment period is warranted because of the narrow focus of the proposed revisions to existing Commission policies and procedures.

ADDRESSES: Send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments may be examined and copies obtained from the Office of the Secretary, 1111 18th Street NW., Washington, D.C. during regular business hours.

FOR FURTHER INFORMATION CONTACT: Alan H. Schoem, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (202) 634-7770.

SUPPLEMENTARY INFORMATION: On February 22, 1977, the Commission published in the Federal Register its final Freedom of Information Act (FOIA) Regulation (42 FR 10490), codified at 16 CFR Part 1015. The regulation, among other things, specifically addresses the public availability of draft staff documents and staff briefing packages. 16 CFR 1015.15 (b) and (c). For the reasons discussed below, the Commission proposes to revise these sections of its FOIA regulation to clarify that such documents will be available upon request in the same manner as other Commission documents. Additionally, the proposed revision will clarify the availability of briefing packages in the Commission's public reference facility after transmittal to the Commissioners by the Office of the Secretary.

A. Draft Documents

Section 1015.15(b) of the Commission's FOIA regulation provides that draft Commission staff documents are releasable to the public after the first level of required supervisory review or approval or, where no review is required, at the time they transmitted to the people for whom they are intended. This provision reflects an attempt to articulate the Commission's policy generally to make such draft documents available to the public.

However, notwithstanding § 1015.17, which provides a procedure for withholding draft documents or other Commission records that are exempt from mandatory disclosure, the language of the regulation has been misinterpreted by the public and the staff to mean that virtually all draft

documents will be released. This has been the case even where the draft document may be exempt from disclosure and even where the public interest would be served if the draft were not, at that time, disclosed. This misinterpretation obscures the Commission's basic policy under the FOIA as expressed in present § 1015.15(b):

(b) No identifiable record requested in accordance with the procedures contained in this part shall be withheld from disclosure unless it falls within one of the classes of records exempt under 5 U.S.C. 552(b). To the extent permitted by law, the Commission will make available records authorized to be withheld under 5 U.S.C. 552(b) unless the Commission determines that disclosure is contrary to the public interest. . . .

The proposed revision to section 1015.15(b) and (c) clarifies that the Commission will consider draft documents no differently from other documents requested under the FOIA. Although draft documents frequently may be exempt from mandatory disclosure under exemption 5 of the FOIA, 5 U.S.C. 552(b)(5), as predecisional documents that contain advice, recommendations and opinions that are part of the deliberative or policy-making process, the FOIA does not address draft documents, per se. Thus, under the proposal, the decision whether to release a particular document will be made on a case-by-case basis applying the FOIA and the Commission's FOIA regulation. Inasmuch as this case-by-case analysis includes consideration of whether the draft document is an agency record subject to the FOIA, it is also proposed that § 1015.17 be amended by deleting its references to "a record or draft document."

B. Briefing Packages

The Commission's staff prepares for the Commission "briefing packages" which contain information, analyses and recommendations which the Commissioners use as part of their decision-making process. The Commission's FOIA regulation currently provides at 16 CFR 1015.15(c) that "briefing packages which have been completed by the staff but not approved by the Commission" will be released upon request.

As with draft documents, there is no basis upon which to accord briefing packages treatment separate from other records requested under the FOIA. In addition, the separate treatment provided by the present regulation has been unsatisfactory in several regards.

First, it fails to reflect the Commission practice to withhold from release briefing packages or portions thereof, that may contain trade secrets or other confidential business information that the Commission may not disclose under section 6(a)(2) of the CPSA, 15 U.S.C. 2055(a)(2). Additionally, portions of briefing packages involving personnel matters, may, if disclosed, result in an unwarranted invasion of privacy. Further, the regulation fails to reflect the Commission practice to withhold from release briefing packages or portions thereof that are exempt from mandatory disclosure where disclosure is contrary to the public interest.

For these reasons, the Commission proposes to revise § 1015.15(c) to clarify that briefing packages are, for purposes of the FOIA, subject to the same standards as other Commission records. The Commission expects however, that few requests for such documents will be made under the FOIA because, under the proposed revision to § 1015.15(c) discussed below, briefing packages generally will be available, without the need for a request, after they are transmitted to the Commissioners by the Office of the Secretary.

Specifically, section 1015.15(c) provides that briefing packages "will be publicly available when forwarded . . . to the Commissioners." This provision reflects a Commission policy decision, above and beyond the FOIA, generally to provide the public access, without the need for an FOIA request, to briefing packages transmitted to the Commissioners. The Policy provides ready public access to materials being considered by the Commissioners as they make regulatory decisions.

However, revision of the language of § 1015.15(c) is required for several reasons. First, as discussed above, the Commission does not and cannot make all briefing packages available to the public. The office of General Counsel reviews each briefing package before transmittal to the Commissioners to help the Secretary assess, among other things, (i) whether the Commission is barred by statute from disclosing the full contents of the briefing package, (ii) whether portions of briefing packages, if requested under the FOIA, would be exempt from mandatory disclosure and (iii) whether disclosure would be contrary to the public interest. The proposed revision makes clear that these determinations guide the Secretary's decision whether particular briefing packages or portions of briefing packages are to be placed in the Commission's public reference facility.

Additionally, under present § 1015.15(c) briefing packages are made available to the public in the Commission's public reference facility at the same time they are transmitted to the Commissioners. In many cases under this practice, the public has had access to materials prepared for Commissioners before individual Commissioners have received the package. Accordingly, the proposed revision provides that briefing packages, or the portions thereof, determined by the Secretary, with the advice of the Office of the General Counsel, to be available to the public, will be placed in the Commission's public reading room promptly after transmittal to the Commissioners by the Office of the Secretary.

The Commission believes the proposed revisions to § 1015.15(c) address the identified problems and yet ensure public access to Commission briefing packages to the fullest extent practicable.

Accordingly, it is proposed to amend § 1015.15 by revising paragraphs (b) and (c) to read as follows:

§ 1015.15 Purpose and scope.

(b) No identifiable record requested in accordance with the procedures contained in this part shall be withheld from disclosure unless it falls within one of the classes of records exempt under 5 U.S.C. 552(b). The Commission will make available, to the extent permitted by law, records authorized to be withheld under 5 U.S.C. 552(b) unless the Commission determines that disclosure is contrary to the public interest. In this regard the Commission will not ordinarily release documents that provide legal advice to the Commission concerning pending or prospective litigation where the release of such documents would significantly interfere with the Commission's regulatory or enforcement proceedings.

(c) Draft documents that are agency records are subject to release upon request in accordance with this regulation. However, in order to avoid any misunderstanding of the preliminary nature of a draft document, each draft document released will be marked to indicate its tentative nature. Similarly, staff briefing packages, which have been completed but not yet transmitted to the Commission by the Office of the Secretary are subject to release upon request in accordance with this regulation. Each briefing package or portion thereof released will be marked to indicate that it has not been transmitted to or acted upon by the Commission. In addition, briefing

packages, or portions thereof, which the Secretary upon the advice of the Office of the General Counsel has determined would be released upon request in accordance with this regulation, will be publicly available in the public reference facility established under § 1015.2 promptly after the briefing package has been transmitted to the Commissioners by the Office of the Secretary. Such packages will be marked to indicate that they have not been acted upon by the Commission.

§ 1015.17 [Amended]

It is proposed to amend § 1015.17 by deleting the phrase "or draft document" in § 1015.17, line 4; § 1015.17(a), line 4; and § 1015.17(b), lines 3-4.

(Consumer Product Safety Act, 15 U.S.C. 2051; the Federal Hazardous Substances Act, 15 U.S.C. 2161; the Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471; the Refrigerator Safety Act, U.S.C. 1211; the Flammable Fabrics Act 15 U.S.C. 1191; and the Freedom of Information Act, 5 U.S.C. 552.)

Dated: December 26, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety
Commission.

[FR Doc. 79-39821 Filed 12-28-79; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

**Federal Energy Regulatory
Commission**

18 CFR Part 282

[Docket No. RM 80-10]

**Rule Required Under Section 202 of
the Natural Gas Policy Act of 1978;
Public Hearings**

December 27, 1979.

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Notice of Public Hearings.

SUMMARY: On November 15, 1979, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking to implement section 202 of the Natural Gas Policy Act of 1978 (NGPA) (44 FR 67170, November 23, 1979). Under the proposal, the incremental pricing program would be expanded on November 1, 1980, to include all industrial users of natural gas that are not granted an exemption by statute. In that notice the Commission stated that it intended to hold public hearings on the proposed rule. Notice is hereby given that five public hearings will be held with respect to this proposal. The exact dates and

locations of the hearings are set forth below.

DATES: Requests to participate by January 11, 1980. Hearing dates: January 18, 1980, in San Francisco, California; January 21, 1980, in Salt Lake City, Utah; January 23, 1980, in Chicago, Illinois; January 25, 1980, in Louisville, Kentucky; and January 29, 1980, in Washington, D.C.

ADDRESSES: Requests to participate: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 [Reference Docket No. RM80-10]. Hearing locations:

Federal Office Building, Room 503, 555 Battery Street, San Francisco, California 94111 (January 18, 1980, beginning at 9:00 a.m.).

City Commission Chambers, Third Floor, City and County Building, South State Street—Between 4th and 5th Streets, Salt Lake City, Utah 84111 (January 21, 1980, beginning at 9:00 a.m.).

219 South Dearborn Street, Dirksen Federal Office Building, Chicago, Illinois 60604 (Room number to be posted in lobby) (January 23, 1980, beginning at 9:00 a.m.). Commonwealth Convention Center, Room 211, 221 River City Mall, Louisville, Kentucky 40202 (Next to Hyatt Regency Louisville) (January 25, 1980, beginning at 9:00 a.m.).

Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Room number to be posted on the second floor the morning of the hearing) (January 29, 1980, beginning at 9:30 a.m.).

FOR FURTHER INFORMATION CONTACT: Nancy E. Williams, Deputy Assistant General Counsel for Regulatory Development, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION: Requests to participate in a hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, no later than January 11, 1980, and should indicate the hearing for which the request is made. Requests should reference Docket No. RM80-10, and should indicate the amount of time required for the oral presentation, and the telephone number at which the person making the presentation can be reached. Persons participating in a public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in a hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the site of the hearing on the morning it is convened.

The hearings will not be of a judicial or evidentiary type. There will be no

cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it be presented. Any further procedural rules will be announced by the presiding officer at each hearing. Transcripts of the hearings will be available in the public file for this proceeding, Docket No. RM80-10, through the Commission's Office of Public Information.

The hearing to be held in Chicago, Illinois, on January 23, 1980, and the hearing scheduled for January 29, 1980, in Washington, D.C., will be continued on the respective following days, if necessary.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39916 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 51

[FRL No. 1381-5; Docket No. A-79-40]

Protection of Visibility

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule; Notice of Public Workshops.

SUMMARY: The Environmental Protection Agency (EPA) published in the Federal Register on November 30, 1979 (44 FR 69116) an Advance Notice of Proposed Rulemaking (ANRP) for the protection of visibility. The Advance Notice notified interested persons of the technical and policy issues associated with the development of visibility protection regulations, and also outlined some tentative positions developed by EPA staff. The ANRP established a written comment period which closes on December 31, 1979, and said that the Agency would hold two public workshops to enhance public participation.

Today, EPA is announcing three public workshops. The workshops will be conducted informally, the purposes of which are to help inform and educate the public on the pertinent visibility regulation issues set out in the ANRP and to solicit comments and suggestions on all aspects of the visibility regulation program. Minutes of the meetings, rather than verbatim transcripts will be made and sent to the formal visibility

regulation docket identified in the ANRP. As noted in the ANRP, written comments should be sent to this docket during the comment period.

The three public workshops will be held in Denver, Colorado; Seattle, Washington, and Salem, Oregon.

DATES: Workshops will be held as follows:

Tuesday, January 22, 1980, Seattle, Washington,
Wednesday, January 23, 1980, Salem, Oregon,
Friday, January 25, 1980, Denver, Colorado.

ADDRESSES: Workshops will be held at the following locations:

Seattle, Washington, Room 12A, Park Place Building, 1200 6th Avenue,
Salem, Oregon, Hearing Room A, State Capitol Building,
Denver, Colorado, Mountain Bell Building Association, 1005 17th Street.

FOR FURTHER INFORMATION CONTACT: David Bray, Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region X, 1200 6th Avenue, Seattle, Washington, 98101, (206) 442-1125,

or
Terry L. Thoen, Director, Energy Policy Coordination Office, U.S. Environmental Protection Agency, Region VII, 1660 Lincoln Street, Denver, CO 80295, (303) 837-5914.

An agenda for the public meetings will be available by January 8, 1980. Additionally, EPA notes that it plans to hold legislative type public hearings after the visibility regulations are proposed.

Dated: December 21, 1979.

Edward F. Tuerk,
Acting Assistant Administrator for Air, Noise
and Radiation.

[FR Doc. 79-39620 Filed 12-28-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

**National Highway Traffic Safety
Administration**

49 CFR Part 533

[Docket No. FE 78-01; Notice 1]

**Light Truck Average Fuel Economy
Standards for Model Years 1982-85;
Notice of Proposed Rulemaking**

AGENCY: National Highway Traffic
Safety Administration, (NHTSA)
Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes establishment of average fuel economy standards for light trucks manufactured in model years 1982-85. The issuance of these standards is required by the Motor Vehicle Information and Cost Savings Act, as amended (the Act). The

standards are intended to result in total accumulated savings by 1990 of approximately 15 to 23 billion gallons of gasoline (or in barrels, 357 to 548 million barrels), compared to the gasoline that would be consumed if light truck fuel economy remained at the level of the 1981 standards. This notice also announces a reduction of the 1981 light truck standards under the terms of the March 1978 and June 1979 final rules establishing those standards. Those rules provided that the 1981 standards would be reduced by a specified amount if the motor vehicle and petroleum industries did not meet the conditions for approving the use of certain advanced engine lubricants in fuel economy testing. The EPA has informed this agency that the conditions will not be met in time to permit approval by January 1, 1980, the date specified in the rules establishing the 1981 standards.

DATES: Comments on the proposed 1982 standards must be received on or before January 30, 1980 and those on the proposed 1983-85 standards on or before March 31, 1980.

ADDRESSES: Comments must be submitted (preferably in ten copies) in writing to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours: 8 a.m. to 4 p.m.).

Submissions containing information for which confidential treatment is requested should be submitted (preferably in three copies) to Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Francis J. Turpin, Office of Automotive Fuel Economy Standards (NRM-21), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-472-6902).

SUPPLEMENTARY INFORMATION: Section 502(b) of the Act requires the Secretary of Transportation to establish average fuel economy standards for light trucks manufactured in each model year beginning with 1979. Each standard must be prescribed at least 18 months prior to the start of the model year to which it applies and must be set at the "maximum feasible average fuel economy level," considering technological feasibility, economic practicability, the need of the nation to conserve energy, and the effects of other Federal motor vehicle standards on fuel economy.

On March 14, 1977, standards for light trucks manufactured in model year 1979 were established in 42 FR 13807.

Standards for the 1980 and 1981 model years were established on March 23, 1978, in 43 FR 11995. The 1981 standard for two-wheel drive light trucks was reduced from 18.0 miles per gallon (mpg) to 17.2 mpg in response to a petition from Chrysler Corporation, on June 25, 1979, in 44 FR 36975. A further reduction in the 1981 standards of 0.5 mpg is announced in this notice. See Section II, *infra*. This notice proposes that standards be established for model years 1982-85. Establishing multiple year standards responds to past industry requests for longer term planning guidance and leadtimes.

The agency has obtained information from a variety of sources to form the basis for this proposal. Among these sources are the agency's own research activities, analyses, and technological assessments, and information obtained from the manufacturers in a July 1978 questionnaire and a July 1979, special order.

The 1982-85 standards would be applicable to light trucks with gross vehicle weight ratings (GVWR's) up to 8500 pounds, curb weights less than 6000 pounds, and frontal areas less than 45 square feet. The term GVWR means the maximum weight rating of the vehicle including passengers and cargo. Thus, trucks subject to the standards would include most pickup trucks, vans, and utility vehicles such as Jeeps. Most of these vehicles fall within the "personal usage" or mixed personal/commercial usage categories. In recent years, light trucks under 8500 pounds GVWR have accounted for about 25 to 30 percent of the total car and light truck sales.

In previous light truck rulemaking proceedings, the main thrust of the agency's analysis has been to project the use of technological improvements which increase the efficiency of existing light truck models. These improvements typically involve add-on technology and include engine efficiency improvements and use of more efficient transmissions and accessories. For the 1982-85 rulemaking, the agency is projecting the continuation of these types of improvements. Further improvements in average fuel economy for model years 1982-85 are likely to come from the introduction of additional models, such as compact pickup trucks, and the introduction of new, smaller displacement engines. Similar fundamental changes are already being made to cars.

A major issue in this proceeding is likely to be the extent to which the manufacture can produce and successfully market the new, smaller truck models, as opposed to the current, larger models. Sales of the larger models

have slumped this year. The agency is projecting in this notice that large numbers of these new models can be sold in the 1982-85 time period. By comparison, a much greater portion of the passenger car fleet will have been redesignated by the early 1980's than the agency is projecting for light trucks by 1985. In examining potential light truck fuel economy regulations for 1982-85, the agency is predicated its analysis on the proposition that the decline in 1979 of the sales of truck with poor fuel economy is a fair indicator of the future. NHTSA does not view the significant departure in 1979 from prior year market behavior as an aberration. Instead, the agency views it as a rational long term response to increasing fuel prices and declining availability of fuel. The fact that the manufactures are already planning, even prior to the issuance of any fuel economy standards for 1982-85, to introduce such models is evidence that they generally concur in this judgment.

Comment is invited on all issues implicit in this proceeding, but comment is specifically invited on the major issues set forth below.

These issues are discussed in general terms in this notice.

1. The benefits to the nation and consumers of more fuel efficient trucks and of a more diversified array of truck sizes and capabilities.

2. The marketability of new, compact truck models compared to that of current larger models, and the fuel economy levels achievable with those models.

3. The extent to which average engine displacement and/or total drive ratios can be reduced in the 1982-85 consistent with light truck functional and marketing considerations.

4. The capability of the manufactures (in particular Chrysler Corporation) to finance the required fuel economy improvements.

5. The effects of more stringent emission standards and related requirements on fuel economy.

6. Whether special treatment should continue to be accorded International Harvester Company or other companies, through a separate, less stringent fuel economy standard.

7. The agency's current policy of not considering the fuel economy benefits of diesel engines.

8. How issues such as the uncertainty about the new light truck market in the early and mid-1980's and such as the recession should be taken into consideration in assessing the economic practicability of future standards and in setting those standards.

9. The extent to which the schedule of standards for 1982-85 can be set so as to provide the manufacturers with flexibility to deal with market uncertainties in reaching the 1985 standard. (The existing statutory provision for a one year carry back and forward of credits already affords the manufacturers some flexibility and the Department's legislative proposal to extend that period to three years would provide even greater flexibility.)

10. The extent to which manufacturers can or should be permitted to include foreign-produced light trucks in their domestic fleets for standards compliance purposes.

11. The prospects for future gasoline price increases and supply shortages, and the impact of those events on the need for higher fuel economy for light trucks.

I. Classification

Section 502(b) of the Act authorizes the agency to set separate fuel economy standards for different classes of light trucks. The agency has used this authority in each light truck standard-setting proceeding to date to promote maximum energy conservation and to minimize the burdens on manufacturers, given differences in the truck fleets and fuel economy improvement capabilities of the companies. For example, a separate class can be established for light truck types which are inherently less fuel efficient, permitting higher standards to be set for other types. For model years 1980-81, five different truck classes were established. Separate classes and fuel economy standards were established for two- and four-wheel drive light trucks, and within those classes, separate subclasses were established for captive imports and domestically manufactured light trucks. The separate two wheel drive (4x2) and four-wheel drive (4x4) standards were established to account for American Motors' fleet, which is composed almost exclusively of 4x4's. Those trucks generally have lower fuel economy than 4x2 trucks (due to the need to meet off-road requirements) and caused AM to have a lower projected average fuel economy than the other manufacturers.

The classification based on import or domestic status is intended to encourage the domestic production of the fuel efficient, compact trucks which are currently imported. (See discussion at 42 FR 63187 and 43 FR 11998-9.) Thus, this classification is anticipated to result in increased employment in the domestic auto industry consistent with section 502(b) of the Act. In that section, Congress requires separate compliance with fuel economy standards for

domestic and imported passenger automobiles. Chrysler Corporation has requested that manufacturers should be permitted to include up to 80,000 captive import light trucks in their domestic fleets for standards compliance purposes. Comment is invited on the desirability of and legal authority for granting this request for Chrysler alone or for all companies. If Chrysler's request were granted, the agency would include both captive import and domestic light trucks in its evaluation of Chrysler's capability to improve fuel economy. Thus, the agency's assessment of Chrysler's fuel economy capability for these years would be higher than if only the less fuel efficient domestic trucks were included. The same reasoning would apply to other manufacturers with captive imports.

A separate class and standard was established for "limited product line light trucks," those manufactured by companies whose light truck fleet is powered exclusively by basic engines which are not also used in passenger automobiles. The "limited product line" standard was established for two years' duration. It was designed to permit manufacturers which had no previous experience in complying with the more stringent emission standards applicable to passenger automobiles to develop technology to meet emission standards without major adverse fuel economy impacts. Light trucks in the 6001-8500 pound range were first subject to "light duty truck" emission standards in MY 1979. At the same time, the stringency of these standards was raised, to levels more comparable to passenger car standards. To date, the limited product line class includes International Harvester Company only.

The separate class for limited product line light trucks is due to lapse with the 1982 model year. International Harvester has recently submitted average fuel economy projections for model years 1981 through 1985 increasing from 16.0 mpg to 17.7 mpg, generally in the range of the agency "base case" fuel economy projections 4x4 light trucks in those model years. See discussion of the base case in the next section of this notice. However, IH's projections of future fuel economy levels would be approximately one mpg less in each year if diesel engines are not considered. The agency has not included the fuel economy benefits of using diesel engines when projecting manufacturers' capabilities to meet future standards, pending resolution of diesel-related health effect questions by EPA. IH has requested that the policy of having a separate fuel economy class for

its light trucks be extended through 1985, and that a lower standard be established for IH than the generally applicable 4x4 standard. IH asked also that the separate class be redefined in terms of its market position. This request for a separate class and standard is based upon IH's view that it will be unable to keep pace with the average fuel economy levels of the larger manufacturers and upon various marketing and technological uncertainties facing that company.

The agency desires comment on the desirability of and legal authority for granting IH's request. If the agency concludes that IH cannot meet the same levels of fuel economy as the "full line" manufacturers, the agency would be favorably disposed to continuing the separate treatment of IH through the use of the "classification" authority of section 502(b) of the Act, instead of having IH's limited capability pull down the level of a generally applicable standard. Such a separate class might be defined in terms of trucks produced by manufacturers of less than a specified number of light trucks annually.

Comment is sought also on the desirability of and legal authority for including other companies in a separate class if that company is unable to achieve the same average fuel economy as the larger manufacturers. For example, based on the company's own estimates, Chrysler Corporation would achieve substantially lower fuel economy levels than its larger competitors in the 1982-85 time frame, apparently due to that company's current financial difficulties. If that company were permitted to meet a separate, lower fuel economy standard, a higher standard could be set for the other companies. This approach could produce greater energy savings than setting a single standard for all companies at a level which Chrysler can meet.

II. Methodology

The basic methodology used to establish maximum feasible average fuel economy levels in this proceeding is generally the same as in previous light truck rulemaking. The approach is described in detail in the agency's rulemaking support paper for this proceeding, copies of which are available from the individual listed as the "information contact" at the beginning of this notice. Generally, the methodology begins with the selection of a fuel economy baseline, i.e., the determination of the average fuel economy of the regulated fleet of light trucks in the base year and fleet. Then, adjustments are made to that number

for each item of fuel economy-improving technology or method that can be applied in years for which standards are being set, based on the magnitude of that benefit per vehicle and the portion of the fleet to which the improvement can be applied. Finally, an adjustment is made to reflect the impact of changes in other Federal motor vehicle standards, such as increased weight due to changes in safety standards. This process produces a maximum fuel economy value for each manufacturer in each model year. The standard is established at the maximum feasible level. In establishing those levels, the agency considers these individual manufacturer capabilities, the need of the nation to conserve energy, and other factors set forth in the statute and its legislative history (see discussion in section VII of this notice). In view of the uncertainties involved in fuel economy rulemaking, this process will be a balancing one in which the risks of setting too lenient standards will be weighed against the risks of setting too stringent ones. The result will be final standards which make allowances for these uncertainties.

One variation on the methodology used in the past by the agency relates to the way in which the introduction of new models is treated. Instead of measuring the fuel economy improvement resulting from the introduction of a new model by determining the effect of the new model on various fleet attributes (average weight, engine displacement, technology usage, etc.), a single fuel economy value is assigned to the new model. This single value includes the effects of all the various fuel economy improvements which could be incorporated in the new truck model. This new approach for determining the effect of new model introduction is adopted for this proposal to simplify accounting for technological improvements on existing vehicles and those improvements which would be included in a complete redesign of a vehicle. The fuel economy estimates for new models are described in section VI and Appendix A of the agency's rulemaking support paper. However, for the final rule the agency will separately specify the various improvements now reflected in a single fuel economy value for each of the new models.

The baseline used in this notice is the 1981 light truck standards. Those standards were established at two alternate levels. The higher one was to be applicable if the Environmental Protection Agency approved, by January 1, 1980, the use of fuel economy-improving engine lubricants in the fuel

economy testing for the 1981 model year. The other level, which is 0.5 mpg lower than the first, was to be automatically applicable if the approval was not given. On October 26, 1979, the EPA notified NHTSA that this approval would not be granted by January 1, 1980. See EPA letter in NHTSA Docket No. FE-77-05. Therefore, the agency is announcing in this notice that the lower level of the 1981 light truck standards will be the applicable one. A technical amendment will be issued shortly to reflect these events. Thus, the 1981 standards are 16.7 mpg for 4 x 2 domestic and import light trucks, 15.9 mpg for 4 x 4 domestic and import light trucks, and 14.5 mpg for limited product line light trucks.

The agency continues to estimate that a 2.0 percent improvement in fuel economy can be gained from the use of improved engine lubricants. Although the proposed standards and ranges in this notice do not reflect this improvement, the agency plans to include this improvement in the final rule for model years 1983-85 unless sufficient data is forthcoming to show that a 2.0 percent fuel economy improvement on the EA test cycle is not a realistic one.

The agency is using its analysis from the previous proceeding in constructing the baseline, and determining what levels of technological implementation are necessary to meet the 1981 standards and what technological improvements remain to be applied in 1982-85. Comment is requested on the appropriateness of adjusting the agency's analysis to account for 1980 certification data and other more recent information.

III. Fuel Economy Projections

The agency is proposing specific standards for the 1982 model year and ranges of possible final standards for 1983-85. The reason for this approach is the limited leadtime remaining until the 1982 model year, and the greater uncertainty (particularly marketing uncertainty) involved in making projections further into the future for the 1983-85 model years. The ranges for the 1983-85 model years were derived from a "base case" analysis and three additional cases which demonstrate the potential fuel economy improvements from certain additional methods of improving fuel economy. In addition, the lower end of the ranges reflect a 5 percent penalty due to emission standards and related procedural changes, which the manufacturers have claimed to cause a loss in fuel economy. As discussed below, the agency is currently of the view that this penalty need not exist, but invites comment on

the question. The high end of the range is based on an average of the agency's estimates for all the companies in cases 2 and 4 (the highest fuel economy cases). For the lower end of the ranges and for the 1982 standards, the value selected is that projected for the "least capable" manufacturer. This issue is discussed later in the notice. The fuel economy standards and ranges proposed in this notice are as follows:

Model years	4 x 2 (mpg)	4 x 2 (mpg)
1982	17.4	15.6
1983	18.0-20.0	15.6-18.0
1984	18.8-21.4	16.1-19.3
1985	19.7-22.4	16.2-19.3

These values were derived by first examining the present truck fleet and applying the various technological improvements that are, by now, well-known to the industry. This analysis assumed the application of improved lubricants, tires, transmission, and electronic engine controls throughout the entire fleet over the period under consideration. To this improved fleet, the agency then added the introduction of new, fuel efficient vehicles.

In defining a base case, the agency generally assumed the introduction of new models on the same schedule that the industry is now considering. Moreover, at least for 1982 and 1983, NHTSA assumed that the market penetration for the new models will not differ substantially from the industry's estimates. For 1984 and 1985, NHTSA has assumed that the market will accept a larger proportion of new models than most of the manufacturers are currently forecasting.

In order to assess what the maximum feasible fuel economy level for the 1983-85 light truck fleet might be, the agency then modified the base case through the application of additional strategies designed to improve fuel economy.

The first modification accelerated the introduction of new models and substantially increased their market share. The second modification was to reduce payload by substituting lower GVWR vehicles for those in the base case fleet. This analysis resulted in a relatively modest improvement in fuel economy. The last modification was to lower the average engine displacement of the fleet while holding payload constant. In most instances, it was this modification that generated the higher fuel economy levels suggested for consideration. Resulting engine sizes were equal to that of those vehicles with the smallest displacement engines in the current fleet, generally 225 or 250 CID six cylinder engines. This step produced

fuel economy increases that were comparable to those generated by the accelerated new model modification.

The final standards will not necessarily be derived from a single case. Instead, they will be derived from an amalgamation of the fuel economy improvement measures discussed in the cases (and diesels if the related health effects question can be adequately resolved). This process will be based on the agency's consideration of all available information, including the written comments received on this notice. The level of the final standards will most likely be within the ranges set forth above.

In terms of overall stringency, the standards and ranges described above would produce increases in average fuel economy of from 4 to 30 percent compared to the levels of the 1981 standards. Compared to the fuel economy improvements which the domestic manufacturers indicate that they at least tentatively plan to meet, the proposed 1982 standards are about 1 to 1½ mpg below the planned levels, with the exception of Chrysler, which expects to fall below the proposed levels. For the later years, the manufacturers' planned fuel economy levels fall within the agency's ranges, again but for Chrysler, whose estimated 4x2 fuel economy is below the low end of the agency's range. However, in comparing the levels of fuel economy achievable under the manufacturers' plans with those achievable under the base case and the other cases, one must remember that the manufacturers' plans are tentative in some respects and may include some means for improving fuel economy that will not be fully successful in achieving goals set for them.

Chrysler's product plan is based on very little activity to improve light truck fuel economy in model years 1981 and 1982, and makes the assumption that beginning in 1981, notwithstanding gas price increases and uncertainty as to fuel availability, consumers will demand less efficient, heavier trucks with larger engines. After Chrysler's October 29 written submissions to the agency which sets forth these projections, a representative of Chrysler informally provided a higher 1982 4x2 fuel economy estimate. The recent higher estimate still falls below the agency's 1982 proposed standard.

a. *The Base Case.* The base case fuel economy projections include the benefits of applying most available items of fuel economy-improving technology to the remaining portions of the fleet which will not employ those items by 1981. Also included is a projection of the fuel economy benefits

of introducing what the agency deems to be a moderate number of new truck models, but one representing some risk to the manufacturers. In general, the manufacturers already plan to introduce these new, more fuel efficient models. Not included is any substantial benefit from reductions in average engine displacement or drive ratios, or any weight reduction to vehicles, except that which results when a new model is introduced. To a great extent, these actions will be taken to comply with the 1980-81 standards. A detailed discussion of the base case is set forth in the agency's rulemaking support paper, copies of which are available from the individual listed as the "information contact" at the beginning of this notice. For information on the basis for the technological projections contained in this notice and the rulemaking support paper, reference should be made to the fuel economy "general reference" docket, contained in Room 5108 of the Department's headquarters, in Washington, D.C.

The agency projects that the manufacturers can apply fully interactive electronic engine controls to their fleets by the 1982 model year. (When the agency projects the application of technology, it means that the agency believes that the manufacturers either have the ability or will have the resources to develop the ability to apply a particular technology by a particular model year.) These controls are anticipated to allow the attainment of a 3 percent fuel economy improvement, on average, with a slightly higher improvement claimed by AMC. In addition, these controls are expected to permit the manufacturers to comply with more stringent 1983 emission standards without a loss in fuel economy. The basis for this projection is set forth in section V.(A) of the agency's rulemaking support paper.

The agency projects a fuel economy improvement of 1 percent from improved engine driven accessories. The improvement results from the use of variable speed accessory drives, which should be available for use by the 1984 model year. Ford, GM, and AM are also capable of completing other accessory improvements on their light truck fleets prior to that time for approximately a 1 percent fuel economy improvement per affected vehicle. Chrysler was projected to complete these improvements for the 1981 model year. These fuel economy improvement estimates are based on experimental studies of variable speed accessory drives conducted by the Transportation Systems Center, Department of Energy and Ford Motor

Company, and experimental work on fan drives by the Eaton Manufacturing Company and the vehicle manufacturers. The results of this testing are available in the fuel economy "General Reference" docket.

The agency projects that in the early 1980's the light truck manufacturers can introduce engine and rear axle lubricants which will improve fuel economy by 3 percent per vehicle. These improvements would be achieved through a combination of reduced viscosity and the addition of friction modifiers. This projection is the same which the agency included in its analysis for the 1981 light truck standards. The 1 percent improvement for axle lubricants is available for the 1982 model year, since EPA approval is not required for the use of those lubricants. The 2 percent improvement previously assigned to engine lubricants is deemed feasible for no later than the 1983 model year. The fuel economy projections included in this notice do not reflect the 2 percent engine lubricant improvement, but this improvement will be included in the agency's analysis for the final rule. The agency encourages all organizations with data on the fuel economy improvement associated with lower viscosity, friction modified lubricants to submit that information in the form of comments on this notice. Also, the agency invites comment on the development of a test procedure to define these lubricants, which would permit EPA approval of their use in fuel economy testing.

The agency projects a 1 percent fuel economy benefit from the use of improved radial tires beginning with the 1984 model year. This improvement goes beyond the improvement from switching from bias belted to radial tires, which has now begun and which most manufacturers are expected to complete by 1981 in their 4x2 fleets. The extension of radials in the 4x4 fleet by all manufacturers will increase in model years 1982-85 because of projected improvements in sidewall design. The fuel economy improvement due to improved radial tires results from new tire designs, improved compounding, and P-metric tires with higher inflation pressures becoming available during the 1982-1985 model years.

A variety of improvements to current transmissions are feasible by 1985. By 1982, nearly all manual transmissions offered could be four or five-speed overdrive or four-speed wide ratio direct drive. The projected improvement resulting from this change is 7 percent per affected 4x4 vehicle (due to the generally higher axle ratios of those

trucks) and 5 percent for 4x2 trucks. The basis for these estimates is discussed in section V.(C) of the Rulemaking Support Paper.

Several varieties of improved automatic transmissions are available for the 1982-85 time frame, including 4-speed overdrive transmissions with lock-up torque converters, 3-speed wide ratio transmissions with lock-up, and current 3-speed transmissions with the addition of a lock-up clutch. A 10 percent fuel economy improvement is estimated for the 4-speed unit, and 3.5 percent for the 3-speed lock-up. Tests by the Department indicate that the improvement in fuel economy associated with a 3-speed wide ratio transmission is between the improvements with the other two transmissions. For purposes of this rulemaking, the incremental fuel economy benefit associated with wide ratio transmission over the 3-speed lock-up is assigned to total drive ratio reductions, as discussed below. Although the 4-speed unit is clearly the most fuel efficient type, the agency projects that only Ford and GM will have sufficient resources to build the necessary production facilities for those transmissions. The other companies might be able to purchase these units from GM, should it have excess capacity, or go to a less fuel efficient, but less capital-intensive alternative such as the 3-speed wide ratio. The application of automatic transmission improvements is discussed in section V.(C) of the rulemaking support paper.

The agency is projecting no substantial fuel economy improvements from reduction of aerodynamic drag except for improvements made as part of the introduction of a new model. In the absence of a total vehicle redesign, aerodynamic improvements to vehicles generally come from add-on items such as air dams. The extent to which these items can be used on light trucks is quite limited, since they typically reduce the vehicle's ground clearance. Since improvements of this type were projected for the existing fleet of light trucks for compliance with the 1980-81 standards, further improvements are not projected to those vehicles for 1982-85.

The final technological area considered in the base case is the use of alternative engines. For the purposes of this proceeding, the phrase "alternative engines" includes the diesel engine, the Ford PROCO ("programmed combustion") engine, turbocharged engines, and in the case of AM, the substitution of an engine of much smaller displacement.

Current diesel engines provide approximately a 25 percent fuel

economy improvement over a conventional gasoline engine of similar power, and are potentially one of the major methods available for improving light truck fuel economy. However, questions remain concerning the potential adverse health effects associated with diesel particulate emissions and the extent to which such effects, if any, could be mitigated through the use of control technology. Therefore, the agency has to date not included projections of diesel engine usage in its standard-setting analyses. In fact, even where manufacturers plan to use diesel engines, the agency has not included these engines in its estimates of fuel economy improvement capability. This policy is intended to assure that the fuel economy standards do not require dieselization until the health-related issues are resolved. To date, only GM plans significant dieselization of its light truck fleet, so only that company's average fuel economy projection is affected by this policy. If the health question is resolved in a manner allowing the expanded use of diesel engines, the agency may set the MY 1983 through 1985 standards at levels which reflect the potential fuel economy improvement available from diesel engines. The agency proposes to continue its current policy in this rulemaking, but invites comment on this issue. Comment is also invited on the levels of diesel engine sales which could be achieved in model years 1982-85. If the agency were to include diesel engines in the standard-setting analysis, it would consider the ability of manufacturers to design and build these engines, to modify existing gasoline engines to operate as diesels, and to purchase diesel engines from outside sources. Comments should address the number of diesel engines which could be obtained through each of these methods.

The PROCO engine is a stratified charge engine concept developed by Ford. This engine is intended to achieve approximately the same fuel economy benefit as the diesel engine, but without the particulate emission problems of diesels. The agency projects that this engine could feasibly be introduced in light trucks by the 1985 model year, after 1-to-2 years experience with the engine in passenger automobiles. The maximum usage rate of this engine in the 1985 light truck fleet is projected at 15 percent, with a 20 percent fuel economy benefit per affected vehicle. Considering the other engines available in the Ford line including projected new engines, both naturally aspirated and turbo-supercharged, this appears to be the maximum feasible application.

The substitution of a smaller displacement, turbocharged engine for a larger, naturally aspirated engine is projected to achieve a fuel economy benefit of 10 percent per affected vehicle. Smaller fuel economy benefits can be achieved without the use of a turbocharger and at much lower cost simply by reducing engine displacement through substitution of a smaller engine. However, that approach reduces a vehicle's acceleration and grade-climbing capability, making the vehicle less desirable for some purchasers. Because of the high cost of turbocharging, including engine redesign to accommodate the turbocharger, the agency projects that AM and Chrysler would not be capable of taking those actions in this time period. The agency projects that GM and Ford could replace larger engines with smaller displacement, turbocharged engines on a small portion of their light truck fleets by 1985. Further information in the use of turbocharging is contained in section V.B. of the rulemaking support paper.

Two major and closely related methods for improving fuel economy are reduction of vehicle weight and reduction of engine size and total drive ratio (CID x N/V). These items are considered principally as part of the introduction of new truck models (see next paragraph) and in the cases discussed in sections III, b, c, and d of this notice. The agency is projecting only slight weight reduction for any manufacturer in the absence of the introduction of a new model, because of the resource requirements associated with the new model introduction.

A benefit on the order of 0.4 mpg is projected for Chrysler's 4x2 fleet from the introduction of a smaller V-8 engine or a V-6 engine based upon the 318 or 360 engine. The agency has also estimated that a mix shift toward the 225 CID and 318 engines can enable Chrysler to increase its MY 1983 4x4 fleet average fuel economy by 0.3 mpg and that the addition of the small V-8 or V-6 engine in MY 1984 can provide an additional improvement of approximately 0.2 mpg. New smaller engines will provide Ford with a 0.1 mpg benefit in MY 1982.

The major fuel economy improvement projected in the base case is that resulting from the introduction of new models. The current domestic light truck fleets are comprised primarily of three basic models, a standard pickup truck, a van, and a utility vehicle derived from the pickup truck. However, due to the recent increases in gasoline prices, shortages of gasoline, and prospects for further price increases and shortages in

the future, both the industry and the agency anticipate that several new, more fuel efficient truck models will be marketable in the 1982-85 period. These models are light-weight versions of the standard pickup truck and utility vehicle, compact versions of those trucks, and a compact van. The lightweight versions of the standard size trucks would be analogous to the downsized passenger automobiles offered in the past three years, with exterior dimensions reduced through more efficient packaging, without significant reduction of vehicle utility. These trucks could also extensively use lightweight materials such as aluminum, plastics, and high strength steel as substitutes for current materials. The compact pickup truck and utility vehicles would be somewhat larger than current imported trucks, but will use more lightweight materials. The agency has projected that the compact vans will be larger than the current Volkswagen van, but smaller than current domestic vans. In the case of Chrysler and GM, the agency projects that these vans are likely to have front-wheel drive packages derived from passenger cars; in the case of Ford, it appears more likely that the vehicle will be front engine, rear drive, given the absence of a suitably-sized Ford front-drive power train.

Fuel economy values for each of these projected new models were derived based on lower weight, improved aerodynamic characteristics, and various additional technologies similar to those that are being or will be incorporated in existing models. A detailed explanation of the derivation of fuel economy values for the new models is given in section VI and Appendix A of the Rulemaking Support Paper. The relationship between fuel economy, weight reduction, and reduction of engine displacement or drive ratio is calculated using the regression equation discussed in the agency's July, 1979 Rulemaking Support Paper on the 1981 light truck standard.

No new models of any fuel economy significance are projected for AM. That company's truck fleet is already much lighter in weight than its competitors.

Weight reduction of about 250 pounds is deemed feasible for the Jeep Cherokee and Wagoneer, AM's larger vehicles accounting for about one third of the AM's 4x4 fleet. The effect of this weight reduction is to improve that company's average fuel economy by 0.1 mpg.

Chrysler, like Ford in 1980 and GM, has apparently planned a limited redesign of its pickup trucks for 1981, in which only moderate reduction of test weight would be achieved. Although the

1980-81 new domestic pickup truck models introduced by the three major manufacturers do not achieve levels of weight reduction comparable to a completely redesigned standard size truck (such as the agency is projecting for GM in 1985), sufficient lead-time does not exist to alter these designs prior to introduction. To meet the demands of the market and requirements of the statute, these new truck models will require another complete redesign, beyond the near term financial capability of a company such as Chrysler. However, the agency projects that Chrysler can introduce a new compact pickup and utility line by the 1983 model year.

The agency is also projecting the introduction of a compact pickup and utility line for Ford in the 1983 model year. A compact van is projected in the following year. Ford is introducing a new line of standard size pickup and utility trucks for the 1980 model year, but as previously discussed, those trucks achieve only limited weight reduction. The 1983-84 model years of introduction are selected as conservative estimates of the earliest feasible introduction date since minimum lead-time for introduction of a new model is approximately three years, and introduction of more than one new model per year might not be feasible for Ford.

The agency projects that GM can redesign its entire light truck fleet except for its standard van by 1985. A compact pickup and utility truck redesign for the 1982 model year is deemed feasible, as is a new compact van in 1983 and a new standard pickup and utility truck in 1985. These are deemed the earliest feasible introduction dates under the base case because of leadtime considerations and the introduction of a redesigned standard pickup truck in 1981.

Sales levels for these new compact pickup truck and van models were estimated to be approximately 100,000 to 200,000 units per year, in the year of introduction. Gradual growth is projected in sales in subsequent years, reflecting market trends toward smaller vehicles and anticipated gasoline price increases. In previous years, demand for compact pickup trucks and vans might not have been sufficient to permit domestic manufacturers to produce those vehicles profitably. Recent sales trends indicate that, with current gasoline prices and expected price increases in the next several years, demand for more fuel efficient vehicles will permit domestic manufacture of these models. Recent sales trends show

a rapid growth in market share for compact pickups. One of the issues in this rulemaking is the agency's projection that demand for compact light trucks will grow. The degree of growth is the major difference between the base case and case 2. The agency is soliciting comments on this issue, in particular on the market acceptance of these new models.

Sales fractions for the standard pickup trucks were expected to be reduced in future model years, taking into account the effect of compact pickup trucks drawing some sales away from the standard models. A more detailed discussion of the sales estimates for new models is contained in section VI of the rulemaking support paper.

Fuel economy improvement	Fuel economy benefit (per affected vehicle)
Electronic engine controls	3 percent, beginning in 1982
Turbocharged engines	10 percent
PROCO engine	20 percent (Ford only)
4-sp. 2110 trans.	10 percent (Ford, GM, AMC)
or	
3-sp. wide ratio and 3-sp. Lockup torque converter auto trans.	3.5 percent
or	
Manual overdrive or wide ratio manual transmission	5 to 7 percent
Variable speed accessory drive	1 percent by 1984
Improved lubricants	3 percent
Improved radial tires	1 percent by 1984
Improved aerodynamics	None other than for new models (slight benefit for AMC)
Weight reduction	None other than for new models (100 pounds for AMC on a fleet basis)
CID x N/V reduction	None (slight benefit for Ford 4 x 2's and Chrysler 4 x 4's)
New standard pickup/utility truck	Included at 23/19 mpg
New compact pickup/utility	Included at 25/23 mpg
New compact van	Included at 22 mpg

These base case projections result in the following average fuel economy values for the various manufacturers:

	1982	1983	1984	1985
4 x 2				
AMC				
Chrysler	17.4	19.1	20.1	20.9
Ford	17.8	18.9	19.8	20.7
GM	18.6	19.4	19.9	22.2
4 x 4				
AMC	16.1	16.4	16.9	17.1
Chrysler	15.6	17.9	18.4	18.8
Ford	15.0	17.2	17.5	18.4
GM	17.1	17.4	17.8	19.3

b. Case 2—Accelerated Sales of New Models. One approach the manufacturers may be able to take to achieve fuel economy levels above the base case is to accelerate the schedule for introduction of one or more of the new models and to promote the sale of those models at the expense of their less efficient models. The agency, therefore, examined a case which is a modification of the base case that also includes for

Detailed analyses of possible new model introductions have not been performed for the foreign manufacturers. Those companies already manufacture compact vehicles with fuel economy higher than current domestic light trucks, so that redesigns are not expected to increase the fuel economy of the foreign-produced trucks substantially. In any case, those companies should have no difficulty in meeting any fuel economy standards which the agency may establish, given the capabilities of the domestic companies.

The projections included in the base case are summarized in the following table. Note that these items are not necessarily additive, e.g., improvements to automatic and manual transmissions cannot be applied to the same vehicle.

illustrative purposes the fuel economy benefits and additional costs which result from accelerating the introduction and increasing the sales of each new model. It should be kept in mind that this case (as well as cases 3 and 4) is discussed for illustrative purposes, and is not necessarily the agency's estimate of the maximum feasible fuel economy levels for each model year. Comment is also invited on lesser degrees of engine size reduction and on new model introduction schedules less ambitious than that of case 2.

Case 2 for Chrysler involves offering a compact van beginning in the 1985 model year, and selling slightly higher numbers of its small pickup and utility line in model years 1983 and 1984. The introduction of a Chrysler compact van is deemed feasible because of Chrysler's traditional emphasis on and success in the van market, and the availability of front-wheel drive power trains for such a vehicle due to Chrysler's introduction of a front drive compact passenger car beginning in the 1981 model year. The

availability of this fuel efficient car power train greatly reduces the cost of introducing a new model, with the main additional capital expenses being limited to the van-type body and perhaps some modifications to the vehicle's drive train and suspension to accommodate light truck service. Funds for the van could be made available by delaying certain programs now scheduled by Chrysler for MY 1985, including the downsized luxury, standard and mid-size car programs. The higher sales volumes for Chrysler's small pickup truck and utility vehicle line for Case 2 reflect the agency's assessment of current market trends toward more fuel efficient vehicles and the effect of future gasoline price increases.

The Case 2 new model introduction schedule for Ford accelerates the introduction date for the compact van one year to 1983. Included in the Case 2 analysis (but not in the proposed 1982 standard) is the introduction of a small pickup/utility truck line in 1982. Also, a new standard pickup truck is projected for 1985 introduction in this case. Higher sales levels are projected for the compact van and pickup models under Case 2 than under the Base Case, as well. The Ford compact van could be based upon the Fairmont drive train, modified as necessary for light truck usage. Sales levels for the new compact van and pickup/utility lines reflect gradual growth, so that by 1985, each line accounts for approximately 30 percent of Ford's light truck production. Such sales levels would be likely to be achieved only through higher gasoline prices, continuation of market trends toward smaller vehicles, and significant marketing efforts. The new standard pickup truck in 1985 would effectively repeat the process Ford undertook for the 1980 model year standard pickup, but assumes making improved fuel economy a much higher priority.

For GM, Case 2 envisions and introducing a new standard pickup truck in 1984 rather than 1985. Included for GM (but not reflected in the proposed 1982 standard) is a compact van introduction in 1982. Also market shares for the compact pickup/utility line are about 5 percent higher in each year under Case 2, compared to the Base Case. Leadtime for a 1984 introduction of a redesigned standard pickup truck should not be a major problem, although it does represent an unusually short interval between two redesigns.

Even under Case 2, no new models are projected for AM. However, the agency does project that by model year 1984, that company could obtain a more

efficient six-cylinder engine in the 170-200 CID range as a replacement for its current 258, 304 and 360 CID engines. Potential sources for this engine include GM, Chrysler, or Renault, which is acquiring a significant ownership interest in AM.

For International Harvester, no major vehicle redesigns are projected through 1985. That company currently plans a rather ambitious program for the 1986 model year, in which it would introduce a composite body vehicle with substantially lighter weight. That program would be the first for a manufacturer of the size of IH. The agency does not believe that it can be accomplished any earlier than IH indicates, but will review the basis for IH's conclusion.

Average fuel economy levels achievable for the major domestic manufacturers under Case 2 are as follows:

	4x2			4x4		
	1983	1984	1985	1983	1984	1985
AMC.....				16.4	18.9	19.0
Chrysler.....	19.8	20.5	22.3	18.2	18.7	19.1
Ford.....	18.5	20.6	22.5	17.4	17.9	19.7
GM.....	19.6	22.2	22.6	17.6	19.3	19.6

c. Case 3—Payload Reduction. Another method for improving fuel economy in the 1982-85 period is for manufacturers to shift the mix of light trucks which they sell toward the trucks with smaller payloads. One way of approaching this question is to consider the effect of eliminating higher GVWR vehicles from the fleet and replacing them with lower GVWR vehicles. To assess an array of possibilities in this area, the agency considered the effect of such a shift on the 1979 model year light truck fleet. It should be noted that Case 2, in which compact pickup trucks and vans are introduced and the market share of standard pickup trucks and vans are correspondingly reduced, also involves a mix and vans are correspondingly reduced, also involves a mix shift.

The details of the Case 3 analysis are discussed in section VII of the agency's Rulemaking Support Paper. In general, the methodology used was to measure the effect on average fuel economy of assuming that all of a manufacturer's high GVWR series trucks within the regulated fleet (e.g., Chrysler's D-260 series) were replaced by the low GVWR series truck (e.g., D-150). In other words, the heavy duty segment of the light truck market was moved down a notch. This analysis did not yield substantial fuel economy improvements. Despite the major reduction in the functional

capability (payload reduction of 200 to 2000 pounds) of the light truck fleet which this case entails, the average fuel economy of the manufacturers' fleets increased by only 0.2 to 0.8 mpg. The apparent reason for the small impact is that, in the 1979 light truck fleet, relatively wide ranges of GVWR occur within groups of trucks of fairly similar size and weight. For example, adding heavier duty springs and tires to a truck can add substantially to its GVWR, without greatly increasing curb weight or affecting fuel economy. Since the current fuel economy test procedures are sensitive to differences in curb weight but not to differences in payload capacity, trucks with widely differing GVWR's but relatively close curb weights and engine sizes would produce the equivalent fuel economy values in many cases.

d. Case 4—Reduction in engine size. Substantial fuel economy gains are feasible from reducing average engine displacement or total drive ratio, or some combination of both parameters. In the rulemaking to establish the 1980-81 light truck fuel economy standards, a reduction of approximately 10 percent in average CID x N/V was projected between 1979 and 1981 levels. A further CID x N/V reduction was projected in that proceeding to account for the ability of the manufacturers to use smaller engines or lower axle ratios as the weight, rolling resistance, and aerodynamic drag of their light trucks are reduced.

For the 1982-85 model years, the agency is seeking public comment on the extent to which even further engine size reductions can be implemented. To analyze this potential fuel economy improvement, the agency determined the minimum power requirements for the light truck fleet, i.e., the minimum functional performance criteria which trucks must be able to meet to do the jobs for which they are designed. These criteria were developed from information submitted by the manufacturers and the agency's own estimates. The criteria are that when the truck is fully loaded (at GVWR), it must be able to: 1) maintain a speed of 45 miles per hour on a 3 percent grade; 2) move 80 feet from a dead stop in 5 seconds on level ground; 3) start from a dead stop on a 17 percent grade; and 4) accelerate from a dead stop to 50 miles per hour in 25 seconds on level ground. Conceptually, the engine displacement reduction analyzed under Case 4 would produce a light truck fleet with performance at a level roughly equivalent to performance levels of the early 1950's.

The methodology used to project the fuel economy gains from reducing engine size is generally as follows. Only existing models in the base case with engine displacement of 300 CID or greater were considered candidates for reduced performance. Fuel economy values for replacement vehicles were projected, assuming that the replacement vehicle would use a small engine available to the manufacturers. For Chrysler, this approach meant using a 225 CID engine as the replacement engine, while it meant using a 250 CID engine as a surrogate engine for the other domestic manufacturers. In each case, the replacement vehicles with the small engine met all four minimum performance criteria. No new models were considered candidates for replacement, although manufacturers might well achieve CID x N/V reductions with those vehicles. The replacement process was phased-in gradually, with 20 percent of the base case fleet having the small engines in 1982, 40 percent of the fleet (not counting new models, which may also have small engines) having the small engines in 1982, 60 percent in 1984. By 1985, the sales levels of new models in the base case limit the number of vehicles which are replaced. See Table VII-7 in the Rulemaking Support Paper.

Average fuel economy levels projected under Case 4 are as follows:

	4x2			4x4		
	1983	1984	1985	1983	1984	1985
AMC.....				18.9	21.0	21.1
Chrysler.....	20.5	22.0	22.5	19.2	20.5	20.7
Ford.....	20.2	22.0	22.0	18.1	18.8	19.9
GM.....	20.2	21.1	22.5	18.6	19.6	20.0
IH.....						

It should be noted that Case 4 involves major engine displacement and axle ratio reductions for some vehicles and no reduction for other vehicles. Implicitly included in Case 4 is the possibility of a manufacturer's making a lesser reduction in CID x N/V for a greater number of vehicles, at least in the early years. New models and vehicles with engine displacement of less than 300 CID might be candidates for CID x N/V reduction by 1985, as well. Comment is invited on the extent to which such a fleet of trucks would be marketable, especially if all manufacturers made similar reductions in engine size.

IV. Economic Practicability

The agency considered the economic implications of the fuel economy increases discussed in this notice in accordance with the Act and Executive

Order 12044. The agency's detailed analysis of the economic effects is set forth in a preliminary regulatory analysis, copies of which are available from our Office of Plans and Programs.

There are two major economic issues in this rulemaking. These are: (1) The investment capability of each of the manufacturers to build new plants or convert existing plants for the production of new smaller models, smaller engines, and more efficient transmissions; and (2) the marketability of the new models projected to be introduced by the agency versus that of the larger, less fuel efficient existing models.

Because the Treasury Department's analysis of Chrysler's cash flow position (conducted in response to that company's request for government financial assistance) is based on more extensive information than that available to the agency, and since the agency's projections of major light truck fuel economy improvement options are similar to those Chrysler has made public as part of its request for assistance, NHTSA is relying on the Treasury analysis instead of attempting to conduct a separate review of Chrysler's financial condition.

In order to evaluate the investment capabilities for the other manufacturers, a cash flow analysis was developed by the agency. This analysis used the agency's estimates of the capital investments that these manufacturers would have to make for all purposes for both passenger car and light truck operations, as well as assumptions regarding revenues, taxes, etc. Even if neither the fuel economy standards nor market pressures required the manufacturers to make capital investments to improve the fuel economy of their 1982-85 light trucks, the manufacturers would still have large net cash drains. Results of the cash flow analysis show that GM and Ford will experience large net cash drains from North American operations during calendar years 1980-82 because of projected low unit volume sales and increased product related investments. The combined cash shortfall for Case 1 (Base Case) was estimated to be \$2.4 billion in 1980, \$1.3 billion in 1981, and \$0.8 billion in 1982. In 1983 and 1984, both GM and Ford show a positive net cash generating position. (A net cash drain does not necessarily signify a loss but only shows the need for a company to generate revenue from external sources; i.e., from borrowings, sale of stock etc.) Thus, a major issue in the rulemaking is the difficulty the manufacturers might have in financing

the fuel economy improvements projected by the agency. The Preliminary Regulatory Analysis sets forth some possible methods for GM and Ford to finance the cash drains due to the need to improve fuel economy and to other factors through internal and external funding. Comments are requested on this analysis.

Sensitivity analyses show that the cash flow position of each of the companies is very sensitive to sales levels and market shares. Thus, it is vitally important to the companies' well being that capital invested in new models during 1980-82 produce models which will sell well. On the other hand, it is also important that the manufacturers make the changes necessary to meet future consumer demand for increased fuel economy. If the demand for small pickups continues and the manufacturers do not introduce domestic compact light trucks, then the foreign manufacturers may increase their market share, resulting in poorer cash positions for the domestic companies.

The agency recognizes that the domestic manufacturers have not offered compact vans since the 1960's and have never offered domestically produced compact pickup trucks and that some risk is involved in introducing them. However, the agency is of the view that this risk is reasonable for several reasons. First, foreign produced compact pickup trucks have been sold successfully in this country for several years. Sales of these trucks have increased this year, while sales of virtually all other trucks have not fared so well. Based on sales figures through September of this year, the projected 1979 sales of compact pickups would reach nearly 480,000 units compared to 335,000 units for 1978. Second, the high price of gasoline and the possibility of recurring shortages should stimulate the demand for smaller, more fuel efficient truck models. Gasoline prices are expected to continue to rise in the future at a rate faster than the overall inflation rate, presumably making fuel efficiency even more important to truck purchasers. Failure to meet that demand poses a significant market risk for the domestic manufacturers. Third, evidence available to the agency indicates that there is significant "overshooting" in truck capacity, in the sense that many truck purchasers never approach using the full payload of their vehicles and many more use it only rarely. High gas prices and possible gas shortages should make truck purchasers carefully consider whether they can get by with a smaller, but more fuel efficient vehicle. Fourth,

current standard-size pickup trucks and vans would not be eliminated even under Case 2 of this rulemaking, so that purchasers who actually have a continuing need for a large truck (for commercial purposes, for example) will still have those trucks available. Trucks over 8500 pounds GVWR are not affected by these proposed levels.

The domestic manufacturers apparently agree that a market exists for the smaller vehicles, since virtually all of them plan to introduce such models in the 1982-85 time frame, even though fuel economy standards have not yet been issued for those years. The agency seeks comment on the potential market acceptance of new, more efficient truck models, especially comment supported by market surveys or similar data.

The agency believes that significant market risks exist for the manufacturers under cases 3 and 4. In the reduced payload case, many consumers might be giving up needed capacity while gaining little fuel economy improvement. In the reduced engine size case, it would mean returning to a level of average acceleration capability that was typical of the early 1950's. The agency also solicits comments on the degree to which the market would accept vehicles similar to those projected in cases 3 and 4.

V. Other Federal Standards

The agency considered the effects on fuel economy of future Federal motor vehicle standards from other programs in projecting the four cases described in this notice. Only two types of standards, emission and safety standards, are expected to have any potential for affecting 1982-85 fuel economy levels.

The Environmental Protection Agency has recently proposed (44 FR 40784, July 12, 1979) increases in stringency of light duty truck emission standards, and additional emission-related requirements for model year 1983. A theoretical engine optimization analysis conducted by the Department and described in section V of the Rulemaking Support Paper indicates that light trucks using electronic engine controls are capable of meeting the more stringent emission standards without fuel economy loss. The Environmental Protection Agency expressed the view, based on its examination of data available to it when its standards were proposed, that no fuel economy penalty need result from compliance with its proposed requirements. 44 FR 40793. Therefore, the four cases discussed in this notice include no fuel economy penalty for the emission requirements. However, the lower end of the range of proposed 1983-85 fuel economy

standards discussed earlier in this notice reflects a 5 percent penalty for these emission requirements. This factor is included solely to illustrate the effect on final fuel economy standards should the manufacturers adequately support their claims of a penalty. Those claims appeared as unsupported assertions in the manufacturers' responses to the agency's July 1979 special order. Comments, with supporting test data and analyses based on appropriate technology and representative vehicles, are requested on this issue.

With respect to changes in safety standards applicable to light trucks, the agency projects that no fuel economy penalty would result. Weight increases associated with compliance with these standards should have a negligible effect on measured fuel economy.

VI. Need of the Nation to Conserve Energy

In 1959, the United States imported only 18 percent of its oil needs at a cost of \$1.5 billion. By 1972, imported oil still accounted for only about 20 percent of our needs at a cost of \$4 billion. But by 1975, with huge OPEC price increases, falling domestic crude oil production, and continued increases in domestic demand, 39 percent of our domestic demand had to be imported at a cost of \$27 billion. And by 1978, even though demand was growing at a slower rate, imported oil cost the nation \$42 billion for 45 percent of all the oil we used during that year.

The nation has, therefore, continued to become increasingly dependent for its oil supplies on the actions and decisions of foreign governments. This dependence and its effects have been demonstrated in the aftermath of the events in Iran when that country's oil production was stopped entirely in December 1978 and, once resumed, only returned to about one-half of its former level. This reduction was felt by all oil importers because it represented the difference between satisfying current world oil demand and a shortage of supply. OPEC, on whom the U.S. depended for 83 percent of its 1978 oil imports, took advantage of Iran's production cutback to raise prices by 60 percent from the December 31, 1978 level of \$12.70 per barrel to about \$20 per barrel as of July 1, 1979, and recently, several countries have raised the price beyond \$24, the current OPEC base price. (On January 1, 1973, before the October OPEC embargo, a barrel of oil was priced at \$2.59.) Our total bill for imported oil in 1979 is now expected to be over \$60 billion, with substantial and diverse impacts on our trade deficit, inflation, economic growth,

unemployment, and confidence in the dollar as an international reserve currency.

The rapid transition from a condition of apparent worldwide surplus in 1978 to one of shortage in 1979 has shown the instability of the world oil market. While oil from new sources such as the North Sea, Alaska's North Slope and Mexico might have been expected to increase overall supply, it has instead just about matched the decrease in supply from older sources such as the continental U.S. and Iran. If major supply increases are to be achieved within the next few years they must come from OPEC and especially from Saudi Arabia, OPEC's largest producer. Thus, the U.S.'s oil supply, and its economic growth and national security, are being heavily constrained by the decisions of a few foreign countries to control world oil prices and production.

This situation can be changed only by increasing its domestic energy production and by reducing demand. The fuel economy standards program is the most significant federal initiative to reduce demand. Since light trucks are estimated to account for about 7 percent of our total annual oil consumption, a further increase in their fuel efficiency, beyond that scheduled to be achieved through the MY 1981 standards, is an essential part of the nation's total effort to conserve energy. More stringent standards will contribute directly to achieving the President's pledge to limit foreign oil imports to a level no greater than the amount imported in 1978 (8.5 million barrels per day), and to cut U.S. dependence on foreign oil in half by 1990. Depending on the levels of the final 1982-85 light truck standards, gasoline consumption could be reduced by 15 to 23 billion gallons by 1990, compared to gasoline consumption which would occur were fuel economy to remain at the 1981 levels.

VII. Selection of Final Standards

As previously stated, final standards will be based on fuel economy levels achievable through the maximum feasible introduction of fuel economy improving technology, more fuel efficient new truck models, smaller engines and lower numerical drive ratios, payload reduction, and weight reduction (and, if the health effects issue is resolved, diesels). Standards are not necessarily keyed to the level of fuel economy achievable by the "least capable manufacturer." Instead, the agency will balance the benefits to the nation from a higher fuel economy standard against the difficulties of such a manufacturer. The agency will also consider carefully the competitive

effects of placing an undue strain on a particular company, and the fact that relief is available under the statute (in terms of reduction or elimination of civil penalty liability) should a company, despite its best efforts, fail to comply with standards.

In this regard, the agency is confronted with a difficult issue with respect to the treatment of Chrysler Corporation. Given Chrysler's recently publicized financial difficulties, which have been developing for many years, the agency is very reluctant to take any action which would make that company's situation any worse than it already is. However, simply setting lenient fuel economy standards may provide no real benefit to Chrysler. Many domestic light trucks and passenger automobiles have fared poorly in the marketplace recently, in substantial part due to their low fuel economy. The fuel efficient light trucks which Chrysler sells are predominantly captive imports, from which it likely derives a much smaller profit than it would if it produced the vehicles itself and sold them at levels the agency is projecting. Thus the actions which Chrysler must take to remain viable economically are the same actions it would be required to undertake to comply with stringent fuel economy standards. Should the agency establish lenient standards, and if Chrysler just met those standards, it is quite likely that the other manufacturers would exceed the standards to satisfy the demand for efficient trucks and further reduce Chrysler's market share.

Chrysler's product plan submitted to the U.S. Treasury Department in support of its request for Federal financial assistance provides for introduction of new models and other expenditures to meet all applicable fuel economy, safety, and emission standards. Chrysler's long term prospects hinge on the successful implementation of those plans. Copies of Chrysler's recent product plan and the Treasury Department's analysis of that plan are available in the agency's public docket.

Although the agency is proposing specific standards for 1982 rather than ranges, a number of factors could cause the final standards for that year to differ from the proposed values. For example, a shift in the truck market toward larger trucks and engines, as anticipated by Chrysler, could reduce the fuel economy improvement capability of the manufacturers for that year, at least if that shift could not be offset by the manufacturers' marketing efforts. Also, continued oil price and availability problems could make higher standards

achievable for 1982, through permitting the acceleration of some new model introductions and the sale of trucks with smaller engines or lower numerical axle ratios.

Comments is requested on how the agency should treat Chrysler Corporation in its standard-setting analysis, should Chrysler turn out to be the "least capable manufacturer" in any given model year. There are at least three possible methods for dealing with Chrysler's having lower fuel economy improvement capability than the other manufacturers. First, the agency could set a separate fuel economy standard for Chrysler (and perhaps some other companies) at a lower level than the standards applicable to other manufacturers. This approach would maximize fuel savings, since all manufacturers would be required to achieve their maximum possible fuel economy improvement. The agency has invited comment on its legal authority to adopt this approach. The second approach would entail setting the same standard for Chrysler as for other manufacturers and keying the level of that standard to the capabilities of manufacturers other than Chrysler. The rationale for this approach would be that the fuel economy savings from setting a standard at that level instead of at the level of Chrysler's capabilities would outweigh the effect of the standard on Chrysler. This approach would mean that Chrysler would be faced with violating the standards. However, it would be highly likely that Chrysler could satisfy the statutory requirements for having any resulting civil penalties reduced or even eliminated. Third, the agency could set standards at Chrysler's level. This approach would result in a loss of fuel savings unless market forces caused the other manufacturers to exceed the standards to the full extent of their capability.

VIII. Impacts of the Fuel Economy Standards

The agency has analyzed the environmental impacts of a range of light truck fuel economy standards in accordance with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* Copies of that analysis are available from the "information contact" listed at the beginning of this notice. The agency's analysis concludes that no significant adverse environmental impact will result from the execution of this rulemaking action. The total impact on the environment is not expected to be large. The magnitude of change in use of materials, water usage, air quality, and

other environmental factors is much less than the changes brought about by cyclical fluctuations in the national economy. The largest impact of the standards on the environment is the reduced energy consumption, a positive impact.

The economic impacts of this proposal were also analyzed, in accordance with Executive Order 12044 and the Department's regulations, 44 FR 11034. Since this proposal is deemed "significant," a Preliminary Regulatory Analysis (copies of which are available in the docket and from the agency's Office of Plans and Programs, Room 5212 of the Nassif Building, in Washington, D.C.) was prepared to set forth this analysis. The main conclusions set forth in the Preliminary Regulatory Analysis are that in order to meet the proposed ranges of standards, total capital investment by GM, Ford, and Chrysler would be between \$3.9 billion and \$4.8 billion and average retail prices of a MY 1985 vehicle compared to a MY 1981 vehicle would increase \$350 to \$615 per vehicle. In terms of benefits, fuel savings over the lifetime of the MYs 1982-1985 fleets would be 11-17 billion gallons and the present value of operating cost savings of a MY 1985 vehicle compared to a MY 1981 vehicle would be \$860 to \$1,735 per vehicle. Thus, the range of standards being examined would result in net lifetime consumer savings of \$510 to \$1,120 per vehicle. The proposed rule is not anticipated to have a significant impact on employment, unless the sales levels of the new models do not materialize. Conversely, should new models be demanded by consumers but not available in sufficient quantities, industry sales and employment would experience declines similar to those of 1979.

Low unit volume sales projections and capital requirements needed to improve fuel economy result in negative cash flow positions for the manufacturers in calendar years 1980-82. A sensitivity analysis assuming no light truck capital spending after MY 1981 resulted in a substantial improvement in GM's cash flow situation, a lesser improvement in Ford's, and only minimally improved Chrysler's. However, this sensitivity analysis assumed no change in market share, whereas, in reality the foreign manufacturers may take away some of the domestic manufacturers' market share possibly leaving them in a worse cash flow position than if they had made the capital investments in the compact pickup trucks. Thus, the risk involved in financing the new models as well as

their sales potential appear to be the overriding issues.

A 30-day comment period is being provided for the 1982 standards due to the statutory requirement that the standards be issued by March, 1980. Issuance of this proposal was delayed by a variety of factors, including the late response of some manufacturers to the special orders issued by this agency to obtain up-to-date information in support of this rulemaking and by requests to lower the 1981 standards. The responses to the special orders were originally due in mid-September. Most manufacturers responded either then or within several weeks of that time. Since many of those special order responses were incomplete, the agency has directed each manufacturer involved to comply with the balance of the special order sent to it. One manufacturer, Chrysler, responded on October 29 with tentative answers to most questions, but still has not submitted its formal, final response.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has

previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 49 FR 25015, June 22, 1976, and 43 FR 8525, March 2, 1978)

Issued on December 21, 1979.
Joan Claybrook,
Administrator.

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49 CFR Part 571

[Docket No. 74-14; Notice 17]

Federal Motor Vehicle Safety Standards; Improvement of Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Safety Standard No. 208, *Occupant Crash Protection*, to specify additional performance requirements for both manual and automatic safety belt assemblies installed in motor vehicles with a Gross Vehicle Weight Rating of 10,000 pounds or less. The proposed performance requirements are intended to increase the benefits of safety belts by improving the comfort and convenience of belt assemblies and thereby raise the current low rate of safety belt use. Additionally, the notice proposes changes in the warning system requirements for safety belts, which are

also intended to increase the rate of belt use. The proposed requirements would apply to both manual and automatic belts installed on all vehicles, except for manual lap and shoulder combination belts installed at the front outboard designated seating position in passenger cars.

DATES: Proposed effective date: September 1, 1981, Comment closing date: April 1, 1980.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted to: Docket Section Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Nelson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202) 426-2815.

SUPPLEMENTARY INFORMATION: Safety Standard No. 208, *Occupant Crash Protection* (43 FR 571.208) currently requires most motor vehicles to be equipped with safety belts at each designated seating position. Beginning in 1981 and phasing in over the following two years, passenger cars will be required to be equipped with automatic occupant crash protection (restraint systems that require no action by occupants, such as fastening belts, to be effective). Many new automobiles will be equipped with automatic safety belts to comply with the automatic restraint requirements (belts that move into place around vehicle occupants automatically). The requirements specified in this proposal are designed to ensure that both the automatic belts, and the manual belts installed in future vehicles will be comfortable and convenient to use. The proposed requirements would be applicable to seat belt assemblies installed in all vehicles with a GVWR of 10,000 pounds or less, except for Type 2 manual belts (lap and shoulder combination belts) installed in front seating positions in passenger cars. Since Type 2 manual belts will be phased out in passenger cars when the automatic restraint requirements become effective, the agency has tentatively determined that manufacturers should be allowed to devote their resources toward automatic restraints in these vehicles and toward the development of comfortable and convenient Type 1 manual belts (lap belts), which will be installed in rear seats in passenger cars and in some front seats in conjunction with air bags or single diagonal automatic belts.

The agency does encourage manufacturers, however, to voluntarily incorporate as many of the concepts discussed in this notice as is possible in

their vehicles equipped with Type 2 manual belts. Hundreds of thousands of passenger cars will be equipped with manual belts before the automatic restraint requirements have been phased-in for all car sizes. It is extremely important that the belt systems on these vehicles be comfortable to wear and convenient to use so that the current low rate of belt use can be increased. Many of the improvements discussed in this notice can be included easily and cheaply during the normal model-year design changes.

Rationale for the Proposal

Almost all passenger cars on the road today are equipped with manual safety belts, more than half of which are combination lap/shoulder belts. In spite of the clearly established value of safety belts in reducing deaths and injuries, the data on belt usage in the United States have not been encouraging. National surveys in 1971 found overall usage to be about 17 percent (DOT HS-800-584); during 1974, usage increased to more than 20 percent, mainly due to the warning/interlock systems in 1974 model cars (DOT HS-801-594); in 1976 and 1977, usage slipped back to about 18 percent (DOT HS-803-354) and, according to an ongoing on-the-road survey, usage has continued to decline to a current low of about 14 percent.

Many persons may find it difficult to understand why usage is not substantially higher, since a majority of people indicate they are aware that belts offer protection during a crash (Hart Survey, DOT HS-80-585). Of the available explanations, the inconvenience and discomfort associated with wearing many belt systems seem to be among the most prominent and plausible factors. In 1971, when a nationally representative sample of drivers were asked why they did not wear belts, they provided the following responses, ranked in order of descending importance: (1) "never formed habit;" (2) "belts are inconvenient and uncomfortable;" (3) "too lazy to fasten;" (4) "belts not thought necessary for short trips," and (5) "doubt value of belts."

Comfort and convenience problems were quite obvious to anyone who attempted to use the belts in cars of the early 1970's. Federal regulations attempting to improve these problems were issued for 1972 and later model passenger cars. Those regulations required (1) retractors for the lap belts (to stow belts neatly and to return the latchplate to the same position each time as an aid to accessibility); (2) combined lap and shoulder belts to yield

a 3-point belt system (both to reduce the confusion associated with the clutter of separate lap and shoulder belts in the front seat and to reduce the number of buckles that must be fastened to obtain both lap and upper torso protection); and (3) shoulder belt retractors designed to lock up only in emergencies (to permit upper torso freedom except during collisions or sudden braking).

In spite of these improvements, more than half of all owners of 1974 model cars still reported comfort and convenience related problems with their safety belts (DOT HS-801-594). A year later, a similar study involving interviews with persons who were not users of 1975 belt systems elicited much the same responses. Again, in 1978, when a national sample of drivers was asked what they didn't like about belts, the most common responses were: "too confining", "uncomfortable", and "inconvenient" (DOT HS-803-370).

Substantially the same findings have been obtained by a number of other investigators, both in the United States and other countries. Therefore, a large number of research projects point conclusively to the fact that comfort and convenience play an important role in affecting belt usage.

Some of the motor vehicle manufacturers have taken the position that comfort and convenience factors do not play strong roles in affecting belt usage. Their apparent basis for this statement is the current absence of a demonstrable correlation between seat usage and indices of comfort and convenience (i.e., judgments by people of the relative comfort and convenience of a particular belt system in particular cars).

The absence of a definitive correlation is explainable. First, the current low usage rate (14 percent, overall), when viewed in the context of the innumerable complaints about comfort and convenience in belt systems, strongly implies that there is a special segment of the motoring public which is apparently comprised of dedicated users who continue to wear belts despite almost any attendant difficulty or discomfort. With such persons, a demonstrable correlation would not be expected between usage and indices of comfort and convenience.

Second, belt usage affected by a number of factors other than comfort and convenience. Safety awareness or safety consciousness appears to play an important role in usage. This is evident not only from interviews with both users and non-users, but also from the observed positive correlation between seat belt usage and proper adjustment of head restraints, both safety related

items (i.e., person likely to wear belts are also likely to properly adjust their head restraints).

Risk perception also plays a role in influencing seat belt usage, as evidenced by the reasons cited in interviews for wearing belts and also by observed higher usage in smaller cars, on higher speed roads, during extremely bad weather, on long trips, etc. In addition, other factors not involving comfort and convenience may also be correlated with usage, although the basis for the correlation is not yet established. For example, there are significantly higher wearing rates in the western United States (as opposed to the eastern United States) and much higher wearing rates in foreign automobiles than in domestic cars.

All of these other factors are not systematically related to comfort and convenience, yet they are associated with large differences in wearing rates. Thus, their presence or absence occurring in an uncontrolled fashion, as happens in the real world of traffic, would tend to obscure the correlations that exist between usage and comfort and convenience.

Occupant "motivation" affects belt wearing. Generally, when the "net motivation" to wear belts is increased by some means, usage also increases. Increased motivation induced by the warning interlock system required on 1974 and some 1975 cars was accompanied by usage rates which initially were in excess of 75 percent. In areas having mandatory belt-use laws, usage rates between 60 and 80 percent have been achieved in some countries when the law is enforced. In Canada, use rates have remained below these levels. It should be noted that these high rates are brought about by conditions which typically make "not-wearing" belts a less attractive behavioral alternative than "wearing" belts. For a variety of reasons, however, these avenues to increase motivation do not now appear to be viable alternatives in the United States. Among the available realistic options, the most effective and constructive approach in this country would seem to combine effective information programs (i.e., aimed to increase the motoring public's motivation to use restraints) with a program of action which would serve to make belt wearing a less difficult and less onerous task (i.e., to reduce the negatively motivating influences). These programs, especially the latter, should be undertaken regardless of whether belt usage is required by law or is voluntary. In particular, the motoring public should expect and obtain belt

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restraints which are free of the comfort and convenience problems which have plagued such systems in the past and which continue to be present in the newest systems.

In a submission to the docket, which cites a study by MOR, Incorporated, General Motors implies that improving comfort and convenience would not be justified by increases in belt usage. GM cites the MOR contention that comfort and convenience improvements would only increase seat belt usage by 1.7 percent. The basis for the MOR conclusion is, however, neither straightforward nor simple. At the outset, it should be noted that there is no direct evidence to show what proportion of non-users would become users if comfort and convenience were improved. It is fair to say that many individuals have become non-users for what they considered to be good and sufficient reasons and most non-users have established strong habit patterns of not wearing belts. As stated previously, most of the non-users cite discomfort and inconvenience as the reason for not wearing belts. Assuming that techniques were found to increase motivation to try belts once again, the very same problems with comfort and convenience which discouraged non-users from wearing belts originally would operate again. Likewise, if effective information programs were initiated which increased the motivation of younger individuals to use belts, allowing belt system problems to persist would only serve to undermine any positive influence these programs could have.

Generally, first-hand experience supports the agreement found in most studies citing comfort and convenience as a preeminent problem discouraging use. Hardly anyone has entered a car who has not personally encountered or witnessed difficulties, annoyances, and discomfort associated with trying to use belt restraint systems.

Even in a study confined to testing most of the restraint systems to be found in the newest model cars (1979), the results echo the previous findings (The Verve Study, DOT HS-803-370). Of particular interest is the proportion of "moderate" or "serious" problems consumers had with the 1979 belt systems. On the average, 57 percent of the individuals participating in the study reported at least one moderate or serious problem. With the "worst" car, 85 percent of the individuals reported such problems. Even with the "best" car, 35 percent of the participants had at least one moderate or serious problem.

It is particularly important to note that the acceptability of a safety belt system

should not be determined by averaging its various assets and liabilities. One significant problem can render the system unacceptable. For example, no matter how comfortable a belt system is, it will not be worn if the finding, extending, or buckling of the system is beyond the capabilities or willingness of the perspective user. Similarly, if a belt system, once on, is extremely uncomfortable, other factors such as accessibility or ease of buckling will not compensate sufficiently to induce wearing. Any comfort or convenience problem which is beyond the capability or willingness of the potential user to tolerate can and frequently does create a non-user. It is for these reasons that inconvenience and discomfort are increasingly being viewed as factors leading to non-use.

There is some real world, in-traffic data which supports our analysis projecting benefits from eliminating comfort and convenience problems. The most vivid and concrete example was noted with 1974 model automobiles. In traffic observations made when occupants of other 1974 U.S. vehicles had belt usage rates of about 65 percent, 1974 Chrysler products had usage of about 45 percent. This same 20 percent difference was also confirmed in more closely controlled studies using rental cars, involving about 42,000 observations. At that time, the only significant difference between Chrysler's system and that used by other U.S. manufacturers was a "webbing sensitive" shoulder-belt-retractor locking system which made donning (putting on) the belt more difficult than with other systems. Viewed from another perspective, had this one problem not existed, the wearing rate in the Chrysler cars would almost certainly have been about 20 percent higher, and an upward shift in usage of that size would have represented a gain of approximately 45 percent in 1974 Chrysler product belt users.

Even with today's low use rates, the influence of discomfort on usage can clearly be seen by comparing belt use rates of men and women. Recent data show that women use belts more frequently than men (16.4 percent and 12.6 percent, respectively), the overall incremental difference being 30 percent. An analysis of this difference, however, reveals an 86 percent incremental difference in favor of women for lap belt usage (6.9 percent versus 3.7 percent) in sharp contrast with shoulder belt use, where the incremental difference drops to 7 percent (9.5 percent versus 8.9 percent) under circumstances clearly

reflecting the existence of greater problems of chest fit and pressure for women. These last results are based on more than 67,000 observations in traffic.

In reviewing all of the available evidence, the agency must note the enormous discrepancy between the MOR projection and substantially all the rest of the data. The MOR study contends that only a 1.7 percent gain in usage would take place if seat belt comfort and convenience were improved. However, the other data include: (1) the repeated finding that the principal reported causes for non-use of belts are discomfort and inconvenience; (2) the persistence of such problems for more than a decade; (3) the fact that only one such problem apparently caused a reduction of 20 percent in 1974-model usage rate; and (4) the fact that the effects of discomfort are large enough to be seen in some current usage data, even in the presence of factors which would tend to obscure any correlation.

The agency also notes the sharp contrast between the relatively obscure and complex basis of the MOR derivation of the extent to which comfort and convenience influence usage and the fairly direct approach used by the agency. The former uses techniques like "path analysis" and requires substantial inferential processes to go "beyond the direct answers of those interviewed." The agency approach was straightforward. It involved asking individuals for the basis of their behavior and supporting these data by confirming evidence obtained from in-traffic observations and more rigorous studies observing belt usage behavior in automobiles under highly controlled conditions.

The comfort and convenience problems addressed by this proposed rulemaking action represent the most egregious problems that have been noted with the restraint systems. An exact quantification of the expected incremental use increase associated with each aspect of the proposed rule would be difficult, time consuming, and extremely expensive to calculate. However, a projection can be based on some combination of: (1) reports by the motoring public regarding their reasons for non-use, (2) the usage decrement associated with the 1974 Chrysler belts, and (3) the present difference in usage of "lap belt only" versus "both belts" by women. From these data, it would not be unrealistic to expect that eliminating major safety belt comfort and convenience problems in manual belts should produce a net, long-term gain in

usage from the current 14 percent to as high as 22 percent.

The agency has also tentatively determined that proposed performance requirements should be specified for manual belts (except for front-seat Type 2 belts in passenger cars) as well as automatic safety belts. Over 15 million new light trucks and vans will be equipped with manual safety belts (both Type 1 and Type 2) before automatic restraint requirements are implemented for these vehicle types sometime after 1984. These millions of vehicles will be used on the roads through the mid-1990's. In addition, manual Type 1 safety belts will continue to be installed in the back seats of all new vehicles, and in some front seats, even after the mid-1980's. Therefore, many lives can be saved and injuries prevented by increasing the rate of use of these manual belts.

Automatic safety belt systems will be installed in a large number of new cars beginning with the 1982 model year. Since automatic belts will deploy around all front seat occupants, including those that now typically do not use manual belts, and since some designs can be disconnected, it is imperative that the automatic belts be comfortable so that they will be acceptable to the public. This approach will keep the rate of non-use at a minimum and assure that the automatic restraint program can fully realize its life-savings potential.

The existing requirements for seat belt characteristics related to comfort and convenience in Standards No. 208 are as follows: The belts must "fit" persons of specified sizes; front outboard lap belts must adjust by means of automatic-locking or emergency-locking retractors (ELR's) and shoulder portions must adjust by means of ELR's (in the first two rows of seats in a vehicle); and the latch mechanism must be accessible, must release both portions of a Type-2 belt simultaneously, and must release by pushbutton action (manual belts). Safety Standard No. 210 (49 CFR 571.210) specifies anchorage location requirements to improve belt fit and effectiveness.

These existing requirements have not been sufficient to produce belt system designs with adequate comfort and convenience characteristics. Many belts are difficult to reach (the existing accessibility requirement does not define "accessibility"), do not fit properly (e.g., cross the occupant's neck, apply too much pressure, are difficult to buckle and become too tight).

In response to these problems, an advance notice of proposed rulemaking was issued in 1976 discussing possible

additional requirements in FMVSS 208 (41 FR 54961, December 16, 1976). The possible requirements discussed in that notice were based primarily on recommendations from a study by Man Factors Inc. (Sources and Remedies for Restraint System Discomfort and Inconveniences, DOT HS-801-277). The major specifications proposed were as follows:

1. The inboard end (i.e., receptacle end) of seat belt assemblies at front and rear outboard designated seating positions should have a minimum "stiffness", tested by means of a lateral force application to the belt as installed in the vehicle. ("Outboard designated seating positions" is a term used primarily in connection with a three position seat to distinguish between (a) the two positions next to the sides of the vehicle and (b) the center position). Also, the receptacle end of belt assemblies should be not less than 6 inches and not more than 7 inches from the occupant's centerline, as measured in accordance with the existing requirements of S7.1.2 of Standard 208. These recommendations were to make the belt mechanisms less likely to fall down between seat and seat back and easier to buckle.

2. The force on the pushbutton (minimum size of 1 inch by 1 inch) to release a seat belt system should be limited to 2 to 4 pounds (no force limits are currently required). The pushbutton should be required to be recessed a minimum of one thirty second of an inch and not more than one-eighth of an inch. These requirements were to make removal of the belt fast and easy. To balance comfort and convenience considerations against potential loss of safety performance, there should also be limits on hardware size to avoid injury-producing forces on the abdomen during a crash.

3. To further facilitate accessibility and ease of buckling, the shoulder portion of a Type-2 assembly (a combination lap and shoulder belt assembly) should join the lap belt portion of the assembly within 5 inches of the center of the pushbutton of the latch mechanism (so that the buckle and latchplate could be grasped and fastened easily). The requirements of S7.1.2 of FMVSS 208, regarding the location of the juncture of lap and shoulder belts, would remain in effect. In the fully retracted position, the outboard portion of the assembly should be incapable of being caught in a closing door, the shoulder portion should lie along the side of the seat back, and the latch plate should be no closer than 4

inches to the rearmost surface of any armrest located in the door.

4. Both shoulder harness and lap belt retraction should be by vehicle sensitive emergency locking retractors (ELR's). Automatic locking retractors (ALR's) could be used on lap belts only if they locked after the buckle was fastened (i.e., they could not lock while the belt was being donned). All electrically operated retractors should lock if electric power is lost. ELR's could have incorporated a manually actuated lock, as long as the lock released automatically upon unfastening of the belt. Those requirements were to make it easier to put belts on and to preclude the continual tightening of belts around occupants that can occur with ALR's.

5. Retractors, as tested in the vehicle, should fully retract both the lap and shoulder belts. A maximum of 3 pounds of belt tension should be permitted on a 50th-percentile male occupant's pelvis, with a maximum of 1.5 pounds on his shoulder. In addition, no more than 4.5 pounds of force should be needed to pull the latch plate from its fully retracted position to its latched position.

6. The retraction of all belt restraint systems should be sufficiently rapid (and consistent) to prevent entrapment of the belt or its hardware when the door is closed immediately after exiting rapidly.

7. "Comfort clips" should be permitted only on Type-2 assemblies that are equipped with a separate retractor on the lap belt portion. Comfort clips are devices that introduce slack in the belt system so that it does not become too tight. They are dangerous, however, because too much slack in the lap belt portion of the assembly will allow the occupant to "submarine" under the belt during an accident. In the proposed requirements, comfort clips are prohibited, but belt pressure must be limited by other means.

Automatic comfort devices of the "window-shade retractor" type would have been allowed if they retracted automatically and sufficiently to permit full retraction of the assembly whenever the assembly was unfastened and the belt released, and whenever the door was opened.

8. To improve and maintain comfort and "fit", the shoulder belt should pass through seat-mounted guides to prevent change in belt geometry with changes in seat position.

9. The concept of belt assembly "fit" should also require that a 5th-percentile female be capable, while restrained at the driver's position, of reaching the vehicle's driving controls, the glove compartment latch, the nearest ash tray,

the left front window handle, the seat-adjustment control, and the locks on both front doors.

10. A clearly-discernible contrasting color stripe should be imprinted on the "reverse" side of the webbing (normally the side next to user's body) to aid the user in determining if belts are twisted.

11. Related changes should be made in Standard No. 209. To protect clothing against damage from rough or sharp edges or protrusions on hardware or webbing of the assembly, the webbing and hardware (as assembled) should be drawn over a fabric-covered surface (having specified characteristics and size) without snagging or abrasion.

While a majority of the comments to the advance notice agreed that modifications to current seat belt designs could improve the comfort and convenience of the systems, there was little agreement on optimum designs to achieve this improvement. This response was not unexpected, since some aspects of comfort and convenience are qualities of complex character and it is difficult to define them completely in simple objective terms. (Copies of the comments to the advance notice and a NHTSA summary to those comments can be found in NHTSA Docket No. 74-14; Notice 7).

Based on a review of the comments and related NHTSA studies conducted in response to those comments, however, the agency has determined that there are a variety of relatively simple, objective performance requirements that can improve the comfort and convenience of seat belt systems. Agency studies indicate that, with few exceptions, current vehicle body styles are established with little regard to their impact on effective and usable restraint systems. Restraint systems appear to be viewed by vehicle designers as "add-ons" and, consequently, the restraint systems appear to be designed to fit the vehicle, and not the passenger.

The requirements proposed in this notice represent a selection and condensation of the specifications discussed in the advance notice. The requirements are based on the comments to that notice and on additional NHTSA studies concerning which of the various requirements would be the most practicable and effective in producing improvements in seat belt comfort and convenience (DOT-HS-803 859; DOT-HS-802 113). Many of the recommendations discussed in the advance notice are not included in this proposal because of the agency's analysis of negative comments from manufacturers concerning practicability, cost and relationship to

seat belt comfort and convenience. Also, while there are other aspects of seat belt performance and design that could improve comfort and convenience, the agency has determined that the requirements proposed in this notice are a reasonable "first step" toward significant improvement over current seat belt designs. Further, the agency has determined that the proposed requirements are easily within the engineering capabilities of the industry and, in combination with other programs to encourage belt use, should help to increase the rate of use of both manual and automatic safety belt systems.

The requirements proposed in this notice relate to the following aspects of seat belt assembly performance and design: torso belt occupant fit, torso belt body contact pressure, automatic locking retractors (ALR's), "comfort clips," latchplate accessibility, webbing guides, convenience hooks for belt webbing, clearance between webbing and seat cushion, clearance between webbing and the occupant's head, and motorized automatic belts. (The relationship of these items to belt comfort and convenience are explained more fully below.) Additionally, the notice proposes new warning system requirements for both manual and automatic belts, which are also intended to increase the current rate of belt use.

A. Proposed Requirements To Increase Seat Belt Comfort.

Torso Belt Occupant Fit (Manual and Automatic Belts)

Improper fit of the torso or shoulder belt has been identified as a major factor determining whether a vehicle occupant will wear a particular safety belt system. The two chief complaints about torso belt fit are that the belt webbing rubs against the occupant's neck and face or that it rubs across the tip of the person's shoulder. Although these conditions may occur in some systems when the occupant leans forward to reach controls or turns toward the rear of the vehicle, most persons ignore momentary discomfort with belt systems. Both of these problems are most noticeable and bothersome when the occupant is sitting in the normal riding position. Many females also complain about rubbing of the torso belt across the breast, generally on the inboard side. To alleviate these torso belt fit problems, the belt installation configuration must be such that the torso belt crosses the occupant's shoulder and chest approximately midway between the neck and shoulder tip, and crosses the sternum approximately midway

between the breasts. Although many occupants can often adjust the torso belt to fit relatively well for short periods, unless the basic belt geometry is properly determined by the location of the upper and lower belt anchorages, the tendency of belt webbing to seek the shortest distance between the two anchor points can cause the belt to move out of the position most comfortable to the occupant.

In order for any torso belt to fit the range of expected occupant users (5th percentile female through 95th percentile adult male), the torso belt must be anchored so that the belt webbing always lies in a narrowly defined envelope across the chest and shoulder. The proposed requirements for torso belt fit specify geometric criteria to describe the required chest-crossing envelope (Figure 7). The chest-crossing envelope that is specified represents transfers of the optimized envelopes of both a 5th percentile and 95th percentile dummy to the 50th percentile dummy. These envelopes were all verified on carefully selected, representative human subjects to ensure that a specific torso belt that falls within the envelope prescribed on the 50th percentile dummy will cross members of the expected user population with a minimum of discomfort.

The proposed requirement for fit of torso belt would allow manufacturers to use any belt design provided the belt webbing falls within the prescribed envelope. With proposed requirements, the requirements discussed in the advance notice relating to anchoring the belts to the seat back, length of belt buckle extension and anchorage geometry would not be necessary. Therefore, those specifications are not included in this proposal.

Torso Belt Body Contact Pressure (Manual and Automatic Belts)

NHTSA research indicates that occupants are likely to complain about belt pressure if the torso belt net contact force is greater than .7 pounds, wherever it touches the occupant's body. The sensitivity to heavy belt pressure is greatest when the webbing contacts the wearer's neck or face, shoulder or breast, and seems to be much less significant when there is proper torso webbing fit. In order to minimize discomfort caused by excessive webbing pressure, the proposed requirements specify that the torso portion of any belt system shall not create a contact pressure exceeding .7 pounds, anywhere it touches the occupant's shoulder, neck or chest. This webbing pressure criterion was developed in NHTSA research in which

webbing retractor forces were varied in an experimental belt system mounted in a production vehicle. A series of male and female test subjects experienced each force level during on-the-road driving tests and reported whether the pressure felt was satisfactory or too great.

The proposed limitation on belt contact force would serve essentially the same purpose, i.e., increasing the comfort of belt users, as "comfort clips", "window-shade devices" and other belt tension relief mechanisms without reducing the effectiveness of belt systems as those tension-relief mechanisms often do. Therefore, in conjunction with the belt contact force limitation, this notice proposes to eliminate manual or automatic devices that allow the introduction of slack in the belt webbing of an upper torso restraint. Comments are requested, however, concerning the belt contact force specified in this notice and whether the specified level is sufficient to eliminate the need for "comfort clips" or similar devices. Additionally, comments are requested concerning methods to preclude excessive slack if "comfort clips" or "window-shade devices" continue to be permitted by the standard. The agency is particularly interested in possible performance requirements or test procedures to measure and limit the amount of slack that can be introduced in the belt webbing by such devices.

Automatic Locking Retractors (Manual Belts)

Seat belts incorporating automatic locking retractors (ALR's) in the lap belt portion of the system have been identified as a major item of complaint by vehicle occupants because of the feature's discomfort and inconvenience. Many vehicle occupants report that belts incorporating the ALR's tighten excessively under normal driving conditions, making it necessary to unbuckle and fasten the lap belt to relieve pressure on the pelvis and abdomen. This discomfort causes many persons to stop using their belts.

Belt systems having ALR's have also been found very inconvenient to use, particularly if the ALR is incorporated as part of the latchplate assembly. During the process of putting the belt on, the occupant must extend the belt in a single continuous movement to a length sufficient to allow buckling. Otherwise, the retractor locks before sufficient webbing has been withdrawn to accomplish buckling, and the belt has to be fully retracted before the occupant can repeat the donning process. Many persons have found this characteristic of

ALR's extremely irritating and consequently have avoided use of the belt. In addition, ALR's inhibit the driver's normal movement to pay tolls, reach the glove compartment, etc. With emergency locking retractors (ELR's) instead of automatic locking retractors, these problems would be alleviated.

Safety Standard No. 208 currently requires lap belts at outboard seating positions to be equipped with either automatic locking retractors or emergency locking retractors, in order to assure that belts are sufficiently tightened to be effective during a crash. However, this effectiveness feature can be achieved by ELR's without the concomitant discomfort and inconvenience associated with ALR's. Therefore, this notice proposes to eliminate ALR's as an alternative in the standard for front outboard designated seating positions.

While the agency believes that the comfort and convenience problems associated with automatic locking retractors apply equally to ALR's on belt assemblies in rear seating positions, other considerations have led to the tentative conclusion that the proposed requirement for emergency locking retractors should only apply to lap belts in front outboard designated seating positions. The primary reason for this conclusion is that automatic locking retractors are probably better suited for use with child restraint systems than emergency locking retractors. Since emergency locking retractors allow movement when the belt is fastened, the child restraint system could slide out of position prior to a crash if the retractor cannot be locked manually. Given the low usage rate of rear seats compared to front seats and considering the cost of installing emergency locking retractors equipped with manual locking devices in all rear seats, the agency has tentatively determined that the proposed requirement for emergency locking retractors should not apply to rear seats. Specific comment on this point is requested, however, particularly regarding the costs associated with installing emergency locking retractors in rear seats. If comments indicate that the agency's tentative conclusions are incorrect, emergency locking retractors could be required in rear seats also.

Additionally, even though emergency locking retractors can have manual locking devices, there is some concern that persons would be confused about use of the manual locks and would fail to secure the child restraints properly. Arguably, the same considerations apply if child restraints are used at the front outboard seating position.

However, it is the agency's position that children should be placed in child restraints in the rear seats rather than in front seating positions since crash statistics indicate that the rear seat is a safer environment during a crash. This, coupled with the higher occupancy rate of front seating positions and the resulting need for comfortable belts in those positions, led to the conclusion that emergency locking retractors should be required on lap belt assemblies at front outboard seating positions. Since many people may use child restraints in the front passenger's position in spite of the fact that the rear seat is a safer location, the proposed requirement does include the specification that emergency locking retractors for the lap belt portion of the belt system at the front outboard passenger's position shall be equipped with a manual locking device. The actuating control for the manual locking device would be required to be readily accessible and brightly colored so that it could be easily found by potential users.

The agency seeks comments concerning the merits of its tentative decision to exclude rear seat belts from the emergency locking retractor requirements. Answers to the following specific questions are solicited:

(1) Are persons likely to understand how to secure child restraint systems with seat belt assemblies having ELR's with manual locking devices?

(2) What would be the cost of installing ELR's with manual locking devices in rear outboard seating positions?

(3) Do the costs of ELR's for rear seats and the possible problems with child restraints outweigh the benefits achievable by precluding ALR's, because of their associated discomfort?

B. Proposed Requirements To Improve the Convenience of Seat Belts

Clearance Between Webbing and Seat Cushion (Automatic Belts)

The shift from manual to automatic belts may initially lead to confusion on the part of some persons. Automatic belts differ from manual belts because these new belts automatically move into place around a person when he or she enters a car and sits in a front seating position and closes the door. With manual belts, the person has to use his hands to place the belt around himself and to attach or unlock the buckle. Some future automatic belt systems will likely consist of single diagonal upper torso belts and others will consist of combination automatic lap and shoulder belts. The automatic belt currently used in the Volkswagen Rabbit and some 1978/79 GM Chevettes is a single

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diagonal belt. The lower end of the automatic shoulder belt is attached between the two front seating positions. The upper end is attached to the rear upper corner of the front door.

If the lap belt or torso belt of an automatic belt system is designed so that it lies against the seat cushion or seatback cushion(s) when the belt system is reeled-out in its open door position, people are often initially confused about how to get into the vehicle. These persons are not sure whether they are supposed to step over the webbing (the strap) or slide behind it. Also, some persons may have difficulty sliding behind the webbing elements (for example, the lap belt catches on the seat cushion or the torso belt has to be pushed forward out of the way). In getting out of the vehicle, some persons may experience difficulty by catching their knee on the lap belt webbing. All of these inconveniences could lead to disconnection of the automatic belt system, which poses a significant danger both for the person making the disconnection and for future riders who may fail to reconnect the belt.

In order to alleviate these problems, automatic belt systems should be designed to make it obvious to occupants how to enter the vehicle. One way to accomplish this is to design a system that has sufficient clearance between the belt webbing and seat cushions to create the visual impression that one can and should slide beneath the lap belts and behind the shoulder belts. Clearance is especially important at the outboard side (i.e., side nearest the closest door) of a seat cushion for people to perceive the proper method of entry. There are several possible methods to achieve this clearance, including: positioning of the anchorages so that webbing does not touch the seat cushion; using automatic devices to pull outboard ends of either lap or shoulder belt forward or away from the seat cushions; or providing a hook upon which either the lap or shoulder belt can manually be placed out of the occupant's way.

After considering the possible solutions to such clearance problems, the agency has tentatively determined that minimum specifications for clearance should be established and manufacturers should be allowed to achieve the clearance by any designs they choose. The proposed requirements, therefore, provide that neither the torso nor lap belt of automatic belt systems shall be any closer than 3 inches to the outboard edge of the seat cushion or the backrest

cushion when the vehicle door is completely opened. This 3-inch specification is considered the minimum clearance necessary to facilitate a perception of the proper method of entering the vehicle, i.e., sliding behind and underneath the belts. The criterion is based on engineering judgment and agency assessment of the likely reactions of persons to unfamiliar automatic belt systems.

Under the proposed requirement, the clearance between belt webbing and cushions would have to be achieved automatically. Therefore, automatic devices to pull the webbing from the seat would be acceptable, but hooks (located on the A pillar, for example) requiring manual movement of the belt webbing would not be acceptable. Occupants might be confused concerning how to move the webbing to the hook so the initial problem would not be eliminated. These convenience hooks would be permitted, however, as additional devices if the webbing and seat cushion clearance is achieved by other means, provided the hook automatically releases the webbing so that it will deploy around the occupant prior to the vehicle being driven.

Latchplate Accessibility (Manual Belts)

One of the most inconvenient aspects of using many current seat belts designs is the difficulty that seated occupants have in reaching back to grasp the belt latchplate when the belt is unbuckled and in its retracted position (the portion of the assembly that fits into the buckle to fasten the assembly). The greater the difficulty in reaching the latchplate to buckle the belt, the more likely that belt usage will cease or never begin. Poor accessibility of latchplates results from two main factors: Location of the latchplate beyond the convenient reach of some seated vehicle occupants and inadequate clearance between the seats and side of the vehicle to allow easy grasping of the latchplate. Requirements are proposed in this notice to define limits on reach for latchplates and minimum clearances for arm and hand access.

The proposed distance requirements for reach of latch plates are based upon the reach capabilities of short vehicle occupants who tend to adjust their seats toward the forward end of the seat track and would, therefore, have greater problems in reaching a body mounted latchplate located behind the seat. The proposed requirements were developed from standard anthropomorphic data sources on various reach distance envelopes and from special NHTSA studies addressing the reach capability of short occupants. The specified criteria

include the requirements for lower outboard reach, lower inboard reach and upper outboard reach (based on the locations in which belt latchplates and buckles might be found). Manufacturers would comply with the proposed requirements by locating belt anchorages within the prescribed reach distance envelopes (the dimensional parameters that are defined). Of course, manufacturers would also have to comply with the anchorage location requirements currently specified in Standard No. 210, *Seat Belt Assembly Anchorages* (49 CFR 571.210).

The proposed requirements for access of hands and arms to latchplates were developed primarily from anthropomorphic data, including *Human Factors for Designers of Naval Equipment* (74-14; General Reference). The proposal specifies a test block (3" x 4" x 12") device that represents the elbow-to-wrist distance and hand size of a 95th percentile male. The test block device must be capable of moving through the same space that a human hand and arm would have to move through in reaching the latchplate. The proposed requirement specifies that the latchplate must be located with sufficient clearance between the vehicle seat and vehicle structure to allow "unrestricted transit" of the test block to the latchplate. This means that the test block must be capable of moving to the latchplate without having to depress any surfaces that are contacted, i.e., without forcing or wedging of the test block. (Discussions concerning the development of both the proposed reach distance requirements and the latchplate accessibility requirements have been placed in the NHTSA docket: 74-14, General Reference No. 227).

Seat Belt Guides (Manual Belts)

Several years ago, the agency granted a petition by the Center for Auto Safety to amend Standard No. 208 to require rear seat belts in taxi cabs to be easily accessible. The Center noted that belt webbing and buckles in taxi cabs are often pushed down behind the seat or are otherwise difficult or virtually impossible to locate the grasp, thereby discouraging or actually precluding use of the belts. The petition also pointed out that belt that have been pushed behind the seat cushions are often dirty, another factor which discourages use. The agency agrees with the recommendation of the Center for Auto Safety, and has tentatively determined that the problem applies equally to all vehicles—not just taxi cabs. Therefore, this proposal would require belt webbing at any designated seating position to pass through flexible

stiffeners or other guides in the seat cushion (to ensure that the belts are easily accessible to occupants) if the webbing passes through or between the seat cushion(s). Belt buckles and latchplates would be required to remain above the rear cushions at all times (i.e., by some device which would preclude the hardware from falling down behind the seat), even in folding seats.

Motorized Track Systems (Automatic Belts)

(a) Webbing/Head Clearance. Some automatic belt designs rely on overhead, motorized track-puller systems instead of the opening of the door to move the webbing automatically out of the occupant's way when getting in and out of the vehicle. These systems pull the webbing toward the dash board when the vehicle door is opened and then pull it toward the rear of the vehicle to deploy around the occupant after the door is closed. If such a system is used, the vehicle design must be such that the belt webbing does not pass too close to the occupant's head during its motion. Webbing that passes extremely close to or brushes the occupant's face or head could be annoying or disconcerting (perceived as hazardous by the intended user) and cause the occupant to defeat the automatic belt system (by unbuckling or cutting the belt, for example). The proposed requirements specify a webbing/head clearance envelope that is intended to ensure that the occupant's head is not touched by an articulating torso belt when the occupant is sitting in the nominal riding position. This clearance envelope includes space for the occupant's head to turn 90 degrees toward the outboard side of the vehicle without having belt contact. The agency has tentatively determined that the proposed requirements should ensure that a motorized torso belt moving along its track would not contact over 90 percent of vehicle occupants and would also give them sufficient "psychological space".

(b) Rate of Movement of Motorized Belts. The agency believes that motorized belt systems will be unacceptable to the public if the rate of belt movement is too slow, since the occupant would be delayed in exiting the vehicle. Systems that move too rapidly might also be unacceptable, since they could be viewed as a possible hazard, even though they were not. Either of these performance characteristics could lead vehicle occupants to defeat the automatic belts. Therefore, this notice proposes a minimum and maximum rate that belts may move forward and backward on

motorized track systems. NHTSA supported research indicates that a rate between 1.5 and 1.9 seconds from start to stop is an acceptable rate for moving the belt toward the dash and moving the belt back around the occupant). Although this rate was established from studies involving only torso belts, both lap and torso belts in the same system would necessarily have to move at the same rate for the convenience of vehicle occupant.

Seat Belt Warning Systems (Manual and Automatic Belts)

Safety Standard No. 208 currently requires a visual and audible warning system to remind vehicle occupants to fasten their manual safety belts. The present standard requires a warning system which activates, for a period of 4 to 8 seconds, a reminder light each time the vehicle ignition is operated, and an audible warning if the driver's lap belt is not in use. As noted in the 1976 ANPRM, studies of manual seat belt usage in passenger vehicles have shown that a sequential logic system which incorporates a visible reminder light of continuous duration and a 4- to 8-second audible warning could produce usage rates significantly greater than those obtained with the warning systems currently required. The sequential logic warning system activates unless buckling of a person's belt occurred after the person sat down in his seat. Under the current 208 requirement, the warning system can be permanently defeated if the belt is buckled and pushed behind the seat cushion and left there during subsequent occasions on which the vehicle is used.

This notice proposes to require sequential warning systems. As specified in the proposed rule, these requirements would only apply to belts installed in vehicles other than passenger cars. The agency is considering, however, requiring the sequential warning system for manual lap belts installed in conjunction with air bags on passenger cars and for automatic belts in passenger cars. If an automatic belt has been disconnected by a previous passenger, the sequential warning system would alert a subsequent occupant to refasten the belt, just as in manual belt vehicles. Therefore, specific comment regarding the advisability of requiring sequential logic warning systems for these vehicles is also solicited.

This notice proposes an additional change in the warning systems requirements for automatic belts to ensure that motorized systems are locked into place before the vehicle begins moving. If for some reason the

motorized belt has not returned and locked into its protective mode, the occupant would be alerted by the continuous light and by a 4- to 8-second audible warning. The agency's analysis has determined that the requirements proposed in this notice would in no way degrade the performance or effectiveness of belt systems. Belt systems can be designed so that they are not only effective but also comfortable to wear and convenient to use.

Finally, this notice also proposes to change the words "passive belts" to "automatic belts" wherever they appear in the standard. The agency has concluded that the word "automatic" more accurately describes the fact that no action is required by vehicle occupants to obtain protection, than the word "passive".

The requirements and procedures proposed in this notice may be altered in any rule that might be forthcoming, in response to comments and further agency analysis.

The engineer and lawyer primarily responsible for the development of this notice are Robert Nelson and Hugh Oates, respectively.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in

fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

In consideration of the foregoing, it is proposed that Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), be amended as follows:

1. In section S7.1, new paragraphs, "S7.1.1.3", and "S7.1.1.4", and "S7.1.1.5" would be added to read:

S7.1.1.3 A lap belt installed at any front outboard designated seating position in a vehicle manufactured on or after September 1, 1981, shall meet the requirements of this section by means of an emergency-locking retractor that conforms to Standard No. 209.

S7.1.1.4 An upper torso restraint installed at any front outboard designated seating position in vehicles manufactured on or after September 1, 1981, shall adjust by means of an emergency-locking retractor that conforms to Standard No. 209 to fit and remain within the belt crossing envelope of an anthropomorphic test device as specified in S10.6, with the seat located in the mid-position and the seat back in the manufacturer's normal designed riding position. However, this paragraph shall not apply to manual Type-2 belts installed in front seating positions in passenger cars.

S7.1.1.5 Emergency-locking retractors for adjusting the lap portion of belt systems installed at front outboard passenger's seating positions on

vehicles manufactured on or after September 1, 1981, shall also have a manual locking device. The actuating control for this manual locking device shall be readily accessible and brightly colored. However, this paragraph shall not apply to manual Type-2 belts installed in front seating positions in passenger cars. Notwithstanding the other provisions of S7.1-S7.1.1.5, emergency-locking retractors on belt assemblies located in positions other than front outboard designated seating positions may be equipped with a manual webbing adjustment device capable of causing the retractor that adjusts the lap belt to lock when the belt is buckled.

2. A new section, "S7.4" would be added to read as follows:

S7.4 *Seat belt comfort and convenience.* (a) Automatic seat belts installed in any vehicle with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1981, shall meet the requirements of S7.4.1 through S7.4.6.

(b) Manual seat belts, other than manual Type 2 belts in front seating positions in passenger cars, installed in any vehicle with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1981, shall meet the requirements of S7.4.5 through S7.4.9.

S7.4.1 When the driver's seat is adjusted to its forwardmost position on the seat track and the front door on the driver's side of the vehicle is opened 60 degrees or to the fullest extent possible, whichever is less, any lap belt or torso belt webbing for that seat shall be at least three inches from:

(a) Any point on the line defined by the intersection of the horizontal plane that is tangent to the highest point on the cushion (undepressed) of the driver's seat and vertical longitudinal plane that is tangent to the outermost point on the driver's seat, and

(b) Any point on the line defined by the intersection of (1) the transverse plane that is parallel to the seat back angle when the driver's seat back is adjusted to its most vertical position and that is tangent to the forwardmost seat back surface contactable by that plane and (2) the vertical longitudinal plane that is tangent to the outermost point of the driver's seat back cushion. Seat back angle is determined in accordance with the procedures for determining back angle (L40) in SAE J1100a.

S7.4.2 A motorized deployment and retraction system that is provided for either lap or upper torso belts shall move in not more than 1.9 seconds and not less than 1.5 seconds—

(a) From the completely deployed position to the completely retracted position.

(b) From the completely retracted position to the completely deployed position.

S7.4.3 During the deployment or retraction of a belt system that deploys and retracts by motorized means, no part of the belt webbing or hardware shall pass through a spherical zone whose diameter is 17 inches and whose center is the tip of the nose of an anthropomorphic test dummy (Figure 6) positioned in accordance with S8.1.11 in the seating position for which that belt system is provided.

S7.4.4 Any manual convenience hook or other device that is provided to stow seat belt webbing to facilitate entering and exiting the vehicle shall automatically release the webbing when—

(a) The vehicle ignition switch is moved to the "on" or "start" position, and shall remain in the release mode as long as the switch remains in that position.

(b) The vehicle's drive train is engaged, and shall remain in the release mode as long as the drive train is engaged.

S7.4.5 No seat belt system shall have either manual or automatic devices that permit the introduction of slack in the webbing of the upper torso restraint (e.g., "comfort clips" or "window-shade devices").

S7.4.6 *Belt Contact Force.* The upper torso webbing of any seat belt assembly shall not exert more than 0.7 pounds of contact force when measured normal to and one inch from the chest of an anthropomorphic test dummy, positioned in accordance with S8.1.11 in the seating position for which that assembly is provided, at the point where the torso belt crosses the midsagittal line on the dummy's chest.

S7.4.7 *Latchplate Access.* The latchplate of any seat belt assembly shall be located within the outboard reach envelope of either the outboard arm or the inboard arm described in S10.5 and Figure 3 of this standard. There shall be sufficient clearance between the vehicle seat and the side of the vehicle interior to allow unhindered transit of the test block defined in Figure 5 of this standard to the latchplate or buckle.

S7.4.8 *Retraction.* With anthropomorphic test dummies positioned in the front outboard designated seating positions in accordance with S8.1.11, and restrained by the belt systems for those positions, the torso and lap belt webbing of any of those seat belt systems shall

automatically retract to their completely stowed position when the latchplate is released from the buckle.

S7.4.9 *Seat belt guides and hardware.*

S7.4.9.1 The webbing of a manual seat belt assembly that is designed to pass through the seat cushion or between the seat cushion and seat back shall pass either through guide openings in the surface of the seat cushion or through flexible conduits between the seat cushion and seat back to maintain the location of the seat belt latchplate and buckle in fixed positions in relation to the seat cushion and vehicle interior. The inboard buckle or receptacle end of any seat belt assembly installed at the front outboard designated seating positions shall be "free-standing" to allow one-handed buckling.

S7.4.9.2 If the buckle and latchplate of a manual seat belt assembly installed at any designated seating position are designed to be on top of the seat cushion, they shall not pass through the guides or conduits provided for in S7.4.9.1 and fall behind the seat when the events listed below occur in the order specified: (a) the belt is completely retracted or when the belt is unlatched, if the belt is nonretractable; (b) the seat is moved to any position to which it is designed to be adjusted; and (c) the seat back, if foldable, is folded forward as far as possible and then moved backward into place. The inboard receptacle end of a seat belt assembly installed at a front outboard designated seating position shall be accessible with the center arm rest in any position to which it can be adjusted (without having to move the armrest).

3. S4.5.3(b) would be amended to delete the parenthetical number "(1)" (since there is no numeral "2" in this paragraph); to change the phrase in the first sentence, "at the front designated seating position", to "at the left front outboard designated seating positions"; to change the phrase, "with condition (B)", in the last sentence to read "with either condition (B) or condition (C)"; and to add a new subparagraph "(C)" to read as follows:

(C) The belt webbing of a motorized automatic belt system is not in its locked, protective mode at the anchorage point.

4. A new section S7.3a would be added after existing section S7.3 to read as follows:

S7.3a Any manual seat belt assembly provided at a front outboard designated seating position in vehicles, other than passenger cars, with a GVWR of 10,000 pounds or less manufactured on or after September 1,

1981, shall meet the requirements of S7.3a.1 and S7.3a.2.

S7.3a.1 The seat belt assembly shall be equipped with a sequential warning system that activates:

(a) A continuous or intermittent audible signal for a period of not less than 4 seconds and not more than 8 seconds (beginning when the vehicle ignition switch is moved to the "on" or "start" position or when the vehicle's engine is operating and the transmission gear selector is moved to any forward position) when condition (A) exists simultaneously with either condition (B) or (C); and

(b) A continuous warning light, visible to the driver, displaying the words "Fasten Seat Belts" or "Fasten Belts" for as long as condition (A) exists simultaneously with either condition (B) or (C).

(A) The vehicle's ignition switch is moved to the "on" position or the "start" position, or the vehicle's engine is operating and the transmission gear selector is moved to any forward position.

(B) The driver's lap belt is not in use, as determined, at the option of the manufacturer, by either the belt latch mechanism not being fastened, or by the belt not being extended at least 4 inches from its stowed position.

(C) A person of at least the weight of a 5th percentile adult female is seated with the belt fastened at the driver's position, and a person of at least the weight of a 50th percentile 6-year-old child is seated in the right front designated seating position and the lap belt for that position is not in use, as determined, at the option of the manufacturer, either by the belt latch mechanism not being fastened or by the belt not being extended at least 4 inches from its stowed position.

S7.3a.2 Notwithstanding the other provisions of S7.3a, the warning system shall activate whenever the ignition switch is in the "on" or "start" position and condition (A) or (B) below exists and the operation of the belt system at each occupied designated seating position has not been performed after the occupant is seated. "Belt operation" for the purpose of this requirement shall be, at the option of the manufacturer, either the fastening of the belt latch mechanisms or the extension of the belt at least 4 inches from its stowed position.

(A) A person of at least the weight of a 5th percentile adult female is seated at the driver's seating position.

(B) A person of at least the weight of a 5th percentile adult female is seated at the driver's designated seating position and a person of at least the weight of a

50th-percentile 6-year-old child is seated at the right front designated seating position.

5. A new paragraph S10.5 would be added to read as follows:

S10.5 The reach envelopes specified in S7.4.7 are obtained by positioning an anthropomorphic test dummy in the driver's seat or passenger's seat in its forwardmost adjustment position. Attach the lines for the inboard and outboard arms to the test dummy as described in Figure 4 of this standard. Extend each line backward and outboard to generate the compliance [arcs] of the outboard reach envelopes of the test dummy's arms as shown in Figure 3 of this standard.

6. A new paragraph S10.6 would be added to read as follows:

S10.6 To determine compliance with S7.1.1.4 of this standard, position the anthropomorphic test device in a front outboard designated seating position in accordance with S8.1.11. The test device shall have a form-fitting torso garment as specified in S8.1.9. Generate the belt crossing envelope described in Figure 7 of this standard on the test device, and:

(a) Fasten the belt system around the test device.

(b) Adjust the belt webbing so that it lies within the compliance envelope.

(c) Rock the anthropomorphic test device laterally and fore and aft 30 degrees for at least 3 cycles.

(d) Return the test dummy to its original vertical seating position.

(e) Determine if the webbing is still within the compliance envelope.

7. The term "passive belt(s)" would be amended to read "automatic belt(s)", wherever it appears in the standard.

8. S8.1.8 would be amended to read as follows: "Anthropomorphic test devices used for the evaluation of restraint systems manufactured pursuant to applicable portions of sections S4.1.2 and S4.1.3 shall conform to the requirements of Subpart B of Part 572 of this title for a 50th percentile adult male dummy."

9. The weights and dimensions of the vehicle occupants referred to in this standard and specified in S7.1.3 would be modified to read as follows:

BILLING CODE 4910-59-M

	50th percentile 6-year-old child	5th percentile adult female	50th percentile adult male	95th percentile adult male
Weight	47.3 pounds	102 pounds	164 pounds	215 pounds
Erect sitting height	25.4 inches	30.9 inches	35.7 inches	38 inches
Hip breadth (sitting)	8.4 inches	12.8 inches	14.5 inches	16.5 inches
Hip circumference (sitting)	23.9 inches	36.4 inches	42 inches	47.2 inches
Waist circumference (sitting)	20.8 inches	23.6 inches	33 inches	42.5 inches
Chest depth		7.5 inches	9 inches	10.5 inches
Chest circumference:				
(nipple)		30.5 inches		
(upper)		29.8 inches	37.7 inches	44.5 inches
(lower)		26.6 inches		

For 50th percentile adult male change:

Weight	164 pounds to 164 + 3
Hip breadth (sitting)	14.5 inches to 14.7
Waist circumference	33 inches to 32.0
Chest depth	9 inches to 9.3
Chest circumference	37.7 inches to 37.4

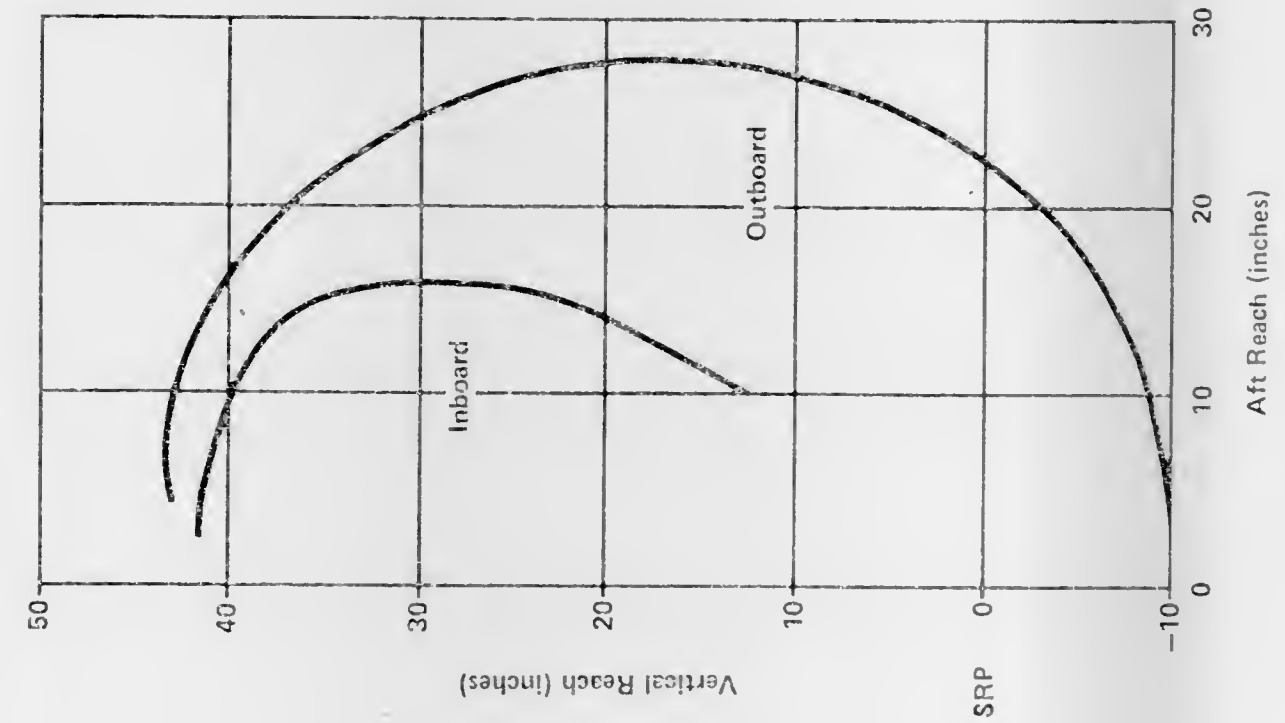


Figure 3 - Reach Envelopes

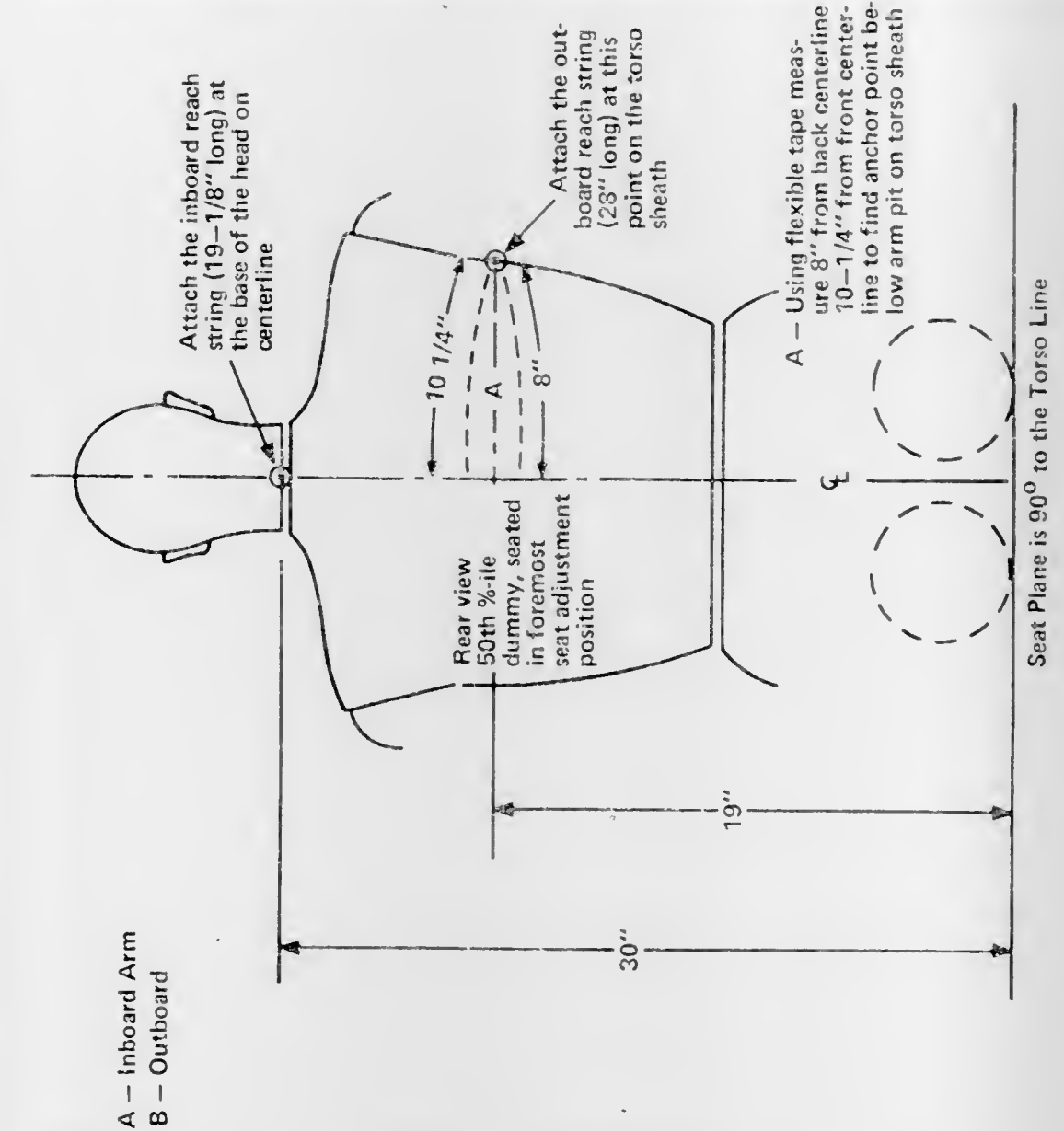


Figure 4 - Location of Anchoring Points for Latchplate Reach Limiting Chains or Strings to Test for Latchplate Accessibility

V
4
4
D
E
3
1
7
9
U
M
I

A = Clearance Measurement
Reference (tip of nose)
B = Typical belt pattern

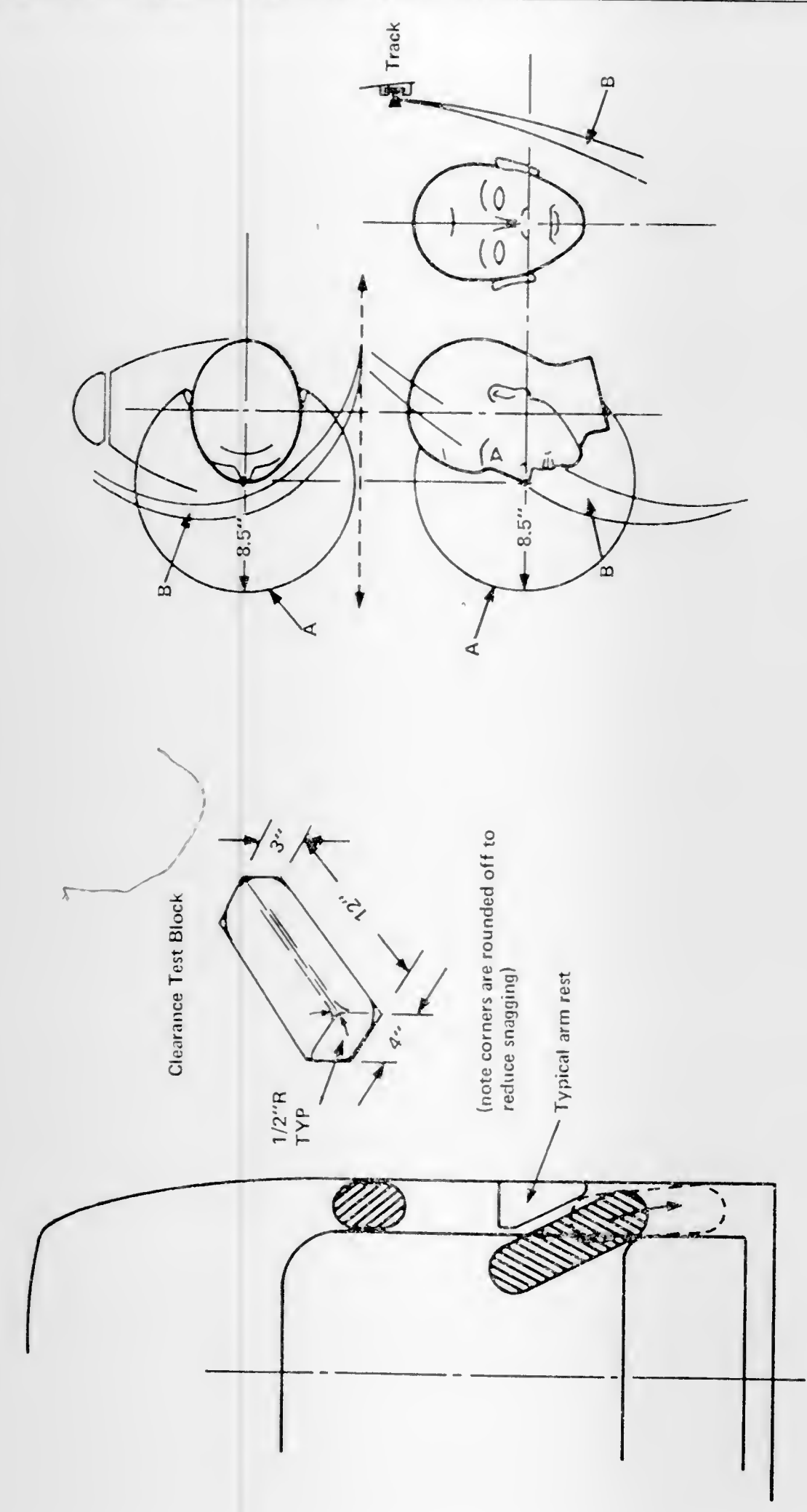


Figure 5 — Use of Clearance Test Block to Determine Hand/Arm Access

Figure 6 — Head Clearance Measurement

Upper belt anchor or D-ring departure points should be above dummy's shoulder whenever the webbing crosses the shoulder (i.e., so that the webbing departs aft at a positive angle.

* Compliance envelope, i.e., torso belt (standard 2") falls within this area when deployed.

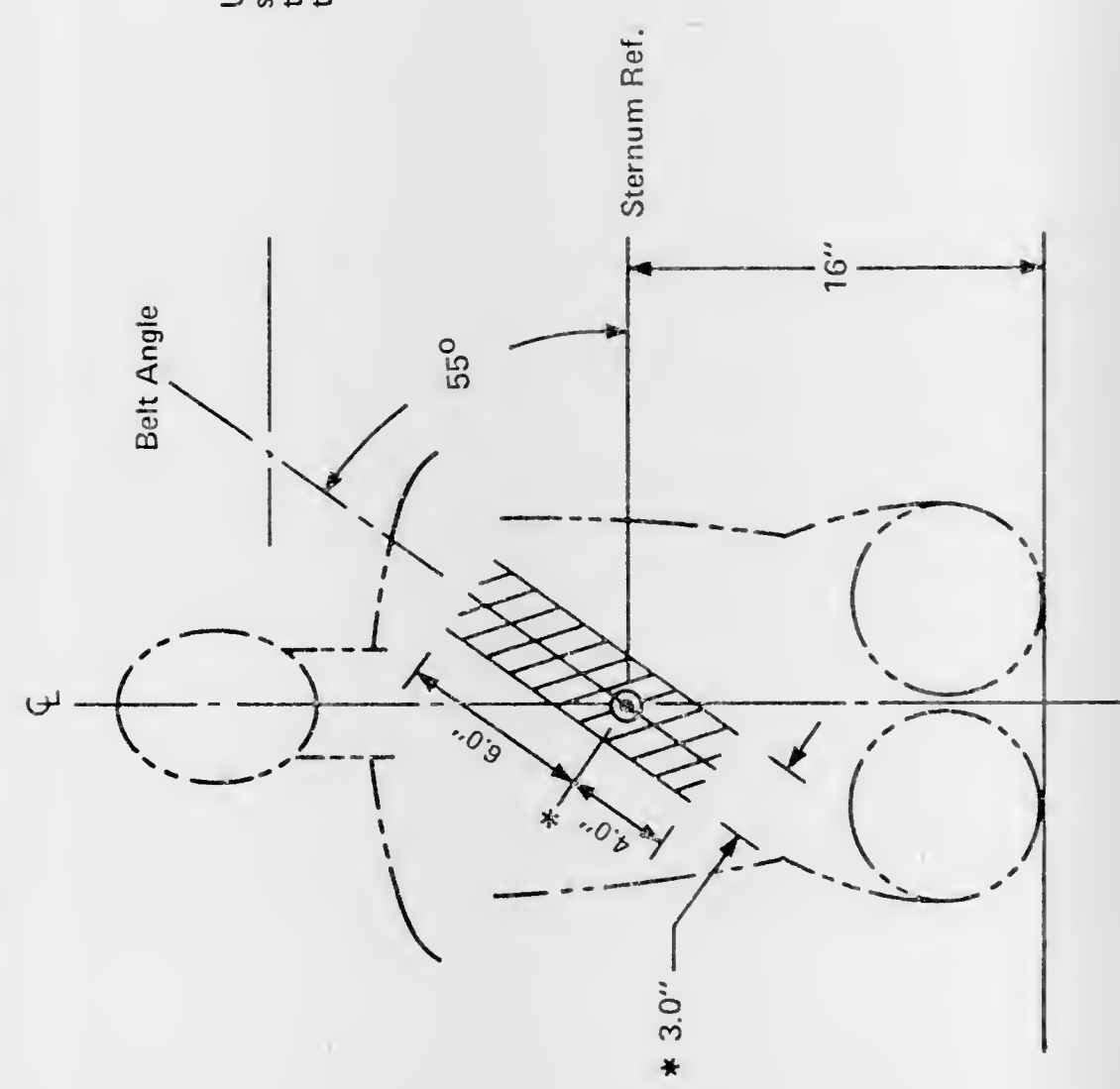


Figure 7 — Belt-Crossing Geometric Criteria Using 50th %ile Dummy

BILLING CODE 4910-59-C

(Secs. 103, 119, Pub. L. 89-593; 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 1.50).

Issued on December 20, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 79-39618 Filed 12-29-79; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 79-19; Notice 1]

Motor Vehicle Safety Standards, Rearview Mirrors

AGENCY: National Highway Traffic
Safety Administration (NHTSA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes an amendment to Standard No. 111-76, *Rearview Mirrors*, to require light trucks and vans with rear windows to be equipped with an inside rearview mirror. At present, the standard allows manufacturers of these vehicles to equip them either with an inside rearview mirror and outside mirrors identical to those found on passenger cars or with no inside mirror and a large outside rearview mirror on each side of the vehicle. This notice supplements the agency's September 27, 1979, proposal to require the glazing in rear windows of light trucks and vans to transmit sufficient light for adequate driving visibility (44 FR 55610). The effect of these two proposals is to ensure that drivers of light trucks and vans will be afforded improved rearward visibility.

DATES: Comments must be received no later than February 14, 1980. The proposed effective date: upon publication of final rule.

ADDRESSES: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, N.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: W. Marx Elliott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, N.W., Washington, D.C. 20590 (202-425-2720).

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 111-76, *Rearview Mirrors*, currently allows the manufacturers of multipurpose passenger vehicles (MPV's), trucks and buses, other than schoolbuses, with a gross vehicle weight rating (GVWR) of 10,000 pounds or less the option of complying with one of two rearward visibility requirements. A manufacturer may equip those vehicles either with an

inside rearview mirror and outside mirrors which both have to meet the same requirements as mirrors required in passenger cars, or it may equip the vehicle with larger outside mirrors on each side of the vehicle and forego providing any inside mirror. Under the latter alternative, the outside mirrors must be plane mirrors and have not less than 19.5 square inches of reflective surface.

This notice proposes an amendment to the standard which would require manufacturers of light trucks, MPV's, and buses other than school buses that are equipped with rear windows to install an inside rearview mirror in those vehicles that is similar to the mirror found in passenger cars. As with passenger car mirrors, the inside mirrors would have to breakaway, deflect or collapse when subjected to a force of 90 pounds in order to reduce injuries to occupants striking the mirror in a crash.

In recent years, light trucks, buses and MPV's have increasingly been used as passenger carrying vehicles. This increased usage has been accompanied by a corresponding rise in occupant deaths in those vehicles. As a part of its effort to upgrade the overall safety of those vehicles, NHTSA proposed, on September 27, 1979, an amendment to Standard No. 205, *Glazing Materials*, to require the rear windows in light trucks, buses and MPV's to transmit sufficient light to afford the driver adequate visibility (44 FR 55610). The amendment proposed in this notice is an important supplement to the proposed amendment to Standard No. 205. It will enable drivers to take full advantage of the more light transmittant glazing materials to monitor traffic and safety make lane changes and backup the vehicle.

The agency has assessed the economic and other impacts of this proposal and determined that they are not significant within the meaning of Executive Order 12044 and the Department of Transportation's policies and procedures for implementing that order. Based on that assessment, the agency has concluded that the economic and other consequences of this proposal are so minimal that a regulatory evaluation is not necessary. The impact is minimal since almost all current light trucks, buses and MPV's with a rear window already are equipped with an inside rearview mirror. NHTSA estimates that the average cost of complying with the standard in the remaining vehicles is less than \$2.00 per vehicle.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenters or its employees to assure that none of the specific items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after the date. To the extent possible, comments filed after the closing date will be also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for further rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket

supervisor will return the postcard by mail.

The engineer and lawyer primarily responsible for this notice are W. Marx Elliott and Stephen L. Oesch.

In consideration of the foregoing, it is proposed that Standard No. 111-76 (49 CFR 571.111-76) be amended to read as set forth below.

1. Section S6.1 is amended to read as follows:

S6.1 Each multipurpose passenger vehicle, truck and bus, other than a school bus, with a GVWR of 10,000 pounds or less and with no windows at the rear-most end of the vehicle shall have outside mirrors of unit magnification, each with not less than 19.5 in² of reflective surface, installed with stable supports on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle and adjustable in both the horizontal and vertical directions to view the rearward scene.

2. A new section S6.2 would be added to read:

S6.2 Each multipurpose passenger vehicle, truck and bus, other than a school bus, with a GVWR of 10,000 pounds or less and with one or more windows at the rear end of the vehicle shall have either—

(a) Mirrors that conform to the requirements of S5; or

(b) An inside mirror that provides a field of view through the full horizontal width of the rear window. The mounting for the inside mirror shall comply with section S5.1.2. The vehicle shall also have outside mirrors of unit magnification, each with not less than 19.5 in² of reflective surface, installed with stable supports on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle and adjustable in both the horizontal and vertical direction to view the rearward scene.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on December 20, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 79-39617 Filed 12-28-79; 8:45 am]

BILLING CODE 4910-59-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Program Regulations, Administrative Notices, and Forms; Mailing List

AGENCY: Farmers Home Administration, USDA.
ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) has established a mailing list for program regulations, Administrative Notices, and forms. The list has been established as a result of inquiries from interested individuals and groups. The intended effect is to make FmHA program regulations, Administrative Notices, and forms more readily available.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph H. Linsley, Chief, Directives Management Branch, USDA, FmHA, Washington, D.C. 20250, Phone: (202) 447-4057.

SUPPLEMENTARY INFORMATION: On September 12, 1978, FmHA published a Notice in the Federal Register (43 FR 49542) indicating that a mailing list had been established. FmHA is still offering its mailing list services to interested individuals and organizations.

The charges established are as follows:

- 1. \$250.00 for the complete set of program regulations, Administrative Notices, and forms.
- 2. \$40.00/yr. for public and nonprofit organizations to receive new regulations and forms, amendments to existing regulations and forms, and new Administrative Notices. This charge is for a calendar year or any part thereof.
- 3. \$75.00/yr. for individuals and groups other than public and nonprofit organizations to receive new regulations and forms, amendments to existing regulations and forms, and new Administrative Notices. This charge is for a calendar year or any part thereof.

To receive mailing list services, please notify the Director, Finance Office, 1520 Market Street, St. Louis, Mo. 63103, Attention: RCMS, in writing. The letter should indicate the complete mailing address (including ZIP code) to which you wish the material sent. A check, bank draft, or money order for the full amount for the services desired made payable to the "Treasury of the United States" should accompany the request. Public and nonprofit organizations should include evidence of their status to qualify for the \$40.00 annual charge. Please allow a minimum of 3 weeks for delivery.

To remain on the list after the initial subscription, please send the full payment for the next year's services to the above address not later than December 20.

One time requests for a copy of a specific regulation, Administrative Notice, or form should be directed to our Freedom of Information Officer, Mr. James Bryan, USDA, FmHA, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250, telephone 202-447-2211. Charges for these requests will be based upon the Department of Agriculture's fee schedule (7 CFR 1.1 *et seq.* Appendix A).

Dated: December 18, 1979.
James E. Thornton,
Associate Administrator, Farmers Home Administration.

[FR Doc. 79-39269 Filed 12-28-79; 8:45 am]
BILLING CODE 3410-07-M

Forest Service

Humboldt National Forest Grazing Advisory Board; Meeting

The Humboldt National Forest Grazing Advisory Board will meet on January 30, 1980 at 10:00 A.M. PST, at the Supervisor's Office, 976 Mountain City Highway, Elko, Nevada.

The meeting is open to the public. The purpose of the meeting is to discuss:

- 1. Allotment Management planning.
- 2. Utilization of Range Betterment Fund.

Dated: December 10, 1979.
John A. Hafterson,
Acting Forest Supervisor.

[FR Doc. 79-39672 Filed 12-28-79; 8:45 am]
BILLING CODE 3410-11-M

Federal Register

Vol. 44, No. 251

Monday, December 31, 1979

Office of the Secretary

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the first calendar quarter of 1980.

EFFECTIVE DATE: JANUARY 1, 1980.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202-447-6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, Headnote 4 Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound. Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect: (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent; or (2) is less than 14.0 cents, the fee then in effect shall be increased by one

cent. The fee, in any event, may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound.

The average of the daily spot (world) price quotations for raw sugar for the applicable period prior to the third calendar quarter of 1979 has been calculated to be 14.47 cents per pound. This results in a fee of 0.00 cents per pound for item 956.15, since the sum of the 14.47 cents average spot price + 2.81 cents duty + .90 cents attributed costs is greater than 15.0 cents. Accordingly, the fee for items 956.05 and 957.15 for the first calendar quarter of 1980 is 0.52 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the Federal Register prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the first calendar quarter of 1980 shall be as follows:

Item and fee

- 956.05; 0.52 cents per lb.
- 956.15; 0.00 cents per lb.
- 957.15; 0.52 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of Headnote 4.

Signed at Washington, D.C. on December 21, 1979.

Jim Williams,
Acting Secretary of Agriculture.

[FR Doc. 79-39726 Filed 12-28-79; 8:45 am]
BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Application for an All-Cargo Air Service Certificate

December 21, 1979

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 37191, from International Air Services Co., Ltd., 1710 Gilbreth Road, Burlingame, California 94010 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before January 21, 1980. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39761 Filed 12-28-79; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended December 21, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Dec. 18, 1979	37266	Saudi Arabian Airlines Corporation, c/o William A. Nelson, Ballard, Beasley & Nelson, 505 Commerce Building, 1700 K Street, NW., Washington, D.C. 20006. Application of Saudi Arabian Airlines Corporation under Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests that its foreign air carrier permit authorizing charter foreign air transportation of property be amended by adding Houston, Texas as a U.S. point and designating all U.S. points as coterminals. Saudi's amended permit would authorize the following service: Planefload charter flights of property between a point or points in Saudi Arabia, on the one hand, and the coterminal points New York, New York, Dallas and Houston, Texas, on the other. Answers may be filed by January 15, 1980.
Dec. 21, 1979	37305	Texas International Airlines, Inc., P.O. Box 12788, Houston, Texas 77017. Application of Texas International Airlines, Inc., pursuant to Section 401(e)(7)(B) of the Act and Rule 1701(b) of Subpart Q of the Board's Rules of Practice for amendment of its Certificate of Public Convenience and Necessity for Route 82 so as to eliminate Conditions (4) and (5) of such Certificate as follows: "[4] On each trip over all or part of this route, the holder shall stop at each point named between the point of origin and point of termination of the trip except a point or points at which the holder has been relieved of this requirement (a) by order of the Board, (b) as a result of a suspension under sections 401(i) and 419 of the Act, (c) because of adverse weather conditions or other conditions it could not reasonably foresee or control, or (d) because condition (5) below is applicable." "[5] If the holder has scheduled two daily roundtrips at each intermediate point, it may omit that point or any additional trips scheduled over all or part of this route as long as it remains in compliance with all other conditions in this certificate. <i>Provided, however,</i> That, if the holder has scheduled one daily roundtrip to El Paso, Texas, or Salt Lake City, Utah, or one roundtrip five days per week plus one roundtrip during the weekend period to Memphis, Tennessee, it may omit that point on any additional trips." Conforming Applications and answers are due January 4, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-39764 Filed 12-28-79; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 35936]

Commuter Airlines, Inc., Enforcement Proceeding; Hearing

The hearing in the above-entitled proceeding, previously scheduled for January 8, 1980 (44 FR 65798, November 15, 1979), is rescheduled for February 20, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., December 21, 1979.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 79-39761 Filed 12-28-79; 8:45 am]

BILLING CODE 6320-01-M

[Dockets Nos. 33263, 32548, and 32549]

Former Large Irregular Air Service Investigation (Applications of International Travel Arrangers, Inc.); Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on February 1, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, DC, before the undersigned administrative law judge.

Dated at Washington, DC, December 21, 1979.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 79-39763 Filed 12-28-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE**Maritime Administration**

[Docket No. S-661]

Waterman Steamship Corp.; Application for Extension of Section 804 Waivers

Notice is hereby given that Waterman Steamship Corporation (Waterman), by letter dated October 23, 1979, has

requested the extension of two waivers previously granted under section 804 of the Merchant Marine Act, 1938, as amended (the Act), for the foreign-flag operations of its affiliate (within the meaning of section 804), Coordinated Caribbean Transport, Inc. (CCT). The waivers were intended to cover the construction period of two U.S.-flag *Artubar* integrated tug/barge vessels for CCT. The first waiver was granted on January 30, 1976, to permit CCT to own, charter and operate foreign-flag vessels between Miami and Panama and Ecuador from February 2, 1976, until (a) CCT's second U.S.-flag tug/barge vessel enters service, and (b) one or both of said units enter(s) service between Miami and Panama and Ecuador. The waiver was subsequently modified in Docket No. A-106, Order on Review and Reconsideration of Waiver Granted on January 30, 1976, by the inclusion of a termination date of December 31, 1979.

The second waiver was granted on August 30, 1976, to permit CCT to own, charter and operate foreign-flag vessels between Miami and Central America from August 30, 1976, until the earlier of (a) CCT's second U.S.-flag *Artubar* vessel entering service, or (b) one or both of said vessels entering service between Miami and Central America, but no later than December 31, 1979. The waiver was subject to the following conditions: (1) CCT will operate one or both of the new U.S.-flag *Artubar* vessels proposed in CCT's CDS application dated December 23, 1975, in service between Miami and Central America pursuant to the service proposed in the CDS application, beginning no later than the date the second of such vessels enters service; and (2) from the date CCT places the second *Artubar* vessel in service, CCT will not operate any foreign-flag vessel between Miami and Central America in competition with an essential U.S.-flag service in violation of section 804 of the Act.

Waterman has requested that the January 30, 1976 waiver be extended until the earlier of (a) CCT's first U.S.-flag *Artubar* vessel entering service between Miami and Panama and Ecuador, or (b) April 1, 1983. Waterman has requested that the August 30, 1976 waiver be extended until the earlier of (a) CCT's second U.S.-flag *Artubar* vessel entering service between Miami and Central America, or (b) January 1, 1984.

CCT currently operates the following foreign-flag vessels:

Vessel, Capacity, and Service

Mar Caribe—75 Trailer Equivalent Units—Miami/Guatemala, El Salvador, Honduras, Nicaragua, Miami/Panama, Costa Rica.
Admiral Atlantic—115 Trailer Equivalent Units—Miami/Panama, Costa Rica.
Admiral Caribe—115 Trailer Equivalent Units—Miami/Guatemala, El Salvador, Honduras, Nicaragua.

The Assistant Secretary of Commerce for Maritime Affairs has granted Waterman an extension of the waivers for a period not to exceed three months from December 31, 1979.

Interested parties may inspect this application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th & E Streets, NW, Washington, D.C. 20230. Any person, firm or corporation desiring to offer views and comments on such application for consideration by the Assistant Secretary of Commerce for Maritime Affairs should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Administration, by the close of business on January 28, 1980. This notice of Waterman's application is published as a matter of discretion. The Assistant Secretary of Commerce for Maritime Affairs will consider the views and comments received and take such action with respect to the application as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS)).

By Order of the Maritime Administration.

Dated: December 21, 1979

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 79-39696 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration (NOAA)**Announcement of Addition to List of Recommended Areas (LRA) for Marine Sanctuary Designation; Shrewsbury Rocks, N.J.**

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: This notice announces the addition of Shrewsbury Rocks (NJ) to the List of Recommended Areas (LRA).

SUPPLEMENTARY INFORMATION: On October 31, 1979, NOAA published an initial LRA containing those sites with at least some potential for sanctuary designation (44 FR 62552; October 31, 1979) as mandated by the General Marine Sanctuary Regulations (44 FR 44831, July 31, 1979).

Shrewsbury Rocks (NJ) is being added to the LRA. This recommendation has been reviewed in accordance with the site evaluation criteria stated in the regulations (Section 922.21(b)) and it meets the requirements for placement of the LRA. The area has a unique assemblage of distinctive geologic features which support a rich diversity of marine, estuarine, and terrestrial organisms. As New Jersey's only submarine rock outcropping, this natural rock reef is important to the high biological productivity of the region. The recommended site is an exceptional recreational fishing area and a vital habitat for many valuable marine species. The site is therefore eligible for LRA placement under several of the stated criteria (Section 922.21(b)(1)(iv), (2), and (3)).

The entire LRA will not be republished at this time; however, NOAA is required to update the LRA and publish a cumulative list in the Federal Register at least semiannually. Shrewsbury Rocks (NJ) and the other sites previously placed on the LRA will be considered for Active Candidate status and possible future designation on the basis of further evaluation criteria, as stated in the regulations. Placement of a site on the LRA or selection as an Active Candidate does not establish any regulatory controls. These actions are means by which NOAA acquires additional information on the characteristics of the particular site and solicits comment on the feasibility and desirability of sanctuary designation. Regulatory controls can be established only after the designation of a marine sanctuary in accordance with the regulations. Listing is a prerequisite for designation as a marine sanctuary, but it does not imply that designation will occur.

For further information contact: JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, Page Building 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (202)634-4236.

Dated: December 21, 1979.

Francis J. Balint,
Acting Director, Office of Management and Computer Systems.

[FR Doc. 79-39674 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-06-M

Intent To Prepare a Draft Environmental Impact Statement; Marine Sanctuary, Monterey Bay, California

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS) and hold a scoping meeting on the proposal to designate a marine sanctuary in Monterey Bay, California and adjacent waters.

SUMMARY: Pursuant to Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1434), OCZM announces its intent to prepare a draft environmental impact statement on the proposal to designate a marine sanctuary in Monterey Bay and adjacent waters off the Central California Coast. The area under consideration extends from San Luis Obispo County to San Mateo County and from the coast offshore to three nautical miles (nmi) beyond State waters and 12 nmi seaward of Ano Nuevo Island. Alternatives which could be considered in the DEIS include the possibility of taking no action and several different boundary, regulatory, and management alternatives.

OCZM held a public workshop on this proposal in the Monterey area in April 1978 and distributed an Issue Paper on three California sites, including the Monterey proposal, in December 1978. The California Coastal Commission held regional and state public hearings on the proposal in March and April 1979 and recommended that NOAA prepare a DEIS considering each of the proposed sites.

OCZM will hold a scoping meeting to solicit information and comments from Federal agencies and interested persons toward the preparation of the DEIS. The scoping meeting will be held on January 10, 1980, at 11:00 a.m. in Room 350, Office of Coastal Zone Management, 2001 Wisconsin Avenue, N.W. Any person wishing to submit written comments on the scope of the issues they feel should be addressed may do so by sending comments to the contact listed below by January 11, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster or Diane Mayerfeld,

Sanctuary Programs Office, OCZM, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone: (202) 634-4236.

Dated: December 21, 1979.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 79-39675 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-06-M

Interjurisdictional Resource Management; Public Meeting

AGENCY: National Marine Fisheries Service.

SUMMARY: State Fish and Wildlife Directors from the coastal and Great Lakes States and Territories, and officials from the National Oceanic and Atmospheric Administration, will meet to discuss State and Federal roles, responsibilities, and interactions concerned with interjurisdictional resource management. The Conference format provides for individual regional discussion sessions to develop regional consensus regarding areas of emphasis and associated priorities for NMFS State/Federal activities.

DATES: The Conference will convene on Tuesday, January 29, 1980, at 1:00 p.m.; Wednesday, January 30, 1980, at 8:30 a.m.; and January 31, 1980, at 8:15 a.m. The Conference will take place at the Olde Colony Motor Lodge and Conference Center at N. Washington Street and First Street, Alexandria, Virginia. The Conference is open to the public. Limited seating will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Chief, State/Federal Division, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634-7454.

Dated: December 21, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-39615 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-22-M

Modification of Permit No. 71

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 71 issued to the Northwest Fisheries Center, National Marine Fisheries Service on June 21, 1975, as modified, is further modified as follows:

1. Section B is modified by deleting Section B-5 and substituting therefor the following: "This Permit is valid with

respect to the taking and importing authorized hereunder until December 31, 1984."

2. Section B-6 is modified by substituting "December 31" for "June 1" wherever it appears.

3. Section B is modified by adding a new Section B-7 as follows: "Animals authorized in Section A-1 above, may have nasal, throat and rectal swabs taken in addition to other authorized activities."

4. Section A-3 is modified by deleting Subsection 3-a and substituting therefor the following: "Up to 490 California sea lions (*Zalophus californianus*);"

5. Section A is modified by adding a new Section A-5 as follows: "Up to 100 California sea lions (*Zalophus californianus*) may be captured, lavaged and released."

6. Section A is modified by adding a new Section A-6 as follows: "Up to 20 California sea lions (*Zalophus californianus*) may be captured, radio tagged, and released. These animals may also be recaptured."

In effect, this modification: (1) extends the permit for five years; (2) changes the due date for annual reports; (3) authorizes the taking of nasal, throat and rectal swabs from those animals authorized to be captured, tagged and released; and (4) authorizes 100 California sea lions to be taken, lavaged and released and 20 to be taken, radio tagged and released in lieu of taking by killing, as originally authorized by the Permit.

This modification is effective December 31, 1979.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, N.W., Washington,
D.C.;

Regional Director, National Marine Fisheries
Service, Southwest Region, 300 South Ferry
Street, Terminal Island, California 90731;
and

Regional Director, National Marine Fisheries
Service, Northwest Region, 1700 Westlake
Avenue North, Seattle, Washington 98109.
Dated: December 21, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-39816 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-22-M

Modification of Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine

Mammals (50 CFR Part 216), Permit No. 31 issued to Robert Elsner, Institute of Marine Science, University of Alaska, Fairbanks, Alaska, on July 3, 1974, is modified by deleting Section B-7 and substituting therefor the following:

"This Permit is valid with respect to the taking authorized hereunder until December 31, 1982."

This modification is effective December 31, 1979.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, N.W., Washington, DC;
and

Regional Director, National Marine Fisheries
Service, Alaska Region, P.O. Box 1668,
Juneau, Alaska 99802.

Dated: December 14, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-39817 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-22-M

Modification of Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit No. 200, issued to the Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minnesota, on August 3, 1977, is hereby modified by deleting Section B-6 and substituting therefor the following:

"6. This permit is valid with respect to the taking authorized herein until December 31, 1981."

This modification is effective December 31, 1979.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, N.W., Washington,
D.C.; and

Regional Director, National Marine Fisheries
Service, Northeast Region, Federal
Building, 14 Elm Street, Gloucester,
Massachusetts 01930.

Dated: December 20, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-39818 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Parts 216 and 18).

1. Applicant: a. Name: Ministry of the Fishing Industry of the USSR, b. Address: 103045, Moscow, K-45, Rozhdestvenski Str. 12.

2. Type of Permit: Scientific Research. 3. Name and Number of Animals: Walrus (*Odobenus rosmarus*) 200; Ribbon Seal (*Histiophoca fasciata*) 100; harbor seal (*Phoca largi*) 200; Ringed seal (*Pusa hispida*) 200; Bearded seal (*Erignathus barbatus*) 200.

4. Type of Take: To kill in the wild for the purpose of studying the abundance, distribution and dynamics of rookeries under ice conditions, as well as the age-sex composition and reproductive capacity of walrus and ice seals.

5. Location of Activity: Bering Sea.

6. Period of Activity: 4 months.

Concurrent with the publication of this notice in the Federal Register the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on that portion of this application dealing with pinnipeds other than walrus should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before January 30, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. Comments, views or requests for a public hearing on that portion of this application dealing with walrus should be submitted to the Director, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service or the Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, N.W., Washington,
D.C.;

Regional Director, National Marine Fisheries
Service, Alaska Region, P.O. Box 1668,
Juneau, Alaska 99802; and
Director, Fish and Wildlife Service,
Department of the Interior, 1000 Glebe
Road, N. Arlington, Virginia 22201.

Dated: December 20, 1979.

William Aron,

Office of Marine Mammals and Endangered
Species, National Marine Fisheries Service.

[FR Doc. 79-39819 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for \$.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Virginia 22161 for \$4.00 (8.00 outside North American Continent). Requests for copies of patent applications must include that PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National
Technical Information Service.

U.S. Department of Agriculture, Research
Agreements and Patent Branch General
Service Division, Federal Building
Agricultural Research Service
Hyattsville, Md. 20782.

Patent 4, 144, 256: Antimicrobial Fatty Acid
Derivatives; filed 10 May 1978; patented
Mar. 13, 1979; not available NTIS.

Patent 4, 146, 650: Substituted Benzodioxan
Sweetening Compound; filed Apr. 20, 1978;
patented Mar. 27, 1979; not available NTIS.

Patent 4, 154, 802: Method of Reducing
Bitterness and Off After-Taste; filed Jan. 13,
1977; patented May 15, 1979; not available
NTIS.

Patent 4, 157, 406: Process for Improving
Baking Properties of Unbleached Cake

Flour; filed Feb. 15, 1977; patented June 5,
1979; not available NTIS.

Patent 4, 159, 351: Process for Preparing
Mixed Bean Salads; filed Jan. 30, 1978;
patented June 26, 1979; not available NTIS.

U.S. Department of Energy, Assistant
General Counsel for Patents,
Washington, D.C. 20545.

Patent Application 763, 164: Tape Transport
Mechanism; filed Jan. 27, 1977.

U.S. Department of Health, Education and
Welfare, National Institutes of Health,
Chief, Patent Branch, Westwood
Building, Bethesda, Md. 20205.

Patent Application 6-050, 287: (N-
phosphonacetyl-L-aspartate) [1,2 diamino-
cyclohexane] platinum (II) or Alkali Metal
Salt; filed July 17, 1979.

U.S. Department of the Navy, Assistant Chief
for Patents, Office of Naval Research,
Code 302, Arlington, Va. 22217.

Patent Application 6-051, 568: Terminated Bis
(3,4-Dicyanophenoxy) Alkanes and
Polyphthalocyanines Therefrom; filed June
25, 1979.

Patent Application 6-051, 569: Perfluorinated
Aliphatic Phenoxy Bisorthodinitriles and
Polyphthalocyanines therefrom; filed June
25, 1979.

Patent 4, 157, 358: Fluorinated Network
Polymers; filed Oct. 13, 1978; patented June
5, 1979; not available NTIS.

[FR Doc. 79-39875 Filed 12-28-79; 8:45 am]

BILLING CODE 3510-64-M

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for \$.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed

to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National
Technical Information Service.

U.S. Department of Agriculture, Research
Agreements and Patent Branch, General
Service Division Federal Building,
Agricultural Research Service,
Hyattsville, Md. 20782.

Patent 4,154,111: Cotton Dust Analyzer; filed
Apr. 4, 1978; patented May 15, 1979; not
available NTIS.

Patent 4,156,742: Method of Preparing Corn
Kernel Snack Food and Product thereof;
filed May 23, 1978; patented May 29, 1979;
not available NTIS.

U.S. Department of Energy, Assistant
General Counsel for Patents,
Washington, D.C. 20545.

Patent Application 778,275: Magnetic Thin-
Film Split-Domain Current Sensor
Recorder; filed Mar. 16, 1977.

U.S. Department of Navy, Assistant Chief for
Patents, Office of Naval Research, Code
302, Arlington, Va. 22217.

Patent 4,154,168: Flare Release System; filed
Feb. 13, 1978; patented May 15, 1979; not
available NTIS.

Patent 4,160,314: Degreining, a Three-Step
Process To Obtain Propellant Samples from
Case Bonded Motors; filed Apr. 28, 1978;
patented July 10, 1979; not available NTIS.

Patent 4,160,417: Arming-Safing System for
Airborne Weapons; filed Apr. 29, 1969;
patented July 10, 1979; not available NTIS.
Patent 4,161,716: Very Low Frequency
Sonobuoy (VLF Sonobuoy); filed Dec. 16,
1977; patented July 17, 1979; not available
NTIS.

Patent 4,161,780: Spin Rate Timing System;
filed June 23, 1978; patented July 17, 1979;
not available NTIS.

National Aeronautics and Space
Administration, Assistant General
Counsel for Patent Matters, NASA Code
GP-2, Washington, D.C. 20546.

Patent 4,158,583: High Performance
Ammonium Nitrate Propellant; filed Dec.
16, 1977; patented June 19, 1979; not
available NTIS.

Patent 4,160,601: Biocontamination and
Particulate Detection System; filed Feb. 24,
1978; patented July 10, 1979; not available
NTIS.

U.S. Department of Commerce, National
Technical Information Service, Office of
Government Inventions and Patents,
Springfield, Va. 22161.

Patent Application 6-031,706: Ultra-Black
Coating Due to Surface Morphology; filed
Apr. 20, 1979.

Patent Application 6-020,359: Sampling
Circuit and Method therefor; filed Mar. 14,
1979.

U.S. Department of Health, Education and
Welfare, National Institutes of Health,
Chief, Patent Branch, Westwood
Building, Bethesda, Md. 20205.

Patent Application 969,571: Unitized Three Leaflet Heart Valve; filed Dec. 14, 1978.
[FR Doc. 79-39978 Filed 12-28-79; 8:45 am]
BILLING CODE 3510-04-M

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLE number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,
Patent Program Coordinator, National Technical Information Service.

Department of the Army, Chief, Intellectual Prop. Division, OTJAG, Room 2D 444, Pentagon, Washington, D.C. 20310.

Patent application 950,501: Fire-safe hydrocarbon fuels; filed Oct. 11, 1978; not available NTIS.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324.

Patent application 6-011,595: Multiple-invariant space-variant optical processing; filed Feb. 12, 1979.

Patent application 6-017,624: Mouth mounted accelerometer pack; filed Mar. 5, 1979.

Patent application 6-017,626: Precision fir indexing device for wind tunnel models; filed Mar. 5, 1979.

Patent application 6-018,697: Automatic data restore apparatus for MNOS temporary store memory; filed Mar. 8, 1979.

Patent application 6-020,299: Self-biased ferrite resonators; filed Mar. 14, 1979.

Patent application 6-023,416: Uniform load piston ring; filed Mar. 23, 1979.

Patent application 6-025,413: High-speed real time quantizer and analog/digital converter; filed Mar. 30, 1979.

Patent application 6-026,866: Channel sealant compositions; filed Apr. 4, 1979.

Patent application 6-029,584: Flow-closing bleed valve assembly; filed Apr. 12, 1979.

Patent application 6-029,585: Sense and inject moving target indicator apparatus; filed Apr. 12, 1979.

Patent application 6-029,586: Analysis of lubricating oils for iron content; filed Apr. 12, 1979.

Patent application 6-029,947: Continuous wave chemically pumped atomic iodine laser; filed Apr. 13, 1979.

Patent application 6-032,809: Thermally stable aromatic eryne polyimides; filed Apr. 24, 1979.

Patent application 6-033,608: Method for the preparation of alkali metal salts of dinitromethane; filed Apr. 26, 1979.

Patent application 6-033,610: Process for synthesizing the alkali metal salts of dinitromethane; filed Apr. 28, 1979.

Patent application 6-036,252: Self-determination of laser frequency; filed May 4, 1979.

Patent application 612,435: Low-shear mixing process for the manufacture of solid propellants; filed Sept. 10, 1975.

Patent application 688,840: Low-drag integration of laser beam pointing device into aircraft; filed May 27, 1976.

Patent application 936,980: An optical plummet azimuth reference assembly; filed Aug. 25, 1978.

Patent 4,147,515: Electro-chemical sensors for gas detection in electron tubes; filed Dec. 22, 1977; patented Apr. 3, 1979; not available NTIS.

Patent 4,154,415: Modulating verrier flap control system; filed Dec. 30, 1977; patented May 15, 1979; not available NTIS.

Patent 4,155,054: Microwave power limiter using electrically thin iris; filed Nov. 23, 1977; patented May 15, 1979; not available NTIS.

Patent 4,155,265: Interface shear transducer; filed Mar. 30, 1978; patented May 22, 1979; not available NTIS.

Patent 4,155,308: Sabot for simulation testing; filed Nov. 2, 1977; patented May 22, 1979; not available NTIS.

Patent 4,155,579: Rotating detent latch mechanism; filed Oct. 7, 1977; patented May 22, 1979; not available NTIS.

Patent 4,155,780: Method for prestressing turbine disks; filed Dec. 30, 1977; patented May 22, 1979; not available NTIS.

Patent 4,156,514: Cylinder support assembly; filed Mar. 23, 1978; patented May 29, 1979; not available NTIS.

Patent 4,156,878: Wideband waveguide lens; filed Jan. 25, 1978; patented May 29, 1979; not available NTIS.

U.S. Department of Agriculture, Research Agreements and Patent Branch, General Service Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 6-032,850: Crosslinked starch halohydrins and their nitrogen-containing substitution products; filed Apr. 24, 1979.

Patent application 6-034,881: Automatic spinning strength tester; filed Apr. 30, 1979.

U.S. Department of Commerce, National Tech. Information Service, Office of

Government Inventions and Patents, Springfield, Virginia 22161

Patent 4,160,596: Document reproduction illumination/exposure control system; filed Oct. 18, 1977; patented July 10, 1979; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240

Patent application 6-008,138: Electrical cable coupler with rotatable protective covers; filed Jan. 24, 1979.

Patent application 6-027,133: Pressure vent for explosion-proof electrical enclosures; filed Apr. 4, 1979.

Patent application 6-029,592: Leaching gold and silver ores; filed Apr. 13, 1979.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Virginia 22217.

Patent application 6-005,256: Lattice matching measurement device; filed Jan. 19, 1979.

Patent application 6-006,055: Marine mammal retrieval apparatus; filed Jan. 24, 1979.

Patent application 6-021,135: Apparatus for improving the overall efficiency of a marine screw propeller; filed Mar. 16, 1979.

Patent application 6-026,863: Fluorinated phthalonitriles and polythiopyranes therefrom; filed Apr. 4, 1979.

Patent application 6-026,982: A connector-to-connector adapter; filed Apr. 2, 1979.

Patent application 6-028,406: Sampled speech compression system; filed Apr. 9, 1979.

Patent application 6-029,223: Terrain vehicle contour measuring and storage device; filed Apr. 11, 1979.

Patent application 6-030,586: An active rich-power bandpass filter; filed Apr. 16, 1979.

Patent application 6-030,961: A carrier and dispersal mechanism for a microorganic mosquito larvicide; filed Apr. 18, 1979.

Patent application 6-031,277: A method for isolating a sporeforming mosquito larvicide; filed Apr. 18, 1979.

Patent application 6-033,298: Xenon fluoride and mercury chloride photodissociation lasers; filed Apr. 25, 1979.

Patent application 6-033,590: Vertical seeking aircrew escape system; filed Apr. 26, 1979.

Patent application 6-034,220: Pressure differential seafloor corer-carrier; filed Apr. 30, 1979.

Patent application 6-034,221: A system for placement of piles into the seafloor; filed Apr. 30, 1979.

Patent application 6-035,663: Laser annealing technique for improving the detectability of detector elements in photovoltaic detector arrays; filed May 3, 1979.

Patent application 6-039,241: Surface elevation measuring apparatus; filed May 15, 1979.

Patent application 6-039,917: Pulse repetition interval generator with stagger compensation; filed May 17, 1979.

Patent application 6-040,014: Pulse repetition interval signal generator; filed May 17, 1979.

Patent application 6-042,176: Polyphenyl ether-bridged polythiopyranes; filed May 24, 1979.

Patent application 931-348: Shaft decoupling device; filed Aug. 7, 1978.

Patent application 944,433: Ejected roller shaft disconnect mechanism; filed Sept. 21, 1978.

Patent application 952-169: Rotary shaft decoupling mechanism; filed Oct. 17, 1978.

Patent application 955,542: Condition responsive cable with benoable coaxial sensor mount; filed Oct. 27, 1978.

Patent 4,114,137: Directional sonobuoy; filed Dec. 19, 1974; patented Sept. 12, 1978; not available NTIS.

Patent 4,115,753: Fiber optic acoustic array; filed July 18, 1977; patented Sept. 19, 1978; not available NTIS.

Patent 4,123,732: Method of making tuned resonance passive electronic filters; filed Jan. 31, 1977; patented Oct. 31, 1978; not available NTIS.

Patent 4,128,300: Optical logic elements; filed Sept. 26, 1977; patented Dec. 5, 1978; not available NTIS.

Patent 4,128,759: Fiber optic delay line filter; filed Nov. 21, 1977; patented Dec. 5, 1978; not available NTIS.

Patent 4,131,444: Method for increasing the strength and density of lead titanate ceramic bodies; filed Aug. 25, 1977; patented Dec. 26, 1978; not available NTIS.

Patent 4,139,403: Dinitroalkyl and fluorodinitroalkyl silicon compounds; filed Aug. 19, 1977; patented Feb. 13, 1979; not available NTIS.

Patent 4,139,897: Fast two dimensional fourier transform device; filed Mar. 18, 1977; patented Feb. 13, 1979; not available NTIS.

Patent 4,140,057: Axisymmetric stabilized liner implosion system; filed May 2, 1978; patented Feb. 20, 1979; not available NTIS.

Patent 4,141,295: Actuation mine simulator; filed Feb. 13, 1978; patented Feb. 27, 1979; not available NTIS.

Patent 4,142,145: Method for determining conduction-band edge and electron affinity in semiconductors; filed Dec. 22, 1977; patented Feb. 27, 1979; not available NTIS.

Patent 4,143,299: Charged-particle beam acceleration in a converging waveguide; filed Feb. 22, 1978; patented Mar. 6, 1979; not available NTIS.

Patent 4,143,838: Folding fin assembly detent; filed Aug. 22, 1977; patented Mar. 13, 1979; not available NTIS.

Patent 4,144,488: Investigation of near-surface electronic properties in semiconductors by electron beam scanning; filed Dec. 22, 1977; patented Mar. 13, 1979; not available NTIS.

Patent 4,144,530: Combined intrusion sensor line; filed Nov. 17, 1977; patented Mar. 13, 1979; not available NTIS.

Patent 4,145,464: Safe high energy density battery; filed Jan. 23, 1978; patented Mar. 20, 1979; not available NTIS.

Patent 4,145,713: Composite video signal field recognition circuit; filed Aug. 29, 1977; patented Mar. 20, 1979; not available NTIS.

Patent 4,145,972: Dual-mode warhead initiation system; filed Dec. 17, 1976; patented Mar. 27, 1979; not available NTIS.

Patent 4,146,329: Autoalignment system for high power laser; filed Sept. 14, 1977; patented Mar. 27, 1979; not available NTIS.

Patent 4,148,032: Method and means for defocusing engine cavity reflected energy; filed Oct. 27, 1977; patented Apr. 3, 1979; not available NTIS.

Patent 4,149,770: Single-fiber duplex coupler; filed Nov. 21, 1977; patented Apr. 17, 1979; not available NTIS.

Patent 4,150,341: High-input power laser device; filed Dec. 28, 1978; patented Apr. 17, 1979; not available NTIS.

Patent 4,152,934: Vector measuring current meter; filed Mar. 1, 1978; patented May 8, 1979; not available NTIS.

Patent 4,153,368: Electro-optical detector protection device; filed Dec. 12, 1977; patented May 8, 1979; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsels for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 6-034,529: Diced tile thermal protection for spacecraft; filed Apr. 27, 1979.

[FR Doc. 79-39977 Filed 12-28-79; 8:45 am]
BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Amendments to the Platinum Futures Contract of the New York Mercantile Exchange

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, § 12, 92 Stat. 871 (1978), has determined that the proposed amendments set forth below to rules 90.03, 90.05, and 90.06 of the platinum futures contract, submitted by the New York Mercantile Exchange, are of major economic significance. These amendments would establish a second platinum grade eligible for delivery and provide for different trading months for this new grade than those applicable to the current Exchange platinum contract.

The amendments to rules 90.03, 90.05, and 90.06 are printed below showing deletions in brackets and additions in italic;

Rule 90.03 which reads:
Grade and Quality Specifications

[The minimum specifications shall be 99.8% pure platinum and platinum metals with a minimum of 99.5% pure platinum.]

be amended as follows:

Grade and Quality Specifications

There shall be two grades and quality specifications for delivery under platinum futures contracts, one of which is referred to as the "99.5 contract" and the other of which is referred to as the "99.9 contract".

(a) 99.5 contract. The minimum specifications shall be 99.8% pure platinum and platinum metals with a minimum of 99.5% pure platinum.

(b) 99.9 contract. The minimum specifications shall be 99.9% pure platinum.

Rule 90.05 which reads:

Delivery Months

[Trading shall be conducted in contracts providing for delivery in the months of January, April, July, October, and such other months as may be determined by the Board of Governors. The Clearing House Committee shall determine when trading in the delivery months shall commence.]

be amended as follows:

Delivery Months

Delivery months shall be different for the 99.5 contract and the 99.9 contract.

(a) Trading shall be conducted in 99.5 contracts for delivery in the months of January, April, July, October and such other months as may be determined by the Board of Governors.

(b) Trading shall be conducted in 99.9 contracts for delivery in February, May, August, November and such other months as may be determined by the Board of Governors.

The Clearing House Committee or the Board shall determine when trading in the delivery months shall commence.

90.06 Prices and Fluctuations

Change subparagraph (E) of this Rule to (F) and add a new subparagraph (E) to read as follows:

(E) There shall be a separate settling price for the 99.5 contract and the 99.9 contract and the maximum permissible price fluctuations provided for in subparagraphs (A) to (D) shall be determined and applied separately for each such contract. The allocation procedure provided for in Rule 53.07(F) shall also be applied separately for each such contract.

Any person interested in submitting written data, views, or arguments on these rules should send his comments by January 30, 1980 to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C., on December 21, 1979.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 79-39716 Filed 12-28-79; 8:45 am]
BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of system of records.

SUMMARY: The purpose of this document is to announce the Consumer Product Safety Commission's system of records within the government-wide system of records established by the Office of Personnel Management to implement the provisions of the Ethics in Government Act of 1978, as amended.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (202) 634-7770.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management has created a Government-wide system of records, designated Ethics in Government Financial Disclosure Records, OPM/GOVT-4, to implement the financial disclosure provisions of the Ethics in Government Act of 1978, Public Law 95-521, as amended by Public Law 96-19 and 96-28. Some of the records in that system are maintained by the Consumer Product Safety Commission. The Commission is designating the records within its custody as a separate system of records and publishing this notice in order to apprise the public of their existence, and the procedures for gaining access to them. Access procedures reflect the new requirements imposed by Pub. L. 96-19, an amendment to the Ethics in Government Act of 1978. Since notice of the government-wide system of records has already been published in the Federal Register, 43 FR 60983, December 29, 1978, this Notice does not describe a new or modified system of records.

Dated: December 21, 1979.

Sadye Dunn,
Secretary, Consumer Product Safety Commission.

CPSC-21

SYSTEM NAME:

Ethics in Government Financial Disclosure Records—CPSC-21.

SYSTEM LOCATION:

Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207, and Ethics Officer for the Ethics in Government Act, Office of the General Counsel, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on persons nominated for the position of Commissioner of the Consumer Product

Safety Commission and on the following CPSC employees: Commissioners; persons in the excepted service in positions which are of a confidential or policy-making nature; Administrative Law Judges; officers and employees, including special government employees, whose positions are classified at grades GS-16 and above, or at an equivalent rate under another pay schedule; and other officers or employees determined by the Director of the Office of Government Ethics to be of equal classification to GS-16.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains financial information such as: income from salaries, honoraria, dividends, rent, interest, trusts and capital gains; interests in property held in a trade or business or for investment or the production of income; income from the sale, exchange, or purchase of real property or property such as stocks and bonds; gifts; reimbursements; liabilities in excess of \$10,000 owed to any creditor; copies of and documents relating to qualified blind trusts; information on positions held in private organizations and on agreements with private employers; position descriptions; and other documents that may be generated in the course of administering the Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-521, Ethics in Government Act of 1978, as amended by Pub. L. 96-19 and Pub. L. 96-28.

PURPOSE:

These records are maintained to meet the requirements of the Ethics in Government Act of 1978, as amended, regarding the filing of financial status reports; such reports and related records are required to assure compliance with the Act and to preserve and promote the integrity of public officials and institutions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

- To disclose any and all of the information furnished by the reporting official, in accordance with the provisions of section 205 of the Ethics in Government Act of 1978, as amended, to any requesting person.
- To disclose pertinent information to the appropriate federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes

aware of an indication of a violation or a potential violation of civil or criminal law or regulation.

- To provide information to a congressional office from the record of an individual in response to any inquiry from that congressional office made at the request of that individual.

- To disclose information to another federal agency or to a court when the government is party to a judicial proceeding before the court.

- By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected or maintained, or for related work-force studies. While published statistics and studies do not contain individual identifiers, in rare instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

- To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

- By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

- To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

- To disclose, in response to a request for discovery or an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

- To disclose information to the officials of the Office of the Special Counsel and the Merit Systems Protection Board when requested in performance of their authorized duties.

- By the Commission's Ethics Officer for the Ethics in Government Act for the administration and enforcement of the Ethics in Government Act of 1978, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in file cabinets or file rooms to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are maintained for a period of six years after filing, except when filed by a nominee for appointment as Commissioner who is not confirmed by the Senate, in which case the record is kept one year after the date the nominee ceases being under Senate consideration, or is no longer a candidate for the office. Records are destroyed by shredding after the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Ethics Officer for the Ethics in Government Act, Office of General Counsel, Consumer Product Safety Commission, 1111 18th Street, N.W. Washington, D.C. 20207.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Commission's Ethics Officer for the Ethics in Government Act.

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to their records should submit their request to the Ethics Officer for the Ethics in Government Act.

Members of the public may inspect or receive copies of financial status reports and position descriptions of the government employees subject to reporting under the Ethics in Government Act. A written application for access shall be submitted to the Office of the Secretary, 1111 18th Street, N.W., Washington, D.C. 20207, stating: the applicant's name, occupation and address; the name and address of any other person or organization on whose behalf the inspection or copy is requested; and that the applicant is aware of the prohibitions on obtaining or using the report for any unlawful purpose, for any commercial purpose other than by news and communications media for dissemination to the general public, for determining or establishing the credit rating of any individual, or for use directly or indirectly in the solicitation of money for any political, charitable, or other purposes.

Application forms are available without charge from the Office of the Secretary.

Individuals seeking disclosure of records of another individual which are not generally available to the public under the Ethics in Government Act

shall submit a request to the Office of the Secretary in accordance with the Commission's Procedures for Disclosure or Production of Information under the Freedom of Information Act (16 CFR Part 1015, Subpart A).

CONTESTING RECORD PROCEDURES:

Requests for contesting records under this system of records shall be submitted to the Ethics Officer for the Ethics in Government Act.

RECORD SOURCE CATEGORIES:

Information in this System of Records is provided by:

- the subject individual or by a designated person such as a trustee, attorney, accountant, or relative.
- Federal officials who review the statements to make conflict-of-interest determinations.

- Persons alleging conflicts of interest and persons contacted during any investigation of the allegations.

[FR Doc. 79-39062 Filed 12-28-79; 8:45 am]

BILLING CODE 6355-01-M

Privacy Act of 1974; Systems of Records; Annual Publication

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires agencies to publish annually in the Federal Register a notice of the existence and character of their systems of records. The Consumer Product Safety Commission last published the full text of its systems of records at 42 FR 48751, September 23, 1977. Since that publication, the Commission's systems of records has been amended by a document entitled CPSC-20 published at 44 FR 71857, December 12, 1979, and a document appearing elsewhere in this issue, entitled "Ethics in Government Financial Disclosure Records—CPSC-21. For the convenience of the public, the December 12, 1979, document appears below. The Commission's systems of records, therefore, consists of the material published at 42 FR 48751, September 23, 1977, the document appearing elsewhere in this issue, and the following document.

The full text of the Commission's systems of records, except for CPSC-20 and CPSC-21 mentioned above, also appear in Privacy Act Issuances, 1978 Compilations, Volume III, page 838. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of this volume is \$10.25.

Dated: December 21, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

CPSC-20

SYSTEM NAME:

Field Work Tracking System—CPSC-20.

SYSTEM LOCATION:

Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Washington, D.C. 20207, and the Area Offices listed in Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional, non-managerial, staff members of CPSC Area Offices who are performing work assignments covered by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain information on work assignments performed by CPSC Area Offices. The data included are: CPSC identification number of the assigned employee; assignment identification number; organizational unit initiating the assignment and Area Office performing the assignment; program, project and activity codes; assignment, target, interim, and completion dates; number of activities performed; actual hours required to complete the assignment; and a narrative description of the assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2051 et seq.; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or a compilation of these records, are used by the Directorate for Field Operations and its Area Offices as a management aid to:

- Track the status of field assignments
 - Track the progress against planned goals
 - Compare Area Office performance
 - Identify resource allocation deficiencies
 - Provide reports to top level CPSC management on field accomplishment.
- In addition, within each Area Office, the Area Office management will use the records, or a compilation of information from the records, to:
- Assure efficient distribution of assignments to employees.
 - Track employees' ability to meet target dates in relation to performance standards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are stored on computer magnetic media. Hard copies of the records are stored at the Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Bethesda, Maryland 20207, and the Area Offices listed in Appendix I.

RETRIEVABILITY:

The records may be retrieved by any one or any combination of the data items.

SAFEGUARDS:

Access to the computer data is restricted to Area Office personnel and Field Operations Directorate staff at Headquarters through the use of computer access passwords. Hard copies of the records are kept in lockable file drawers.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director for Field Operations, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as System Manager.

CONTESTING RECORD PROCEDURES:

Same as System Manager.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from employees performing the recorded assignments and their supervisors.

Appendix I**Area Offices**

Atlanta Area Office, 1330 West Peachtree Street, N.W., Atlanta, Georgia 30309.
Boston Area Office, 100 Summer Street, 16th Floor, Room 1607, Boston, Mass. 02110.
Chicago Area Office, 230 S. Dearborn Street, Room 2945, Chicago, Illinois 60604.
Cleveland Area Office, Plaza Nine Building, Room 520, 55 Erie View Plaza, Cleveland, Ohio 44114.
Dallas Area Office, Room 410C, 500 South Ervay, Dallas, Texas 75201.
Denver Area Office, Suite 938, Guaranty Bank Bldg., 817 17th Street, Denver, Colorado 80202.
Kansas City Area Office, Suite 1500, Traders National Bank Bldg., 1125 Grand Avenue, Kansas City, Missouri 64206.
Los Angeles Area Office, 3660 Wilshire Boulevard, Suite 1100, Los Angeles, California 90010.

Minneapolis Area Office, Room 650, Federal Bldg., Fort Snelling, Twin Cities, Minnesota 55111.

New York Area Office, 6 World Trade Center, Vesey Street, 6th Floor, New York, New York 10048.

Philadelphia Area Office, 10th Floor, 400 Market Street, Philadelphia, PA 19106.
Seattle Area Office, Federal Building, Room 3240, 915 Second Avenue, Seattle, Washington 98174.

San Francisco Area Office, Suite 500, 100 Pine Street, San Francisco, Calif. 94111.

[FR Doc. 79-39663 Filed 12-28-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE**Department of the Air Force****USAF Scientific Advisory Board Meeting**

December 17, 1979.

The USAF Scientific Advisory Board Operational Test and Evaluation Advisory Group will hold a meeting at Kirtland Air Force Base, New Mexico, on January 22 and 23, 1980. The meeting will convene at 8:30 a.m. and adjourn at 4:30 p.m. on both days.

The group will receive classified briefings on the operational test and evaluation planned for the Wide Area Anti-Armor Munitions program. The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Carol M. Rose,

Air Force Federal Register, Liaison Officer.

[FR Doc. 79-39684 Filed 12-28-79; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army**Notice of Intent To Prepare Draft Environmental Impact Statement**

October 22, 1979

AGENCY: Army Corps of Engineers, DoD, Seattle District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for a proposed multi-purpose project in the Snohomish River basin in western Washington. The project is known as the Snohomish Mediated Plan.

SUMMARY: a. *Proposed Action.* The recommended plan of action presently involves the following major project elements: a multi-purpose dam and reservoir on the North Fork Snoqualmie River, levees and floodwalls to protect the towns of North Bend and Snoqualmie, modification of an existing dam on the South Fork of the Tolt River

to provide flood control storage, development of a major park at the confluence of the three forks of the Snoqualmie River, preservation of areas known as the Skykomish Braided Channel and the Snohomish Delta Lobes, and purchase of development rights and/or floodway easement along the Snoqualmie, Skykomish and Snohomish Rivers. The recommended plan may provide flood damage reduction benefits, dam safety benefits, water supply benefits, recreation benefits, and hydropower benefits.

As Corps studies progress, the recommended plan may change. For instance, it may be found that hydropower or water supply is not feasible at the North Fork multi-purpose dam, or the development of a major park at the three forks of the Snoqualmie River is not in the best interests of the local community.

b. *Alternatives.* At the present time it is likely that the only alternatives which will be described in detail in the draft EIS are the "no action" alternative and a few variations of the basic recommended plan. For instance, one of the variations may be a dam on the North Fork Snoqualmie which does not have water supply benefits, or a levee alignment for the town of Snoqualmie which is somewhat different than the alignment presented in the recommended plan. Other alternatives outside the scope of the Mediated Agreement and those previously evaluated (i.e., the Middle Fork Snoqualmie flood control dam) will be discussed in lesser detail.

c. Public Involvement and Review.

Since 1959, Federal, State and local agencies, and the public have been participating in flood damage reduction studies for the Snohomish River basin. After a major flood in 1959, the State of Washington requested Federal assistance in reducing the flood hazard within the Snohomish River basin. In 1969, the Corps completed a feasibility study which recommended a multi-purpose dam (flood control, recreation, fishery enhancement) on the Middle Fork of the Snoqualmie River; however, Governor Evans in 1970 objected to the proposal and asked for further studies with his Department of Ecology. From 1970 to 1973 Washington Department of Ecology and the Corps conducted a joint study to resolve environmental concerns expressed by the Governor. In June 1973, a joint report was issued, but in September 1973 the Governor re-expressed his opposition to the Middle Fork Dam. In 1974, Governor Evans sanctioned mediation of the disputed flood damage reduction plan, resulting

in the Snohomish Mediated Agreement. This Agreement consists of the following elements: multi-purpose dam on the North Fork Snoqualmie River, setback levees to protect the towns of North Bend and Snoqualmie, modification of the city of Seattle's South Fork Tolt Dam, land-use management of floodplain lands, and purchase and development of selected lands as public parks. A Corps of Engineers' reconnaissance report issued in November 1976 came to the preliminary conclusion that the Snohomish Mediated Plan was feasible. In 1977 Governor Ray endorsed proceeding with detailed feasibility studies for the Snohomish River basin and in later 1978 detailed feasibility studies began. Numerous public meetings have been held since 1959. A public workshop is tentatively scheduled for December 1979.

d. *Significant Issues.* The following issues have surfaced during the Corps' feasibility study: (1) Is the North Fork Snoqualmie River the best source for additional municipal and industrial water supply for the greater Seattle metropolitan area? (2) Is there a Federal interest in purchasing development rights in the rural Snohomish River basin floodplain to reduce future flood damages? (3) Is hydropower feasible at the proposed North Fork Dam? (4) Would be Snohomish Mediated Plan reduce flood damage downstream of the city of Snoqualmie? (5) What would the fish and wildlife losses be as a result of construction of the North Fork Snoqualmie Dam? These and other concerns will be addressed in the DEIS.

e. *Other Environmental Review and Consultation Requirements.* Because the recommended plan may involve the disposal of dredged or fill material in waters of the United States and their adjacent wetlands, the DEIS may contain a Section 404b evaluation. **AVAILABILITY OF DEIS.** The DEIS is presently scheduled to become available to the public in June 1981.

ADDRESS: Information about the proposed action and DEIS can be obtained by contacting: Paul Cooke or Ron Bush, Environmental Resources Section, Department of the Army, Seattle District, Corps of Engineers, Post Office Box C-3755, Seattle, Washington 98124, Telephone (206) 764-3624 (FTS 399-3624).

Dated: October 22, 1979.

Maxwell B. Carpenter, Jr.,

Lt. Col. Corps of Engineers, Acting District Engineer.

[FR Doc. 79-39685 Filed 12-28-79; 8:45 am]

BILLING CODE 3710-06-M

Corps of Engineers, Department of the Army**Intent To Prepare a Draft Environmental Impact Statement for a Proposed Golf Course Complex by Swan Lake Golf Corp. in Swan Pond, Peconic River, Great Peconic Bay, at Manorville, Suffolk County, N.Y.**

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action. Swan Lake Golf Corporation has requested a permit from the New York District Corps of Engineers under Section 404 of the Clean Water Act of 1977 to complete the construction of two 18 hole golf courses in freshwater wetlands adjacent to Swan Pond, at Manorville, Suffolk, N.Y. The project involves excavation and filling of wooded swamps and cranberry bogs associated with Swan Pond.

The first golf course, located north of River Road, was constructed without prior Department of the Army authorization.

In the construction of the existing golf course, approximately 8,600 cubic yards of material was excavated in the removal of 2.5 acres of cranberry bog and 0.2 acre of wooded freshwater swamp for the creation of ponds. Approximately 32,000 cubic yards of material was used in the filling of an additional 6.6 acres of cranberry bog and 3.4 acres of wooded swamp for the creation of golf course fairways. In addition, approximately 9.6 acres of ponds were created on the upland for use as golf course water holes.

The second golf course as proposed will be located south of River Road. This proposal involves the removal (1,100 cubic yards) and filling (42,000 cubic yards) of approximately 8.6 acres of cranberry bog for the creation of golf course water holes and fairways. In addition, 10.42 acres of upland will be excavated to create more golf course waterholes.

The applicant also proposes to create about 5.2 acres of new cranberry bogs at the site.

2. Reasonable Alternatives.

a. No action.

b. Alternative project site.

c. Maintain first (existing) golf course with no mitigation of destroyed wetlands.

d. Maintain first (existing) golf course and provide for various levels of mitigation to compensate for wetlands destroyed.

e. Construct second (proposed) golf course with no mitigation of wetlands to be destroyed.

f. Construct second (proposed) golf course with various levels of mitigation to compensate for wetlands to be destroyed.

g. Various combinations of c, d, e, and f.

3. Scoping Process. a. Public Involvement. (1) Comments from public on Preliminary EIS scope of work contained in public notice issued on project.

(2) Comments at scoping meeting.

b. Significant Issues Requiring In-depth Analysis.

(1) Water Quality.

(2) Wetlands.

(3) Terrestrial Habitat.

(4) Fish and Wildlife.

(5) Hydrology.

(6) Historical and Archeological Resources.

(7) Socio-Economics.

(8) Air Quality.

(9) Noise.

(10) Traffic.

(11) Flooding.

(12) Cumulative Impacts.

(13) Alternatives.

(14) Mitigating Measures.

(15) Land-Use Planning.

c. Assignments. None proposed.

d. Environmental review and consultation. Meetings with concerned Federal, State and local governmental agencies as well as interested environmental groups.

4. Scoping Meeting will be held: Date: January 11, 1980. Time: 10 a.m. Location: Federal Building, 26 Federal Plaza—Room 2038, New York, N.Y. 10007.

5. Estimate date of statement availability: January 1981. Address: Project Manager, Mukund Parikh, Attn: NANOP-E, Tel. No. (212) 264-3913; EIS Coordinator: Mario Del Vicario, Attn: NANEN-E, Tel. No. (212) 264-4662; U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007.

Dated: December 17, 1979.

P. A. DeScenza,

Chief, Engineering Division.

[FR Doc. 79-39686 Filed 12-28-79; 8:45 am]

BILLING CODE 3710-06-M

Defense Nuclear Agency**Scientific Advisory Group on Effects (SAGE); Closed Meeting**

Name of committee: Scientific Advisory Group on Effects (SAGE). Dates: February 19-22, 1980.

Place: U.S. Naval Postgraduate School, Monterey, California.

Agenda: February 19 (0845-1700), February 20 (0830-1700), and February

21 (0830-1700): Presentations, Discussions and Executive Sessions on Satellite Vulnerability and Hardening to Nuclear Weapons Effects; February 22 (0830-1200) Discussions and Executive Sessions on Maritime Theater Nuclear Weapons Effects.

The presentations and discussions in the above cited agenda will focus on current and planned RDT&E programs sponsored by the Defense Nuclear Agency (DNA). Executive sessions will be held for the primary purpose of advising the Director, DNA as to the adequacy of ongoing and planned programs. All planned presentations, discussions, and executive sessions will include classified defense information; therefore, under the provisions of Sections 552b (c)(1) and (3), Title 5, U.S.C., this meeting is closed to the public.

For further information concerning the meeting contact LTC Roger C. Andrews, Attn: DDST, Headquarters, Defense Nuclear Agency, Washington, D.C. 20305.

H. E. Lofdahil,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

December 21, 1979.

[FR Doc. 79-39679 Filed 12-28-79; 8:45 am]

BILLING CODE 2510-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

I-75 & Warren Shell; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to I-75 & Warren Shell—Leonard Tyson, I-75 & Warren, Detroit, Michigan 48207. This Proposed Remedial Order charges Leonard Tyson with pricing violations in the amount of \$2,327.99, in sales of the motor gasoline during the time period August 1, 1979, through October 23, 1979, in the State of Michigan.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. On or before January 15, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 C.F.R. § 205.193.

Issued in Kansas City, Missouri, on the 18th day of December 1979.

William D. Miller,

District Manager, Central Enforcement District.

[FR Doc. 79-39667 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

Canyon Lake Marina, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Canyon Lake Marina, Inc., of New Braunfels, Texas. This Proposed Remedial Order charges Canyon Lake Marina, Inc. with pricing violations in the amount of \$825.96, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235—(214) 767-7745. On or before January 15, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 19th day of December, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration

[FR Doc. 79-39755 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01

Fred Wright dba Wright's Freeway Texaco; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Fred Wright dba Wright's Freeway Texaco, 701 Choctaw, Clinton, Oklahoma 73601. This Proposed Remedial Order charges Wright's Freeway Texaco with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with sales of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before January 15, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 1000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 C.F.R. Section 105.193.

Issued in Dallas, Texas on the 19th day of December, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-39756 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01

Harry Marrs, dba Expressway 66; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Harry Marrs, dba Expressway 66, 6000 N. Bryant, Oklahoma City, Oklahoma 73121. This Proposed Remedial Order charges Expressway 66 with pricing violations in the amount of \$1,081.08, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before January 15, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 19th day of December, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-39754 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

Hilliard Chevron Service Station; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed

Remedial Order which was issued to Hilliard Chevron Service Station, 511 E. Santa Fe, Grants, N.M. 87020. This Proposed Remedial Order charges Hilliard Chevron with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of \$791.46, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 105.193.

Issued in Dallas, Texas on the 19th day of December, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-39752 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

K. R. "Ken" Rearick, dba Clearview Gulf Service Center; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Clearview Gulf Service Center, 3120 Clearview Parkway, Metairie, La. 70002. This Proposed Remedial Order charges Clearview Gulf Service Center with pricing violations in the amount of \$9,330.41, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 105.193.

Issued in Dallas, Texas on the 19th day of December, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-39753 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01

Domestic Crude Oil Allocation Program; Entitlement Notice for October 1979

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: October 1979 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for October 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by December 31, 1979. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by January 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Douglas Melver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 61201, Washington, D.C. 20461, (202) 254-8660.

Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20565, (202) 252-6744.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy, administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for October 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, middle distillate imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); November 1979 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the

entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for October 1979 is calculated to be .219176.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of October 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .592634 of a barrel of deemed old oil.

The issuance of entitlements for the month October 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of October 1979 is hereby fixed at \$18.27, which is the exact differential as reported for the month of October between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

10 CFR 211.67(i)(4) was amended June 27, 1979, to eliminate the 21-cent entitlement penalty on imported and domestic exempt crude oils (44 FR 37940, June 29, 1979). The removal of the 21-cent penalty became effective beginning with August 1, 1979, crude runs to stills.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of October 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of October 1979 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of October 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the Appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute. Archer Daniels Midland Company and Refuse Energy Systems Company are the only applicants thus far to receive this designation, by order issued August 23, 1979 (Docket No. ERA-APS-78-2) and the final rule of November 12, 1979 (Docket No. ERA-R-79-28).

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the October 1977 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its October 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the Government made no purchases of imported crude oil.

For the month of October 1979, imports of residual fuel oil eligible for entitlement issuances totaled 24,599,865 barrels.

For the month of October 1979, imports of middle distillates eligible for entitlement issuances totaled 2,568,152 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the

weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California lower tier crude oil.....	3,351,350	21
California upper tier crude oil.....	5,157,788	25

The total number of entitlements required to be purchased and sold under this notice is 22,106,969.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for October 1979, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes ¹
Lower tier.....	58,168,640	\$8.65	12.0
Upper tier.....	91,938,489	14.09	18.9
Exempt domestic:			
Heavy oil.....	8,346,397	18.34	1.7
Alaskan.....	42,487,001	20.71	8.7
Stripper.....	51,640,888	28.25	10.8
Naval petroleum reserve.....	3,858,681	21.28	0.8
Tertiary.....	254,373	19.25	0.1
Newly discovered.....	6,179,330	32.78	1.3
Total domestic.....	262,723,789	16.98	54.1
Imported.....	223,000,729	25.05	45.9
Total reported crude oil receipts.....	485,724,518	20.69	
Total reported crude oil runs to stills.....	471,171,654		
Total uncontrolled (exempt domestic and imported).....	335,567,389	24.92	69.1

¹Volumes may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for October 1979 must be made by December 31, 1979.

On or prior to January 10, 1980, each firm which is required to purchase or sell entitlements for the month of October 1979 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of October. The monthly transaction report forms for the month October have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by December 31, 1979 are requested to contact the ERA at (202) 254-3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to December 31, 1979, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR

Part 205. Any such appeal shall be filed on or before January 30, 1980.

Issued in Washington, D.C., on December 26, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

BILLING CODE 6450-01-M

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENTS EXEMPTED	ENTITLEMENTS PRODUCT CALIFORNIA	ENTITLEMENTS TO BUY	ENTITLEMENTS TO SELL
CONSOLIDATED SALES	52,518	0	0	0	0	52,518
A-JOHNSON	1,266	74,162	0	0	0	75,428
ADM	0	8,222	0	0	0	8,222
ALLIED	61,719	63,195	0	0	0	1,476
AMEROPETROFINA	32,148	973,088	0	0	0	440,940
AMERADACHESSE	2,281,182	4,129,521	0	0	0	1,848,339
AMOCO	10,780,502	6,768,133	0	0	0	4,012,369
ANCHOR	103	26,369	0	0	0	26,472
APIX	0	35,885	0	0	0	35,885
ARCO	3,409,717	5,081,304	0	0	0	1,671,587
ARIZONA	84,032	31,514	0	0	0	52,518
ASAMERA	113,680	122,729	0	0	0	9,049
ASHLAND	1,374,994	2,370,284	0	0	0	995,290
BASIN	15,948	74,579	0	0	0	58,631
BAYOU	40,520	33,778	0	0	0	6,742
BEACON	107,302	86,172	0	0	0	21,130
BELCHER	0	168,043	0	0	0	168,043
BI-PETRO	15,438	25,513	0	0	0	10,075
BRUIN	176,406	104,614	0	0	0	71,792
C&H	0	177	0	0	0	177
CALCASIEU	114,664	95,875	0	0	0	18,789
CALUMET	14,759	18,925	0	0	0	1,334
CANAL	124,983	52,613	0	0	0	72,330
CARBONIT	91,876	44,840	0	0	0	26,736
CARIBOU	60,773	37,235	0	0	0	23,538
CASTLE	0	40,318	0	0	0	40,318
CHAMPLIN	2,144,990	986,644	0	0	0	1,158,346
CHARTER	390,729	471,947	0	0	0	81,218
CHARTER-BAYAMAS	0	394,352	0	0	0	394,352
CHEVRON	6,425,909	8,037,901	0	0	0	1,611,992
CIBRO	0	166,377	0	0	0	166,377
CITGO	1,855,567	1,684,071	0	0	0	171,496
CLAIBORNE	72,437	33,893	0	0	0	38,544
CLARK	451,473	447,868	0	0	0	196,395

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
DECEMBER 1979

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	***** F U T I L E M E N T P O S I T I O N *****			***** REQUIRED TO SELL
		TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT CALIFORNIA	
LAKEMead	0	9,657	9,657 2/	0	9,657
LAKESIDE	40,428	17,175	0	0	0
LAKETON	22,021	139,779	0	0	23,653
LITTLE-AMEP	1,492,190	520,271	0	0	0
LOUISIANA-LAND	703,611	293,454	0	0	971,919
MACHILLAN	93,295	109,661	0	0	410,155
MALLARD	27,520	27,304	0	0	16,366
MANATEE	298,939	298,939	0	0	0
MARATHON	4,704,254	3,121,109	0	0	0
MARION	-110,832	156,742	0	0	0
METROPOLITAN	0	131,999	0	0	0
MID-AMER	664	24,911	0	0	0
MORIL	5,424,711	5,149,876	0	0	0
MOBILE-BAY	2,371	122,877	0	0	274,833
MONAWY	271,876	207,604	0	0	0
MONOCO	0	9,669	0	0	64,264
MONSANTO	458,212	152,613	0	0	0
MORRISON	24,992	8,509	0	0	305,399
MOUNTAINEER	4,254	1,300	0	0	16,483
MT-AIPY	74,992	106,343	0	0	2,954
MURPHY	1,142,611	408,687	0	0	0
N-AMER-PETRO	104,556	170,250	0	0	353,928
NATL-CORP	143,985	74,640	0	0	0
NAVJUG	400,302	227,520	0	0	89,348
NEVADA	9,854	21,297	0	0	172,782
NEW-ENG-INGTON	216,949	190,205	0	0	0
NEW-ENG-POMER	0	58,224	0	0	29,291
NEWHALL	41,375	129,854	0	0	58,224
NORTHEAST-PETRO	0	31,652	0	0	0
NORTLAND	27,373	27,373	0	0	48,881
NORTHVILLE	0	36,196	0	0	31,652
OKC	159,440	156,260	0	0	36,196
OKLA-REF	-19,600	99,354	0	0	4,800
OXNARD	11,160	22,928	0	0	118,956
				3,399	11,746

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	***** F U T I L E M E N T P O S I T I O N *****			***** REQUIRED TO SELL
		TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT CALIFORNIA	
PEERLESS	0	4,810	0	0	4,810
PENNZOIL	515,582	306,434	0	0	0
PESTER	135,992	164,937	0	0	209,144
PETROCO-VALLEY	0	57,896	0	0	0
PHILLIPS	3,045,025	1,661,863	0	-665	1,423,162
PHILLIPS-PP	0	228,107	0	0	0
PIONEER	82,967	39,771	0	0	43,194
PLACIN	374,311	304,420	0	0	271,891
PLATEAU	223,215	151,065	0	0	72,150
PORT	1,458	8,883	0	0	0
POWERINE	115,583	222,323	0	0	0
PRIDE	170,704	70,884	0	0	99,818
QUAKER-ST	40,780	188,264	0	0	0
QUITMAN	0	57,570	0	0	0
RANCHO-REF	0	29,297	0	0	0
RESCO	0	37,897	0	0	37,897
RICHARDS	129	35	0	0	0
ROAD-OIL	0	10,147	0	0	10,147
ROCK-ISLAND	148,448	265,648	0	0	97,200
SABER-TEX	23,008	134,833	0	0	111,825
SABRE-CAL	180	55,205	0	0	55,025
SAGE-CREEK	4,209	1,234	0	0	0
SAN-JOQUIN	-127,153	79,604	0	-13,460	2,974
SCALLOP	0	254,405	0	0	0
SCHULZE	13,104	5,041	0	0	8,063
SEAVIEW	41,600	223,878	0	0	0
SECTOR	10,013	33,869	0	0	7,731
SEMINOLE	-16,594	98,319	0	0	0
SENTRY	9,694,358	176,957	74,292	0	83,306
SHELL	33,280	6,400,497	0	36,118	193,551
SHEPHERD	24,879	49,252	0	0	0
SIGNOR	4,416	144,350	0	0	14,972
SILVER-EAGLE	164,660	3,682	0	0	119,501
SLAPCO	0	90,066	0	0	0
				70,594	0

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	*****			E N T I T L E M E N T P U S I T I O N ENTITLEMENTS PRODUCT CALIFORNIA	REQUIRED TO BUY	***** REQUIRED TO SELL
		TOTAL ISSUED	EXCEPTIONS AND APPEALS				
SO-HAMPTON	53,809	59,051	0	0	0	0	5,242
SOMIO	1,360,008	3,089,163	0	0	0	0	1,729,115
SOMERSET	20,485	32,243	0	0	0	0	7,763
SOUND	0	63,651	0	0	0	0	63,651
SOUTHERN-UNION	173,375	190,026	0	0	0	0	17,551
SOUTHLAND	475,021	375,065	194,958	0	0	100,956	0
SOUTHWESTERN	11,840	4,918	0	0	0	6,922	0
SPRAGUE	0	25,025	0	0	0	0	25,025
SUNLAKE	32,047	90,530	0	0	0	0	58,483
SUNOCO	3,794,473	3,228,840	0	0	0	565,633	0
T&S	2,801	37,865	0	0	0	0	35,064
TENNECO	1,179,610	434,942	0	0	0	544,668	0
TESORO	232,036	438,240	0	0	0	0	0
TEXACO	6,590,199	6,457,115	58,929	21	230,605	0	206,204
TEXAS-AMERICA	15,052	59,154	0	0	0	0	66,916
TEXAS-ARPH	27,879	12,195	0	0	0	0	44,102
TEXAS-CITY	410,146	710,013	0	0	0	15,684	4
THAGARD	4,525	79,702	0	0	0	0	299,867
THRIFTWAY	46,015	39,231	0	0	0	0	71,177
THUNDERBIRD	43,632	82,116	0	0	0	6,784	0
TIPPERARY	52,441	30,700	0	0	0	1,716	0
TOKAWA	103,797	66,516	0	0	0	21,741	0
TOSCO	1,467,510	1,296,438	0	0	0	36,281	0
TOTAL-PETROLEUM	-109,769	577,314	0	0	0	171,072	0
UCC-CANTRE	0	191,821	0	0	0	0	687,103
UNI-REF	16,657	94,982	0	0	0	0	191,821
UNION-OIL	3,206,880	2,755,573	0	0	0	0	78,325
UNIT-REF	131,427	247,270	0	0	0	451,307	0
US-OIL	14,628	99,984	0	0	0	0	115,843
USA-PETROCHEM	92,202	173,650	0	0	0	0	85,356
VAL-VERDE	5,524	3,498	0	0	0	0	81,408
VICKERS	152,235	448,187	0	0	0	2,026	0
VICKSRUPG	3,225	40,968	0	0	0	0	295,952
WALLED	0	6,575	0	0	0	0	37,739
							6,575
TOTAL	111,273,184	111,273,184	1,872,943	3,226,223	593,284	22,106,969	22,106,969

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	*****			E N T I T L E M E N T P U S I T I O N ENTITLEMENTS PRODUCT CALIFORNIA	REQUIRED TO BUY	***** REQUIRED TO SELL
		TOTAL ISSUED	EXCEPTIONS AND APPEALS				
WARRIOR	32,715	53,195	27,016	0	0	0	20,480
WEST-COAST	14,460	52,511	0	0	0	0	36,051
WESTERN	115,571	57,137	0	0	0	59,434	0
WINSTON	79,067	101,114	0	0	0	0	27,047
WIREBACK	0	443	0	0	0	0	443
WITCO	27,643	145,884	0	0	0	0	118,241
WYATT	0	14,197	0	0	0	0	14,197
WYOMING	0	40,375	0	0	0	0	60,375
WYETER	0	272	0	0	0	0	272
YOUNG	48,932	67,888	40,797	0	0	0	8,996
TOTAL	111,273,184	111,273,184	1,872,943	3,226,223	593,284	22,106,969	22,106,969

1/ See discussion in Notice.

2/ Entitlements issued pursuant to the regulation issued May 24, 1979 (44 FR 31162, May 31, 1979) and amended August 31, 1979 (44 FR 52170, September 7, 1979) which provides entitlements benefits for imports of middle distillates for the months of May 1979 through October 1979.

3/ This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), remanded F.2d (No. 10-18 TECA, August 10, 1978).

4/ This does not include the purchase obligation stayed by court order in Texas Asphalt and Refinery Co. v. FEA, Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

5/ No entitlement purchase obligation is imposed on this company in the current list with respect to the start-up inventory, pursuant to a Temporary Restraining Order issued by the United States District Court for the Northern District of Texas, December 14, 1979.

Energy Information Administration**Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas; Correction**

Corrections: To December 20, 1979, publication (Vol. 44, No. 246).

1. On Page 75612, Column 1, Section I, Alternative Fuel Price Ceilings, the price for Arkansas should be '2.73 not '2.74.

2. On Page 75612, Column 3, Section III, Item C., Listing of States by Region, in Region A, Vermont should be added and in Region C, Virginia should be added.

Issued in Washington, D.C. on December 21, 1979.

Al Linden,

Deputy Administrator, Energy Information Administration.

[FR Doc. 79-39709 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research**High Energy Physics Advisory Panel; Notice of Open Meeting**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is given of the following advisory committee meeting:

Name: High Energy Physics Advisory Panel.

DATE AND TIME: Monday, January 21, 1980—9:00 a.m.—6:00 p.m., Tuesday, January 22, 1980—9:00 a.m.—4:00 p.m.

Place: Orange Room, Central Laboratory, Stanford Linear Accelerator Center (SLAC), Stanford, California.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue, SW., Washington, D.C. 20385, Telephone: 202-252-5187.

Purpose of committee: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda: Review of the activities and program of SLAC.

Discussions of the FY 1980 and FY 1981 DOE and National Science Foundation budgets for High Energy Physics.

Discussions of the future U.S./European cooperative and collaborative efforts in High Energy Physics.

Consideration of long-range plans, FY 1982 and beyond, for the U.S. High Energy Physics program.

Status reports on the superconducting magnets for the Fermilab Energy Saver and the Brookhaven ISABELLE construction projects.

The Long Range Accelerator R&D Subpanel

The Cornell University CESR and CLEO facilities

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on December 21, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-39759 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

High Energy Physics Advisory Panel, Subpanel on Accelerator R. & D.; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is given of the following advisory committee meeting:

Name: Subpanel on Accelerator R. & D. of the High Energy Physics Advisory Panel.

Date and time: Thursday, January 17, 1980—9:00 a.m.—6:45 p.m. and from 7:45 p.m.—9:00 p.m. Friday, January 18, 1980—9:00 a.m.—5:00 p.m.

Place: Orange Room, Central Laboratory, Stanford Linear Accelerator Center (SLAC), Stanford, California.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue SW., Washington, D.C. 20565, Telephone: 202-252-5187.

Purpose of committee: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda: The status of accelerator R. & D. at SLAC, including discussions of superconducting radio frequency accelerating structures and the single-pass collider concept.

The status of accelerator R. & D. at Lawrence Berkeley Laboratory

A review of accelerator R. & D. in the USSR. A tutorial presentation on laser acceleration of charged particle beams.

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 21, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-39757 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-131]

Alabama Power Co.; Notice of Filing

December 20, 1979.

The filing Company submits the following:

Take notice that Alabama Power Company on December 13, 1979, tendered for filing an Agreement with Pea River Electric Cooperative, Inc., intended as a rate schedule. This agreement provides for a capacity decrease at Pea River Electric Cooperative's Ozark delivery point. This agreement provides for a capacity of 2500 KVA at 13,200 volts. This contract was executed to only reflect a reduction in the transformer capacity. It is not the intent of this agreement to extend the terms of the existing contract for this delivery point. Service will continue to be provided under Rate Schedule REA-1 and the applicable revisions thereto.

Copies of the filing were served upon Pea River Electric Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39771 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-127]

Cliffs Electric Service Co.; Notice of Proposed Tariff Change

December 20, 1979.

The filing Company submits the following:

Take notice that Cliffs Electric Service Company (Service Company), on December 10, 1979, tendered for filing a proposed change in its Rate Schedule FERC No. 6. The proposed change would extend Part II (Short Term Power) of the contract between Service Company and the City of Marquette Board of Light and Power from October 27, 1979, to February 1, 1980. Service would be under the same terms and conditions provided in the contract.

The extension of the "Short Term Power" provision in the contract is necessary to allow Marquette additional time to install bag filters at its coal-fired generating units.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39780 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. RP78-18, et al.]

El Paso Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

December 20, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 3, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
July 26, 1979.....	El Paso Natural Gas Co.....	RP78-18	Statement
October 20, 1979.....	Algonquin Gas Transmission Co.....	RP76-15	Plan.
November 26, 1979 and December 3, 1979.....	Distingas of Massachusetts Corp.....	CP70-196	Report.
October 12, 1979.....	Montana-Dakota Utilities Co.....	RP74-97	Report.

[FR Doc. 79-39782 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-21]

Gulf States Utilities Co.; Notice of Application

December 20, 1979.

Take notice that on December 7, 1979, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204(a) of the Federal Power Act authorizing the issuance of up to \$100,000,000 principal amount of First Mortgage Bonds and up to 500,000 shares of New Preferred Stock, via competitive bidding.

Applicant is incorporated under the laws of Texas with its principal business office in Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural Gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39777 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP76-3]

The Inland Gas Co., Inc.; Notice of Motion for Extension of Interim Curtailment Procedures

December 20, 1979.

Take notice that on December 7, 1979, The Inland Gas Company, Inc. (Movant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. RP76-3 a motion for extension of interim curtailment procedures to authorize Movant to implement curtailments of deliveries of natural gas through 1980 in accordance with the curtailment plan presently set forth in its FERC Gas Tariff, First Revised Volume No. 1, all as more fully set forth in the motion on file with the Commission and open to public inspection.

Movant states that its interim curtailment plan as set forth in its July 31, 1975, tariff filing and as subsequently modified has been permitted to be continued in effect through 1979 and requests authorization to continue said plan in effect through 1980. The currently effective plan is said to encompass precisely the same allocation procedures that have been

used since December 16, 1974, with the unanimous support of its eight large industrial customers, i.e., those customers with maximum daily contract quantities in excess of 300 Mcf of gas that do not qualify for protection from curtailment as essential agricultural users under Part 281 of the Commission Rules (18 CFR, Part 281). The plan is said to operate by allocating Movant's gas supply deficiencies on a proportional basis among these customers.

The motion states that Movant has determined an estimate of the total gas supplies it will have available in 1980 and the deficiencies in deliveries to the eight large industrial customers. These customers are said to support conditionally the continuation of the plan during 1980. The current plan is said to provide full protection to residential consumers, commercial consumers, small industrial customers, and essential agricultural users.

Any person desiring to be heard or to make any protest with reference to said motion should on or before January 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39775 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC80-42]

Mid Louisiana Gas Co.; Notice of Tariff Filing

December 20, 1979.

Take notice that on November 30, 1979, Mid Louisiana Gas Company (Mid Louisiana), Twenty first floor, Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130 in Docket No. TC80-42 tendered for filing pursuant to Order No. 55 and Section 261.302 *et seq.*, of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) the following sheets of its FERC Gas Tariff, First Revised Volume No. 1: Third Revised Sheet No. 23f Third Revised Sheet No. 23g

Second Revised Sheet No. 23h

The sheets are proposed to become effective January 1, 1980.

Mid Louisiana states that the filing is being made in accordance with the FERC's Alternative Fuel Determination adopted by Order No. 55 issued October 26, 1979, in Docket No. RM79-40 prescribing which fuels the Commission has determined to be economically practicable and available as a substitute for the essential agricultural use of natural gas during the 1979-1980 winter heating season and how certain essential agricultural users of natural gas must remove from their priority 2 entitlements those volumes of gas for which there is an alternative fuel. Order No. 55 implemented the provisions of Section 401(b) of the NGPA. Mid Louisiana further states that the tariff sheets amend the request for Priority 2 (Essential Agricultural Use) of one customer, Crown Zellerbach Corporation, which has an alternative fuel capability. Additionally, Mid Louisiana states that it has been notified by all other essential agricultural users which have capacity in excess of 300 Mcf of natural gas per day that they have no alternative fuel capabilities.

Any person desiring to be heard or to protest said tariff filings should on or before January 7, 1980, file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39781 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-132]

Minnesota Power & Light Co.; Notice of Filing

December 20, 1979.

The filing Company submits the following:

Take notice that on December 13, 1979, Minnesota Power & Light Company (MP&L) tendered for filing a firm power Electric Service Agreement dated March 26, 1979 between MP&L and the City of

Pierz, Minnesota. This agreement will supersede and replace the Electric Service Agreement dated February 11, 1970, FERC Rate Schedule No. 98, the term of which will expire February 9, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39772 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-133]

Minnesota Power & Light Co.; Notice of Filing

December 20, 1979.

The filing Company submits the following:

Take notice that on December 13, 1979, Minnesota Power & Light Company (MP&L) tendered for filing a firm power Electric Service Agreement dated March 26, 1979 between MP&L and the City of Randall, Minnesota. This agreement will supersede and replace the Electric Service Agreement dated February 25, 1970, FERC Rate Schedule No. 99, the term of which will expire April 4, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39779 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES80-22]

Missouri Power & Light Co.; Notice of Application

December 20, 1979.

Take notice that on December 10, 1979, Missouri Power & Light Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of short-term, unsecured promissory notes in an aggregate amount of \$12,000,000, with final maturities not later than December 31, 1981.

The proceeds will be used to finance in part Applicant's construction program to December 31, 1981. The construction program of Applicant, as now scheduled, calls for plant expenditures of approximately \$34,052,000 for 1979, 1980 and 1981.

Any person desiring to be heard or to make any protest with reference to the application should on or before December 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants

parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39776 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. G-7642, et al.]

Mobil Oil Corporation, et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

December 21, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C-7642, D. July 10, 1979	Mobil Oil Corp., Nine Greenway Plaza—Suite 2700, Houston Tex. 77046.	Northern Natural Gas Co., SE/4 of Sec. 24-T34S- R40W, Morton County, Kansas (Littell No. 1 Well) and S/2, Sec. 27-34S-36W, Stevens County, Kansas (Morford No. 2).	Release of gas for irrigation fuel.	
C177-365, C. Oct. 15, 1979	General American Oil Co., of Texas, Meadows Building, Dallas, Tex. 75206.	Transcontinental Gas Pipe Line Corp., Blocks Nos. 243 and 244, South Marsh Island, North Addition, Gulf of Mexico.	(¹)	15.025'
C178-50, Sept. 25, 1979	Continental Oil Co., P.O. Box 2197, Houston, Tex. 7701.	El Paso Natural Gas Co., San Juan Area, San Juan County, N. Mex.	(²)	15.025
C178-924, Sept. 23, 1978	ARCO Oil and Gas Co., a Division of Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Northwest Pipeline Corp., Ignacio-Blanco Field, La Plata County, Colo.	(²)	15.025

¹ Applicant is filing under Gas Purchase Contract dated December 2, 1976, amended by emendment dated October 4, 1979.

² Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

Filing Code: A—Initial Services. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39785 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EL80-2]

Montaup Electric Co.; Notice of Application To Include Construction Work in Rate Base

December 21, 1979.

The filing company submits the following:

Take notice that on December 13, 1979 Montaup Electric Company ("Montaup") filed a petition to include a portion of construction work in progress ("CWIP") in rate base in its wholesale rates to meet a severe financial difficulty arising from the cash requirements of its construction program. Those rates govern service (1) to its retail distribution affiliates within the Eastern Utilities Associates ("EUA") system, Eastern Edison Company ("Eastern Edison") and Blackstone Valley Electric Company ("Blackstone") and (2) to four non-affiliated customers, the Pascoag Fire District, Newport Electric Corporation, and the Tiverton Division of the Narragansett Electric Company, all in Rhode Island, and the Town of Middleborough in Massachusetts. EUA is a registered holding company under the Public Utility Holding Company Act of 1935 and owns all of the common stock of Eastern Edison and Blackstone. Eastern Edison in turn owns all of Montaup's permanent securities.

Montaup states that in order to meet its capacity needs after 1982 it has or will acquire ownership interests in four 1150 megawatt nuclear generating units: (1) a five percent interest in each of the two Seabrook units scheduled to go into service in 1983 and 1985, (2) a 4.02% interest in the Millstone No. 3 unit scheduled for service in 1986, and (3) a 2.15% interest in the Pilgrim No. 2 unit scheduled for service in 1987. According to Montaup, its cash requirements for construction will amount to \$154 million over the period 1980-1984, more than its present capitalization of \$150 million, and CWIP will be over half of its net investment in plant including CWIP in every year 1980-1985. Montaup states that with no CWIP in rate base its internal generation of cash will be insufficient to enable it to finance its construction program to completion of the second Seabrook unit.

Montaup requests permission to include CWIP in rate base until the second Seabrook unit is completed and included in Montaup's rate base as plant in service. Montaup asks the Commission to order an expedited proceeding on its application and to establish a procedural schedule that will permit a final order on rehearing to be issued by January 1, 1981.

Montaup states that it has served a copy of its petition on its wholesale customers, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before *January 30, 1980*, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Montaup Electric Company are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39763 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-125]

Natural Gas Pipeline Co. of America; Notice of Application

December 21, 1979.

Take notice that on December 6, 1979, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-125 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport natural gas for other interstate pipeline companies for terms of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington,

D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39764 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[RM79-2]

Natural Gas Policy Act of 1978; Notice of Receipt of Application for Approval of Alternative Filing Requirements From U.S. Geological Survey and the State of Colorado Oil and Gas Conservation Commission

Issued December 21, 1979:

Take notice that on November 21, 1979, the United States Geological Survey (USGS) and the State of Colorado Oil and Gas Conservation Commission (Colorado) filed with the Commission applications for approval of alternative filing requirements pursuant to 18 C.F.R. § 274.207.

The alternative filing requirements sought by USGS and Colorado would enable operators to make applications for additional wells in Fruitland-Pictured Cliffs, Mesaverde, and Dakota-

Morrison proration units without repeated submittals of geological and engineering data already on file with the Federal Energy Regulatory Commission pursuant to the State of Colorado's Order No. 112-46, as ratified by the USGS Oil and Gas Supervisor for the Southern Rocky Mountain Area. Order No. 112-46 permits the drilling of an additional well on existing 320-acre proration units, and three additional wells on existing 640-acre proration units in the Ignatio Blanco Field, La Plata and Archuleta Counties, Colorado.

Colorado additionally submitted an application for approval of alternative filing requirements for additional wells drilled pursuant to Colorado's Oil and Gas Conservation Commission's Order No. 232-20. This order provides for optional drilling of an additional well in the undrilled quarter section of each 320-acre drilling and spacing unit for production of gas from the "J" Sand underlying certain lands in the Wattenberg Gas Spaced Area as described in the orders.

The alternative filing requirements submitted by USGS and Colorado would replace the requirements of § 274.204(f), of the Commission's Rules and Regulations, 18 C.F.R. § 274.204(f).

In its application, the USGS has requested that the Commission shorten the usual comment period of thirty days provided by § 274.207(c). In support of its request USGS states that several operators have proposed wells awaiting the Commission's approval in the matter.

Accordingly, any interested person may file written comments regarding these applications with this Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426, on or before January 7, 1980. All comments filed by that date will be considered prior to the Commission's action on the application.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39765 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CF80-131]

Northern Natural Gas Co.; Notice of Application

December 21, 1979.

Take notice that on December 10, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-131 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a

certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport natural gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39766 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-135]

Otter Tail Power Co.; Notice of Filing

December 20, 1979.

Take notice that on December 17, 1979, Otter Tail Power Company (Otter Tail) tendered for filing Amendment No. 1 Integrated Transmission Agreement between Cooperative Power Association and Otter Tail, dated September 6, 1979. Otter Tail states that this Integrated Transmission Agreement between Cooperative Power Association and Otter Tail dated August 25, 1967, was originally filed October 10, 1967.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39773 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-134]

Panhandle Eastern Pipe Line Co.; Notice of Application

December 21, 1979.

Take notice that on December 12, 1979, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-134 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission to public inspection.

Applicant requests blanket authorization to transport natural gas for other interstate pipeline for terms of up to two years. It states that it would comply with Section 284.221(d) of the

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Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20436, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to a participate as a party in any hearing therein must file a petitioner to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

PECo states that this filing has been sent to the Regulatory Commissions of Pennsylvania, New Jersey, Maryland, Delaware, Virginia and the District of Columbia for their information.

Any person desiring to be heard or to protest said application should a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39787 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-134]

Philadelphia Electric Co.; Filing
December 20, 1979.

The filing Company submits the following:

Take notice that on December 14, 1979, Philadelphia Electric Company (PECo), on behalf of the signatories to the Extra High Voltage Transmission System Agreement (EHV Agreement) filed new Schedules 14.01 and 15.01 supplementing the EHV Agreement which is on file with the Commission, to become effective on February 15, 1980. PECo states that the parties to this Agreement are:

Atlantic City Electric Company.
Baltimore Gas and Electric Company.
Delmarva Power & Light Company.
Jersey Central Power & Light Company.
Metropolitan Edison Company.
Pennsylvania Electric Company.
Pennsylvania Power & Light Company.
Philadelphia Electric Company.
Potomac Electric Power Company.
Public Service Electric and Gas Company.
UGI Corporation.

PECo states that all of the parties to the EHV Agreement have approved the new schedules and the filing by PECo.

PECo states that the new schedules set forth methods and procedures for determining use, use entitlements, and charges for use of the EHV Transmission System for uses other than those specified in Section 3.1 of the EHV Agreement, by either signatories or non-signatories; and for allocating payments among the signatories. There is no provision for any change in the monthly rate for excess of investment responsibility as previously filed.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39774 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Dockets Nos. ER79-478 and ER79-479]

Public Service Co. of New Mexico;
Order Granting Rehearing in Part and
Denying Rehearing in Part

Issued: December 18, 1979.

Public Service Company of New Mexico (PNM) filed a motion for

reconsideration or clarification of the Commission's August 28, 1979 order in the above-captioned dockets. Additionally, a petition for rehearing was filed by the Cities of Gallup and Farmington, New Mexico.¹ On October 25, 1979, the Commission granted rehearing for the limited purpose of further consideration.

PNM maintains that the Commission's rejection of its tendered CWIP rates was improper. PNM states that if the Commission grants the company CWIP financial relief through 1982, as requested in prior dockets,² the company should not have to refile for CWIP in the future. Refiling, PNM asserts, would delay the financial relief that the company purportedly needs. PNM requests that the presently tendered CWIP rates remain on file until the Commission acts on the prior request for CWIP in rate base through 1982.

We find no need for rehearing concerning the rejection of PNM's rates. If the Commission grants PNM CWIP in rate base through 1982, or through some earlier date, the company, thereafter, could file modified rates based on full-CWIP through 1982, or such earlier date, without a *de novo* showing of financial distress. The rejection of PNM's rates at this stage, however, without a final Commission decision in the prior dockets or a *de novo* showing of financial need, is proper and will not cause any undue delay in the company's ability to obtain financial relief if such relief is warranted.

PNM also requests reconsideration of the Commission's summary disposition of the Accumulated Deferred Investment Tax Credit (ADITC) issue. The company argues that the balance of ADITC should earn a return at the rate approved for common equity rather than the overall rate of return as the Commission ordered in its suspension order. Additionally, PNM contends that even assuming the Commission assigned the correct rate to ADITC, the Commission erroneously eliminated the balance of deferred credits from the company's capitalization, effectively inflating its tax deduction related to long-term debt interest and improperly reducing its cost of service.³

¹ Filed September 27, 1979.

² This request for CWIP relief is currently pending in Docket Nos. ER78-337 and ER78-338.

³ If ADITC is removed from common equity and eliminated from the company's capital structure, the proportionate composition of PNM's capital structure would change. The percentage of common equity would decrease while the ratios of long-term debt and preferred stock would increase. The

Footnotes continued on next page

The company has presented no new facts or legal arguments that would cause us to reconsider assigning an overall rate of return to ADITC.⁴ The company's argument concerning the consequences of excluding ADITC from the capitalization, however, warrants further discussion. The issue raised involves the effect of eliminating ADITC from capitalization on the company's allowable taxes. PNM has chosen the second tax option contained in Section 46(f) of the Internal Revenue Code, namely, the ratable flow-through option contained in Section 46(f)(2). Under this alternative, a ratable portion of the outstanding ADITC may be reflected as a reduction to a utility's cost of service, but the credits may not be used to reduce the company's rate base. Under this second option, the Commission recognizes two ways of treating amounts of ADITC for purposes of constructing a suitable capital structure: (1) proportionate distribution of ADITC throughout the capital structure, or (2) elimination of ADITC from the capital structure. The portion of rate base financed by ADITC would earn the overall rate of return under either alternative.⁵

It is true, as PNM contends, that excluding ADITC from capitalization will increase its weighted cost of long-term debt. Assuming that weighted debt cost is used to derive a synchronized interest expense for computing the tax component of cost of service, the

elimination of ADITC from capitalization would produce a greater interest deduction, a lower imputed tax expense, and a reduced cost of service as compared to retaining ADITC in capitalization. Under the tax alternative chosen by PNM, the company's cost of service may be reduced annually provided the reduction is not more rapid than ratable.⁶ The question, here, is whether the Commission's treatment of ADITC balances, through an effect on interest expense, reduces PNM's cost of service by an amount greater than the ratable reduction.

We believe our exclusion of ADITC from capitalization does not improperly reduce cost of service. The company erroneously compares its tax expense and cost of service with ADITC removed from capitalization to its cost of service with ADITC in capitalization. A more appropriate comparison is one between the company's cost of service with ADITC out of the capital structure, on one hand, and on the other hand, what PNM's cost of service would have been if the investment tax credit were unavailable. The exclusion of ADITC from capitalization, coupled with a tax expense synchronized to weighted long-term debt cost, results in the same interest deduction that the company would have realized if none of its rate base had been financed by the tax credit. This means that, apart from the ratable reduction sanctioned by the tax laws, PNM's tax allowance will be neither lower nor higher than it would have been in the absence of the credit. The company's *pro forma* tax allowance will not be artificially reduced; it will simply match the appropriate capital structure relied upon in the rate of return, calculations.⁷ From this perspective, the Commission's treatment of ADITC does not constitute use of ADITC to reduce PNM's cost of service beyond the amount permitted by Section 46(f)(2).⁸

Our ruling in this case is consistent with our disposition of the same issue in prior opinions. In Opinion No. 54, *Alabama Power Company*,⁹ the Commission rejected Alabama's

⁴ The IRS Regulations mention a reduction of tax expense as an example of a cost of service reduction. 25 CFR 1.46-6(b)(2)(ii).

⁵ Of course, we only tentatively characterize the capital structure absent ADITC as the "appropriate" capital structure. It is conceivable that other unrelated adjustments to the capital structure will be advocated during the hearing, in which case further modifications might be warranted.

⁶ The Company's inclusion of ADITC in capitalization would reduce cost of service by an amount that is less than the reduction permitted by Section 46(f)(2) of the Code. This result would give ratepayers less than their fair share of benefits from the tax credit.

⁷ *Carolina Power & Light Company*, Opinion No. 19, issued August 2, 1978, p. 10.

⁸ Docket No. E-8351, issued August 1, 1978.

contention that if the typical interest synchronization formula is used for cost of service, the Commission should add ADITC to the capital structure in order to arrive at an appropriate weighted debt cost.¹⁰ Our decision in *Carolina Power & Light Company*,¹¹ implicitly reached the same conclusion. In Opinion No. 19 the Commission sanctioned two specific ways of treating ADITC balances,¹² and it implicitly rejected other approaches; both alternatives specified in Opinion No. 19 have the same effect of setting the company's interest deduction at the same level that it would be without the investment tax credit. Our ruling in this docket confirms those prior decisions on the ADITC issue.

Gallup and Farmington request rehearing with regard to the Commission's decision that PNM is not required to meet the *Mobile-Sierra* burden of proof. The cities also request that PNM be required to pay all costs of refiling rates reflecting the required treatment of ADITC.

Gallup and Farmington have not shown any reason why we should reconsider the company's burden of proof with respect to its Section 206 filing in these dockets. We agree that the company should bear the costs of refiling its cost of service to reflect changes in ADITC treatment because the company tendered these instant rate increases after the Commission had summarily eliminated ADITC from common equity in several proceedings. PNM thus had notice of the Commission's policy toward the ADITC issue.

The Commission orders:

(1) PNM's application for rehearing and motion for reconsideration are hereby denied.

(2) The petition for rehearing filed by Gallup and Farmington is hereby granted to the extent that PNM shall bear costs of refiling in accordance with our summary disposition of the CWIP and ADITC issues.

(3) Except as provided in paragraph (2) above, the petition for rehearing filed by Gallup and Farmington is hereby denied.

¹⁰ Alabama urged that together with synchronization failure to include ADITC in capitalization would attribute interest to interest free ADITC, artificially increasing interest expense.

The Commission concluded: In our opinion the Judge's determination of interest is proper and should not be modified because of ADITC. The staff and Judge have not included ADITC either in the capital structure or in the rate base, nor has it used ADITC to reduce the rate base as it would for other deferred taxes. Minico pp. 8-9.

¹¹ See note 5, *supra*.

¹² See discussion, p. 3, *supra*.

(4) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39770 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP80-42]

Sea Robin Pipeline Co.; Notice of Third-Party Protests¹

Issued: December 21, 1979.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B², and "Order on Rehearing of Order No. 23-B,"³ the Staff of the Commission protested on October 26, 1979, the assertion by the Sea Robin Pipeline Company (Sea Robin) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect certain applicable maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts identified Appendix A of this Notice does not constitute authority for the producers to increase prices to the extent claimed by Sea Robin in its evidentiary submission.

Take further notice that Gulf States Utilities (Gulf States) also filed a third-party protest on November 13, 1979. Gulf States contends that the contracts identified in Appendix B of this notice do not constitute the contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price.

Take further notice that the associated Gas Distributors (AGD) also filed a third-party protest on October 24, 1979. AGD contends that the contracts identified in Appendix C of this notice do not constitute contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price. The AGD protest has been adopted and incorporated into protests filed by the Gas Consumers Group, the Kansas State Corporation Commission, the Arizona Corporation Commission, and the Cities of Magnum, Oklahoma, and Winfield, Kansas.

¹The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

²"Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

³Docket No. RM79-22, issued August 6, 1979.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before January 4, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,
Secretary.

Appendix A

Producer	Rate schedule No., or contract date
Amoco Production Co.	746
Sonata Exploration Co.	5-15-77
Texaco Inc.	435
Pennzoil Louisiana & Texas Offshore	4
Pennzoil Louisiana & Texas Offshore	6
Pennzoil Oil & Gas Inc.	7-2-76
Pennzoil Oil & Gas Inc.	6-15-77
Gulf Oil Co.	430
Amoco Production Co.	667
Offshore Co.	1
Pennzoil Producing Co.	271
Southern Natural Gas Co.	8-26-68
Pennzoil Oil & Gas Inc.	26
Pennzoil Oil & Gas Inc.	27
Pennzoil Oil & Gas Inc.	7-7-77
Pennzoil Oil & Gas Inc.	7-7-77
Amoco Production Co.	735
Alminex USA Inc.	522
Canadian Superior Oil, U.S., Ltd.	6-19-78
General Crude Oil Co.	12-15-78
Sabine Production Co.	2-5-79
Superior Oil Co.	203

Appendix B

Producer	Rate schedule No.	Contract date
Sonata Exploration Co.	2	5-15-77
Sonata Exploration Co.	2	7-25-77
Southland Royalty Co.	38	6-29-77
Samedan Oil Co.	CS	7-25-77
Newport Oil Co.	CS	7-25-77
Amoco Production Co.	746	8-3-77
Amoco Production Co.	746	8-3-77
Pogo Producing Co.	3	4-20-72
Pogo Producing Co. (Pennzoil Gas & Oil, Inc.)	1	4-20-72
Southern Natural Gas Co.	F-12	4-26-62
Offshore Co.	2	4-26-62
Amoco Production Co.	674	7-7-72
Pennzoil Producing Co.	287	7-26-72
Amoco Production Co.	533	8-21-68
Amoco Production Co.	533	8-21-68
Texaco Inc.	570	7-21-71
Amoco Production Co.	472	4-25-72
Amoco Production Co.	533	8-21-68
Amoco Production Co.	533	8-21-68
Amoco Production Co.	570	7-21-71
Pogo Producing Co. (Pennzoil Oil & Gas Co.)	12	8-17-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	11	6-17-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	9	7-16-76
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	8	7-17-76
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	NA	7-2-76
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	13	7-2-76
Pennzoil Louisiana & Texas Offshore	4	1-7-77
Pennzoil Louisiana & Texas Offshore	4	1-7-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	19	8-15-77
Pennzoil Louisiana & Texas Offshore	6	8-15-77

Appendix B—Continued

Producer	Rate schedule No.	Contract date
Pennzoil Louisiana & Texas Offshore	6	6-15-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	20	6-15-77
Pennzoil Louisiana & Texas Offshore	5	6-15-77
Exxon Corp.	601	9-6-77
Exxon Corp.	508	1-29-71
Exxon Corp.	507	12-27-71
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	NA	7-7-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	22	7-7-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	NA	7-7-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	23	7-7-77
Pennzoil Oil & Gas, Inc.	26	7-7-77
Pennzoil Oil & Gas, Inc.	27	7-7-77
Pennzoil Louisiana & Texas Offshore, Inc. 8	8	7-7-77
Pennzoil Louisiana & Texas Offshore, Inc. 8	8	7-7-77
Pennzoil Louisiana & Texas Offshore, Inc. 9	9	7-7-77
Pennzoil Louisiana & Texas Offshore, Inc. 9	9	7-7-77
Pennzoil Louisiana & Texas Offshore, Inc. 12	12	7-7-77
Pennzoil Louisiana & Texas Offshore, Inc. 13	13	7-7-77
ECCE, Inc.	2	3-1-77
Pinto Inc.	4	3-1-77
TBP Offshore Co.	4	3-11-77
Cities Service Co.	444	3-11-77
Pogo Producing Co. (Pennzoil Oil & Gas Inc.)	2	4-20-72
Mesa Offshore Co.	CS	2-1-72
Mesa Offshore Co.	CS	2-1-72
Mesa Offshore Co.	CS	2-1-72
Mobil Oil Corp.	509	9-20-76
Mobil Oil Corp.	522	7-28-77
Gulf Oil Corp.	522	7-28-77
Gulf Oil Corp.	430	8-19-71
Southern Natural Gas Co.	F-9	8-26-68
Southern Natural Gas Co.	F-9	8-26-68
Pennzoil Producing Co.	271	8-26-68
Pennzoil Producing Co.	271	8-26-68
Dixilyn Corp.	CS	8-26-68
Offshore Co.	1	8-26-68
Offshore Co.	1	8-26-68
Amoco Production Co.	667	10-24-68
Amoco Production Co.	667	10-24-68
Crystal Exploration & Production Co.	CS	10-15-68
Occidental Petroleum Corp.	CS	11-10-69
Superior Oil Co.	203	5-19-78
Superior Oil Co.	203	5-19-78
Southland Royalty Co.	33	7-18-78
Samedan Oil Corp.	CS	9-22-78
Alminex USA, Inc.	7	6-19-78
Alminex USA, Inc.	7	6-19-78
Canadian Superior Oil U.S. Ltd.	NA	6-19-78
Sabine Production Co.	CS	2-5-79
General American Oil Co. of Texas	Contract	409
Canadian Superior Oil U.S. Ltd.	NA	6-19-78
Amoco Production Co.	735	7-28-77
Amoco Production Co.	735	7-28-77
Shell Oil Co.	377	6-16-69
General Crude Oil Co.	NA	12-15-78
General Crude Oil Co.	NA	12-15-78
C & K Petroleum	CS	3-1-78
Pinto Inc.	3	6-7-77
Southern Natural Gas Co.	F-17	10-1-75
Mesa Offshore Co.	CS	2-1-72

Appendix C

Producer	Rate schedule No. and contract date
Alminex U.S.A. Inc.	7/6-19-78
Aminol U.S.A. et al.	154/1-14-69
Amoco Production Co.	533/8-21-68
Amoco Production Co.	667/10-24-68
Amoco Production Co.	570/7-21-71
Amoco Production Co.	674/7-7-72
Amoco Production Co.	735/7-28-77
Amoco Production Co.	746/8-3-77

Appendix C—Continued

Producer	Rate schedule No. and contract date
C & K Petroleum Inc.	CS/3-1-78
Canadian Superior Oil U.S. Ltd.	NA/6-19-78
Chevron U.S.A. Inc.	51/7-1-69
Cities Service Co.	444/3-11-77
Crystal Exploration & Prod. Co.	CS/10-15-68
Dixilyn Corp.	1/8-26-68
Dixilyn Corp.	CS/11-4-68
Dixilyn Corp.	9/10-17-69
ECCE Inc.	2/3-1-77
Exxon Corp.	508/1-29-71
Exxon Corp.	507/2-1-72
Exxon Corp.	501/9-6-77
General American Oil Co. of Texas	409 (No date given)
General Crude Oil Co.	NA/12-15-78
Gulf Oil Corp.	430/8-19-71
Louisiana Land & Exploration Co.	4/10-23-69
Mesa Offshore Co. (bik. 228)	CS/2-1-72
Mesa Offshore Co. (biks. 270 & 30)	CS/2-1-72
Mobil Oil Corp.	509/9-20-76
Mobil Oil Corp.	522/1-28-77
Newport	CS/7-25-77
Occidental Petroleum Corp.	CS/11-10-69
Offshore Co.	1/8-26-68
Offshore Co.	28/7-2-72
Pennzoil La. & Texas Offshore	4/1-7-77
Pennzoil La. & Texas Offshore	6/6-15-77
Pennzoil La. & Texas Offshore	5/6-15-77
Pennzoil La. & Texas Offshore	12/7-7-77
Pennzoil La. & Texas Offshore	13/7-7-77
Pennzoil La. & Texas Offshore	8/7-7-77
Pennzoil Oil & Gas Inc.	26/7-7-77
Pennzoil Oil & Gas Inc.	27/7-7-77
Pennzoil Producing Co.	27/18-26-68
Pennzoil Producing Co.	28/77-26-72
Pinto Inc.	4/3-1-77
Pinto Inc.	3 (No date given)
POGO Producing Co.	3/4-20-72
POGO Producing Co.	2/4-20-72
POGO Producing Co.	1/4-20-72
POGO Producing Co.	9/7-16-78
POGO Producing Co.	8/7-16-78
POGO Producing Co.	12/5-17-77
POGO Producing Co.	11/6-17-77
POGO Producing Co.	13/2-7-76
POGO Producing Co.	19/6-15-77
POGO Producing Co.	20/6-15-77
POGO Producing Co. et al.	NA/7-7-77
POGO Producing Co. et al.	NA/7-7-77
Sabine Production Co.	CS/9-9-76
Samedan Oil Corp.	CS/7-25-77
Samedan Oil Corp.	CS/9-22-78
Shell Oil Co.	377/7-16-69
Sid Richardson Carb. & G. Co.	20/11-12-68
Sonata Exploration Co.	2/5-15-77
Southern Natural Gas Co.	F-9/9-26-68
Southern Natural Gas Co.	F-12/4-27-72
Southern Natural Gas Co.	F-17/10-1-78
Southland Royalty Co.	38/6-20-77
Southland Royalty Co.	93/7-10-78
Superior Oil Co.	203/5-19-78
TBP Offshore Company	—/3-29-77
Texaco Inc.	435/8-23-68
Texaco Inc.	448/10-3-69
Texaco Inc.	472/4-25-72

[FR Doc. 79-39794 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. E-8570]

Southern California Edison Co.; Notice of Compliance Filing

December 20, 1979.

Take notice that Southern California Edison Company on October 12, 1979, pursuant to Commission Opinion No. 55, issued August 1, 1979, filed a revised cost of service. Edison Company indicates that the total resale rate of return at the filed rates would increase from 7.58% to 7.73%.

Any person desiring to be heard or to protest said filing should file protest

with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before January 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39778 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL60-7]

Southeastern Power Administration v. Kentucky Utilities Co.; Notice of Application

December 21, 1979.

The Southeastern Power Administration (SEPA) on December 11, 1979, tendered for filing an application for an order under subsection (a) of Section 211 of the Federal Power Act directing Kentucky Utilities Company (KU) to provide certain transmission services pursuant to Sections 211 and 212 of the Federal Power Act to SEPA on reasonable terms and conditions.

SEPA indicates that it desires that KU be ordered to wheel the limited quantity of SEPA power which is available for sale to the municipalities of Barbourville, Bardonia, Benham, Corbin, Falmouth, Frankfort, Nicholasville and Paris, Kentucky.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39789 Filed 12-28-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-100]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Notice of Application

December 21, 1979.

Take notice that on November 21, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-100 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to render a transportation service for Transco pursuant to an agreement with Transco dated October 29, 1979, to assist Transco in receiving gas into its system which Transco would purchase from Sulpetro Limited of Calgary, Province of Alberta, Canada. It is said that Transco would cause volumes of gas to be delivered to Applicant at a point on the United States-Canada boundary near Niagara Falls, Ontario, where Applicant's pipeline system interconnects with the facilities of TransCanada Pipelines Limited.

Applicant states it would accept up to 37,500 Mcf per day and transport and deliver such quantities, less volumes retained for Applicant's fuel use requirement, for the account Transco (1) at an existing interconnection between the systems of Applicant and Consolidated Gas Supply Corporation (Consolidated) in Erie County, New York, (2) at an interconnection between the systems of Applicant and Transco in Bergen County, New Jersey, and (3) at other existing interconnections between the systems of Applicant and Consolidated and Applicant and Transco, as mutually agreed to.

It is stated that for this transportation service, Transco would pay Applicant the aggregate of a monthly charge and charge of 14.0 cents per Mcf times the transportation quantity and a volume charge of 11.43 cents per Mcf for gas delivered to the Bergen County point of delivery and 1.77 cents per Mcf for gas delivered to all other points. It is further stated that Applicant would retain 3.65 percent of the volumes delivered to Bergen County and 1.2 percent of the volumes delivered to the other points for fuel uses.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1980, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39722 Filed 12-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-109]

Transcontinental Gas Pipe Line Corp.; Notice of Application

December 21, 1979.

Take notice that on November 29, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-109 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing: (1) the construction and operation of facilities to take into its certificated system supplies of natural gas for the account of United Gas Pipe Line Company (United), and (2) the transportation of natural gas on an interruptible basis for United, all as more fully set forth in the application

on file with the Commission and open to public inspection.

Applicant states that United would acquire up to 1,400 dekatherms (dt) equivalent of natural gas per day from various wells in Hardin County, Texas, and would arrange to have said gas delivered to Applicant at mile post 407.71 on Applicant's 30-inch main line in Hardin County, Texas, where facilities of United and Applicant would interconnect. It is said that in order to receive said gas, Applicant would construct and operate a tap, valve, metering and regulating station and other appurtenances. United, it is said, would reimburse or cause Applicant to be reimbursed for the installed cost of said facilities, which is estimated to be \$24,500.

Applicant states further that it would redeliver thermally equivalent quantities, less quantities retained for compressor fuel and line loss make-up, to United at existing points of interconnection between Applicant and United in Calcasieu Parish, Louisiana, (Starks), Victoria County, Texas (Victoria), or any other mutually agreeable interconnection between the systems of Applicant and United. It is asserted that for said transportation service, Applicant initially would receive 3.5 cents per dt equivalent of gas transported. It is further stated that in addition, Applicant would initially retain 0.6 percent of the quantities received for transportation to Starks for compressor fuel and line loss make-up. No retention of gas would be required for deliveries to Victoria. Applicant states that the subject transportation service would remain in effect for a primary term of one year and from year-to-year thereafter pursuant to the transportation agreement dated July 23, 1979, between Applicant and United.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39791 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-133]

Trunkline Gas Co.; Notice of Application

December 21, 1979.

Take notice that on December 12, 1979, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-133 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport natural gas for other interstate pipeline companies for terms of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39788 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-136]

Vermont Electric Power Co., Inc.; Rate Schedule Filing

December 21, 1979.

The filing Company submits the following:

Take notice that on December 17, 1979, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a Rate Schedule containing a Unit Contract between VELCO and the Municipal Light Commission of the City of Taunton (TAUNTON) of Taunton, Massachusetts, dated as of February 9, 1979.

VELCO states that the service to be rendered under this Rate Schedule consists of the sale of capacity and related energy from the Vermont Yankee Unit for the monthly amounts and periods as follows:

	Mar. 1 to 31, 1980	Apr. 1 to Oct. 31, 1980	May 1 to Oct. 31, 1981
KW	2,000	8,000	8,000
KWH	1,100,000	4,400,000	4,400,000
Charges	\$22,000	\$88,000	\$88,000

Charges for this power will be at VELCO's costs. Therefore, there will be no change in the overall rate of return of VELCO.

VELCO states that service under this Rate Schedule will commence on March 1, 1980, and will terminate on October 31, 1981.

Copies of the filing were served upon the Municipal Light Commission of the City of Taunton and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 14, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-39790 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following retransfer:

RTD/EU(SW)-49, transfer from Sweden to West Germany, 2,427.884 kilograms Uranium, containing 34.813 kilograms U-235 (1.434%) for scrap recovery at Nukem, Hanau, to be used for feed for enrichment in Department of Energy facilities.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of

this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than January 15, 1980.

For the Department of Energy.
Dated: December 21, 1979.

James P. Morris,
Acting Director for Nuclear Affairs,
International Nuclear and Technical
Programs.

[FR Doc. 79-39750 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following retransfer:

RTD/SW(EU)-107 transfer from West Germany to Sweden of fuel rods containing 3,542 grams Uranium, with 102.6 grams of U-235 (2.90%) for irradiation in the R-2 research reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than January 15, 1980.

For the Department of Energy.
Dated: December 21, 1979.

James P. Morris,
Acting Director for Nuclear Affairs,
International Nuclear and Technical
Programs.

[FR Doc. 79-39740 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of August 20 through August 24, 1979

Notice is hereby given that during the week of August 20 through August 24, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the

Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Happy Valley Exxon, Lochgelly, W. Va., DEA-0483, motor gasoline

Happy Valley Exxon filed an Appeal from an Assignment Order which was issued to the firm by DOE Region III. In its Appeal, Happy Valley maintained that the volume of motor gasoline which was assigned to the firm was based upon errors of fact and law. In considering the Appeal, the DOE found that the Assignment Order was factually correct and that the Order had been issued in conformance with guidelines which the ERA had promulgated with respect to such matters. Accordingly, the Appeal was denied.

National Distillers and Chemical Corp., Washington, D.C., DFA-0556, Freedom of Information

National Distillers & Chemical Corporation filed an Appeal from a partial denial by the Assistant Administrator for Enforcement of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Assistant Administrator acted correctly in withholding an intra-agency memorandum under Exemption 5 of the FOIA. The DOE also determined that the document does not contain segregable and releasable factual material and that the public interest does not favor its release. Accordingly, the Appeal was denied.

National Helium Corp., Washington, D.C., DFA-0503, Freedom of Information

National Helium Corporation filed an Appeal from a partial denial by the Director of Freedom of Information and Privacy Acts Activities of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director had acted correctly in withholding under Exemption 5 certain of the documents which were initially requested. The DOE also determined that none of these documents contain segregable, factual material which should be released and that the public interest does not favor release of the documents. Accordingly, the Appeal was denied.

Requests for Exception

Glickman, Inc., McPherson County, Kans., DEE-2211, crude oil

Glickman, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart D, in which the firm sought permission to sell the crude oil produced from the Brock Lease, located in McPherson County, Kansas, at upper tier ceiling prices. In considering the request, the DOE found that exception relief was necessary to provide the applicant with an economic incentive to continue production at the Brock Lease.

Beatrice Smolen, Los Angeles, Calif., DEE-7548, temperature restriction

Beatrice Smolen filed an Application for Exception from the provisions of 10 CFR, Part 490 in which she sought permission for her employer to lower its office temperature to 70°F. In considering the request, the DOE found that exception relief was necessary to stabilize Mrs. Smolen's medical condition. Accordingly, exception relief was granted.

United Refining Co., Warren, Pa., DEL-0267; DES-0267 motor gasoline

United Refining Company filed an Application for Exception from the provisions of 10 CFR 212.63(c)(1)(B) in which the firm sought to market Gasohol as a separate category and grade of gasoline for purposes of passing through the cost of alcohol components of that gasoline. In considering the request, the DOE found that exception relief was necessary to provide the firm with an economic incentive to market Gasohol. Accordingly, exception relief was granted.

Requests for Stay

Harvey J. Bean, Erie, Pa., DRS-0274; DRS-0301 motor gasoline

Harvey J. Bean filed Applications for Stay from the requirement that he reduce his retail selling prices for motor gasoline pursuant to two Interim Remedial Orders for Immediate Compliance issued by the Northeast District of the Office of Enforcement of the ERA. In considering the Applications, the DOE determined that in view of a recent change in the regulation, Bean would be unable to charge a substantial portion of his maximum lawful selling prices if he were required to comply with the provisions of the IROICs. Bean's stay requests were therefore granted.

Exxon Co., U.S.A., Houston, Tex., DRS-0570, crude oil

Exxon Company, U.S.A. filed an Application for Stay from an Ancillary Order which was issued to the firm by the Southwest Enforcement District of the ERA. In the order, the Southwest District directed Exxon to withhold a portion of the production and sales revenues from the G. Maberry property and to remit this amount to the ERA. In considering the Application, the DOE determined that the granting of a Stay pending consideration of an ancillary order is analogous to a remedial order, and that Exxon's Appeal would be consistent with DOE precedent regarding remedial orders. Exxon's stay request was therefore granted.

Interim Orders

G. W. Tinnin, Petro-Wash, Inc.; National Association of Texaco Wholesalers, Inc., Atlanta, Ga., DEN-0004, motor gasoline

G. W. Tinnin, Petro-Wash, Inc., and the National Association of Texaco Wholesalers, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR, Part 211, in which the firms sought an increased allocation of motor gasoline for themselves and for two classes of wholesale purchaser-resellers. In considering the request, the DOE found that the firms had failed to satisfy the criteria for temporary exception relief set forth in 10 CFR 205.125(b). Accordingly, temporary exception relief was denied.

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Location, and Case No.

Sierra Army Depot Post Restaurant, Herlong, CA—DEN-4363
Glenn Dobbs Oil Co., Collinsville, OK—DEN-4211
White Oil Distributors, Dallas, TX—DEN-3653
Checker Cab Company, Las Vegas, NV—DEN-2847

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location, and Case No.

State of New Jersey (N.J. Highway Authority), New Jersey—DEE-7485, DXE-7169
Callotex Delaware, Inc., Middletown, DE—DEE-5222

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. Since there were no objections filed, the DOE issued a Decision and Order which finalized the Proposed Decision and Order issued in each case:

Company Name and Case No.

AIA Exxon—DEE-2428
Airport Exxon—DEE-2939
Alamo Expressway Service Station—DEE-2750
B & O Shell Service—DEE-2553
Bassett's 66 Service—DEE-4510
Bill's Amoco—DEE-3685
Bingo Exxon—DEE-2726
Bird Road Exxon Service Center—DEE-3289
Boggs Exxon—DEE-3105
Brentwood Exxon—DEE-2363
Bud Wolfe's Arco Mini Market—DEE-3397
C & B Exxon—DEE-4520
Caldwells Service—DEE-3291
Castro Valley Enterprises—DEE-3049
Chapman, Kenneth—DEE-3805
Cheatham Oil Company—DEE-5597
Circle S Service—DEE-2531
Colonial Shell Service, Inc.—DEE-3259
Colony West Gulf—DEE-4579
Coronado Corp.—DEE-2943
Corvo's Service Station—DEE-2750
Crest Int'l Petroleum Corp.—DEE-2450
Dauphin & Sage Shell—DEE-2543
Deacon Corner Service Station—DEE-2278
Degrood Bulk Oil—DEE-2827
Du-Cor Service Station—DEE-2828
Dupont Arco—DEE-5357
Ellett, Charles F.—DEE-4181
Farel Little Oil Company, Inc.—DEE-2627
Food, Inc.—DEE-3094
Gallian Tire Company—DEE-2430
George Adamian Texaco—DEE-6521
Givan's Exxon—DEE-3116

Glover Oil Company—DEE-2534
Gottlier Corporation—DEE-2269
Hampton Park Exxon—DEE-2732
Holiday Foods, Inc.—DEE-3752
Hondo Oil Company, Inc.—DEE-2762
Hull Oil Company—DEE-4200
J & B Automotive—DEE-3783
John & Sharon Volk's Arco—DEE-3760
Johnson's Arco Mini Market—DEE-3939
Keahey's Friendly Service—DEE-3209
Kenwood Citgo Station—DEE-2582
Kimmick Oil Company—DEE-2634
Manchester Shell—DEE-3541
Marblehead Services, Inc.—DEE-2471
Marina Carwash—DEE-3476
Mason Valley Petroleum Dealers—DEE-5144
Matthews Exxon—DEE-2456
McDaniels Grocery & Meat Market—DEE-5933
Olsen, Melvin—DEE-3227
Peck's Arco Mini Market—DEE-5911
Pensacola Petroleum Company—DEE-3030
Petco Oil Company, Inc.—DEE-4042
Pine Grove Exxon—DEE-5051
Port Oil Company, Inc.—DEE-2807
Priebe Bros. Oil Company—DEE-2266
Rapid Service Oil—DEE-2373
Reeves, Ray W.—DEE-3550
Rex Oil Company—DEE-2418
River Oil Company—DEE-2348
Rocket Oil Company—DEE-5056
S & S Petroleum Sales—DEE-3335
Sav-Mor Oil Company—DEE-3170
Sea Shell Car Wash—DEE-2823
Skip's Mobil—DEE-2510
Steve's Gulf Service—DEE-2574
Strother, R. C.—DEE-2301
Terry's Mobil—DEE-2900
Tom's Village Arco—DEE-3181
Tucson Fuel Company, Inc.—DEE-2557
Visch's Chevron Service—DEE-2813
W. Broward Phillips "66" Service—DEE-2991
Walters North Bellmore—DEE-3344
Woody's Truck Stop—DEE-3623
Yosemite Gas & Oil—DEE-3345
Zarda Brothers Dairy, Inc.—DEE-5747

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

B. J. E. Car Wash—DEE-4196; DES-4196
Desbiens Automotive Towing—DEE-2402; DES-2402
Holiday Oil Company—DEE-4119
Old Fort Exxon—DEE-4571
Marathon Oil Company—DST-0508 through DST-0516
Blakely's Automotive—DEE-5247
Brook Plaza Exxon—DEE-6305; DES-6305; DST-6305
Carl's Service—DEE-5244
Charlie's Amoco—DEE-6500
E-Z Shop, Inc.—DEE-4599
Jim's Pine St. Mobil—DEE-4917
John C. Resetar—DEE-7766
Mex Oil Company—DEE-6335
Patrick J. Nugent—DEE-5147
Arie's Arco—DEE-6804
Atlantic Richfield—DEE-0320
Richard Cox Arco—DEE-7173
Rose's Oil Service—DEE-7293
Scott's Mini-Market—DEE-7480; DES-7480
T. C. Williams Oil—DEE-3055
Talbot Perkins Children's Services—DEE-7753

Cooper Ltd.—DEE-6672
Domenico Natale—DEE-5630
Ernest J. Short & Son—DEE-3093
L. A. Legg & Co.—DEE-7618
Marathon Oil Company—DES-0471; DST-0471; DES-0473; DST-0473; DES-0474 through DES-0477; DST-0474 through DST-0477; DES-0478; DST-0478; DES-0479; DST-0479; DES-0481; DST-0481; DES-0482; DST-0492
A & M Pet. Co.—DEE-3032; DST-3032
Abraham Oil Company—DEE-6574
C. J. Holt—DEE-6213
Carson Mini Market—DEE-4649; DES-4649
Clark's Exxon—DEE-6520
Draper Fuel Co., Inc.—DEE-7710
Earl E. Wall—DXE-2095
Energy Decisions, Inc.—DEE-6714; DES-6714
Howie's Oil, Inc.—DEE-2767
J. R. Sousa & Sons—DEE-0502
Kobeissi Automotive—DEE-7477
Maxwell Enterprises—DEE-6246
Pioneer Companies—DEE-4973
Cedar Bluff Gulf—DEE-6634
Charles F. Argon & Co.—DEE-5749
Cincinnati Yellow Cab—DEE-6861
Dodge City Public Library—DEE-7891
Donald P. Landry—DEE-5545
State of Connecticut—DEE-6918
West Virginia Dept. of Culture and History—DEE-7648
Nault Tire & Battery Shop—DEE-5659
Ridgewood Shell—DEE-6670

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
December 18, 1979.

[FR Doc. 79-39747 Filed 12-28-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1381-6]

Comments on Environmental Impact Statements

AGENCY: Environmental Protection Agency (EPA), Office of Environmental Review (A-104).

ACTION: Public Notice of EPA comments on environmental impact statements.

SUMMARY: Pursuant to section 309(b) of the Clean Air Act, when EPA determines a Federal agency action is unsatisfactory from the standpoint of health, welfare, or environmental quality, such determination should be published and the action referred to the

Council on Environmental Quality (CEQ). The purpose of this notice is to inform the public of EPA's section 309(b) determination on the Federal Highway Administration (FHWA) project relating to the final design of the Connecticut portions of I-84 between Hartford, Connecticut and Providence, Rhode Island.

FOR FURTHER INFORMATION CONTACT: William Hedeman, Office of Environmental Review (A-104), EPA, 401 M Street, S.W., Washington, D.C. 20460; telephone 202/755-0777; or William Adams, Regional Administrator, Region I, EPA, JFK Federal Building, Boston, Massachusetts; telephone 617/223-7210.

INFORMATION: EPA reviewed the final environmental impact statements (EISs) prepared by FHWA to proceed with final design of the Connecticut portions of I-84 between Hartford and Providence and determined that the Connecticut portions of I-84 would result in traffic and development with environmentally unsatisfactory degradation and risk to the Scituate Reservoir, which is the major supply of drinking water for Rhode Island. EPA also found that the FHWA's segmental approach to past and current environmental assessment has precluded adequate analysis of the impacts which a project in Connecticut can have in Rhode Island. Furthermore, EPA found that this road is likely to spur development in eastern Connecticut and that the final EIS did not adequately consider the impacts of such development.

EPA notified the Department of Transportation that, because this proposal is environmentally unsatisfactory, the matter will be referred to CEQ pursuant to section 309(b). EPA requested that no action be taken to implement his decision until CEQ acts on this referral. EPA also requested that the approval of two of the three EIS's on I-84 be revoked. (EPA did not object to the I-86/I-84 connector in East Hartford). EPA asked for an overview EIS analyzing alternative corridors in Connecticut which would facilitate development of a Rhode Island corridor which would avoid the watershed. Finally, EPA recommended that this analysis be conducted in light of the President's August 2, 1979 memorandum to the Secretary of Transportation. That memo directed the Secretary to reorient DOT's program and projects to promote energy conservation, to discourage urban sprawl, to rehabilitate existing transportation facilities to strengthen the urban cores, and to mitigate the

adverse impacts of transportation projects on the environment.

Dated: December 26, 1979.

William N. Hedeman, Jr.,
Director, Office of Environmental Review.

[FR Doc. 79-39721 Filed 12-28-79; 8:45 am]

BILLING CODE 6550-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 79-330, File No. BPH-10911, et al.]

Broadcast Management, Inc., et al.

In re Applications of Broadcast Management, Incorporated, Durango, Colorado. Req: 100.3 MHz, Channel No. 267, 100 kW (H&V), 290 feet (H&V) (BC Docket No. 79-330, File No. BPH-10911); M.M.G. Broadcasting Corporation, Durango, Colorado. Req: 101.3 MHz, Channel No. 267, 100 kW (H&V), 446 feet (H&V) (BC Docket No. 79-331, File No. BPH-11104); Mountain States Broadcasting Investments Corporation, Durango, Colorado. Req: 101.3 MHz, Channel No. 287, 100 kW (H&V), 439 feet (H&V) (BC Docket No. 79-332, File No. BPH-11121); Hosanna Christian Broadcasting, Inc., Durango, Colorado. Req: 100.3 MHz, Channel No. 267, 100 kW (H&V), 289.5 feet (H&V) (BC Docket No. 79-333, File No. BPH-780831AE); For Construction Permit; Hearing Designation order designating applications for consolidated hearing on stated issues.

Adopted: December 14, 1979.

Released: December 20, 1979.

By the Chief, Broadcast Bureau:

1. The Commission by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above mutually exclusive applications for a new FM broadcast station at Durango, Colorado.

2. Hosanna Christian Broadcasting, Inc. relies upon pledges of real property to meet construction and operating expenses. It has not, however, documented the fair market value of this property, making the property unacceptable as a source of funding. An appropriate financial issue will therefore be specified. An issue will also be specified to permit inquiry into the applicant's failure to meet the local notice requirements of § 73.3580 of our Rules.

3. Broadcast Management, Incorporated proposes to duplicate some of the programming of its commonly owned station, KDOG-AM. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted is limited to evidence concerning the benefits to be derived from the proposed duplication which would offset

its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 2d 114 (1967).¹

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. The petition for leave to amend filed on August 13, 1979, by Mountain States Broadcasting Investments Corporation was submitted pursuant to § 1.65 of our Rules and will be granted. As for the amendment itself, which reports the sale by Mountain States' parent corporation of other broadcast interests, while it was filed shortly after the "amendment as of right" deadline had passed,² the information which it contains was also reported by letter on the deadline date. Under these circumstances—i.e. the approval and consummation of a transfer being reported on the amendment date in a specific if not formal manner—we think it appropriate to permit consideration of the formal amendment in the comparative analysis of the proposals. Compare *Henderson Radio, Inc.*, BC-17764, released May 25, 1979 (Ownership change first reported seven months after amendment deadline not considered in comparative analysis).

6. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, as the proposals are mutually exclusive they must be designated for hearing.

7. Accordingly, IT IS ORDERED, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of Hosanna Christian Broadcasting, Inc., the source and availability of funds to meet construction and operating expenses.

2. To determine whether Hosanna Christian Broadcasting, Inc. complied with the Commission's public notice requirements and, if not, the effect thereof on the applicant's basic and/or comparative qualifications.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

¹Should Hosanna Christian Broadcasting, Inc. desire a specialized programming inquiry, it may submit to the presiding Administrative Law Judge a showing that its proposed format—religious programming—is not available in the market in a substantial amount. *George E. Cameron, Jr.*, *Communication (KROQ)*, 71 FCC 2d 460, 45 RR 2d 699 (1979).

²See *Revised Procedures for the Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 45 RR 2d 1220 (1979).

4. To determine in light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

8. It is further ordered, That the petition for leave to amend filed by Mountain States Broadcasting Investments Corporation is granted, and the related amendment is accepted.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-39795 Filed 12-28-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

National Advisory Council on Drug Abuse and Mental Health Small Grant Review Committee; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of January 1980.

National Advisory Council on Drug Abuse, January 24-25, 9:00 a.m., Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open—January 24, 9:00 a.m.—5:00 p.m.,

January 25, 1:00 p.m.—5:00 p.m.

Closed—January 25, 9:00 a.m.—12:00 noon.

CONTACT: Pamela Jo Thurber, Room 10-05, Parklawn Building, 5600 Fisher Lane, Rockville, Maryland 20857 (301)443/6480.

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health

Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, training, demonstration, prevention, and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes recommendations on grant applications.

Agenda: On January 24, from 9:00 A.M. to 5:00 P.M. and January 25, from 1:00 P.M. to 5:00 P.M. the session will be open to the public for discussion of program developments and policy issues.

On January 25, from 9:00 A.M. to 12:00 noon, the Council will conduct a final review of grant applications for Federal Assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

On January 24, from 2:00 P.M. to 5:00 P.M., the Council will hear statements from interested organizations in the drug abuse field. Persons interested in appearing should contact the Executive Secretary to be scheduled. The oral presentation shall be no longer than 10 minutes, although written statements may be submitted in supplement.

Mental Health Small Grant Review Committee, January 31-February 2, 1:00 p.m., Rooms E 439 and E 630, The Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008.

Open: January 31, 1:00-2:00 p.m.

Closed: Otherwise.

CONTACT: LaVerl P. Klein, Room 10-C14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301)443-4337.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychology, sociology, anthropology, psychiatry, and the biological sciences, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1:00-2:00 p.m. on January 30, 1980, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by

the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons above. The NIDA Information Officer who will furnish upon request summaries of the meeting and rosters of the Council members is Ms. Mary-Carol Kelley, Program Information Officer for Drug Abuse, NIDA, Room 10A-56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301)443-6245. The NIMH Committee Management Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-4333.

Dated: December 20, 1979.

Elizabeth A. Connolly,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-39681 Filed 12-28-79; 8:45 am]

BILLING CODE 4110-88-M

Rape Prevention and Control Advisory Committee; Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92-463 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the rechartering by the Secretary of Health, Education, and Welfare on December 10, 1979, of the Rape Prevention and Control Advisory Committee. The authority for this Committee is continuing and a charter will be filed not later than May 7, 1981, in accordance with section 14(b)(2) of said Act.

Dated: December 17, 1979.

Gerald L. Klerman,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-39682 Filed 12-28-79; 8:45 am]

BILLING CODE 4110-82-M

Center For Disease Control

Ethics Advisory Board; Meeting

Notice is hereby given that the Ethics Advisory Board will hold a meeting on February 1-2, 1980, in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. Meetings will begin at 9 a.m. on both Friday and Saturday and

be open to the public subject to limitations of available space.

The agenda for the meeting will include a discussion of procedural matters and further consideration of the request for limited exemption from the Freedom of Information Act by the Center for Disease Control.

Requests for information should be directed to Ms. Amanda F. MacKenzie, Westwood Building, Room 123, 5333 Westbard Avenue, Bethesda, Maryland, 20016, telephone 301-496-7776.

Dated: December 17, 1979.

Barbara Mishkin,
Staff Director
Ethics Advisory Board.

[FR Doc. 79-39697 Filed 12-28-79; 8:15 am]

BILLING CODE 4110-08-M

Office of the Secretary

National Advisory Committee on the White House Conference on Families; Meeting

The National Advisory Committee on the White House Conference on Families was established to advise the Secretary, the Chair of the Conference, and the Conference staff on matters pertaining to the Conference, including the development, implementation and execution of overall plans and procedures for the Conference.

In accordance with Pub. L. 92-463, notice is hereby given of a meeting to be held Wednesday, January 23, 1980, at 7:30 p.m.; Thursday, January 24, at 9:00 a.m.; and Friday, January 25, at 8:30 a.m. The session on Wednesday evening will be held in the Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. at a room location to be posted by the hotel. Other sessions will be held in Room 800 of the Hubert H. Humphrey Building at 200 Independence Avenue, S.W., Washington, D.C.

The agenda on Wednesday evening, January 23, will include opening reflections and a review of the hearings and testimony presented. It is anticipated that this session will be concluded by 9:30 p.m.

On Thursday, January 24, and Friday, January 25, the agenda will include: a review of state activities; discussion of format and agenda for the White House Conferences; criteria and process for selection of at-large delegates and other Conference participants; review of the process for selection and refinement of issues to be addressed by the Conference; designation of members of the National Advisory Committee to serve on Issue Work Groups; and sessions of such groups.

All sessions will be open to the public; however, seating capacity will be limited.

Further information on the meeting may be obtained from the White House Conference on Families at 330 Independence Avenue, S.W., Washington, D.C. 20201; telephone number: 202-245-6073.

Dated: December 21, 1979.
John L. Carr,
Executive Director.
[FR Doc. 79-30699 Filed 12-29-79; 8:45 am]
BILLING CODE 4110-12-M

White House Conference on Families; National Hearings

The White House Conference on Families was called by President Carter to "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

The Conference is guided by a 41-person National Advisory Committee, which has adopted an innovative conference process to take the White House Conference on Families to the people. This process includes hearings, state activities, national organization activities, and issue work groups which will lead up to three White House Conferences across the country in the summer of 1980.

The purpose of the hearings is to give families an opportunity to discuss their concerns, ideas, successes and problems relating to contemporary family life. The hearings will help to identify key issues and concerns for the White House Conference on Families. Testimony should identify the most pressing concerns facing American families today and into the 1990's, together with any recommended policies, programs, and strategies for meeting these concerns. Information from the hearings will be available to all the states and will be used as background material for delegates to the National Conferences.

The seventh of the national hearings will be held in Michigan:

January 11—Seattle, Washington: A. A. Lemieux Library, Seattle University, Main Entrance, 12 and Columbia
January 12—Yakima, Washington: Southeast Yakima Community Center, 1211 South 7th

The hearings are open to the public. Members of the National Advisory Committee on the White House Conference on Families will serve as the hearing panel and are hoping to hear testimony from family members themselves, as well as from representatives of organizations and agencies that are concerned about families, members of the academic

community, leaders in the religious community, public officials, employers and program administrators.

Requests to testify must be received by the White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201, no later than January 4, 1980, for the Seattle and Yakima, Washington hearings. It is anticipated that more requests to testify will be received than time will permit. Advance registration is, therefore, strongly encouraged to accommodate as many people as possible. Persons wishing to testify should submit a written request which includes the following information: name; home address; telephone numbers at both home and office; whether or not testimony is on behalf of an agency or organization and, if so, the name of the group and individuals' position title; topic of proposed testimony; preferences of location and day or evening testimony and whether an English translator or other special arrangements will be needed.

Time limits will be strictly enforced on all persons giving testimony. Whenever feasible, participants will be grouped together when dealing with similar topics. Members of the National Advisory Committee will be given an opportunity to question individuals and group members after their presentations.

Each hearing will also have a limited time set aside for individuals who have not signed up in advance. Individuals not wishing to testify at the hearings are welcome to attend.

Written testimony is also strongly encouraged and will be included as part of the record of the hearing. It should be typed and not exceed 1,000 words.

FOR FURTHER INFORMATION CONTACT:
David Miller (206) 412-0186, HEW Regional Office, Seattle, Washington
or
White House Conference on Families, 330 Independence Avenue SW., Washington, D.C. 20201, (202) 472-4395

John L. Carr,
Executive Director, White House Conference on Families.

[FR Doc. 79-30698 Filed 12-28-79; 8:15 am]
BILLING CODE 4110-12-M

Monthly Adequate Actuarial Rates and Monthly Premium Rates

AGENCY: Office of the Secretary (OS), HEW.

ACTION: Notice.

SUMMARY: This notice announces the monthly adequate actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI)

program for the twelve months beginning July, 1980. It also promulgates the monthly SMI premium rate to be paid by all enrollees during the twelve months beginning July 1980.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Guy King, Director, Division of Medicare Cost Estimates, 3-0-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone: (301) 594-2826.

SUPPLEMENTARY INFORMATION: Each December, the Secretary of Health, Education, and Welfare is required by law to release two notices relating to the Medicare Supplementary Medical Insurance (SMI) program.

One notice announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI per aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI per disabled enrollee (under age 65) during the 12 months beginning the following July. These amounts are called "monthly adequate actuarial rates."

The second notice promulgates the monthly SMI premium rate to be paid by aged and disabled enrollees for the 12 months beginning the following July. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) The premium rate must be the lesser of the adequate actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly Title II social security benefits (effective the preceding June). The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

The notices of these announcements for the period July 1, 1980, through June 30, 1981, are as follows:

Notice of Monthly Adequate Actuarial Rates

As required by sections 1839(c)(1) and (4) of the Social Security Act (42 U.S.C. 1395r(c)(1) and (4)), as amended, I have determined that the monthly adequate actuarial rates applicable for the 12-month period beginning July 1, 1980, are \$16.30 for enrollees age 65 and over, and \$25.50 for disabled enrollees under age 65. The accompanying statement gives the actuarial assumptions and bases from which these rates are derived.

Notice of Monthly Premium Rate

As required by section 1839(c)(3) of the Social Security Act (42 U.S.C. 1395r(c)(3)), as amended, I have determined that the basic premium amount will be \$9.60 monthly during the period beginning July 1, 1980, and ending June 30, 1981.

Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Adequate Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning July 1980

1. *Actuarial Status of the Supplementary Medical Insurance Trust Fund.*—The law requires that the Supplementary Medical Insurance (SMI) program be financed on an incurred basis. That is, program income during the 12-month period for which the adequate actuarial rates are effective must be sufficient to pay for services rendered during that period (including associated administrative costs) even though payment for some of these services will not be made until after the close of the period. The portion of income required to cover benefits not paid until after the close of the 12-month period is added to the trust fund until needed. Thus, the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the adequate rates are established prospectively, they are subject to projection error. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level which is adequate to cover the impact of a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of June 30 for each of the years 1978-80.

Table 1.—Actuarial Status of the SMI Trust Fund Years Ending June 30 of 1978-80

(in millions)			
Year ending June 30	Assets	Liabilities	Assets less liabilities
1978.....	\$3,834	\$2,299	\$1,535
1979.....	4,883	2,592	2,291
1980.....	4,877	2,989	1,888

2. Monthly Adequate Actuarial Rate for Enrollees Age 65 and Older

The monthly adequate actuarial rate is one-half the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for the following: interest earnings on assets in the trust fund;

contingency margin; and amortization of unfunded liabilities.

The monthly adequate actuarial rate for enrollees age 65 and older for the year ending June 30, 1981, was determined by projecting per enrollee cost for the 12-month period ending June 30, 1978, by type of service. The projected costs for the years ending June 30 of 1978-1981 are shown in Table 2. The values for the 12-month period ending June 30, 1978, were established from program data. Subsequent years were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 3.

Table 2.—Derivation of Promulgated Monthly Rate for Enrollees Age 65 and Over, Years Ending June 30 of 1978-81

	1978	1979	1980	1981
Covered services (at level recognized):				
Physicians' reasonable charges.....	\$11.33	\$12.57	\$13.97	\$15.90
Radiology and pathology.....	.61	.72	.83	.96
Outpatient hospital and other institutions.....	1.99	2.39	2.75	3.16
Home health agencies.....	.33	.35	.40	.46
Group practice plans.....	.30	.24	.39	.45
Independent lab.....	.17	.19	.22	.25
Total services.....	14.73	16.46	18.56	21.18
Cost sharing:				
Deductible.....	-1.77	-1.79	-1.81	-1.83
Coinsurance.....	-2.41	-2.73	-3.11	-3.59
Total benefits.....	10.55	11.94	13.64	15.76
Administrative expenses.....				
Incurred expenditures.....	.76	.85	.87	.89
Value of interest on fund.....	-.20	-.33	-.34	-.35
Margin for contingencies and to amortize unfunded liabilities.....	1.19	.94	-.77	.00
Promulgated monthly rate.....	12.30	13.40	13.40	16.30

Table 3.—Projection Factors Years Ending June 30 of 1979-81

	1979	1980	1981
(in percent)			
Physicians' services:			
Fees ¹	7.7	7.9	10.5
Utilization ²	3.0	3.0	3.0
Outpatient hospital services per enrolled ³	20.0	15.0	15.0
Home health agency services per enrolled ³	4.0	15.0	15.0
Group practice plan services per enrolled ³	-18.0	61.3	15.0

Table 3.—Projection Factors Years Ending June 30 of 1979-81—Continued

	1979	1980	1981
(in percent)			
Other services per enrollee ³	17.0	15.0	15.0

¹As recognized for payment under the program.
²Increase in the number of services received per enrollee and greater relative use of more expensive services.
³The values for 1979 and/or 1980 differ significantly from those contained in last year's promulgation notice due to an additional year's data which support the current values.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for the year ending June 30, 1981, is \$16.65. The monthly adequate actuarial rate of \$16.30 provides an adjustment for interest earnings and no margin for contingencies.

3. *Monthly Adequate Actuarial Rate for Disabled Enrollees.*—Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24 consecutive months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projections for the aged, using the same actuarial assumptions. Costs for the end-stage renal disease program are projected using a computer model because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for the year ending June 30, 1981, is \$30.90. The monthly adequate actuarial rate of \$25.50 provides an adjustment for interest earnings and a margin for contingencies.

TABLE 4.—Derivation of Promulgated Monthly Rate for Disabled Enrollees Years Ending June 30 of 1978-81

	1978	1979	1980	1981
Covered services (at level recognized):				
Physicians' reasonable charges.....	\$13.21	\$14.77	\$16.51	\$18.77
Radiology and pathology.....	.59	.70	.80	.93
Outpatient hospital and other institutions.....	11.14	13.05	15.06	17.17
Home health agencies.....	.27	.28	.32	.37
Group practice plans.....	.24	.19	.31	.36
Independent lab.....	.22	.26	.29	.34
Total services.....	25.67	29.25	33.29	37.94

TABLE 4.—Derivation of Promulgated Monthly Rate for Disabled Enrollees Years Ending June 30 of 1979-81—Continued

	1978	1979	1980	1981
Cost sharing:				
Deductible.....	-1.64	-1.66	-1.67	-1.70
Coinsurance.....	-4.64	-5.33	-6.11	-6.99
Total benefits.....	19.39	22.26	25.51	29.25
Administrative expenses..	1.40	1.59	1.62	1.65
Incurred expenditures.....	20.79	23.85	27.13	30.90
Value of interest on fund..	-1.99	-2.70	-2.76	-2.81
Margin for contingencies and to amortize unfunded liabilities.....	6.20	3.95	.63	-2.59
Promulgated monthly rate	25.00	25.00	25.00	25.50

4. *Sensitivity Testing.*—Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy under alternate assumptions of the rates promulgated here. The most unpredictable factors which contribute significantly to future costs are outpatient hospital costs, physician utilization (measured indirectly and reflecting the use of more

visits per enrollee, the use of more expensive services, and other factors not explained by simple price per service increases), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 3.

Table 5 indicates that, under the assumptions used in preparing this report, the promulgated monthly rates will result in an excess of assets over liabilities of \$1,723 million by the end of June 1981. This amounts to 12.3 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic produce an excess of assets over liabilities of \$187 million by the end of June 1981, which amounts to 1.2 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the promulgated monthly rates will result in an excess of \$3,180 million, which amounts to 26.3 percent of the estimated total incurred expenditures for the following year.

Table 5.—Projection Factors and the Actuarial Status of the SMI Trust Fund Under Alternative Sets of Assumptions Years Ending June 30 of 1980-81

	This projection		Low assumption		High assumption	
	1980	1981	1980	1981	1980	1981
Projection factors (in percent):						
Physicians' fees ¹	7.9	10.5	5.9	8.5	9.9	12.5
Utilization of physicians' services ²	3.0	3.0	1.0	1.0	5.0	5.0
Outpatient hospital services per enrollee ³	15.0	15.0	5.0	5.0	25.0	25.0
Home health agency services per enrollee ³	15.0	15.0	5.0	5.0	25.0	25.0
Actuarial status (in millions):						
Assets.....	\$4,977	\$5,191	\$5,215	\$6,416	\$4,533	\$3,899
Liabilities.....	2,999	3,458	2,889	3,236	3,088	3,712
Assets of less liabilities.....	1,889	1,723	2,326	3,180	1,445	187
Ratio of assets less liabilities to expenditures (in percent) ⁴	15.7	12.3	21.0	26.3	11.1	1.2

¹As recognized for payment under the program.

²Increase in the number of services received per enrollee and greater relative use of more expensive services.

³The values for 1980 differ significantly from those contained in last year's promulgation notice due to an additional year's data which support the current values.

⁴Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

5. *Standard Premium Rate.*—The law provides that the standard monthly premium rate, promulgated to apply for both aged and disabled enrollees, shall be the lesser of:

1. The adequate actuarial rate for enrollees age 65 and older; or
2. The current standard monthly premium, increased by the same

percentage that the level of old-age, survivors, and disability insurance (OASDI) benefits has been increased since the May preceding the promulgation (and rounded to the nearer dime).

The standard monthly premium rate for the 12-month period ending with June 30, 1980, is \$8.70. The OASDI benefit

table was increased 9.9 percent in June 1979. The \$8.70 rate, increased by 9.9 percent and rounded to the nearer ten cent multiple, is \$9.60. Since this is less than the adequate actuarial rate, the standard premium rate is \$9.60 for the 12 months ending with June 1981.

(Sections 1839(c)(1), (3), and (4) of the Social Security Act (42 U.S.C. 1395r(c)(1), (3), and (4)))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare Supplementary Medical Insurance)

Dated: December 19, 1979.

Nathan J. Stark,

Acting Secretary.

(FR Doc. 79-39799 Filed 12-28-79; 8:45 am)

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Wapato Irrigation Project, Washington

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

On November 16, 1979, in 44 FR 66072, there was published a notice of proposed assessment rates and related provisions on the Wapato Irrigation Project for Calendar Year 1980 and subsequent years until further notice. These assessment rates were proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions, or objections were submitted. Therefore, the assessment rates and related provisions as set forth below are adopted effective January 30, 1980.

Wapato Irrigation Project—General

Administration

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 15 days when weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Charges

Requests for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Time for Payment of Water Charges

The assessments fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

Charges for Special Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1980 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report.....	\$15.00
(2) Requests for Verification of Account Delinquency Status, Per Report.....	10.00
(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee), Per Bill.....	10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee), Per Bill.....	10.00
(5) Requests for Other Special Services Similar to the above, when appropriate, Per Report.....	10.00

Ahtanum Unit

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1980 and subsequent years until further notice, is fixed at \$6.25 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

Toppenish-Simcoe Unit

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1980 and subsequent years until further notice, is fixed at \$6.25 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

Wapato-Satus Unit

Charges

(a) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1980 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts.....	\$18.50
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands.....	18.50
(3) Rate per assessable acre for all lands with a storage water right, known as "B" lands, in addition to other charges per acre.....	2.20
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands.....	19.60

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill

issued for any area will, therefore, be the basic rate per acre plus \$5.

Assessable Lands

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A and B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of the Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right of modification of a water right contract is pending.

Vincent Little,
Area Director.

December 19, 1979.

(FR Doc. 79-39731 Filed 12-28-79; 8:45 am)

BILLING CODE 4310-02-M

Management of Osage Judgement Funds for Education and Socioeconomic Programs; Receive Applications for Financial Education Assistance

December 12, 1979.

Title 25, Code of Federal Regulations, § 112.5(c), provides for the establishment of an Osage Tribal Education Committee to administer the \$1 million fund set aside for Education and Socioeconomic Programs of benefit to the Osage Tribe by the Act of October 27, 1972 (86 Stat., 1295), Pub. L. 92-586.

Notice is hereby given that the Bureau of Indian Affairs in proceeding to establish the Committee under provisions set out by the regulations. In the interim, however, due to stringent time requirements, the Bureau of Indian Affairs is receiving applications for financial assistance for the second semester of the 1979-80 academic year from the \$1 million fund. All applications received will be held until the Osage Tribal Education Committee convenes its first meeting and no

decisions on the awards will be made except by the Committee.
Interim application forms may be obtained from the Superintendent, Osage Agency, Pawhuska, Oklahoma 74056.

Forrest J. Gerard,
Assistant Secretary—Indian Affairs.

[FR Doc. 79-39823 Filed 12-29-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[NM 28093]

Coal Lease Offering by Sealed Bid

December 21, 1979.

U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. Notice is hereby given that at 2:00 p.m., January 22, 1980, certain coal resources in the lands hereinafter described in San Juan County, New Mexico, will be offered for competitive lease by sealed bid of \$25 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). However, no bid will be accepted for less than fair market value as determined by the authorized officer. The sale will be held in Room 1-A, Sweeney Convention Center, corner of Marcy and Grant, Santa Fe, New Mexico. No bids received after 2:00 p.m., January 22, 1980, will be considered.

Coal Offered

The coal resource to be offered is contained in the Upper Cretaceous Fruitland Formation in two underground minable coal beds in the following described lands, located approximately six miles northwest of Farmington, New Mexico and three miles northeast of Fruitland, New Mexico:

T. 30 N., R. 15 W., NMPM (San Juan County)
Sec. 13: S½;
Sec. 14: S½;
Sec. 23: All;
Sec. 24: All;
Sec. 25: All;
Sec. 26: All;
Sec. 35: Lots 1,2,3,4, N½, N½S½.
Containing 3,855.60 acres.

The total underground recoverable reserves are estimated to be 75.8 million tons from the two beds. The coal is high volatile C bituminous and averages (as received) 9,290 Btu/lb. with .58% sulfur and 24.8% ash for the upper bed and 10,221 Btu/lb. with .99% sulfur and 17.65% ash for the lower bed. The upper

bed averages about 6 feet thick, and the lower bed averages about 15 feet thick.

A lease issued as a result of this offering will provide for payment of an annual rental of \$3.00 per acre or fraction thereof and a royalty payable to the United States.

Availability

Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Room 3031 on the third floor of the U.S. Post Office and Federal Building, located on South Federal Place, Santa Fe, New Mexico. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act, are also available for public inspection in the aforementioned Room 3031.

Arthur W. Zimmerman,
State Director.

[FR Doc. 79-39688 Filed 12-28-79; 8:45 am]
BILLING CODE 4310-84-M

[S. 2972]

California; Airport Lease

December 14, 1979.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) the County of Calaveras, California, Department of Public Works, has applied for an airport lease for the following public lands:

Mount Diablo Meridian

T. 3 N., R. 12 E.

A portion of the SW¼NW¼ and N½SW¼ within Sec. 3, described as Beginning at the true point of beginning from which the ¼ corner of secs. 33 and 34, T. 4 N., R. 12 E., M.D.B.&M., bears the following consecutive courses: N. 35° 58' 40" W., 3,560.00 feet; thence N. 54° 01' 20" E., 650.00 feet; thence N. 43° 36' 33" E., 1,470.30 feet distant; from the true point of beginning on true bearings, N. 45° 30' 00" E., 250.00 feet; thence S. 44° 30' 00" E., 840.00 feet; thence S. 530.00 feet; thence E. 425.88 feet; thence S. 35° 58' 40" E., 117.23 feet; thence S. 54° 01' 20" W., 310.00 feet; thence N. 35° 58' 40" W., 240.00 feet; thence S. 54° 01' 20" W., 95.00 feet; thence N. 35° 58' 40" W., 1,350.00 feet to the point of beginning, containing 9.827 acres, more or less.

The purpose of this notice is to inform the public that the filing of this application segregates the above-described land from all other forms of use or disposal under the public land laws pursuant to 43 CFR 2911.2-3.

Interested persons desiring to express their views should promptly send their name and address to the Chief, Lands Section, Branch of Lands and Minerals Operations, Bureau of Land Management, 2800 Cottage Way, Federal Office Building, Room E-2605, Sacramento, California 95825.

Joan B. Russell,
Chief, Lands Section.

[FR Doc. 79-39687 Filed 12-28-79; 8:45 am]
BILLING CODE 4310-84-M

Potassium Lease Offering by Sealed Bid

December 21, 1979.

U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. Notice is hereby given that certain potassium resources in the lands hereinafter described in Eddy County, New Mexico, will be offered for lease by sealed bid to the qualified bidder of the highest cash amount per acre or fraction thereof in accordance with the provisions of the Act of February 7, 1927 (44 Stat. 1057), as amended. The minimum acceptable bid is \$25 per acre. The sale will be held at 2:00 p.m., local time, January 22, 1980, in Room 1-A Sweeney Convention Center, corner of Marcy and Grant, Santa Fe, New Mexico. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time and place set for opening of such bids.

Potassium Offered: The potassium resource to be offered is located in the following described lands, approximately 22 miles northeast of Carlsbad, New Mexico:

T. 20 S., R. 31 E., New Mexico Principal Meridian
Sec. 13, N½, SW¼, NE¼SE¼, S½SE¼;
Sec. 14, NE¼, S½;
Sec. 15, E½SE¼;
Sec. 22, E½E½;
Sec. 24, All;
Sec. 27, E½NE¼, NE¼SE¼.
Containing 2,080.00 acres.

Potash in the area is contained in the Salado Formation in the McNutt Potash Zone. The tenth ore zone contains an estimated 25.9 million tons in place of 15.4% K₂O of which an estimated 20.5 million tons are recoverable.

Public Comments: The public is invited to submit written comments concerning fair market value of the offered potassium reserves to the Bureau of Land Management and the U.S. Geological Survey. These comments will be reviewed and taken into consideration in the determination of fair market value of the potassium of the offered lands. Should any information

submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and to the Regional Conservation Manager, Conservation Division, Geological Survey, P.O. Box 25046, Mail Stop 609, Denver Federal Center, Denver, Colorado 80225, to arrive no later than January 21, 1980.

Notice of Availability: Bidding instructions are included in the detailed statement of lease sale. All case file documents and written comments submitted by the public on fair market value or royalty rates except those portions identified as proprietary by the commentor and meeting the exemptions stated in the Freedom of Information Act, are available for public inspection in Room 3031, U.S. Post Office and Federal Building, South Federal Place, Santa Fe, New Mexico 87501.

The successful bidder is obligated to pay for the newspaper publication of this notice.

Arthur W. Zimmerman,
State Director.

[FR Doc. 79-39689 Filed 12-28-79; 8:45 am]
BILLING CODE 4310-84-M

Grazing Use Adjustments; Special Appeal Right Provided by the 1980 Department of the Interior Appropriations Act

In 1980, the Department of the Interior Appropriations Act provides a special right to appeal grazing use reductions ordered in 1979. The special appeal must be filed in the District Office of the Bureau of Land Management that issued the decision on or before February 25, 1980.

Where final decisions have been placed in full force and effect, the appeal will result in suspension of a portion of the reduction in excess of 10 percent of the prior year's active authorized use, pending a final action on the appeal.

Further information can be obtained from local Bureau of Land Management District Offices.

Dated: December 26, 1979.

Frank Gregg,
Director.

[FR Doc. 79-39704 Filed 12-28-79; 8:45 am]
BILLING CODE 4310-04-M

Utah; Initial Wilderness Inventory Final Decisions Interstate Units

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: This notice is published to clarify the status of the interstate units involved in Utah's Initial Wilderness Inventory. A Federal Register notice published August 8, 1979 stated that "the decision on interstate units (involving Utah) would not become final until each respective state announces a decision on their portion of the unit". Final decisions have been announced by the states bordering Utah and are now in effect.

Except as noted below the final decision on the interstate units (Utah portion) is as shown on the Wilderness Inventory—State of Utah map published in August 1979.

UT-02-004, 009, 051, 047 and UT-050-051A (interstate units with Nevada) were shown on the Utah map as going into the intensive inventory, however, these units have been dropped from further wilderness consideration based on comments received in both of the states in which the unit lies.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah BLM state office (801) 524-5326.

Dated: December 19, 1979.

Gary J. Wicks,
State Director.

[FR Doc. 79-39690 Filed 12-28-79; 8:45 am]
BILLING CODE 4310-84-M

Utah; Announcement of Intensive Wilderness Inventory Decision on Units Protested

AGENCY: Bureau of Land Management.
ACTION: Notice.

SUMMARY: This notice announces the Utah State Director's decision on protests received on units UT-060-007, 011 and 012. On November 29, 1979, a Federal Register notice was published indicating the final decision on the Intensive Inventory on the Intermountain Power Project in the Utah Moab District became effective, except for the above units on which written protests were filed. The State Director's final decision on these protested units is now in effect as follows: Units UT-060-011 and 012 have been dropped from further wilderness review and the restrictions imposed by section 603 of the Federal Land Policy and Management Act (FLPMA) are no longer in effect.

The original decision on UT-060-007 was to designate a 31,360 acre portion of the unit as a Wilderness Study Area (WSA). That decision is not changed as a result of the protest received. That portion of the unit not designated as a

WSA is dropped from further wilderness review and the restrictions imposed by section 603 of FLPMA are no longer in effect. The portion of the unit designated as a WSA will remain under restrictions imposed by section 603 of FLPMA.

FOR FURTHER INFORMATION CONTACT: Bill Greene, wilderness specialist, Moab, Utah (801) 259-6111.

Dated: December 19, 1979.

Gary J. Wicks,
State Director.

[FR Doc. 79-39691 Filed 12-28-79; 8:45 am]
BILLING CODE 4310-84-M

Idaho Falls District, Idaho; Redelegation of Authority to Area Managers

In accordance with Bureau Order No. 701 of July 23, 1964 (FR Doc. 64-17492; 29 FR 10526), as amended, the Area Managers of the Big Butte, Medicine Lodge, and Soda Springs Resource Areas of the Idaho Falls District, Idaho, are authorized to perform in their respective areas of responsibility, in accordance with existing policies and regulations of this Department and under the direct supervision of the District Manager, the functions listed below, subject to the limitations set forth in Bureau Order No. 701, as amended, together with any limitations specified below.

Section 3.2—General and

Miscellaneous Matters. On matters in which he/she is authorized to act, the Area Manager may take all action on:

(b) Cancellations or surrender of contracts, leases, and permits. Make partial or complete cancellation or accept surrenders of contracts, leases, and permits.

Section 3.3—Fiscal Affairs. On matters in which he/she is authorized to act, the Area Manager may take action on:

(a) Bonds and Forfeitures
(1) Take all actions on bonds required in connection with matters pertaining to the lands or the resources thereof under his/her jurisdiction.

(2) Expend funds made available as a result of the forfeiture of a bond or deposit by a timber purchaser or permittee or of a compromise under the Public Land Administration Act (43 U.S.C. 1381).

(d) Trespass. Determine liability for trespass on the public lands when actual damages do not exceed \$5,000.00. Accept payment in full irrespective of amount. Dispose of resources recovered in trespass cases for not less than the appraised value thereof.

Section 3.6—Minerals. The Area Manager may take all actions on:

(m) Oil and gas explorations operations. All actions on oil and gas exploration matters pursuant to 43 CFR Subpart 3045.

(n) Geothermal Resource Leases. Take all actions involving geothermal resource exploration operations as provided in 43 CFR 3203.6 and Subpart 3209.

Section 3.7—Range Management. The Area Manager may take all listed actions on:

(a) Grazing District Administration.

(1) Licenses and permits to graze or trail livestock.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(3) The expenditure of funds appropriated by Congress, or contributed by individuals, associations, advisory boards, or others for the construction, purchase, or maintenance of range improvements.

(8) Refunds pursuant to 43 CFR 4130.5-2(a).

(b) Grazing Leases.

(1) Grazing leases of public lands, under Section 15 of the Act of June 28, 1934, as amended (43 U.S.C. 315m), and the permits or cooperative agreements to construct and maintain improvements on lands so leased, and to determine the value of such improvements.

(d) Soil and Moisture.

(1) Soil and moisture conservation on the public lands, pursuant to the National Soil Conservation Act of April 27, 1935 (16 U.S.C. 590a et. seq.).

(f) Protection and management of wild free-roaming horses and burros, except authorizations to capture and remove excess animals.

Section 3.8—Forest Management. The Area Manager may take all actions on:

(a) Disposition of forest products except sales of timber in excess of 10,000,000 board feet measure must be approved by the State Director or his delegate prior to advertisements.

Section 3.9—Land Use. The Area Manager may take all the listed action on:

(g) Material other than forest products not exceeding \$2,000.00 unless authority to make sales in greater amounts is delegated to the District Manager.

(c) Temporary Use Permits.

(1) Issue temporary use permits for public lands within the grazing district.

(3) Issue temporary land use permits for lands outside established grazing and forest districts when specifically authorized by the District Manager.

Section 3.10—Designation of Acting Officials.

(a) Area Managers may, by written order, designate any qualified employee

of the Resource Area to perform the functions of the Area Manager in his/her absence.

(b) Each employee who serves in such capacity (a) above, shall prepare a memorandum to be kept in the District Office showing the date and hour of the commencement and termination of each period of his/her service in that capacity.

This delegation supersedes all previous Bureau Order No. 701 redelegations to Area Managers by the District Manager, Idaho Falls, Idaho.

This redelegation will be effective: December 31, 1979.

O'dell A. Frandsen,

District Manager.

Robert O. Buffington,

State Director.

[FR Doc. 79-39734 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-84

(NM 31859)

New Mexico; Proposed Withdrawal and Reservation of Lands—Amendment

December 21, 1979.

Notice of proposed withdrawal and reservation of lands, appearing in the Federal Register of January 12, 1978 at page 1843, Doc. No. 78-842, is hereby amended to delete the following described lands:

New Mexico Principal Meridian, New Mexico

T. 25 N., R. 12 W.,

sec. 11, NE¼.

T. 16 N., R. 20 W.,

sec. 6, lots 16 to 23 inclusive.

Arthur W. Zimmerman

State Director.

[FR Doc. 79-39735 Filed 12-29-79; 8:45 am]

BILLING CODE 4310-84

North-Atlantic Outer Continental Shelf; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

(Tentative Sale No. 52)

Purpose of Call

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to establish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resource development with the

protection of the human, marine and coastal environments, as well as assuring States and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3313.1, nominations are hereby requested for areas on the North Atlantic Outer Continental Shelf for possible oil and gas leasing under the Outer Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343). The Secretary is also requesting comments on the possible environmental impact and potential use conflicts in specified areas. These comments will be part of an information-gathering process to assemble current information on local environmental conditions within the Call area so that other impacts besides the realization of hydrocarbon potential can be assessed.

Description of Areas

The Area of the Call for Nominations and Comments in the North Atlantic Outer Continental Shelf under consideration includes a subsea basin known as the Georges Bank trough. The area is approximately 270 miles long by 165 miles wide with its center about 65 miles southeast of Nantucket Island. The most seaward portion is about 175 miles east and southeast of Nantucket Island. The proposed sale area is offshore the States of Massachusetts, Rhode Island, Connecticut, Maine, New Hampshire, New York, and New Jersey.

OCS Official Protraction Diagrams		
Description	Date of Latest Edition in Stock	
1. NJ 19-1 Block Canyon.....	June 22, 1977.	
2. NJ 19-2 Veatch Canyon.....	January 25, 1979.	
3. NK 19-8 Chatham.....	April 18, 1979.	
4. NK 19-9.....	March 20, 1975.	
5. NK 19-10 Block Island Shelf.....	June 22, 1977.	
6. NK 19-11.....	October 31, 1974.	
8. NK 19-12.....	April 29, 1975.	

These Protraction Diagrams may be purchased for \$2.00 each from the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10007.

Nominations and Comments will be considered for any or all of that part of the following Official Protraction Diagrams described below and excluding blocks previously leased:

(1) NK 19-8, Chatham: All blocks east of a line beginning at the NE corner of block 12, thence south to the SE corner of block 980.

(2) NK 19-9: All blocks west of a line beginning at the NE corner of block 1; thence south to the NE corner of block

45; thence east to the NE corner of block 46; thence south to the SE corner of block 90; thence east to the NE corner of block 135; thence south to the SE corner of block 179; thence east to the NE corner of block 224; thence south to the SE corner of block 268; thence east to the NE corner of block 313; thence south to the SE corner of block 357; thence east to the NE corner of block 402; thence south to the SE corner of block 490; thence east to the NE corner of block 535; thence south to the SE corner of block 579; thence east to the NE corner of block 624; thence south to the SE corner of block 668; thence east to the NE corner of block 713; thence south to the SE corner of block 757; thence east to the NE corner of block 802; thence south to the SE corner of block 846; thence east to the NE corner of block 891; thence south to the SE corner of block 935; thence east to the NE corner of block 980; thence south to the SE corner of block 980; thence west to the SW corner of block 969.

(3) NK 19-12: All blocks west of a line beginning at the NE corner of block 12; thence south to the NE corner of block 56; thence east to the NE corner of block 57; thence south to the SE corner of block 101; thence east to the NE corner of block 146; thence south to the SE corner of block 190; thence east to the NE corner of block 235; thence south to the SE corner of block 279; thence east to the NE corner of block 324; thence south to the SE corner of block 368; thence east to the NE corner of block 413; thence south to the SE corner of block 457; thence east to the NE corner of block 502; thence south to the SE corner of block 546; thence west to the SW corner of block 545; thence south to the SE corner of block 588; thence west to the SW corner of block 586; thence south to the SE corner of block 629; thence west to the SW corner of block 629; thence south to the SE corner of block 881; thence west to the SW corner of block 881.

(4) NK 19-11: All blocks except blocks 964 and 1008.

(5) NK 19-10, Block Island Shelf: All blocks south and east of a line beginning at the NE corner of block 26, thence south to the SE corner of block 422, thence west to the NW corner of block 450, thence south to the SW corner of block 977.

(6) NJ 19-2, Veatch Canyon: All blocks west of a line beginning at the NE corner of block 36; thence south to the SE corner of block 300; thence west to the SW corner of block 265.

(7) NJ 19-1, Block Canyon: All blocks east of a line beginning at the NW corner of block 31; thence south to the

SW corner of block 295; thence east to the SE corner of block 308.

Instruction on Call

Nominations must be described in reference to the Outer Continental Shelf Leasing Maps or Official Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

Those nominating twelve blocks or more that they wish to see considered for offering in this proposed lease sale, are requested to arrange their nominations into three groups according to the priority of their interest.

In addition to nominations, we are seeking comments about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems or other information which might bear upon potential leasing and development of particular blocks where available.

Comments should be as specific as possible in identifying individual blocks or areas which should receive special concern and analysis.

Nominations and comments must be submitted not later than February 29, 1980, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf—North Atlantic," or "Comments on Leasing in the Outer Continental Shelf—North Atlantic," as appropriate. They must be submitted to the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10007. Copies should be sent to the Conservation Manager, Geological Survey, 1725 K Street, N.W., Suite 204, Washington, D.C. 20036, and to the Director, Attention 540, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

Use of Information From Call

Nominations will be evaluated and used along with geologic and geophysical information to determine what, if any, tracts should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and the OCS Lands Act, as amended. Generally because of limits on the geographic scope of areas which can be successfully planned for a single sale, only a small fraction of the tracts nominated are selected for further environmental analysis and possible leasing.

Comments will be considered along with other relevant information

available to the Secretary to determine what tracts should be designated for further environmental analysis and study. As a general rule, tracts which are believed to have potential for the production of hydrocarbons are not excluded from environmental study unless the Secretary has sufficient information to conclude that it is not possible for those tracts to be developed in an environmentally safe manner.

In any event, selection of tracts for further environmental analysis does not insure that the tracts will be subsequently offered for lease or that they will be deleted for environmental or use conflicts. It simply insures that more information will be available when that decision is made. In performing the further environmental analysis leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of tracts for competitive bidding will be made only at a later date after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the Federal Register stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: December 21, 1979.

Heather L. Ross,

Deputy Assistant Secretary of the Interior.

[FR Doc. 79-39671 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska State Office; Redelegation of Authority

1. Pursuant to the authority contained in Part I *Section 1.1(c) of Bureau Order 701 of July 23, 1964*, as amended, I hereby redelegate authority to take action as listed below.

District Manager in the Fairbanks District Office authority to take action on the following matters listed in Part II:

Sections

2.2(b)

2.2(c)

2.3(a)

2.3(c)

2.4(a)(4)

2.6(k)

2.9 All

Action under § 2.6(k) restricted to issuances of decisions for failure to provide information required for mining

claim recordation and failure to file within 90 days of location.

Chief, Division of Operations, Fairbanks District Office, authority to take action on the following matters listed in Part II:

Sections

- 2.2(b)
- 2.2(c)
- 2.3(a)
- 2.3(c)
- 2.4(a)(4)
- 2.6(k)
- 2.9 All

Action under § 2.6(k) restricted to issuances of decisions for failure to provide information required for mining claim recordation and failure to file within 90 days of location.

Chief, Branch of Land Office, in the Division of Operations, Fairbanks District Office, authority to take action on the following matters listed in Part II:

Sections

- 2.2(b)
- 2.2(c)
- 2.3(a)
- 2.3(c)
- 2.4(a)(4)
- 2.6(k)
- 2.9 All

Action under § 2.6(k) restricted to issuances of decisions for failure to provide information required for mining claim recordation and failure to file within 90 days of location.

4. Effective date—This redelegation of authority will become effective on January 1, 1980.

Curtis McDee,
State Director.

[FR Doc. 79-39732 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-84-M

District Grazing Advisory Board, Susanville, Calif.; Notice of Meeting

Notice is hereby given in accordance with Pub. L. 92-483 that a meeting of the Susanville District Grazing Advisory Board will be held on February 5, 1980.

The meeting will begin at 10:00 a.m. in the California Pines Lodge, County Road 71, Alturas, California.

The agenda for the meeting will include:

1. District Policy on Project Maintenance and Contributions.
2. District Grazing Advisory Board Election.
3. Predator Control in AMPs.
4. Wilderness Study Area Recommendations as They Relate to AMPs.
5. Surprise/Warner Stewardship Program.
6. Status Report on Range Improvement Projects.
7. Wild Horse Program as it Relates to AMPs.

8. Tuledad/Home Camp Monitoring System.

9. Advisory Board Fund.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 and 4:30 p.m., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1093, Susanville, California, 96130, by February 1, 1980. Depending on the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Sincerely,

Robert J. Sherve,
Acting District Manager.

[FR Doc. 79-39733 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Amendment to Endangered Species Permit

Applicant: Jackson Zoological Park, 2918 West Capitol Street, Jackson, Mississippi 39209.

The permittee requests an amendment to their Endangered Species permit for Bactrian camels (*Camelus bactrianus*) to authorize the purchase of one additional camel from Jurgen Schultz, Catskill, New York. The permittee is presently authorized to import during the course of a commercial activity two Bactrian camels from Canada.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4398. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 26, 1979.

Fred L. Bolwahn,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39804 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Illinois Natural History Survey, River Research Laboratory, P.O. Box 599, Havana, Illinois 62644.

The applicant requests a permit to capture and release species of endangered mussels in Pool 19 of the Mississippi River for scientific purposes evaluating the effects of commercial mussel harvesting methods.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-6215. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 26, 1979.

Fred L. Bolwahn,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39803 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Watson T. Yoshimoto, 35 Ahi Place, Honolulu, Hawaii 96817.

The applicant requests a permit to import the trophy of one bontebok antelope (*Damaliscus dorcas dorcas*) from the Thorn Kloof ranch, Grahamstown, South Africa for enhancement of survival. The specimen taken was surplus to the established herd of the Thorn Kloof ranch.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and

Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4604. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 26, 1979.

Fred L. Bolwahn,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39805 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Gladys Porter Zoo, 500 Ringgold Street, Brownsville, Texas 78520.

The applicant requests a permit to import female salt water crocodile (*Crocodylus porosus*) from Thailand for the purpose of enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4576. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 26, 1979.

Fred L. Bolwahn,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-39806 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

Coal Mining Unsuitability Study, Utah

December 18, 1979.

AGENCY: Bureau of Land Management, Interior; U.S. Forest Service, Agriculture.

ACTION: Notice of coal mining unsuitability study and update of management framework plan (Bureau of Land Management) and land use plan (U.S. Forest Service).

SUMMARY: As directed by the Surface Mining Control and Reclamation Act of 1977, the Bureau of Land Management and U.S. Forest Service will jointly prepare a coal mining unsuitability study on 149,529 acres in Sevier County, Utah.

Approximately 76,336 acres are administered by the Richfield District of the Bureau of Land Management. This area comprises the Forest Planning Unit, for which a management framework plan was completed in 1975. The Fishlake National Forest administers about 60,080 acres of land within the study area boundary; this land is part of the U.S. Forest Service's Salina Planning Unit, for which a land use plan and environmental impact statement were completed in 1976. The study area includes about 12,000 acres of private land, where the Federal Government has retained the mineral rights.

The purpose of the present study is to apply the 20 criteria for coal mining unsuitability (as found in CFR 3461.1) to the current management plans for the area designated in the map. This will require reviewing and updating existing information for the planning units administered by the Bureau of Land Management and U.S. Forest Service, and compiling information for the private lands on which BLM has the coal leasing responsibility. The Bureau of Land Management will work in coordination with private landowners to identify conflicts between the existing management plans and the 20 coal mining unsuitability criteria.

Based on the coal unsuitability study, the Bureau of Land Management and U.S. Forest Service will (1) update their respective management framework plan and land use plan, and (2) determine areas which are acceptable for further consideration for coal development.

The BLM Richfield District and Fishlake National Forest will coordinate in notifying all government representatives and agencies, organizations, and individuals affected by the study of the intent to update management framework and land use plans and to prepare the unsuitability study. A notice will appear in local and state-wide news media. All surface owners within the Forest Planning Unit who would be adversely affected by an unsuitability designation will be invited to consult personally with Bureau of Land Management and U.S. Forest Service personnel.

An open house will be held at BLM's Richfield District Office in March of 1980 to discuss the recommendations for unsuitable areas. At the open house, the public will also have the opportunity to review the updated resource information.

A public hearing will be held prior to the approval of the unsuitability recommendations upon request of any person having an interest which is, or may be, adversely affected by the plan.

A brochure will be distributed in the spring of 1980 which summarizes the coal mining unsuitability study for those U.S. Forest Service and BLM administered lands and private lands where BLM has the coal leasing responsibility.

For further information on the Coal Unsuitability Study for the Forest Planning Unit contact: Donald L. Pendleton, District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Donald L. Pendleton,
District Manager.

J. Kent Taylor,
Forest Supervisor.

[FR Doc. 79-39730 Filed 12-28-79; 8:45 am]

BILLING CODES 4310-84, 3410-11-M

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

Lake Erie Ice Boom; Extension of Order of Approval

Notice is hereby given that, by letter of November 13, 1979, Ontario Hydro and the Power Authority of the State of New York (Power Entities) have requested a further extension for an indefinite period of this Commission's Order to Approval dated June 9, 1964 as amended May 29, 1968, October 3, 1969 and April 1, 1975. The above Order, as amended, expires on May 15, 1980. The application of November 19, 1979 does not seek to change any conditions of the present order other than the elimination of the termination date.

The Commission's present Order of Approval authorizes the Power Entities to construct and maintain a boom in Lake Erie just upstream from the entrance of the Niagara River, the purpose of which is to assist in the formation of an ice cover on Lake Erie and to reduce ice movement from the Lake to the River. In the past, excess ice in the Niagara River has severely damaged shoreline property and interfered with power production. The boom is approximately two miles in length consisting of anchored floating timbers extending from the Canadian

shore to the north end of the Old Breakwater on the United States side. The boom is installed in the late Autumn of each year and must be completely removed by May 15 of the following year, with sections being "opened" prior to the date depending on the amount of ice in Lake Erie and climate conditions.

In accordance with its Rules of Procedure, the Commission requests statements from interested persons setting forth facts and arguments bearing on the subject matter and tending to oppose or support the application in whole or in part. Closing data for receipt of such statements is February 7, 1980.

Upon receipt of such statements, the Commission will consider the desirability of requesting the Applicants to reply to them in writing before proceeding to the holding of public hearings which will be held in the vicinity of the location of the ice boom so as to provide all parties interested, convenient opportunity to be heard.

Copies of the Power Entities' letter of November 13, 1979 and the present order of Approval, as amended, are available upon request to the Secretaries of the Commission at the addresses listed below.

D. A. LaRoche,
Secretary, United States Section,
International Joint Commission.

D. G. Chance,
Secretary, International Joint Commission.
December 21, 1979.

[FR Doc. 79-39738 Filed 12-29-79; 8:45 am]
BILLING CODE 4710-14-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Lowes Summit Hotel, 569 Lexington Avenue, New York, New York, on January 29, 1980 beginning at 9:00 a.m.

The purpose of the meeting is to discuss possible topics for inclusion on the syllabus for the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Sections (a)(1)(B) and (C).

The meeting will be open to the public as space is available. Time permitting, after discussion of the syllabus by Committee members, interested persons may make statements germane to this subject. Persons desiring to make such statements should advise the Committee Management Officer in writing prior to

the meeting to aid in scheduling the time available and should submit the written text or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to ten minutes in length. Any interested person may file a written statement for consideration by the Committee by sending it to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

Dated: December 26, 1979.

Leslie S. Shapiro,

Advisory Committee Management Officer,
Joint Board for the Enrollment of Actuaries.

[FR Doc. 79-39667 Filed 12-26-79; 8:45 am]
BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Arden-Mayfair, Inc.; Matanuska Maid, Inc.; and Meadowmoor Alaska Dairy, Inc.; Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)-(h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the District of Alaska in Civil No. A78-14, *United States v. Arden-Mayfair, Inc.; Matanuska Maid, Inc.; and Meadowmoor Alaska Dairy, Inc.* The complaint in this case alleges that the defendant dairies conspired to fix, raise, maintain, and stabilize the wholesale prices of dairy products in south central Alaska, that they conspired to submit collusive and rigged bids to federal, state, and local agencies for dairy contracts in south central Alaska in violation of Section 1 of the Sherman Act.

The proposed judgment prohibits the defendant dairies, for ten (10) years, from entering into any agreement or understanding regarding the wholesale prices of dairy products or the allocation of customers or territories, and from submitting noncompetitive, collusive, or rigged bids for the sale of dairy products. The proposed judgment further forbids the defendants from communicating or exchanging among themselves any information on prospective prices, discounts, or other terms and conditions for the sale of dairy products.

In addition, the defendants are required by the proposed judgment to

take certain affirmative steps to insure compliance with the Sherman Act and the terms of the judgment. The Department of Justice is given access under the proposed judgment to the files and records of the defendant corporations, to examine such records for compliance or non-compliance with the judgment.

Public comment is invited within the statutory 60 day comment period. Such comment and response thereto will be published in the *Federal Register* and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Dated: December 13, 1979.

Charles F. B. McAleer,

Special Assistant for Judgment Negotiations.

U.S. District Court, District of Alaska

United States of America, Plaintiff v. Arden Mayfair, Inc.; Matanuska Maid, Inc.; and Meadowmoor Alaska Dairy, Inc., Defendants.

Civil No. A-78-14.

Stipulation

Filed: December 13, 1979.

It is stipulated by and between the undersigned parties and, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16] and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing said notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: December 13, 1979.

For the Plaintiff: John H. Shenefield,

Assistant Attorney General; Joseph H. Widmar, Charles F. B. McAleer, Anthony E. Desmond, Richard B. Cohen, James V. Dick, Attorneys, Department of Justice.

For Defendants: Davis, Wright, Todd, Riese & Jones, Attorneys for Meadowmoor Alaska Dairy, Inc.; by Payton Smith, Abbott, Lynch, Farney & Rodey, Attorneys for Matanuska Maid, Inc.; by John W. Abbott, Sax & MacIver, Attorneys for Matanuska Maid, Inc.; by James L. Magee, Mitchell, Silberberg & Knupp, Attorneys for Arden-Mayfair, Inc.; by Edward M. Medvene.

U.S. District Court, for the District of Alaska

United States of America, Plaintiff v. Arden-Mayfair, Inc.; Matanuska Maid, Inc.; and Meadowmoor Alaska Dairy, Inc., Defendants.

Civil No. A-78-14.

Final Judgment Filed: December 13, 1979

Plaintiff, United States of America, having filed its complaint herein on January 25, 1978, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I.

This Court has jurisdiction of the subject matter of this action, and of each of the parties consenting hereto. The complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II.

As used in this Final Judgment:

(a) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;

(b) "Dairy products" means end products which have been processed from raw milk, and related products not processed from raw milk but which are usually marketed by dairies, including, but not limited to: recombinant milk; pasteurized and homogenized milk; two-percent milk; skim milk; buttermilk; whipping and table cream; half and half; sour cream; cottage cheese; chocolate and orange drinks; ice cream and ice milk; sherbets; popsicles and other similar frozen novelties;

(c) "Dairy" means any corporation, firm, or individual which processes raw milk into dairy products and/or sells and distributes dairy products to customers such as grocery stores, restaurants, hotels, schools, hospitals, military installations, other government agencies and home delivery purchasers;

(d) "Federal Institution" means any agency, instrumentality or institution of the United States of America which purchases dairy products;

(e) "State Institution" means any agency, instrumentality or institution of the State of Alaska or any political subdivision thereof, including, but not limited to, any county, city, town, municipality or school district.

(f) "Geographical area" means State of Alaska.

III.

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them, who shall have received actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not

deprive any defendant or employee thereof of any right which it may enjoy under Section 6 of the Clayton Act (15 U.S.C. § 17) or the Capper-Volstead Act (7 U.S.C. § 291-292).

IV.

Each defendant when acting as a dairy is, within the geographical area, enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing or claiming any right under any contract, agreement, combination, understanding, plan or program with any person to:

(a) Fix, determine, establish, maintain, raise or stabilize the prices, discounts, or other terms or conditions for the sale of dairy products to any third person;

(b) Submit noncompetitive, collusive or rigged bids for dairy products to any federal institution;

(c) Submit noncompetitive, collusive or rigged bids for dairy products to any state institution, or to any other third person;

(d) Allocate, rotate or divide markets, customers or territories;

(e) Communicate to or exchange with any other dairy any actual or proposed price, price change, discount or other term or condition of sale at or upon which any dairy product is to be, or has been, sold to any third person.

V.

Each defendant is, within the geographical area, enjoined and restrained from directly or indirectly:

(a) Communicating to or exchanging with any other dairy any information relating to price, discount or any other term or condition of sale of dairy products which has been charged or allowed or is to be charged or allowed to any customer or prospective customer.

(b) Communicating to or exchanging with any other dairy any information relating to price, discount or any other term or condition of sale of dairy products which has been charged or allowed or is to be charged or allowed by any person to any Federal or State institution.

VI.

Nothing in Sections IV or V shall apply to any negotiation or communication between the defendants, or a defendant and any other dairy, the sole purpose of which is a bona fide proposed or actual purchase or sale of dairy products.

VII.

Each defendant shall for a period of five (5) years from the date of entry of this Final Judgment, furnish simultaneously with each bid or quotation required to be sealed which is submitted by it for sale of dairy products to any Federal or State institution in the State of Alaska, a written certification by an officer or other authorized employee of such defendant, that such bid was not in any way the result, directly or indirectly, of any agreement, understanding or communication with any other producer, seller or distributor of dairy products.

VIII.

For a period of five (5) years from the date of entry of this Final Judgment, each defendant shall preserve all written price

computations and other written calculations actually performed by such defendant in the preparation and submission of any bid required to be sealed which is submitted to any Federal or State institution in the State of Alaska, and shall retain such written computations and calculations for a period of at least five (5) years from the date each bid, which is based on such computations, is submitted to any Federal or State institution in the State of Alaska.

IX.

Each defendant shall:

(a) Serve within ninety (90) days after the entry of this Final Judgment a copy of this Final Judgment upon each of its officers and directors, and upon each of its employees and agents who have any responsibility for establishing prices, discounts or other terms or conditions for the sale of dairy products, or for the determination and submission of bids for State or Federal institution dairy product contracts;

(b) Within one hundred and twenty (120) days after entering of this Final Judgment, to file with this Court and to serve upon the plaintiff affidavits concerning the fact and manner of compliance with Paragraph (a) of this Section IX.

(A) Each defendant shall advise each of its officers and employees who have responsibility for or authority over the establishment of prices for dairy products and/or the determination and submission of bids for State or Federal dairy product contracts, of its and their obligations under this Final Judgment. For a period of five (5) years from the entry of this Final Judgment, each defendant shall maintain a program to insure compliance with this Final Judgment, which program shall include at a minimum the following with respect to each of the persons described immediately above:

(1) The annual distribution to them of this Final Judgment;

(2) The annual submission to them of a written directive setting forth the defendant's policy regarding compliance with the Sherman Act and with this Final Judgment, with such directive to include (a) an admonition that non-compliance with such policy and this Final Judgment will result in appropriate disciplinary action determined by the defendant and which may include dismissal, and (b) advice that the defendant's legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems;

(3) The imposition of a requirement that each of them sign and submit to his employer, once a year, a certificate in substantially the following form:

"The undersigned hereby (1) acknowledges receipt of a copy of the 1979 Alaska Milk Final Judgment and a written directive setting forth the Company policy regarding compliance with the antitrust laws and with such Final Judgment, (2) represents that the undersigned has read and understands such Final Judgment and directive, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Final Judgment will result in appropriate disciplinary measures determined by the Company and which may include dismissal,

and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine";

(4) The holding of one or more meetings with them to review the terms of this Final Judgment and the obligations it imposes, with such meetings to be arranged and conducted so that each of them attends at least one such meeting within a twelve-month period; and

(5) The imposition of a requirement that each of them is subject to any legally recognized privilege, to report in writing each communication of the type described in Section V of this Final Judgment with an officer, director, representative or employee of any other defendant or of any other dairy products company. Each of them is to meet this requirement by completing a written report of each such communication, within ten days of the communication, stating the date, time and place of the communication, the names of all individuals who participated in the communication, and the topics discussed during the communication. Any person required to complete reports of communications by this Paragraph and who completes no such reports during any twelve-month period must certify that he or she had no communications of the type described in Section V of this Final Judgment, or that he or she has declined to report any such communications on the basis of a specified legally recognized privilege. Each defendant shall include in its annual sworn statement required to be filed by Section X(B) of this Final Judgment, the name and address of each person who was required to submit a report or certification required by this Paragraph during the twelve-month period preceding the filing of the defendant's sworn statement and shall indicate whether or not each such person filed such a report or certification. The defendants shall maintain for inspection by the plaintiff until the tenth anniversary of the date of entry of this Final Judgment all reports and certifications required by this Paragraph.

(B) For a period of five (5) years from the entry of this Final Judgment, each defendant shall file with the plaintiff and under seal with the Court, on or before the anniversary date of this Final Judgment, a sworn statement, by a responsible official designated by the defendant to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under this Section X. This statement shall be accompanied by copies of all written directives issued by the defendant concerning any of the matter covered by this Final Judgment.

XI

Upon motion of the plaintiff or upon this Court's own motion, responsible officials of each defendant may from time to time be ordered to appear before this Court to give sworn testimony relating to each such defendant's manner of compliance with the provisions of this Final Judgment.

XII

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of its assets of its

dairy business in Alaska, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

XIII

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant, made to its principal office, be permitted:

(1) Access during the office hours of such defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment, as may be requested.

No information or documents obtained by the means provided in this Section XIII of the Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

XIV

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the

provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XV

Entry of this Final Judgment is in the public interest.

XVI

This Final Judgment shall expire ten (10) years from the date of its entry.

Dated: _____.

United States District Judge.

U.S. District Court for the District of Alaska

United States of America, Plaintiff, v. Arden-Mayfair, Inc.; Matanuska Maid, Inc.; and Meadowmoor Alaska Dairy, Inc., Defendants.

Civil No. A78-14.

Filed: December 13, 1979.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)], the United States hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I

Nature of the Proceeding

On January 25, 1978, the United States filed a civil complaint under Section 4 of the Sherman Act [15 U.S.C. § 4] alleging that defendants Arden-Mayfair, Inc., Matanuska Maid, Inc., and Meadowmoor Alaska Dairy, Inc. violated Section 1 of the Sherman Act [15 U.S.C. § 1]. The complaint alleged that defendants engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce the substantial terms of which were: (a) to fix, raise, stabilize and maintain the wholesale prices of dairy products in south central Alaska; and (b) to submit collusive and rigged bids for the sale of dairy products under contract in south central Alaska.

In a federal grand jury indictment, also filed on January 25, 1978, the same corporate defendants were charged with a criminal violation of the Sherman Act, arising out of the same alleged conspiracy. All defendants in the criminal case were permitted to enter pleas of *nolo contendere*. In September 1978, U.S. District Court Judge James A. von der Heydt sentenced Arden-Mayfair, Inc. to pay a fine of \$50,000; Matanuska Maid, Inc. was fined \$45,000; and Meadowmoor Alaska Dairy, Inc. was fined \$25,000.

Entry by the Court of the proposed consent judgment will terminate the remaining portions of this civil action, except insofar as the Court will retain jurisdiction over the matter for possible further proceedings which may be required to interpret, modify or enforce the judgment, or to punish alleged violations of any of the provisions of the judgment.

II

Description of Practices Involved in the Alleged Violation

Defendants are producers and/or distributors of dairy products such as milk,

ice cream and similar products which they sell as wholesalers to retail grocery stores, restaurants, hospitals, schools, and other institutions run by federal, state and local governmental agencies. Their total sales of dairy products in 1975 were approximately \$18 million which accounted for approximately 95 percent of the total wholesale sales of dairy products in south central Alaska.

The government would have been prepared to prove at trial that the defendant dairies, through their top management level employees, had frequent communications and meetings among themselves about various aspects of the dairy business. Evidence would have been offered that, at various times during the alleged conspiracy, defendants' employees met, discussed, and agreed on raising wholesale prices to their customers. The government was also prepared to prove that on several occasions, representatives of the defendant corporations met, discussed and reached an understanding as to who would be the successful bidder on contracts being offered by public agencies (federal, state and local) and that there existed an agreement among the defendants to divide the public agency business among themselves pursuant to discussions among their representatives.

According to the complaint, the alleged conspiracy had the following effects: (a) competition between and among the defendants and co-conspirators in south central Alaska had been restrained; (b) purchasers of dairy products in south central Alaska had been deprived of free and open competition in the sale of dairy products; and (c) wholesale prices of dairy products in south central Alaska had been raised, fixed and maintained at artificial and noncompetitive levels.

Defendants, in their formal pleadings filed in the case, denied all the allegations in the government's complaint and were prepared to dispute the evidence to be offered by the government at a trial.

III

Explanation of the Proposed Consent Judgment

The United States and the defendants have stipulated that the proposed consent judgment, which is in a form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(c) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment by the Court is conditioned upon a determination by the Court that the judgment is in the public interest.

A. Prohibited Conduct

The proposed judgment will for ten years prohibit the defendants from entering into or adhering to any agreements or arrangements with any person to raise, fix or maintain the prices or other terms or conditions for the sale of dairy products to any third party. The judgment also prohibits the submission of

any noncompetitive, collusive or rigged bid for the sale of dairy products to any agency or institution of the federal government or the State of Alaska or any other person. Also forbidden is any agreement or understanding among defendants to allocate, rotate or divide markets, customers or territories. The judgment also prohibits defendants, by agreement or individually, from communicating or exchanging among themselves any information on prospective prices, discounts or other terms and conditions for the sale of dairy products. Defendants are further enjoined from communicating or exchanging among themselves the prices or other terms of any bid to a public agency.

B. Required Conduct

To ensure that all bids to public agencies are made without collusion or agreement, the proposed judgment requires each defendant, for a period of five years, to submit with each sealed bid to a federal agency in Alaska a certificate stating that each such bid was not in any way the result of an agreement, understanding or communication with any other producer, seller or distributor of dairy products. False declarations made pursuant to this provision of the judgment would subject the certifying officer to criminal penalties under 18 U.S.C. § 1001. To permit monitoring of compliance with the provisions relating to competitive bidding, defendants are also required over a five-year period to preserve all written price computations and other calculations actually performed in connection with the submission of bids to public agencies, and to retain such computations for a period of five years after the date bids are submitted.

For the purpose of broadcasting to all responsible employees the prohibitions of the judgment, defendants are required, within 60 days, to serve a copy of the judgment on each of their directors and officers, and upon each of their employees or agents who have any responsibility for establishing prices, discounts or other terms and conditions of sale. If new employees are hired in these positions in the future, defendants must also serve a copy of the judgment on these new employees. The judgment applies not only to the defendant corporations but also to their officers, directors, employees and agents who have actual notice of the judgment. Accordingly, requiring the defendants to give such notice to their responsible personnel serves two purposes: it enables the affected employees to know what activities they are prohibited from engaging in, and it permits prosecution for criminal contempt of those employees who disregard the provisions of the judgment.

The judgment further requires each defendant to maintain, for a period of five years, a program to insure compliance with the judgment. At a minimum, each program must include: (1) the annual distribution of the judgment to the officers and other company employees described above; (2) the annual submission to these officers and employees of a directive setting forth the defendant's policy for compliance with the Sherman Act and this judgment, with a warning that non-compliance will result in

disciplinary action and advice that defendant's legal advisors are available to answer any questions concerning compliance; (3) the annual submission by these officers and employees of a certificate acknowledging that he has received and understands the judgment and the directive; (4) annual meetings for these officers and employees to review the terms of the judgment and the obligations it imposes; and (5) requirements that the date, time, place, participants, and topics of any communication concerning price which is prohibited by the judgment must be reported (subject to any legally recognized privilege) within ten days of its occurrence, or, if there are no such communications, annual certificates must be filed indicating that fact, and that such reports or certificates must be maintained for ten years. Each year for a period of five years, a responsible official of each defendant is also required to file with the plaintiff and under seal with the Court, a sworn statement setting forth all the steps it has taken during the preceding year to discharge these obligations, along with copies of all directives issued by the company in compliance with this judgment. Such officials may also be required to give sworn testimony before the Court relating to defendants' manner of compliance.

If any defendant sells all or substantially all of its assets of its dairy business in Alaska, the judgment compels the defendant to require the acquiring party to be bound by the provisions of the judgment and to file with the court and the plaintiff its written consent to be bound by the judgment.

The Department of Justice is given access under the proposed judgment to the files and records of the defendant corporations, to examine such records for compliance or non-compliance with the judgment.

C. Effect of the Proposed Judgment on Competition

The relief encompassed in the proposed consent judgment is designed to prevent a recurrence of any of the activities alleged in the complaint. The prohibitory language of the judgment will ensure that all pricing decisions in this industry shall be made independently by the individual competitors. The judgment contains sufficient record-keeping requirements and access to defendants' records to allow the Department to adequately monitor defendants' activities in the future.

Accordingly, it is the opinion of the Department of Justice that the proposed judgment is fully adequate to prevent any future antitrust violations by the defendant corporations. It is also the view of the Department that disposition of the case without additional litigation is appropriate in view of the fact that the proposed judgment includes the form and scope of relief equal to that which might be obtained after a full airing of the issues at a trial.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act [15 U.S.C. § 15] provides that any person who has been injured as a result of conduct prohibited by

the antitrust laws may bring suit in federal court to recover three times the damage such person has suffered, as well as costs and reasonable attorney fees. Prior to the filing of the complaint in this action Stayfresh of Alaska, a former competitor of the defendants, brought suit against Matanuska Maid and Arden (the action is captioned *Leon Barnes et al. v. Arden-Mayfair, Inc. et al.* Civ. No. C74-7565 (W.D. Wash.)). The case is presently in the discovery stage. The State of Alaska has made an Investigatory Demand on defendants pursuant to A.S. 4552 § 200.

Stayfresh, the State of Alaska, and any other potential plaintiffs will retain the same rights to seek monetary damages and equitable remedies that they would have had if the proposed judgment had not been entered. However, pursuant to Section 5(a) of the Clayton Act, amended 15 U.S.C. § 16(a), the judgment may not be used as prima facie evidence in private litigation.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, 450 Golden Gate Avenue, San Francisco, California 94102, within the 60-day period provided by the Act. The comments and the government's responses to them will be filed with the Court and published in the *Federal Register*. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of the judgment is necessary to the public interest. The proposed judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification or enforcement of the judgment.

VI

Alternatives to the Proposed Consent Judgment

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than the entry of the negotiated consent judgment. The proposed judgment contains all the relief which was requested in the complaint.

VII

Other Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)] were considered in formulating this proposed judgment.

Dated: December 13, 1979.

Richard B. Cohen,

James V. Dick,

Attorneys, U.S. Department of Justice.

[FR Doc. 79-39739 Filed 12-28-79; 8:45 am]

BILLING CODE 4410-01-M

United States v. Continental Group, Inc. et al.; Proposed Consent Judgment, Stipulation, and Competitive Impact Statement as to St. Regis Paper Co.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Consent Judgment, Stipulation and Competitive Impact Statement as to St. Regis Paper Company as set out below have been filed with the United States District Court for the Eastern District of Pennsylvania in *United States of America v. Continental Group, Inc. et al.*, Civil Action No. 76-3377. The Complaint in this case alleged that five (5) corporations, including St. Regis Paper Company, engaged in a combination and conspiracy to fix prices of consumer bags in violation of Section 1 of the Sherman Act, 15 U.S.C. Section 1. The proposed Consent Judgment enjoins St. Regis Paper Company from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of any paper and/or plastic products to: (a) raise, fix, maintain or stabilize the price or other terms or conditions for the sale of any paper and/or plastic products to any third person; (b) allocate, limit or divide territories, markets or customers for the sale of any paper and/or plastic products; (c) submit noncompetitive, collusive, rigged, cover or complimentary bids or quotations for the sale of any paper and/or plastic products; (d) refrain from submitting a bid or quotation for any sale of any paper and/or plastic products; and (e) limit the construction or utilization of production facilities for the manufacture of any paper and/or plastic products. The proposed Judgment further enjoins St. Regis Paper Company from communicating or exchanging with any other manufacturer or seller of any paper and/or plastic products any information regarding specific prices of such products or material from which such specific prices may be computed. St. Regis Paper Company is also enjoined from distributing any pricing manuals or price lists used or to be used in computing prices, terms or conditions of sale charged or to be charged for any paper and/or plastic products. St. Regis Paper Company is required to establish an antitrust compliance program which must include reporting to the Department of Justice all

communications relating to prices of consumer bags and folding cartons between its employees and representatives of other consumer bag or folding carton manufacturers. Public comment is invited within the statutory 60 day comment period. Such comments and responses thereto will be published in the *Federal Register* and filed with the Court. Comments should be directed to John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, Department of Justice, 3430 United States Courthouse, Philadelphia, Pennsylvania 19106.

Dated: December 17, 1979

John H. Shenefield,
Assistant Attorney General, Antitrust Division.

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Continental Group, Inc. et al.*, Defendants.
Civil Action No. 76-3377.
Filed: December 17, 1979.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached and may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding. Dated: December 17, 1979.

For the plaintiff: John H. Shenefield,
Assistant Attorney General; Joseph H. Widmar, Charles F. B. McAleer, John J. Hughes, Attorneys, Department of Justice. Walter L. Devany, Attorney, Department of Justice, Antitrust Division, Department of Justice, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106.

For defendant St. Regis Paper Company: Homer Crawford, Vice President, St. Regis Paper Company; H. Richard Wachtel, LeBoeuf, Lomb, Leiby & MacRae, 140 Broadway, New York, New York, 10005. Ralph W. Brenner, Montgomery, McCracken, Walker &

Rhodes, Three Parkway, 20th Floor, Philadelphia, Pennsylvania 19102.

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Continental Group, Inc. et al.*, Defendants.
Civil No. 76-3377.

Filed: December 17, 1979.

Final Judgment as to St. Regis Paper Co.

Plaintiff, United States of America, having filed its Complaint herein on October 29, 1976, and the Plaintiff and the Defendant, St. Regis Paper Company ("St. Regis"), by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue, and this Court, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, having determined there is no just reason for delay in entering a Final Judgment as to all of Plaintiff's claims asserted in said Complaint against said Defendant and having directed the entry of such a Final Judgment;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby Ordered, Adjudged and decreed, as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against St. Regis under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, corporation, firm, association or other business or legal entity;

(B) "Product" means every product made in whole or in part of paper and/or plastic manufactured or sold by St. Regis and products of the same type, kind or character sold or manufactured by any other person.

(C) "Consumer bags" or "small bags" shall include bags which are pre-formed by a manufacturer from one or more plies of paper, and which are sometimes combined with other materials used as linings and/or coatings, and which are designed for capacities of less than twenty-five pounds. They are normally used to pre-package products which are then marketed in such bags. Consumer bags are used for packaging a variety of products including, among others, pet foods, cookies, tea, coffee, kitty litter, chemicals and agricultural products. Consumer bags also include air sickness bags.

(D) "Folding cartons" means folding cartons made principally from the category of paperboards referred to as bending box board. "Folding cartons" do not include milk cartons.

III

This Final Judgment applies to St. Regis and to its officers, directors, agents and

employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions or communications solely between St. Regis and its officers, directors, employees, agents, or to transactions or communications between or among St. Regis and its parent company, subsidiaries or companies more than fifty percent (50%) owned by St. Regis or its parent, or to activities outside the United States which do not affect the commerce of the United States.

IV

St. Regis is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of any product to:

(A) Raise, fix, maintain or stabilize the price or other terms or conditions for the sale of any product to any third person;

(B) Allocate, limit or divide territories, markets or customers for the sale of any product;

(C) Submit noncompetitive, collusive, rigged, cover, or complimentary bids or quotations for the sale of any product;

(d) Refrain from submitting a bid or quotation for any sale of any product;

(E) Limit the construction or utilization of production facilities for the manufacture of any product.

V

St. Regis is enjoined and restrained from: (A) Communicating to, requesting from or exchanging with any other manufacturer or seller of any product manufactured by both parties to the communication;

(1) Any price, price change, discount or other term or condition of sale charged or quoted to any customer or potential customer for such product whether communicated in the form of a specific price or in the form of information from which such specific price may be computed;

(2) Any future price, price change, discount, or other term or condition of sale to be charged or quoted to any customer or potential customer for such product whether communicated in the form of a specific price or in the form of information from which such specific price may be computed;

(3) Any plan or changes or revisions in the prices at which, or the terms or conditions of sale upon which, any product is sold or offered for sale; and

(4) Any formula utilized for computing costs or prices or methods or means for computing prices at which any product is sold.

(B) Distributing to any manufacturer of consumer bags any pricing manual, price lists, or similar pricing material which is used, has been used or will be used in computing prices or terms or conditions of sale charged or to be charged for consumer bags;

(C) Distributing to any manufacturer of any product manufactured by both St. Regis and the other manufacturer any pricing manual, price lists, or similar pricing material which is used, has been used or will be used in computing prices or terms or conditions of sale charged or to be charged for such product.

VI

Nothing contained in Section V of this Final Judgment shall prohibit St. Regis' negotiations, arrangements or communications with any St. Regis agent, broker, distributor or representative, or with another manufacturer or seller of any product manufactured by St. Regis or with any agent, broker, distributor or representative of such manufacturer or seller solely in connection with bona fide proposed or actual purchases from or sale to that manufacturer or seller except as prohibited by Paragraph (B) of Section V of this Final Judgment. Each such negotiation, arrangement or communication concerning consumer bags shall be reported in writing to his or her immediate superior stating the date, time and place of the negotiation, communication or arrangement, whether it was oral or written, the name and title of the other person or persons involved in the negotiation, arrangement or communication, a brief description of the transaction involved, and the price information transmitted to or from St. Regis; such reports shall be retained in the files of St. Regis and copies thereof shall be delivered to the antitrust Division by St. Regis on each anniversary date of this Final Judgment along with a certification by the responsible officer of St. Regis stating that all reports responsive to this proviso have been delivered to the Antitrust Division without comparison of such reports with reports filed or to be filed with the Antitrust Division by any other company.

VII

(A) Within sixty (60) days after the date of entry of this Final Judgment, St. Regis shall furnish a conformed copy hereof to:

(1) Each of its officers and directors;

(2) Each officer and director of a domestic subsidiary engaged in the manufacture of sale of any product;

(3) Each of its employees and managing agents who is engaged in, or has responsibility for or authority over, the pricing of any product;

(4) Each employee and managing agent of a domestic subsidiary who is engaged in, or has responsibility for or authority over, the pricing of any product;

and shall advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

(B) Within ninety (90) days after the date of entry of this Final Judgment, St. Regis shall file with this Court and serve upon the Plaintiff and affidavit concerning the fact and manner of compliance with Paragraph (A) of this Section.

(C) Within thirty (30) days after each such person becomes an officer, director, employee or agent of the kind described in Paragraph (A), St. Regis shall furnish to him

or her a conformed copy of this Final Judgment together with the advice specified by said Paragraph (A).

(D) Each person receiving from St. Regis a conformed copy of this Final Judgment in accordance with this paragraph shall furnish St. Regis a receipt therefor which St. Regis shall retain in its files.

VIII

(A) St. Regis shall advise each of its officers who has management responsibility for the manufacture or sale of any product, and each of its employees and managing agents who is engaged in, or who has responsibility for or authority over, the pricing of any product, of its and their obligations under this Final Judgment. St. Regis shall maintain a program to insure compliance with this Final Judgment, which program shall include at a minimum the following with respect to each of the persons described immediately above:

(1) The annual distribution to them of this Final Judgment;

(2) The annual submission to them of a written directive setting forth St. Regis' policy regarding compliance with the Sherman Act and with this Final Judgment, with such directive to include (a) an admonition that non-compliance with such policy and this Final Judgment will result in appropriate disciplinary action determined by St. Regis and which may include dismissal, and (b) advice that St. Regis' legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems;

(3) The imposition of a requirement that each of them sign and submit to St. Regis, once a year, a certificate in substantially the following form:

"The undersigned hereby (1) acknowledges receipt of a copy of the Final Judgment as to St. Regis Paper Company entered in *United States v. Continental Group, Inc. et al.*, E.D. Pa., Civil Action No. 76-3377 and a written directive setting forth the St. Regis policy regarding compliance with the antitrust laws and with such Final Judgment, (2) represents that the undersigned has read and understands such Final Judgment and directive, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Final Judgment will result in appropriate disciplinary measures determined by St. Regis and which may include dismissal, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine";

(4) The holding of one or more meetings with them to review the terms of this Final Judgment and the obligations it imposes, with such meetings to be arranged and conducted so that each of them attends at least one such meeting within a twelve (12) month period; and

(5) The imposition of a requirement that for a period of five (5) years from the entry of this Final Judgment each of them shall report, subject to any legally recognized privilege, to his or her immediate superior in writing each

communication not permissible under Section VI hereof with any officer, director, representative or employee of any other company which manufactures any product manufactured by St. Regis, if such communication in any way involves prices or any of the terms or conditions of sale of such products or any information from which a price or term or condition of sale may be computed. Each of them is to meet this requirement by completing a written report of each such communication, within thirty (30) days of the communication, stating the date, time and place of the communication, whether it was oral or written, the name and title of the other person or persons involved and a brief description of the topics discussed during the communication. Any person required to complete reports of communications by this Paragraph and who completes no such reports during any twelve (12) month period must certify that he or she had no communications of the type described in this Paragraph. Each such report and certification shall be retained in the files of St. Regis and copies thereof shall be delivered to the Antitrust Division by St. Regis on each anniversary date of this Final Judgment along with a certification by the responsible officer of St. Regis stating that all reports responsive to this proviso have been delivered to the Antitrust Division without comparison of such reports with reports filed or to be filed with the Antitrust Division by any other company. St. Regis shall include in its annual sworn statement required to be filed by Paragraph VIII(B) of this Final Judgment, the name and address of each person, if any, who has failed to submit a report or certification required by this Paragraph during the twelve (12) month period preceding the filing of St. Regis' sworn statement and the reason given or privilege claimed by each such person for not filing a report or certification.

(B) St. Regis shall file with the Court and with Plaintiff on or before each anniversary date of this Final Judgment, a sworn statement, by a responsible official designated by St. Regis to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under this Section VIII. This statement shall be accompanied by copies of all written directives issued by St. Regis during the prior year with respect to compliance with the antitrust laws and with this Final Judgment.

(C) Upon order of the Court, on motion by the Plaintiff for good cause shown, the designated official shall appear before the Court to give sworn testimony on the manner of compliance with the Final Judgment.

IX

St. Regis shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the design, printing, manufacture and sale of consumer bags or folding cartons, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

X

For the purpose of determining or securing compliance with this Final Judgment, and

subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to St. Regis made to its principal office, be permitted:

(1) Access, during office hours of St. Regis, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of St. Regis, which may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of St. Regis and without restraint or interference from it, to interview officers, employees and agents of St. Regis, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to St. Regis' principal office, St. Regis shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment, as may be requested.

No information or documents obtained by the means provided in this Section X of the Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at any time information or documents are furnished by St. Regis to Plaintiff and St. Regis marks each pertinent page of such material "Confidential", then twenty (20) days notice shall be given by Plaintiff to St. Regis prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which St. Regis is not a party, or pursuant to a request under the Freedom of Information Act.

XI

Notwithstanding any of the provisions of this Final Judgment, the Plaintiff shall not be estopped from instituting any civil or criminal proceeding against St. Regis for any violation of the antitrust laws, or obtaining any other, additional or further relief in any such proceeding.

XII

Jurisdiction is retained by this Court for the purpose of enabling either of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XIII

This Final Judgment will expire on the tenth anniversary of the date of entry except that as to "folding cartons" this Final

Judgment will expire on the twenty-fifth anniversary of the date of entry.

XIV

Entry of this Final Judgment is in the public interest.

Dated: _____

United States District Judge.

U.S. District Court of the Eastern District of Pennsylvania

United States of America, Plaintiff, v. Continental Group, Inc.; American Bag & Paper Corp.; Chase Bag Company; Harley Corporation; and St. Regis Paper Company, Defendants.

Civil No. 76-3377.

Filed: December 17, 1979.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment as to St. Regis Paper Company submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceedings

On October 29, 1976 the United States filed a civil antitrust Complaint alleging that five corporations combined and conspired to fix prices of consumer bags in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The Complaint alleges that beginning at least as early as 1950 and continuing thereafter until the date of the filing of the Complaint the Defendants engaged in a combination and conspiracy to raise, fix, maintain and stabilize the prices and terms and conditions of sale of consumer bags.

The Complaint seeks a judgment by the Court declaring that the Defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin and restrain the Defendants from any such activities or other activities having a similar purpose or effect in the future.

The corporations named in the Complaint are Continental Group, Inc.; American Bag & Paper Corp.; Chase Bag Company; Harley Corporation and St. Regis Paper Company. Defendant St. Regis was tried and acquitted of criminal felony charges with respect to this alleged conspiracy. This civil action had been held in abeyance until the criminal charge was resolved.

II

Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

As defined in the Complaint, consumer bags, also known in the trade as "small bags", are made from one or more plies of paper which may be combined with other materials used as linings and/or coatings. Consumer bags are preformed by the manufacturer in many styles and sizes according to consumer specifications. Most consumer bags have printed exterior designs as specified by the customer and are

designed for capacities of less than 25 pounds. They are normally used to prepackage products which are then marketed in such bags. Consumer bags are used for packaging a variety of products including, among others, pet foods, cookies, tea, coffee, kitty litter, chemicals, and agricultural products. Consumer bags also include air sickness bags.

The Complaint alleges that the Defendant corporations accounted for aggregate sales of consumer bags of approximately \$42 million in 1974. During the period of time covered by the Complaint the Defendants sold and shipped substantial quantities of consumer bags, in a continuous and uninterrupted flow of interstate commerce to customers located in States other than the States in which such bags were manufactured.

The Complaint alleges that the Defendants engaged in a combination and conspiracy beginning at least as early as 1950 and continuing thereafter until the date of filing of the Complaint consisting of an agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were to raise, fix, maintain, and stabilize the prices and terms and conditions of sale of consumer bags.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

1. Prices and terms and conditions of sale of consumer bags sold by the defendants and various co-conspirators have been raised, fixed, maintained and stabilized at artificial and non-competitive levels;

2. Buyers of consumer bags have been deprived of the benefits of free and open competition in the purchase of consumer bags; and

3. Competition among the defendants and various co-conspirators in the sale of consumer bags has been restrained.

III

Explanation of the Proposed Final Judgment

The United States and the Defendant, St. Regis Paper Company, have stipulated that a Final Judgment, in the form filed with the Court, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of law or fact. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon the Court finding that its entry will be in the public interest.

Although the Complaint sought relief only with respect to consumer bags, the injunctive provisions apply to every product made in whole or in part of paper and/or plastic manufactured and sold by St. Regis, including folding cartons, and products of the same type, kind or character, sold or manufactured by any other person. St. Regis was a defendant in both a criminal case, *United States v. Alton Box Board Company*, Criminal No. 76 CR 199, N.D. Ill., Eastern Division, February 18, 1976, and a companion civil case, *United States v. Alton Box Board*

Company, Civil No. 76 C 597, N.D. Ill., Eastern Division, February 18, 1976. These cases charged that the Defendants conspired to fix the prices of folding cartons. In the criminal case, St. Regis entered a plea of *nolo contendere* and was fined \$25,000. In the civil case, St. Regis was a party to a Final Judgment covering folding cartons entered by the United States District Court for the Northern District of Illinois on September 26, 1979. As the proposed Final Judgment gives broader relief against St. Regis than does the Final Judgment entered in *United States v. Alton Box Board Company*, Civil No. 76 C 597, N.D. Ill., Eastern Division, the Government and St. Regis after entry of this proposed Final Judgment will jointly petition the Court for the Northern District of Illinois to dismiss St. Regis as a Defendant in *United States v. Alton Box Board Company*, Civil No. 76 C 597, N.D. Ill., Eastern Division, and as a party to the Final Judgment entered therein. This will avoid any inconsistencies in St. Regis' obligations under the two judgments.

The United States' complaint sought relief only with respect to consumer bags. St. Regis indicated that it believed it desirable to apply the prophylactic provisions of the decree on a company-wide basis and that it would be willing to enter into a decree covering all paper and/or plastic products manufactured or sold by St. Regis. The entry of a decree relating to all such products therefore does not indicate that the United States would have sought relief with respect to products other than consumer bags.

The proposed Final Judgment contains two principal forms of relief. First, St. Regis is enjoined from repeating the behavior which characterized the consumer bag conspiracy and from certain other conduct constituting *per se* violations of Section 1 of the Sherman Act. Second, the proposed Final Judgment places affirmative burdens on St. Regis to pursue a compliance program directed toward avoiding a repetition of the consumer bag price-fixing conspiracy.

A. Prohibited Conduct

Section IV of the proposed Final Judgment enjoins St. Regis from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of any paper and/or plastic products to raise, fix, maintain, or stabilize the price or other terms or conditions of sale of any paper and/or plastic products to any third person; allocate, limit, or divide territories, markets, or customers for the sale of any paper and/or plastic products; submit non-competitive, collusive, rigged, cover or complimentary bids or quotations for the sale of any paper and/or plastic products; refrain from submitting a bid or quotation for any sale of any paper and/or plastic products; and limit the construction or utilization or production facilities for the manufacture of any paper and/or plastic products.

Section V(A) of the proposed Final Judgment also enjoins St. Regis from communicating to, requesting from or

exchanging with any manufacturer or seller of any paper and/or plastic products any past, present, or future price, price change, discount or other terms or conditions of sale charged or quoted to any customer or potential customer whether communicated in the form of a specific price or in the form of information from which such specific price may be computed; any plan, change or revision in the prices at which or the terms or conditions of sale upon which any paper and/or plastic products are sold or offered for sale; and any formula utilized for computing the cost or price or methods or means for computing price at which any paper and/or plastic products are sold.

Section V(B) restrains St. Regis from distributing to any manufacturer of consumer bags any pricing manual or any price list for consumer bags. Section V(C) restrains St. Regis from distributing to any manufacturer of any paper and/or plastic products manufactured by both St. Regis and other manufacturers, any pricing manual or any price list for such paper and/or plastic products.

The only exception to the broad prohibitions of Section V of the Judgment is contained in Section VI and permits necessary communications in connection with *bona fide* proposed or actual purchase or sales transactions between the parties to such communications. Even on *bona fide* proposed or actual purchase or sales transactions, St. Regis is prohibited from distributing pricing manuals or price lists for consumer bags and must report all communications between a St. Regis employee and a person with whom St. Regis has reason to believe sells consumer bags. These reports shall be made in writing to his or her immediate superior setting forth the details of the negotiation, arrangement, or communication. Such reports shall be retained by St. Regis and copies delivered annually to the Antitrust Division without comparison with reports filed or to be filed with the Antitrust Division by any other company.

B. St. Regis' Affirmative Obligations

Sections VII and VIII require that St. Regis adopt an affirmative compliance program directed toward ensuring that its employees comply with the antitrust laws.

Section VII requires St. Regis to furnish a copy of the Judgment within sixty (60) days of the date of entry to each of its officers and directors and each of its employees who is engaged in or has responsibility for or authority over pricing of any paper and/or plastic products; obtain and retain a written receipt therefor; and file with the Court and serve on the Plaintiff an affidavit as to the fact and manner of its compliance with this provision. St. Regis is required to furnish a copy of the Final Judgment to each new officer, director and employee of the kind described above, and obtain and retain a written receipt therefor. St. Regis is also required to advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

Section VIII requires St. Regis to distribute annually the Final Judgment and its written

Antitrust Compliance Program to each employee of the type described in the preceding paragraph and hold annual meetings with these employees to review the terms and obligations of the decree. These employees must annually certify that they have read and understand the Final Judgment and St. Regis' compliance program and that they realize their failure to comply with the Final Judgment may result in disciplinary action by St. Regis, including dismissal, and may place them in contempt of court. Additionally, Subsection VIII(A)(5) requires for a five (5) year period that such employees must file written reports of all communications with any other paper and/or plastic product manufacturers during which any prices or terms or conditions of sale of any paper and/or plastic products were discussed.

Any employee who files no reports during any twelve (12) month period must certify that he has had no communications of the type required to be reported. St. Regis must retain each such report and certification and deliver a copy thereof to the Plaintiff annually.

Section VIII(B) of the proposed Judgment also requires St. Regis to file each year with the Plaintiff and the Court a sworn statement setting forth all steps it has taken during the preceding year to discharge its obligations under Section VIII of the Judgment.

Finally, under Section X of the Judgment, the Justice Department will have access, upon reasonable notice, to St. Regis' records and personnel in order to determine St. Regis' compliance with the Judgment.

C. Scope of the Proposed Judgment

(1) *Persons Bound by the Decree.* The proposed Judgment expressly provides in Section III that its provisions apply to St. Regis and to each of its officers, directors, agents and employees, subsidiaries, successors and assigns and to all other persons who receive actual notice of the terms of the Judgment except that the Final Judgment does not apply to transactions solely between St. Regis and its employees or to transactions between St. Regis, its parent company, or wholly or partially-owned subsidiaries.

In addition, Section IX of the Judgment prohibits St. Regis from selling or transferring all or substantially all of its assets used in its consumer bag or folding carton business unless the acquiring party files with the Court its consent to be bound by the provisions of the Judgment.

(2) *Geographic Coverage of the Decree.* The provisions of the proposed Judgment apply to acts or transactions within the United States, its territories and possessions, but not to activities outside the United States which do not affect the commerce of the United States.

(3) *Duration of the Judgment.* Section XII provides that the Judgment will expire on the tenth anniversary of its entry except that as to folding cartons it will expire on the twenty-fifth anniversary of the date of entry. As explained above, the reporting provisions of Subsection VIII(A)(5) of the Judgment will terminate in five (5) years.

D. Effect of the Proposed Judgment on Competition

The prohibition terms of Sections IV and V of the Judgment are designed to ensure that St. Regis will act independently in determining the prices, terms and conditions at which it will sell or offer to sell any paper and/or plastic products. The affirmative obligations of Sections VI, VII and VIII are designed to ensure that St. Regis' employees are aware of their obligations under the decree in order to avoid a repetition of behavior that occurred in the consumer bag and folding carton industries during the conspiracy periods. Compliance with the proposed Judgment will prevent price collusion by St. Regis with other paper and/or plastic product manufacturers in the sale of any paper and/or plastic products.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the proposed Judgment had not been entered. The proposed Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V

Procedures Available for Modification of the Proposed Consent Judgment

The proposed Final Judgment is subject to a stipulation between the Government and St. Regis which provides that the Government may withdraw its consent to the proposed Judgment any time before the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by the Antitrust Procedures and Penalties Act (15 U.S.C. § 18), any person wishing to comment upon the proposed Judgment may, for a sixty-day period subsequent to the publishing of this document in the Federal Register, submit written comments to the United States Department of Justice, Attention: John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106. Such comments and the Government's response to them will be filed with the Court and published in the Federal Register. The Government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Judgment.

IV

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the

merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations alleged in the Complaint. In fact, the proposed Final Judgment affords much broader relief than would have been secured after a full trial on the merits as it covers not only consumer bags but all other paper and/or plastic products manufactured by St. Regis.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

John J. Hughes,
Raymond D. Cauley,
Attorneys, Department of Justice.

Walter L. Devany,
Attorney, Department of Justice, Antitrust Division, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pa. 19106.

[FR Doc. 79-39736 Filed 12-28-79; 8:45 am]

BILLING CODE 4410-01-M

Attorney General

Amended Consent Decree in Action Concerning Discharges From Blue Plains Sewage Treatment Plant

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed amended consent decree in *State Water Control Board et al. v. Washington Suburban Sanitary Commission et al.* has been lodged with the United States District Court for the District of Columbia. The amended decree changes portions of the original decree relating to sludge disposal and flow allocation.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed stipulation and consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to the *State Water Control Board et al. v. Washington Suburban Sanitary Commission et al.*, D.J. Ref. 90-5-1-1-353.

The proposed stipulation and consent decree may be examined at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and at the

Region III office of the Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

A copy of the proposed stipulation and consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of \$1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,
Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-39737 Filed 12-28-79; 8:45 am]

BILLING CODE 4410-01-M

MINIMUM WAGE STUDY COMMISSION Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Commission meeting:

Name: Minimum Wage Study Commission.
Date: January 8, 1980.
Time: 1 p.m.
Place: 1430 K St., N.W., Suite 1102, Washington, DC.

Original notification of this meeting appeared in the Federal Register November 30, 1979.

Proposed Agenda:

1. Pending Business.
2. Brief Discussion of Working Papers on Noncompliance and Effects of Minimum Wage on Youth Employment and Unemployment.
3. Format of Final Report.
4. Additional Study Areas.

Next meeting of the Commission will be held Tuesday, Feb. 12, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K Street, N.W., Washington, DC 20005; telephone (202) 376-2450.

Louis E. McConnell,
Executive Director.

[FR Doc. 79-38884 Filed 12-28-79; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Literature Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Panel to the National Council on the Arts will be held Jan. 17, 1980 from 3:00 p.m.-6:30 p.m.; Jan. 18, 1980 from 9:00

a.m.-6:00 p.m.; Jan. 19, 1980 from 9:00 a.m.-5:30 p.m.; and Jan. 20, 1980 from 9:00 a.m.-1:30 p.m. in Room 1422, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on Jan. 20, 1980 for the discussion of policy.

The remaining sessions of this meeting on Jan. 17, 1980 from 3:00 p.m.-6:30 p.m.; Jan. 18, 1980 from 9:00 a.m.-6:00 p.m.; Jan. 19, 1980 from 9:00 a.m.-5:30 p.m.; and Jan. 20, 1980 from 9:00 a.m.-12:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070, December 20, 1979.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-39740 Filed 12-28-79; 8:45 am]

BILLING CODE 7537-01-M

Music Panel (Orchestra Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Orchestra Section) to the National Council on the Arts will be held January 14, 1980 from 9:00 a.m.-5:30 p.m.; January 15, 1980 from 9:00 a.m.-5:30 p.m.; January 16, 1980 from 9:00 a.m.-5:30 p.m. in Room 1422, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on Jan. 15, 1980 from 9:00 a.m.-5:30 p.m., and Jan. 16, 1980 from 9:00 a.m.-5:30 p.m. Policy and guidelines will be the topics for discussion.

The remaining sessions of this meeting on Jan. 14, 1980 from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended,

including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts, December 19, 1979.

[FR Doc. 79-39741 Filed 12-28-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Proposed Guidelines and Criteria for the State Science, Engineering, and Technology Program

AGENCY: National Science Foundation.
ACTION: Notice of Proposed Guidelines and Criteria for the State Science, Engineering, and Technology Program.

SUMMARY: The National Science Foundation is proposing the guidelines and criteria set out below to implement the State Science, Engineering, and Technology Program authorized under Pub. L. 96-44. Funds to carry out this Program were appropriated in Pub. L. 96-103.

DATES: Interested parties are invited to submit written comments and suggestions with respect to these proposed guidelines and criteria by January 30, 1980.

ADDRESS: Comments should be addressed to Director, Intergovernmental Program, Division of Intergovernmental Science and Public Technology, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Edward T. Kelly or Raymond W. Cox III at the above address or (202) 634-7996.

SUPPLEMENTAL INFORMATION: The State Science, Engineering, and Technology (SSET) Program covered by these proposed guidelines and criteria continues, with the implementation phase, the study and planning phase of the Program previously authorized by the National Science Foundation Authorization Act for Fiscal Year 1977 (Pub. L. 94-471). The intent of the study and planning phase of the SSET Program was to assist States in identifying the

need for, and the contributions that can be made by, policy analyses, research results, and scientific, engineering, and technical resources in their policy-formulation and decision-making processes, in both the Executive and Legislative Branches.

In accordance with the provisions of OMB-A85 (revised), these proposed guidelines and criteria also have been made available to the Advisory Commission on Intergovernmental Relations for coordination with state and local government associations.

The comments received will be available for public inspection at the above address between the hours of 9:30 AM and 4:00 PM, Monday through Friday (except holidays) until thirty days after the promulgation of the final guidelines and criteria.

It is intended that the effective date of these guidelines and criteria will be the date of promulgation of the final guidelines and criteria in the *Federal Register* or the date of the issuance by the Foundation of a Program Announcement on the State Science, Engineering, and Technology Program, whichever come first.

The text of Proposed Guidelines and Criteria is as follows:

Section 1. Authority. The authority for the State Science, Engineering, and Technology (SSET) Program is the National Science Foundation Authorization Act for Fiscal Year 1980 (Pub. L. 96-44). Funds to carry out the SSET Program were made available by the National Science Foundation Appropriation Act for Fiscal Year 1980 (Pub. L. 96-103).

Section 2. Purpose. The intent of the SSET Program is to enable the gubernatorial and legislative leadership of the States to strengthen their capacity to access and utilize scientific, engineering, and technical resources in their formulation and management of public policy and in their resolution of critical issues in subject areas with significant scientific or technical components.

Section 3. Definitions. 3.1 Applicant Organization. The state agency, office, unit or other state organization designated by the Governor or by the state legislative leadership to apply for an implementation grant under the SSET Program and authorized to act as a grantee under a NSF award. The Applicant Organization shall be that state agency, office, unit, or other organization principally concerned with the central policy management process of the branch.

3.2 Branch. The executive or legislative branch only of a state government.

3.3 Legislative Leadership. The elected leader of each of the two houses of the legislature of a state acting together; or if unicameral, of the single house.

3.4 State. Any of the several States and territories of the United States. As used herein, the term State may imply either branch of a state government or both according to the context.

Section 4. Program duration and funding. 4.1 The maximum duration of support for any award is intended to be three years.

4.2 In exceptional circumstances, States may be eligible for special supplemental transition funds to carry forward a project from the expiration of the implementation budget to the start of the next state fiscal year; this situation shall require a separate application in the last year of the project.

4.3 The Foundation may provide fiscal support to multi-year projects on an annual incremental basis. In addition, the Foundation may reduce maximum funding for the entire project period, due to the non-availability of funds.

4.4 An award shall be provided to a State on a two-thirds Federal, one-third state basis in support of the total effort over the life of the project.

4.5 The required state matching funds may be in the form of cash, or equivalent services and support, or a combination of the two.

4.6 Foundation support is not intended to substitute for existing levels of state activity, although such levels of effort may be used for the required match if appropriate.

Section 5. Designation of applicant organization. 5.1 One application per branch per State may be submitted.

5.2 In the executive branch, the Governor shall designate the applicant organization.

5.3 In the legislative branch, the Legislative leadership of both houses collectively shall designate the applicant organization (except for a unicameral legislature wherein the leadership of the single house shall so designate).

Section 6. Guidelines for applications. The proposal must contain the following elements.

6.1 Abstract. A concise abstract of about 200-250 words shall be provided clearly summarizing the background material (6.3) and the proposed work program activities (6.4).

6.2 Project Objective. A concisely stated project objective shall be provided that is specific to the branch of the State making the application and that is consistent with and builds upon the plan and program appended to the application (6.13).

6.3 Background Material. A description shall be provided for that branch of State government of the existing policy management process and the access to, and use of, scientific, engineering, and technical resources. Both text and diagrammatic material may be utilized as appropriate.

6.4 Work Program Activities. A description of the work program activities to be undertaken under the grant shall be provided that is consistent with and builds upon the SSET plan and program of the State (6.13).

6.5 Central Policy Management Process. The relationship of the proposed SSET process and/or mechanism to the central policy management process of the branch shall be demonstrated.

6.6 Capacity Strengthening Focus. The relationship between the work program activities being implemented and the SSET objective of strengthening the policy management capacity of State government shall be demonstrated.

6.7 Institutionalization Strategy. The strategy shall be provided for institutionalizing, without Foundation support, the process and/or mechanism being undertaken, assuming that it warrants continuation after the Foundation-supported period.

6.8 Applicant Organization. The roles and responsibilities of the applicant organization shall be described briefly and an organization chart indicating its relationship to the Governor or Legislative leadership shall be provided.

6.9 Performing Personnel. Qualifications shall be provided of the proposed project director, project manager (if different), and senior policy and professional SSET Program staff.

6.10 Budget. A detailed budget for each year or period of support and an aggregate budget for the total project shall be provided showing costs for personnel, other direct costs, and indirect costs as well as items to be supported with Federal grant funds and with State contributions.

6.11 Designation of Applicant Organization. A letter designating the applicant organization shall be provided from the Governor or Legislative leadership. One letter may suffice for this purpose and for the endorsement required under Section 6.12 following.

6.12 Endorsement. A letter of endorsement of the application shall be provided from the Governor or Legislative leadership.

6.13 Appendix. The plan and program developed during the SSET Program study phase shall be submitted as an Appendix to the application. This plan and program shall describe the

process and/or mechanism by which the work program activities (6.4) are to be undertaken. The guidelines for that plan and program are provided in the Program Announcement for the study phase (NSF 77-38: *The State Science, Engineering, and Technology Program*). The plan may be revised prior to its submission as an Appendix to the application; however, those revisions shall be consistent with the objectives of the SSET Program as specified in Program Announcement 77-38. Any applicant organization which did not participate in that study phase may submit a new plan which is consistent with SSET Program objectives.

Section 7. Format requirements and application dates. The National Science Foundation shall develop and promulgate the format for submission requirements (such as forms and number of copies) as well as the earliest and latest dates, if any, for receipt of applications. In any event, however, at least thirty calendar days shall be provided between the promulgation of format requirements pursuant to the guidelines and the first closing date for applications.

Section 8. Programmatic requirements. In addition to the formatting requirements pursuant to Sections 6 and 7 above, all of the following programmatic requirements must be met before an application will be considered for an award under the SSET Program.

8.1 The process and/or mechanism being implemented must be directed to strengthening the policy management capacity of the branch and not to conducting applied research projects.

8.2 The process and/or mechanism being implemented must have the capacity to address an array of issues or problems having significant scientific, engineering, or technical components.

8.3 Work program activities must be based on the SSET plan and program (6.13).

8.4 Work program activities must be undertaken within a process and/or mechanism that has a demonstrable relationship to the central policy management process of the branch.

8.5 Work program activities will be expected to result in the institutionalization of the activities at the end of the Foundation-funded period.

8.6 Applicant organization must be primarily concerned with the central policy management process of the branch.

Section 9. Criteria for evaluation. 9.1 All applications meeting the requirements pursuant to Sections 6, 7, and 8 above shall be subject to internal

review by Foundation staff and to external review by individuals including those knowledgeable regarding the SSET Program and the central policy management processes of the executive or legislative branch as appropriate. In this review and evaluation process, the criteria in both Sections 9.2 and 9.3 following shall be met.

9.2 In accordance with Foundation guidelines, reviewers will comment on and evaluate each of the elements of the application:

9.21 Significance of the project objective;

9.22 Appropriateness of the work program activities;

9.23 Appropriateness of the organization and management plans;

9.24 Competence of the project team; and

9.25 Adequacy of the budget.

9.3 In addition, reviewers will comment on and evaluate the extent to which the application demonstrates conformance with the objectives of the SSET Program:

9.31 Relationship to the central policy management process;

9.32 Capacity strengthening; and

9.33 Potential for institutionalization.

9.4 Rectification of Deficiencies. Revisions in applications resulting in substantial changes in program content shall not be accepted during the review process. However, the rectification of deficiencies is permissible but only to the extent that, at the request of the Foundation, unmet format and other administrative requirements are met or programmatic issues are clarified.

9.5 Resubmission. Applicant organizations whose submissions have not been selected for an award will upon request be advised of the reasons for the decision of the Foundation and provided with reviewers' comments, excluding the identity of the reviewers. In addition, such applicant organizations may resubmit a revised application at a later time if another round of applications is approved.

Section 10. Selection for award. 10.1 The Foundation may, subject to availability of funds, make awards to those applicant organizations which meet the requirements of Sections 6, 7, and 8 above and which are deemed eligible for support after peer review pursuant to Section 9.

10.2 In any fiscal year States shall compete for support within selected categories so that, in the aggregate, diversity is achieved across such categories for a series of characteristics deemed by the Foundation to be necessary to achieve the objectives of the Program. These characteristics shall

include but not be limited to the following:

10.21 Type of branch—executive, legislative;

10.22 Experience with the Intergovernmental Program or with similar state-supported program—lack of prior experience, prior experience;

10.23 Regional distribution—four Council of State Governments regions;

10.24 Character of state—metropolitan; nonmetropolitan; and

10.25 Population size of state—small, medium, large.

Section 11. Award information. 11.1 Notification of award will be in the form of an award letter.

11.2 The award instrument will be a grant to the applicant organization.

11.3 No costs, reimbursable under the award or allowable as the required match, may be incurred prior to the effective date of the project as stated in the award letter.

11.4 Awards shall be administered in general accordance with the policies and procedures contained in the NSF Grants Policy Manual (NSF 77-47) and in the NSF Grant General Conditions (FL 118).

William H. Wetmore,
Acting Director, Intergovernmental Program.
[FR Doc. 79-39742 Filed 12-28-79; 8:45 am]
BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

Privacy Act of 1974; Revocation and Transfer of System of Records

Pursuant to the provision of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a, the National Transportation Policy Study Commission published in the *Federal Register* (41 FR 45158) notices of the existence of the following systems of records subject to the Privacy Act: NTPSC-1, Payroll Records-NTPSC; NTPSC-2, General Financial Records-NTPSC; and NTPSC-3, General Personnel Files-NTPSC. The Commission will terminate operations on December 29, 1979, and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records, subsequent to the termination date:

NTPSC-1

System Name:

Payroll Records-NTPSC: To be retained by the General Services Administration, National Payroll Center, for use in concluding administrative

operations of the National Transportation Policy Study Commission as part of the GSA system of records, Defunct Agency Records, GSA/OAD-36.

NTPSC-2

System Name:

General Financial Records-NTPSC: To be retained by the General Services Administration, External Services Branch, for use in concluding administrative operations of the National Transportation Policy Study Commission as part of the GSA system of records, Defunct Agency Records, GSA/OAD-36.

NTPSC-3

System Name:

General Personnel Files-NTPSC: To be destroyed.

John E. Wild,
Executive Director.
[FR Doc. 79-39834 Filed 12-28-79; 8:45 am]
BILLING CODE 6820-36-M

OFFICE OF MANAGEMENT AND BUDGET

Improving Government Regulations; OMB Directives Covered by Executive Order 12044; Semi-annual Agenda of Upcoming Action

AGENCY: Office of Management and Budget.

ACTION: Publication of semi-annual agenda of regulations.

SUMMARY: The Office of Management and Budget is publishing the semi-annual agenda of upcoming action on OMB directives covered by Executive Order 12044, Improving Government Regulations. This action is in accordance with OMB's internal guidelines for implementing Executive Order 12044, as published in the *Federal Register* on June 15, 1979.

FOR FURTHER INFORMATION CONTACT: See agency contact person listed for entry in the agenda, c/o Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20503. On background section, contact David Leuthold, at the above address.

Background

OMB Circulars are directives that communicate significant government-wide policy of a continuing nature. A circular falling within the requirements of Executive Order 12044 is one that is likely to affect:

(1) The existing procedures by which State or local governments contribute to

or participate in the development of Federal policy;

(2) The nature and scope of information collected by Federal agencies from non-Federal respondents;

(3) The nature and scope of information provided by agencies of the Federal Government under the Privacy Act;

(4) The standards by which agencies establish requirements associated with grants, contracts, or other forms of financial assistance.

Those circulars that outline procedures to be followed by departments and agencies for the President's budget and legislative programs are not covered by the provisions of Executive Order 12044. In addition, OMB directives on procurement are not covered.

Summary of action under Executive Order 12044.

A preliminary review of OMB Circulars indicates that twenty-five are subject to Executive Order 12044 guidelines. These include:

A-21, Cost principles for educational institutions

A-25, User Charges

A-63, Advisory Committee Management

A-73, Audit of Federal Operations and Programs

A-76, Policies for acquiring commercial or industrial products and services for Government use

A-84, Reporting of Federal outlays by geographic region

A-89, Catalogue of Federal Domestic Assistance

A-90, Cooperating with State and local governments to coordinate and improve information systems

A-94, Discount rates to be used in time-distributed costs and benefits

A-95, Evaluation, review, and coordination of Federal and federally assisted programs and projects

A-97, Rules and regulations permitting Federal agencies to provide specialized or technical services to State and local units of government under Title III of the Intergovernmental Cooperation Act of 1968

A-102, Uniform administrative requirements for grants-in-aid to State and local governments.

A-104, Comparative cost analysis for decisions to lease or purchase general purpose real property

A-106, Reporting Requirements in Connection with the Prevention, Control, and Abatement of Environmental Pollution at Existing Federal Facilities.

A-108, Responsibilities for the maintenance of records about individuals by Federal agencies

A-109, Major Systems Acquisitions

A-110, Uniform administrative requirements for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations

A-111, Jointly funded assistance to State and local governments and nonprofit organizations

A-116, Agency Preparation of Urban Community Impact Analysis

FMC 73-3, Cost Sharing on Federal Research*

FMC 73-6, Coordinating indirect cost rates and audit at educational institutions

FMC 73-7, Administration of college and university research grants

FMC 74-3, Governmentwide procedures for processing preaward protests against contract award

FMC 74-4, Cost principles applicable to grants and contracts with State and local governments

FMC 75-1, Ensuring consideration of users' experience with Federal agency supply support systems

In February 1979, when publishing OMB's proposed implementing guidelines on Executive Order 12044, we mentioned that our review of existing

requirements was to begin with reviews of seven of the above circulars: A-40, A-106, A-103, A-110, FMC 73-8 and FMC 74-4.

Of these seven circulars, five (A-40, A-106, A-108, A-110, and FMC 74-4) are currently under revision. Circulars A-102 and FMC 73-8 have had final revisions published (FMC 73-8 was reissued as Circular A-21). In addition, A-73 and FMC 73-6 have had revisions completed.

Of the twenty-five covered circulars then, reviews on nine are underway and/or completed. During the next six months reviews will be initiated on five more circulars, including A-25, A-63, A-89, A-94, and A-95.

This will bring to fourteen the number of circulars reviewed under the Executive Order. Reviews of the remaining eleven circulars will be

completed by the end of calendar year 1980. Thus, our total sunset review of these directives will have been accomplished in less than two years.

Other actions on OMB Circulars. The above reviews are being accomplished as part of a comprehensive review of all OMB directives. New internal guidelines for publishing OMB directives have been drafted and are scheduled to be issued within the next 60 days. These guidelines will include specific procedures for justifying proposed new directives.

James T. McIntyre, Jr.,
Director.

*Circulars designated by "FMC" are those for which responsibility was transferred from GSA to OMB by Executive Order 11893, dated December 31, 1975.

Directive under development	Opportunity for public participation	Completion date	Reasons for review and major issues
Revision of Circular No. A-109, "Responsibilities for the maintenance of records about individuals by Federal agencies".	1. Comments on issues may be submitted at any time. 2. Proposed revisions will be published in the FEDERAL REGISTER and circulated to interested parties for comment.	Proposed revisions by January 1980.	Circular No. A-108 was issued pursuant to the Privacy Act of 1974, for which OMB has oversight responsibility. This review is part of the Presidential Privacy Initiative, undertaken in response to the recommendations of the Privacy Protective Study Commission. Specific issues to be reviewed are: 1. Extension of the applicable provisions of the Act to certain recipients of discretionary Federal grants 2. Strengthening the administration of the routine use provision of the Privacy Act. 3. Assignment of Privacy Act oversight and development of new information systems to one office in each department and agency. 4. Establishment of guidelines on the responsibility, training and appointment of the system managers required by the Act. 5. Adoption of mechanisms to improve oversight of the privacy implications of new Federal information systems at an early stage in the planning process, and 6. Promulgation of baseline standards for Federal regulations which require private sector recordkeepers to report personal information about their clients, customers, or employees to the government. It should be noted that OMB carries out its Privacy Act oversight through guidelines as well as Circular A-108. The issues listed above may be addressed in guidelines rather than Circular A-108. Public comment will be sought on any revision or additions to the guidelines. <i>Contact Person:</i> Leslie Greenspan, Information Systems Policy, 395-3785.
Revision of Circular A-106, "Reporting Requirements in Connection with Federal Compliance with Population Control Standards." This circular sets forth the procedures to be followed by Federal agencies in carrying out the provision of Sections 1-4 and 1-5 of Executive Order No. 12089 pertaining to the control of pollution from Federal facilities.	1. Comments may be received at any time. 2. Published for comment in the FEDERAL REGISTER on December 6, 1978.	Comments may be received at March 1980, rather than September 1979, as previously reported.	Circular A-106 is being reviewed to clarify the procedures that must be followed by Federal agencies in controlling pollution at Federal facilities pursuant to Executive Order 12089. 1. Are the requirements for agency information on pollution control clear? 2. Does the schedule for agency reporting allow sufficient time for project review? 3. Does the schedule for reporting ensure that all projects that are needed will be included? 4. Are the information requirements for EPA's evaluation of agency proposals clear and adequate? <i>Contact Person:</i> Kathleen O'Halloran, Natural Resources, 395-6327.
Revision of Procurement Standards attachment to OMB Circular No. A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments".	1. Public meeting held on January 16, 1979. 2. Published for comment in the FEDERAL REGISTER on December 6, 1978.	Published in FEDERAL REGISTER in final August 15, 1979.	1. Attachment revised to reduce administrative cost, paperwork, and other factors which contribute to inefficiency and delay in implementing programs 2. Major Issues— ● Rescinds nonconforming provisions of current agency subordinate regulations. ● Creates a grantee procurement review certification program to reduce Federal agency review of individual procurement. <i>Contact Person:</i> Jack Nadol, Office of Federal Procurement Policy, 395-6166.

Directive under development	Opportunity for public participation	Completion date	Reason for issuance and major issues
Circular requiring States to prepare a substate distribution of population projections.	1. Proposed circular to be published in the FEDERAL REGISTER in December 1979. 2. Federal agencies, State and local governments and the public will be given 90 days for comment. 3. A number of public hearings on this circular will be scheduled. Dates and places for these hearings will be published in the FEDERAL REGISTER.	Circular should be issued July 1980.	OMB and the Department of Commerce are undertaking an effort to develop a standardized series of Federal, State, and substate population projections for use by Federal agencies in funding capital facilities. This effort is expected to greatly reduce the often conflicting and duplicative projections now prepared by State and local governments, and to avoid the expenditure of Federal funds for facility capacities that will never be utilized. Major issues: The following issues have been referenced in the proposed circular: (1) Should the Federal Government finance the costs of preparing the substate projection? (2) Should the Federal Government establish an appeals process in the event of disputes between States and substate governments? (3) What sanction should the Federal Government apply if substate projections are not prepared? Contact person: Walter Groszyk, Intergovernmental Affairs Division, 395-3157. Issuance of a new Executive Order on "Paperwork" and a need to clarify and update related OMB issuances have resulted in the development of consolidated OMB requirements. These are designed to increase effectiveness of the government's paperwork control program and implementation of the Federal Reports Act of 1942. Major issues: (1) Are new policies and procedures adequate to ensure effectiveness of the paperwork control program? (2) Are public participation provisions adequate? (3) Is the development of a single set of OMB rules to control paperwork a sound idea? (4) Should guidelines of President's reporting burden reduction program or significant portions of them be incorporated into the circular? (5) Should circular be limited in subject matter to public reporting? (6) Are all items defined? Are definitions clear? Contact person: Stanley Morris, Regulatory Policy and Reports Management, 395-5867. Studies have indicated that existing citizen participation requirements are often ineffective. In some instances, requirements should exist but do not. This effort is expected to review the present set of requirements and develop recommendations on how a more uniform, effective system of requirements could be established. Major issues: Two alternative proposals are likely to be reviewed. The first would substitute standards of performance for the present set of requirements. A citizen participation program would be developed on a case-by-case (project-by-project/locality-by-locality) basis as a result of negotiations between the Federal funding agency and the State and local government. Most of the existing non-statutory requirements would be eliminated. The second alternative would establish a core set of requirements applicable nationally to all Federal agencies. It would likely increase and elaborate on the existing set of requirements specified by many Federal programs. Contact person: Walter Groszyk, Intergovernmental Affairs Division, 395-3157.
Regulation designed to improve the management reporting and recordkeeping the Federal government imposes on the public, to replace OMB Circular A-40, "Management of Federal Reporting Requirements".	1. Proposed rules to be published in the FEDERAL REGISTER in December 1979. 2. Federal agencies and the public will be given 60 days for comment.	Final rules should be issued in March 1980.	
Circular or Executive Order standardizing citizen participation requirements applied to State and local governments by Federal agencies.	1. Summary of issues being examined by an interagency task force in this area, with an invitation for interested citizens to participate in the review and decision effort by the task force. To be published in the FEDERAL REGISTER, January 1980. 2. Public meetings at locations and dates to be announced in the FEDERAL REGISTER. To be held prior to the completion of draft recommendations. 3. Publication of draft recommendations of the task force in the FEDERAL REGISTER with a 90-day period for public comment. 4. Public hearings at locations and dates to be announced in the FEDERAL REGISTER on the draft recommendations. 5. Representatives of Federal agencies and Federal Regional Councils would be available to identify and transmit the views of citizens with a particular program or geographic interest. 6. Citizens wishing to participate can be placed on a mailing list to receive information without having to rely on the FEDERAL REGISTER.	September 1980.	
Directive under development	Opportunity for public participation	Completion date	Reason for review and major issues
Revision of payments procedures under OMB Circular No. A-102, "Uniform administrative requirements for grants in aid to State and local governments".	Proposed revision was published for comment in the FEDERAL REGISTER, October 1978.	Issued October 1979.	1. Proposed revision brings the circular into line with Treasury requirements. 2. Major issue: • Whether to reimburse recipients only for amounts which have been actually paid to contractors. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.

Directive under development	Opportunity for public participation	Completion date	Reason for review and major issues
Revision of audit requirements under OMB Circular No. A-102, "Uniform administrative requirements for grant-in-aid to State and local governments".	1. Proposed revision published for comment in the FEDERAL REGISTER, July 1979.	Issued October 1979.	1. Continuation of the long-term goal of grant standardization and placing greater reliance on State and local governments. 2. Major issues: • One guide would replace almost one hundred now in use. • Emphasis on total audit of an organization rather than grant-by-grant audits. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.
Revision of Procurement Standards attachment to OMB Circular No. A-102, "Uniform administrative requirements for Grants-in-aid to State and local governments".	1. Published for comment in the FEDERAL REGISTER, December 1978.	Issued August 1979.	1. Attachment revised to reduce administrative cost, paperwork, and other factors which contribute to inefficiency and delay in implementing programs. 2. Major issues: • Rescinds nonconforming provisions of current agency subordinate regulations. • Creates a grantee procurement review certification program to reduce Federal agency review of individual procurement. Contact person: Jack Nadol, Office of Federal Procurement Policy, 395-8166.
Revision of Federal Management Circular No. 74-4, "Cost principles applicable to grants and contracts with State and local governments".	1. Proposed revision concerning expenses of officials has been circulated for comment to all the major public interest groups. 2. Extensive discussions on the interest issue have taken place with State and local officials and representatives of public interest groups. 3. Proposed revision was published for comment in the FEDERAL REGISTER, June 1979. Publication of the interest issue is dependent upon comments received from Federal agencies.	January 1980 rather than October 1979, as previously reported.	The circular is being revised at the request of State, local and Federal officials. Major issues: 1. Whether to recognize travel cost of local legislators and chief executives as an expense when their work directly benefits grant programs. 2. Whether to recognize interest incurred in borrowing to construct building site as a reimbursable cost. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.
Revision of OMB Circular No. A-102 and A-110 to include a set of standard legal assurances for grants to State and local governments, universities, hospitals, and other non-profit organizations.	Publication for comment in the FEDERAL REGISTER expected in Jan. 1980, rather than July 1979, as previously reported.	March 1980, rather than October 1979, as previously reported.	1. Update of assurances in OMB Circular No. A-102 is needed because of the changes that have taken place in Executive Orders and Acts of Congress. Inclusion of standard assurances in OMB Circular No. A-110 will further the goal of standardization and simplification for grantees. 2. Major issues: • Standardization of assurance language, assurance formats and forms. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.
A new OMB circular covering "Principles for determining costs of grants and contracts with certain nonprofit organizations".	1. Proposed circular was published for comment in the FEDERAL REGISTER, April 1977. 2. Recirculated to Federal agencies and interested parties in April 1978.	January 1980 rather than July 1979, as previously reported.	1. Proposed Circular was developed to assist nonprofit agencies by providing single set of cost principles as part of Federal effort to standardize and simplify grant procedures. 2. Major issues: • Methods of allocating indirect costs • Uniform set of allowable costs. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.
Revision of closeout requirements in Circulars A-102 and A-110.	Publication for comment in the FEDERAL REGISTER expected in January 1980, rather than July 1979, as previously reported.	May 1980 rather than October 1979, as previously reported.	1. Closeout attachment being revised as the result of reports that substantial amounts of funds advanced to grantees but not spent for program purposes are being held by grantees. Major issues: • Prompt refund of unspent cash advances. • Greater specificity of closeout requirements. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.
Revision of property requirements in Circular A-110 "Uniform requirements for grants and agreements for grants and agreements with universities, hospitals, and other non-profit organizations".	Publication for comment in the FEDERAL REGISTER expected in January 1980, rather than September 1979, as previously reported.	March 1980 rather than December 1979, as previously reported.	Property management attachment is being revised to make it consistent with Circular A-21 and to further the goal of simplification of grant requirements and reduced paperwork. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.
Revision of Circular A-73, "Audit of Federal Operations and Programs".	Proposed revision was published in the FEDERAL REGISTER for comment July 1979.	Issued November 1979.	Circular A-73 revised to expand the section dealing with audit followup. Specific criteria provided to Federal agencies to assure the timely and proper resolution of audit findings and any attendant collection actions. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.
Revision of Circular 73-6, "Coordinating indirect cost rates and audits at educational institutions".	Proposed revision was published in the FEDERAL REGISTER for comment July 1979.	Issued November 1979.	1. Circular reissued under its original designation of OMB Circular A-88. 2. Revision is based in part on agency task force chaired by the Dept. of Health, Education and Welfare. 3. Revision continues the existing policy of relying on a single agency to act for all agencies in auditing education institutions and in negotiating their indirect cost rates. It adds to those duties the responsibility to follow-up on audits by

Directive under development	Opportunity for public participation	Completion date	Reason for review and major issues
Revision of Circular A-21, "Cost principles for educational institutions"	Study by interagency task force July 1980 and affected groups. Further public involvement will depend on results of the study.		- Assuring correction of systems deficiencies, and negotiating appropriate monetary recoveries. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823. - Review is being done at the urging of university representatives as a result of comments received during the last revision of A-21. - Major issue: - Recognition of independent research and development as an allowable cost. Contact person: John J. Lordan, Financial Management Branch/BRD, 395-6823.

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BILLING CODE 3110-01-M

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no

significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Economics, Statistics, and Cooperatives Service

Farm Coop—Young farm couples and rural youth program
Single time Participants in Farm Coop programs; 473 responses, 236 hours
Office of Federal Statistical Policy and Standard, 673-7974

Revisions

Agricultural Marketing Service
Tobacco stocks report
TB-26
Quarterly
Tobacco dealers and manufacturers; 800 responses, 800 hours
Office of Federal Statistical Policy and Standard, 673-7974
Rural Electrification Administration
Uniform system of accounts prescribed for electric borrowers of REA
REA 181-1
On occasion
REA electric borrowers
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
1980 Decennial Census KAP/Exposure study
(KAP survey; exposure survey)
D-897 (KAP) D-898 (Exp.)
Single time
Households in mail-out, mail-back census areas; 13,550 responses, 4,517 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-8558

New Forms

Report forms for enhanced oil recovery incentives program
ERA-424A, B, and C
On occasion

Producers using specified ECR techniques; 3,700 responses, 3,400 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7468

New Forms

Center for Disease Control
CDC Institutional Anonymity Survey
Single time
Hospital Administrators, 210 responses, 53 hours
Richard Eisinger, 395-3214
Public Health Service
Longitudinal Health Survey
Other (see SF-83)
Persons age 12+ in household with telephone, 17,886 responses, 2,969 hours
Office of Federal Statistical Policy & Standard, 673-7974
Office of the Secretary
Evaluation of HEW Programs: Services to victims of domestic violence: (A) State survey, (B) Community survey
OS-24-79
Single time
HEW program administrators and providers (S&L) 2,641 responses, 331 hours
Laverne V. Collins, 395-3214
Public Health Service
Report on Federal Obligations for Medical and Health Related R&D
NIH-1815-1
Other (see SF-83)
Various scientific research and analytical services 16 responses, 1,568 hours
Richard Eisinger, 395-3214
Public Health Service
Evaluation of Workshops—Office of Adolescent Pregnancy Program
On occasion
Workshop participants 500 responses, 125 hours
Richard Eisinger, 395-3214

Revisions

Social Security Administration
Application for Retirement Insurance Benefits
SS-1-F6
On occasion
Application for retirement insurance benefits under the Social Security Act 1,560,000 responses, 260,000 hours
Barbara F. Young, 395-6132
Social Security Administration
Application for Widow's or Widower's Insurance Benefits
SSA-10-F8
On occasion

Surviving widows/widowers age 60 or older (or over 50 if disabled), 661,000 responses, 165,250 hours
Barbara F. Young, 395-6132
Social Security Administration
Application for Surviving Child's Insurance Benefits
SSA-6-F6
On occasion
Children of deceased wage earners 815,000 responses, 203,750 hours
Barbara F. Young, 395-6132
Social Security Administration
Application to be selected as Payee
SSA-11-F6
On occasion
Per want to be substituted as a rep pay for minor or incompetent beneficiary 550,000 responses, 91,667 hours
Barbara F. Young, 395-6132
Alcohol, Drug Abuse and Mental Health Administration
Treatment Outcome Prospective Study (TOPS)
Intreatment phase
Other (see SF-83)
Clients in federally funded drug abuse treatment programs 2,400 responses, 16,000 hours
Richard Eisinger, 395-3214

Extensions

Public Health Service
Master Facility Inventory—Complement Survey
On occasion
Health facilities in area problem sample & not listed in MFI, 300 responses, 75 hours
Office of Federal Statistical Policy & Standard, 673-7974
Food and Drug Administration
Request for Supplemental Certification of a Batch of an Antibiotic Drug
FD 1679
On occasion
Antibiotic manufactures, 150 responses, 75 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Equal Opportunity
Recipient Employment
Annually
All units of general local government receiving CDBG funds 1,560 responses, 11,700 hours
Arnold Strasser, 395-5080
Policy Development and Research
Survey for Evaluation of Urban Counties in CDBG
Single time

Key individuals in 10 CDBG designated urban Counties, 85 responses, 170 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343-6716

Revisions

Bureau of Land Management
Exchange-of-use Grazing Agreement 4130-4
On occasion
Applicants for grazing use agreements, 1,200 responses, 600 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

Reinstatements

Federal Railroad Administration
Locomotive Inspection and Repair Report
FRA F6180-49
Semi-Annually
Railroads, 64,000 responses, 144,000 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376-0438

Revisions

Bureau of Customs
Application for Withdrawal of Bonded Stores
For fishing vessel and certification of use
5125
On occasion
Vendors of fishing fleets, 8,700 responses, 609 hours
Marsha D. Traynham, 395-6140

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Thomas Clark—395-4540

New Forms

Pesticide Applicator Questionnaires
Single time
Pesticide applicators, 1 response, 3,600 hours
Edward H. Clarke, 395-5867

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

New Forms

Producers' Questionnaire for Investigation
303-TA-12 pig iron
Single time

Domestic producers of pig iron, 30 responses, 480 hours
Office of Federal Statistical Policy & Standard, 673-7974

Purchasers' Questionnaire---Pig Iron
Single time
Purchasers of pig iron, 25 responses, 200 hours
Office of Federal Statistical Policy & Standard, 673-7974

Importers' Questionnaire for Investigation
303-TA-12 pig iron
Single time
Importers of pig iron, 25 responses, 200 hours
Office of Federal Statistical Policy & Standard, 673-7974

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-39814 Filed 12-28-79; 8:45 am]

BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meetings

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given that the second meeting of the President's Commission for a National Agenda for the eighties is scheduled to be held from 9 a.m. to 6 p.m., January 11, 1980, in the 6th Floor Conference Room, Federal Home Loan Bank Building 17th and G Streets, Northwest, Washington, D.C.

The purpose of the meeting is to continue formulation of an agenda identifying issues for further study by the Commission.

Because of limited space, those interested in attending are asked to call the Commission's office beforehand. Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Wegman or Mr. Claude Barfield, President's Commission for a National Agenda for the Eighties, 744 Jackson Place, NW, Washington, DC (202) 275-0616.

David R. Leuthold,
Budget and Management Officer.

[FR Doc. 79-39798 Filed 12-28-79; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/255]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Open Meeting

The General Panel of the Oceans and International Environment and Scientific Affairs Advisory Committee will meet at 10:00 am on Thursday, January 17, 1980 in Room 150, National Academy of Science, Washington, D.C.

At this meeting, officers responsible for scientific and environmental affairs in the Department of State and members of the Advisory Committee will discuss three broad issues: energy and development, the follow-up to the UN Conference on Science and Technology for Development, and, resource problems. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and may be given the opportunity to participate in discussions according to the instructions of the Chairperson.

Requests for further information on the meetings may be directed to Bruce L. R. Smith or Bronson Percival of the OES Policy Assessment Staff, Department of State. They may be reached by telephone on (202) 632-2764.

Thomas R. Pickering,
Chairman.

December 11, 1979.

[FR Doc. 79-39692 Filed 12-28-79; 8:45 am]

BILLING CODE 4710-09-M

TENNESSEE VALLEY AUTHORITY

Murphy Hill 500-kV Substation and Transmission Line Connections; Negative Determination (Finding of No Significant Impact)

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), and Section V-B-1 of the Tennessee Valley Authority's Procedures for Environmental Planning and Assessment (39 FR 5671-75 (1974)) and consistent with Section 1501.4 of the Council on Environmental Quality Provisions for Implementing NEPA (43 FR 55,978-56,007 (1978)), the Tennessee Valley Authority (TVA) hereby gives notice that it has determined that the construction and operation of a 500-kV substation and transmission line connections (located approximately 11 miles northeast of Guntersville, Alabama), is not a major Federal action significantly affecting the quality of the human environment and an environmental statement is not

necessary for this proposed action. TVA has prepared an environmental evaluation of the impacts related to this proposal and has identified measures to minimize the effects of construction and operation on the environment. The proposal is compatible with both regional and local planning and no significant adverse comments have been received from the public.

This project is required in order to maintain acceptable operating voltage levels and facilitate TVA's continuing efforts to strengthen the local power supply. The proposed transmission line routes will traverse several creeks and branches and their associated floodplains and could require the installation of transmission structures within areas subject to flooding. TVA, however, is of the opinion that neither the activities associated with constructing the transmission structures nor their presence will significantly impact the floodplains. TVA has also determined that there are no practical alternate transmission line routes which would avoid traversing one or more of these floodplains, and that the proposed action is consistent with policies on Floodplain Management.

TVA will assure in the construction of its facility that the floodplains will not be (1) irreparably damaged by construction activities; (2) altered significantly in volume and rate of flow; or (3) significantly reduced in flood storage capacity. Should transmission line structures be located in a floodplain, for each foot of flood elevation less than one cubic foot of flood capacity per tower will be displaced.

Preannounced public meetings on this project were held at Guntersville, Alabama, on September 27, 1979, and in the Wakefield Community Center near the Murphy Hill site on October 4, 1979. Information concerning the project was presented and TVA personnel answered questions from several of the approximately 133 people in attendance. No significant conflicts or environmental impacts related to this project were identified at the meetings or by any of the agencies contacted by TVA. Copies of the environmental evaluation are available to the public by calling TVA's toll free Citizen Action Line at 1-800-362-9250 (inside Tennessee), 1-800-251-9242 (outside Tennessee), and 632-4100 at Knoxville or by contacting TVA's Information Office, 400 Commerce Avenue, Knoxville, Tennessee 37902.

Any questions or comments concerning this proposal should be directed to: Dr. Mohamed T. El-Ashry, Director of Environmental Quality,

Tennessee Valley Authority, Forestry Building, Norris, Tennessee 37828.

No further action will be taken on this proposal for 30 days from the date of publication of this notice (January 30, 1980) pending receipt of public comment.

Dated: December 20, 1979.

Mohamed T. El-Ashry,

Director of Environmental Quality.

[FR Doc. 79-39744 Filed 12-28-79; 8:45 am]

BILLING CODE 9120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA General Docket No. H-75-4]

Locomotive Inspection Test Program; Second Supplemental Report and Order

The Federal Railroad Administration (FRA) previously granted a waiver of compliance to the Port Authority Trans Hudson Corporation (PATH) to permit the initiation of a limited test program concerning the utilization of different inspection requirements for certain types of electrically powered multiple unit passenger cars. The report and order granting this waiver and describing the test program was published in the *Federal Register* on April 21, 1976 (41 FR 16680).

In granting this waiver the Railroad Safety Board (Board) of the FRA, which has been delegated the authority to determine whether granting such a waiver is appropriate, established terms and conditions under which that test program was to be conducted. The terms and conditions established by the Board basically provided for a thirty-six (36) month test effort. The test was divided into three phases which allowed PATH to make gradual incremental increases in the time interval required for the performance of the inspection activity required by 49 CFR § 230.451(a).

The test program entered its third and final phase on August 1, 1978. During this phase the interval for conducting the required inspections has been increased to 60 days. The Board subsequently acted to extend the duration of the test program for an additional six month period in order to obtain additional information. The supplemental report and order increasing the duration of the test program to a period of forty-two (42) months was published in the *Federal Register* on November 30, 1978 (43 FR 56122). Under the terms of that supplemental report and order the test program is scheduled to terminate on December 31, 1979.

The data obtained from this test clearly indicates that the 60 day inspection interval has not reduced the operational safety of this equipment. In fact the available data suggests that even greater intervals between inspections could be permitted without diminishing the safety performance of this equipment. Based on this data the Board has been considering a further extension of this test effort.

Additionally, there are contemplated regulatory changes that make an extension of the test effort appropriate.

The proposed regulatory change is based on FRA's response to Executive Order 12044 which prompted a general review of FRA's existing safety regulations. That review included a series of safety inquiry hearings, commencing on June 14 and 15, 1978, which specifically addressed the existing locomotive inspection rules. The details of this review effort were announced in the *Federal Register* on May 8, 1978 (43 FR 19696).

Based on those hearings and other available data FRA proposed to totally revise the existing rules for locomotive inspections (49 CFR Part 230). The details of the proposed revisions were published in the *Federal Register* on May 21, 1979 (44 FR 29604). The proposed revisions contained a deletion of the current thirty (30) day inspection interval and substitution of a quarterly inspection provision. The proposed rules have been the subject of both oral and written comment. Although these comments are extensive, FRA anticipates that a final rule will be adopted in the near future.

In the event that the proposed concept of quarterly inspections is adopted, when FRA issues the final rule concerning locomotives, a continuation of the PATH test program would be of only minimal value to the Board. Additionally, under such circumstances continuation of the test program would be economically detrimental to PATH since, in the absence of the test effort, PATH would be able to select an interval of up to ninety days for the performance of the required inspection. Conversely, if the proposed concept of quarterly inspections is not adopted and FRA issues a final rule with a 30 day or 60 day inspection interval, a continuation of the test program would be of value to both the Board and PATH.

Consequently, the Board believes that the proposed revision has a direct bearing on this proceeding and that the adoption of the final rule should occur before further significant action is taken in this proceeding. Although adoption of a final rule is necessary for the long term resolution of this test effort, there

is a need for the Board to take action in this matter in order to preserve the present method of inspections.

As noted the Board in its' initial supplemental report and order extended the duration of the test period to December 31, 1979. It is not clear that the issuance of the revised regulations will occur by that date. Furthermore, it is not clear what the impact of that final rule will be for this test program's continuation. The Board, therefore, has decided to further extend the existing test program for a period of an additional six (6) months (until June 30, 1980).

Authority: Sec. 202 of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).

Issued in Washington, D.C. on December 19, 1979.

Joseph W. Walsh,
Chairman, Railroad Safety Board.

[FR Doc. 79-39634 Filed 12-28-79; 8:45 am]

BILLING CODE 4910-06-M

Federal Highway Administration

Environmental Impact and Related Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice publishes interim instructions which have been provided to FHWA field offices regarding the implementation of regulations issued by the Council on Environmental Quality under the National Environmental Policy Act. These instructions will govern Federal-aid highway projects pending the implementation of more comprehensive FHWA procedures.

DATES: The interim instructions were effective on November 30, 1979, and will expire on June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward V. A. Kussy, Office of the Chief Counsel, (202) 426-0791, or Mr. Dale E. Wilken, Office of Environmental Policy, (202) 426-0106, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: December 18, 1979.

Karl S. Bowers,
Federal Highway Administrator.

Environmental Impact and Related Procedures [FHWA Notice 6640.18]

1. *Purpose.* To provide information and guidance on environmental impact and related procedures which apply to

the Federal-Aid Highway Program as of November 30, 1979.

2. *Background.* a. Present Federal Highway Administration (FHWA) procedures implementing the National Environmental Policy Act (NEPA) of 1969, as amended, are contained in Federal-Aid Highway Program Manual, Volume 7, Chapter 7, Section 2 (FHPM 7-7-2) Environmental Impact and Related Statements, and Part 771 of title 23, Code of Federal Regulations (CFR).

b. On November 29, 1978, the Council on Environmental Quality (CEQ) issued regulations for implementing the procedural provisions of NEPA (43 FR 55978-56007). These regulations apply to all agencies of the Federal Government and are codified in Parts 1500-1508 of title 40, CFR. In response to the CEQ regulations, the Department of Transportation issued DOT Order 5610.1C entitled "Procedures for Considering Environmental Impacts; Policies and Procedures" on September 18, 1979 (44 FR 56420-56433, Oct. 1, 1979).

c. The FHWA is currently revising its procedures for implementing NEPA to incorporate the provisions of the CEQ regulations and the DOT Order into its program activities. Proposed procedures were published on October 15, 1979, for notice and comment (44 FR 59438-59461). The closing date for receipt of comments has been extended until December 3.

d. As of November 30, 1979, the CEQ regulations and the DOT Order are fully applicable to FHWA activities (40 CFR 1506.12; DOT Order, paragraph 18).

3. *Action.* a. For all NEPA-related activities and NEPA-related documents processed by FHWA on or after November 30, 1979, compliance with the CEQ regulations and DOT Order 5610.1C is required to the full extent described therein. Present FHWA procedures (FHPM 7-7-2) will continue to apply where the CEQ regulations and/or DOT Order 5610.1C are not applicable (e.g., final environmental impact statements whose draft were filed by July 30, 1979).

b. The proposed procedures published by FHWA on October 15 should be used as supplemental guidance by FHWA offices and State highway agencies until final regulations are issued.

[FR Doc. 79-39693 Filed 12-28-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY Customs Service

Availability of Reprinted Looseleaf Edition of Customs Regulations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of availability.

SUMMARY: This document informs the public that an updated reprinted looseleaf edition of the Customs Regulations (19 CFR Chapter I) is available from the Government Printing Office. In addition to the Customs Regulations, including all changes made through December 31, 1978 (Treasury Decision 78-494), the reprint includes Treasury Department and Customs Service Delegation Orders, and an appendix containing the text of, or references to, sections of law and the text of regulations administered by other Government departments or agencies and enforced wholly or in part by Customs.

FOR FURTHER INFORMATION CONTACT: Shannon McCarthy, Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

The regulations of the Customs Service, codified in Title 19, Chapter I, Code of Federal Regulations (19 CFR Chapter I), have been issued by the Commissioner of Customs, with the approval of the Secretary of the Treasury, for the purpose of carrying out the Customs and navigation laws and other laws administered by Customs.

Title 19, Code of Federal Regulations, is published annually, revised as of April 1 of each year, by the Office of the Federal Register. In the interest of having the regulations as up to date as possible, Customs has the Government Printing Office print a looseleaf edition which is updated by the issuance of sets of revised pages three or four times each year. In addition to the regulations, the looseleaf edition also includes orders of the Secretary of the Treasury relating to the rights, privileges, powers, and duties of the Commissioner of Customs and other Customs personnel, and Customs Delegation Orders. An appendix to the looseleaf edition contains the text of, or references to, sections of law and the text of regulations administered by other Government departments or agencies and enforced wholly or in part by Customs.

Numerous sets of revised pages to the regulations have been issued since the last general reprint was prepared in 1976. As part of an ongoing program to improve the utility of the regulations, Customs has prepared a new reprint, including all changes through December 31, 1978 (Treasury Decision 78-494). It is anticipated that there will be another reprinting during the first quarter of 1980, which will include all changes through December 31, 1979.

Orders for the new reprint are now being accepted by the Government Printing Office. Current subscribers will receive the reprint automatically. New subscribers may order the reprint by requesting the "Customs Regulations of the United States, [CRUS] (file code 1F)" from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The yearly subscription price of \$37.00 will entitle subscribers to receive the 1980 as well as the 1979 reprint.

A different printing process and format have been used for this reprint. While every effort has been made to ensure correctness, users may notify the U.S. Customs Service, Regulations and Research Division, Washington, D.C. 20229, of any typographical or printing errors in order that corrections may be made. Suggestions for improvements also are requested.

William T. Archey,

Acting Commissioner of Customs

December 26, 1979.

[FR Doc. 79-35665 Filed 12-28-79; 8:45 am]

BILLING CODE 4810-22-M

Office of the Secretary

Privacy Act of 1974; Proposed New System of Records; Correction

The Office of the Secretary, Department of the Treasury published at 68058 (FR Doc. 79-36686) of the November 28, 1979 issue of the Federal Register, a notice of a proposed system of records, Treasury/OS 00.075, entitled Legislative Affairs Vote Tracking System. The effective date of the Notice was to be January 2, 1980 if the Office of Management and Budget granted a 60 day waiver. The waiver has not been granted, thus the effective date of the system must be corrected to January 30, 1980.

Dated: December 20, 1979.

Walter J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 79-39935 Filed 12-28-79; 8:45 am]

BILLING CODE 4810-25-M

INTERSTATE COMMERCE COMMISSION

Environmental Impact Statement for Motor Carrier Regulatory Reform

AGENCY: Interstate Commerce Commission, Energy and Environment Branch.

ACTION: Notice of withdrawal of previously issued notice of intent to prepare an environmental impact statement for motor carrier regulatory reform initiatives.

SUMMARY: The notice of intent to prepare an environmental impact statement for motor carrier regulatory reform initiatives appearing at 44 FR 71495 (1979) is withdrawn as prematurely issued.

FOR FURTHER INFORMATION CONTACT: Carl Bausch, Telephone: (202) 275-7916.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39701 Filed 12-28-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

December 26, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

FSA No. 43777, Trans-Continental Freight Bureau, Agent No. 545, rates on canned or preserved foodstuffs, not cold pack nor frozen, in carloads, from stations in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah and Washington, to Dallas and Houston, TX. Rates are scheduled to be published in its Tariff ICC TCFB 3302-Q. Grounds for relief—origin rate relationship.

The application also asks waiver of the 15 day protest period from date of publication in the Federal Register. Grounds for the waiver are carriers interests in earliest publication. The waiver has been denied for lack of sufficient justification. Protests against grant of relief are due at the Offices of the Commission, Suspension Board, in Washington, DC, on or before January 15, 1980.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33702 Filed 12-28-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29176]

Chicago & Illinois Western Railroad Co.—Acquisition—Chicago & Illinois Western Railroad; IC Industries, Inc., and Illinois Central Gulf Railroad Co.—Control—Chicago & Illinois Western Railroad Co., Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: IC Industries, Inc. (ICI) and Illinois Central Gulf Railroad Company (ICG) seek to gain indirect control of Chicago & Illinois Western Railroad Company (C&IW-DE), a Delaware Corporation organized on October 25, 1979. ICI presently directly controls Chicago & Illinois Western Railroad Company (C&IW-IL), an Illinois corporation. In the proposed transaction C&IW-DE will transfer its common stock to C&IW-IL and will acquire substantially all of its assets and assume substantially all of its liabilities. Upon completion of that transaction, C&IW-IL will dividend the C&IW-DE stock to ICI which will contribute the stock to ICG, which in turn will contribute the stock to a non-carrier, Mississippi Valley Corporation (a directly owned subsidiary of ICG). A petition was filed with the Interstate Commerce Commission on November 8, 1979, seeking exemption from 49 USC 10901, 11343-11347. The exemption from 49 USC 10901 is for the limited purpose of C&IW-DE acquiring certain assets, subject to certain liabilities of C&IW-IL in exchange for all the capital stock of C&IW-DE. The remaining sections from which exemption is sought, 49 USC 11343-11347, require the approval of the transaction prior to control of a carrier taking place. ICI, ICG and C&IW-DE, are seeking exemption from these sections under 49 U.S.C. 10505 on the basis that Commission review of the transaction is unnecessary.

DATES: Comments must be received on or before January 30, 1980.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Washington, DC 20423.

All written submissions will be available for public inspection during regular business at the same address. Written submissions should refer to the above-docket number.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: C&IW-DE, ICG and ICI filed a joint petition for exemption under 49 U.S.C. 10505 on November 8, 1979, in order to exempt their anticipated corporate reorganization from the requirements of obtaining prior Commission approval under 49 U.S.C. 10901 and 11343-11347.

Petitioners claim that the proposed transaction will simplify the corporate form of the ICI controlled railroad operations, but will not affect railroad operations. ICI will continue in direct control of ICG. It is claimed that no other carrier, shipper, the public, or the present operations of the operating railroads will be affected. Further it is contended that the transactions' effect on the National Transportation Policy (49 USC 10101) will be neutral. It will merely simplify the corporate organization. These assertions should be addressed in any comments.

The Transaction

ICI is a diversified holding company which directly controls both C&IW-IL and ICG. ICG is a wholly owned subsidiary of ICI.

C&IW-IL is an Illinois corporation organized in 1903. It is a Class II switching railroad that operates solely within Cook County, IL over 9.37 miles of main track and 17.45 miles of yard track and sidings. It has trackage rights covering an additional 1.93 miles.

C&IW-DE is a Delaware corporation, recently organized and will assume the operations, assets, and liabilities of C&IW-IL. In this process C&IW-DE's place will shift in the ICI corporate organization. C&IW-DE proposes to issue 1,000 shares of common stock at a par value of \$1 per share. A related application docketed as F.D. No. 29175, under 49 U.S.C. 11301 has been filed.

Petitioners contend that the transaction will be in the public interest. ICI, while continuing in direct control of ICG, will take indirect control of the C&IW-DE property. ICG presently performs accounting functions for C&IW-IL, as well as having common seniority lists for many of their union employees. These arrangements will continue with C&IW-DE after the corporate reorganization. Although expecting no adverse impact on labor interests, the parties are willing to have the Commission's approval of this petition conditioned on protecting employees who are affected by these transactions in accordance with the requirements established in *New York*

Dock RY.-Control-Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitioners allege that the transaction will not adversely affect other carriers, shippers, the public, or the present operations of either the C&IW-DE property or ICG. They also maintain that the transaction will not have an adverse impact on energy consumption or the environment.

It is argued that the usual regulatory requirements contained in 49 U.S.C. 11343-11347 would be an undue burden on the petitioners and would serve little or no useful public purpose. Further, to the extent C&IW-DE acquires certain assets, subject to certain liabilities, of C&IW-IL exemption is sought from 49 U.S.C. 10901.

Petitioner has argued the ICI has joined in this petition for exemption out of an abundance of caution. However, it states that as a general rule a carrier seeking to obtain indirect control when it is sacrificing direct control needs no Commission approval. However, since C&IW-DE is a new corporation, this exclusion does not apply.

The Statute

Acquisition of control of a carrier by (1) a corporation that controls a carrier and (2) another carrier, are transactions that require the approval and authority of the Commission under 49 U.S.C. 11343-11347. To seek Commission approval, an application must be filed in compliance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 C.F.R. Part 1111 (1978) (Consolidation Procedures). ICI and ICG have requested an exemption from 49 U.S.C. 11343-11347 so that it will not have to file an application under the Consolidation Procedures.

A railroad providing transportation subject to our jurisdiction may acquire or operate an extended or additional railroad line if it obtains the approval and authority of the Commission under 49 U.S.C. 10901. C&IW-DE has requested exemption from 49 U.S.C. 10901 for the limited purpose of acquiring the substantial assets, subject to certain liabilities, of C&IW-IL.

We can exempt a matter related to a rail carrier under 49 U.S.C. 10505 if it is (1) of limited scope; (2) is not necessary to carry out the transportation policy of 49 U.S.C. 10101 of this subtitle; (3) would be an unreasonable burden; and (4) would serve little or no useful public purpose.

Petitioners believe that this transaction is the type of transaction

which Congress intended the Commission to exempt when it adopted 49 U.S.C. 10505. Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the proposed exemption of the proposed transactions is that opportunity. All comments filed in response to this notice, along with the petition, will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553, 559.

This is not a major action significantly affecting either energy consumption or the quality of the human environment.

Dated: December 19, 1979.

By the Commission, Chairman O'Neal, Vice-Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis.

Agatha L. Mergenovich,
Secretary.

[FR Doc 79-39703 Filed 12-28-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398;
Authorization Order No. 11]

**Kansas City Terminal Railway Co.
Directed To Operate Over Chicago,
Rock Island & Pacific Railroad Co.,
Debtor (William M. Gibbons, Trustee);
Decision**

Decided: December 12, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.* 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979). In DSO No. 1398 (Sub-No. 1), this authority was extended through March 2, 1980, subject to certain modifications. See DSO No. 1398 (Sub-No. 1) (decided November 30, 1979, and served December 3, 1979), (44 FR 70733, December 10, 1979).

DSO No. 1398 required KCT to inspect RI's lines and related facilities prior to commencing service over any line. See DSO No. 1398, 360 I.C.C. at 298 (44 FR 56346, column 1). The DRC was authorized to perform "minor" rehabilitation to RI lines, rights-of-way, roadway structures and related facilities without prior Commission approval. See DSO No. 1398, 360 I.C.C. at 303 (44 FR

56348, Column 1). In Supplemental Order No. 9, the Commission redefined "minor" line rehabilitation as rehabilitation which: "(1) would cost less than an average of \$7,500 (for materials) per mile; and (2) can be completed within the initial 60-day directed service period." See Supplemental Order No. 9 (served November 15, 1979) (44 FR 67028, November 21, 1979).

In DRC Report No. 10, KCT identified a large percentage of RI tracks which were in need of rehabilitation. KCT submitted a list of proposed rehabilitation work on two segments of RI's Denver line, a distance of 49.8 miles. The two track segments involved in this request are from Levant to Goodland, KS (M.P. 396.0 to M.P. 423.8) covering 27.8 miles, and from Plymouth to Fairbury, NE (M.P. 597.8 to M.P. 155.5) covering 22.3 miles. See DRC Report No. 10 (dated November 1, 1979).

Since the proposed rehabilitation work cannot be completed within the initial 60-day period (which expired December 3, 1979), Commission authorization is a necessary prerequisite to KCT's proposed rehabilitation.

KCT seeks Commission authorization to commence the requested rehabilitation on the following grounds: (1) the work is routine rehabilitation which is required to bring the track into compliance with FRA Track Safety Standards for Class I track and back into full service; (2) FRA granted a limited waiver for these two track segments but imposed severe operating restrictions; and (3) these operation restrictions impose operating difficulties and increase the expense of directed-service.

The average per mile cost of materials and labor for rehabilitation of these lines is \$7,130.11 for the work proposed between Levant and Goodland, KS, and \$8,759.63 for the work proposed between Plymouth and Fairbury, NE.

The total cost of rehabilitation is approximately \$313,924. The proposed work is to begin as soon as authorized and is to be completed within 45 days from the date of service of this decision.

For the following reasons, we believe the requested rehabilitation authority should be denied. As we stated in DSO No. 1398 (Sub-No. 1), *supra* at p. 11, (44 FR 70736, Column 1), directed service operations are winding down and will totally cease on March 2, 1980. No showing has been made that the

*Discrepancy account divisional mile-post change; see attachment B to DRC Report No. 10 (Table 2 to this decision).

government will recoup the costs of rehabilitation. Further, the claim that immediate rehabilitation will avoid greater rehabilitation costs in the long run is not convincing because directed service will expire in just a matter of weeks. This is no time to be spending federal money on projects which may not even be completed until weeks or days before the end of directed service. If an urgent emergency exists, the railroad should perhaps request financial assistance from the shippers who would presumably benefit. Applications from other railroads for noncompensated temporary authority, as we indicated previously, are also encouraged.

We find:

1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

It is ordered,

1. The DRC's request in DRC Report No. 10 is denied.

TABLE 1.—Requested Track Rehabilitation
Between Levant (M.P. 396.0) to Goodland, Kansas
(M.P. 423.8)

Mile	Labor & other cost	Material cost	Total cost	Amount over \$5,000
423.....	\$2,640	\$3,080	\$5,720	\$720
421.....	3,372	3,934	7,306	2,356
420.....	3,180	3,710	6,890	1,830
419.....	2,712	3,164	5,876	876
418.....	3,048	3,556	6,604	1,604
413.....	3,240	3,780	7,020	2,020
412.....	4,584	5,348	9,932	4,932
411.....	4,584	5,348	9,932	4,932
410.....	3,840	4,480	8,320	3,320
409.....	3,600	4,200	7,800	2,800
408.....	3,120	3,640	6,760	1,760
405.....	3,000	3,500	6,500	1,500
404.....	3,060	3,500	6,500	1,500
401.....	3,554	4,158	7,722	2,722
400.....	3,000	3,500	6,500	1,500
399.....	2,520	2,940	5,460	460
397.....	2,940	3,340	6,370	1,370
Total 17.....	\$55,944	\$65,268	\$121,212	\$36,212

TABLE 2.—Requested Track Rehabilitation
Between Plymouth (M.P. 597.8) to Fairbury,
Nebraska (M.P. 1255.5)

Mile	Labor & other cost	Material cost	Total cost	Amount over \$5,000
155.....	\$3,000	\$3,500	\$6,500	\$1,500
154.....	3,000	3,500	6,500	1,500
153.....	6,350	7,420	13,770	8,770
152.....	4,200	4,900	9,100	4,100
151.....	2,860	3,360	6,240	1,240
150.....	4,500	5,250	9,750	4,750
149 (Equation).....	2,928	3,418	6,344	1,344
611.....	6,360	7,420	13,780	8,780
610.....	3,000	3,500	6,500	1,500
609.....	3,000	3,500	6,500	1,500
608.....	5,700	6,650	12,350	7,350
607.....	3,000	3,500	6,500	1,500
606.....	3,420	3,990	7,410	2,410
605.....	3,216	3,752	6,968	1,968
604.....	3,720	4,340	8,060	3,060
603.....	4,620	5,350	9,970	4,970
602.....	5,100	5,950	11,050	6,050
601.....	3,060	3,570	6,630	1,630
600.....	2,940	3,430	6,370	1,370
599.....	3,720	4,340	8,060	3,060
598.....	7,500	6,750	14,250	9,250
597.....	3,720	4,340	8,060	3,060
Total 22.....	\$85,944	\$103,768	\$189,712	\$52,712

Grand Total
39..... \$144,888 \$169,036 \$313,924 \$118,924

2. This decision shall be effective on its service date.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners, Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis, Chairman O'Neal, Vice Chairman Stafford, and Commissioner Clapp,

dissenting. Commissioner Christian not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-39540 Filed 12-28-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1
COMMODITY FUTURES TRADING COMMISSION.
TIME AND DATE: 10:30 a.m., January 2, 1980.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.
STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Matters.
CONTACT PERSON FOR MORE INFORMATION:
Jane Stuckey, 254-6314.

[S-2492-79 Filed 12-27-79; 10:51 pm]
BILLING CODE 6351-01-M

2
FEDERAL HOME LOAN BANK BOARD.
TIME AND DATE: 9:30 a.m., January 3, 1980.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:
Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:
Application for Branch Office—Fidelity Federal Savings and Loan Association, West Palm Beach, Florida
Application for Branch Office—Jefferson Federal Savings and Loan Association, Louisville, Kentucky
Application for Branch Office—Washington Federal Savings and Loan Association, Stillwater, Minnesota
Application for Branch Office—Citizens Federal Savings and Loan Association of Port Huron, Port Huron, Michigan
Application for Branch Office—First Federal Savings and Loan Association of Phoenix, Phoenix, Arizona

Application for Limited Facility—First Federal Savings and Loan Association, Fort Pierce, Florida
Further Extension of Time—Central Federal Savings and Loan Association, San Diego, California
Service Corporation Application—Mutual Federal Savings and Loan Association of Pensacola, Pensacola, Florida

Application for Bank Membership—Concord Savings Bank, Concord, New Hampshire
Bank Membership and Insurance of Accounts—People's Savings and Loan Association, LaGrande, Oregon

Bank Membership and Insurance of Accounts—Front Royal Federal Savings and Loan Association, Front Royal, Virginia
Bank Membership and Insurance of Accounts—Gateway Savings and Loan Association, San Francisco, California

Application for Bank Membership—The Stamford Savings Bank, Stamford, Connecticut
Request for a Commitment to Insure Accounts—Community Savings and Loan Association, Baker, Louisiana

Conversion to a State-Chartered Mutual Association—First Federal Savings and Loan Association of Brownwood, Brownwood, Texas
Preliminary Application for Conversion to a Federal Mutual Association—Standard Savings and Loan Association, Columbia, South Carolina

Modification of Merger Condition—First Federal Savings and Loan Association of Tuscaloosa, Tuscaloosa, Alabama
Moratorium on Branching in Hamilton County, Ohio

Regulation on Proposed Amendments Concerning Director and Officer Management Interlocks
Regulation on Investment in HUD Section 8 Low-Income Housing

[S-2500-79 Filed 12-27-79; 4:03 pm]
BILLING CODE 6729-01-M

3
[USITC SE-80-2]

INTERNATIONAL TRADE COMMISSION.
TIME AND DATE: 10 a.m., Tuesday, January 8, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Drycleaning processing machines (Docket No. 610).
5. Investigation TA-201-41 (Certain Fish)—vote on remedy, if necessary.

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6. Steel wire rope—petition for rulemaking (Docket No. 583).

7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, (202) 523-0161.

[S-2490-79 Filed 12-27-79; 2:41 pm]
BILLING CODE 7020-02-M

4

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of Change in Date of Board Meeting

TIME AND DATE: 3 p.m., December 28, 1979.

PLACE: 1776 G Street NW., Washington, D.C., Board Room, 7th Floor.

STATUS: Open.

CHANGE IN DATE OF PREVIOUSLY ANNOUNCED MEETING:

The previously announced open meeting of the National Credit Union Administration Board (44 FR 76417, December 26, 1979) scheduled for Thursday, December 27, 1979 has been changed to Friday, December 28, 1979.
ACCESS: 3:15 p.m.

TIME AND DATE: 3:30 p.m., December 28, 1979.

PLACE: 1776 G Street NW., Washington, D.C., Board Room, 7th Floor.

STATUS: Closed.

CHANGE IN DATE OF PREVIOUSLY ANNOUNCED MEETING:

The previously announced closed meeting of the National Credit Union Administration Board (44 FR 76417, December 26, 1979) scheduled for Thursday, December 27, 1979 has been changed to Friday, December 28, 1979.

CONTACT PERSON FOR MORE INFORMATION:

Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-2499-79 Filed 12-27-79; 3:52 pm]
BILLING CODE 7535-01-M

5

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, January 2, 1980.

PLACE: Board Hearing Room, 8th Floor, 1425 K St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of December, 1979.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practical time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523-5920.

Date of Notice: December 26, 1979.

[S-2495-79 Filed 12-27-79; 2:41 pm]

BILLING CODE 7550-01-M

6

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, January 3, 1980. [NM-80-1]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following items be discussed on this date and that no earlier announcement was possible.

1. *Aircraft Accident Report*—Air New England, Inc., deHavilland DHC-6-300, N383EX, Hyannis, Massachusetts, June 17, 1979.

2. *Recommendation* to the Federal Aviation Administration re upper age limit for pilots in Part 135 operations.

3. *Marine Accident Report*—Fire on Canadian Bulk Carrier CARTIERCLIFFE HALL in Lake Superior, June 5, 1979, and *Recommendations* to the Department of State and U.S. Coast Guard.

4. *Marine Accident Report*—Sinking of the M/B SIDS in the Atlantic Ocean near Absecon Inlet, Atlantic City, New Jersey, January 13, 1979, and *Recommendations* to the U.S. Coast Guard.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, (202) 472-6022.

December 27, 1979.

[S-2496-79 Filed 12-27-79; 3:10 pm]

BILLING CODE 4910-58-M

7

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Friday, January 4, 1980. [NM-80-2].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following items be discussed on this date and that no earlier announcement was possible.

1. *Proposed Special Study*—Assessment of Motor Vehicle Tree/Shrub Accidents on U.S. Highways, Streets, and Roads.

2. *Discussion* of FY 80 Safety Objective on Part 135 Surveillance and Enforcement.

3. *Discussion* of major accident report conclusions v. findings of fact.

4. *Opinion and Order*—Administrator v. Sims, Dkt. SE-3425; Administrator v. McGhee, Dkt. SE-3426; disposition of the appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

December 27, 1979.

[S-2497-79 Filed 12-27-79; 3:10 pm]

BILLING CODE 4910-58-M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 2 and 3, 1980.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Wednesday, January 2, 1:30 p.m.

1. Discussion of Management—Organization and Internal Personnel Matters (Approximately hours, closed—Exemptions 2 and 6).

Thursday, January 3, 9:30 a.m.

1. Continuation of Commission's Decision-Making Role in Emergency Response (Tentative, Approximately 1½ hours, public meeting).

2. Affirmation Session (Approximately 5 minutes, public meeting).

a. Amend. Part 50 to Require Periodic Updates of FSARs.

b. Revisions to Part 2.

ADDITIONAL INFORMATION: On December 21, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Affirmation of Gainesville, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

December 26, 1979.

[S-2494-79 Filed 12-27-79; 2:41 pm]

BILLING CODE 7590-01-M

9

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., January 3, 1980.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois 60611.

CHANGES IN THE MEETING: Additional items to be considered at the portion of the meeting which will be open to the public.

(2a) Pilot study to provide employees annuity estimates.

(2b) Interview by industrial psychologist.

Additional item to be considered at the portion of the meeting which will be closed to the public:

(6) *Mary Ann Kelly v. Railroad Retirement Board*.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM No. 312-751-4920, FTS No. 387-4920.

[S-2499-79 Filed 12-27-79; 4:00 pm]

BILLING CODE 7905-01-M

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Department of Transportation Federal Railroad Administration

Monday
December 31, 1979

Part II

Department of Transportation

Federal Railroad Administration

Railroad Freight Car Safety Standards;
Safety Glazing Standards—Locomotives,
Passenger Cars and Cabooses

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket No. RSFC-6, Notice 2]

Railroad Freight Car Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This document revises Part 215 (49 CFR Part 215). The revised part contains FRA's rules applicable to railroad freight cars. The revised rules update, consolidate, and clarify the old rules and eliminate certain rules no longer considered necessary for safety. This action is taken by FRA to improve its safety regulatory program.

EFFECTIVE DATE: These rules, with the exception of § 215.15 (Periodic Inspection), will become effective on March 1, 1980. Section 215.15 is effective December 31, 1979 because it extends the deadline for accomplishing initial periodic inspections from December 31, 1979 to June 30, 1980.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Program Person: Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-0924.

Principal Attorney: Edward F. Conway, Jr., Office of the Chief Counsel, Federal Railroad Administration, Washington, D. C. 20590. Phone 202-426-8836.

SUPPLEMENTAL INFORMATION:

Background

Regulatory Reform

On March 23, 1978, the President issued Executive Order 12044. In that Order, he directed all Executive Agencies to adopt procedures to improve existing and future regulations. As a matter of policy, the Order requires that regulations be as simple and clear as possible, achieve legislative goals effectively and efficiently, and not impose unnecessary burdens. To achieve this policy objective, the Order requires Agencies to address the following considerations, among others, when developing regulations: (1) The need for and purposes of the regulation must be clearly established; (2) An opportunity must be provided for early participation and comment by other Federal Agencies, State and local

governments, businesses, organizations, and individual members of the public; (3) Meaningful alternatives must be considered and analyzed before the regulation is issued; and (4) Compliance costs, paperwork, and other burdens on the public must be minimized.

In response to the policies set forth in Executive Order 12044, FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program.

This inquiry was announced in the May 8, 1978, issue of the Federal Register (43 FR 19696). That notice also announced that FRA would conduct a series of two-day public hearings. The notice stated that the purpose of the hearings would be to obtain information from the public that would help FRA to determine whether any of its existing regulations should be expanded in scope, revised, or revoked.

FRA has conducted all of the hearings announced in the notice. These hearings dealt with the following subjects: (1) locomotives (June 14 and 15, 1978); (2) freight cars and safety appliances (July 12 and 13, 1978); (3) power brakes (September 13 and 14, 1978); (4) track and related structures, appliances, and devices (November 15 and 16, 1978); and (5) signal and communications systems (February 21 and 22, 1979).

After reviewing the testimony presented at those hearings, and the written comments submitted in response to the hearing notice, FRA has begun the process of issuing proposed rules for the purpose of improving many of its existing rules and eliminating others no longer considered necessary for safety. To date, three notices of proposed rulemaking (NPRM) have been issued. These are as follows: (1) Freight Car Safety Standards (44 FR 1419; January 5, 1979); (2) Locomotive Inspection (44 FR 29604; May 21, 1979); and (3) Track Safety Standards (44 FR 52104; September 6, 1979).

As announced in the notice of proposed Freight Car Safety Standards, FRA conducted a public hearing on March 7, 1979, to provide an opportunity for interested persons and organizations to testify concerning those standards. At that hearing, testimony was presented by ten railroads, the Association of American Railroads (AAR), The Railway Labor Executives Association (RLEA), one private car owner, one car repair company, and two manufacturers of freight car components. In addition, written comments were submitted by railroads, private car owners, car repair companies, railroad unions, manufacturers of freight car components, a Federal agency, State and local agencies, members of

Congress, and private persons. All of the testimony and comments have been reviewed and fully considered during the formulation of the final rules set forth in this document.

Most commenters expressed general support for the proposed rules. However, many recommended that revisions be made to one or more of the changes proposed by FRA. The following is a summary of many of the comments received and an explanation of the revisions made by FRA in response to those comments. The comments and related revisions have been organized under major subject headings.

The sequence of the subject headings in this preamble generally corresponds to the order in which they appear in the text of the final rule. However, periodic and pre-departure inspections and related issues are discussed first because they present major overriding issues that affect most of the provisions of the final rule.

1. Periodic and Pre-Departure Inspections and Related Issues

Periodic Inspection

Subpart C of the NPRM sets forth the proposed requirements applicable to the periodic inspection of freight cars. The proposal would permit these inspections to be based on time or mileage intervals and would permit an extension of the proposed intervals upon a showing that the extension requested is justified. Under current regulations, periodic inspections are required every year for high utilization cars and every 4 years for all other cars, except that the first inspection for new or reconditioned cars is due within two years for high utilization cars and 8 years for all other cars. The subpart also specifies the items to be inspected, provides that cars would have to be detrucked during the inspection and that trucks would have to be disassembled as necessary to examine the components. Finally, the proposed subpart would require private car repair companies to become subject to the proposed standards in order to perform periodic inspections.

All the railroads felt that Federally imposed periodic inspection cycles and requirements were unnecessary and unjustified. Trailer Train contended that the need for periodic inspections was never justified by FRA. The AAR contended that both the current and proposed periodic inspection requirements are "good practice or maintenance standards" as opposed to safety standards. Many railroads stated that periodic inspections are costly and ineffective from the standpoint of safety.

Many commenters also had problems with various aspects of the periodic inspection requirements contained in the proposed rule. It was noted that disassembly of trucks "to the extent necessary" would subject private car owners that contract out repairs to inspection charges over which they would have no control. One railroad commenter felt that truck disassembly would cause more injuries than would normally be caused by freight car component failure because truck disassembly involves concentrated exposure to hazards related to working with heavy duty truck bolsters, side frames, lifting equipment, and cutting and burning operations.

Private car owners commented that they would need time to develop a system to accurately record mileage and suggested a five year interval for periodic inspections. A number of commenters recommended that these inspections be scheduled anytime within the calendar year they are due to avoid overburdening repair shops.

Several alternatives to the proposed periodic inspection were given. The Association of American Railroads (AAR) felt that the one-spot repair system (small all-purpose repair site) coupled with major rebuilding at the car's "half-life" would suffice for safety and would be economically beneficial.

Most railroads stated that the proposed time and mileage intervals are arbitrary and do not take into consideration advanced designs and materials. It was felt that these intervals do not reflect safe wear limits and would not result in any savings. They offered mileage figures that varied from 150,000 to 400,000 for new and reconditioned cars. It was also suggested by one railroad that the time interval for inspections of high utilization cars be increased to 24 and 48 months. Another railroad wanted a "grandfather clause" to exempt what is done as routine maintenance under interchange rules from being required to be repeated as part of a periodic inspection.

One commenter suggested using the average mileage for a series of cars. Several commenters noted that accurate mileage records would be impossible unless a tamper proof odometer is developed.

The Burlington Northern objected to proposed § 215.61 (extension of periodic inspection intervals) insofar as that section would not apply to cars more than 20 years old and to other than high utilization cars. Burlington Northern contends that age does not necessarily reflect the condition of a car. Further, it asserts that other than high utilization

cars are maintained to the same high standards as high utilization cars and travel fewer miles each year.

Proposed § 215.71(a) provides that a car would be considered "reconditioned" if it is equipped with roller bearings, is less than twenty years old, and complies with the proposed requirements set forth in paragraph (b) of that section. Under paragraph (b)(1)(ii), a car would not be considered "reconditioned" unless its wheels have at least 50 percent of useful tread wear remaining. Under the proposed rules, reconditioned cars would be subject to the extended periodic inspection intervals applicable to new cars.

Railroads, car owners, and repair companies contend that the 20-year limit for reconditioned cars under proposed § 215.71 is arbitrary and not based on the mechanical condition of a well-maintained car. One commenter pointed out that FRA's 20-year limit on reconditioning of cars conflicts with the AAR 25-year limit on rebuilding. AAR stated that the proposed restriction is not related to safety and that all of proposed § 215.71(a) should be eliminated.

The requirement that wheels on reconditioned cars have not less than 50 percent of useful tread wear remaining was also considered to have no relation to safety by commenters. One commenter noted that the wheels would have to be taken off a reconditioned car and put on another car. If this were done, the wheels would again have to be changed at half the usual time, thereby doubling the labor costs for changing of wheels on both cars. It was stated by one commenter that it would cost \$1,600 per car to replace the wheels. In this regard, another commenter pointed out that this could cause a worsening of the current wheel shortage. One car manufacturer felt that if the wheel was in compliance with proposed § 215.23 (defective wheels), that should be good enough for safe operation.

In addition, Burlington Northern contends that roller bearings should not be required for reconditioned status. According to Burlington Northern, plain bearings are inherently safe.

Proposed § 215.95(b)(4) provides that, if a car has been given a periodic inspection based on mileage records, the estimated date on which the next inspection will be required must be stenciled on the car.

Several railroads pointed out that it would be almost impossible to estimate the due date for the next periodic inspection for cars scheduled for inspection on the basis of mileage.

After reviewing all pertinent comments and testimony, FRA has

reevaluated the proposed periodic inspection procedures set forth in the NPRM. Based on that reevaluation, it has decided not to adopt the proposed periodic inspection requirements and to revoke the periodic inspection requirements now in effect.

The requirement that all freight cars be subjected to periodic inspections was issued by FRA on November 12, 1973 (38 FR 32232) and became effective on January 1, 1974. The purpose of this requirement was to assist the FRA in defining and resolving the many safety problems resulting from changes in the design of freight cars and in the railroad operating environment during the period 1945-70.

The rapid transition in freight car designs during this period was causing numerous problems in the draft and suspension systems of freight cars. Because the draft and suspension systems regulate the functional integrity of a car, their components are critical from the standpoint of safety. The draft system is comprised of the center sill, draft gear, coupler, body bolster and center plate. The suspension system includes wheels, axles, bearings, and truck components.

Changes in freight car design along with major changes in the operating environment, increasing deficits and mergers of railroads, all combined to give rise to FRA's concerns. A review of the period 1945-70 relative to these changes will assist in illustrating the concerns that shaped FRA's decision to prescribe the periodic inspection requirement.

By the late 1940's, freight cars that could carry 40 or 50 tons of cargo had been developed and were in general use. These cars varied in length between 40 and 50 feet. By the end of that decade, some 70-ton load-carrying capacity cars, predominantly hoppers and covered hoppers, had been introduced. It was not until the 1950's, however, that larger 50- to 70-ton cars were constructed on a wide scale. The increased load-carrying capacity of these cars was largely accomplished by increasing the size of their journals with little or no increase in the length of cars. Beginning with the early 1960's, the capacity of cars being placed in service was further increased to between 70 and 100 tons. This was accomplished through both expanding journal sizes and increasing the length of cars to as much as 90 feet.

The changes in freight car design that permitted increased load-carrying capacity included numerous combinations of increases in the width, length and height of each type of car, such as hopper, tank, box and flat cars. The increased length of cars, increase in

truck spacing, increased height, and resulting higher centers-of-gravity, contributed significantly to the development of freight car instability problems. The most prominent instability problem, known as the "rock-and-roll" phenomenon, generated increased dynamic forces on certain draft and suspension components, such as center plates, truck and body bolsters, truck side frames, bearings, snubbers, and axles. Additionally, some of the draft and suspension components of the larger 100-ton cars had not been provided with a sufficient proportional increase in size and strength necessary to compensate for these higher dynamic forces. These problems generated excessive wear and frequent premature failure of components of these larger cars.

The operating environment for freight cars was also undergoing significant changes during the period between 1945 and 1970. There was a trend to longer and heavier trains. In 1945, according to published industry statistics, the average freight train contained 52 cars and carried slightly over 1,100 tons of freight. By the 1970's, the average freight train contained 70 cars and carried slightly over 1,800 tons of freight. The trend to longer trains and heavier tonnage created situations where increased in-train dynamic forces also produced greater component wear and fatigue than had previously been experienced, particularly in the suspension and draft systems. Merger of railroads that were separate entities in 1945 reduced the number of interchange locations where equipment inspections were conducted. In addition, the shift to consolidated maintenance facilities brought about a reduction in the inspection and maintenance efforts of the railroads. Finally, the poor economic condition of the industry prompted deferral of equipment maintenance.

Observing these changes in the railroad operating environment alongside the changes in freight car design, FRA became concerned that draft and suspension components had not been sufficiently adapted to respond to these changes. This concern was validated by the abnormal wear patterns and premature failures of these components. Thus, in the absence of any industry-wide practice that monitored component performance, the periodic inspection requirement, which focused attention on suspension and draft systems, was adopted in response to these concerns.

Although the adoption of the periodic inspection requirement was an immediate response to these safety

concerns, it was not the only action taken by FRA in an effort to resolve these problems. To assist in the definition and resolution of emerging problems, FRA embarked on a variety of cooperative research programs with various segments of the railroad industry. These research efforts encompassed a wide range of areas and interrelated projects, including studies of track structure, freight car truck design, and train handling techniques. Additionally, to provide ongoing research, a highly controlled test environment, Facility for Accelerated Service Testing (FAST), was created at the Transportation Test Center in Pueblo, Colorado. "FAST" allows rapid in-service simulation testing of freight cars, thus subjecting freight car components to vigorous examination and monitoring. Also, FRA's response was complemented by the self-initiated actions of the railroad industry to define and remedy the safety problems associated with new freight cars.

The cumulative results of these responses are embodied in a number of changes in freight car design. For example, to improve stability, the distance between truck centers for longer freight cars has been increased and constant contact side bearings and more effective snubbing devices have been introduced. The increasing use of continuously welded rail has also served to reduce the "rock-and-roll" phenomenon. Improved train handling techniques, provided by development of the Train/Track Dynamics Manual and increased dynamic braking capability, have also assisted in the reduction of the magnitude of some in-train force levels being encountered with longer and heavier trains.

The periodic inspection program has nearly accomplished its major objectives, namely, to assist in the definition of the scope and the correction of safety hazards presented by changes in freight car design and the operating environment.

FRA estimates that approximately ninety percent of the freight car fleet has received a periodic inspection. Once all freight cars have been so inspected and repaired as necessary, FRA believes that the objectives of the program will have been met and that there will no longer be a demonstrated need for retaining the current periodic inspection requirements.

In addition to having served its function and having stimulated other actions in response to safety problems, other reasons support the elimination of the Federally mandated periodic inspection requirement. The railroad industry has established comprehensive

freight car maintenance programs and now recognizes the economic and safety benefits that these programs provide. Despite continuing deficits, railroads have made manpower and capital investments to upgrade and expand their maintenance facilities to sustain these programs. Elimination of the periodic inspection requirements, then, will give the railroad industry the flexibility and incentive to develop more efficient preventive maintenance inspection programs that are tailored to their varied needs and service conditions. Moreover, since the periodic inspections have served to help define and resolve safety problems, such a broad Federal requirement is no longer needed. Rather, FRA can now monitor areas of concern on a case-by-case basis.

In the future, FRA will focus its attention and concentrate its resources to resolve specific safety problems. Although FRA will rely heavily on the voluntary cooperation of the railroad industry and its employees, it will not hesitate to take whatever regulatory action is necessary to assure safety. However, FRA will strive to tailor each requirement to fit the immediate safety problem so that the desired safety result is achieved at a minimum cost to the industry and the public.

Some examples of past actions taken by FRA to identify and resolve specific safety problems with freight car components that were causing numerous accidents include the resolution of premature center plate failures on 100-ton covered hoppers, correction of center sill fractures on flexi-van cars, and removal of high carbon cast steel wheels that had a high incidence of failure. The prime example was the retrofit of 112 and 114 jumbo tank cars to improve their safety performance in derailments. A soon to be issued FRA report to the Congress entitled "Issues and Dimensions of Freight Car Size" will analyze specific problem areas and possible responses to those problems.

It also should be noted that elimination of the periodic inspection requirements achieves important policy objectives of Executive Order 12044, namely, reduction of the regulatory burden on railroads, and recognition of the degree to which technology has improved the design and quality of freight car components. Therefore, the requirement (§ 215.15) to periodically inspect railroad freight cars is being revoked. However, cars that have not yet received an initial periodic inspection will have to be so inspected. These cars are generally two types, older less-active cars and cars that have

been continuously in assigned service. Since many of these cars have been in service for decades and have never received a comprehensive inspection for safety defects, FRA believes that it is essential from the standpoint of safety that they be given an initial periodic inspection if they are to remain in service.

To provide railroads with ample time to accomplish this task, FRA is extending the time allowed for completion of initial periodic inspections by six months, until June 30, 1980. FRA is taking this action in response to the petition submitted (November 8, 1979) by the AAR indicating that the continuing freight car shortage during the past year has delayed completion of the periodic inspection program. Although the AAR petition requests a one-year extension, FRA believes that a six-month extension will provide sufficient time to accomplish the remaining initial periodic inspections. The requirement to conduct other periodic inspections is being revoked by the final rule; thus railroads can concentrate their efforts on accomplishing initial periodic inspections on the estimated ten percent of the freight fleet that has not yet received a periodic inspection.

Pre-departure Inspection

The proposed standards do not contain pre-departure inspection requirements such as those set forth in current § 215.23.

Most commenters agreed that pre-departure inspections should be retained. They stated that this was the most important inspection. One private car owner felt that this inspection is an especially effective means of detecting major problems in the suspension and draft systems. Another commenter noted that more car components are broken and made unsafe during switching than hauling on line.

Several railroads pointed out that the deletion of the required pre-departure inspection would result in little, if any, savings because this inspection would be continued to ensure compliance with the Power Brake and Safety Appliance Standards. Also, elimination of the knowledge requirement for penalty violations would make pre-departure inspections a "must". Some commenters contended that pre-departure inspection would more likely ensure safe performance than the periodic inspections.

On reconsideration, FRA agrees with the majority of commenters that the requirement to conduct a pre-departure inspection should be retained. This inspection plays a major role in ensuring

that cars are not dispatched with critical "running" defects, such as broken center plates or cracked wheels, which have the demonstrated potential to cause derailments that result in injuries and fatalities. Moreover, even if this requirement were eliminated, pre-departure inspections would still have to be conducted to ensure compliance with the Power Brake and Safety Appliance Standards. Therefore, retention of the current requirement would impose little, if any, added expense or inconvenience on railroads.

However, FRA is not retaining the current requirement that the inspection be conducted in accordance with instructions approved by the Federal Railroad Administrator. Rather, cars will have to be inspected for the critical safety defects listed in this final rule. Each car with one or more of these defects will have to be tagged for movement for repair or removed from the train if it cannot be safely dispatched. Since the objective of the pre-departure inspection is to uncover and ensure repair of critical running defects listed in this final rule, FRA does not believe that there is a demonstrated need to retain the current requirement for submission of safety inspection instructions for the approval of the FRA Administrator.

Moreover, since the railroads will be held strictly liable for prohibited defects on all freight cars in service, FRA does not believe that the timing of the pre-departure inspection is critical, so long as it is conducted before a car is dispatched. Thus, § 215.13 of the final rule provides that the inspection shall be performed at each location where a freight car is placed in a train. This inspection may be made before or after the car is placed in the train.

Inbound Inspection

The proposed Freight Car Safety Standards do not contain procedures for the inbound inspection of freight cars. The Brotherhood of Railway Carmen (Carmen) favors adoption of a rule requiring an inbound inspection. They contend that this would facilitate prompt repairs, avoid the possibility that defective cars may be placed in outbound trains, and thus would significantly reduce the chances that a car would have to be removed from an outbound train.

FRA recognizes that inbound inspection of cars is a highly efficient means of facilitating the repair of defective cars in many settings. However, FRA does not believe that an inflexible Federal requirement is appropriate. Rather, it believes that safety will be better served if attention

is focused on the pre-departure inspection, which could be conducted on an inbound or outbound basis. Moreover, since the railroads will be held strictly liable for critical "running" defects and high penalties will be imposed for dispatching cars with these defects, there will be substantial motivation for railroads to find and repair defective cars before they are placed in outbound trains.

II. Other Issues

Maintenance-of-way Cars

Under proposed § 215.3(c), maintenance-of-way cars, except those used exclusively in work train service, would be subject to the proposed standards. Many commenters stated that this would impose a severe financial burden on railroads. The average price of a new car was cited at \$30,000, with individual railroads claiming that anywhere from 200 to 3,000 of their maintenance-of-way cars would either have to be replaced or operated only in work trains.

Some commenters pointed out that these cars are structurally sound and are limited to slow speeds and local trains. They noted that limiting the movement of these cars to work trains would also be very expensive. In this regard, one commenter complained that the proposal would cause an even greater shortage of revenue cars and motive power and would result in more congestion.

Many railroads claimed that they have not had accidents caused by maintenance-of-way cars. Therefore, they contend that the cost of bringing those cars into compliance with Part 215 or restricting their movement to work trains cannot be justified.

FRA recognizes that maintenance-of-way cars are not freely interchanged among railroads and that the railroads are aware of the condition of these cars and impose restrictions on their operation to assure safe operation.

FRA has reconsidered its proposals regarding maintenance-of-way cars in light of the comments and testimony of interested persons. During this process, it considered the cost of bringing these cars into compliance with Part 215 against the safety benefit that would be derived. As a result, FRA has concluded that the substantial cost of bringing these cars into compliance with the standards and either replacing those that cannot comply or restricting their movement to work trains, cannot be justified at this time. FRA does not have data indicating that maintenance-of-way cars are causing accidents, injuries, and fatalities. However, FRA also recognizes

that good safety practice requires that some restrictions be placed on these cars. Accordingly, § 215.3(c)(3) of this final rule exempts maintenance-of-way cars from compliance with the new freight Car Safety Standards so long as those cars are not used in revenue service. A car in revenue service is one that is used to perform for-hire transportation services.

Definitions

Cracked and Broken

Under proposed § 215.5(b), "cracked" is defined, in pertinent part, as "broken or fractured without complete separation into parts."

Several commenters noted that including the word "broken" as one of the elements under the definition of "cracked" is confusing and seems to conflict with the definition of "break". One commenter suggested that the term "cracked" be defined as "fractured without complete separation into parts."

FRA agrees that the proposed definitions of "cracked" and "break" are confusing and has revised these definitions. In § 215.5 of the final rule, "cracked" is defined as "fractured without complete separation into parts" and "break" as "fractured with complete separation into parts."

Dedicated Service

Except for minor clarifying changes, the definition of "dedicated service" in proposed § 215.5(d) has been incorporated verbatim into § 215.5(d) of the final rule.

In Service

Proposed § 215.5(f) provides that a car is "in service" if it is on the property of a railroad, or within the control of a railroad, unless the car has "bad order" tags, is in a shop, or is on a repair track. Several commenters objected to this proposed definition. One commenter noted that Railroad A could be held responsible for a car in possession of Railroad B while it is on Railroad A's track under a trackage rights agreement or on a detour. Another felt the definition would only be acceptable if the safety standards were enforced in the same manner as the locomotive standards so that only those cars on an outbound track and those made ready for service would be considered to be "in service". Several commenters offered an alternative definition: A car should be considered to be "in service" only from the time it has been inspected and released for road movement until completion of road movement.

The RLEA supported the proposed FRA definition, stating that it would

improve enforcement since it would no longer be necessary to wait until a defective car is coupled to the train.

Although FRA does not believe that the proposed definition of "in service" is unreasonable, it has revised the definition in the final rule in an effort to clarify the meaning of "in service". Section 215.5(e) of this final rule provides that a car is "in service" unless the car has "bad order" tags, is in a shop, is on a repair track, or is on a storage track and is empty. In this connection, it should be noted that the list of defective conditions in this final rule is limited to items, such as broken center plates and cracked wheels, that have been a cause of accidents, injuries, and fatalities. In light of the seriousness of these defects, railroads should regularly inspect their cars to determine whether any of these conditions is present. If a car has one or more of these defects, the car should be tagged for movement for repair or removed from service if it cannot be safely moved for repair. Thus, the definition of "in service" is intended to encourage the prompt discovery and repair or removal from service of unsafe cars before they cause an accident.

With respect to the comment regarding defective cars operated on the line of one railroad by another railroad under a trackage rights agreement, FRA would in such instances hold the railroad that operates the cars responsible under the Freight Car Safety Standards.

FRA does not agree that only cars on an outbound track and those made ready for service should be considered "in service". With the elimination of current requirements such as the periodic inspection, the periodic lubrication and repacking of bearings, and the reduction in the number of prohibited defects, FRA believes the railroads should focus their efforts on finding and repairing or removing from service all cars that have serious safety defects, regardless of where those cars may be situated.

Railroad

Proposed § 215.5(a) provides, in pertinent part, that a railroad includes any entity that "constructs, repairs, inspects, or otherwise maintains freight cars" subject to the proposed standards. This definition, as previously stated, includes any repair shop that performs periodic inspections. However, since the periodic inspection requirement is being eliminated, the definition of "railroad" has been revised. Section 215.5(f) of the final rule provides that a "railroad" is a common carrier by railroad.

Strict Liability

Under proposed § 215.7, a railroad would be subject to a penalty for failing to correct prohibited defects, regardless of whether it has knowledge of those defects. The main concern expressed by most railroads was that they felt it was unfair that they be held strictly liable for defects on cars over which they had never exercised control nor had an opportunity to inspect. They also contend that they should not be held strictly liable for undetected defects that develop during the course of their operations.

On the other hand, the Brotherhood of Railway Carmen asserted that strict liability is consistent with the legislative intent behind the 1970 Safety Act.

FRA does not agree with the railroads' contentions. First, as previously stated, a railroad would not be held responsible for defects on cars being operated over its track by another railroad. Second, the defects being retained in the final rule are particularly serious in nature so railroads should be continually on guard to discover these defects before they lead to serious accidents. This task should not be unreasonably burdensome in light of the numerous costly requirements that are being eliminated. Finally, FRA believes that if adequate pre-departure inspections are conducted and defective cars are tagged and repaired or removed from service, very few defects will occur during the conduct of normal operations. However, if these defects do develop during operations, a railroad can protect itself from liability by tagging the defective car and moving it for repair as prescribed in § 215.9 or removing it from service. Railroad inspection forces greatly outnumber the FRA and participating State inspectors engaged in monitoring railroad compliance with the Freight Car Safety Standards. If railroads effectively utilize their inspection forces, they are much more likely to find these defects before a Federal or State inspector would. Therefore, the strict liability provision has been retained in § 215.7 of the final rule.

Movement of Defective Cars for Repair

Proposed § 215.9 sets forth certain restrictions that would have to be observed when moving defective cars for repair. Among these restrictions are those requiring that a "bad order" tag describing each defect be attached to each side of the car and that defective cars discovered outside a yard be moved to the nearest point or the nearest forward repair point where repairs can be made. The restrictions on

movement of these cars would apply to any car having any defective component listed in proposed §§ 215.23 through 215.47.

Initially, it should be noted that Burlington Northern (BN) recommends that the word "terminal" be substituted for the word "yard." According to BN, the proposal is too restrictive and fails to take into account the fact that many railroad terminals have more than one yard. Surface Transportation International, Inc., specifically requested that FRA define the term "yard."

The railroads' comments emphasized that most of the current and proposed defective conditions on cars do not necessarily make them unsafe to move. They stated that their inspectors are qualified to make that judgment and to decide what restrictions should be imposed on the movement of defective cars.

The AAR submitted a list of defective conditions it considers to be critical from a safety standpoint and would preclude movement of cars with these defects. Included in this list were a missing lubricating pad in a plain bearing box; a defective plain bearing; plain bearing wedge, or roller bearing; and a broken roller bearing adapter. Several individual railroads concurred with this list.

According to commenter railroads, car owners, and private car companies, the nearest repair point is not always equipped to make specialized repairs. Consequently, temporary repairs would have to be made, only to be corrected at great expense at a major repair facility. Moreover, one railroad pointed out that tank cars can only be repaired at an AAR certified tank car repair facility.

Private car repair companies stated that they have made considerable capital investments at strategic locations and claim that there is a valid distinction between the kind and quality of work done at different facilities. One commenter noted that the proposed regulation could cause a sudden increase in volume of repair work that would exceed the capacity of repair facilities located on heavily trafficked corridors, while facilities elsewhere might have excess capacity.

On the other hand, the Brotherhood of Railway Carmen not only favored the proposed rules but wanted them strengthened. They stated that railroads should not be allowed to contract out their repair work to private shops which they contend have little knowledge of rail operations.

The RLEA recommended that, if a loaded car is moved, it should only be moved to the nearest point on the line of the handling railroad where repairs can

be made in order to preclude interchange of defective cars.

As stated in the NPRM, FRA is concerned that cars tagged for repair may be moved considerable distances before needed repairs are made. However, FRA does not presently have data indicating that cars moved for repair have been a significant cause of accidents, injuries, and fatalities. Therefore, § 215.9 of this final rule does not adopt the proposed provisions that would have required that defective cars be repaired at the location where they are found to be defective or moved to the nearest point or the nearest forward point where needed repairs can be made. Rather, the final rule, like the current rule, prohibits movement of a defective car until a qualified person determines that it is safe to move the car and establishes the maximum speed and other restrictions necessary for safe movement. The addition of paragraph (c) to the final rule clarifies the scope of the movement for repair provision. The FRA is aware that the current section has been misconstrued to permit the use of defective cars in revenue service and movement of cars for repair by unnecessarily circuitous routes. This amendment makes it clear that a defective car may be moved only for the purpose of effecting repairs. Thus, if the car is empty it may not be placed for loading. A car which is already loaded when found defective may be placed for unloading prior to repair only if unloading is reasonably incidental to the movement for repair or the railroad finds that unloading is necessary for the safe repair of the car.

FRA believes that these conditions embody a balanced Federal approach that ensures the safe movement of defective cars without unduly restricting the railroads' choice of repair sites.

Since the proposed changes regarding "movement for repair" are not being adopted and the term "yard" has been deleted from the final rule, further discussion of the comments concerning the use of the term "yard" is not necessary.

Bad Order Tags

Some commenters stated that the proposal concerning bad order tags would create a hazard in that it would require inspectors to go between cars to attach the tag on both sides of the defective car. One commenter stressed that a single defect listed on the tag is sufficient to cause a car to be sent to the repair track. At that time, the car would be thoroughly inspected for other defects and all necessary repairs made.

In addition, Burlington Northern (BN) stated that applying the tag to both sides

of the car would be too costly and would waste manpower, and that describing each defect on the card would be burdensome. BN further stated that it is necessary to tag one side of the car only, especially in light of industry use of computerized car movement records and surveillance.

Initially, it should be noted that the proposal to apply a "bad order" tag to each side of the car is identical to the rule currently in effect (§ 215.9(a)(3)). Moreover, FRA does not believe that this requirement is hazardous, costly, or burdensome, especially in light of the general industry practice to use a team of two persons to inspect trains. To expedite the inspection process, each person can inspect one side of the train. More importantly, a "bad order" tag is needed on each side of the car to ensure that its condition can later be identified from either side of the train. This, in turn, should help ensure that the car will be repaired as expeditiously as possible.

Section 215.9(a)(4) of the final rule adds a new requirement. It provides that upon request by a FRA or State inspector, a copy of the bad order tag shall be made available for inspection within 15 calendar days. The addition of this time limitation is intended to provide FRA with a mechanism to effectively monitor railroads' implementation of the movement for repair requirement.

Qualified Persons

The RLEA urged that only qualified persons designated under current § 215.15 should be permitted to determine whether a car is safe to move and allowed to remove bad order tags. It asserted that bad order tags are often removed even though the car has not been properly repaired. It recommended that persons removing tags improperly be personally fined.

Labor organizations also objected to the proposed deletion of current § 215.15 (qualified persons) for other reasons. They stated that, since FRA inspectors cannot be everywhere at all times, qualified railroad employees should be utilized as car inspectors. According to these commenters, a journeyman carman has the training and experience necessary to inspect freight cars. The Brotherhood of Railway Carmen noted that this had been worked out between railroads and labor organizations. Nevertheless, they contend that, in the absence of a qualified person requirement, railroads would use unqualified inspectors to inspect freight cars.

In response to the comments that the current rule regarding qualified persons (§ 215.15) should not be deleted, FRA

has decided to retain that rule (§ 215.11) in its current form. This decision is based on FRA's desire to encourage the use of qualified persons to inspect freight cars.

With respect to the comment that only qualified persons should be permitted to remove "bad order" tags, it should be noted that this requirement is currently in effect (§ 215.9(a)) and will be retained. FRA does not have legal authority to establish a regulation that would subject individual railroad officials or employees to fines for improperly removing a "bad order" tag. However, FRA notes that, if a tag is removed before the defective car is repaired, the railroad would be subject to a penalty for continuing in service a defective car.

Freight Car Components

Wear on Wheels

Under proposed § 215.23 (a) and (c), a car may not be continued in service if the flange of a wheel is worn to a thickness of $\frac{1}{8}$ of an inch, or less, or if the rim of a wheel has a thickness of $\frac{1}{16}$ of an inch, or less. Current § 215.43 (a) and (d) set minimum flange thickness at $\frac{1}{16}$ of an inch and minimum rim thickness at $\frac{1}{8}$ of an inch. Thus, in the case of flanges and rims, the proposed standards would permit $\frac{1}{8}$ of an inch of additional wear.

Several commenters opposed allowing this additional wear on flanges and rims. The Public Utility Commission of Oregon (Oregon Commission) and the Washington Utilities and Transportation Commission (Washington Commission) cited wheel failures as a significant cause of accidents. According to the National Transportation Safety Board (NTSB), there was no justification for the reduction in thickness on flanges and rims. It favors the current $\frac{1}{8}$ of an inch limit on rims. Another commenter objected to increased wear on wheel flanges contending that this would cause wheels to climb the rail. It was recommended that wear limits should be geared to the size of the wheel.

Conversely, the AAR and the railroads supported extension of wheel wear limits. They consider the current limits to be maintenance rather than safety limits. One railroad stated, in essence, that wheels would still be safe if worn beyond the proposed limits.

FRA does not agree with the commenters opposing the proposal to permit $\frac{1}{8}$ of an inch additional wear on wheel flanges and rims. As stated in the NPRM, the former wear limits were developed at a time when cast iron wheels were in widespread use. Since that time, the introduction of steel

wheels and improved manufacturing techniques have significantly improved the strength and durability of wheels. For these reasons, FRA believes that it is appropriate to permit the proposed increase in wear on wheel rims and flanges. It does not believe that these small increases will cause wheels to climb the rail or cause other problems. Accordingly, the wear limits set forth in the proposed rule have been incorporated in § 215.103 of the final rule. FRA emphasizes, however, that the new limits are absolute safety limits and will be rigidly enforced.

Cracked Wheels

NTSB notes that circumferential cracks in wheel plates would not be considered a defect under the proposed rule. It opposes this omission on grounds that any crack in a wheel plate can cause a wheel failure and lead to an accident. The Brotherhood of Railway Carmen took a similar position contending that any crack in a wheel indicates a weakness that could result in a wheel failure and a probable derailment.

On reconsideration, FRA agrees that any crack in a wheel could ultimately lead to a wheel failure. The structural integrity of a wheel is controlled by the compression and tension pattern set at the time of manufacture. The compression stress pattern of a wheel may be altered over time by braking and other force input. As a result of this change, a small crack may propagate rapidly and cause immediate danger to the structural integrity of the wheel.

Since there is no way to determine whether a small crack will or will not propagate to undermine the wheel, FRA is prohibiting use of a car with a wheel having a crack (§ 215.103(d)). This prohibition, however, does not extend to heat checks or chips in the tread area of the wheel. Heat checks or chips in the tread area generally do not indicate a weakness of the material that could result in a failure of the wheel. Consequently, they do not endanger the structural integrity of the wheel.

Overheated Wheels

Proposed § 215.23(i) provides that a car may not be continued in service if it has a wheel that "shows signs of being overheated as evidenced by a reddish brown discoloration on the front or back face of the rim, that extends more than four inches into the plate area."

Several railroads objected to this proposed standard. It was recommended by one that the AAR rule on this subject should be adopted. Another commenter stressed that the proposed standard is inaccurate. According to that

commenter, overheated wheels display a reddish discoloration on the plate and blue discoloration on the rim. Also, it was unclear to this commenter how the proposed 4 inch measurement would be made.

FRA does not agree that the proposed standards are inaccurate or that a reddish discoloration on the plate and a blue discoloration on the rim should be the standard for overheated wheels. FRA believes that such a discoloration standard would permit excessive heating of the wheel plates and unacceptable damage to the structural integrity of the wheels. Stated otherwise, such a discoloration standard would provide a significantly lower margin of safety. Wheel failures and derailments are imminent whenever wheels have been subjected to such excessive heating.

On the other hand, the proposed standard relies solely on reddish brown discoloration as the measure of overheating that could change the metallurgical structure of the wheel. As this discoloration extends further into the plate of the wheel, the danger of sudden wheel failure increases. Therefore, the proposed standard has been adopted in § 215.103(h) of the final rule.

The same rationale applies to that portion of the proposal that would not permit the discoloration to extend more than four inches into the wheel plate. Experience indicates that if the discoloration is permitted to extend beyond the limit proposed, failure of the wheel is imminent. Accordingly, § 215.104(h) of the final rule clarifies this portion of the proposal by specifying that the 4 inch measurement is to be made from the bottom of the back face of the rim.

Welding of Wheels

Under current § 215.43(m), any welding on a wheel is described as a defect. This provision was not included in the proposed standards. The Oregon Commission asserts that the welding of wheels should be prohibited. According to the Oregon Commission, a careless arc strike could pit the bearings and lead to a wheel failure.

While FRA agrees that improper or careless welding could lead to serious wheel damage, it notes that welding, if done properly, would not result in such damage. However, FRA also recognizes that creation of proper welding conditions in the railroad operating environment would be so inordinately expensive that it is impractical. A large part of that expense would derive from the process of preheating the wheel, a lengthy but necessary process for proper

welding. For this reason, FRA will allow welding of wheels only as an emergency repair measure to enable the car to be moved to a repair facility. Accordingly, under § 215.103(i) of the final rule, a welded wheel is not a prohibited defect if the car is tagged and being moved for repair in accordance with § 215.9.

Circumferential Grooves

Current § 215.43(j) provides that a wheel is defective if it has "[a] circumferential groove in the tread more than one-eighth inch in depth." This provision was not included in the proposed standards.

The Oregon Commission states that the standards should indicate at what point a circumferential groove becomes a hazard. Similarly, the Washington Commission opposes deletion of the current rule prohibiting a circumferential groove $\frac{1}{8}$ of an inch in depth or more. It states that deletion of this standard could lead to a reduction in the structural integrity of wheels. Both indicate that these grooves are prevalent on cars equipped with composition brake shoes.

FRA does not agree with the commenters contending that a wheel with a circumferential groove should be prohibited. Unlike other conditions, FRA does not believe that these grooves are serious enough to justify removing a car from service. Moreover, the accident data compiled by FRA does not indicate that wheels with circumferential grooves are a safety problem.

Wheels with Scrapes, Dents, or Gouges

Under current § 215.43(k), a wheel is defective if it has "[a] scrape, dent, or gouge in the wheel plate surface more than one-eighth inch deep that causes an abrupt change in the finish of the plate surface." This provision was also omitted from the proposed standards.

The Washington Commission opposes, on grounds of structural soundness, the elimination of the current prohibition of wheels with a scrape, dent, or gouge. Moreover, the Oregon Commission asserts that the standards should specify at what point these conditions will render the wheel structure unsound.

As previously noted, the proposed rules, unlike the current rules, do not provide that a wheel is defective if it has a scrape, dent, or gouge in the plate area. These conditions were not included in the proposed rules because they are extremely difficult to discover during a pre-departure inspection. No defects of this nature were reported by FRA and participating State inspectors during the past three years. Accordingly,

FRA has omitted these conditions from the final rule.

Axles

The NTSB expressed opposition to proposed § 215.25 (a), which provides that a car may not be continued in service if an axle on the car has a radial crack or is broken. NTSB contends that axles normally crack in a transverse, rather than a radial, manner.

FRA agrees. Moreover, the term "radial crack" has generated considerable confusion among the commenters. Accordingly, FRA has revised the proposed rules pertaining to axles to provide that an axle with any crack is defective. Thus, with respect to cracked axles, § 215.105 of the final rule will be identical to the current rule.

Plain Bearing Box Lids

Under proposed § 215.27(b), a railroad may not continue in service a car with a plain bearing box lid that is missing, broken, or otherwise not preventing contaminants from entering the box.

Maine Central Railroad opposes this prohibition to the extent that it applies to a box lid that is "not preventing contaminants from entering the box." It contends that this standard is too vague since the seal between the box lid and the journal box at no time can be made perfect, particularly if the journal box lid is not equipped with a seal.

As noted by one commenter, the proposed rules would require that a car be removed from service if it has a plain bearing box lid that does not prevent contaminants from entering the box.

The confusion concerning this proposed requirement derives from both FRA's use of the term contaminant and its failure to make clear the intent of the proposal. Accordingly, the term contaminant has been deleted from the final rule. In addition, proposed § 215.27(b) has been revised and redesignated as § 215.107(b) of the final rule. It provides that a railroad may not place or continue in service a car with a plain bearing box lid that is missing, broken, or open except to receive servicing. The intent of the proposal was not to require a perfect seal between the lid and the journal box. Rather, it was to ensure that the lid would be in place and secure enough to prevent free entry of foreign matter that could damage the bearings and lead to a "hot box" that could ultimately result in a derailment. FRA believes that the clarified plain bearing box lid requirement in § 215.107(c) of the final rule is both reasonable and necessary to assure safety.

Repack and Lubrication of Bearings

Current §§ 215.97 and 215.99 require periodic repacking of plain bearing boxes and periodic lubrication of roller bearings. These requirements were not included within the proposed standards.

Several commenters favored retention of the current provision requiring a periodic lubrication of roller bearings. Also, the Lubricator Pad Manufacturers Group felt that the current 24-month repack requirement for plain bearing boxes is the most satisfactory. It expressed concern that the industry would not be able to enforce the maintenance required for good solid bearing performance and that an increase in hot boxes and derailments would result.

In addition, the Alabama Public Service Commission favors retention of the current repack intervals for plain bearing boxes. The Commission explains that components in the journal box need to be removed for adequate inspection.

FRA does not agree that these requirements should be retained. Field test results indicate that roller bearings can remain in service for extended periods of time without being re-lubricated. At the same time, it should be noted that roller bearings will be indirectly regulated as a result of the rules prescribing wear limits for wheels. Specifically, when wheels reach condemning limits, they will have to be removed. At this time, the bearings can be examined for defects and, if necessary, removed from service. In sum, FRA believes that the bearings will function properly for the life of the wheel without additional lubrication. Accordingly, the current requirement is being deleted from the standards.

With respect to plain bearings, FRA is shifting from an arbitrary requirement to repack the bearing box to performance standards. Under the new standards (§§ 215.107-111), critical bearing components are required to be in good condition. For example, the box must contain free oil and be free of excessive foreign matter, and the lubricating pad must be in proper condition. These and other related requirements make the current repack requirement unnecessary from the standpoint of safety. In fact, FRA believes that the new performance standards are superior to the current repack requirement because they stress that the critical bearing components must be in good condition at all times. Accordingly, the current repack requirement is not being retained.

Plain Bearing Wedge

The Oregon Commission states that a car should not be continued in service if it has a plain bearing wedge that is out of place.

FRA agrees with the Oregon Commission. If a car with a plain bearing wedge out of place is continued in service, uneven load distribution in the contact area between the bearing and journal box will result, thus creating the risk of overheating that could cause a derailment. For these reasons, § 215.113 of the final rule requires removal of a car from service with a plain bearing wedge out of place.

Roller Bearings

Proposed § 215.35(a)(3) provides that a railroad may not continue in service a car that has a roller bearing with a loose, damaged, or nonfunctioning seal that permits loss of lubricant. Maine Central opposes the prohibition of roller bearings with a "nonfunctioning seal that permits loss of lubricant." It asserts that a minimal loss of lubricant does not indicate unsafe conditions. It favors using AAR Interchange Rule 36, which deals with unsafe seal conditions, as a standard.

While a minute loss of lubricant through "seepage or weepage" of lubricant around a roller bearing seal may not be hazardous, FRA notes that proposed § 215.35(a)(3) provides that the seal must be "loose, damaged, or nonfunctioning" to be considered defective. If any of these conditions exists, FRA believes that the loss of lubricant would be excessive and warrant taking a car out of service. Accordingly, the proposed rule has been adopted, with only a minor editorial change, in § 215.115(a)(3) of the final rule. The phrase, "nonfunctioning seal that permits loss of lubricant," has been revised to read a seal that "permits leakage of lubricant in clearly formed droplets."

Derailed or Submerged Bearings

Proposed § 215.35(b)(2) provides, in pertinent part, that "[e]ach roller bearing that has been submerged in water, and each roller bearing involved in a derailment, must be disassembled from the axle for inspection."

Western Pacific Railroad Company objected to the proposed test procedure for these bearings. Western Pacific contends that the proper procedure is to jack up the truck side frame, rotate the bearing, and listen and feel for irregularities. The Santa Fe stated that defective bearings have externally visible defects. It also opposes the

proposed standard. Rather, it supports AAR Rule 36 A.1 (June 1, 1978).

These commenters apparently believed that defects can be discovered without disassembly of the bearing from the axle. FRA does not agree entirely. Although the initial procedure for low speed (10 miles per hour or less) derailed bearings is a visual examination of the bearings and rotation of the wheel set, disassembly should be required if this procedure reveals any irregularity, such as evidence of damage or unusual noise.

FRA believes that each wheel set of a truck involved in a higher speed (more than 10 miles per hour) derailment, or dragged on the ground for more than 200 feet should also be disassembled. Defects caused by these derailments cannot be discovered without disassembly of the bearing from the axle. Otherwise, internal fractures of the rollers and racers, or any other serious internal damage to the bearings cannot be detected. Also, bearings should be disassembled to detect pitting which could lead to cracking and ultimate failure of the bearings. For these reasons, the "disassembly" requirement for derailed bearings is being retained in § 215.115(b) of the final rule.

On further consideration, FRA has decided not to regulate roller bearings that have been submerged in water because it does not have data to indicate that submerged bearings deteriorate to the point where their functional integrity is adversely affected.

More than two years ago, 4,800 Norfolk and Western (N&W) cars were submerged in approximately fourteen feet of water for several days. N&W operated about 2,300 of those cars during the last two years, while gradually replacing their bearings. Specifically, the bearings of approximately 800 cars were changed during the first nine months and the bearings of the remaining 1,500 cars were changed during the next fifteen months. Thus, some cars were operated for as long as two years before receiving a bearing change. None of the bearings on 2,300 cars failed nor showed signs of deterioration, although some did have water marks or etchings or other minor imperfections. While this one case does not conclusively establish that water has no deteriorative effect on roller bearings, it does reveal that further observation is necessary before FRA can determine whether or not submerged bearings present a safety hazard. Therefore, FRA has not included submerged bearings in the final rule. However, FRA will continue to monitor

the safety performance of submerged bearings.

Roller Bearing Adapter

The Oregon Commission opposes continuing a car in service with a roller bearing adapter that is out of place or wearing into a truck side frame.

The Washington Commission supports a prohibition against use of cars with roller bearing adapters out of place. It also favors a prohibition against excessive wear on the crown of the adapter. Such a prohibition is contained in § 215.95(c) of the current rules but was omitted from the proposed rules. In support of its position, the Commission notes that six percent of all derailments reported were caused by journal bearing failures.

FRA agrees that a car should be removed from service if it has a roller bearing adapter that is out of place. Also, excessive wear on the crown of the adapter is serious enough to warrant taking a car out of service. Either condition could cause uneven load distribution on the bearing and thus result in bearing failure, which could lead to a derailment. Therefore, § 215.117 of the final rule requires removal from service of a car that has either a roller bearing adapter that is out of place or excessive wear on the crown of the adapter.

Snubbing Devices

Proposed § 215.39(b) provides that a railroad may not continue in service a car that has a truck equipped with snubbing units, attachments, or wear plates that are worn to the extent that the snubbing is ineffective or contains snubbing units that are broken.

Trailer Train disagreed with the inclusion of snubbing ineffectiveness as a critical defect. Pullman Leasing Company noted that measurable wear limits based on safety should be used rather than the vague term "ineffective."

With respect to reconditioned cars, Pullman notes that proposed § 215.71(b)(7)(ii) would require that those cars have hydraulic snubbing units that are free of defects, including leakage of hydraulic fluid. It asserts that leakage does not necessarily make a snubbing unit defective. As a substitute for this leakage test, it recommends a standard requiring observation of the fluid level or qualification testing in accordance with the manufacturer's recommended procedures.

Initially, it should be noted that the terms snubbing units, attachments, and wear plates, when used collectively, have been consolidated into one term, snubbing device. With regard to leakage, FRA feels that leakage of

snubbing devices is not hazardous so long as that leakage is not so excessive that it will render the device inoperative. Thus, a leaking snubbing device is not considered to be defective if that leakage does not amount to clearly formed droplets.

On the other hand, FRA disagrees with a commenter's contention that ineffective snubbing should not be considered a critical defect. A car that has ineffective snubbing, or broken snubbing devices, will respond more violently to track irregularities and may cause a derailment. Therefore, § 215.119(b) of the final rule does not permit a car to be continued in service if it has ineffective or broken snubbing devices.

Broken Body Bolster

The Oregon Commission recommends that a car should be taken out of service if the bolster is broken so badly that there is no side bearing clearance or the bolster is broken down to the point where the side sill of the car is riding on top of the truck side frame. This position was echoed by the Washington Commission.

FRA agrees with these comments. Accordingly, § 215.121(f) prohibits broken body bolsters.

Side Bearings

Proposed § 215.39(c) provides that a railroad may not continue in service a car having side bearings in any of the following conditions: (1) A car truck side bearing assembly is missing or broken; (2) The bearing at one end of the car, on both sides, is in contact with the body bolster (except by design); (3) The bearing at one end of the car has a total clearance from the body bolster of more than three-fourths of an inch; or (4) At diagonally opposite sides of the car, the bearings have a total clearance from the body bolsters of more than three-fourths of an inch.

The Oregon Commission asserts that loose side bearings are a serious enough defect to warrant taking a car out of service. In addition, the Washington Commission contends that a car should not be used if it has a side bearing that is missing, broken, or insecure.

FRA agrees that a missing or broken side bearing is serious enough to warrant taking a car out of service. FRA's concurrence stems from the knowledge that a missing or broken side bearing generates an uneven load distribution in the suspension system that could shift the lading. This in turn would cause the car to sway and derail. As previously noted, § 215.39(c) of the proposed rules would require cars with this defect to be removed from service.

Accordingly, this requirement has been included, with editorial changes, in § 215.119(c) of the final rule.

On the other hand, FRA has not included a provision that would prohibit the use of a car with loose side bearings. There is no indication that loose side bearings pose the same risk occasioned by missing or broken side bearings. Moreover, such a requirement would not be realistic in light of the fact that the bearings are attached from inside and if loose would not be apparent to railroad personnel or FRA or State inspectors.

Truck Springs

Under proposed § 215.39(d)(3), one broken truck spring is not a defect. One labor organization asserted that one broken truck spring constitutes a safety hazard because it would put an abnormal load on the other springs.

FRA does not agree. One broken truck spring in a cluster does not create enough of an uneven load distribution to warrant removal of a car from service. Therefore, under § 215.119(d) of the final rule, a car would have to be removed from service if it has more than one broken truck spring within any cluster.

Center Sills

Under proposed § 215.41(b)(2), a railroad may not place or continue in service a car having a cracked center sill.

The AAR, NTSB and other commenters contend that cracked center sills are not critical, though broken ones could be.

FRA does not entirely agree. FRA believes that a center sill that is cracked more than 6 inches is hazardous because it may undermine the integrity of the sill or propagate rapidly and thus result in a break. Likewise, FRA believes that a broken center sill is hazardous and warrants removal of a car from service. Both of these conditions create the danger of train separation. Therefore, § 215.121(b) of the final rule prohibits continuing a car in service if that car has a center sill that is broken or cracked more than 6 inches.

Brake Hangers

The Public Service Commission of West Virginia (West Virginia Commission) contends that broken or missing hangers or pins should be regulated in Part 215 since brake hangers and safety supports are part of the trucks.

FRA currently is developing a notice of proposed rulemaking to revise its Power Brake Standards. As part of this process, it will consider brake hangers and pins. Therefore, the comment on this subject will be retained and

considered in connection with the revised Power Brake Standards.

Safety Hangers for Car Doors

AAR requested a six-month extension to permit the railroads to comply with proposed § 215.41(d), which would require that the side doors on box cars be equipped with safety hangers.

FRA believes that this request is reasonable. Therefore, § 215.121(d) of the final rule provides this extension.

Center Plates

The West Virginia Commission urges the prohibition of broken center plates stating that a broken plate puts stress on the body bolster and will eventually cause the car to ride hard on the side bearings.

FRA agrees with the West Virginia Commission that broken center plates should be included in the listing of prohibited conditions. If a car with a broken center plate is continued in service, the truck could easily become disengaged from the body and cause a serious accident. Accordingly, § 215.121(e)(3) of the final rule provides that a car may not be placed or continued in service if it has a broken center plate.

Further, it is the view of FRA that certain cracked center plates should also be included in the listing of prohibited conditions. It is difficult to accurately determine whether or not these cracks will spread to result in a break. Thus, these cracked center plates pose potentially the same risk as broken ones. Therefore, § 215.21(e)(4) of the final rule prohibits placing or continuing in service a car with a center plate that has two or more cracks through its cross section (thickness) at the edge of the plate that extend to the portion of the plate that is obstructed from view while the truck is in place.

Couplers

The West Virginia Commission favors prohibiting use of a car with a missing or broken coupler lock-lift. It asserts that this condition is hazardous since, if present, it would require workers to cross between cars to uncouple them. Further, it asserts that for the same reason a car should not be used if an uncoupling device is missing.

The Oregon Commission favors removing a car from service if it has any defective coupler, including a defective Type E coupler. The Commission notes that DOT Specification 112 and 114 tank cars that carry hazardous materials are required to be equipped with shelf Type E couplers and head shields. The Type E couplers and head shields on these cars are designed to help prevent hazardous

materials accidents. The Oregon Commission and the Washington Commission also favor a standard providing that a car must be taken out of service if it has a cracked, broken, or inoperative coupler lock-lift.

Additionally, the Washington Commission opposes use of a car having an AAR adopted coupler carrier that is missing or broken. Like the Oregon Commission, the Washington Commission notes that the proposed rule applies to Type F couplers only.

RLEA favors retention of the current requirement regarding excessive wear and defective interlocking features on couplers. According to RLEA, these defects could lead to coupler disengagement while a train is in transit.

On reconsideration, FRA generally agrees with the comments favoring removal of a car from service if it has a defective coupler lock-lift or a missing uncoupling device. Thus, it is incorporating into the new standards (§ 215.123) the provisions of current § 215.173(c). Under the terms of that section, a coupler is considered defective if it has an inoperative lock-lift, the assembly lacks anticreep protection, or a coupler lock is missing, inoperative, bent, cracked, or broken. The anticreep protection should be capable of preventing unintentional unlocking of the coupler lock; this requirement replaces the current one that provides that the lever on a bottom operated coupler must have at least one-fourth inch clearance between the operating rod eye and the locklift lever when the coupler is centered and the knuckle is fully closed and locked. Also, if a coupler lock is missing or defective, the coupler will not lock. These defects are considered serious enough to warrant their insertion in the final rule.

With regard to the comments supporting removal of a car from service if it has a defective Type E coupler, FRA notes that proposed § 215.43 (defective couplers) applies to all couplers and does not distinguish between Type E and Type F couplers. This section has been incorporated into § 215.123 of the final rule with the additional provisions that are discussed above.

Follower Plates and Draft Lugs

Current § 215.193 provides, in pertinent part, that a draft arrangement is defective if it has a missing (except by design) or broken follower plate, draft lugs or fasteners. This provision is not included in proposed § 215.47 (defective draft arrangement).

The Oregon & Washington Commissions contend that a car should be taken out of service if it has a missing

(except by design) or broken follower plate, draft lugs or fasteners.

FRA agrees that these conditions are serious enough to warrant regulation. Since these components contribute significantly to the structural integrity of the draft system, the absence or break of any one part could cause a train to break in two while in motion. Accordingly, FRA has incorporated into § 215.127 of the final rule the applicable provisions of current § 215.127 of the final rule the applicable provisions of current § 215.193 that prohibit these defects.

Inoperative Sliding Sill

Under proposed § 215.47(c), a railroad may not continue in service a car having a sliding sill that is inoperative.

Maine Central Railroad believes that a car with a properly blocked sliding sill should be permitted to move to the home shop for repair. Because of varying designs of cushioning units not every repair point can be equipped to make permanent repairs to all cars.

FRA agrees that a car with a properly blocked sliding sill should be permitted to be moved for repair. In this connection, it points out that, under § 215.9 of the final rule (movement for repair), a car with a defective sliding sill, or any other defect, can be moved only for repair if a qualified person finds that it can be safely moved, establishes the restrictions to ensure a safe movement, and the other requirements prescribed in that section are complied with.

Cushioning Units

Under proposed §§ 215.63 and 215.71, cushioning units would be considered defective if leaking oil or other fluid.

Hydraulic unit manufacturers disagreed with this proposed standard. They stressed that some leakage is inevitable. One commenter urged that the term "leakage" be omitted. Another commenter suggested that the term "leakage" be clarified by defining it as "clearly formed droplets adhering to or dropping from the cushioning unit or the car structure surrounding the cushioning unit." This would prevent grease from being mistaken as oil.

With respect to cushioning units, Maine Central pointed out that by design a small amount of seepage is allowed for lubrication of the seal and does not render the unit inoperative or unsafe. Also, Maine Central asserts that a car with an inoperative cushioning unit should be allowed to move to the home shop for repair if the unit is properly immobilized.

On reconsideration, FRA agrees that a cushioning unit should not be

considered defective if it is losing only a minute amount of fluid through "seepage or weepage". FRA is primarily concerned about an excessive loss of fluid that could render the cushioning unit inoperative. This condition can lead to violent slack action in trains that could cause serious injuries and derailments. Accordingly, to guard against this hazard while at the same time recognizing that a negligible loss of fluid may be inevitable, § 215.127(c) of the final rule provides that a leaking cushioning unit is defective if it is leaking fluid in clearly formed droplets. Thus, a minute loss of fluid through "seepage or weepage" would be permitted, but a larger loss of fluid that could render the unit inoperative would not be allowed.

Regarding movement for repair with an inoperative cushioning unit, again, FRA notes that this practice would be permitted, if it is determined that the movement can be conducted safely and the other conditions in § 215.9 of the final rule are met.

Draft Gear

The West Virginia Commission urges that a draft gear with the support missing or not secured should be prohibited. The Commission pointed out that when the support fails (drops off), the coupler height changes and the draft gear could fall out of the yoke.

On the other hand, the AAR, NTSB and other commenters, contend that free slack in the draft gear is not an unsafe condition.

With regard to the comment that a car should be taken out of service if it has a draft gear that is not secured or is missing support, FRA generally agrees. The draft arrangement regulates the functional integrity of the draft system. A defective draft arrangement could cause the draft system to malfunction which, in turn, could result in the train breaking in two.

FRA also agrees that free slack in a draft gear does not constitute an imminent safety hazard. Unlike a draft gear that is not secured or is missing support, free slack in a draft gear does not create an imminent danger of train separation. Therefore, FRA has included in § 215.127 of this final rule, a provision requiring that a car be taken out of service if it has a defective draft arrangement including a broken yoke, a missing or broken follower plate, or an inoperable draft gear.

Prohibited and Restricted Equipment

Subpart C is being revised in the final rule. The two lists of components and other factors that preclude a freight car from being used without prior FRA

approval are being consolidated into a single list. In addition, the one-wear, 70-ton Southern (ABEX) U1 cast steel wheels that were ordered removed from all cars by FRA Emergency Order No. 7 have been added to the list of restricted components. Finally, some of the procedural and policy guidelines governing requests for FRA approval have been deleted as surplusage since they are also contained in the FRA Rules of Practice (49 CFR Part 211).

Civil Penalty Policy

FRA announced in the preamble accompanying the proposed standards that the final rule would include a revised penalty schedule equating the amount of penalties to be assessed with the nature and degree of violations.

Several commenters suggested that fines currently being assessed should be lessened. Others approved of having the amount of the penalty reflect the seriousness of the violation. Rail unions stated that larger fines should be imposed to encourage compliance with the new standards. According to the unions, the railroads simply write off the current fines as an operating expense.

Regarding the amount of fines assessed, FRA wishes to point out that its discretion is limited by the provisions of the Federal Railroad Safety Act, as amended. Section 209 of the Act (45 U.S.C. 438) provides that penalties for violations of rules and regulations shall be not less than \$250 or more than \$2,500.

The purpose of civil penalties is to promote future compliance with the regulations. Existing penalty levels under the standards replaced by this final rule have proven inadequate to produce significant impacts on the compliance records of many railroads. Further, because FRA can discover and process only a small fraction of all violations that occur, it is important that penalties actually assessed be substantial. Finally, the defects defined in the rule are all of a serious nature, while some of the defects under the current regulations involve the failure to undertake preventive maintenance.

Therefore, Appendix B of the final rule prescribes substantial penalties for violations of the standards. Where gradations of noncompliance could be described in objective terms, appropriate distinctions have been made in the penalty levels. In general, the highest penalties have been reserved for conditions which have contributed significantly to the train accident rate and for conditions which, although infrequent in incidence, clearly present a high probability of derailment.

The railroads exercise control over the level of compliance with freight car safety standards through their determination of repair points, deployment of car inspectors, and management of car rehabilitation programs. Under these circumstances, basing a violation on knowledge of the defective condition encourages ignorance and neglect. It is FRA's experience that the knowledge requirement (§ 215.7) of the current standards has had that effect. Thus, it has been necessary to adopt a rule of strict liability for violations of the revised standards.

Moreover, higher penalties are provided where the circumstances indicate violations to be intentional. An intentional violation is the knowing and willful failure of a railroad to comply with the provisions of this final rule. The knowledge required for an intentional violation is knowledge of the facts constituting the violation. Knowledge of the regulations is presumed by law. There are two instances that are *prima facie* evidence that a violation was knowing and willful: first, evidence that a violation has been committed or has been allowed to continue after an FRA or State inspector has provided the railroad notification of a deviation from the requirements of the standards; and second, where any repair has been made to the freight car component in question, but that component was not brought into full compliance with the standards.

Under the penalty schedule, the freight car (as opposed to individual deviations from the standards of individual components of the car) remains the essential unit of violation. However, the schedule provides that the penalties associated with individual deviations from the standards will be combined up to a total of \$2,500 if two or more violative conditions are detected on a single car.

FRA will assess civil penalties whenever a freight car is found to have been utilized in a way giving rise to a hazard proscribed by the standards or whenever the circumstances point to the likelihood that a car would be so utilized, absent FRA intervention. For instance, FRA will not hesitate to assess violations for excessively worn wheels discovered in inbound trains. The final rule allows sufficient wear beyond AAR condemning limits for the wheels to be removed before they become defective under the standards. Similarly, FRA will not hesitate to assess violations with respect to defective cars returned to service after having been on a repair track. Even if a particular defect is of the

kind not likely to cause a derailment in a low-speed yard movement, FRA will assess a penalty based on the likelihood that a defect not discovered on a repair track is even less likely to be discovered in a pre-departure inspection.

In contrast to past custom, FRA will also assess penalties for defective cars in any outbound train that is prepared for departure. FRA (or the participating State) will then provide notification of the proposed penalty action and relevant car numbers to the railroad as soon after completion of the FRA inspection as a railroad representative can be located. Merely providing the car numbers to the railroad without assessing penalties would transform FRA and State inspectors into servants of the railroads. On the other hand, permitting the trains to run with defective cars, while a practice endorsed by the courts as a necessary measure under other statutes, would expose the public to hazard unnecessarily. Thus, FRA will penalize defects before they give rise to actual injury.

It should be emphasized that the above examples are not exhaustive of the situations in which civil penalty action may be appropriate. FRA expects that the railroads, having been relieved of unnecessary regulatory burdens, will take whatever action may be necessary to prevent the development of avoidable defects and to timely discover the presence of those that may be unavoidable.

Defect Code

FRA has included in Appendix C of this final rule a freight car defect code. The code number generally corresponds to the section number of each defect proscribed by the final rule. The purpose of this code is to establish a universal language among FRA, States, and the railroad industry that will facilitate communication, recordkeeping, and statistical analyses. Railroad personnel should note that the code may not be substituted for the description of defects on bad order tags affixed to cars being moved for repair under § 215.9. However, it may be used to supplement that description.

Reporting Safety Violations

The Brotherhood of Railway Carmen asserts that supervisors threaten employees with dismissal when the latter attempt to comply with the existing standards. It favors development of a means for employees to report safety violations to FRA without fear of dismissal. Also, it contends that employees should be permitted to refuse to operate unsafe

equipment without having to worry about loss of their jobs.

First, FRA wishes to point out that, on numerous occasions in the past, it has received reports of alleged safety violations from railroad employees. FRA has treated these complaints in strictest confidence and will continue to do so. However, FRA believes that the establishment of a formal procedure to protect employees reporting alleged violations, or permit employees to refuse to operate allegedly unsafe equipment, would result in FRA's becoming involved in numerous labor-management disputes. FRA believes that these disputes should be resolved by the collective bargaining process.

Caboose Crashworthiness

In the preamble accompanying the proposed Freight Car Safety Standards, FRA announced that it is considering crashworthiness standards aimed at upgrading the structural integrity of new caboose cars. Reacting to this approach, several commenters suggested that the way to lessen the possibility of injuries sustained while in a caboose is either to have the caboose at the middle of the train or to eliminate it entirely.

FRA is presently conducting tests at its test center in Pueblo, Colorado to determine whether it would be appropriate to propose standards for the crashworthiness of cabooses. Once all the test data have been collected and analyzed, a decision regarding the need for rulemaking will be made. Therefore, FRA believes that it would be premature to discuss possible crashworthiness standards at this time. However, the comments submitted concerning this topic will be retained and considered in connection with any future rulemaking action that may be taken.

Comments Beyond Scope of Notice

Several parties submitted comments that are considered beyond the scope of the notice of proposed Freight Car Safety Standards. These included comments concerning performance, design, and construction standards for freight cars, an on-board monitoring system for bearings, and standards regulating the loading of open-top freight cars.

These comments and others considered beyond the scope of the notice will be retained and considered, to the extent applicable, in connection with future rulemaking proceedings.

Economic Impact

FRA has determined that this document does not contain a significant regulation. Therefore, a Regulatory Analysis under Executive Order 12044 is

not required (E. O. 12044, 43 FR 12661, March 24, 1978).

However, FRA did prepare a regulatory evaluation of the proposed regulation and has revised that evaluation in light of the comments received and the changes made in the final rule, in accordance with DOT policies for evaluation of regulatory impacts (Regulatory Policies and Procedures, 44 FR 11034, February 26, 1979). A copy of each regulatory evaluation has been placed in the public docket for this proceeding.

Environmental Impact

On March 16, 1979, the FRA published (44 FR 16062) revised procedures for insuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA", 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act ("DOT Act", 49 U.S.C. 1651 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.113.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures contain a provision that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve diverse factors, including environmental controversy; the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by Section 4(f) of the DOT Act; and the possible increase in traffic congestion.

This amendment meets the seven criteria that establish an action as a non-major action. Accordingly, the FRA has determined that the amendment of Part 215, Freight Car Safety Standards, does not constitute a major action requiring an environmental assessment.

Effective Date

As stated at the beginning of this preamble, with the exception of § 215.15, this final rule becomes effective on March 1, 1980. However, to the extent that the final rule imposes new or more stringent requirements than the current standards, prior compliance is authorized and encouraged.

Section 215.15, the periodic inspection requirement, is effective immediately upon publication in the Federal Register. This section extends the deadline for accomplishing initial periodic inspections of freight cars from

December 31, 1979 to June 30, 1980. This action is being taken to avoid the hiatus between the current and new deadline that would otherwise occur. Thus, this action protects railroads against the possibility of penalty for those cars that have not received periodic inspections as of December 31.

This action imposes no additional regulatory burden and is being accomplished solely to respond to the problem being encountered by various railroads in completing the inspection program within the time constraint of the current regulatory provision. Therefore, § 215.15 is not subject to the thirty day notice requirement and is effective immediately upon publication.

In consideration of the foregoing, Part 215 (49 CFR Part 215) is revised to read as follows:

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

Subpart A—General

- Sec.
- 215.1 Scope of part.
- 215.3 Application.
- 215.5 Definitions.
- 215.7 Prohibited acts.
- 215.9 Movement of defective cars for repair.
- 215.11 Designation of qualified persons.
- 215.13 Predeparture inspection.
- 215.15 Periodic inspection.

Subpart B—Freight Car Components

215.101 Scope.

Suspension System

- 215.103 Defective wheel.
- 215.105 Defective axle.
- 215.107 Defective plain bearing box: general.
- 215.109 Defective plain bearing box: journal lubrication system.
- 215.111 Defective plain bearing.
- 215.113 Defective plain bearing wedge.
- 215.115 Defective roller bearing.
- 215.117 Defective roller bearing adapter.
- 215.119 Defective freight car truck.

Car Bodies

- 215.121 Defective car body.

Draft System

- 215.123 Defective couplers.
- 215.125 Defective uncoupling device.
- 215.127 Defective draft arrangement.
- 215.129 Defective cushioning device.

Subpart C—Restricted Equipment

- 215.201 Scope.
- 215.203 Restricted cars.

Subpart D—Stenciling

- 215.301 General.
- 215.303 Stenciling of restricted cars.
- 215.305 Stenciling of maintenance-of-way equipment.

Appendices

- Appendix A—Railroad freight car components.

Appendix B—Schedule of civil penalties.
Appendix C—FRA freight car standards defect code.

Authority: Secs. 202 and 209, 84 Stat. 971 and 975, 45 U.S.C. 431 and 438; and Sec. 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Subpart A—General

§ 215.1 Scope of part.

This part prescribes minimum Federal safety standards for railroad freight cars.

§ 215.3 Application.

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to each railroad freight car in service on—

- (1) Standard gage track of a railroad; or
- (2) Any other standard gage track while the car is being operated by, or is otherwise under the control of, a railroad.

(b) Sections 215.15 and 215.303 of this part do not apply to any car—

- (1) Owned by a Canadian or Mexican Railroad; and

(2) Having a Canadian or Mexican reporting mark and car number.

(c) This part does not apply to a railroad freight car that is—

- (1) Operated solely on track inside an industrial or other non-railroad installation; or
- (2) Used exclusively in dedicated service as defined in § 215.5(d) of this part; or
- (3) Maintenance-of-way equipment (including self-propelled maintenance-of-way equipment) if that equipment is not used in revenue service and is stenciled in accordance with § 215.305 of this part.

§ 215.5 Definitions.

As used in this part—

- (a) "Break" means a fracture resulting in complete separation into parts;
- (b) "Cracked" means fractured without complete separation into parts, except that castings with shrinkage cracks or hot tears that do not significantly diminish the strength of the member are not considered to be "cracked";
- (c) "Railroad freight car" means a car designed to carry freight, or railroad personnel, by rail and includes a—

- (1) Box car;
- (2) Refrigerator car;
- (3) Ventilator car;
- (4) Stock car;
- (5) Gondola car;
- (6) Hopper car;
- (7) Flat car;
- (8) Special car;
- (9) Caboose car;

- (10) Tank car; and
- (11) Yard car.

(d) "Dedicated Service" means the exclusive assignment of cars to the transportation of freight between specified points under the following conditions:

- (1) The cars are operated—
 - (i) Primarily on track that is inside an industrial or other non-railroad installation; and
 - (ii) Only occasionally over track of a railroad;
- (2) The cars are not operated—
 - (i) At speeds of more than 15 miles per hour; and
 - (ii) Over track of a railroad—
 - (A) For more than 30 miles in one direction; or
 - (B) On a round trip of more than 60 miles;
- (3) The cars are not freely interchanged among railroads;
- (4) The words "Dedicated Service" are stenciled, or otherwise displayed, in clearly legible letters on each side of the car body;
- (5) The cars have been examined and found safe to operate in dedicated service; and
- (6) The railroad must—
 - (i) Notify the FRA in writing that the cars are to be operated in dedicated service;
 - (ii) Identify in that notice—
 - (A) The railroads affected;
 - (B) The number and type of cars involved;
 - (C) The commodities being carried; and
 - (D) The territorial and speed limits within which the cars will be operated; and
- (iii) File the notice required by this paragraph not less than 30 days before the cars operate in dedicated service;

(e) "In service" when used in connection with a railroad freight car, means each railroad freight car subject to this part unless the car—

- (1) Has a "bad order" or "home shop for repairs" tag or card containing the prescribed information attached to each side of the car and is being handled in accordance with § 215.9 of this part;
- (2) Is in a repair shop or on a repair track; or
- (3) Is on a storage track and is empty.

(f) "Railroad" means common carrier by railroad.

(g) "State inspector" means an inspector who is participating in investigative and surveillance activities under section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435).

§ 215.7 Prohibited acts.

A railroad is subject to a penalty, as provided in Appendix C of this part, if it fails to comply with any provision of this part.

§ 215.9 Movement of defective cars for repair.

(a) A railroad freight car which has any component described as defective in this part may be moved to another location for repair only after the railroad has complied with the following:

- (1) A person designated under § 215.11 shall determine—
 - (i) That it is safe to move the car; and
 - (ii) The maximum speed and other restrictions necessary for safely conducting the movement;
- (2)(i) The person in charge of the train in which the car is to be moved shall be notified in writing and inform all other crew members of the presence of the defective car and the maximum speed and other restrictions determined under paragraph (a)(1)(ii) of this section.

(ii) A copy of the tag or card described in paragraph (a)(3) of this section may be used to provide the notification required by paragraph (a)(2)(i) of this section.

(3) A tag or card bearing the words "bad order" or "home shop for repairs" and containing the following information, shall be securely attached to each side of the car—

- (i) The reporting mark and car number;
- (ii) The name of the inspecting railroad;
- (iii) The inspection location and date;
- (iv) The nature of each defect;
- (v) Movement restrictions;
- (vi) The destination for shopping or repair; and
- (vii) The signature of a person designated under § 215.11.

(b)(i) The tag or card required by paragraph (a)(3) of this section may only be removed from the car by a person designated under § 215.11 of this part.

(ii) A record or copy of each tag or card attached to or removed from a car shall be retained for 90 days and, upon request, shall be made available within 15 calendar days for inspection by FRA or State inspectors.

(iii) Each tag or card removed from a car shall contain a notification stating the date, location, reason for its removal, and the signature of the person who removed it from the car. These recordkeeping requirements have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(c) Movement of a freight car under paragraph (a) of this section may be made only for the purpose of effecting

repairs. If the car is empty, it may not be placed for loading. If the car is loaded, it may not be placed for unloading unless unloading is consistent with determinations made and restrictions imposed under paragraph (a)(1) of this section and—

(1) The car is consigned for a destination on the line of haul between the point where the car was found defective and the point where repairs are made; or

(2) Unloading is necessary for the safe repair of the car.

§ 215.11 Designation of qualified persons.

(a)(1) Each railroad that operates railroad freight cars to which this part applies shall designate persons qualified to inspect railroad freight cars for defects prescribed by this part.

(2) Each person designated under paragraph (a)(1) of this section shall have demonstrated to the railroad a knowledge and ability to inspect railroad freight cars for compliance with the requirements of this part.

(b) With respect to designations under paragraph (a) of this section, each railroad shall maintain written records of—

- (1) Each designation in effect; and
- (2) The basis for each designation.

§ 215.13 Predeparture inspection.

At each location where a freight car is placed in a train, the freight car shall be inspected for compliance with the requirements of this part by a qualified person designated under § 215.11 of this part before the train departs that location. This inspection may be made before or after the car is placed in the train.

§ 215.15 Periodic inspection.

(a) After June 30, 1980, a railroad may not place or continue in service a freight car that has not received an initial periodic inspection in accordance with 49 CFR § 215.25, as in effect on October 6, 1976 (41 FR 44044), unless—

(1) The car is a high utilization car built or reconditioned after December 31, 1977; or

(2) The car is a non-high utilization car built or reconditioned after December 31, 1971.

(b) A freight car that has received an initial periodic inspection under paragraph (a) of this section shall be stenciled to so indicate in accordance with 49 CFR § 215.11 and Appendix C of this part, as in effect on October 6, 1976 (41 FR 44044). This stenciling need not be retained on the car after June 30, 1981.

(c) As used in this section, "high utilization car" means a car—

(1) Specifically equipped to carry trucks, automobiles, containers, trailers, or removable trailer bodies for the transportation of freight; or

(2) Assigned to a train that operates in a continuous round trip cycle between the same two points.

Subpart B—Freight Car Components

§ 215.101 Scope.

This subpart contains safety requirements prohibiting a railroad from placing or continuing in service a freight car that has certain defective components.

Suspension System

§ 215.103 Defective wheel.

A railroad may not place or continue in service a car, if—

(a) A wheel flange on the car is worn to a thickness of $\frac{3}{4}$ of an inch, or less, at a point $\frac{3}{4}$ of an inch above the tread of the wheel;

(b) The height of a wheel flange on the car, from the tread to the top of the flange, is $1\frac{1}{2}$ inches, or more;

(c) The thickness of a rim of a wheel on the car is $\frac{1}{4}$ of an inch, or less;

(d) A wheel rim, flange, plate, or hub area on the car has a crack or break;

(e) A wheel on the car has a chip or gouge in the flange that is $1\frac{1}{2}$ inches in length and $\frac{1}{2}$ inch in width, or more;

(f) A wheel on the car has—

(1) A slid flat or shelled spot that is more than $2\frac{1}{2}$ inches in length; or

(2) Two adjoining flat or shelled spots each of which is more than two inches in length;

(g) A wheel on the car shows evidence of being loose such as oil seepage on the back hub or back plate;

(h) A wheel on the car shows signs of having been overheated as evidenced by a reddish brown discoloration on the front or back face of the rim, that extends more than four inches into the plate area measured from the bottom of the back face of the rim; or

(i) A wheel on the car has been welded unless the car is being moved for repair in accordance with § 215.9 of this part.

§ 215.105 Defective axle.

A railroad may not place or continue in service a car, if—

(a) An axle on the car has a crack or is broken;

(b) An axle on the car has a gouge in the surface that is—

(1) Between the wheel seats; and

(2) More than one-eighth inch in depth;

(c) An axle on the car, used in conjunction with a plain bearing, has an end collar that is broken or cracked;

(d) A journal on the car shows evidence of overheating, as evidenced by a pronounced blue black discoloration; or

(e) The surface of the plain bearing journal on the axle, or the fillet on the axle, has—

- (1) A ridge;
- (2) A depression;
- (3) A circumferential score;
- (4) Corrugation;
- (5) A scratch;
- (6) A continuous streak;
- (7) Pitting;
- (8) Rust; or
- (9) Etching.

§ 215.107 Defective plain bearing box: General.

A railroad may not place or continue in service a car, if the car has—

(a) A plain bearing box that does not contain visible free oil;

(b) A plain bearing box lid that is missing, broken, or open except to receive servicing; or

(c) A plain bearing box containing foreign matter, such as dirt, sand, or coal dust, that can reasonably be expected to—

- (1) Damage the bearing; or
- (2) Have a detrimental effect on the lubrication of the journal and the bearings.

§ 215.109 Defective plain bearing box: Journal lubrication system.

A railroad may not place or continue in service a car, if the car has a plain bearing box with a lubricating pad that—

(a) Has a tear extending half the length or width of the pad, or more;

(b) Shows evidence of having been scorched, burned, or glazed;

(c) Contains decaying or deteriorated fabric that impairs proper lubrication of the pad;

(d) Has—

(1) An exposed center core (except by design); or

(2) Metal parts contacting the journal; or

(e) Is—

- (1) Missing; or
- (2) Not in contact with the journal.

§ 215.111 Defective plain bearing.

A railroad may not place or continue in service a car, if the car has a plain bearing—

(a) That is missing, cracked, or broken;

(b) On which the bearing liner—

- (1) Is loose; or
- (2) Has a broken out piece; or

(c) That shows signs of having been overheated, as evidenced by—

- (1) Melted babbitt;

- (2) Smoke from hot oil; or
- (3) Journal surface damage.

§ 215.113 Defective plain bearing wedge.

A railroad may not place or continue in service a car, if a plain bearing wedge on that car is—

- (a) Missing;
- (b) Cracked;
- (c) Broken; or
- (d) Not located in its design position.

§ 215.115 Defective roller bearing.

(a) A railroad may not place or continue in service a car, if the car has—

(1) A roller bearing that shows signs of having been overheated as evidenced by—

- (i) Discoloration; or
- (ii) Other telltale signs of overheating such as damage to the seal or distortion of any bearing component;

(2) A roller bearing with a—

- (i) Loose or missing cap screw; or
- (ii) Broken, missing, or improperly applied cap screw lock; or
- (3) A roller bearing with a seal that is loose or damaged, or permits leakage of lubricant in clearly formed droplets.

(b)(1) A railroad may not continue in service a car that has a roller bearing whose truck was involved in a derailment unless the bearing has been inspected and tested by—

(A) Visual examination to determine whether it shows any sign of damage; and

(B) Spinning freely its wheel set to determine whether the bearing makes any unusual noise.

(2) The roller bearing shall be disassembled from the axle and inspected internally if—

(A) It shows any external sign of damage;

(B) It makes any unusual noise when its wheel set is spun freely;

(C) Its truck was involved in a derailment at a speed of more than 10 miles per hour; or

(D) Its truck was dragged on the ground for more than 200 feet.

(3) Each defective roller bearing shall be repaired or replaced before the car is placed back in service.

§ 215.117 Defective roller bearing adapter.

A railroad may not place or continue in service a car, if the car has a roller bearing adapter that is—

(a) Cracked or broken;

(b) Not in its design position; or

(c) Worn on the crown of the adapter to the extent that the frame bears on the relief portion of the adapter, as shown in the figure below (see figure 1).

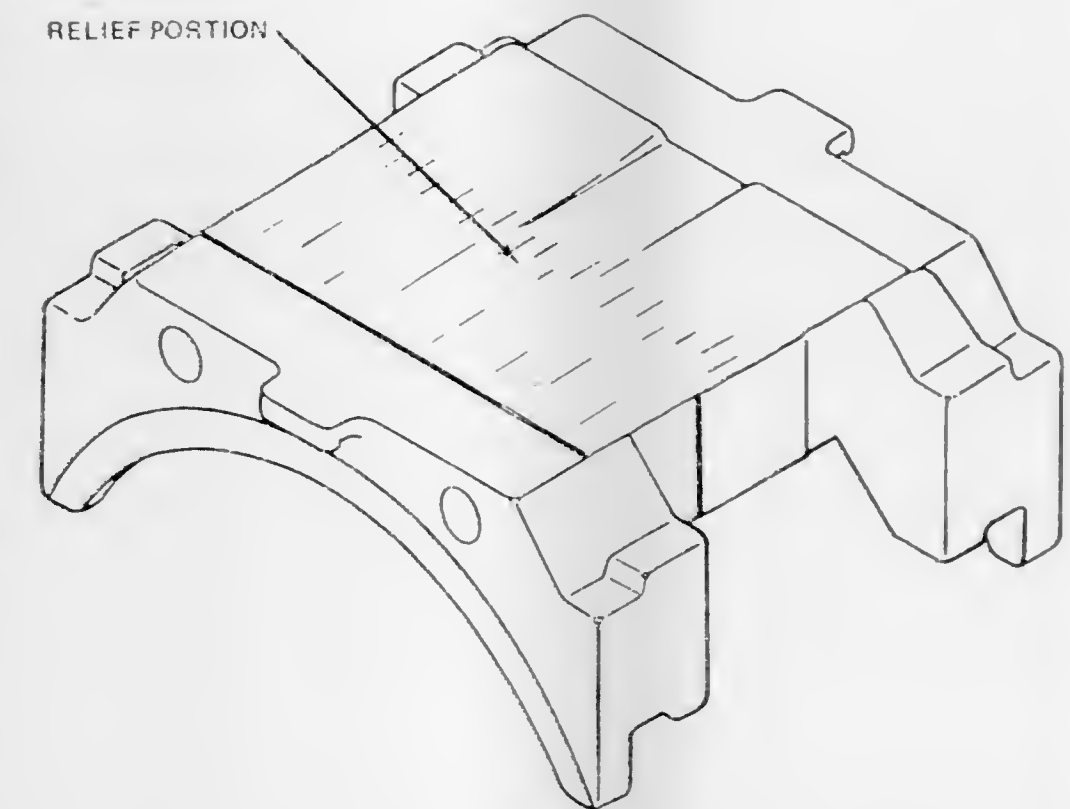


FIGURE 1

(4) Snubber unit that is broken, or in the case of hydraulic units, is broken or leaking clearly formed droplets of oil or other fluid.

(c) A side bearing in any of the following conditions:

(1) Part of the side bearing assembly is missing or broken;

(2) The bearings at one end of the car, on both sides, are in contact with the body bolster (except by design);

(3) The bearings at one end of the car have a total clearance from the body bolster of more than $\frac{3}{4}$ of an inch; or

(4) At diagonally opposite sides of the car, the bearings have a total clearance from the body bolsters of more than $\frac{3}{4}$ of an inch;

- (d) Truck springs—
- (1) That do not maintain travel or load;
- (2) That are compressed solid; or
- (3) More than one outer spring of which is broken, or missing, in any spring cluster;
- (e) Interference between the truck bolster and the center plate that prevents proper truck rotations; or

§ 215.119 Defective freight car truck.

A railroad may not place or continue in service a car, if the car has—

(a) A side frame or bolster that—

(1) Is broken; or

(2) Has a crack of $\frac{1}{4}$ of an inch or more in the transverse direction on a tension member;

(b) A truck equipped with a snubbing device that is ineffective, as evidenced by—

- (1) A snubbing friction element that is worn beyond a wear indicator;
- (2) A snubber wear plate that is loose, missing (except by design), or worn through;
- (3) A broken or missing snubber activating spring; or

(f) Brake beam shelf support worn so excessively that it does not support the brake beam.

Car Bodies

§ 215.121 Defective car body.

A railroad may not place or continue in service a car, if—

(a) Any portion of the car body, truck, or their appurtenances (except wheels) has less than a 2½ inch clearance from the top of rail;

(b) The car center sill is—

(1) Broken;

(2) Cracked more than 6 inches; or

(3) Permanently bent or buckled more than 2½ inches in any six foot length;

(c) The car has a coupler carrier that is—

(1) Broken;

(2) Missing;

(3) Non-resilient and the coupler has a type F head.

(d) After (six months after the effective date of this final rule), the car is a box car and its side doors are not equipped with operative safety hangers, or the equivalent, to prevent the doors from becoming disengaged;

(e) The car has a center plate—

(1) That is not properly secured;

(2) Any portion of which is missing; or

(3) That is broken; or

(4) That has two or more cracks

through its cross section (thickness) at the edge of the plate that extend to the portion of the plate that is obstructed from view while the truck is in place; or

(f) The car has a broken sidesill, crossbearer, or body bolster.

Draft System

§ 215.123 Defective couplers.

A railroad may not place or continue in service a car, if—

(a) The car is equipped with a coupler shank that is bent out of alignment to the extent that the coupler will not couple automatically with the adjacent car;

(b) The car has a coupler that has a crack in the highly stressed junction area of the shank and head as shown in the figure below (see figure 2).

(c) The car has a coupler knuckle that is broken or cracked on the inside pulling face of the knuckle.

(d) The car has a knuckle pin or knuckle thrower that is—

(1) Missing; or

(2) Inoperative; or

(e) The car has a coupler retainer pin lock that is—

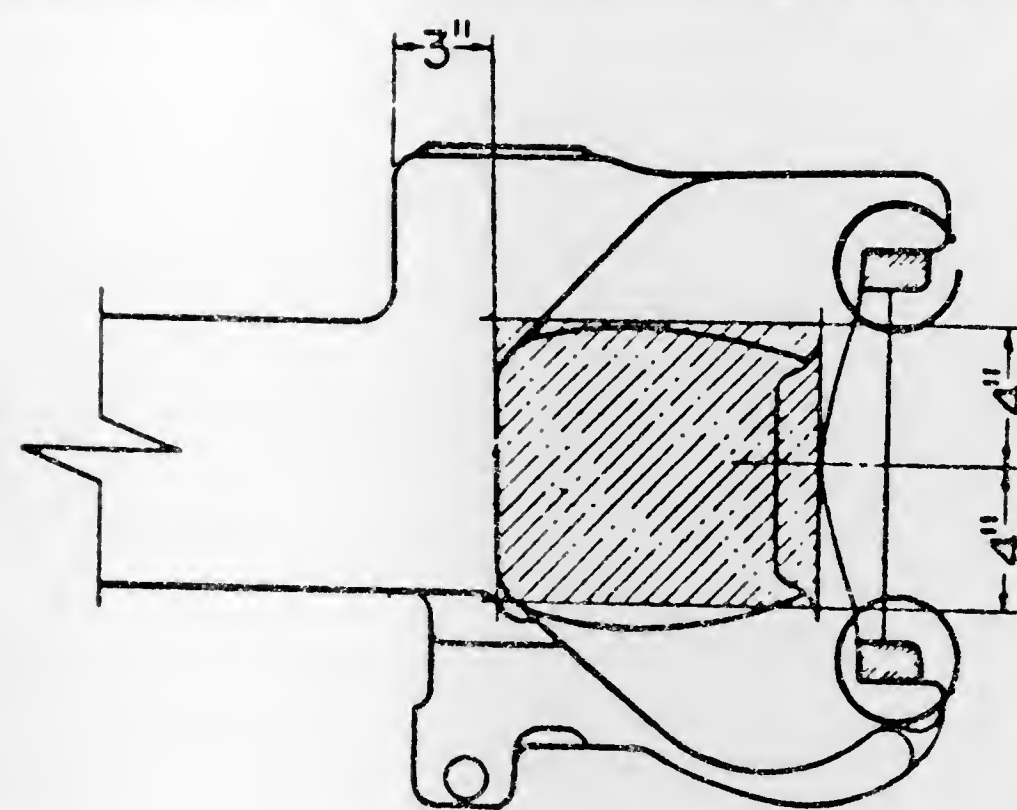


Figure 2

(1) Missing; or

(2) Broken; or

(f) The car has a coupler with any of the following conditions:

(1) The locklift is inoperative;

(2) The coupler assembly does not have anticreep protection to prevent unintentional unlocking of the coupler lock; or

(3) The coupler lock is—

(i) Missing;

(ii) Inoperative;

(iii) Bent;

(iv) Cracked; or

(v) Broken.

§ 215.125 Defective uncoupling device.

A railroad may not place or continue in service a car, if the car has an uncoupling device without sufficient

vertical and lateral clearance to prevent—

(a) Fouling on curves; or

(b) Unintentional uncouplings.

§ 215.127 Defective draft arrangement.

A railroad may not place or continue in service a car, if—

(a) The car has a draft gear that is inoperative;

(b) The car has a broken yoke;

(c) An end of car cushioning unit is—

(1) Leaking clearly formed droplets; or

(2) Inoperative;

(d) A vertical coupler pin retainer plate—

(1) Is missing (except by design); or

(2) Has a missing fastener;

(e) The car has a draft key, or draft key retainer, that is—

(1) Inoperative; or

(2) Missing; or

(f) The car has a missing or broken follower plate.

§ 215.129 Defective cushioning device.

A railroad may not place or continue in service a car if it has a cushioning device that is—

(a) Broken;

(b) Inoperative; or

(c) Missing a part—

unless its sliding components have been effectively immobilized.

Subpart C—Restricted Equipment

§ 215.201 Scope.

This subpart contains requirements restricting the use of certain railroad freight cars.

215.203 Restricted cars.

(a) This section restricts the operation of any railroad freight car that is—

(1) More than 50 years old, measured from the date of original construction;

(2) Equipped with any design or type component listed in Appendix A to this part; or

(3) Equipped with a Duryea underframe constructed before April 1, 1950, except for a caboose which is operated as the last car in a train.

(b) A railroad may not place or continue in service a railroad freight car described in paragraph (a) of this section, except under conditions approved by the Federal Railroad Administrator.

(c) A railroad may petition the Administrator to continue in service a car described in paragraph (a) of this section. Each petition shall be

(1) Be submitted not less than 90 days before the car is to be operated;

(2) Be submitted in triplicate; and

(3) State or describe the following:

(i) The name and principal business address of the petitioning railroad.

(ii) The name and address of the entity that controls the operation and maintenance of the car involved.

(iii) The number, type, capacity, reporting marks, and car numbers of the cars, their condition, status, and age measured from the date of original construction.

(iv) The design, type component, or other item that causes the car to be restricted.

(v) The maximum load the cars would carry.

(vi) The maximum speed at which the cars would be operated.

(vii) That each car has been examined and found to be safe to operate under the conditions set forth in the petition

(viii) The territorial limits within which the cars are to be operated and the name of each railroad that will receive the cars in interchange.

Subpart D—Stenciling

§ 215.301 General.

The railroad or private car owner reporting mark, the car number, and built date shall be stenciled, or otherwise displayed, in clearly legible letters and numbers not less than seven inches high, except those of the built date which shall not be less than one inch high—

(a) On each side of each railroad freight car body; and

(b) In the case of a tank car, in any location that is visible to a person walking at track level beside the car.

§ 215.303 Stenciling of restricted cars.

(a) Each restricted railroad freight car that is described in § 215.203(a) of this part shall be stenciled, or marked—

(1) In clearly legible letters; and

(2) In accordance with paragraphs (b) and (c) of this section.

(b) The letter "R" shall be—

(1) Placed immediately below or to the right of the car number;

(2) The same color as the reporting mark; and

(3) The same size as the reporting mark.

(c) The following terms, to the extent needed to completely indicate the basis for the restricted operation of the car, shall be placed on the car following the symbol "R" in letters not less than one inch high:

(1) Age.

(2) Coupler.

(3) Draft.

(4) Bearings.

(5) Truck.

(6) Underframe.

(7) Wheels.

(8) Yoke.

§ 215.305 Stenciling of maintenance-of-way equipment.

(a) Maintenance-of-way equipment (including self-propelled maintenance-of-way equipment) described in § 215.3(c)(3) shall be stenciled, or marked—

(1) In clearly legible letters; and

(2) In accordance with paragraph (b) of this section.

(b) The letters "MW" must be—

(1) Placed adjacent to the car number on each side of the car; and

(2) The same size as the reporting mark.

Appendix A—Railroad Freight Car Components

List of components whose use is restricted by § 215.203 of this part.

- A. Air brakes:
The "K" type.
- B. Axles:
1. Former AAR alternate standard tubular type.
2. Axle with letters "RJ" stamped on the end of the journal.
- C. Couplers:
1. AAR type "D", top or bottom operated.
2. AAR type "E" with 5" by 7" shank.
- D. Draft arrangement:
1. Miner FR-16 and FR-19-F draft gears.
2. Farlow draft attachment.
- E. Plain journal bearings:
Cartridge type.
- F. Roller bearings:
1. Nippon Sieko Kabushiki Kaisha (NSK) size 6½ by 12" (marked "AAR 11").
2. Hyatt cylindrical bearing, all sizes (marked "AAR 2").
3. SKF "Piggybacker" spherical roller, size 6" by 11" (marked "AAR 7").
- G. Trucks:
1. Arch bar type.
2. Truck with cast steel pedestal side frame, short wheel base, and no bolster.
- H. Truck bolsters:
1. A bolster with one of the following pattern numbers listed according to manufacturer:

A.S.F.	Oressor (Symington)	Budapest	Lenor car works
21180-B	BO 5234	1458	CS-1E4
21183-N	BO 5263	1459	
	BO 7076	1471	CS-611
21648-C	BO 7076-A		
22056-E	BO 7115		

2. Bolster cast before 1927.
3. Bolster without an identification mark or pattern number.
- I. 1. Truck side frames:
A side frame with one of the following pattern numbers listed according to manufacturer:

A.S.F.	National castings	Buckeye	Dominion
7273	35793-1B	3-1776	TF-5100
7323		F-420	
21962 (cast prior to June 1941)			

Pittsburgh steel foundry	Scullin steel	Botten- dorf	Canadian steel foundry
3-673	42-CS-180	UT 456	26565
4-1862			
3-674	4505		
4-2045	4770		
12897	4942		
12921	5220		
21263	5364		
	5364-C		
	5364-E		
	5811-A		
	5889-B		
	6577-A		

2. Side frame cast before 1927.
3. Side frame without an identification mark or pattern number.
4. Side frame with an "I", "T", or "L" section compression or tension member.
- J. Wheels:
1. Cast iron wheel.
2. Cast steel wheel marked "AAR X-2."

3. Southern cast steel wheel manufactured before May 7, 1958.
4. Griffin, three-riser cast steel wheel, ball rim design, 70-ton capacity.
5. Griffin, three-riser cast steel wheel, two-wear, 70- and 50-ton capacity, 33 inch, (marked X-5 or CS-2).
6. Wrought steel wheel manufactured before 1927, as indicated by marking on wheel.
7. Cast steel wheel marked AAR X-4.
8. Davis cast steel wheel.
9. One-wear, 70-ton Southern (ABEX) U1 cast steel wheels dated May 7, 1958 through December 31, 1969.
- A. Wheels dated May 7, 1958, to January 1, 1964, are marked with the symbol "70T" cast on the back of the wheel plate; they are not marked "U-1."
- B. Wheels dated January 1, 1964 through December 31, 1969, are marked with the symbols "CJ-33" and "U-1" or "70T" and "U-1" cast on the back of the wheel plate.
- K. Yokes:
1. Riveted type.
 2. Keyless type.
 3. Vertical key type.

Appendix B—Schedule of Civil Penalties¹

	Violation	Intentional violation ²
Subpart A—General		
§ 215.9 Movement for repair		
(a) (1).....	\$ (1)	\$ (1)
(b).....	1,000	1,000
§ 215.11 Designation of qualified persons		
(a).....	500	1,000
§ 215.13 Pre-departure inspection		
(a).....	500	1,000
§ 215.15 Periodic inspection		
(a).....	1,000	1,000
Subpart B—Freight Car Components		
§ 215.103 Defective wheel		
(a) Flange thickness of:		
(i) 1/4" or less but more than 1/8".....	1,500	2,000
(ii) 1/8" or less.....	2,000	2,500
(b) Flange height of:		
(i) 1 1/2" or greater but less than 1 3/4".....	1,500	2,000
(ii) 1 3/4" or more.....	2,000	2,500
(c) Rim thickness of:		
(i) 1/4" or less but more than 1/8".....	1,500	2,000
(ii) 1/8" or less.....	2,000	2,500
(d).....		
(i) Crack of less than 1".....	1,250	1,750
(ii) Crack of 1" or more.....	2,000	2,500
(iii) Break.....	2,500	2,500
(e) Chip or gouge in flange of:		
(i) 1/2" or more but less than 1 1/4" in length, and 1/2" or more but less than 3/4" in width.....	1,000	1,500
(ii) 1 1/4" or more in length, or 3/4" or more in width.....	1,500	2,000
(f) Flat or shelled spots:		
(1) (i) One spot more than 2 1/2", but less than 3", in length.....	750	1,000
(ii) One spot 3" or more in length.....	1,500	2,000
(2) (i) Two adjoining spots each of which is more than 2", but less than 2 1/2", in length.....	1,000	1,500
(ii) Two adjoining spots both of which are at least 2" in length, if either spot is 2 1/2" or more in length.....	1,500	2,000
(g) Overheated; discoloration extending:		
(i) More than 4" but less than 4 1/2".....	750	1,250
(ii) 4 1/2" or more.....	1,250	1,750
(h).....	1,000	1,500

Appendix B—Schedule of Civil Penalties—Cont'd

	Violation	Intentional violation ²
§ 215.105 Defective axle		
(a).....		
(i) Crack of 1" or less.....	1,000	1,500
(ii) Crack of more than 1".....	1,500	2,000
(iii) Break or visible separation of metal at any crack.....	2,000	2,500
(b).....	750	1,250
(c), (d).....	1,000	1,500
(e).....	500	1,000
§ 215.107 Defective plain bearing box: general		
(a).....		
(i) No visible free oil.....	750	1,250
(ii) Lubricating pad dry (no expression of oil observed when pad is compressed).....	2,000	2,500
(b), (c).....	1,000	1,500
§ 215.109 Defective plain bearing box: journal lubrication system		
(a), (b), (c).....	500	1,000
(d).....	500	1,000
(e).....	2,000	2,500
§ 215.111 Defective plain bearing		
(a).....	1,000	1,500
(b).....	750	1,500
(c).....	1,000	1,500
§ 215.113 Defective plain bearing wedge		
(a).....	1,000	1,500
(b), (c).....	500	1,000
(d).....	1,000	1,500
§ 215.115 Defective roller bearing		
(a).....	1,750	2,500
(b) (1) Cap screws loose or missing:		
(i) one cap screw.....	1,000	1,500
(ii) two or three cap screws.....	1,500	2,000
(c) Cap screw lock broken, missing or improperly applied.....	500	1,000
(3).....	1,000	1,500
(b) (1).....	750	1,000
(2).....	1,000	1,500
(3).....	2,000	2,500
§ 215.117 Defective roller bearing adapter		
(a).....	1,000	1,500
(b).....	1,500	2,000
(c).....	1,000	1,500
§ 215.119 Defective freight car truck		
(a) (1).....	2,000	2,500
(2) Side frame or bolster with crack of:		
(i) 1/4" or more, but less than 1".....	1,000	1,500
(ii) 1" or more.....	1,500	2,000
(b).....	1,000	1,500
(c) Side bearing(s).....	2,000	2,500
(1), (2).....		
(3), (4) Total clearance at one end or at diagonally opposite sides of:		
(i) More than 3/4" but not more than 1".....	750	1,250
(ii) More than 1".....	1,500	2,000
(d) (1).....	1,000	1,500
(2).....	1,500	2,000
(3) Outer truck springs broken or missing:		
(i) Two outer springs.....	1,500	2,000
(ii) Three or more outer springs.....	2,500	2,500
(e).....	2,000	2,500
(f).....	1,000	1,500
§ 215.121 Defective car body		
(a).....	1,000	1,500
(b) (1).....	1,500	2,000
(2), (3).....	1,000	1,500
(c), (d).....	1,000	1,500
(e), (f).....	2,000	2,500
(2).....	1,250	1,500
(3).....	1,000	1,500
(f).....	1,000	1,500
§ 215.123 Defective couplers		
(a).....	500	1,000
(b).....	1,000	1,500
(c).....	1,000	1,500
(d).....	1,000	1,500
(e).....	750	1,000
(f).....	1,500	2,000

Appendix B—Schedule of Civil Penalties—Cont'd

	Violation	Intentional violation ²
§ 215.125 Defective uncoupling device	1,000	1,500
§ 215.127 Defective draft arrangement		
(a), (b).....	1,000	1,500
(c).....	1,000	2,000
(d).....	1,250	1,750
(e), (f).....	1,000	1,500
§ 215.129 Defective cushioning device	1,000	1,500
Subpart C—Restricted Equipment		
§ 215.203 Restricted cars	1,500	2,500
Subpart D—Stenciling		
§ 215.301 General	500	1,000
§ 215.303 Stenciling of restricted cars	500	1,000
§ 215.305 Stenciling of maintenance-of-way equipment	(*)	(*)

Note on multiple violations: When two or more violations of these regulations are discovered with respect to a single freight car that is placed or continued in service by a railroad, the appropriate penalties set forth above are aggregated up to a maximum of \$2,500 per day. For example, a railroad that continued a car in service with a missing side bearing assembly (\$2,000) and no visible free oil in a plain journal box (\$750) would be liable to a penalty of \$2,500.

¹Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) requires the Secretary of Transportation to "include in, or make applicable to, any railroad safety rule, regulation, order, or standard issued under this title a civil penalty for violation thereof . . . in such amount, not less than \$250 nor more than \$2,500, as he deems reasonable." Each day of violation constitutes a separate offense.

²For purposes of this schedule, an intentional violation is the knowing and willful failure of a railroad to comply with the provisions of this part. The knowledge required for an intentional violation is knowledge of the facts constituting the violation. Knowledge of the regulations is presumed by law. Evidence that a violation has been committed or has been allowed to continue after an FRA or State inspector has provided the railroad notification of a deviation from the requirements of this part is *prima facie* evidence that the violation was knowing and willful. Evidence that a repair has been made to a freight car component but that component was not brought into full compliance with the standards is *prima facie* evidence that the violation was knowing and willful.

³Failure to observe any condition for movement set forth in paragraphs (a) and (c) of § 215.9 will deprive the railroad of the exception and make the railroad liable for penalty under Sections 215.103 through 215.129.

⁴Maintenance-of-way equipment not stenciled in accordance with § 215.305 is subject to all requirements of this part. See § 215.3(c)(3).

Appendix C—FRA Freight Car Standards Defect Code

The following defect code has been established for use by FRA and State inspectors to report defects observed during inspection of freight cars. The purpose of the code is to establish a uniform language among FRA, States, and the railroad industry that will facilitate communication, recordkeeping, and statistical analyses. The code may not be substituted for the description of defects on bad order tags affixed to cars being moved for repair under § 215.9. However, it may be used to supplement that description.

Index

General

- 215.009 Improper Movement of Defective Cars.
- 215.011 Designation of Qualified Persons.
- 215.013 Failure to Perform a Pre-departure Inspection.
- 215.015 Failure to Complete Initial Periodic Inspection as Required.

Freight Car Components

Suspension System

- 215.103 Defective Wheel.
- 215.105 Defective Axle.
- 215.107 Defective Plain Bearing Box: General.
- 215.109 Defective Plain Bearing Box: Journal Lubrication System.
- 215.111 Defective Plain Bearing.
- 215.113 Defective Plain Bearing Wedge.
- 215.115 Defective Roller Bearing.
- 215.117 Defective Roller Bearing Adapter.
- 215.119 Defective Freight Car Truck.

Car Bodies

- 215.121 Defective Car Body.

Draft System

- 215.123 Defective Couplers.
- 215.125 Defective Uncoupling Device.
- 215.127 Defective Draft Arrangement.
- 215.129 Defective Cushioning Device.

Restricted Equipment

- 215.203 Restricted Cars.

Stenciling

- 215.301 Improper Stenciling.
- 215.303 Improper Stenciling of Restricted Cars.
- 215.305 Improper Stenciling of Maintenance-of-Way Equipment.

Description of Defects

- 215.009 Failure to meet conditions for movement of defective cars for repairs.
- 215.011 Designation of Qualified Persons.
- (A)(1) Railroad fails to designate persons qualified to inspect freight cars;
- (2) Persons designated does not have knowledge and ability to inspect freight cars for compliance with the requirements of this part.
- (B) Railroad fails to maintain written record of:
- (1) Each designation in effect;
 - (2) The basis for this designation.
- 215.013 Failure to perform pre-departure inspection.
- 215.015 Periodic Inspection.
- (A) Railroad fails to perform the periodic inspection as required by June 30, 1980 on:
- (1) High utilization car built prior to December 31, 1977;
 - (2) Non-high utilization car built prior to December 31, 1971;
- (B) A freight car improperly stenciled for periodic inspection.
- 215.103 Defective Wheel.
- (A)(1) Flanges 3/4" or less at 3/8" above the tread;
- (2) Flanges 1 1/4" or less at 3/8" above the tread;
- (3) Flanges 3/4" or less at 3/8" above the tread;
- (B)(1) Flange is 1 1/2" or more from the tread to top of flange;
- (2) Flange is 1 5/8" or more from the tread to top of flange;
- (3) Flange is 1 3/4".
- (C)(1) Rim thickness is 1 1/16" or less;
- (2) Rim thickness is 3/4" or less;
- (3) Rim thickness is 9/16" or less;
- (D) Wheel cracked or broken in: (1) rim, (2) flange, (3) plate or (4) hub area.
- (E) Wheel chip or gouge in flange:
- (1) 1 1/2" length and 1/2" in width or more;
 - (2) 1 1/4" length and 3/4" in width or more;
 - (3) 1 1/4" in length and 3/4" in width or more.
- (F) Wheel has slid flat spot or shelled spot:
- (1) 2 1/2" in length or more;
 - (2) Has two adjoining flat spots each of which is 2" in length or greater;
 - (3) A single flat spot 3" in length or more;
 - (4) Has two adjoining flat spots one of which is at least 2" in length and the other is 2 1/2" or greater.
- (G) has a loose wheel.
- (H) Overheated with discoloration extending: (1) More than 4"; (2) 4 1/2" or more.
- (I) A welded wheel on car that is not moving for repairs.
- 215.105 Defective Axle.
- (A) Cracked or broken:
- (1) Cracked 1" or less;
 - (2) Cracked greater than 1";
 - (3) Broken or cracked with visible separation of metal.
- (B) Gauge between wheel seats more than 1/4" in depth:
- (C) Broken or cracked end collar on plain bearing axle.
- (D) Overheated journal.
- (E) Surface of plain bearing journal or fillet has (1) ridge, (2) depression, (3) circumferential score, (4) corrugation, (5) scratch, (6) continuous streak, (7) pitting, (8) rust, (9) etching.
- 215.107 Defective plain bearing box.
- (A) (1) Does not contain visible free oil;
- (2) A journal box with dry pad.
- (B) Lid is missing, broken or open except to receive service.
- (C) Box has foreign matter that will damage bearing or prevent lubrication.
- 215.109 Defective plain bearing box: journal lubrication system.
- (A) Pad torn half the length or width.
- (B) Scorched, burned or glazed.
- (C) Contains decaying or deteriorated fabric.
- (D) Has exposed core except by design of metal parts in contact with journal.
- (E)(1) Missing;
- (2) Not in contact with journal.
- 215.111 Defective plain bearing.
- (A) Missing, cracked or broken.
- (B)(1) Bearing lining is loose;
- (2) Broken out piece.
- (C) Overheated as evidenced by:
- (1) Melted babbit;
 - (2) Smoke from hot oil;
 - (3) Journal surface damaged.
- 215.113 Defective plain bearing wedge.
- (A) Missing.
- (B) Cracked.
- (C) Broken.
- (D) Not located in design position.
- 215.115 Defective roller bearing.
- (A)(1) Overheated;
- (2) Loose or missing cap screw;
- (3) Roller bearing seal loose or damaged permitting loss of lubricant;
- (4) Two or more missing cap screws.
- (B)(1) Failure to inspect if involved in derailment;
- (2) Failure to disassemble if required under this part;
- (3) Failure to repair or replace defective roller bearings.
- 215.117 Defective roller bearing adapter.
- (A) Cracked or broken.
- (B) Not in design position.
- (C) Worn excessively as shown on Figure 1 in relief portion.
- 215.119 Defective freight car trucks.
- (A)(1) Side frame or bolster broken;
- (2) Cracked 1/4" or more in transverse direction on tension member;
- (3) Cracked 1" or more in transverse direction on tension member.
- (B) Has ineffective snubbing devices.
- (C)(1) Missing or broken side bearing;
- (2) Side bearing in contact except by design;
- (3) Excessive side bearing clearance at one end of car;
- (4) Excessive side bearing clearance on opposite sides at diagonal ends of car.
- (D)(1) Has truck springs that will not maintain travel or load;
- (2) Truck springs that are compressed solid;
- (3) Has two springs broken in a cluster;
- (4) Has three or more springs broken.
- (E) Truck bolster and center plate interference preventing rotation.
- (F) Has broken beam shelf supports worn so that shelf will not support beam.
- 215.121 Defective car body.
- (A) Improper clearance—less than 2 1/2" from top of rail.
- (B) Center sill is:
- (1) Broken;
 - (2) Cracked more than 6";
 - (3) Bent or buckled more than 2 1/2" in any 6-foot length.
- (C) Coupler carrier is:
- (1) Broken;
 - (2) Missing;
 - (3) Non-resilient when used with coupler with F head.
- (D) Car door not equipped with operative safety hangers.
- (E) If center plate:
- (1) Any portion missing;
 - (2) Broken or cracked as defined in this part.
- (F) Broken side sills, crossbars or body bolster.
- 215.123 Defective couplers.
- (A) Coupler shank bent.
- (B) Coupler cracked in highly stressed area of head and shank.
- (C) Coupler knuckle broken.
- (D) Coupler knuckle pin or knuckle throw:
- (1) Missing;
 - (2) Inoperative.
- (E) Coupler retainer pin lock:
- (1) Missing;
 - (2) Broken.
- (F)(1) Coupler locklift is inoperative;
- (2) No anti-creep protection;
- (3) Coupler lock is (i) missing, (ii) inoperative, (iii) bent, (iv) cracked or (v) broken.
- 215.125 Defective uncoupling device.
- (A) Fouling on curve.
- (B) Unintentional uncoupling.
- 215.127 Defective draft arrangement.
- (A) Draft gear inoperative.
- (B) Broken yoke.
- (C) End of car cushioning unit:
- (1) Leaking;
 - (2) Inoperative.
- (D) Vertical coupler pin retainer plate:
- (1) Missing;

- (2) Has missing fastener.
 (E) Draft key or key retainer:
 (1) Inoperative;
 (2) Missing.
 (F) Follower plate missing or broken.
 215.203 Defective cushioning device unless effectively immobilized.
 (A) Broken.
 (B) Inoperative.
 (C) Missing parts.
 215.203 Operating a restricted car, except under conditions approved by FRA.

Stenciling

- 215.301 Failure to stencil car number and built date on freight cars as required.
 215.303 Failure to stencil restricted car as required.
 215.305 Failure to stencil maintenance-of-way equipment as required.

Issued in Washington, D.C. on December 21, 1979.

John M. Sullivan,
 Administrator.

(FR Doc. 79-3538 Filed 12-21-79; 11 25 a.m.)
 BILLING CODE 4910-05-M

[Docket No. RSCM-1, Notice No. 3]

49 CFR Part 223**Safety Glazing Standards—
Locomotives, Passenger Cars and
Cabooses**

AGENCY: Federal Railroad
 Administration (FRA), Department of
 Transportation (DOT).

ACTION: Adoption of final rule.

SUMMARY: New Part 223 establishes minimum safety requirements for glazing materials in the windows of locomotives, passenger cars and cabooses. This Part requires that all newly built and most existing railroad equipment have improved safety glazing materials installed in order to reduce the risk of death or serious injury resulting from flying objects, including bullets.

DATES: This regulation is effective on January 31, 1980.

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SUPPLEMENTARY INFORMATION:

On October 16, 1978, FRA published a notice of proposed rulemaking (NPRM) proposing to add a new Part 223 to establish minimum safety requirements for glazing materials that are to be

installed on the windows of locomotives, passenger cars and cabooses (49 FR 47579). The purpose of the proposed regulation was to reduce the risk of death or serious injury for railroad crew members and railroad passengers from flying objects. This NPRM was also issued in response to a joint petition from the Association of American Railroads (AAR) and the Railway Labor Executive Association (RLEA).

Commenters Views

FRA solicited written comments and views on the proposed regulation and held a public hearing on November 29, 1978, to obtain oral comments on the proposal. Written comments were received from sixteen interested parties and oral presentations were made by eight parties at the public hearing. The commenters generally expressed support for the proposed rule but expressed some concern over specific provisions of the NPRM. However, two commenters did express doubt about the need for a regulation on glazing materials. One of these commenters noted the poor financial condition of the railroad industry and indicated that the magnitude of the safety problem was not sufficient to warrant a Federal rule that would necessitate large capital expenditures by the railroad industry. The other commenter expressed doubt that all railroads were experiencing a sufficiently high level of vandalism to warrant issuance of a Federal regulation and suggested that FRA should exclude from the coverage of the regulation railroads that do not have a safety problem in this area.

After reviewing the available data, FRA believes that a Federal regulation is needed to protect railroad crew members and railroad passengers. Although precise safety data is not available on this issue, the existing statistical information confirms the view of the AAR and the RLEA that a significant safety hazard exists and appears to be growing. For example, FRA data on accidents or incidents involving persons struck by thrown or otherwise propelled objects shows that some 246 people were injured in 1977 and that figure increased to 291 people in the year 1978. Additionally, data from the National Railroad Passenger Corporation (Amtrak) indicates that the FRA accident report statistics, which reflect only those instances in which a person is injured sufficiently to require at least first-aid treatment, understate the magnitude of the problem. For example, in calendar year 1978, Amtrak trains were subjected to in excess of one thousand stoning and nearly one

hundred shooting incidents that did not result in accident reports being filed with the FRA. In view of these circumstances, FRA concludes that a significant safety hazard does exist which would be diminished by the installation of improved glazing materials. Accordingly, FRA is proceeding with the adoption of this regulation.

The concern expressed by the other commenter, that a railroad without a high incidence of vandalism should not be forced to comply with this regulation, can be resolved on a case by case basis through the issuance of a waiver of compliance. FRA is empowered to issue such waivers when the facts indicate that a waiver of compliance is consistent with the goal of improving rail safety and is in the public interest. FRA already has established waiver procedures in its Rules of Practice. (49 CFR Part 211.)

The remaining commenters expressed support for the proposed rule but voiced concern over specific provisions contained in the NPRM. These comments and resulting changes are discussed under the appropriate section heading in this preamble.

In adopting a final rule on glazing materials, FRA has decided to place these provisions in Part 223 rather than Part 229 as proposed in the NPRM. This decision reflects FRA's recently issued proposal to amend the Locomotive Inspection Rules and to place the amended provisions in Part 229. Additionally, FRA consolidated two proposed provisions (proposed Sections 229.7 and 229.9) into a single section which resulted in the renumbering of subsequent sections. Consequently, the following discussion is identified by reference to the final rule followed by the proposed section number in parenthesis.

Section 223.3 (Proposed Section 229.3). In the proposed regulation, FRA structured the provisions of Section 229.5(a) and Section 229.13 to permit some locomotives to continue in service without the prescribed retrofit, provided these units were not used as a lead or controlling locomotive. The language of these provisions was also drafted in such a way that a railroad could permit a vandal damaged unit to continue in service until the prescribed retrofit by assuring that such a unit was not the lead unit or the controlling unit occupied by the crew.

FRA believes that the concept contained in the proposed rule is valid but that the wording of the proposed rule could easily be misunderstood. Consequently, FRA decided to change the final rule to more clearly express

FRA's intent. This is being accomplished by providing a clear statement of how a railroad may exclude such locomotives from the applicability of this regulation. Additionally, FRA has added a provision that will require the identification of such units.

FRA has accomplished this change by revising the proposed regulation to include a new subsection (Section 223.3(b)(4)) to exclude from the applicability of this part units that are identified as a "designated locomotive". Additionally, FRA has added a definition of the concept of a designated unit which clearly details the steps that are needed to place a locomotive in this category.

Additionally, one commenter questioned whether the language contained in proposed Section 229.3(b)(3) was intended to exclude privately owned passenger cars. The commenter noted that approximately fifty passenger cars are owned by individuals, clubs and historical societies and that these cars range in age from 25 to 65 years. Given their vintage and limited use, the commenter urged that these cars should be considered historical or antiquated equipment and excluded from the glazing regulations but noted that the cars are not always operated in trains consisting exclusively of similar equipment.

It was not FRA's intent to include such cars within the scope of this regulation. FRA is revising the proposed language of this section to reflect that intent.

Section 223.5 (Proposed Section 229.5). In keeping with changes being made to § 223.3, FRA is altering the proposed language for this section. The first change involves the language contained in proposed § 229.5(a). In the final rule, § 223.5(a) contains a simple definition of what constitutes a "locomotive". The second change involves the addition of what constitutes a locomotive in "designated service" in § 233.5(m). Under this new definition, a locomotive that is operated under the specified operational limitations, may continue in service without installing the prescribed glazing materials. Since such units may not be occupied by operating or deadheading crews and must be stenciled to alert people to this fact, FRA believes that the necessary degree of employee safety will be achieved.

Several commenters also raised issues that relate to the definitions contained in proposed section 229.5. The first concerns the language used to define what constitutes a "yard locomotive." They noted that some locomotives, generally characterized as "switch

locomotives", are used almost exclusively to perform switching functions within a yard. They suggested that the definition be drafted to permit such units to be considered as "yard locomotives" even though the units are occasionally used to perform industrial switching or transfer movements beyond the confines of a yard. This suggestion was echoed by another commenter who also asked that FRA define more precisely the concept of what constitutes a single yard for the purpose of this regulation.

FRA's intent was to permit locomotives that are operated exclusively within the confines of a yard to continue in service without a retrofit of the prescribed glazing materials. Available data indicates that the risk exposure for crew members from thrown objects or bullets is significantly lower when they are operating in a yard. Consequently, FRA proposed a narrow operational definition to identify and exclude these locomotive units. This definitional approach was chosen since it reflected the utilization of a locomotive rather than design characteristics of the unit. Utilization is the primary factor of concern to FRA in these circumstances. Broadening the scope of this provision, either by use of a design characteristic or by allowing these locomotives to occasionally operate beyond the yard, would expose crew members to greater risk of injury. Therefore, FRA has not accepted this suggestion. FRA is responding to the commenter's request for a better definition of what constitutes a single yard by revising this definition in order to reflect more fully FRA's intent and to resolve the perceived ambiguity problem that prompted this request. FRA believes that individual local practices of referring to portions of a given facility by a particular designation is the concern that prompted the request. This situation is illustrated most clearly in large hump yard facilities where distinct portions of the facility are given individual designations, such as the receiving yard, the classification yard, or some unique local name for easy reference purposes. FRA's intent is to treat a locomotive that stays within the confines of a particular yard facility as being a "yard locomotive" for the purposes of this regulation even though that unit may operate in various portions of a given facility.

Consequently, FRA is revising the definition to include the phrase "single yard area." In providing this revised definition, FRA recognizes that only a few locomotives are utilized exclusively within a single yard area and that

consequently the vast majority of locomotives used for yard service will require the installation of the prescribed glazing materials.

A number of commenters expressed concern over the absence of any provision concerning the manner in which glazing materials are to be installed. These commenters expressed a belief that the performance of the glazing materials could be affected by the manner of installation. FRA is aware of some limited data that supports the argument that this regulation should not be totally silent on the issue of how glazing materials are to be installed in the affected equipment. Since FRA's intent is to provide minimum safety standards in this area and because of the wide variances in equipment design, FRA is addressing this problem in a limited manner. Consequently, FRA is requiring that improved glazing materials be installed in such a manner that the occupants of any unit will not be injured in the event the glazing materials are impacted. This will assure that the total glazing installation will provide the same level of protection that glazing materials alone were intended to provide. This is being accomplished by revising the definition of what constitutes "certified glazing" in subsection (k).

The final comments regarding this section involved the concept of the "emergency opening window," defined in subsection (l), that is required to be installed in passenger cars. Some commenters suggested that FRA expand on its proposal and provide greater detail concerning the number of window exits, their location and method of identification. Other commenters inquired about the use of certain types of windows to meet this definition.

FRA's intent, in including a provision for emergency windows, was to assure that the use of improved glazing materials would not indirectly reduce passenger safety by making emergency egress more difficult in an accident or derailment situation. As FRA noted in the preamble to the NPRM, the known wide range of variables present in the existing fleet of passenger cars does not make it appropriate, in FRA's judgement, to provide additional, more specific requirements for these windows. The commenters, although urging greater FRA action, have provided neither data nor a conceptual framework that would permit FRA to adopt their suggestion. Consequently, FRA has not changed the proposed language.

The absence of any analogous emergency window provisions for locomotives and cabooses was also

noted by the commenters. FRA did not include such a provision in the proposed regulation because the limited number of people in these units and the number of available exits indicate that sufficient emergency egress capability is already provided. Accordingly, no additional Federal regulatory action is necessary. Moreover, many of the windows in these units are designed so that they slide open. This design feature permits easy egress in a crisis situation. FRA agrees, as urged by one commenter, that similarly designed windows in older passenger cars should be considered to be emergency opening windows.

Section 223.7 (Proposed §§ 229.7 and 229.9). FRA is providing a new caption for this section and is combining in this single section the provisions that were contained in proposed sections 229.7 and 229.9 concerning the liability for civil penalty for violation of this regulation and the procedure for obtaining a waiver of compliance with this regulation. This change is merely organizational in nature and reflects comparable sections in other FRA rules that are being revised.

Section 223.9 (Proposed § 229.11). Several commenters expressed concern over the proposed compliance date for newly built or rebuilt locomotives contained in proposed § 229.11. These commenters indicated that, if they decided to alter the existing methods for mounting glazing materials in locomotives, additional time would be necessary to accomplish this task and to produce the needed materials for use on the new units. This concern appears to have been intensified by the reservation that these commenters expressed about the stringency of the performance level for side glazing locations.

FRA believes that a six month lead time for compliance for newly built and rebuilt locomotives is appropriate and can be accomplished with reasonable effort. Additionally, FRA is revising the proposed performance level for materials used in side-facing glazing locations. This revision, which is discussed in greater detail below, should serve to make it easier to meet the proposed compliance date. Therefore, FRA has retained this proposal without change.

Section 223.11 (Proposed § 229.13). One commenter expressed concern over the wording contained in proposed § 229.13 that would require immediate retrofitting of a unit in the event that a locomotive window is broken or damaged. The commenter noted that this provision could cause severe compliance problems because of the need to remove equipment from service as soon as the damage occurred and

urged that a period of ninety days be allowed for completion of this work. FRA agrees that the immediate action provision could produce unnecessary service disruptions and inconvenience to the public and is revising this provision to permit a railroad to continue the vandal damaged unit in service for a period not to exceed forty-eight hours. At the end of that period, the locomotive must either be removed from service until the required retrofit is accomplished or the unit must be placed in "designated service". The revised provision will allow a railroad to more effectively deal with the various operational problems that could be encountered under the terms of the proposed section and still provides for the requisite degree of crew safety.

Section 223.13 (Proposed § 229.15). A commenter expressed concern over the wording contained in proposed § 229.15 that would require immediate retrofitting of a caboose in the event that a window is broken or damaged. The commenter noted that compliance with this provision in situations such as branch line operations could cause unnecessary service disruptions. FRA agrees that the proposed language is unduly restrictive and is revising this provision to require that the work be accomplished within 30 days after the breakage occurs. FRA believes that this time frame is appropriate in light of the normal maintenance cycles for this equipment and the degree of hazard involved.

Section 223.15 (Proposed § 229.17). FRA did not receive any comments directly addressing the language contained in proposed § 229.17. FRA is adopting the proposed language without change.

Section 223.17 (Proposed § 229.21). The language of this section has basically remained unchanged from the wording that was contained in proposed § 229.21. The wording changed in adopting this final rule reflects the changed Part number and now includes passenger cars within its scope.

In adopting the final rule FRA is not including the restrictions on interim use contained in proposed § 229.21. All of the commenters who addressed the proposed interim use provision for equipped locomotives voiced opposition to this concept. Among the points raised by these commenters was the fact that compliance with this proposal could result in a reduction in operational safety in instances when circumstances require that a locomotive be equipped with cab signal devices, automatic train stop devices or snowplows. FRA agrees that the safety benefits derived in these instances outweigh those gained by

adherence to the proposed language of this section. Consequently, FRA is deleting this provision from the final rule. FRA would urge railroads to adhere to the concept contained in the proposed rule unless there are other safety factors that would be compromised by such adherence.

Appendix A

FRA received a considerable volume of comments with regard to the language of this proposed provision which contains both the performance criteria and the testing methodology for the glazing materials. The initial point made by the commenters was the belief that FRA was being unduly restrictive by limiting the certification process to glazing manufacturers. The commenter offering this opinion believes that any party should be permitted to do the necessary testing and certification to achieve compliance.

FRA proposed that manufacturers do the requisite testing and certification because this group appears to be the most qualified and directly affected party. In structuring the regulation in this manner, FRA has not totally precluded other parties from providing certification based on appropriate testing. However, if a party other than a manufacturer desires to provide the required certification, a waiver of this requirement will be necessary. FRA believes that the individualized review process employed in waiver proceedings, is necessary to assure that the quality of the testing will be sufficient to insure the protection of railroad crew members and railroad passengers.

Another commenter raised a question about the requirement that a railroad obtain a written certification that the glazing material it is installing meets the requirements of this regulation. The commenter was concerned that the language could be interpreted to mean that a written certification must be obtained for each piece of material being installed.

FRA's intent is that a railroad install only those types of glazing materials which meet the requirements of this regulation. To assure that only the prescribed materials are being utilized, FRA believes that it is necessary for a railroad to determine that a particular product which has been selected does qualify for installation. However, it is not necessary that such a determination be made and documented for each piece of glazing material. A determination by the railroad that the given brand or product line distributed by a manufacturer has been tested and has qualified will be sufficient.

FRA agrees that the language of this section does not clearly describe the necessary steps that must be followed and is revising the language to more effectively state the procedures involved. In the revised language, a manufacturer who supplies glazing materials that are intended for use in a locomotive, passenger car or caboose can certify that a given type, brand or product line has been successfully tested in accordance with this appendix. This certification would be sufficient to allow a railroad to install such material in any quantity it desired. If a railroad elected to use different product types from one manufacturer or opted to use the product lines of several manufacturers, it would only be necessary to determine that each type, brand or product line selected was in fact certified by its manufacturer. FRA is not detailing the mechanism by which a railroad should or can assure itself that the manufacturer does certify its particular product. However, FRA is revising the identification markings to be imprinted on each individual unit of glazing material so that it will be possible to ascertain the type of material being installed.

The revised identification procedures are now detailed in subsection (c) of this appendix and require that each individual piece being installed contain a marking to indicate that the material qualifies as either Type I or Type II glazing and that the material was manufactured by a given producer. Additionally, FRA is requiring that the identification marking contain sufficient data so that the type, brand or product line of the manufacturer to which this unit of material belongs can be identified.

Several commenters raised questions about the method proposed by FRA for marking or identifying glazing materials that comply with this regulation. FRA's proposal for the use of a blue circle or blue square was deemed impractical because of the current practice of providing large sheets of material that are subsequently cut into smaller units prior to installation and because the color selected will fade rapidly and become indistinguishable. These commenters noted that many users of the same type of glazing materials which will meet FRA's concepts employ "hot stamping" or imprinting techniques to identify the materials and urged that FRA permit use of these techniques.

FRA's intent was to ensure that the glazing materials are readily identifiable. It now appears that the proposed language is unduly restrictive in accomplishing this goal.

Consequently, FRA is deleting the reference to blue circles or blue squares. Additionally, FRA is rewording this provision to provide that material that qualifies as either Type I or Type II glazing must be permanently marked so that it is readily identifiable. However, the exact method of marking the material has not been specified. This will permit manufacturers and installers to convey the necessary information in whatever reasonable fashion is desired. In this way, the use of the "hot stamping" technique or other identification methods can be employed by the affected parties.

It should also be noted that FRA is revising this provision to clearly state that the identification marking must be done in such a manner that the required information is clearly visible once the material has been installed.

The next issue raised by the commenters addressed various aspects of the testing methodology proposed by FRA. Several commenters expressed the belief that FRA should require independent third party observation or verification of the actual test procedures for each product. Although no rationale was provided, FRA assumes that the commenters have some reservations about relying on the quality of manufacturer testing. This concern is also apparently the basis for the suggestion that periodic retesting should be required by FRA.

Adoption of the suggestions that independent third party verification and periodic retesting be required, would improve the quality control assurance levels. However, FRA does not believe that the facts warrant imposition of these additional requirements. FRA's intent is to provide minimum standards and to impose limited testing requirements to assure that materials meet those standards. FRA believes that the proposed requirements and the traditional economic forces of the marketplace will be sufficient to achieve the desired goal for improved safety and that adoption of these suggestions would constitute unnecessary overregulation in this instance.

The commenters urged many revisions in the testing procedures proposed by FRA and institution of additional testing parameters. Standardization of the size of the material and the mounting of the material; change in location for the witness plate; utilization of equivalency impacts; and expansion of the test regime to measure the effects of temperature, humidity, transmissivity and durability were suggested as areas for revision.

FRA believes that these suggested revisions are not appropriate and that

additional testing requirements are not needed. FRA did not propose standardized test sizes or mountings because of the wide range of sizes and mountings that currently exist for the equipment that is already in service in the railroad industry. FRA believes that the latitude provided by the proposed regulation is necessary in light of these variables. Although product comparability data may suffer from the absence of the recommended standardization, FRA believes that such data is not essential from the standpoint of this regulation. For similar reasons FRA did not include the additional testing requirements suggested by the commenters. The suggested additions are not essential for evaluating the safety performance of these glazing materials, although they may be useful from the standpoint of the manufacturer or the purchaser of the materials. Accordingly, FRA does not agree that such tests should be required by Federal regulation. The remaining suggestion that FRA permit the use of equivalency impact testing as an alternative to the proposed bullet or cinder block impacts presents a slightly different issue. FRA selected these proposed tests because they are representative of the actual environment in which the materials will be utilized and because FRA perceived a difference of opinion in the technical community over the question of whether true equivalency can be obtained by substituting different test methodologies from those proposed. FRA is prepared to respond favorably to any party who can demonstrate that a substitute test program will provide a truly equivalent test to that being prescribed by FRA. Accordingly, FRA is retaining the proposed procedures.

The commenters addressed the provision relating to the "witness plate" that is used to detect material separation from the sheet of glazing that could impact a person adjacent to the installed window. FRA proposed that this witness plate be installed within six inches of the material being tested. The commenters suggested that FRA permit the witness plate to be located at a distance of up to eighteen inches from the test material. Additionally, one commenter suggested a change in the material specified for use as a witness plate. FRA believes that the six inch distance requirement is necessary since there are many instances in which people will be at this distance from the window when an impact occurs. Injuries, particularly injuries to eyes, are likely to occur if particles of material are dislodged on impact. Consequently, FRA believes that a six inch rather than an

eighteen inch distance between the witness plate and the test material is more appropriate. FRA is revising the technical description for the witness plate material as suggested, by providing for a more easily obtainable type of aluminum.

The final issue raised by the commenters with respect to the testing provisions involves the performance level proposed by FRA for glazing materials used in side facing glazing locations. All of the commenters urged that FRA consider reducing the force levels that were proposed for the cinder block portion of the test procedure. They expressed the belief that it was very unlikely that objects with the mass of a cinder block could strike a side window at the rate of velocity contemplated by FRA. The concern over this issue was intensified by the commenters' belief that compliance with the proposed cinder block test procedure would require that large numbers of frames and ancillary supporting mechanisms be modified and that this would have an adverse impact on the proposed retrofit schedule.

FRA agrees that the proposed cinder block impact speed criterion for side facing glazing location is too stringent. Review of available data suggests that the rate of velocity for the cinder block impact can be reduced without significantly reducing safety. Consequently, FRA is revising this portion of the side window impact testing to require that the material be subjected to an impact when the cinder block is moving at a minimum of 12 feet per second velocity. This impact velocity was selected on the basis of available data on the relative impact energy that glazing can be expected to experience from hand thrown objects. It should be noted, however, that FRA is not altering the proposed bullet impact provisions for testing materials intended for use in side window locations.

Economic Impact

FRA has determined that adoption of this final rule does not constitute a significant regulatory proposal. Therefore, a regulatory analysis under Executive Order 12044 is not required (E. O. 12044, 43 FR 12661, March 24, 1978).

However, FRA did prepare a Regulatory Evaluation of the proposed regulation and has revised that evaluation in light of the comments received and the changes made in the final rule. The resulting cost analysis and cost benefit analysis, prepared in accordance with the DOT's policies for evaluation of regulatory impacts (Regulatory Policies and Procedures, 44

FR 11034, February 26, 1979), have been placed in the public docket for this proceeding.

Environmental Impact

On March 16, 1979, the FRA published (44 FR 16062) revised procedures for insuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5510.113. FRA reviewed the criteria established in those procedures and determined that adoption of this final rule does not constitute a major FRA action which requires an environmental assessment.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by the addition of a new Part 223 set forth below:

PART 223—SAFETY GLAZING STANDARDS—LOCOMOTIVES, PASSENGER CARS AND CABOOSES

Subpart A—General

- Sec.
223.1 Scope.
223.3 Application.
223.5 Definitions.
223.7 Responsibility.

Subpart B—Specific Requirements

- 223.9 Requirements for new or rebuilt equipment.
223.11 Requirements for existing locomotives.
223.13 Requirements for existing cabooses.
223.15 Requirements for existing passenger cars.
223.17 Identification of equipped locomotives, passenger cars and cabooses.

Appendix A—Certification of Glazing Materials.

Authority: Sec. 202, 84 Stat. 971 (45 U.S.C. 431); sec. 1.49(n) of Title 49 of the Code of Federal Regulations.

Subpart A—General

§ 223.1 Scope.

This part provides minimum requirements for glazing materials in order to protect railroad employees and railroad passengers from injury as a result of objects striking the windows of locomotives, cabooses and passenger cars.

§ 223.3 Application.

(a) This part applies to railroads that operate rolling equipment on standard gauge track that is a part of the general railroad system of transportation.

(b) This part does not apply to—
(1) Locomotives, cabooses, and passenger cars that operate only on track inside an installation that is not

part of the general railroad system of transportation;

(2) A rapid transit railroad that operates only on track used exclusively for short haul rapid transit passenger service in a metropolitan or suburban area; and

(3) Locomotives, passenger cars and cabooses that are historical or antiquated equipment and are used only for excursion, educational, recreational purposes or private transportation purposes.

(4) Locomotives that are used exclusively in designated service as defined in § 223.5(m).

§ 223.5 Definitions.

As used in this part—

(a) "Locomotive" means a self-propelled unit of equipment designed primarily for moving other equipment. It does not include self-propelled passenger cars.

(b) "Caboose" means a car in a freight train intended to provide transportation for crew members.

(c) "Passenger Car" means a unit of rolling equipment intended to provide transportation for members of the general public and includes self-propelled cars designed to carry baggage, mail, express and passengers.

(d) "Yard" is a system of auxiliary tracks used exclusively for the classification of passenger or freight cars according to commodity or destination; assembling of cars for train movement; storage of cars; or repair of equipment.

(e) "Yard Locomotive" means a locomotive that is operated only to perform switching functions within a single yard area.

(f) "Yard Caboose" means a caboose that is used exclusively in a single yard area.

(g) "Rebuilt Locomotive, Caboose or Passenger Car" means a locomotive, caboose or passenger car that has undergone overhaul which has been identified by the railroad as a capital expense under Interstate Commerce Commission accounting standards.

(h) "Windshield" means the combination of individual units of glazing material of the locomotive, passenger car, or caboose that are positioned in an end facing glazing location.

(i) "End Facing Glazing Location" means any location where a line perpendicular to the plane of the glazing material makes a horizontal angle of 50 degrees or less with the centerline of the locomotive, caboose or passenger car. Any location which, due to curvature of the glazing material, can meet the criteria for either a front facing location

or a side facing location shall be considered a front facing location.

(j) "Side Facing Glazing Location" means any location where a line perpendicular to the plane of the glazing material makes an angle of more than 50 degrees with the centerline of the locomotive, caboose or passenger car.

(k) "Certified Glazing" means a glazing material that has been certified by the manufacturer as having met the testing requirements set forth in Appendix A of this part and that has been installed in such a manner that it will perform its intended function.

(l) "Emergency Opening Window" means that segment of a side facing glazing location which has been designed to permit rapid and easy removal during a crisis situation.

(m) "Designated Service" means exclusive operation of a locomotive under the following conditions:

(1) The locomotive is not used as an independent unit or the controlling unit is a consist of locomotives except when moving for the purpose of servicing or repair within a single yard area;

(2) The locomotive is not occupied by operating or deadhead crews outside a single yard area; and

(3) The locomotive is stenciled "Designated Service—DO NOT OCCUPY".

§ 223.7 Responsibility.

(a) A railroad that fails to comply with any requirement of this part with respect to any locomotive, passenger car or caboose which it operates is subject to a civil penalty as provided in Appendix B of this part. Each day of violation constitutes a separate offense.

(b) A railroad may petition the Federal Railroad Administrator for exemption from any or all requirements prescribed in this part. Each petition shall be filed in accordance with Part 211 of this chapter.

Subpart B—Specific Requirements

§ 223.9 Requirement for new or rebuilt equipment.

(a) Locomotives, including yard locomotives, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows.

(b) Cabooses, including yard cabooses, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows.

(c) Passenger cars, including self-propelled passenger cars, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows and at least four emergency opening windows.

§ 223.11 Requirement for existing locomotives.

(a) Locomotives, other than yard locomotives, built or rebuilt prior to July 1, 1980, which are equipped in the forward and rearward end facing glazing locations of the windshield with a glazing material that meets the criteria for either portion of the impact testing required for a Type I test under the provisions of Appendix A of this part, will not require the installation of certified glazing in the windshield location except to replace windshield glazing material that is broken or damaged.

(b) Locomotives, other than yard locomotives, built or rebuilt prior to July 1, 1980, which are equipped in all side facing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a Type II test under the provisions of Appendix A of this part, will not require the installation of certified glazing in the sidefacing glazing location except to replace sidefacing glazing material that is broken or damaged.

(c) Except for yard locomotives and locomotives equipped as described in paragraphs (a) and (b), locomotives built or rebuilt prior to July 1, 1980, shall be equipped with certified glazing in all windows after June 30, 1983.

(d) Each locomotive subject to the provisions of paragraph (c) of this section, which, as a result of an act of vandalism has a window that is broken or damaged so that the window fails to permit good visibility,

(1) Shall be placed in Designated Service within 48 hours of the time of breakage or damage or

(2) Shall be removed from service until equipped with certified glazing in the following manner:

(i) If the broken or damaged window is a part of the windshield, all of the forward and rearward end facing glazing locations must be replaced with certified glazing.

(ii) If the broken or damaged window is a part of the sidefacing window, all of the sidefacing glazing locations must be replaced with certified glazing.

§ 223.13 Requirements for existing cabooses.

(a) Cabooses, other than yard cabooses, built or rebuilt prior to July 1, 1980, which are equipped in the forward and rearward end facing glazing locations of the windshield with a glazing material that meets the criteria for either portion of the impact testing required for a Type I test under the provisions of Appendix A of this part, will not require the installation of certified glazing in the windshield

location except to replace windshield glazing material that is broken or damaged.

(b) Cabooses, other than yard cabooses, built or rebuilt prior to July 1, 1980, which are equipped in all side facing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a Type II test under the provisions of Appendix A of this part, will not require the installation of certified glazing in the sidefacing glazing locations except to replace sidefacing glazing material that is broken or damaged.

(c) Except for yard cabooses and cabooses equipped as described in paragraphs (a) and (b), cabooses built or rebuilt prior to July 1, 1980, shall be equipped with certified glazing in all windows after June 30, 1983.

(d) Each caboose subject to the provision of paragraph (c) of this section, which, as a result of an act of vandalism, has a window that is broken or damaged so that the window fails to permit good visibility shall be equipped with certified glazing in the following manner:

(1) If the broken window is a part of the windshield, all of the forward and rearward end facing glazing locations must be replaced with certified glazing within 30 days of the date of breakage or damage.

(2) If the broken window is a part of the sidefacing window, all of the sidefacing glazing locations must be replaced with certified glazing within 30 days of the date of breakage.

§ 223.15 Requirements for existing passenger cars.

(a) Passenger cars built or rebuilt prior to July 1, 1980, which are equipped in the forward and rearward end facing glazing locations of the windshield with a glazing material that meets the criteria for either portion of the impact testing required for a Type I test under the provisions of Appendix A of this part will not require the installation of certified glazing in the windshield location except to replace windshield glazing material that is broken or damaged.

(b) Passenger cars built or rebuilt prior to July 1, 1980, which are equipped in the sidefacing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a Type II test under the provisions of Appendix A of this part, will not require the installation of certified glazing except to replace sidefacing glazing material that is broken or damaged.

(c) Except for passenger cars described in paragraphs (a) and (b),

passenger cars built or rebuilt prior to July 1, 1980, shall be equipped with certified glazing in all windows and a minimum of four emergency windows after June 30, 1983.

(d) Each passenger car subject to the provisions of paragraph (c) of this section which as a result of an act of vandalism, has a window that is broken or damaged so that the window fails to permit good visibility shall be equipped with certified glazing in the following manner:

(1) When the broken window is a part of the windshield, all of the forward and rearward end facing glazing locations shall be replaced with certified glazing within 30 days of breakage.

(2) When the broken window is a part of the sidefacing window, the glazing in that individual sidefacing glazing location shall be replaced with certified glazing within 30 days of the date of breakage.

§ 223.17 Identification of Equipped Locomotives, Passenger Cars and Caboosees.

Each locomotive, passenger car and caboose that is fully equipped with certified glazing shall be stenciled on an interior wall as follows: "Fully equipped FRA Part 223 glazing" or similar words conveying that meaning in letters at least 1 inch high.

Appendix A—Certification of Glazing Material

As provided in this part, certified glazing materials installed in locomotives, passenger cars, or cabooses must be certified by the glazing manufacturer in accordance with the following procedures:

a. General Requirements

(1) Each manufacturer that provides glazing materials, intended by the manufacturer for use in achieving compliance with the requirements of this part, shall certify that each type of glazing material being supplied for this purpose has been successfully tested in accordance with this appendix and that test verification data is available to a railroad or to FRA upon request.

(2) The test verification data shall contain all pertinent original data logs and documentation that the selection of material samples, test set-ups, test measuring devices, and test procedures were performed by qualified personnel using recognized and acceptable practices and in accordance with this appendix.

b. Testing Requirements

(1) The material to be tested (Target Material) shall be a full scale sample of the largest dimension intended to be produced and installed.

(2) The Target Material shall be representative of production material and shall be selected on a documented random choice basis.

(3) The Target Material shall be securely and rigidly attached in a fixture so that the

fixture's own characteristics will not induce test errors.

(4) The Target Material so selected and attached shall constitute a Test Specimen.

(5) The Test Specimen will then be equipped with a Witness Plate that shall be mounted parallel to and at a distance of six inches in back of the Target Material. The Witness Plate shall have at least an area which will cover the full map of the Target Material.

(6) The Witness Plate shall be an unbacked sheet of maximum 0.006 inch, alloy 1100 temper O, aluminum stretched within the perimeter of a suitable frame to provide a taut surface.

(7) The Test Specimen will be positioned so that the defined projectile impacts it at an angle of 90 degrees to the Test Specimen surface.

(8) The point of impact of the defined projectile will be within a radius of 3" of the centroid of the Target Material.

(9) Velocity screens or other suitable velocity measuring devices will be positioned so as to measure the impact velocity of the defined projectile within a 10% accuracy tolerance, with test modifications made to guarantee that the stipulated minimum velocity requirements are met.

(10) The Test Specimen for glazing material that is intended for use in end facing glazing locations shall be subjected to a Type I test regimen consisting of the following tests:

(i) Ballistic Impact in which a standard 22 caliber long rifle lead bullet of 40 grains in weight impacts at a minimum of 960 feet per second velocity.

(ii) Large Object Impact in which a cinder block of 24 lbs minimum weight with dimensions of 8 inches by 8 inches by 16 inches nominally impacts at the corner of the block at a minimum of 44 feet per second velocity. The cinder block must be of composition referenced in American Society for Testing and Materials (ASTM) Specification C33L or ASTM C90.

(11) The Test Specimen for glazing material that is intended for use only in side facing glazing locations shall be subjected to a Type II test regimen consisting of the following tests:

(i) Ballistic Impact in which a standard 22 caliber long rifle lead bullet of 40 grains in weight impacts at a minimum of 960 feet per second velocity.

(ii) Large Object Impact in which a cinder block of 24 lbs minimum weight with dimensions of 8 inches by 8 inches by 16 inches nominally impacts at the corner of the block at a minimum of 12 feet per second velocity. The cinder block must be of the composition referenced in ASTM C33L or ASTM C90.

(12) Three different test specimens must be subjected to the ballistic impact portion of these tests.

(13) Two different test specimens must be subjected to the large object impact portion of these tests.

(14) A material so tested must perform so that:

(i) there shall be no penetration of the back surfaces (side closest to Witness Plate) of the Target Material by the projectile. Partial penetration of the impact (front) surface of

the Target Material does not constitute a failure; and

(ii) there shall be no penetration of particles from the back side of the Target Material through the back side of the prescribed Witness Plate.

(15) Test specimens must consecutively pass the required number of tests at the required minimum velocities. Individual tests resulting in failures at greater than the required minimum velocities may be repeated but a failure of an individual test at less than the minimum velocity shall result in termination of the total test and failure of the material.

(16) After successful completion of the prescribed set of required consecutive tests, a manufacturer may certify in writing that a particular glazing material meets the requirements of these standards.

c. Material Identification

(1) Each individual unit of glazing material shall be permanently marked, prior to installation, to indicate that this type of material has been successfully tested as set forth in this appendix and that marking shall be done in such a manner that it is clearly visible after the material has been installed.

(2) Each individual unit of a glazing material that has successfully passed the Type I testing regimen shall be marked to indicate:

(i) "FRA Type I" material;

(ii) the manufacturer of the material;

(iii) the type or brand identification of the material.

(3) Each individual unit of a glazing material that has successfully passed the Type II testing regimen shall be marked to indicate:

(i) "FRA Type II" material;

(ii) the manufacturer of the material;

(iii) the type or brand identification of the material.

Authority: Sec. 202, 84 Stat. 971 (45 U.S.C. 431); Sec. 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on December 19, 1979.

John M. Sullivan,
Administrator.

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Monday
December 31, 1979

Part III

Department of the Treasury

Office of Revenue Sharing

Revenue Sharing Regulations

DEPARTMENT OF TREASURY

Office of Revenue Sharing

31 CFR Part 51

Revenue Sharing Regulations

AGENCY: Office of Revenue Sharing, Treasury Department.

ACTION: Proposed rule.

SUMMARY: This proposed rule contains: (1) a new set of proposed regulations implementing the prohibition against discrimination on the basis of handicapped status, as provided in section 504 of the Rehabilitation Act of 1973 (section 51.55). The proposed regulation is required pursuant to Executive Order 11914.

"Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs." Comments are requested concerning the preparation of a regulatory analysis, (2) proposed age discrimination regulations under the Age Discrimination Act of 1975. The proposed age discrimination regulations are required pursuant to the Age Discrimination Act of 1975 and the HEW Government-wide Age Discrimination Regulations. A regulatory analysis has been determined to be unnecessary; and (3) revisions to existing regulations which make technical and procedural changes. The revisions are primarily for clarification and to conform certain regulations to existing operating procedures. A regulatory analysis has been determined to be unnecessary.

DATES: Written comments must be received on or before February 29, 1980.

ADDRESSES: Send comments to: Director, Office of Revenue Sharing ("ORS"), c/o: Treasury Department, Washington, D.C. 20226. Taped copies of Subpart E are available upon request.

FOR FURTHER INFORMATION CONTACT: Arnold Intrater, Chief Counsel for Revenue Sharing or Jacqueline L. Jackson, a staff attorney at 202-654-5182.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 1976, the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) were enacted to amend the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512) which established the General Revenue Sharing program. The amendments were effective January 1, 1977 and necessitated the complete revision of the revenue sharing regulations (31 CFR, part 51). The regulations were published in final form to be effective October 1,

1977 (except for subpart E). Subpart E of the regulations was published in interim form, has not been issued in final form. Further, specific regulations concerning handicapped discrimination and age discrimination have yet to be issued. It was also determined that a complete review of all regulations would be useful prior to publishing a final rule with respect to subpart E. Accordingly, the proposed rule sets forth the complete 31 CFR part 51.

The regulations are divided into seven subparts. Subpart A, "General Information," contains definitions and other provisions applicable to all subparts (unless otherwise stated). Subpart B, "Assurance, Reports, Public Participation and Public Hearings," sets forth the assurance, reporting and public hearing requirements placed upon State and local governments which receive revenue sharing funds. Subpart C, "Computation and Adjustment of Entitlement Funds," sets forth the technical provisions concerning the data and formulae used for payment of entitlement funds. Subpart D, "Prohibitions and Restrictions on Use of Funds," sets forth the restrictions and prohibitions on the use of revenue sharing funds other than the prohibitions against discrimination. Subpart E, "Nondiscrimination by State and Local Governments Receiving Entitlement Funds," sets forth the prohibitions against discrimination by recipient governments, the exceptions thereto and the procedures to be used to achieve compliance. Subpart F, "Fiscal Procedures and Auditing" sets forth the auditing requirements and fiscal procedures concerning expenditure of revenue sharing funds. Finally, Subpart G, "Proceedings for Reduction in Entitlement, Withholding, Suspension, or Repayment of Funds," sets forth the procedures for administrative hearings to redress violations of the provisions of the Revenue Sharing Act and regulations. The following is a section-by-section analysis of the major proposed amendments to the regulations contained in 31 CFR, part 51.

Subpart A—General Information

Section 51.0 Scope and application of regulations. On April 14, 1978, the Office of Revenue Sharing (ORS) published an administrative ruling concerning § 51.0(b) "savings clause," (Administrative Ruling 79-1, March 29, 1979). Confusion had arisen as to what regulations governed administrative complaints filed with the ORS prior to the 1976 amendments. Complaints filed prior to the 1976 amendments and violations occurring and ending prior to the amendments were to be handled

under regulations then in effect. The procedures in effect after January 1, 1977 cover complaints filed on or after January 1, 1977 and violations continuing thereafter. Because of the passage of time, few if any complaints concerning pre-1977 violations remain unresolved today. Any that might exist are likely to be of an ongoing nature. Accordingly, the Director proposes to amend § 51.0(b) to provide that all pending pre-1977 administrative proceedings will be resolved under current procedures.

51.2 Definitions. A new § 51.2(h) is proposed to add a definition of the term "funded." This definition was contained in Subpart E, but has been determined to have general applicability to all provisions of this part.

The proposed definition of "lobbying" § 51.2(m) would eliminate the reference to § 51.44 and place the definition in its proper place.

The definitions of "Generally accepted auditing standards and Independent public accountant," have been placed in a new definition section contained in Subpart F. Accordingly, the remaining definitions are redesignated.

The proposed definition of "program and activity" § 51.2(l) has been added from Subpart E because it was determined to have general applicability to all provisions of this part. The definition, presently contained in § 51.51(c) of the regulations was amended on April 2, 1979 (4 CFR 19191) to conform it with the definition contained in regulations implementing the Crime Control and Safe Streets Act of 1968 (42 USC 3701 *et seq.*). The non-discrimination provisions under that Act are substantially similar to those under the Revenue Sharing Act. The regulation (28 CFR 42.202(g)) defined program or activity in a manner which we determined to be appropriate. The proposed rule contains that definition further clarified to encompass secondary recipients.

Proposed § 51(n) would add a new definition of secondary recipient. Presently there is no definition of secondary recipient. Section 51.4 merely states that the secondary recipient shall comply with the restrictions and prohibitions contained in the Act but fails to define the term. We proposed to define a secondary recipient as any entity which receives entitlement funds by grant, contract or other arrangement for the purpose of providing a service the recipient government would otherwise provide or for the purpose of providing such entity with general financial assistance.

The definition includes other governments, private nonprofit

organizations and profit-making businesses which receive revenue sharing funds and use them in a manner which impacts on the citizens of the primary recipient government. The definition specifically excludes the procurement of goods. It does not exclude construction contractors. The construction contractor, however, is a hybrid situation between the purchase of an object (a building or a road) and the provision of a service the government would otherwise provide. Since the construction contractor can be compared to the department of public works of a recipient government, it was determined that the contractor should be included as a secondary recipient.

Section 51.3 Procedure for effecting compliance. This section has been completely revised to provide general guidance concerning compliance procedures and to eliminate the confusing reference to Subpart E. Since the provisions of this section apply to violations of Subparts B, D and F, the provisions must be broad enough to encompass violations in operating procedures. Section 125 of the Act requires the Secretary to promulgate regulations establishing reasonable and specific time limits for the conduct of an investigation and issuance of a finding and for the conduct of compliance audits and reviews. It is the position of the ORS that only section 125(2) requiring reasonable and specific time limits for the conduct of audits and reviews (including investigations of allegations) relating to possible violations of the provisions of the Act, applies to violations other than subpart E. Accordingly, the issuance of a finding is not required within 90 days from receipt of a complaint or other information. This proposed rule is designed to provide required guidance without eliminating the flexibility needed to achieve compliance with varying violations of the Act.

Proposed § 51.3(e) clarifies the procedure for delay of payment where a recipient government fails to comply with the reporting or assurance requirements of the Act. The reporting requirement referred to includes the submission of reports requested by the Director to determine compliance with the provisions of the Act. Entitlement funds constructively waived are not returned to a recipient government, but become a part of the entitlement of the next highest level of government.

Section 51.4 Transfer of funds to secondary recipients. This section is proposed to clarify the application of the prohibitions and restrictions, contained

in the Act and regulations, to secondary recipients.

Section 51.5 Time periods. Proposed § 51.5(a) would clarify that the time period for an event will not begin to run until the appropriate party receives notice of the event. For example, a recipient government is given ten days to request an administrative hearing or suffer the suspension of entitlement funds. The ten-day period begins not with the issuance of the determination by the Director, but with the receipt of notice of the determination by the recipient government.

Proposed § 51.5(b) provides that time periods of ten days or less refer to working days not including weekends. Time periods of ten days or more refer to calendar days including weekends.

Section 51.6 Effect of State or local law. The proposed rule adds a new section 51.6 "effect of State or local law" which provides that any conflicting State or local law, that substantially impedes compliance by a recipient government with the provisions of the Act or regulations, will not be a valid defense for failure to comply with the provisions of the Act. This section applies to all restrictions and prohibitions including the audit requirements and nondiscrimination prohibitions.

Section 51.7 Applicability of other Federal laws. A new § 51.7 is proposed which would state that general laws relating to Federal assistance programs are not applicable unless specifically provided in the Revenue Sharing Act. It has always been the position of the ORS that only the Acts specifically mentioned within the Revenue Sharing Act are applicable to the revenue sharing program. This position has support in case law. In *Carolina Action v. Simon*, (552 F. 2d. 295, (1975)) the Court held that the National Environmental Policy Act (42 U.S.C. sections 4321 *et seq.*) was not applicable to revenue sharing. In the latest case, *Goolsby v. Blumenthal* (590 F. 2d. 1359 (1979)), the Court held that the Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections 460 *et seq.*) was not applicable to revenue sharing.

The proposed section also provides that the criminal code of the United States is applicable to criminal offenses relating to the expenditure of revenue sharing funds.

Subpart B—Assurances, Reports, Public Participation and Public Hearings

Section 51.10 Definitions. The definitions of budget and budget summary are revised for clarification. The definitions of entitlement funds and

recipient governments are eliminated as redundant because they are included in § 51.2 of Subpart A.

Section 51.11 Reports to the Director, assurance procedures for effecting compliance. Proposed § 51.11(c) would amend the current provision to achieve greater clarity. The section would distinguish between the procedures for effecting compliance for public hearing violations and the procedures for effecting compliance for reporting and assurance violations.

Section 51.13 Proposed use hearing. Section 51.13 is proposed to be amended to clarify that a waiver of the proposed use hearing must be requested by the recipient government and the request must be accompanied by a cost estimate of the unavoidable expenses. Further, the waiver must be approved by the Director prior to the appropriation of revenue sharing funds by the recipient government.

Section 51.14 Budget hearing. Proposed § 51.14(b) revises the provision for an alternative procedure for a budget hearing to eliminate the requirement that the recipient government submit a written assurance prior to the use of the alternative procedure. The State or local public hearing procedure may be used automatically and compliance with those procedures need only be proved when questioned pursuant to a compliance review or a complaint.

Proposed § 51.14(e), "Waiver of newspaper publication, alternative forms," would clarify the requirements for the waiver of newspaper publication. Those requirements are the same as the requirements for the waiver of the proposed use hearing and publication requirements.

Section 51.15 Amendments or modification to enacted budget. The proposed rule amends this section to clarify what constitutes a major change. To be a major change, the modification to the budget must be both 25% of the total budget and involve at least \$1,000.

Section 51.18 Legal notice rules not applicable. The proposed rule amends this section to provide that newspaper publication required with respect to public hearings and the use report may be in the form of a newspaper advertisement or article. The publication must however include all of the required information.

Subpart C—Computation and Adjustment of Entitlement Funds

Section 51.20 Data. Section 51.20(c) is proposed to be amended to clarify the special rule concerning intergovernmental transfers for less than one-year entitlement periods.

Section 51.21 Data affected by a major disaster. The proposed rule would amend § 51.21(c), "Eligibility requirements," to clarify that at the end of the 60-month period the data used for the initial allocation of revenue sharing funds will also be used for the final allocation of these funds. A new § 51.21(g) is proposed to provide that the post-disaster data factor will be used for the first entitlement period after the end of the 60-month period.

Section 51.25 Waiver of entitlement, nondelivery of checks; insufficient data. Proposed § 51.25(b) "Constructive waiver," would clarify that a recipient government will be constructively waived for failure to comply with the reporting and assurance requirements of the Act and regulations. The reporting requirement includes submission of reports upon request of the Director or her designate to determine compliance with the provision of Subparts B, E or F.

Section 51.27 State to maintain transfers to local governments. The proposed rule would amend this section to remove all reference to pre-January 1, 1977 rules because they are obsolete. Proposed § 51.27(e), "Adjustment where new taxing powers are conferred," would also clarify the effect upon the States of conferring new taxing powers upon local governments.

Current § 51.27(e), "Report by Governor," would be amended by proposed § 51.27(g) "Computation by the ORS". The new section would reflect the current operating procedure of obtaining data concerning maintenance of effort from the Bureau of the Census.

Section 51.30 Adjustment of maximum and minimum per capita entitlement. Proposed § 51.30(b)(4) would add a definition of the "50 percent rule" derived from section 103(b)(6)(c) of the Act. That rule provides that no unit of local government may receive a revenue sharing payment which is more than 50 percent larger than that government's adjusted taxes and intergovernmental transfers received by it (other than revenue sharing funds).

Section 51.32 Population of Indian Tribes and Alaskan Native Villages. The proposed rule would add a new § 51.32 to define the population of Indian tribes and Alaskan native villages for revenue sharing purposes as the resident population of the tribe or village as of July 1, 1977, as determined by the Bureau of Indian Affairs.

Subpart D—Prohibitions and Restrictions on Use of Funds

Section 51.40 Matching funds. With the 1976 amendments, the prohibition against the use of revenue sharing funds

for matching purposes, was repealed. Since a recipient government has 24 months in which to use, obligate or appropriate revenue sharing funds, revenue sharing funds received in the last quarter of 1976 may not have been spent until after 1978. Accordingly, the current regulations maintain the restrictions concerning matching with the proviso that they do not apply to revenue sharing funds received after January 1, 1977. Since all pre-1977 funds are likely to have been spent, the proposed rule would eliminate the provision and merely state that revenue sharing funds may be used for matching purposes after January 1, 1977.

Section 51.41 Permissible expenditures for units of local government. The 1976 amendments also eliminated the priority expenditure restrictions for local governments. For the same reason as stated above, the proposed rule would eliminate the current provision and would state that revenue sharing funds may be used by local governments for any purpose permissible under State or local law.

Section 51.43 Restriction on expenditures by Indian tribes and Alaskan native villages. The proposed rule would amend paragraph (b) to clarify that entitlement payments to Indian tribes and Alaskan native villages are to be spent for the benefit of the members of the tribe or village even where that tribe or village extends into two or more county areas. A new proposed paragraph (c) is added to make it clear that an Indian tribe or Alaskan native village, which expends its revenue sharing funds for the benefit of its members, will not be found in noncompliance with the nondiscrimination prohibitions of Subpart E.

Section 51.44 Lobbying. The proposed rule would amend this section to eliminate the definition of lobbying and place it in § 51.2, the definitions section.

Section 51.45 Use of entitlement funds for debt retirement. The proposed rule would amend this section to clarify the current rule that the restrictions on use of entitlement funds for debt retirement have been eliminated, except that the proceeds of indebtedness must have been spent in compliance with the provisions of Subparts D and E.

Subpart E—Nondiscrimination by State and Local Governments Receiving Entitlement Funds

Section 51.51 Definitions. The proposed rule would amend this section to add definitions of the terms "Attorney General," "complaint," "Determination," "noncompliance," and "notification of

noncompliance." The section would amend the definitions of "compliance review," "finding," "funded," (which were recently deleted as stated with respect to § 51.2), "holding," "investigation" and "program or activity" to provide greater clarity. The definitions of age discrimination, handicapped status discrimination and religious discrimination are eliminated because they are unnecessary.

Section 51.52 Discrimination prohibited. The proposed rule would amend § 51.52(a) to provide greater clarity and to identify the effective date of the Age Discrimination Act of 1975, and therefore the prohibition against age discrimination under the Revenue Sharing Act. This section would also amend the reference to religious discrimination to reflect the exclusion of religious discrimination from coverage under Title VI of the Civil Rights Act of 1964.

Section 51.52(b) is proposed to be reorganized for greater clarity. The types of discrimination (e.g., discrimination in employment or the provision of services is clearly identified in the first sentence of each subsection). It is to be particularly emphasized that discrimination on the basis of handicapped status is prohibited not only in employment, but also in the provision of services and with respect to the accessibility of facilities. The proposed rule also reflects that discrimination on the basis of age applies only to the provision of services. Section 304(c)(1) of the Age Discrimination Act of 1975 specifically exempts employment discrimination on the basis of age from its coverage and therefore from coverage under the Revenue Sharing Act. Section 122 of the Revenue Sharing Act provides that age discrimination under the Age Discrimination Act of 1975 is prohibited. Discrimination on the basis of religion, due to the exclusions and exemptions contained in the Civil Rights Act of 1964 and the Civil Rights Act of 1968, does not apply to the provision of services and is limited in its application to employment. The proposed regulation reflects these exemptions.

A new § 51.52(b)(1) is proposed to reflect the "effects test" of *Lau v. Nichols*, 414 U.S. 563, 94 S. Ct. 786, 39 L. Bd. 2d J (1974), the leading case in the area of discrimination in the provision of services.

A new § 51.52(b)(5) is proposed to prohibit a recipient government from retaliating against or intimidating a complainant or other individual assisting the ORS in its investigation. A new § 51.52(b)(6) is proposed to prohibit the use of an unvalidated height or weight

requirement or other selection device, which has an adverse impact on a protected class.

Interim § 51.52(b)(5) was deleted in response to comment that it confused the difference between voluntary affirmative action and required remedial action. The section was further deemed unnecessary because both affirmative action and remedial action are fully covered in later sections.

Section 51.53 Employment discrimination. Section 51.53(a), "Employment practices," is proposed to provide a more extensive statement of the employment practices covered by this subpart.

Section 51.53(b), "Employee selection procedures," was amended in interim form on September 11, 1978 (43 FR 40223). The amended regulation adopted the Uniform Guidelines on Employee Selection Procedures as adopted by the Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Labor and the Department of Justice on August 25, 1978 (43 FR 38290). The proposed rule would continue the adoption of the guidelines.

Proposed § 51.53(c) "Recruitment practices of recipient governments," proposes to require affirmative action in recruitment procedures where racial, ethnic or sex groups have been denied employment opportunities or are underutilized in a job classification.

Proposed § 51.53(d) "Pre-employment inquiries," would caution a recipient government to review its pre-employment application forms and other inquiries to be sure that the questions asked are not designed to elicit information which could be used to foster prohibited discrimination.

Current § 51.53(d) "Self-evaluation," is proposed to be redesignated § 51.53(e) and retitled "Self-review." As proposed, the section would clarify that recipient governments should review their employment policies and correct any procedures or policies which have the effect of denying equal employment opportunities. Current § 51.53(e) is deleted as redundant since it will be covered by proposed § 51.61.

Section 51.54, "Discrimination on the basis of sex," is proposed to be retitled "Employment discrimination on the basis of sex." The proposed rule further amends this section to delete the current provisions and adopt the EEOC guidelines. The same approach is proposed for §§ 51.57 and 51.58, discrimination on the bases of national origin and religion, respectively. When the regulations are published in final form, copies of all EEOC guidelines

adopted by the ORS will be published as appendices.

Section 51.55 Discrimination With Respect To a Qualified Handicapped Individual. The 1976 amendments added discrimination on the basis of handicapped status, as provided in section 504 of the Rehabilitation Act of 1973, as amended to the classes of persons protected by the Act. Executive Order 11914 entitled, "Nondiscrimination With Respect to the Handicapped In Federally Assisted Programs," and the HEW Guidelines implementing the Executive Order (43 FR 2132, January 13, 1978), required Federal agencies with section 504 responsibility to issue proposed regulations within 90 days of the effective date of the Guidelines. The ORS published its proposed regulations on April 14, 1978 (43 FR 15735).

Seventeen comments were received on the proposed rule. These comments will be discussed below as part of the section-by-section analysis of the revisions to the proposed rule. The regulations are republished in proposed form because of the extensive changes made to the initial proposed rule.

Several comments were received, primarily recipient government or their associations, which expressed concern about the cost of complying with the requirements of the proposed rule. Small recipient governments particularly are concerned about the financial burden of compliance. The comments further suggested that the mood across the country, expressed by the passage of "Proposition 13" in California and the New Jersey "cap law", requires local governments to restrict spending and should be taken into account in the implementation of the prohibition against discrimination on the basis of handicap. The Director is sympathetic to the cost of implementation of section 504. Executive Order 11914, however, limits the ability of the ORS to make any amendments to the substantive prohibitions to reduce the cost of implementation. Sections 1 and 2 of the Executive Order require that in matters of substance, ORS regulations must be consistent with the HEW guidelines for determining what are discriminatory practices.

Further, recipient governments are reminded that emphasis is to be placed on reasonableness. Only qualified handicapped individuals are protected from discrimination. A qualified handicapped individual is defined as one who can be employed or otherwise benefit from a program or activity with reasonable accommodation. Any action which would create an undue hardship on a recipient government (on the basis

of cost or otherwise) would not be reasonable and therefore, is not required. Further, in the area of accessibility of facilities, which is fully discussed below, the proposed regulation places emphasis upon making programs and activities accessible, requiring restructuring of the facilities themselves only as a last resort. Accordingly, the cost of compliance will not be as great as expected by some recipient governments.

It should also be understood that there are competing interests involved, in that handicap discrimination (like racial and sex discrimination, fifteen or twenty years ago) is so far-reaching and pervasive that decisive steps must be taken in order to bring the handicapped into the mainstream of society. The goal of eliminating handicap discrimination has been determined by the Congress to be worth the cost of implementing the remedies. Concern for the burden placed upon small recipient governments is, however, expressed in several sections of the regulation which exempt recipient governments that employ fifteen or fewer full or part-time employees from certain administrative requirements. Further, weakening of the requirements would conflict with the Federal policy of vigorous enforcement of section 504.

Several comments were received, which suggested that the ORS provide additional funds to recipient governments to implement section 504. The ORS does not have statutory authority to provide additional funding for implementation of section 504. Entitlement payments of recipient governments are determined by a strict statutory formula and the program is funded accordingly. Even if additional revenue sharing funds were allocated for enforcement of this section, there is no guarantee that the funds would be spent for the purpose. Nor can a recipient government be required to spend its revenue sharing funds for a particular purpose as under categorical grant programs. Recipient governments may spend their revenue sharing funds for any purpose which is permissible under State or local law so long as that does not conflict with Federal law.

Several comments were received, which suggested that because revenue sharing funds support so many different kinds of programs and activities, the revenue sharing regulations should contain specific provisions proscribing specific recipient government policies and procedures with regard to handicapped status discrimination, particularly in the areas of education, housing, transportation and public safety. HEW, as lead agency, has acted

through the review process to ensure that other Federal agencies issue regulations consistent with its own. Accordingly, it is not anticipated that revenue sharing regulations will conflict with those published by the departments or agencies with primary responsibility for the areas of education, housing, transportation and public safety. The Director will await the publication of all regulations in these areas before resolving the issue of whether or not to incorporate those regulations. Other options might be to develop revenue sharing regulations in these areas or to provide specific guidance through some other means, such as interpretive rulings. The problem is particularly serious in the area of transportation where the potential costs are so great. The Director again wishes to emphasize the fact that the ORS Office provides financial assistance directly to governments which may use funds for any and all purposes which are permissible under local law. For this reason, the regulations should probably be as general as possible.

Several comments were received, which addressed the issue of the jurisdiction of the ORS based on funding. The nondiscrimination prohibition applies to all programs and activities of recipients of revenue sharing funds unless they can prove by clear and convincing evidence that the programs or activities in question were not funded in whole or in part with revenue sharing funds, as provided in section 122(a)(2) of the Act. Some comments were received, which suggested that the exception causes section 504 to apply only to programs and activities directly funded with revenue sharing funds. The questions of funding and jurisdiction are complex and currently under review in their application to the whole of subpart E, Nondiscrimination. Clearly, however, the issue of funding is one in which the burden of proof is placed upon the recipient government.

The Supreme Court recently handed down the decision in *Southeastern Community College v. Davis* (47 LW 4669, June 12, 1979). The Court held that the College was not required to substantially lower its standards for participation in its nursing school in order to admit an individual with a severe hearing disability. HEW has concluded that no changes need be made to its HEW regulations because of *Davis*, which upheld HEW's interpretation of section 504. Since the Guidelines for other Federal agencies and the ORS regulations are based upon the HEW regulations, the Director has

determined, after communicating with HEW, that the *Davis* case requires no change in the proposed ORS handicap discrimination regulations.

Section 51.55(a) Definitions. Several comments were received, which suggested changes to various provisions of the definition of "handicapped individual." (Section 51.55(a)(1)) The ORS does not have the authority to amend the definition of a "handicapped individual." Section 85.4 of the HEW guidelines requires each agency to issue regulations, which define appropriate terms, consistent with the definitions and standards for determining who are handicapped persons contained in the Guidelines. Accordingly, the definitions of "handicapped individual" and "qualified handicapped individual", contained in the proposed rule, are identical to those in the Guidelines. No change has been made in this proposed ORS regulation.

The 1978 amendments to section 504 altered the definition of handicapped person with respect to drug addicts and alcoholics (Pub. L. 95-602, section 122). Since the amendment was consistent with HEW interpretations, no amendment to the proposed rule was needed.

Section 51.55(a)(6) Qualified handicapped individual. One comment was received, which pointed out that HEW had deleted the word "otherwise" from its definition of "qualified handicapped individual" because it made the provision ambiguous and that the ORS should do the same in the interest of consistency. The Director agrees and the proposed rule is therefore amended throughout to delete the word "otherwise."

The question arose within the Department of the Treasury as to why reasonable accommodation was not applied to discrimination against a qualified handicapped individual in the provision of services. After consultation with HEW, the Director decided that it should be made clear that a stronger standard than reasonable accommodation applies to discrimination in the provision of services than to discrimination in employment. A qualified handicapped individual cannot be deprived of a service or benefit solely because of the cost involved. Some method of providing the service must be found. With respect to employment, however, cost can be a factor in refusing to accommodate an applicant or employee. The limitation on accommodation of a handicapped individual with respect to the provision of services comes from the definition of "qualified handicapped individual." Only those handicapped individuals

who meet the essential eligibility requirements of the program or activity are "qualified" and must be accommodated.

Section 51.55(b) General prohibitions with respect to discrimination against a qualified handicapped individual. Several comments were received, which objected to the cross-reference between § 51.53 and §§ 51.52(b) and 51.53(b) of the revenue sharing regulations as being ambiguous and needing clarification as to what does and does not apply to discrimination against a qualified handicapped individual. The Director agrees with these comments and proposes to amend § 51.55(b)(1) to eliminate the reference to § 51.53, "Employment discrimination", because that provision applies only to employment discrimination on the basis of race, color, national origin, sex or religion, and not on the basis of handicapped status. The section would further be amended to delete the confusing reference to a cross-reference between §§ 51.52(b) and 51.55, but make it clear that the general prohibitions described in § 51.52(b) (except §§ 51.52(b)(1) (ii), (iii) and (v)) also apply to discrimination against a qualified handicapped individual.

Proposed § 51.55(b)(1)(i) would be amended to clarify that even though it is permissible to maintain separate programs and activities for the handicapped, qualified handicapped individuals cannot be excluded from participation in programs and activities that are open to the general public. If, however, the cost of accommodating a handicapped individual is too great and a permissible separate program exists, then the individual can be limited to the separate program.

Proposed § 51.55(b)(1)(ii) would be amended in response to comment that the phrase "least segregated setting appropriate" does not sufficiently emphasize the need for handicapped persons to be integrated into society. The provision now refers to the "most integrated setting appropriate."

Section 51.55(b)(1)(iii) is proposed to be amended to refer to applicants, employees and beneficiaries as well as to the general public. Several comments were received, which expressed concern that recipient governments, particularly the smaller ones, would have difficulty communicating to persons of impaired vision as is required in § 51.55(b)(1)(iii). The requirement is not expected to work any great hardship on recipient governments. A number of methods can be employed to make communications available to the public. For example, a notification of public hearings might also be advertised over radio and

television through public service announcements.

A new § 51.55(b)(1)(iv) is added to the proposed regulation to make it clear to recipient governments that the public hearings required under section 12 of the Act and § 51.13 and § 51.14 of the regulations must be accessible to the handicapped. New § 51.55(b)(1)(v), (vi), (vii), (viii), (ix) and (x) are added to the proposed regulation in order to provide more consistency with HEW Guidelines. Sections 85.51(b)(1)(iii), (iv), (v) and (vii) and (b)(3), of the Guidelines and § 84.52(d) of the HEW regulations, provide the basis for those subsections. New § 51.55(b)(1)(v) is added to the proposed rule to require recipient governments to provide auxiliary aids to the visually, speech and hearing impaired to allow them to benefit equally from a program or activity. Examples of such auxiliary aids are brailled and typed material, interpreters and similar devices and services. A new § 51.55(b)(1)(ix) is added in order to clarify the fact that a recipient government may not fund discriminatory activities through contractual arrangements. A new § 51.55(b)(1)(x) is added to emphasize that a recipient government's zoning authority cannot be used to discriminate against the handicapped.

One comment was received, which suggested that § 51.55(b)(3) be eliminated because emphasis should be placed on the provision of equal services. The Director agrees with the position of HEW on this point that *equivalent*, as opposed to *identical*, services must be required, thereby providing equal opportunity to achieve the same result. Emphasis should be placed upon meeting the individual needs of handicapped persons to the same extent that the individual needs of nonhandicapped persons are met. The proposed subsection, therefore, remains the same. A new § 51.55(b)(4) emphasizes that the enforcement procedures contained in Subpart E shall be used to redress violations of the provisions of this section.

Section 51.55(c) Self-evaluation. Several comments were received, which objected to the time period allowed for self-evaluations under § 51.55(c) of the regulation. Those comments from recipient governments suggested that the time period be lengthened or indeed that the requirement was not necessary. Section 85.5(b)(2) of the HEW guidelines provides that each agency shall include a requirement for self-evaluation. The first proposed rule was based primarily on § 84.6(c) of the HEW regulations, except that the time for completion was

set at two years instead of one. Several comments were suggested that the two-year time period was too long. They pointed out that HEW recipients were required to do self-evaluations within one year commencing June 3, 1977, the effective date of the HEW regulations, and further that in many cases the HEW and the ORS requirements would overlap. Departments of a recipient government which have already undertaken the self-evaluation could aid the recipient government in completing the overall self-evaluation required by the ORS. Accordingly, the time period for completing self-evaluations in the new proposed rule is reduced to one year.

One comment was received, which questioned whether the references to number of employees in § 51.55(c)(2) and § 51.55(k) of the proposed rule referred to full-time or part-time employees and suggested that the subsections should not be applicable to recipient governments with only part-time employees. Upon consulting with HEW, it was determined that the references to the number of employees in the Guidelines include both full-time and part-time employees. In the interests of minimizing the burden on small recipient governments, however, the Director proposed to adopt the concept of full-time equivalent employees. This means that two part-time employees would be counted as one full-time employee in order to determine if a recipient government employs fifteen or more persons. References to the number of employees throughout the proposed rule are specifically to full-time equivalent employees.

Section 51.55(d) Designation of responsible employee and adoption of grievance procedures, Section 51.55(e) notice. Several comments were received, which suggested that the proposed rule should have included requirements for designation of a responsible employee, establishment of grievance procedures and notification to employees and the public that the prohibition against discrimination on the basis of handicap exists. The Director agrees with the comments that these provisions should be added to the proposed regulation. Accordingly, § 51.55(d) "Designation of responsible employee and adoption of grievance procedure", and § 51.55(e) "Notice" are added to the new proposed rule. The new provisions are based upon §§ 84.7 and 84.8 of the HEW regulations.

Section 51.55(f) Administrative requirements for small recipient governments. Several comments were

received, which suggested that no exceptions to any of the requirements should be allowed for small recipient governments because the same level of commitment should be required of all recipients of revenue sharing funds regardless of size. The Director realizes the difficulty of balancing the real concerns of small recipient governments over the burden of compliance in this relatively new area, with the goal of eliminating discrimination against the handicapped wherever it exists. While small governments should not be allowed to discriminate against the handicapped, merely because of their size, certain administrative requirements would be unduly burdensome on small recipient governments because of their lack of a workforce to undertake the implementation. A new § 51.55(f) has been added to the new proposed rule, however, to remind small recipient governments that the exceptions are not designed to authorize them to provide services and benefits in a discriminatory manner.

Section 51.55(g) Employment discrimination. Section 51.55(e) "Employment discrimination" is redesignated § 51.55(g). Reference to § 51.53 in the opening paragraph of proposed § 51.55(g) (of the original proposed rule) is proposed to be deleted. Section 51.55(e)(1) on "Reasonable accommodation" is deleted because it is redundant. A new § 51.55(g)(1)(i) states the basic prohibition against employment discrimination on the basis of handicapped status. Proposed § 51.55(e)(3), concerning preemployment inquiries, is deleted and becomes a new § 51.55(j) to be discussed below. Proposed § 51.55(e)(4) is redesignated § 51.55(g)(1)(i). Proposed § 51.55(e)(5) is redesignated § 51.55(g)(1)(iii).

A new § 51.55(g)(1)(iv), is added to the proposed rule in response to comment that the original proposed rule did not apply the prohibition to a number of important employment practices or conditions; the new paragraph is based upon § 84.11(b) of the HEW regulations. A new § 51.55(g)(2) is added to the proposed rule to provide that a recipient government is not excused from compliance because of inconsistent provisions in a collective bargaining agreement; it is based upon § 84.11(c) of the HEW regulations. Similarly, a new § 51.55(g)(3) is added to the proposed rule to prohibit a refusal to hire a handicapped individual because employment opportunities in the occupation are more limited; it is based upon § 84.10(b) of the HEW regulations.

Section 51.55(h) Reasonable accommodation. Section 51.55(f), of the original proposed rule "Reasonable accommodation," is redesignated § 51.55(h). Several comments were received, which suggested that the provision concerning reasonable accommodation needed further elaboration and was unduly burdensome to recipient governments. The Director does not agree with the reasoning behind the comments because the concept of reasonable accommodation is not one in which every consideration can be anticipated and provided for by regulations. The determination as to what is reasonable with respect to a particular recipient government or a particular handicapped status, must be made on a case-by-case basis. Where the Director determines that more specific guidance is needed, however, such guidance will be given in the form of administrative or interpretive rulings. A new § 51.55(h)(4) is added to the proposed rule in response to comment that the regulation should prohibit denial of an employment opportunity to a qualified handicapped individual because of the need to make reasonable accommodation.

Section 51.55(i) Employment criteria. Several comments were received, which suggested that the section concerning employment criteria in the original proposed rule, § 51.55(e)(2), did not provide sufficient elaboration and should be more consistent with the comparable HEW provisions. Further, it has become clear to the Director that additional guidance is needed concerning the use of an employment criterion which excludes an entire class of handicapped individuals from consideration for a particular job or job classification. Some exclusionary standards are obviously needed. However, many recipient governments have created employment criteria which bar entire classes of handicapped individuals from consideration for certain jobs, even though individual members may be qualified to perform the essential functions of the job with reasonable accommodation.

In general, the absolute exclusion of a class of handicapped individuals from consideration for employment, without making an individual determination of the competency of a particular applicant, will be considered evidence of discrimination. A recipient government has the burden of proving that no member of a class of handicapped individuals can be qualified for the job in question in order to sustain such an absolute exclusion.

One example of an employment criterion used by many recipient governments is a policy which requires that to be considered for the position of police officer an individual must have vision, correctable to 20/20. Since it is clear that at least some people without such vision can perform police duties satisfactorily, an applicant must be afforded the opportunity to prove that he or she could still shoot accurately and perform the other essential functions of the job of a police officer without 20/20 vision. As another example, many recipient governments have established policies that no epileptics may be considered for appointment as police officers. The use of such a policy to exclude from consideration all applicants with a history of epilepsy (even if an individual has not had a seizure since childhood) is discriminatory because it does not take into account those persons who have their epilepsy under control.

A number of recent cases support the position that the establishment of employment criteria that unnecessarily exclude an entire class is discriminatory. See, e.g., *Connecticut Institute for the Blind v. Commission on Human Rights*, 18 FEP Cases 42, (Sup. Ct. Sept. 5, 1978) in which the Connecticut Supreme Court invalidated a requirement that all teacher's aides must have normal vision; *Davis v. Bucher*, 17 FEP 918, C.A. No. 77-932, (E.D. Pa. 1978) in which the Court held that the City discriminated against the plaintiff on the basis of handicap by its refusal to hire any former drug abusers; *Duran v. City of Tampa, Florida*, 430 F. Supp. 75 (M.D. Fla. 1977) in which it was held discriminatory for the City to have a policy excluding all persons with a history of epilepsy from employment as police officers (see also *Cleveland Board of Education v. La Fleur*, 414 U.S. 632 (1974); *Gurmankin v. Costango*, 411 F. Supp. 982 (E.D. Pa. 1976); *Marsh v. Pickens*, Civil Action No. 77 M. 1041 (D. Col., August 1, 1978).

An application of a policy of automatic exclusion also indicates that recipient governments have not attempted to determine if reasonable accommodation would enable a handicapped individual to perform the job in question. Reasonable accommodation of an epileptic individual to qualify him or her for the position of police officer, might require the recipient government to hire the handicapped individual as a "desk officer." The intent of the regulation is to require the recipient government to make a reasonable effort at job restructuring to eliminate those duties of

a police officer for which an epileptic is truly not qualified, while creating a meaningful full-time or part-time job. A recipient government has the burden of proving that an effort to make reasonable accommodation to the handicap of an individual would cause it undue hardship.

The proposed rule is, therefore, amended to provide in subparagraph (1) that a recipient government may not use a selection criterion or policy to exclude a handicapped individual or class of individuals, unless the criterion or policy is shown to be directly related to the essential functions of the position in question and less exclusionary plans. This is an issue which must be studied further before any changes can be made and comments are specifically requested for its resolution.

Section 51.55(j) Employment inquiries. Several comments were received, which suggested that the section concerning preemployment inquiries in the proposed rule, § 51.55(e)(3), did not provide sufficient elaboration and should be more in line with § 84.14 of the HEW regulations. The Director agrees with these comments, and therefore adds a new § 51.55(j) "Preemployment inquiries." One comment expressed concern that the prohibition against preemployment inquiries would cause an increase in the cost of workman's compensation and disability insurance plans. This is a problem which must be studied further before any changes can be made. Comments containing specific recommendations for resolution of this problem are requested.

Section 51.55(k) Program accessibility. Proposed § 51.55(g) concerning program accessibility is redesignated § 51.55(k). The general prohibition against conducting programs and activities inaccessible to the handicapped is designated § 51.55(k)(1). The greatest number of comments were received concerning the accessibility provisions of the original proposed rule. The comments from representatives of recipient governments expressed particular concern that upon the effective date of the regulations, recipient governments would be required to make major structural changes to all of their facilities. The regulations in no way require such wholesale renovation of public facilities. Section 122 of the Revenue Sharing Act does not require that every facility owned or used by a recipient government be accessible to the handicapped, unless that facility is constructed with revenue sharing funds after January 1, 1977. The emphasis has

always been placed upon program accessibility. Those facilities constructed before January 1, 1977, as well as constructed before January 1, 1977, as well as construction projects commenced before that time, need only be made accessible if the programs and activities conducted therein are not accessible and cannot be made accessible in any other way.

Accessibility, however, can be achieved in many ways which do not require modification of the structure of the facility. For example, a public hearing held in a building not accessible to the handicapped can be made accessible by moving it to another building. Where a building does not have an elevator, inaccessible programs and activities conducted on other floors could be moved to the first floor. A new § 51.55(k)(2)(ii) entitled "Methods", sets forth other examples of methods to make programs and activities accessible without structural changes to facilities.

Proposed § 51.55(i), "Exception for small recipient governments", is redesignated § 51.55(k)(3). This subsection is a part of the continuing effort to take into account the burden of compliance on small recipient governments. Several comments were received, which objected that the exception for small recipient governments was not drawn narrowly enough and should apply only to certain types of services provided by small recipient governments. That approach is not feasible because the financial assistance provided by the Office of Revenue Sharing is open-ended in nature in that it is given directly to governments, not specific programs. Further, the recipients of revenue sharing funds are general purpose governments, except for the separate law enforcement officers of the State of Louisiana, Indian tribes and Alaskan native villages, all of which provide certain minimum services. The Director, therefore, declines to accept this comment. The comments also suggested that the regulation should specifically provide that the cost of providing the service would not be born by the handicapped individual. The Director agrees with these comments and § 51.55(k)(3) is proposed to be amended to provide that the handicapped individual may be referred to other providers of the service at no additional cost to the handicapped individual.

A new § 51.55(k)(4), "Time periods," is proposed in response to comment that time limits should be set within which recipient governments must make their programs and activities accessible. Paragraph 51.55(k)(4)(i) is based upon

§ 84.22(d) of the HEW regulations and provides that a recipient government shall comply with this section within 60 days from the effective date of the regulations unless structural changes are required, in which case three years are allowed. Paragraph (k)(4)(ii) was added because the time limits for transportation systems set forth by the Department of Transportation will be different from those for facilities in general. HEW has determined that the problems with making transportation systems accessible are sufficiently serious to justify the extended time period.

Several comments were received, which objected to the fact that the proposed rule did not require the development of a transition plan in situations where structural changes are required. The Director agrees that such a plan should be required. A new § 51.55(k)(5) is therefore proposed to require a recipient government to develop a transition plan within one year from the effective date of the regulation, and sets forth the steps to be taken to complete the necessary changes. A time period of one year is set to correspond with the time period for the self-evaluation (§ 51.55(c)) which can be undertaken at the same time.

A new § 51.55(k)(6), is proposed to require recipient governments to notify the general public of the availability and location of particular services and activities which are accessible to the handicapped.

Proposed § 51.55(j) of the original proposed rule, "New construction", has been redesignated § 51.55(k)(7) and amended by deleting the definition of commencement of a construction project which is now provided in a separate subsection discussed below.

Proposed § 51.55(k), "Alterations," is redesignated § 51.55(k)(8).

One comment suggested that the accessibility requirements should also apply to facilities newly leased with revenue sharing funds after January 1, 1977. The Director agrees that new leases should be covered. It seems clear, however, that to add such a requirement to leases of long standing, which will soon be due for renewal, would be unfair. A new § 51.55(k)(9), is therefore proposed, which provides that facilities newly leased after the effective date of this section, shall be classified as new facilities and are subject to the same accessibility requirements as those facilities owned by recipient governments.

Several comments were received, which objected that the proposed rule did not reference any standards which recipient governments should follow to

make new facilities accessible. The Director agrees that recipient governments need the additional guidance provided by the American National Standards Institute (ANSI). A new § 51.55(k)(10) is proposed, which provides that the design, construction or alteration of facilities in compliance with the ANSI standards, will satisfy the requirements of this section.

When the Revenue Sharing Act was amended to include discrimination against the handicapped, Congress also provided an exception for construction projects, which commenced prior to January 1, 1977. One comment suggested that this exception exempts all facilities, the construction of which was begun or completed before January 1, 1977. The Director believes that this is too broad a view of the exception. The emphasis must again be placed on program accessibility. The exception exempts "construction projects" commenced or completed before January 1, 1977, but only if the programs and activities conducted in the facilities are determined not to have been funded with revenue sharing funds or are otherwise accessible. The exception only exempts "construction projects" funded with revenue sharing funds, which are commenced or completed prior to January 1, 1977. Programs and activities funded with revenue sharing funds, however, must still be accessible to the handicapped as provided in this section. A new § 51.55(k)(11), is proposed to explain the application of the exception. New § 51.55(k)(12) is proposed to establish the date on which a construction project is deemed to be commenced, that date is the date when the recipient government obligated itself by contract for the physical construction of the project.

Section 51.56 Discrimination on the Basis of Age. The 1976 amendments added the prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (Pub. L. 95-488).

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The definition of Federal financial assistance specifically includes revenue sharing. The Act also contains certain exceptions that permit, under limited circumstances, continued use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age. The Age Discrimination Act requires HEW, as lead agency, to issue government-wide regulations, which each Federal agency with age discrimination responsibility

would use as a basis for the development of agency specific regulations.

HEW published final government-wide regulations on June 12, 1979 (45 CFR part 90, 44 FR 33708). The Age Discrimination act and the HEW government-wide regulations require the ORS to publish proposed and then final agency-specific regulations consistent with the government-wide regulations. This proposed rule is the first step in that process.

HEW government-wide regulations (45 CFR Part 90)

The government-wide regulations define certain terms and set standards for determining what is age discrimination under the Age Discrimination Act of 1975, and sets forth exceptions to the general prohibitions, all of which other Federal agencies must include in their agency-specific regulations. The Director may not use different definitions and standards than those in the government-wide regulations. Therefore, the Director asks that comments be directed solely to the new material in the ORS' agency-specific regulations. ORS will only respond to comments on the procedural requirements established by the final, government-wide regulations. The ORS' proposed age discrimination regulation is based upon Subparts A and B of the HEW government-wide regulations, which are repeated as appendix C to the proposed rule.

Procedural Provisions of Age Discrimination Act and HEW Government-Wide Regulations

When the age discrimination prohibition was added to the prohibitions contained in section 122 of the Revenue Sharing Act by the 1976 amendments, the intent of Congress was to make the substantive prohibition enforceable under the procedures set forth in sections 122, 124 and 125 of the Revenue Sharing Act, as amended, rather than procedures set forth in the Age Discrimination Act of 1975. The Revenue Sharing Amendments were passed one year after the Age Discrimination act of 1975. Since both Acts make age discrimination a prohibited practice by recipients of revenue sharing funds, the latter Act should obviously govern where conflict exists regarding procedures. Moreover, it is clear that the Revenue Sharing Act's procedures apply to all other forms of discrimination prohibited by section 122(a), and there is no basis for treating the age discrimination prohibition differently.

The same argument applies to the government-wide regulations issued by HEW to implement the Age Discrimination Act. The enforcement procedures set forth in Subpart D of the HEW government-wide age discrimination regulations are not applicable where revenue sharing funds are involved because the Revenue Sharing regulations have their own enforcement provisions against discriminatory conduct (31 CFR part 51, Subpart E). Substantive provisions of the HEW age discrimination regulations are of course applicable and binding upon the ORS and are the basis of the proposed rule. However, compliance with those provisions is supposed to be achieved under the enforcement provisions of the Revenue Sharing Act and regulations. In the interest of clarity, the regulations are being published as a whole, placing the age and handicapped regulations in the proper context. Except as otherwise provided in section 51.56, those procedures set forth in section 51.52 *et seq.* will govern.

Specifically, provisions of Subpart D of the HEW government-wide regulations conflict in a number of areas with those contained in Subpart E of the revenue sharing regulations currently in effect and as contained in this proposed rule. Subpart E provides an enforcement mechanism for all bases of discrimination (not only age). As discussed later, revenue sharing regulations provide for complaint processing, compliance reviews, submission of required reports, remedial and affirmative action and exhaustion of administrative remedies prior to right of private action. The Revenue Sharing Act provides no authority however, for provisions for alternate funds disbursement or participation in the mediation process, discussed below. Further, the period for exhaustion of administrative remedies is 90 days, as opposed to 180 days under the Age Discrimination Act and regulations. Where the Director determined that provisions contained in the HEW government-wide regulation but not contained in Subpart E were compatible with the provisions of the Revenue Sharing Act and regulations, those provisions were added to the proposed rule. The proposed rule, therefore, provides for the conduct of a self-evaluation. Proposed § 51.52(b), which contains general prohibitions against discrimination would add a prohibition against intimidation or retaliation (§ 51.52(b)(5)) and currently provides for remedial and affirmative action by recipient government (proposed § 51.52(b)(7) and (b)(8) and § 51.61).

Mediation Process

The major inconsistency between the revenue sharing and HEW government-wide regulations is the provision in the latter for the mediation process. The revenue Sharing Act and regulations require the Director to investigate and issue a finding within 90 days after receipt of a complaint alleging discrimination prohibited by the Act. A mediation process allowing 60 days of mediation before the ORS begins its procedures would make it impossible for the ORS to meet the 90-day requirement of the Act.

At the same time, however, we agree that mediation would be a reasonable and efficient method of resolving many age discrimination complaints before they enter the formal compliance process. The Director, therefore, proposes that the mediation process be offered on a voluntary basis i.e., the complainant may agree to submit the age discrimination complaint to the mediation process before the formal ORS process begins. The time limitations contained in the Revenue Sharing Act and regulations were provided by Congress for the benefit of the complainant. It, therefore, appears reasonable to give complainants the option of selecting mediation and thereby delaying the ORS process or not. The Director would strongly recommend to complainants that they opt for mediation because of the likelihood that potential complaints would be resolved in a quicker and less adversarial manner.

The ORS formal administrative process will not be deemed to begin until a complaint submitted to mediation has been returned to the ORS unresolved. Prior to being returned to the ORS, the allegations will be designated a claim as opposed to a complaint. If the complainant agrees to mediation, a claim would only become a complaint for revenue sharing purposes, after mediation failed and FMCS had notified ORS. The Director specifically requests comments upon the question of ORS use of a voluntary mediation process, particularly from potential complainants.

Discussion of Important Requirements and Examples

HEW, as part of the preamble on its proposed agency specific regulations, sets out important requirements and examples of their application to HEW recipients. Since departments and agencies of recipient governments are frequently recipients of HEW funds that section is also helpful to Revenue Sharing recipient governments.

Accordingly, the discussion is attached as appendix C.

Effective date

It is the position of HEW that the effective date of the age discrimination prohibition begins with the effective date of the final HEW government-wide regulations, July 1, 1979. The ORS proposed age discrimination regulations are, therefore, drafted with July 1, 1979, as the effective date. Until final revenue sharing age discrimination regulations are issued, complaints received after that date will be processed pursuant to the government-wide regulations with respect to the substantive prohibitions, but pursuant to the existing procedures under Subpart E of the revenue sharing regulations. Complainants should state in their complaints whether they wish to use the mediation option. The exhaustion of administrative remedies under section 124 of the Revenue Sharing Act, will occur within 90 days after the filing of the complaint by the complainant after July 1, 1979.

Section 51.59 Assurances required; compliance information and reports. On July 24, 1978 (43 FR 31927) § 51.59(a), was amended in interim form to eliminate the requirement that the copy of a holding to be submitted to the Director be certified. This amendment remains in the proposed rule. Proposed § 51.59(b), "Constructive waiver of entitlement payment," applies the constructive waiver process to failure by recipient governments to submit assurances they will comply with the provisions of Subpart E. This section parallels proposed § 51.3(c), which establishes the same procedure for enforcing the assurance requirement with respect to provisions other than Subpart E. Proposed § 51.6(c), "Constructive waiver," adds the same provision with respect to the submission by recipient governments of compliance information and reports.

Section 51.61 Compliance reviews and affirmative action. The proposed rule is completely revised to provide more specificity concerning what a compliance review will consist of. The regulation is modeled after that of the Law Enforcement Assistance Administration of the Department of Justice (28 CFR 42.206) to enforce the Crime Control and Safe Streets Act of 1976.

Proposed § 51.61(b) "Affirmative action" would remove the reference to the guidelines of the Equal Employment Opportunity Coordinating Council, which no longer exists. The Equal Employment Opportunity Commission has recently published Affirmative Action Guidelines, which supersede

those of the Coordinating Council. Accordingly, the Director proposes to include these guidelines as an appendix to provide additional guidance.

Section 51.62 Administrative complaints and investigations. Proposed § 51.62(b) "Investigations" amends the interim regulation to clarify that the ORS will investigate administrative complaints, which allege a discriminatory practice which, if true, would violate the Act. Information, other than complaints, either generated within or outside of the ORS may also be the source of an investigation. The proposed rule also provides that the Director may defer to the Attorney General in appropriate cases. The subsection, in conjunction with § 51.69(c), serves as the basis for a cooperative agreement with the Department of Justice. The proposed rule also provides that the scope of an investigation is not limited to the complaint or other information on which it is based, but may be expanded to include other matters.

Section 51.64 Notification of noncompliance. Proposed §§ 51.64 and 51.65 combine interim §§ 51.62, 51.65, 51.67 and 51.69 and generally reorganize the provisions describing the procedures for effecting compliance.

Proposed § 51.64(a) provides that after an investigation or receipt of a determination of a State administrative agency, the Director shall make a finding that it is more likely than not that the recipient government has failed to comply with the provisions of this subpart if warranted. The Director shall within ten days of making a finding, issue a notice of noncompliance to the recipient government and inform the government that it has 30 days to enter into compliance, provide evidence to demonstrate compliance, or prove by clear and convincing evidence that revenue sharing funds were not used to fund the particular program or activity, or else a determination of noncompliance will be issued.

Proposed § 51.64(b) provides that within 10 days after receipt of a holding, the Director shall notify the recipient government of the holding and that the holding is conclusive on the issue of discrimination. The notice of noncompliance shall further inform the recipient government that it has 30 days to enter a compliance agreement or prove lack of funding by clear and convincing evidence, or else a determination of noncompliance will be issued.

Proposed § 51.64(b)(2) provides that where the remedial order issued on which the holding is stayed by a court, the stay will not affect action by the

Director unless the ORS is specifically included in the stay.

Section 51.65 Determination of noncompliance. This section covers the action to be taken by the Director if the recipient government fails to enter into compliance after receipt of notification of noncompliance. Once a determination of noncompliance is issued, the recipient government has ten days to enter a compliance agreement, prove by clear and convincing evidence that the program or activity complained of was not funded with revenue sharing funds or request a hearing. If the recipient government does not take any of these actions within the 10-day period, the payment of revenue sharing funds to that government will be suspended until a compliance agreement is concluded. Section 51.65(b)(3) provides that administrative action based upon a holding will be discontinued if that holding is reversed by an administrative tribunal.

Sections 51.66, 51.69(c), 51.69, and 51.72 concerning administrative hearing procedures have been placed in appropriate sections of Subpart G.

Section 51.66 Compliance agreement. Proposed § 51.66(a) sets forth the requirements for compliance agreements where the ORS is not directly a party.

Proposed § 51.66(b) provides that in the case of a holding, the remedial order issued pursuant to the holding, if any, will be the basis of a compliance agreement. If there is no remedial order, a compliance agreement will still be concluded and modified if necessary when the remedial order is issued.

Proposed § 51.66(c) sets forth the requirements for a compliance agreement between the Director and a recipient government. It must be in writing and signed by the Director and the chief executive officer. The agreement may, however, consist of a series of documents.

Proposed § 51.66(d) provides that if the Director believes that a recipient government has violated the provisions of the agreement, the Director may issue a determination of noncompliance based upon the alleged violation of agreement. A subsequent administrative hearing would be limited to the issue of whether the recipient government complied with the agreement.

Section 51.67 Resumption of suspended entitlement payments. This section remains unchanged except that the word "may" is replaced with "shall" since the Director has no discretion to continue to withhold revenue sharing funds if one of the events described occurs.

Section 51.69 Agreements between agencies. The proposed rule would amend this section to describe with greater specificity what a cooperative agreement with a Federal or State agency may include.

Section 51.70 Jurisdiction over property. The proposed rule would amend this section to reflect the fact that jurisdiction over property is not restricted to specific programs and activities. ORS jurisdiction over a recipient government was amended by the 1976 amendments to section 122 of the Act to cover all property unless the government proves by clear and convincing evidence that revenue sharing funds were not spent for the particular property or in the program or activity concerned.

Interim § 51.74 "Authority of the Attorney General of the United States" is deleted from the proposed rule. The subsection restated section 122(g) of the Act, which does not contain any matter to be regulated by the ORS.

Coordination with the Equal Employment Opportunity Commission Pursuant to Executive Order 12067

Consistent with the underlying purpose of Executive Order 12067, the ORS submitted Subpart E of the proposed regulation to EEOC for review. The following item has been recommended for inclusion in the proposed regulations and will be addressed in the final regulations (other changes have already been incorporated in the proposed regulation):

Prefindings. In order to promote early compliance in a case disclosing evidence of noncompliance, the ORS has established an informal procedure in which a prefinding letter is issued. The prefinding letter is issued prior to the notice of noncompliance. The letter presents the information relevant to the alleged noncompliance and provides the recipient government with an opportunity to present preliminary evidence refuting the prefinding letter's indications and noncompliance. The procedure is not statutory and used at the discretion of the manager of the Civil Rights Division. The issuance of a prefinding letter has, therefore, not been included in the regulation as a formal step in the ORS enforcement process.

The EEOC recommends that the prefinding process be described in the appropriate sections of Subpart E. Consideration will be given to additional comments on this matter.

Subpart F—Fiscal Procedures and Auditing

This subpart is reorganized to take the definitions contained in final §§ 51.101

"Auditing and evaluations," and 51.2, general definitions, and create a new definition § 51.100. Sections 51.100(a) and (b) would add the only new definitions. The definitions of "compliance" and "financial audit" reflect the current operating procedure of dividing the single independent audit requirement into two separate audits, a financial audit of all of a recipient government's funds and a compliance audit to determine that revenue sharing funds were spent in compliance with the provisions of the Act. The provisions of the Act referred to include the nondiscrimination provisions of Section 122; public participation requirements of Section 121, the prohibition against the use of revenue sharing funds for lobbying purposes and the requirements in section 123(a) that revenue sharing funds be spent in accordance with State and local law.

Section 123(c) of the Act requires and "independent audit of [a recipient government's] financial statements conducted for the purpose of determining compliance [with the Act] in accordance with generally accepted auditing standards not less often than once every three years." For the sake of convenience, this audit is being performed separately as a financial audit and a compliance audit. The proposed rule merely reflects this current operating practice.

Section 51.101 Procedures applicable to the use of funds. The proposed rule would make only one minor change to this section. Proposed § 51.101(c) would specify that State and local laws and procedures must be followed in the expenditure of revenue sharing funds except where they conflict with Federal law which of course includes the provisions of the Revenue Sharing Act.

Section 51.102 Auditing and evaluations. Section 51.102(a) of the proposed rule would include a reference to the separation of the single audit requirement into a financial audit and a compliance audit, as discussed above. Proposed § 51.102(b) would eliminate the requirement that a recipient government submit a written assurance in order to elect to follow State or local law. The section would also add a new subsection to clarify that a compliance audit is still required if a recipient government elects to follow State or local law in the performance of an audit.

Proposed § 51.102(c) would make it clear that where a recipient government is required by State or local law to conduct an audit, though exempted from the requirement by the Act, that audit must be performed. As stated above, § 51.101(c) requires the expenditure of

revenue sharing funds in accordance with the laws and procedures applicable to the expenditure of a recipient government's own funds unless that State or local law conflicts with Federal law. Additional requirements which go beyond the requirements of the Revenue Sharing Act would not be considered conflicting. As stated in Section 123(c) of the Act, the performance of a locally required audit will be considered compliance with the Revenue Sharing Act. The audit performed pursuant to this subsection need not be submitted to the ORS, but shall be made available upon request by the Director.

Proposed § 51.102(d) would provide that a recipient government using the series of audits approach may perform the compliance audit for any one of the three fiscal years.

Section 51.103 Waiver of audit requirement where financial accounts are unauditale. The proposed rule would amend this section to eliminate the requirements that the request for the waiver be submitted before March 31, 1978.

Section 51.107 Scope of audits. The proposed rule would amend this section to clarify that the scope of audits include all of the financial statements for each separate fund. The section would further add the *Statements on Auditing Standards* as an additional guide for the type of audit to be conducted. Section 51.107(c) would clarify what the financial statement consists of.

Subpart G—Proceedings for Reduction in Entitlement, Withholding, Suspension, or Repayment of Funds

This subpart has been revised to differentiate between the requirements for administrative hearings concerning violations of subpart E and those concerning subparts B, D, and F. Section 122 of the Revenue Sharing Act sets forth the hearing procedures for nondiscrimination violations. Section 123(b) sets forth the hearing procedures for violations of the provisions of the Act other than section 122. The current subpart G does not make it clear where the two procedures are the same and where they differ. In the interest of consistency, the administrative hearing procedures contained in current subpart E are added to proposed subpart C. Unless otherwise specified the procedures described in this subpart apply to both types of hearings.

Section 51.202 Reasonable notice and opportunity for hearing. Proposed § 51.202 states that provisions for repayment, withholding, or reduction in revenue sharing payments apply to violations of the provisions of subparts

B, D, and F, while provisions for suspension or termination of the payment of revenue sharing funds apply to violation of the provisions of subpart E.

Section 51.203 Opportunity for compliance. Proposed § 51.203 is amended to reference the provisions pursuant to which a recipient government will be given the opportunity to enter into compliance prior to the initiation of an administrative hearing.

Section 51.204 Institution of an administrative hearing. The proposed rule provides for the institution of an administrative hearing. A hearing instituted under the provisions of subpart E differs from the hearing instituted under other provisions because it is instituted by the Director only after the request of the recipient government and is required under section 122(b)(3)(A) to be instituted within 30 days of receipt of the request by the Director.

Section 51.205 Complaint for administrative hearing; Section 51.206 Service of complaint and other papers. The proposed rule would amend these sections to point out the shortened time frames under which complaints and answers for hearings under subpart E must be filed pursuant to section 122(b)(3)(A). Section 51.205 provides that for hearings under subpart E the complaint must require that the answer be filed within 10 days of receipt of the complaint by the recipient government. Section 51.206 requires that for hearings under subpart E the complaint must be served upon the recipient government within seven days of receipt of the request for a hearing from the recipient government.

Section 51.211 Administrative hearings. This section would set forth the procedures under which an administrative hearing is conducted. Proposed Section 51.211(b) is based upon current Sections 51.66 and 51.68 of subpart E.

Section 51.214 Depositions. The proposed rule would amend this section to provide for the taking of depositions in a shorter time period for hearings under the provisions of subpart E. The summary hearing pursuant to proposed § 51.211 must commence within 30 days of the request for an administrative hearing by the recipient government.

Section 51.217 Preliminary finding (for hearings under subpart E). Proposed § 51.217 sets forth the provisions currently contained in § 51.66 of the interim regulations concerning actions to be taken by the Director after a summary hearing under the provisions of subpart E.

Section 51.218 Initial decision of the administrative law judge. The proposed rule would amend this section to clarify the contents of the decision of the administrative law judge. The administrative law judge's decision is not to include the remedy for noncompliance. The decision merely sets forth the findings of fact and conclusions of law and whether the recipient government has failed to comply with the provisions of the Act.

Section 51.221 Procedure or review of decision of administrative law judge. The proposed rule removes the restriction in current § 51.221(b) that the Director appeal only in absence of appeal by respondent. Proposed § 51.221(b) would add a new provision to state that the Secretary of the Treasury may review the decision of the administrative law judge absent appeal by either party. Current § 51.222 is proposed to be added to this section as a new § 51.221(c). The subsection would provide that the Secretary's decision is the final agency decision.

Section 51.222 Effect of absence of appeal or review of initial decision of administrative law judge. The proposed rule would add a new section to clearly state that the initial decision of the administrative law judge becomes the final agency decision if not appealed by either party or reviewed by the Secretary.

Section 51.223 Effect of order of repayment, withholding of funds or suspension of funds. The proposed rule would describe the remedial orders which may be issued by the administrative law judge after an administrative hearing. Paragraphs (e) and (d) are currently contained in § 51.69 (b) and (c) of the interim regulation.

Section 51.225 Judicial review. The proposed rule would amend this section to provide that the Director may cross-appeal issues decided adversely to the ORS unless those issues were ruled upon directly by the Secretary.

Written Comments solicited

The Director solicits comments on the complete set of revenue sharing regulations or any of its individual parts. Comments on age and handicap regulations will be particularly useful and are specifically requested.

Regulatory Analysis

Section 3 of Executive Order 12044, *Improving Government Regulations*, requires a regulatory analysis for "significant regulations which may have major economic consequences for the general economy, for individual industries, geographic regions or levels

of governments." The Treasury Department has determined (pursuant paragraph 13 of the Treasury Department implementation of the Executive Order, 43 FR 52120) that the overall revisions of the regulations, being primarily technical and procedural will not have an impact on the public of \$100 million or more and therefore will not require a regulatory analysis. With respect to § 51.56, "Discrimination on the basis of age," the Treasury Department has determined the economic consequences flow directly from the Age Discrimination Act and the Revenue Sharing Act and the cost of implementation will not have an impact on the community of \$100 million or more. Accordingly, Treasury has concluded that a regulatory analysis is not required for age discrimination.

With respect to § 51.55, discrimination with respect to an otherwise qualified handicapped individual, this regulation was in the process of active preparation before May 22, 1978, and the provisions of Executive Order 12044 "Improving Government Regulations" and the Treasury Department implementation thereof are not technically applicable. Because of the potential costs, however, a regulatory analysis may still be prepared. The issue is still under review within the Department and the Director has decided to request comments concerning the need for such an analysis. The analysis prepared by the Departments of HEW and Transportation are likely to have general applicability to the costs to recipients of revenue sharing funds because they fund many of the same kinds of programs. As with age discrimination, the economic consequences flow directly from the statute, in this case Executive Order 11914, "Nondiscrimination On The Basis of Handicap In Federally Assisted Programs." Accordingly, the Director preliminarily takes the position that a regulatory analysis need not be prepared.

Authority

This proposed rule is issued under the authority of the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512), as amended by the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488), the Age Discrimination Act of 1975, as amended, and section 504 of the Rehabilitation Act of 1973, as amended (Pub. L. 93-112) and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342) as amended, by Treasury Department Order No. 242 (Revision No. 1) dated May 17, 1977.

21 CFR Part 51, is therefore proposed to be revised in the manner set forth below:

Kent Peterson,
Acting Director, Office of Revenue Sharing,
Roger C. Altman,
Assistant Secretary (Domestic Finance),
December 21, 1979.

PART 51—FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

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Sec.

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- 51.21 Data affected by a major disaster.
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- 51.41 Permissible expenditures for units of local government.
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- 51.52 Discrimination prohibited.
- 51.53 Employment Discrimination.
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- 51.58 Discrimination on the basis of religion.
- 51.59 Assurances required.
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- 51.61 Compliance reviews and affirmative action.

- 51.62 Administrative complaints and investigations.

- 51.63 Notification to the complainant.
- 51.64 Notification of noncompliance.
- 51.65 Determination of noncompliance.
- 51.66 Compliance agreements.
- 51.67 Resumption of suspended entitlement funds.

- 51.68 Exhaustion of administrative remedies.

- 51.69 Agreements between agencies.
- 51.70 Jurisdiction over property.

Subpart F—Fiscal Procedures and Auditing

- 51.100 Definitions.
- 51.101 Procedures applicable to the use of funds.
- 51.102 Auditing and evaluation.
- 51.103 Waiver of audit requirements where financial accounts are unauditable.
- 51.104 Audit of secondary recipients.
- 51.105 Reliance upon audits under other Federal laws.

- 51.106 Audit opinions.
- 51.107 Scope of audits.
- 51.108 Retention of audit workpapers.
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Subpart G—Proceedings for Reduction in Entitlement, Withholding, Suspension, or Repayment of Funds

- 51.200 Scope of subpart.
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- 51.225 Judicial review.

Authority: State and Local Assistance Act of 1972, Pub. L. 92-512), as amended by the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488), the Age Discrimination Act of 1975, as amended, and section 504 of the Rehabilitation Act of 1973, as amended (Pub. L. 93-112) and Treasury Department Order No. 224, dated January 26, 1978 (38 FR 3342) as amended by Treasury Department Order No. 242 (Revision No. 1) dated May 17, 1977.

Subpart A—General Information

§ 51.0 Scope and application of regulations.

(a) *In general.* The rules and regulations in this subpart are prescribed for carrying into effect the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512) applicable to entitlement periods beginning January 1, 1973 and the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) applicable to entitlement periods beginning January 1, 1977. Subpart A of this part sets forth general information and definitions of terms used in this part. Subpart B of this part prescribes the reporting, public hearing and publication requirements under this part. Subpart C of this part contains rules regarding the computation, allocation and adjustment of entitlements. Subpart D of this part prescribes prohibitions and restrictions on the use of funds. Subpart E of this part contains the nondiscrimination provisions applicable to programs funded by recipient governments which receive revenue sharing funds. Subpart F of this part prescribes fiscal procedures and auditing requirements. Subpart G of this part contains rules relating to procedure and practice requirements where a recipient government has failed to comply with any provision of this part.

(b) *Effect on pending cases.* The procedural provisions of the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) and regulations promulgated thereunder shall apply to all pending administrative proceedings,

including cases commenced by complaints filed prior to January 1, 1977.

§ 51.1 Establishment of Office of Revenue Sharing.

There is established in the Office of the Secretary of the Treasury the Office of Revenue Sharing. The office shall be headed by a Director who shall be appointed by the Secretary of the Treasury. The Director shall perform the functions, exercise the powers and carry out the duties vested in the Secretary of the Treasury by the State and Local Fiscal Assistance Act of 1972, Title I, Public Law 92-512 as amended by the State and Local Fiscal Assistance Amendments of 1976, Public Law 94-488. A reference to the individuals in the feminine or masculine gender shall not be construed to exclude either gender.

§ 51.2 Definitions.

As used in this part (except where the context clearly indicates otherwise, or where the term is otherwise defined elsewhere in this part) the following definitions shall apply:

(a) "Act" means the State and Local Fiscal Assistance Act of 1972, Title I of Public Law 92-512, approved October 20, 1972 as amended by the State and Local Fiscal Assistance Amendments of 1976, Public Law 94-488, approved October 13, 1976, (31 U.S.C. 1221, *et seq.*, as amended).

(b) "Chief executive officer" of a unit of local government means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality, the elected county executive of a county, the chairman of a county commission or board in a county that has no elected county executive, the township supervisor, trustee, first selectman, chairman, city manager, or such other official as may be designated pursuant to law by the duly elected governing body of the unit of local government; or the chairman, governor, chief or president (as the case may be) of an Indian tribe or Alaskan native village.

(c) "Department" means the Department of the Treasury.

(d) "Director" means the Director of the Office of Revenue Sharing.

(e) "Entitlement" means the amount of payment to which a State government or unit of local government is entitled as determined by the Director pursuant to an allocation formula contained in the Act and as established by regulations under this part.

(f) "Entitlement funds" means the amount of funds paid or payable to a State government or unit of local government for the entitlement period.

(g) "Entitlement period" means one of the following periods of time:

(1) The 6-month period beginning January 1, 1973, and ending June 30, 1973.

(2) The fiscal year beginning July 1, 1973, and ending June 30, 1974.

(3) The fiscal year beginning July 1, 1974, and ending June 30, 1975.

(4) The fiscal year beginning July 1, 1975, and ending June 30, 1976.

(5) The 6-month period beginning July 1, 1976, and ending December 31, 1976.

(6) Entitlement Period Eight is the 9-month period beginning January 1, 1977, and ending September 30, 1977.

(7) Entitlement Period Nine is the fiscal year beginning October 1, 1977, and ending September 30, 1978.

(8) Entitlement Period Ten is the fiscal year beginning October 1, 1978, and ending September 30, 1979.

(9) Entitlement Period Eleven is the fiscal year beginning October 1, 1979, and ending September 30, 1980.

(h) "Funded" means funds have been or are being made available for expenditure in or substantially benefited a program or activity of the recipient government or a secondary recipient.

(i) "Governor" means the Governor of any of the 50 States or the Mayor of the District of Columbia.

(j) "Indian tribes and Alaskan native villages" means those Indian tribes and Alaskan native villages which have a recognized governing body and which perform substantial governmental functions. Certification to the Director by the Secretary of the Interior (or by the Governor of a State in the case of a State affiliated tribe) that an Indian tribe or an Alaskan native village has a recognized governing body and performs substantial governmental functions, shall constitute prima facie evidence of that fact.

(k) "Lobbying" means the personal solicitation or exercise of personal influence upon members of a legislative body by representatives of the recipient government for the purpose of influencing pending or proposed legislation regarding the provisions of the Act.

(l) "Program or activity" means the operations of the agency or organizational unit of a recipient government or the operations or organizational unit of a secondary recipient (examples include but are not limited to a police department, department of corrections, health department, or a division of a public or private corporation).

(m) "Recipient government" means a State government or unit of local government as defined in this section, Indian tribe, Alaskan Native Village, or the office of the separate law enforcement officer for any parish in the State of Louisiana other than the Parish of Orleans which directly receives entitlement funds.

(n) "Secondary recipient" means: (1) any State government, unit of local government, any political subdivision of any State or local government, any public or private agency, institution, organization or other entity which receives entitlement funds, in whole or in part, from a recipient government either:

(i) by a contract or other arrangement pursuant to which such other entity shall conduct, deliver or otherwise participate or assist in the conduct or delivery of a program or activity of the recipient government, including construction projects or;

(ii) by a grant or other arrangement with the recipient government intended to provide financial assistance to such other entity under a program or activity.

(2) "Secondary recipient" shall not include any other private or governmental entity from which a recipient government only acquires real or personal property (e.g. supplies, equipment and materials) by such means as purchasing, renting, leasing, or bartering. Secondary recipient also shall not include persons who are the ultimate beneficiaries of a recipient government's programs or activities.

(c) "Secretary" means the secretary of the Treasury.

(p) "State government" means the government of any of the 50 States or the District of Columbia.

(q) "Unit of local government" means the government of a county, municipality, or township, which is a unit of general government and which shall be determined on the basis of the same principles as used by the Bureau of the Census for general statistical purposes. The term "unit of local government" shall also include the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions. The District of Columbia, in addition to being treated as a State, shall also be treated as a county area which has no units of local government (other than itself) within its geographic area.

§ 51.3 Procedures for effecting compliance for violations of provisions other than subpart E.

(a) *Investigations.* (1) Within 180 days of receipt of an administrative

complaint, audit report or other information relating to possible violation of the provisions of this part (other than subpart E), the Director shall complete an investigation and issue a finding.

(2) The scope of the investigation is not necessarily limited to the administrative complaint or other information but may be expanded to include any matters under the Act either discovered during the investigation or reasonably flowing from said administrative complaint or other information.

(b) *Compliance review or audit.* The Director may periodically conduct audits or reviews of compliance with the provisions of the Act (other than subpart E) which shall be completed within 180 days after initiation.

(c) *Finding by the Director.* After the completion of an investigation, compliance review or audit, the Director shall issue a finding as to whether the recipient government has complied with the provisions of the Act. After the issuance of a finding, the Director shall provide the appropriate notice(s) of noncompliance and make appropriate efforts to secure compliance.

(d) *Opportunity for hearing.* If a recipient government fails to enter into compliance after receipt of appropriate notice(s) of noncompliance, the Director shall initiate an administrative hearing pursuant to the provisions of subpart G of this part.

(e) *Constructive waiver of entitlement payments.* The failure of a recipient government to comply with the assurance and reporting requirements of subpart A, which include response to specific requests for information concerning possible violations of the Act, shall result in the determination that one or more of the entitlement payments to the recipient government for a particular entitlement period is constructively waived pursuant to § 51.25(b) of this part. The constructive waiver shall not be subject to the procedure for effecting compliance set forth in paragraph (a) of this section.

§ 51.4 Transfer of entitlement funds to secondary recipients.

Any prohibitions, restrictions and requirements set forth in subparts D, E, and F of this part that are applicable to a recipient government's use and expenditure of entitlement funds are also applicable to the expenditure of entitlement funds transferred to a secondary recipient by the primary recipient government. Any failure by a secondary recipient to comply with any provision of subparts D, E, and F shall constitute noncompliance with such

subparts by the primary recipient government and the Director shall effect compliance by taking appropriate enforcement action against the recipient government.

§ 51.5 Time periods.

(a) *Effect on notice.* Time periods that begin with the date of an event, such as the making of a determination by the Director or a request for a waiver by a recipient government, shall begin with the date of the receipt of notice of the event.

(b) *Time periods of ten (10) days or less.* References to time periods of ten (10) days or less shall be to working days unless otherwise specified. References to time periods of more than ten (10) days shall be to calendar days unless otherwise specified.

§ 51.6 Effect of State or local law.

Any State or local law, ordinance or regulation that substantially impedes compliance by a recipient government with the provisions of this part, shall be inoperative to the extent necessary to achieve such compliance or remedy.

§ 51.7 Applicability of other Federal laws.

Except as otherwise provided in the Act or this part, entitlement funds are not subject to Federal civil laws applicable only to Federally assisted programs or to Federal grants, loans or contracts. The Criminal Code of the United States (title 18, U.S.C.) shall be applicable to all criminal offenses relating to the expenditure, accounting or reporting of entitlement funds by a recipient government receiving such funds under the Act or this part.

Subpart B—Assurances, Reports, Public Participation and Public Hearings

§ 51.10 Definitions.

As used in this subpart (except where the context clearly indicates otherwise) the following definitions shall apply:

(a) "Budget" means a plan for the overall allocation of funds, including entitlement funds, by a recipient government to various purposes during a specified fiscal period in accordance with its State or local law and procedure. A recipient government that does not formally adopt or enact such a plan, shall be deemed to have adopted or enacted a budget for purposes of this subpart when it has adopted or enacted a resolution, ordinance, or appropriation act, or taken other action dedicating, setting aside, or otherwise designating entitlement funds for a particular purpose or use.

(b) "Budget summary" means categories of expenditures for

entitlement funds and general funds classified by major function and activity in accordance with the recipient government's State or local laws and procedures. Where there is no State or local law or procedure prescribing the expenditure classifications, the recipient government shall use the classifications of the Bureau of the Census.

(c) "Enacted" means, in the budget context, the act of final adoption, ratification, confirmation or other action with respect to an approved budget that makes the budget the official expenditure authorization of the recipient government. Where a State board or agency has statutory authority to review or approve the budget of a unit of local government, enacted means the final action of the unit of local government.

(d) "Fiscal year" means the 12-month period or other fiscal period on the basis of which the recipient government operates.

(e) "Executive authority" means the chief executive officer or other elected or appointed officials of the recipient government whose statutory responsibility is to assemble budget data and prepare the budget document for presentation to the legislative body for enactment or approval.

(f) "Legislative body" means the elected official or officials of the recipient government who have the primary legal responsibility for enacting the budget.

(g) "Presented" means, in the budget context, the submission of a proposed budget to the legislative body having primary legal responsibility for enacting the budget of a recipient government.

(h) "Public hearing" means an open public meeting called by a recipient government to provide all citizens with an opportunity to offer written and oral comments regarding the subject to be discussed. A public hearing required under this subpart may be held concurrently with other meetings held by the recipient government for public purposes (such as town meetings, budget sessions and other regular meetings), provided that the recipient government complies with the public notice requirements of this subpart.

(i) "Publication" means giving notice or advising the public, and making information known to the citizens of the recipient government.

(j) "Use report" means a report required by the Director from each recipient government showing the amounts and purposes for which entitlement funds have been used.

§ 51.11 Reports to the Director; assurances; procedure for effecting compliance.

(a) *In general.* The Director may require each recipient government to submit such annual and interim reports as may be necessary to provide a basis for evaluation and review of compliance with, and effectiveness of, the provisions of the Act and regulations of this part.

(b) *Requisite assurances for receipt of entitlement funds.* In order to qualify for entitlement funds for an entitlement period, the chief executive officer of each recipient government, when requested by the Director, shall file a Statement of Assurances on a form to be provided. The Statement of Assurances will state the recipient government's intention to comply with specified requirements, prohibitions and restrictions of the Act and of Subparts D, E, and F of this part, with respect to the use of entitlement funds. The Director will afford the Governor of each State an opportunity for review and comment to the Office of Revenue Sharing on the adequacy of the assurance by units of local government, other than Indian Tribes and Alaskan native villages, located in his State.

(c) *Procedure for effecting compliance.* (1) If a recipient government fails to comply with the public participation requirement of this subpart, the Director shall apply the procedures for effecting compliance set forth in § 51.3 of subpart A and hearing procedures of subpart G of this part.

(2) The failure of the recipient government to comply with the assurance and reporting requirements of this part shall result in the implementation of the pertinent constructive waiver provisions of § 51.25(b) of subpart C of this part.

§ 51.12 Use reports.

(a) *In general.* Each recipient government shall submit a report to the Director (or to the Bureau of the Census or other agency that the Director may designate) setting forth the amounts and purposes for which entitlement funds have been appropriated, spent or obligated during its fiscal year. Such report shall also show the relationship of the entitlement funds to the relevant functional items in the recipient government's budget and shall identify differences between actual use of entitlement funds and the use of such funds as planned in the enacted budget. The report shall be filed on the form prescribed and approved by the Director and shall be submitted within the requested time period. Failure to file the report as prescribed by the Director may

jeopardize future entitlement payments pursuant to § 51.3(c) of this part.

(b) *Public inspection.* A copy of the use report and documentation necessary to support it shall be made available for public inspection. Within 10 days after the use report is filed, this information shall be placed at the principal office of the recipient government for public inspection during normal business hours. Where feasible, local public libraries and other public buildings should be used also. If the recipient government has no principal office, the report and supporting documentation shall be made available for public inspection at a public place or places within the political boundaries of the recipient government to satisfy the requirements of this paragraph.

(c) *Notice of availability of use reports.* The recipient government shall publish notice which indicates that the actual use report is available for public inspection. Such notice shall be published within 10 days of the filing of the report with the Director (or other designated agency) and specify the location(s) and hours during which the report and its supporting documentation are available to the public. Publication of the notice shall be made in a newspaper of general circulation serving the recipient government's geographic area. Where newspaper publication is impractical and infeasible, alternative methods of publication shall be used as provided in § 51.13(c)(2) of this subpart.

(d) *Submission of use reports to Governor.* The Director (or such agency as the Director may designate) shall furnish the reports required under paragraph (a) of this section, except those reports relating to Indian tribes and Alaskan native villages, to the Governor of the State in which a recipient government is located, in the manner and form prescribed by the Director.

§ 51.13 Proposed use hearing.

(a) *In general.* Each recipient government which expends entitlement funds in any fiscal year pursuant to a budget enacted on or after January 1, 1977, shall have at least one public hearing on the possible uses of such funds. At the public hearing, citizens of the recipient government shall have the opportunity to provide the executive authority written or oral comments and suggestions respecting the possible uses of entitlement funds. The public hearing shall be conducted not less than seven calendar days before the budget is presented to the legislative body.

(b) *Public notice.* Notice of the public hearing shall be published in at least one newspaper of general circulation

serving the recipient government's geographic area, no later than 10 days prior to the scheduled date of the hearing. Such notice shall include the date, place, and time of the public hearing, the amount of unappropriated entitlement funds in the recipient government's revenue sharing trust fund, and the amount of entitlement funds which the recipient government expects to receive during its fiscal year. In addition, the notice shall specify that citizens attending the public hearing shall have the right to provide written and oral comments and suggestions respecting possible uses of entitlement funds.

(c) *Waiver of proposed use hearing and notice requirements; alternative method of publication.* (1) The Director, upon written application by the chief executive officer of a recipient government, may grant a waiver of the proposed use hearing requirements for one or more entitlement periods, if it can be determined from the facts submitted that the unavoidable expenses associated with holding the public hearing would exceed fifteen (15) percent of the recipient government's entitlement. A cost estimate of the unavoidable expenses must accompany the waiver application. For purposes of this paragraph, "unavoidable expenses" are those incurred in holding the public hearing, such as space, furniture and equipment rentals, overtime compensation, and similar direct costs including the costs of publication of the public notice. The waiver must be requested and approved before the proposed appropriation of entitlement funds occurs.

(2) The newspaper publication requirements for the notice of the proposed use hearing may be waived by the Director upon written application by the chief executive officer of the recipient government. The application shall indicate the circumstances making newspaper publication impractical or infeasible, and provide for an alternative method of notification which informs citizens of the recipient government of the date, place, time, and subject of the public hearing. The waiver must be requested and approved before the proposed appropriation of entitlement funds occurs.

§ 51.14 Budget hearing.

(a) *Budget hearing procedure.* Each recipient government which expends entitlement funds in any fiscal year pursuant to a budget enacted on or after January 1, 1977 shall have at least one public hearing on the government's proposed uses of entitlement funds in relation to its entire budget. The budget

hearing shall be conducted by the legislative body, or the appropriate committee thereof, prior to enactment of the budget. For those recipient governments which have a bicameral legislature, the hearing shall be held before the appropriate committee in each house of the legislature, or before an appropriate joint committee on both houses of the legislature. All citizens of the recipient government shall have a reasonable opportunity to provide written and oral comments, and to ask questions concerning the entire budget and the relationship of entitlement funds to the entire budget. The budget hearing required by this paragraph shall be held at a date, place, and time that permits and encourages public attendance and participation by all citizens.

(b) *Alternative procedures for budget hearing.* A recipient government may use an alternative budget hearing process without obtaining prior approval from the Director if:

(1) The recipient government, pursuant to State or local law, governing the expenditure of its own revenues, is required to have a budget process which includes a public hearing; and that public hearing provides all citizens the opportunity to provide oral and written comments and ask questions concerning the proposed use of all funds, including the use of entitlement funds and their relationship to the entire budget; and

(2) Documentation that the recipient government's alternative budget hearing procedures comply with State or local law shall be made available for public inspection during normal business hours at the principal office of the recipient government and submitted to the Director upon request.

(3) The use of alternative budget hearing procedures for complying with the public hearing requirements of this section does not exempt a recipient government from complying with the public notice requirements of this section relating to the budget hearing.

(c) *Public notice and inspection.* (1) Notice of the budget hearing shall be published in a newspaper of general circulation serving the recipient government's geographic area no later than 10 days prior to the scheduled date of the hearing. Such notice shall specify the date, place, and time of the public hearing, and that citizens attending the hearing have the right to provide written and oral comments and ask questions concerning the entire budget and the relationship of entitlement funds to the entire budget. The notice shall state how, in the context of its proposed budget, the recipient government intends to use its entitlement funds, and shall require a budget summary of its entire

proposed budget. In addition, the notice shall advise when and where the above information, together with a copy of the entire proposed budget, shall be made available for public inspection.

(2) At least 10 days prior to the budget hearing a recipient government shall make available for public inspection during normal business hours, at the principal office of such government, a statement of the government's proposed uses of entitlement funds in the context of its proposed budget, a summary of its entire proposed budget, and a copy of its entire proposed budget. If a recipient government has no principal office then making the above materials available at a public place within the political boundaries of the recipient government shall satisfy the requirements of this paragraph. Where feasible, local public libraries and other public buildings should be used for the purpose of providing additional places for public inspection of these materials.

(d) *Modification of time limitation for public notice and inspection.* Whenever State or local law provides for a specified time period within which a recipient government is required to publish notice of a budget hearing or to permit public inspection of its proposed budget for a specified time period, the recipient government shall comply with the time period for publication or public inspection required by its State or local law, provided that it is not less than three (3) working days.

(e) *Waiver of newspaper publication; alternative forms.* (1) The newspaper publication requirement governing notice of the budget hearing and the summary of the proposed budget may be waived by the Director upon receipt of a written request by the chief executive officer of the recipient government. The request shall include a cost estimate verified by a newspaper, which shows the cost of publication will exceed fifteen (15) percent of the amount of entitlement funds included in the proposed budget. In addition, the request shall propose an alternative method of publication which provides the citizens of the jurisdiction with adequate notice of the budget hearing and the opportunity to review the budget summary.

(2) When newspaper publication of the notice of the budget hearing and the budget summary is impractical or infeasible, the Director may waive the newspaper publication requirement upon receipt of a written request by the chief executive officer of the recipient government. The request shall indicate the circumstances which make publication in a newspaper impractical or infeasible and shall propose an

alternative method of publication. The waiver must be requested and approved before the proposed appropriation of entitlement funds occurs.

(f) *Summary of enacted budget.* Within 30 days after enactment of a budget as provided by State or local law, a summary of the enacted budget showing the intended uses of entitlement funds and information necessary to support the information and data in the summary shall be made available for public inspection during normal business hours at the principal office of the recipient government. If a recipient government has no principal office, the summary of the enacted budget and the enacted budget document shall be made available for public inspection at a public place within the political boundaries of the recipient government to satisfy the requirements of this paragraph. Where feasible, local public libraries and other public buildings should be used for the purpose of providing additional places at which the public may inspect the budget summary and the enacted budget.

(g) *Published notice of availability of summary of enacted budget.* Public notice shall be published in a newspaper of general circulation serving the geographic area of the recipient government within 30 days after enactment of the budget. The notice shall state where and when the summary of the enacted budget is available for public inspection. Where newspaper publication is impractical or infeasible alternative methods of publication shall be used as provided in § 51.13(c)(2).

§ 51.15 Amendments or modification to enacted budget.

Where applicable State or local law exists which governs amendments or modification of existing budgets, and requires public notice, at least one public hearing, and the availability of the amendments or modifications for public inspection, the recipient government shall comply with the State or local law. In the absence of applicable State or local law, the provisions of § 51.14 of this subpart shall apply to any amendment, modification or revision of an enacted budget when a major change is proposed. For the purposes of this section, a major change is any change in the enacted budget which, on a cumulative basis, affects the use of 25 percent and a minimum of \$1,000 of the entitlement funds as originally enacted in the budget of the recipient government.

§ 51.16 Participation by senior citizens.

In conducting any hearing or proceeding required under this subpart or under its own budget processes, a recipient government shall endeavor to provide senior citizens and organizations representing the interests of senior citizens with an opportunity to be heard and present their views regarding the use of entitlement funds prior to final allocation of such funds.

§ 51.17 Notification of news media.

At the same time that any public report, notice of hearing or budget information is required to be published in a newspaper under this subpart, each recipient government shall advise the news media, including minority, bilingual and foreign language news media, serving its geographic area and shall provide copies of such reports, notice, or budget information to the news media on request.

§ 51.18 Legal notice rules not applicable.

Whenever any section of this subpart requires the newspaper publication of a report, public notice, budget summary, or any other required information, the recipient government may publish the required information in a newspaper of general circulation serving its geographic area without regard to State or local statutory requirements for the publication of legal notices. Prominently displayed advertisements or news articles may be used to provide newspaper notice required by this subpart. Such article or advertisement must contain all of the required information.

§ 51.19 Reports to the Bureau of the Census.

It shall be the obligation of each recipient government to comply promptly with requests by the Bureau of the Census (or by the Director) for data, information and reports relevant to the determination of entitlement allocations or use of entitlement funds. Failure of any recipient government to comply may place in jeopardy its receipt of entitlement funds.

Subpart C—Computation and Adjustment of Entitlement Funds

§ 51.20 Data.

(a) *In general.* The data used in determination of allocations and adjustments thereto payable under this part will be the latest and most complete data supplied by the Bureau of the Census, the Bureau of Indian Affairs, the Bureau of Economic Analysis and the Internal Revenue Service which are available prior to the allocations for one entitlement period unless, in the

judgment of the Director, the data provided by those agencies are not current enough or are not comprehensive enough to provide for equitable allocations.

(b) *Computation and payment of entitlements.* (1) Allocations will not be made to any unit of local government if the available data is so inadequate as to frustrate the purpose of the Act. Such units of local government will receive an entitlement and payment when current and sufficient data become available as necessary to permit an equitable allocation.

(2) Payment to units of local government for which the Director has not received an address confirmation will be delayed until proper information is available to the Director.

(3) Where the Director determines that the data provided by the agencies listed in paragraph (a) of this section are not current enough, or are not comprehensive enough, or are otherwise inadequate to provide for equitable allocations the Director may authorize the use of other data, including estimates. The Director's determination shall be final and such other additional data and estimates as are used, including the sources, shall be publicized by notice in the Federal Register.

(4) *Currency of tax collection.* Only that tax collection data, which is received in the most recent reporting year available from the appropriate agencies prior to the allocation for an entitlement period, shall be used in the determination of entitlements for that entitlement period.

(c) *Special rule for less than one year entitlement periods.* For entitlement periods which encompass less than one year, the adjusted taxes and intergovernmental transfers of any unit of local government for the entire reporting year will be used. The limitation that the amount allocated to a recipient government shall not exceed 50% of the sum of the recipient government's adjusted taxes and intergovernmental transfers of revenues shall be reduced proportionately for entitlement periods which are less than one year.

(d) *Units of local government located in more than one county area.* In cases where a unit of local government is located in more than one county in one or more States, each part of such unit in each county is treated for allocation purposes as a separate unit of government, and the adjusted taxes, and intergovernmental transfers of such parts are estimated on the basis of the ratio which the population of that part

bears to the entire population of the local government.

§ 51.21 Data affected by major disaster.

(a) *In general.* Any change in data otherwise eligible for use in determining the entitlement of a recipient government after April 1, 1974, shall be disregarded for a period of 60 months if that change:

(1) Resulted from a major disaster as determined by the President under section 301 of the Disaster Relief Act of 1974 (Pub. L. 93-288) and

(2) Results in a data factor which is less beneficial to the recipient government than the pre-disaster data factor for purposes of the revenue sharing allocation process.

(b) *Less beneficial data factor.* For the purposes of this section, a pre-disaster data factor is defined as a data factor of record for the final revenue sharing allocation which was calculated for a time period immediately preceding the data factor time period in which the disaster occurred and, therefore, could not have been affected by the disaster.

(c) *Eligibility requirements.* To be eligible for the data stabilization benefit of paragraph (a) of this section, a recipient government shall:

(1) Be located within a State designated by the President as a major disaster area, and

(2) Be located within a geographical subdivision of the State as certified to the Office of Revenue Sharing as a major disaster area by the Administrator of the Disaster Assistance Administration of the Department of Housing and Urban Development.

Further, each recipient government within the specific geographic area so designated will be notified, pursuant to the data improvement program, provided for in section 51.29, of each of its data factors developed subsequent to the major disaster designation, which are less beneficial than the pre-disaster data factors. The chief executive officer of the recipient government must verify that the data was adversely affected by the major disaster. In addition, the Director may require that the verifications be accompanied by substantiating documentation evidencing a causal relationship between the major disaster and the less favorable value of the current revenue sharing data factor of record. The Director, upon being satisfied that all of the requirements of this section have been met with respect to any post-disaster data factor, shall refrain from using the post-disaster data factor in the allocation process, of an entitlement period, and shall continue to use the pre-

disaster data factor in the allocation process for each entitlement period that begins during the 60-month period after the President's designation of the specific major disaster area unless:

(i) A data factor for a current entitlement period is more beneficial than the pre-disaster data factor, or

(ii) A post-disaster data factor of an entitlement period is not verified by the chief executive officer as having been adversely affected by the major disaster.

(d) *Multiple disasters.* Recipient governments may be in areas designated by the President as specific major disaster areas as the result of two or more disasters. Recipient governments in such areas will also be provided their appropriate pre-disaster data for verification. The 60-month period for which more beneficial pre-disaster data may be used for a government shall be determined by the most recent designation by the President of a specific major disaster area containing that government.

(e) *Effect on later entitlement periods of failure to verify.* A recipient government which does not verify that an adverse data change is caused by a disaster in an entitlement period when it was afforded an opportunity to make the verification does not lose the opportunity to verify in a later entitlement period that a disaster has affected the data factor for that later entitlement period.

(f) *Per capita income data.* Increases in per capita income data subsequent to disasters for governments in designated disaster areas will not be considered adverse data changes resulting from a disaster for purposes of section 145 of the Act.

(g) *60-month period.* The post-disaster data factor shall be used for the first entitlement period beginning after the end of the 60 months referred to in § 51.21(a).

§ 51.22 Adjusted taxes.

(a) *In general.* Tax revenues are compulsory contributions to a unit of local government exacted for public purposes, as such contributions are determined by the Bureau of the Census for general statistical purposes. The term "adjusted taxes" means the tax revenues adjusted by excluding an amount equal to that portion of the compulsory contributions which is properly allocable to school operations, debt service on school indebtedness, school capital outlays, and other educational purposes.

(b) *Procedure for exclusion of tax revenues for education.* The tax revenues exacted by a unit of local government shall be adjusted to exclude

any such tax revenues used for financing education in a manner consistent with the following provisions:

(1) Where a unit of local government finances education from a specific fund and lists tax revenues to the fund or levies a separate tax for purposes of education, this amount will constitute the tax revenues for education.

(2) If tax revenues for purposes of education are not separately identifiable because education is financed by expenditure or transferring of moneys from a general fund (or similarly named fund) to a school fund or funds, then the ratio of tax revenues (as defined in paragraph (a) of this section) to the total revenues in the fund shall be calculated, and that ratio multiplied by the expenditure or transfer of non-dedicated moneys from the fund to the school fund shall be equated with the tax revenues properly allocable to expenses for education. The phrase "total revenues in the fund" means cash and securities on hand in the general fund (or similarly named fund) at the beginning of the fiscal year, plus all non-dedicated revenues to the fund (other than trust or agency revenues) less cash and securities on hand at the end of the fiscal year. Trust and agency funds are those held specifically for individuals or governments for which no discretion can be exercised as to the amounts to be paid to the recipient.

(3) If any instance where neither paragraph (b)(1) nor (2) of this section permits determination of school taxes, then any procedure deemed equitable by the Director shall be utilized to ascertain adjusted taxes.

(c) *Validity of adjusted tax data.* Allocation of funds under the Act will be based on data reported by States and units of local government to the Bureau of the Census and shall be in accordance with definitions established by the Bureau. No unit of government shall report to the Department of the Treasury or the Bureau of the Census in a manner which attempts to circumvent or frustrate the intent of this section.

§ 51.23 Date for determination of allocation.

(a) *In general.* Pursuant to the provisions of § 51.20(a) and (b)(3), the determination of the data definitions upon which the allocations and entitlements for an entitlement period are to be calculated shall be made no later than the day immediately preceding the beginning of the entitlement period. Any change in the computation of local tax effort to credit county sales taxes to units of local government pursuant to section 109(e)(2)(B) of the Act (the "Memphis

Rule") will be considered to be a change in a data definition and will not be given effect for any entitlement periods for which there are final data definitions. The final date upon which initial allocations for an entitlement period are calculated for payment purposes shall be determined by the Director as soon as practicable and shall be publicized by notice in the Federal Register.

(b) *Time limitation and minimum adjustment.* If it is established to the satisfaction of the Director by factual evidence and documentation that the data used in the computation of an allocation is erroneous, an adjustment will be made. No adjustment shall be made unless such evidence and documentation of erroneous data is provided the Director for determination within one year of the end of the entitlement period with respect to which the payment is made. No adjustment of any kind, which is less than \$200, shall be made to an entitlement if in the judgment of the Director such adjustment will be burdensome, expensive, or otherwise impracticable.

(c) *Adjusted taxes and intergovernmental transfers.* The date for determining the amount of adjusted taxes and intergovernmental transfers of a unit of local government will be the fiscal year that can be uniformly assembled for all units of local government prior to the beginning of the affected entitlement period.

§ 51.24 Boundary changes, governmental reorganization, etc.

(a) *In general.* A boundary change, governmental reorganization, or change in State statutes or constitution, relevant to the computation of entitlement of a unit of local government under the Act, which occurs during an entitlement period shall, not result in a change to the entitlement of that government until the next entitlement period. However, payment(s) tendered to such government for the entitlement period may be redistributed pursuant to the provisions of paragraphs (b) and (c) of this section.

(b) *New units of local government.* A unit of local government which came into existence during an entitlement period shall first be eligible for an entitlement allocation for the next entitlement period. However, if such unit is a successor government, it shall be eligible to receive the entitlement payment of the unit or units of local government to which it succeeded in accordance with the conditions of the succession.

(c) *Dissolution of units of local government.* A unit of local government which dissolved, was absorbed or ceased to exist as such during an

entitlement period is eligible to receive an entitlement payment for that entitlement period; provided that such unit of local government is in the process of winding up its governmental affairs or a successor unit of local government has the legal capacity to accept and use such entitlement funds. Entitlement payments which are returned to the Director because of the cessation of existence of a unit of local government shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such time as they can be redistributed according to the conditions under which the unit of local government ceased to exist.

(d) *Limitations on adjustment for annexations.* (1) Annexations by units of local government having a population of less than 5,000 on April 1, 1970, shall not affect the entitlement of any unit of local government for an entitlement period unless the Director determines that adjustments pursuant to such annexations would be equitable and would not be unnecessarily burdensome, expensive, or otherwise impracticable.

(2) Annexations of areas with a population of less than 250, or less than 5 percent of the population of the gaining government, shall not affect the entitlement of any unit of local government unless the Director determines that adjustments pursuant to such annexations would be equitable and would not be unnecessarily burdensome, expensive, or otherwise impracticable.

(e) *Certification.* Units of local government affected by a boundary change, governmental reorganization, or change in State statutes or constitution shall, before receiving an entitlement adjustment or payment redistribution pursuant to this section, obtain State certification that the change was accomplished in accordance with State law. The certifying official shall be designated by the Governor, and the certification shall be submitted to the Bureau of the Census.

§ 51.25 Waiver of entitlement; nondelivery of checks; insufficient data.

(a) *Waiver.* Any unit of local government or Indian tribe or Alaskan native village may waive its entitlement for any entitlement period; provided that the chief executive officer with the consent of the governing body of the government notifies the Director that the entitlement payments for a past, current, or next beginning entitlement period, or any combination thereof, are being waived. A waiver of entitlement for the next beginning entitlement period will only be given effect if the waiver notice

is received during the 6-month period immediately preceding that entitlement period. In the event that an entitlement payment is returned or a notice of waiver is executed which is not in accordance with this procedure, the chief executive officer will be notified by the Director and, unless the attempted waiver is rescinded within 30 days of the notice, it shall be given effect. However, in no event will a notice of waiver be given effect for an entitlement period which is subsequent to the next beginning entitlement period. The entitlement waived, and any adjustments resulting from recalculation of earlier entitlements, shall be added to and shall become a part of the entitlement of the next highest unit of government eligible to receive entitlement funds in that State in which the unit of local government, Indian tribe or Alaskan native village waiving entitlement is located. A waiver of entitlement by a unit of local government, Indian tribe or Alaskan native village shall be deemed irrevocable 30 days prior to the first payment for the entitlement period to which it relates.

(b) *Constructive waiver.* Any recipient government which has not waived and is otherwise eligible to receive entitlement payments and which has failed to provide reports or assurances required pursuant to Subparts B, E or F, is subject to a determination of having constructively waived its entitlement funds for one or more of the entitlement payments of that entitlement period. Prior to such a determination, the Director shall, in two separate notices of not less than 30 days each, notify nonresponsive recipient governments of their noncompliance and that their entitlement payment(s) for the affected entitlement period(s) are being temporarily withheld pursuant to § 51.3(c). If compliance is not achieved by the end of each affected entitlement period, the Director shall make a determination that the payments to the nonresponsive recipient governments are continued to be constructively waived. Entitlement funds constructively waived will be redistributed pursuant to the provisions of paragraph (a) of this section.

(c) *Nondelivery.* Entitlement funds for any entitlement period which are returned to the Department of the Treasury as being nondeliverable because of incorrect address information, or which are unclaimed for any reason, shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

(d) *Insufficient data.* Entitlement funds for any entitlement period which are withheld from payment because of insufficient data upon which to compute the entitlement, or for which payment cannot be made for any other reason, shall remain in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

§ 51.26 Reservation of funds and adjustment of entitlement.

(a) *Reservation of entitlement funds.* In order to make subsequent adjustments to an entitlement payment under this part which may be necessitated because of insufficient or erroneous data, or for any other reason, the Director shall reserve in the State and Local Government Fiscal Assistance Trust Fund such percentage, not to exceed 0.5 percent, of the total entitlement funds for any State government and all units of local government within the State for any entitlement period as in her judgment shall be necessary to insure that there will be sufficient funds available so that all recipient governments will receive their full entitlements. The reserve shall be known as the State Obligated Adjustment Reserve and amounts remaining in that reserve will accumulate until the liabilities of the Trust Fund to the recipient governments in that State are discharged or sufficiently diminished to permit an allocation.

(b) *Adjustments to entitlement payments.* (1) Adjustments to the entitlement of a recipient government during the current entitlement period will ordinarily be effected through alteration to entitlement payments for the next entitlement period, unless there is a downward adjustment which is so substantial as to make payment alterations impracticable or impossible. In such case, the Director may demand that the remaining entitlement funds by the recipient government in excess of its entitlement be immediately repaid to the Trust Fund of the Department.

(2) For entitlement periods which begin after December 31, 1976, any adjustments to increase or decrease entitlement payments of a recipient government for a particular entitlement period shall be made only if demand therefor has been made by the recipient government, or the Director, prior to the expiration of one year from the end of the entitlement period for which the adjustment is claimed.

(3) For entitlement periods which begin after December 31, 1976, any adjustments to increase or decrease entitlement payments of a recipient

government for a particular entitlement period shall be made through the State Obligated Adjustment Reserve.

(4) Adjustments made to decrease payments to a recipient government for an entitlement period ending before January 1, 1977 shall be withheld from the Obligated Adjustment Reserve established under § 51.26(a) of this part. (38 F.R. 18668)

§ 51.27 State to maintain transfers to local governments.

(a) *General rule for entitlement periods commencing on or after January 1, 1977.* The entitlement of any State government for any entitlement period beginning on or after January 1, 1977 shall be reduced by the amount (if any) by which—

(1) One-half of the aggregate amounts transferred by the State government out of its own sources during the 24-month period ending the last day of the last fiscal year for which the Bureau of the Census has relevant data, on the first day of such entitlement period, to all units of local government in such State is less than:

(2) One-half of the similar aggregate amount for the 24-month period ending the day before the 24-month period described in paragraph (1) above.

For purposes of paragraph (a)(1) of this section, the amount of any reduction in the entitlement of a State government under this section for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government in such State. The phrase "own sources" means all sources of State revenue (including debt proceeds and State's revenue sharing entitlement funds) but excluding intergovernmental revenues received from the Federal government.

(b) *Measurement of maintenance of effort.* The following formula will be applied by the Director to establish the base year intergovernmental transfers to units of local government from the State's own sources and to generally monitor the level of effort in accordance with the maintenance provisions of paragraph (a) of this section during future entitlement periods:

(1) It shall be assumed that the ratio of a State's own source intergovernmental transfers to units of local government to that State's total intergovernmental transfers to units of local government is equal to the ratio of that State's own source revenues to its total revenues. Thus, for a State in which such formula may be applied, its base year own source intergovernmental transfers to units of local government shall be assumed to equal its total intergovernmental transfers to units of

local government in the base year multiplied by its own source revenue in the base year divided by its total revenues in the base year.

(2) In a State in which the formula is applied, the State's own source intergovernmental transfers to units of local government in a future entitlement period shall be assumed to equal the average of—

(i) The State's total intergovernmental transfers to units of local government during that period (or that State's fiscal year ending on or immediately prior to the end of such period) multiplied by its own source revenue in that period (or such fiscal year) divided by its total revenues in that period (or such fiscal year) and

(ii) The State's total intergovernmental transfers to units of local government during the preceding entitlement period (or that State's fiscal year ending on or immediately prior to the end of such period) multiplied by its own source revenue in that period (or such fiscal year) divided by its total revenues in that period (or such fiscal year).

(3) Therefore, in a State in which the formula is applied, maintenance (for a given entitlement period) of intergovernmental transfer effort to units of local government will be measured by the difference between that State's average aggregate intergovernmental transfers to units of local government (over the appropriate periods) as calculated by employing the method described in paragraph (b)(2) of this section and that State's own source intergovernmental transfers to units of local government in the base period as calculated by employing the method described in paragraph (b)(1) of this section.

(4) If the application of this formula during any entitlement period indicates that a State government has not maintained its intergovernmental transfer effort, i.e., should a State's intergovernmental transfers to units of local government, for a particular period, be less than transfers calculated for the base period, the difference (as defined in paragraph (b)(3) of this section) shall constitute the future indicated reduction in that State's entitlement unless such State can document to the Director that the fact or amount of nonmaintenance, as determined by application of the formula, is inaccurate.

(c) *Alternative procedure.* If the Director determines that the application of the formula set forth in paragraph (a) of this section in a particular case provides an inaccurate or unfair measurement of transfer effort, then any

formula, procedure, or method deemed equitable by the Director may be utilized to measure such transfer effort for the purpose of implementing the maintenance provision.

(d) *Adjustment where State assumes responsibility for category of expenditures.* If the State government establishes to the satisfaction of the Director that since June 30, 1972, it has assumed responsibility for a category of expenditures which (before July 1, 1972) was the responsibility of local governments located in such State, then the aggregate amount taken into account under paragraph (a)(2) of this section shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts, which for the period used for the purposes of this paragraph, it transferred to units of local government.

(e) *Adjustment where new taxing powers are conferred upon local governments.* If a State establishes to the satisfaction of the Director that since June 30, 1972, one or more units of local government within such State have had conferred upon them new taxing authority, then, the aggregate amount taken into account under paragraph (a)(2) shall be reduced to the extent of the larger of—

(1) An amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

(2) An amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments. No amount shall be taken into consideration under paragraph (e)(1) of this section if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Director to have decreased a related State tax.

(f) *Adjustment where Federal government assumes responsibility for category of expenditures.* If in an entitlement period beginning on or after January 1, 1977, a State government establishes to the satisfaction of the Director that the Federal government has assumed responsibility for a category of expenditures for which such State government transferred amounts, during all or a part of the period utilized for purposes of paragraph (a)(1) of this section, which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (a)(2), the aggregate amount shall be reduced to the extent that increased Federal government spending has replaced corresponding amounts

which such State government had transferred to units of local government.

(g) *Computation by the Office of Revenue Sharing.* The Director shall make the computation required for the determination of maintenance of effort, based on data furnished by the Bureau of the Census. The Bureau of the Census shall provide to the Office of Revenue Sharing the following data pertaining to a State's transfer of funds to units of local government for the State's appropriate fiscal year:

(1) The State's own source funds.

(2) The State's total funds.

(3) The State's own source transfers to units of local government.

(4) The State's total transfers to units of local government.

(h) *Reduction in entitlement.* If the Director has reason to believe that paragraph (a) of this section require a reduction in the entitlement of any State government for any entitlement period, the Director shall give reasonable notice and opportunity for hearing to the State. If, after a hearing it is determined that a reduction is required, the Director shall determine the amount of the reduction, the Director shall determine the amount of the reduction, notify the Governor of the affected State of the determinations and withhold from subsequent payments to such State government under this part an amount equal to the reduction.

(i) *Transfer to general fund.* An amount equal to the reduction in the entitlement of any State government which results from the application of this section (after any judicial review) shall be transferred from the Secretary's Trust Fund to the general fund of the Treasury on the day on which such reduction becomes final.

§ 51.28 Optional formula.

(a) *In general.* A State government may by law provide for the allocation of entitlement funds among the county areas, or among units of local government (other than county governments, Indian tribes, and Alaskan native villages):

(1) On the basis of the population multiplied by the general tax effort factors of such areas or units of local government; or

(2) On the basis of the population multiplied by the relative income factors of such areas or units of local government; or

(3) On the basis of a combination of those two factors. Any State which provides by law for such a variation in the allocation formula provided by subsections 108(a) or 108(b)(2) and (3) of the Act, shall notify the Director of the new law no later than 90 days before the beginning of the first entitlement period

to which it is to apply. Any such law shall:

(i) Provide for allocating 100 percent of the aggregate to be allocated under subsections 108(a) or 108(b)(2) and (3) of the Act;

(ii) Apply uniformly throughout the State; and

(iii) Apply during the period beginning on the first day of the first entitlement period to which it applies and ending on September 30, 1980.

(b) *Single legislation required.* If a State government alters its county area allocation formula or its local government allocation formula, or both, such alteration may be made only once and is required to be made in the same legislative enactment.

(c) *Certification required.* Paragraph (a) of this section shall apply within a State only if the Director certifies that the State law complies with the requirements of the paragraph. The Director shall not certify any such law with respect to which she receives notification later than 30 days prior to the initial entitlement period during which it is to apply.

§ 51.29 Adjustment of data factors.

The data factors and data definitions used in computing entitlements under the Act for any entitlement period will be made available to each State government and unit of local government as soon as practicable. Each such government will be given a reasonable opportunity to question those data factors by providing factual documentation demonstrating evidence of error no later than one year from the end of the entitlement period for which the data are applicable. If the Director determines that any data factors used were erroneous, necessary adjustments will be made.

§ 51.30 Adjustment of maximum and minimum per capita entitlement; 100 percent criterion.

(a) *County area maximum and minimum per capita entitlement.* (1) *In general.* Pursuant to section 108(b)(6) of the Act, the per capita amount allocated to any county area shall be not less than 20 percent, nor more than 145 percent, of two-thirds of the amount allocated to the State under section 106 of the Act, divided by the population of that State.

(2) *One hundred forty-five percent rule.* If a county area allocation is greater than the 145-percent limit, its allocation shall be reduced to the 145-percent level and the resulting surplus shall be shared proportionately by all remaining unconstrained county areas.

(3) *Twenty-percent rule.* If, after the application of paragraph (a)(2) of this

section, a county area allocation is less than the 20-percent limit, its allocation shall be increased to the 20-percent level and the resulting deficit shall be shared proportionately by all remaining unconstrained county areas.

(b) *Local government (other than a county government).* (1) *In general.*

Except as provided below, the per capita amount allocated to any unit of local government (other than a county government) shall be not less than 20-percent, nor more than 145-percent, of two-thirds of the amount allocated to the State under section 106 of the Act, divided by the population of that State.

(2) *One hundred forty-five percent rule.* If a unit of local government is allocated an amount greater than the 145-percent limit, its allocation shall be reduced to that level.

(3) *Twenty-percent rule.* If a unit of local government is allocated, an amount less than the 20-percent limit, its allocation shall be increased to the lower of the 20-percent limit or 50 percent of the sum of that unit's adjusted taxes and transfers.

(4) *50-percent rule.* If a unit of local government is allocated an amount greater than 50 percent of the sum of that government's adjusted taxes and intergovernmental transfers received by it (other than entitlement funds), its allocation shall be reduced to that level.

(c) *One hundred-percent criterion.* If the amounts allocated to recipient governments of a State do not total 100 percent of the amount allocated to that State, the amount to be allocated to county areas shall be adjusted appropriately, and the allocation process shall be repeated until the amounts allocated to recipient governments of a State total 100 percent of the amount allocated to that State.

§ 51.31 Separate law enforcement officers.

(a) *Entitlement of separate law enforcement officers.* (1) The office of the separate law enforcement officer within any parish area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, 15 percent of the entitlement of the government of the Parish government.

(2) The office of the separate law enforcement officer within the area of the government of the parish of East Baton Rouge, shall be entitled to receive for each entitlement period, beginning on or after January 1, 1977, 7.5 percent of the entitlements of the governments of Baton Rouge, Baker and Zachary, Louisiana for each such entitlement period.

(b) *Reduction of entitlement of parish government.* (1) The governments of each parish (other than Baton Rouge, Baker and Zachary, Louisiana) shall receive for an entitlement period entitlements reduced by one-half of the amount due the separate law enforcement officer for such parish.

(2) The governments of Baton Rouge, Baker and Zachary, Louisiana shall receive, for an entitlement period, entitlements reduced by an amount equal to 3.75 percent of such government's normal entitlement.

(c) *Reduction of entitlement of State government.* The State government of Louisiana shall receive for an entitlement period an entitlement reduced by the same amount as the entitlement of the parishes (including Baton Rouge, Baker and Zachary).

(d) *Entitlement of the Parish of Orleans.* The provisions of paragraph (a), (b), and (c) of this section shall not apply to the entitlements of the Parish of Orleans. The Parish of New Orleans shall be entitled to receive for each entitlement period beginning after December 31, 1976 an additional amount equal to 7.5 percent of the amount it is otherwise entitled to receive.

§ 51.32 Population of Indian tribes and Alaskan native villages.

(a) *In general.* The population of an Indian tribe or Alaskan native village is the resident population as of July 1, 1977, as determined by the Bureau of Indian Affairs.

(b) *Indian tribes.* For Indian tribes, the resident population is the number of Indians living within the boundaries of the tribal reservation, plus the number of Indians living on trust land (including public domain allotments) adjacent to the reservation and pertaining to the tribe. The adjacent trust land may be tribally owned or individually owned. Resident non-Indian members of families with an Indian head or spouse are also included in the population estimate.

(c) *Alaskan native villages.* For Alaskan native villages, the resident population is the number of Indians, Aleuts and Eskimos living within the boundaries of the village. Resident non-Alaskan native members of families with an Alaskan native head or spouse are also included in the population estimate.

Subpart D—Prohibitions and Restrictions on Use of Funds

§ 51.40 Matching funds.

The prohibition against the use of entitlement funds for matching purposes has been repealed. After January 1, 1977,

a recipient government may expend its entitlement funds for this purpose without restriction.

§ 51.41 Permissible expenditures for units of local government.

The priority expenditure restrictions on the use of entitlement funds by units of local government have been repealed. After January 1, 1977, a recipient government may expend its entitlement funds for any purpose permissible under State or local law.

§ 51.42 Wage rate and labor standards.

(a) *Construction laborers and mechanics.* A recipient government shall require that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction, renovation or repair project costing in excess of \$2,000 and of which 25% or more of the cost is paid out of its entitlement funds:

(1) Will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and

(2) Will be covered by labor standards specified by the Secretary of Labor pursuant to 29 CFR parts 1, 3, 5, and 7.

(b) *Wage rates.* In projects to which the Davis-Bacon Act standards are applicable, the recipient government must ascertain the U.S. Department of Labor's wage rate determination for each intended project and insure that such wage rates are incorporated in the contract specifications. Wage rate determinations may be obtained by filing a Standard Form 308 with the Employment Standards Administration of the applicable regional Office of the U.S. Department of Labor at least 30 days before the invitation for bids, or in the case of construction covered by general wage rate determination, the appropriate rate may be obtained from the Federal Register.

(c) *Government Employees.* A recipient government which employs individuals whose wages are paid in whole or in part from entitlement funds must pay wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer. However, this subsection shall apply with respect to employees in any category only if 25% or more of the wages of all employees of the recipient government in such category are paid from the trust fund established by it under § 51.100(a) of this part.

§ 51.43 Restriction on expenditures by Indian tribes and Alaskan native villages.

(a) *In general.* Indian tribes and Alaskan native villages as defined in § 51.2(b) of this part, are required to expend entitlement funds for the benefit of members of the tribe or village residing in the county area from which the allocation of entitlement funds was originally made.

(b) *Extension into two or more county areas.* Indian tribes and Alaskan native villages which extend into two or more county areas may expend their entitlement funds for the benefit of members of the tribe or village in any or all of those county areas provided members of the tribe or village are not excluded from these benefits solely on the basis of their residence in a particular county area.

(c) *Effect of Subpart E.* Expenditures which are made in accordance with paragraphs (a) and (b) of this section will not constitute a failure to comply with the requirements of Subpart E of this part.

§ 51.44 Lobbying.

(a) *In general.* Entitlement funds may not be used by any State or unit of local government for the purpose of lobbying (as defined in § 51.2(k) of this part) concerning the provisions of the Act.

(b) *Activities prohibited.* Prohibited lobbying activities include, but are not limited, to the following:

(1) Personal solicitation of individual members of a legislative body to influence legislation regarding the General Revenue Sharing Program by personal interview, letter, financial contributions, and other means.

(2) Employment of a lobbyist to engage in proscribed activities.

(c) *Activities permitted.* Without violation of this section, a recipient government may:

(1) Use revenue sharing funds to pay dues to national or State organizations.

(2) Use revenue sharing funds to attempt to influence public opinion or to convey opinions and judgments to the public regarding provisions of the Act, by publication, distribution of books, pamphlets and other writings.

§ 51.45 Use of entitlement funds for debt retirement.

Where the actual expenditures of the proceeds of indebtedness were made after January 1, 1977, the repayment of the indebtedness with entitlement funds is permissible, provided that the expenditures were made in compliance with the restrictions and prohibitions set forth in Subparts D and E of this part.

Subpart E—Nondiscrimination by States and Local Governments Receiving Entitlement Funds

§ 51.50 Purpose.

The purpose of this subpart is to effectuate section 122 of the Act which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a recipient government. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to a qualified handicapped individual, as provided in section 504 of the Rehabilitation Act of 1973, or any prohibition against discrimination on the basis of religion (as modified by the exemptions and exclusions contained in the Civil Rights Act of 1964, as amended or the Civil Rights Act of 1968), shall also apply to any such program or activity.

§ 51.51 Definitions.

Unless the context provides otherwise, as used in this subpart, the term:

(a) "Attorney General" means the Attorney General, the Assistant Attorney General for Civil Rights or a designate.

(b) "Complaint" means an allegation submitted in writing to the ORS which sets forth the nature of the discrimination alleged and the specific facts upon which the allegation is based. The complaint may be filed by an individual or organization which believes that a recipient government has or is committing discrimination prohibited by the provisions of this subpart.

(c) "Compliance review" means a review of a recipient government's employment practices, facilities, or delivery of services for the purpose of ascertaining compliance with the provisions of this subpart.

(d) "Determination" means the decision made and issued by the Director after a recipient government has demonstrated compliance, or failed to enter into compliance, following receipt of a notice of noncompliance after a finding or a holding. The determination is to the effect that a recipient government is in compliance or in noncompliance with the provisions of this subpart.

(e) "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein.

(f) "Finding" means the decision made and issued by the Director after the completion of an investigation of alleged

noncompliance by a recipient government with the provisions of this subpart or after a compliance review. The finding states that a recipient government is more likely than not to have violated a provision of this subpart.

(g) "Funded" means funds have been or are being made available for expenditure in, or substantially benefited, a program or activity of the recipient government or a secondary recipient.

(h) "Holding" means any finding of fact or conclusion of law by a Federal court, a State court, or a Federal administrative law judge (after notice and opportunity for a hearing), which has been litigated, pertains to a recipient government and is to the effect that there has been exclusion, denial, or discrimination on the grounds of race, color, national origin, sex, age, handicapped status or religion prohibited under section 122 of the Act. The holding is conclusive as to the issue of discrimination.

(i) "Investigation" means fact-finding efforts made after receiving an allegation that a recipient government has failed to comply with the provisions of this subpart, or other information relating to possible violation of the provisions of the Act.

(j) "Noncompliance" means the failure of a recipient government to comply with the provisions of this subpart.

(k) "Notification of noncompliance" means the notification given to a recipient government after issuance of a finding or receipt of a holding.

(l) "Program or activity" means the operations of the agency or organizational unit of a recipient government or the operations or organizational unit of a secondary recipient (examples include, but are not limited to a police department, department of corrections, health department, or a division of a public or private corporation).

§ 51.52 Discrimination prohibited.

(a) *In general.* No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity of a recipient government. Also prohibited is discrimination:

(1) On the basis of age under the Age Discrimination Act of 1975, effective July 1, 1979 (hereinafter referred to as discrimination on the basis of age);

(2) With respect to a qualified handicapped individual, as provided in section 504 of the Rehabilitation Act of 1973, as amended, (hereinafter referred

to as discrimination on the basis of handicapped status), or

(3) On the basis of religion, as modified by exemptions and exclusions contained in the Civil Rights Act of 1964, as amended or the Civil Rights Act of 1968, (hereinafter referred to as discrimination on the basis of religion).

(b) *Specific discriminatory actions prohibited.* (1) Except as otherwise provided in § 51.55(c)(1) and other sections in this subpart with respect to services, a recipient government shall not on the ground of race, color, national origin, sex, handicapped status or age:

(i) Deny any service or other benefit provided.

(ii) Provide any service or other benefit, which is not equal to, or is provided in a different form, than that provided to others.

(iii) Subject any person to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit.

(iv) Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or other benefit.

(vi) Determine the types of services, or other benefits or facilities which will be provided or the class of individuals to whom, or the situation in which, such services or other benefits or facilities will be provided by utilizing criteria or methods of administration which have the effect of:

(A) Subjecting individuals to discrimination;

(B) Perpetuating the results of past discrimination; or

(C) Defeating or substantially impairing the accomplishment of the objectives of the programs or activities with respect to individuals of a particular race, color, national origin, and sex, handicapped status or age.

(2) With respect to planning and advisory boards, a recipient government shall not on the ground of race, color, national origin, sex, handicapped status, or religion, deny any person an equal opportunity to participate as an appointed member of planning or advisory bodies in connection with the disposition of entitlement funds.

(3) With respect to employment, a recipient government shall not utilize criteria or methods of administration that have the effect of:

(i) Subjecting individuals to discrimination on the basis of race,

color, national origin, sex, handicapped status, or religion in any program or activity.

(ii) Perpetuating the results of past discriminatory practices.

(iii) Defeating or substantially impairing the accomplishment of the objectives of the program or activities with respect to individuals of a particular race, color, national origin, sex, age, handicapped status, or religion.

(4) With respect to facilities, a recipient government shall not on the grounds of race, color, national origin, sex, age, or handicapped status, except as provided in § 51.55 and other sections of this subpart, make selections of site or location of facilities which have the effect of:

(i) Excluding individuals from such facilities.

(ii) Denying the individuals the benefits of such facilities.

(iii) Subjecting individuals using the facilities to discrimination.

(5) A recipient government shall not intimidate, threaten, coerce, or in any way retaliate against any person who files a complaint against the government alleging a violation of the provisions of this subpart, or who assists the ORS in an investigation, or any other proceedings under this subpart.

(6) A recipient government shall not use any selection device, including, but not limited to, a minimum height or weight requirement or physical agility test which operates to disproportionately exclude members of a protected class, is a violation of this subpart, unless it is validated pursuant to the Uniform Guidelines on Employee Selection Procedures.

(7) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section and should not be considered all inclusive.

(c) *Exemptions.* The provisions of paragraphs (a) and (b) concerning prohibited discrimination shall not apply:

(1) Where a recipient government demonstrates by clear and convincing evidence that a program or activity, with respect to which discrimination is alleged, is not funded in whole or in part with entitlement funds.

(2) To construction projects commenced prior to January 1, 1977, with respect to discrimination on the basis of handicapped status, except as provided in Section 51.55(k)(11). A construction project shall be deemed to have commenced when the recipient government has obligated itself by contract for the physical construction of

the project or of any substantial portion of the project.

§ 51.53 Employment discrimination.

(a) *Employment practices.* In general a recipient government shall not discriminate on the grounds of race, color, national origin, sex or religion in the following specific activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Setting rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classification, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Granting leaves of absence, sick leave, or other leave;

(6) Providing fringe benefits available by virtue of employment, whether or not administered by the recipient government;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social recreational programs; and

(9) Any other term, condition, or privilege of employment.

(b) *Uniform guidelines on employee selection procedures.* The Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management, the Department of Justice, the Department of Labor and the Department of Treasury, in carrying out their responsibilities in ensuring compliance with Federal equal employment opportunity law, have adopted Uniform Guidelines on Employee Selection Procedures to assist in establishing and maintaining equal employment opportunities. These regulations are in 29 CFR Part 1607; 5 CFR 300.103(c); 990-1 (Book 3) of the Federal Personnel Manual; 28 CFR 50.14, and 41 CFR 60.3. These Guidelines, among other things, recognize the unlawfulness of the use of any employee selection procedures (including tests and minimum education levels) which disqualify a disproportionate number of persons on grounds of race, color, religion, sex or national origin (not handicapped status or age) and which have not been validated or otherwise justified in accordance with Federal law. Recipient governments shall use selection procedures that comply with

the provisions of the guidelines, which are attached as appendix A to this subpart.

(c) *Recruitment practices of recipient governments.* Recipient governments are encouraged to analyze their recruitment practices to determine whether they are making information about job opportunities equally available to minority groups and women. Where racial, ethnic or sex groups are being or have been denied employment opportunities, or are underutilized in a job classification or classifications, recruiting procedures designed to attract members of racial, ethnic or sex groups that have been denied employment opportunities shall be required to comply with these regulations.

(d) *Pre-employment inquiries.* Except in those limited instances where religion, sex or national origin are bona fide occupational qualifications (B.F.O.Q.) reasonably necessary for the performance or qualification for a particular job, a recipient shall not inquire of an applicant for employment concerning the applicant's race, color, national origin, sex, or religion. A recipient government should review its employment practices to insure that such information is not elicited from applicants for employment either directly, or by such indirect means as photographs, place of birth, citizenship (if used as a pretext for prohibited discrimination), organizational membership or activities, and arrest records.

(e) *Self-review.* Recipient governments should conduct continuing reviews of their programs or activities to determine if employee selection or promotional policies (or lack thereof) directly or indirectly have the effect of denying equal employment opportunity on the basis of race, color, national origin, sex or religion.

§ 51.54 Employment discrimination on the basis of sex.

The EEOC has adopted guidelines on employment discrimination on the basis of sex (29 CFR Part 1604). These guidelines provide practical assistance to enable recipient governments to bring themselves into compliance with Federal law. Recipient governments shall comply with the provisions of these Guidelines, which are adopted by the ORS and are attached as appendix B to this subpart.

§ 51.55 Discrimination with respect to a qualified handicapped individual.

(a) *Definitions.* As used in this section the phrase:

(1) "Handicapped individual" means any person who has a physical or

mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(2) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(3) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(4) "Has a record of such an impairment" means has a history of, or has been incorrectly classified as having, a mental or physical impairment that substantially limits one or more major life activities.

(5) "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities, but is treated by a recipient government as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (a) (1) of this section but is treated by a recipient government as having such impairment.

(6) *Qualified handicapped individual.* "Qualified handicapped individual" means (i) with respect to employment, a handicapped individual who, with reasonable accommodation, can perform the essential functions of the job in question; and (ii) with respect to services, a handicapped individual who meets the essential eligibility requirements for the receipt of such services.

(b) *General prohibitions with respect to discrimination against a qualified handicapped individual.* (1) Those general prohibitions described in § 51.52(b) of this subpart, also apply to discrimination against a handicapped

individual, with the exception of §§ 51.52(b)(1)(ii), (iii) and (v). In addition, a recipient government shall:

(i) Not exclude a qualified handicapped individual from participation in programs or activities open to the general public, regardless of the availability of permissibly separate or different programs or activities designed especially for the handicapped;

(ii) Administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped individuals;

(iii) Take appropriate steps to ensure that communications with applicants, employees, beneficiaries, and the general public are available to persons with impaired vision or hearing;

(iv) Take the appropriate steps to assure that the public hearings required under §§ 51.13 and 51.14 of this part are accessible to qualified handicapped individuals and that notice of such hearings is made available to individuals with impaired vision and hearing;

(v) Provide appropriate auxiliary aids to individuals with impaired sensory, manual or speaking skills, where necessary to prevent a qualified handicapped individual from being denied the benefits of, excluded from participation in or subjected to discrimination under a program or activity;

(vi) Not provide a qualified handicapped individual with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(vii) Not provide a different or separate aid, benefit, or service to qualified handicapped individuals or to any class of qualified handicapped individuals than is provided to others unless such action is necessary to provide qualified handicapped individuals with aid, benefits, or services that are as effective as those provided to others;

(viii) Not aid or perpetuate discrimination against a qualified handicapped individual by providing entitlement funds to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient government's program;

(ix) A recipient government may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that:

(A) Have the effect of subjecting qualified handicapped individuals to

discrimination on the basis of their handicaps;

(B) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient government's program with respect to handicapped individuals; or

(C) Perpetuate the discrimination of a secondary recipient if both recipients are subject to common administrative control or are agencies of the same larger recipient government;

(x) Not use its zoning authority in a manner that will have the effect of subjecting qualified handicapped individuals to discrimination on the basis of handicap;

(2) The exclusion of nonhandicapped individuals from the benefits of a program limited by Federal statute or executive order to handicapped individuals, or the exclusion of a specific class of handicapped individuals from a program limited by Federal statute or executive order to a different class of handicapped individuals, is not prohibited by this section.

(3) For purposes of this section, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped individuals. They must, however, afford qualified handicapped individuals equal opportunity to obtain the identical result, or achievement in the most integrated setting appropriate to the individual's needs.

(4) The enforcement provisions contained in this subpart are applicable to violations of the provisions of this section.

(c) *Self-evaluation.* (1) A recipient government shall, within one year of the effective date of this section:

(i) Evaluate with the assistance of interested individuals, including handicapped individuals or organizations representing handicapped individuals, its current policies and practices and their effects that do not or may not meet the requirements of this section;

(ii) Modify, after consultation with interested individuals, including handicapped individuals or organizations representing handicapped individuals, any policies and practices that do not meet the requirements of this section; and

(iii) Take appropriate remedial steps, after consultation with interested individuals, including handicapped individuals or organizations representing handicapped individuals, to eliminate the effects of any discrimination that resulted from

adherence to these discriminatory policies and practices.

(2) A recipient government that employs the equivalent of fifteen employees on a full-time basis shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) a list of the interested individuals consulted; (ii) a description of policies and practices examined and problems identified; and (iii) a description of modifications made and remedial steps taken.

(d) *Designation of responsible employee and adoption of grievance procedures.* (1) *Designation of responsible employee.* A recipient government that employs the equivalent of fifteen or more employees on a full-time basis shall designate at least one person to coordinate its efforts to comply with this section.

(2) *Adoption of grievance procedures.* A recipient government that employs the equivalent of fifteen or more employees on a full-time basis shall adopt a grievance procedure that incorporates appropriate due process standards and that provides for the prompt and equitable resolution of complaints alleging any action prohibited by this section. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

(e) *Notice.* (1) A recipient government that employs the equivalent of fifteen or more employees on a full-time basis shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient government, that it does not discriminate on the basis of handicapped status in violation of section 122 and this section. The notification shall state, where appropriate, that the recipient government does not discriminate on the basis of handicapped status in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 51.55(e). A recipient government shall make the initial notification required by this paragraph within 90 days of the effective date of this section. Methods of initial and continuing notification may include the

use of public service radio and television announcements, the posting of notices, publication in newspapers and magazines, placement of notices in recipient governments' publications, and distribution of memoranda or other written and taped communications.

(2) If a recipient government publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, or the general public, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient government may meet the requirements of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

(f) *Administrative requirements for small recipient governments.* The Director may require any recipient government which employs the equivalent of fifteen or fewer full-time employees, to comply with §§ 51.55 (d), (e) and (f), in whole or in part, when the Director finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient government to provide benefits or services.

(g) *Employment discrimination against a qualified handicapped individual.* (1) A recipient government shall:

(i) Not discriminate against a qualified handicapped individual in employment in any program or activity.

(ii) Not participate in a contractual or other relationship that has the effect of subjecting a qualified handicapped applicant or employee to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient government, and with organizations providing training and apprenticeship programs.

(iii) Take appropriate steps to ensure that communications with its applicants and employees are available to persons with impaired vision and hearing.

(iv) Not discriminate against a qualified handicapped individual in the following specific activities:

(A) Recruitment, advertising, and the processing of applications for employment;

(B) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(C) Setting rates of pay or any other form of compensation and changes in compensation;

(D) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(E) Granting leaves of absence, sick leave, or any other leave;

(F) Providing fringe benefits available by virtue of employment, whether or not administered by the recipient government;

(G) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(H) Employer sponsored activities, including social or recreational programs; and

(I) Any other term, condition, or privilege of employment.

(2) A recipient government's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is party.

(3) A recipient government's obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped individuals than for nonhandicapped individuals.

(h) *Reasonable accommodation.* (1) A recipient government shall make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee unless the recipient government can demonstrate that the accommodation would impose an undue hardship on a operation of its program.

(2) Reasonable accommodation may include:

(i) Making facilities used by employees readily accessible to and usable by handicapped persons, and

(ii) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(3) In determining, pursuant to paragraph (h)(1) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient government's program, factors to be considered include:

(i) The overall size of the recipient government's operations with respect to number of employees, number and type of facilities, and size of budget;

(ii) The composition and structure of the specific program or activity and the structure of the work force required; and

(iii) The nature and cost of the accommodation needed.

(4) A recipient government may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

(i) *Employment criteria and policies.*

(1) A recipient government may not use any employment test, selection criterion or policy, that excludes or tends to exclude from consideration for employment a handicapped individual or any class of handicapped individuals unless:

(i) The test, selection criterion or policy as used by the recipient, is shown to be directly related to the essential functions of the position in question, and

(ii) Alternative tests, criteria or policies that do not exclude or tend to exclude as many handicapped individuals are shown to be not available.

(2) A recipient government shall select and administer tests concerning employment so as to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test is intended to measure).

(3) If a recipient government has established a test, selection criterion or policy that explicitly or implicitly excludes or tends to exclude a class of handicapped individuals from a particular job, and cannot establish that the class as a whole is unqualified to perform the job, the recipient government shall individually evaluate each such individual who applies for the job to determine whether he or she can perform the essential functions of the job in question despite the handicap. As part of the determination, the recipient government shall also decide whether such applicant can be made qualified to perform the essential functions of the job in question through reasonable accommodation without undue hardship, as provided in § 51.55(i) of the part.

(j) *Preemployment inquiries.* (1) Except as provided in paragraphs (j) (2) and (3) of this section, a recipient government may not conduct a preemployment medical examination or make preemployment inquiry of an

applicant as to whether the applicant is a handicapped individual or as to the nature of the severity of a handicap. A recipient government may, however, make preemployment inquiry into an applicant's ability to perform the essential functions of the job.

(2) When a recipient government is taking remedial action to correct the effects of past discrimination, when a recipient government is taking voluntary action to overcome the effects of conditions that resulted in limited participation in a program or activity, or when a recipient government is taking affirmative action, the recipient government may invite applicants for employment to indicate whether and to what extent they are handicapped, provided that:

(i) The recipient government states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(ii) The recipient government states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (j)(4) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this section.

(3) Nothing in this section shall prohibit a recipient government from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided that: (i) all entering employees are subjected to such an examination regardless of handicap, and (ii) the results of such an examination are used only in accordance with the requirements of this section.

(4) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms and shall be accorded confidentiality as used for medical records, except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals and regarding necessary accommodations;

(ii) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the Act shall be

provided relevant information upon request.

(k) *Program accessibility.* (1) *Discrimination prohibited.* No qualified handicapped individual shall, because a recipient government's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity of a recipient government, which government receives entitlement funds.

(2) *Existing facilities.* (i) *Program accessibility.* A recipient government shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped individuals. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of this regulation.

(ii) *Methods.* A recipient government may comply with the requirements of paragraph (j)(1) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of paragraph (j)(7) of this section, or any other methods that result in making its programs or activities accessible to handicapped individuals. A recipient government is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (j)(1) of this section. In choosing among available methods for meeting the requirements of paragraph (j)(1) of this section, a recipient government shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(3) *Exception for small recipient governments.* If a recipient government which employs the equivalent of fifteen or fewer employees on a full-time basis determines, after consultation with a handicapped individual seeking a health, welfare or social service, that there is no method of complying with paragraph (k)(1) of this section other than making a significant alteration in its existing facilities, that government may, as an alternative, refer the handicapped individual to other providers of those services that are

accessible at no additional cost to the handicapped individual. Examples of other providers of those services are States and larger recipient governments.

(4) *Time periods.* (i) *General.* Except as otherwise provided in paragraph (j)(4)(ii) of this section, where structural changes are not required, a recipient government shall comply with the requirements of paragraph (j)(1) of this section within sixty days of the effective date of § 51.55. Where structural changes in facilities are necessary, such changes shall be made as expeditiously as possible, but in any event within three years of the effective date of this section.

(ii) *Transportation systems.* With respect to transportation systems, a recipient government shall comply with the time periods prescribed in regulations issued by the Department of Transportation (44 F.R. 31443) where structural changes in facilities are necessary.

(5) *Transition plan.* In the event that structural changes to facilities are necessary to comply with the requirements of paragraph (j)(1) of this section, a recipient government shall develop, within one year of the effective date of this section, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested individuals, including handicapped individuals or organizations representing handicapped individuals. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(i) Identify physical obstacles in the recipient government's facilities that limit the accessibility of its program or activity to handicapped individuals;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period for the transition is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the person responsible for implementation of the plan.

(6) *Notice.* The recipient government shall adopt and implement procedures to require that interested individuals, including individuals with impaired vision or hearing, can obtain information as to the existence and location of particular services, activities, and facilities that are accessible to and useable by handicapped individuals.

(7) *New construction.* Facilities financed with entitlement funds, the construction of which commenced on or

after January 1, 1977, shall be designed and constructed so as to be readily accessible to and useable by handicapped individuals.

(8) *Alterations.* Alterations to existing facilities, which alterations are funded with entitlement funds and commenced on or after January 1, 1977, shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and useable by handicapped individuals.

(9) *Leased facilities.* Facilities newly leased by a recipient government after the effective date of this section, shall be classified as new facilities. Those facilities are subject to the same accessibility requirements as facilities constructed by recipient governments and are required to be made accessible in accordance with the provisions of this section.

(10) *American National Standards Institute Accessibility Standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A 117.1-1961 (R1971),* which is incorporated by reference in this subpart, shall constitute compliance with paragraphs (j)(1) and (2) of this section. A recipient government may use other standards or methods, if the government establishes that equivalent or better access to the facility or part of the facility is thereby provided.

(11) *Exception for construction projects commenced prior to January 1, 1977.* The provisions of this subsection do not apply to buildings or construction projects, including those funded with revenue sharing funds and commenced or completed prior to January 1, 1977, unless it is determined that programs or activities funded in whole or in part with revenue sharing funds are conducted within or make use of such facilities, in which case, those programs and activities must be readily accessible to and useable by handicapped individuals as described in paragraphs (j)(2) (i) and (ii) of this section.

(12) *"Commencement of construction" defined.* A construction project shall be deemed to have commenced when the recipient government has obligated itself by contract for the physical construction of the project or any substantial portion of the project.

*Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

§ 51.56 Discrimination on the basis of age.

(a) *Purpose.* This regulation sets forth the prohibition against discrimination on the basis of age in programs or activities of recipient governments as required by the Age Discrimination Act of 1975. Recipient governments may, however, continue to use certain age distinctions and factors other than age which meet the requirements set forth in this section.

(b) *Definitions.* (1) "Age Discrimination Act" means the Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101, Title III of Pub. L. 94-135).

(2) "Action" means any act, activity, policy rule, standard or method of administration.

(3) "Age" means how old a person is or the number of elapsed years from the date of a person's birth.

(4) "Age distinction" means any action using age or an age-related term.

(5) "Age-related term" means a word or words which necessarily implies a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(6) "Claim" means a written statement, alleging discrimination on the basis of age by a recipient government, that is referred to mediation.

(7) "FMCS" means the Federal Mediation and Conciliation Service.

(8) "Mediation" means the process by which an impartial mediator through the FMCS attempts to resolve a claim of discrimination on the basis of age, on which a complaint is based.

(c) *Discrimination prohibited.* (1) *General rule.* Those general prohibitions described in § 51.52 of this subpart also apply to discrimination on the basis of age, except that § 51.52(b)(3) containing general prohibitions against employment discrimination shall not apply.

(2) *Specific rules.* A recipient government may not, in any program or activity, use age distinctions or take any other actions, which have the effect of causing age discrimination prohibited under section 51.52 (other than § 51.52(b)(3)).

(3) *Employment discrimination not covered.* The prohibitions contained in this section shall not apply to the employment practices of recipient governments or their secondary recipients.

(d) *Exceptions to the rules against age discrimination.* (1) *Definitions.* For purposes of this subsection, the terms "normal operation" and "statutory objective" shall have the following meaning:

(i) "Normal operation" means the operation of a program or activity

without significant changes that would impair its ability to meet its objectives.

(ii) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected general purpose legislative body.

(2) *Normal operation or statutory objective of any program or activity.* A recipient government is permitted to take action, otherwise prohibited by paragraphs (c) (1) and (2) of this section, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, thereby, complying with the following four-part test:

(i) Age is used as a measure or approximation of one or more non-age characteristic; and

(ii) The other non-age characteristic(s) are measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(iii) The other non-age characteristic(s) can be reasonably measured or approximated by the use of age; and

(iv) The other non-age characteristic(s) are impractical to measure directly on an individual basis.

(3) *Reasonable factors other than age.* A recipient government may take an action otherwise prohibited by sections (c) (1) and (2) of this section, which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages, provided that the other factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

(4) *Affirmative action.* If a recipient government or a secondary recipient operates a program or activity which serves the elderly or children in addition to persons of other ages, and provides special benefits to the elderly or to children, the provision of these benefits shall be presumed to be voluntary affirmative action, permissible under this section, provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

(5) *Age distinction contained in Federal, State, or local statute or ordinance.* The provisions of this section shall not apply to an age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(e) *Burden of proof.* The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 51.56(d) (2), (3) and (4) is on the recipient government.

(f) *Self-evaluation.* (1) A recipient government employing the equivalent of 15 or more full-time employees shall complete a one-time written self-evaluation of its compliance under the Act within 18 months of the effective date of this section.

(2) In its self-evaluation, the recipient government shall identify all age distinctions it uses, and justify age distinctions it imposes on programs or activities.

(3) A recipient government shall take corrective action whenever a self-evaluation indicates noncompliance with these regulations.

(4) Each recipient government shall make the self-evaluation available on request to the Director and to the public for a period of three years following its completion.

(g) *Enforcement generally.* Except as otherwise provided in this section, the enforcement provisions contained in this subpart shall be used to effectuate compliance with the provisions of this section.

(h) *Mediation alternative.* (1) Any individual who believes that anyone has been subjected to discrimination on the basis of age may file an administrative complaint with the Director as provided in § 51.61(a) of this subpart. However, such individual may, as an alternative, elect to have the claim(s) of discrimination on which the complaint is based referred by the Director for mediation by the Federal Mediation and Conciliation Service (FMCS).

(2) Within 5 days of receipt of a claim of age discrimination, the Director shall notify the claimant of the alternative of mediation and request the claimant to notify the ORS whether mediation of the claim of age discrimination is elected.

(3) If mediation is elected, the claimant shall personally or by representative notify the Director of the ORS in writing of such election. The notice shall set forth the facts upon which the claim of age discrimination by a recipient government is based. The Director shall refer the claim to FMCS within 5 days of receipt of the notification of the election of mediation, provided that she has determined that the claim is within the jurisdiction of

this section and contains all information necessary for referral to FMCS.

(4) The Director shall advise the chief executive officer of the recipient government of any referral to the FMCS. Both the individual filing the claim and the recipient government against whom discrimination is alleged shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator before the Director will accept a judgment that an agreement is not possible. However, the recipient government and the claimant need not meet with the mediator at the same time.

(5) If the claimant and the recipient government reach an agreement, the mediator shall prepare a written statement of the agreement for the signature of the claimant and the chief executive officer of the recipient government. The mediator shall send a signed copy of the agreement to the Director. The Director will take no further action on the claim, unless she is notified that the agreement has been breached, in which case the claim will be treated as a complaint pursuant to section 51.61 of this subpart.

(6) The mediation process shall be limited to a maximum of 60 days after the claimant notifies the Director of the election of the mediation process. Mediation ends if:

(i) 60 days elapse from the time the Director receives notice from the claimant;

(ii) Prior to the end of that 60-day period, an agreement is reached; or

(iii) Prior to the end of the 60-day period, the mediator determines that an agreement cannot be reached.

(7) The mediator shall return unresolved claims to the Director, who shall upon receipt, consider such unresolved claims to be administrative complaints to be processed in accordance with the procedures set forth in § 51.61(a) of this subpart.

(8) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the FMCS.

(9) Age discrimination claims which also allege other bases of discrimination, such as sex or race, will, at the election of the complainant, be mediated. All bases or allegations of discrimination will be submitted to mediation. If the mediation process fails,

the entire claim will be processed as a complaint under § 51.61 of this subpart.

§ 51.57 Discrimination on the basis of national origin.

The EEOC has adopted Guidelines on discrimination on the basis of national origin (29 CFR part 1606). These Guidelines provide practical assistance to enable recipient governments to bring themselves into compliance with Federal law. Recipient governments shall comply with the provisions of these Guidelines, which are adopted by the ORS and are attached as appendix D to this subpart.

§ 51.58 Discrimination on the basis of religion.

(a) *In general.* Any prohibition against discrimination on the basis of religion, or any exclusion or exemption from such discrimination, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 1968 (hereafter referred to as the Civil Rights Act of 1968), shall apply to any program or activity of a recipient government which receives entitlement funds under the Act.

(b) *EEOC Guidelines.* The EEOC has adopted Guidelines on discrimination on the basis of religion (29 CFR part 1605). These Guidelines provide practical assistance to enable recipient governments to bring themselves into compliance with Federal law. Recipient governments shall comply with the provisions of these Guidelines, which are adopted by the ORS and are attached as appendix E to this subpart.

§ 51.59 Assurances required.

(a) *General.* In order to qualify for any payment of entitlement funds for any entitlement period, each Governor of a State or each chief executive officer of a unit of local government shall, prior to the beginning of each entitlement period, execute to the satisfaction of the Director an assurance that all programs and activities of a recipient government will be conducted in compliance with the requirements of this subpart. The chief executive officer is also required to assure that in the event a Federal or State court or Federal administrative law judge makes a holding as defined in § 51.51(j) of this subpart against the recipient government, such recipient government will forward a copy of the holding to the Director within 10 days of receipt by the recipient governments. Assurances required under this paragraph shall be in such form and detail as prescribed by the Director.

(b) *Constructive waiver of entitlement.* The failure of a recipient government to execute or fulfill the assurance requirements of this subpart,

shall result in the determination that one or more of the entitlement payments to the recipient government for a particular entitlement period is constructively waived pursuant to § 51.25(b) of this part. The constructive waiver shall not be subject to the procedures for effecting compliance set forth in this subpart.

§ 51.60 Compliance information and reports.

(a) *Access to sources of information.* Each recipient government shall permit access by authorized representatives of the ORS and the Department of Justice during normal business hours to such of its facilities, books, records, accounts, personnel, and other sources on information as may be relevant to a determination of whether the recipient government is complying with this subpart. Where any information required of a recipient government is in the exclusive possession of any other agency, institution, or person, and such agency, institution, or person fails or refuses to furnish this information to the ORS or its authorized representatives, the responsibility for providing such information shall remain with the recipient government.

(b) *Compliance reports.* Each recipient government shall keep such records and submit on request of the Director timely, complete and accurate compliance reports at such times, in such form, and containing such information, as the Director may determine to be necessary or useful to ascertain whether the recipient government has complied or is complying with the requirements of the subpart. Recipient governments shall make available on request of ORS officials, racial, ethnic, male/female, and national origin data showing the extent to which minorities and females will be beneficiaries of entitlement funds. The recipient government shall also make available on request similar data concerning age distinctions and handicapped status. In the case of any program under which a primary recipient government extends or will extend entitlement funds to any secondary recipient, such secondary recipient shall submit such compliance reports to the primary recipient as may be necessary or useful to enable the primary recipient to carry out its obligations as a recipient government under this subpart. Each recipient government shall identify, on request of the ORS, any State or local agency which has been legally authorized to monitor its civil rights compliance activities.

(c) *Constructive Waiver of entitlement.* The failure of a recipient government to submit reports requested

to determine compliance with the provisions of this subpart, shall result on the determination that one or more of the entitlement payments to the recipient government for a particular entitlement period is constructively waived pursuant to § 51.25(b) of this part. The constructive waiver shall not be subject to the procedure for effecting compliance set forth in this subpart.

§ 51.61 Compliance reviews and affirmative action.

(a) *Compliance Reviews.* (1) The Director may periodically conduct compliance reviews of selected recipient governments.

(2) In any such reviews the Director shall seek to select for review those recipient governments which appear to have the most serious equal employment opportunity problems, or the greatest disparity in the delivery of services to the majority and minority, or male and female members of the communities they serve. Selection for review shall be made on the basis of any of the following:

(i) The relative disparity between the percentage of minorities, or women, in the relevant labor market, and the percentage of minorities, or women, employed by the recipient government;

(ii) The percentage of women and minorities in the population receiving benefits from a program or activity.

(iii) The number and nature of discrimination complaints filed against a recipient with ORS or other Federal agencies;

(iv) The scope of the problems revealed by any investigation of allegations of noncompliance against a recipient government;

(v) The amount of entitlement funds provided to the recipient government.

(3) Within 90 days after selection of a recipient government for review, the Director shall inform the recipient government that it has been selected and will initiate the review. The review will ordinarily be initiated by a letter requesting data pertinent to the review and advising the recipient government of:

(i) The practice(s) to be reviewed;

(ii) The programs or activities affected by the review;

(iii) The opportunity to make, at any time prior to the receipt of the Director's findings, a documentary submission responding to the Director, explaining, validating, or otherwise addressing the practices under review; and

(iv) The schedule under which the review will be conducted and a finding made.

(4) Within 180 days after the initiation of the review, the Director shall advise

the recipient, the chief executive officer(s) of the appropriate recipient government of:

(i) The preliminary finding;

(ii) Where appropriate, a recommendation for compliance; and

(5) If, within 30 days, the Director's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to her for a finding. If the Director makes a finding of noncompliance, she shall institute administrative proceedings pursuant to § 51.64, *et seq.* and subpart G of this part.

(b) *Affirmative action.* The EEOC has adopted Guidelines for affirmative action (29 CFR part 16—). These Guidelines clarify the kinds of voluntary actions that are appropriate under Federal law and are attached as appendix F to this subpart.

§ 51.62 Administrative complaints and investigations.

(a) *Administrative complaints.* Any person who believes anyone has been subjected to discrimination prohibited by this subpart, may personally or by a representative file with the Director of the ORS (Treasury Department, Washington, D.C. 20226) a written statement setting forth the nature of the discrimination alleged and the facts upon which the allegation is based.

(b) *Investigations.* (1) The Director shall advise the chief executive officer of the recipient government of any administrative complaint received pursuant to paragraph (a) within 30 days of the receipt of such complaint.

(2) The ORS will investigate administrative complaints described in paragraph (a). Information contained within the files of the ORS or other information which suggests discrimination prohibited by this subpart may be part of an ongoing or future investigation.

(3) Such investigations may be made with the assistance of the complainant(s) or of the recipient government.

(4) In appropriate cases the Director may defer to the Attorney General as provided for in an agreement with the Department of Justice.

(5) The scope of such investigations shall not be limited to the administrative complaint or other information but may be expanded to include any matters under the Act either discovered during the investigation or reasonably flowing from said administrative complaint or other information.

(6) The Director shall, if warranted, make a finding within (90) ninety days of receipt of an administrative complaint

or State administrative agency determination.

(7) To the maximum extent feasible, the Director will make use of the agreements between agencies as provided for in § 51.69 of this subpart in order to facilitate compliance under the provisions of this section.

§ 51.63 Notification to the complainant.

Upon written request, the complainant shall be advised of the status of the investigation or other proceeding undertaken in response to the complaint. Within 10 days after the Director issues a finding, or determination or receives the decision of an administrative law judge, the Director shall notify the complainant or the complainant's counsel.

§ 51.64 Notification of noncompliance.

(a) *Notification of noncompliance after a finding by the Director.* (1) Within 10 days of completion of the investigation of a complaint, determination of a State administrative agency or other information, the Director shall, if warranted, make a finding and issue a notice of noncompliance in writing to the chief executive officer of the recipient government (and in the case of a unit of local government, also the Governor of the State in which the recipient government is located).

(2) The notice shall be to the effect that it is more likely than not that the recipient government has failed to comply with the provisions of this subpart. The notice shall further state that unless, within 30 days after receipt of this notice, a recipient government enters into a compliance agreement with the Director or presents additional evidence that demonstrates compliance or that proves by clear and convincing evidence that the program or activity complained of was not funded with entitlement funds, the Director shall issue a determination that the recipient government has failed to comply with the provisions of this subpart.

(b) *Notification of noncompliance by the Director after receipt of a holding.* (1) Within 10 days of receipt of a holding, the Director shall issue a notice of noncompliance to the chief executive officer of the recipient government in writing (and in the case of a unit of local government, to the Governor of the State in which the recipient government is located).

(2) The notice shall state that the ORS is required to adopt the holding as conclusive on the issue of discrimination and that the recipient government is in noncompliance with the provisions of this subpart. The notice shall further

state that the Director may expand the issues beyond those contained in the holding. The notice shall state that unless within 30 days after receipt of this notice the recipient government enters into a compliance agreement or presents evidence which proves by clear and convincing evidence that the program or activity complained of was not funded with entitlement funds, the Director will issue a determination that the recipient government has failed to comply with the provisions of this subpart.

(3) Where the remedial order issued by the Court or administrative law judge, on which the holding is based, is stayed pending further proceedings, the stay will not affect action by the Director unless the ORS is specifically included in the stay.

§ 51.65 Determination of noncompliance.

(a) *Determination by the Director after a finding of discrimination.* (1) If a recipient government fails to demonstrate compliance, prove by clear and convincing evidence that the program or activity complained of was not funded with entitlement funding or enter into a compliance agreement within 30 days after receipt of a notice of noncompliance, the Director shall, if warranted, make a determination of non-compliance and notify the chief executive officer of the recipient government thereof (and in the case of a unit of local government, the Governor of the State in which the recipient government is located shall also be notified).

(2) Once a determination of noncompliance is received, a recipient government shall have 10 days in which to enter into a compliance agreement or request an administrative hearing. If a recipient government fails to take either action within the 10-day period, the Director shall immediately suspend the further payment of entitlement funds to such recipient government, which shall remain suspended until the recipient government enters into a compliance agreement.

(b) *Determination of the Director after notice of a holding.* (1) If a recipient government fails to prove by clear and convincing evidence that the program or activity complained of was not funded with entitlement funds, or enter into a compliance agreement within 30 days after receipt of notification of noncompliance based on a holding, the Director shall make a determination of noncompliance based upon the holding. Where the Director makes a determination of noncompliance based upon a holding she shall notify the chief executive officer of the recipient

government (and in the case of a unit of local government, the Governor of the State in which the recipient government is located shall also be notified).

(2) The notification of the determination shall adopt, the holding of the Federal or State Court or Federal administrative law judge as conclusive on the issue of discrimination and give the recipient government 10 days from receipt of the notification of the determination to enter into a compliance agreement or request an administrative hearing. The sole issue at the administrative hearing shall be whether the program or activity complained of was funded by entitlement funds. If the recipient government fails to take either action within the 10 day period, the Director shall immediately suspend the further payment of entitlement funds to such government.

(3) If the holding on which the determination is based is reversed by an appellate tribunal, or by agency review in the case of the holding of a Federal administrative law judge, the Director shall discontinue the administrative action begun as a result of the holding. Any suspension of entitlement funds resulting from the determination shall also be discontinued and those funds paid to the recipient government as quickly as possible.

51.66 Compliance agreements.

(a) *In matters where the ORS was not a party to the proceeding.* For purposes of this subpart a compliance agreement includes an agreement in writing between the Federal or State agency or official responsible for prosecuting the claim (including the Attorney General of the United States) and the chief executive officer of the recipient government against whom the noncompliance with this subpart is alleged. Such compliance agreement may take the form of a consent decree to be entered in the proceedings before a court of record or to be entered by a Federal administrative law judge having jurisdiction over the proceedings. Counsel of record representing the chief executive officer of the recipient government may initiate or negotiate the compliance agreement on behalf of the chief executive officer of the recipient government. However, in each case the Director shall, through her counsel or representative, indicate her approval or rejection of the compliance agreement. The Director may reject the compliance agreement if, in her judgment she determines that the agreement has not adequately remedied the discrimination.

(b) *In matters involving a holding.* Where the Director acts on the basis of a holding, the remedial order of the Court or Federal administrative law judge shall constitute the basis of the compliance agreement to be entered into with the Director; *provided*, however, that the lack of a remedial order does not affect the requirement that a recipient government enter into a compliance agreement with the Director within the time limits set forth in section 122(b) of the Act and §§ 51.64, 51.65 and 51.66(c) of this subpart. Any agreement entered into prior to issuance of such remedial order may be appropriately modified when the order is entered.

(c) *In matters between the Director and a recipient government.* In those instances where a compliance agreement is negotiated by the Director and the chief executive officer of the recipient government, the agreement shall be one document or a series of documents containing the following:

(1) A statement of all matters that constitute the failure of the recipient government to comply with the requirements of this subpart;

(2) The terms and conditions with the recipient government has agreed to comply in order to achieve compliance with the requirements of this subpart. Such terms and conditions may include the payment of restitution to persons injured by the failure of the recipient government to comply with any provisions of this subpart; and

(3) The signatures of the Director and the chief executive officer of the recipient government concerned.

(d) *Effect of violation of compliance agreement.* (1) If the recipient government fails to comply with the obligations stipulated in this agreement, the Director may issue a new determination of noncompliance under Section 122(b)(2) of the Revenue Sharing Act.

(2) The recipient government within ten (10) days after receipt of the determination of noncompliance, shall either come into compliance with the provisions of the compliance agreement or request an administrative hearing. At such hearing, the issues shall be limited to whether or not the recipient government has acted in compliance with this agreement.

(e) *Notification to complainants of compliance agreement.* Within 15 days after the execution of a compliance agreement (or, in the case of an agreement executed under paragraph (a) of this section, upon the approval of the Director if later than 15 days) the

Director shall submit a copy of such agreement to the complainant or complainants who initiated the complaint against the recipient government. The submission of a copy of the compliance agreement to counsel of record (if any) for the complainants shall meet the requirements of this paragraph.

§ 51.67 Resumption of suspended entitlement payment.

The payment of entitlement payments to a recipient government for which such payment has been suspended shall be resumed when:

(a) The recipient government enters into a compliance agreement with the Director and the Director ascertains to her satisfaction that the recipient government will comply with the provisions of this subpart.

(b) Subsequent to a hearing on the merits in a case where the Director has invoked a preliminary suspension of entitlement funds, the administrative law judge holds that the recipient government is in compliance with the provisions of this subpart; or

(c) The recipient government complies fully with the order of a court or a Federal administrative law judge if the order covers all matters raised by the Director in the original notice of noncompliance to the recipient government; or

(d) After a rehearing or similar adjudicative proceedings a court or an administrative law judge which originally held that the recipient government had failed to comply with the provisions of this subpart, subsequently holds that the recipient government did not so fail to comply; or

(e) An appellate court reverses the findings of discrimination by a lower court or administrative law judge upon the basis of which the Director suspended the payment of entitlement funds.

§ 51.68 Exhaustion of administrative remedies.

For purposes of bringing a private civil action pursuant to section 124 of the Act a complainant shall be deemed to have exhausted the administrative remedies upon the expiration of 90 days from the date the administrative complaint was mailed to the director, or with an agency with which the Director has an agreement under § 51.69 of this subpart where the Director or such agency:

(a) Issues a determination that the recipient government against whom the

complaint was filed is in compliance with the provisions of this subpart, or

(b) Fails to make a determination on such complaint.

§ 51.69 Agreements between agencies.

(a) *Purpose of cooperative agreements.* The Director shall endeavor to enter into cooperative agreements with officials of other departments and agencies of the Federal government, or officials of State agencies (which have concurrent jurisdiction) to effectuate the purposes of this subpart, including the achievement of effective coordination within the executive branch in the implementation of Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d, 2000e), the Civil Rights Act of 1968, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(b) *Content of cooperative agreements.* The agreements between the Director and other agencies or officials shall describe the cooperative efforts to be undertaken, which may include, but need not be limited to:

(1) Sharing of resources during investigations and compliance reviews (either by having joint investigations or having one agency do an investigation for both);

(2) Cooperation during compliance activities including the issuance of findings or determinations, (including the adopting of other agency's findings or determinations where practical);

(3) Cooperation during administrative hearings including joint participation and sharing of resources.

(4) Deferral of agency action where one agency has begun compliance activities on the same complaint or set of circumstances and provision for resumption of action where the agency deferred to does not act in a timely manner;

(5) Sharing of information, including data, records and investigative and other files, computer printouts, lists and status reports on complaints received;

(6) Identification of liaison personnel and the establishment of periodic meetings to discuss common substantive and procedural problems;

(7) Protecting the confidentiality of information shared;

(8) Providing for notification of formal administrative actions instituted against jointly covered recipients and of the results of such actions, particularly those that may be classified as holdings;

(9) The establishment of lead agencies (in those areas in which lead agencies have not already been designated by statute or executive order) so that the designated lead agency will provide

policy guidance in the area where two of more agencies share concurrent jurisdiction.

§ 51.70 Jurisdiction over property.

(a) *In general.* The Director shall have jurisdiction over any recipient government for purposes of this subpart for as long as that recipient government retains ownership or possession of any real or personal property or any interest therein, which was purchased in whole or in part with entitlement funds. Further, if such property is transferred to a secondary recipient or other party, the Director will retain jurisdiction over the recipient government for purposes of this subpart for as long as the property is used to provide benefits similar to those which were provided by the property before the transfer.

(b) *Definitions.* For the purposes of this section:

(1) Real property includes land, structures upon land and fixtures attached to land, and buildings or structures which cannot be removed without damage to the fixtures, buildings or structures.

(2) Personal property includes, at the least, non-expandable tangible property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit of property.

(3) The transfer of property means the passage of the property to a secondary recipient, or to any other person firm or agency.

(c) *Use of property to provide similar benefits.* For the purposes of this section the clause in paragraph (a) of this section "so long as the property is used to provide benefits similar to those provided by the property before the transfer" means the primary use or function of the property and not the specific or particular use of the property in the program or activity for which originally acquired.

(d) *Record keeping requirements.* Recipient governments shall maintain a separate record of real property and of tangible personal property having a value in excess of \$1,000. Such records shall set forth the date of purchase, date of disposal or transfer and the transferee of the property. Upon outright sale, discard, or trade of such property the provisions of this section shall no longer be applicable.

Appendix A

(From the Federal Register of Friday, August 25, 1978.)

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1607—UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 300—EMPLOYMENT (GENERAL)

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 50—STATEMENTS OF POLICY

Title 41—Public Contracts and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, DEPARTMENT OF LABOR

PART 60-3—UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

Adoption of Employee Selection Procedures

AGENCIES: Equal Employment Opportunity Commission, Civil Service Commission, Department of Justice and Department of Labor.

ACTION: Adoption of uniform guidelines on employee selection procedures as final rules by four agencies.

SUMMARY: This document sets forth the uniform guidelines on employee selection procedures adopted by the Equal Employment Opportunity Commission, Civil Service Commission, Department of Justice, and the Department of Labor. At present two different sets of guidelines exist. The guidelines are intended to establish a uniform Federal position in the area of prohibiting discrimination in employment practices on grounds of race, color, religion, sex, or national origin. Cross reference documents are published at 5 CFR 300.103(c) (Civil Service Commission), 28 CFR 50.14 (Department of Justice), 29 CFR Part 1607 (Equal Employment Opportunity Commission), and 41 CFR Part 60-3 (Department of Labor) elsewhere in this issue.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Doris Wooten, Associate Director, Donald J. Schwartz, Staff Psychologist, Office of Federal Contract Compliance Programs, Room C-3324, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-9426.

Peter C. Robertson, Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, 202-634-7060.

David L. Rose, Chief, Employment Section, Civil Rights Division, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, D.C. 20530, 202-739-3831.

A. Diane Graham, Director, Federal Equal Employment Opportunity, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-4420.
H. Patrick Swygert, General Counsel, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-4632.

SUPPLEMENTARY INFORMATION: An Overview of the 1978 Uniform Guidelines on Employee Selection Procedures

I. Background

One problem that confronted the Congress which adopted the Civil Rights Act of 1964 involved the effect of written preemployment tests on equal employment opportunity. The use of these test scores frequently denied employment to minorities in many cases without evidence that the tests were related to success on the job. Yet employers wished to continue to use such tests as practical tools to assist in the selection of qualified employees. Congress sought to strike a balance which would proscribe discrimination, but otherwise permit the use of tests in the selection of employees. Thus, in title VII, Congress authorized the use of "any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate * * *".¹

At first, some employers contended that, under this section, they could use any test which had been developed by a professional so long as they did not intend to exclude minorities, even if such exclusion was the consequence of the use of the test. In 1966, the Equal Employment Opportunity Commission (EEOC) adopted guidelines to advise employers and other users what the law and good industrial psychology practice required.² The Department of Labor adopted the same approach in 1968 with respect to tests used by Federal contractors under Executive Order 11246 in a more detailed regulation. The Government's view was that the employer's intent was irrelevant. If tests or other practices had an adverse impact on protected groups, they were unlawful unless they could be justified. To justify a test which screened out a higher proportion of minorities, the employer would have to show that it fairly measured or predicted performance on the job. Otherwise, it would not be considered to be "professionally developed."

In succeeding years, the EEOC and the Department of Labor provided more extensive guidance which elaborated upon these principles and expanded the guidelines to emphasize all selection procedures. In 1971 in *Griggs v. Duke Power Co.*,³ the Supreme Court announced the principle that employer practices which had an adverse impact on minorities and were not justified by business necessity constituted illegal discrimination under title VII. Congress confirmed this interpretation in the 1972 amendments to title VII. The elaboration of these principles by courts and agencies continued into the mid-1970's,⁴ but differences between the EEOC and the other agencies (Justice, Labor, and

Civil Service Commission) produced two different sets of guidelines by the end of 1976.

With the advent of the Carter administration in 1977, efforts were intensified to produce a unified government position. The following document represents the result of that effort. This introduction is intended to assist those not familiar with these matters to understand the basic approach of the uniform guidelines. While the guidelines are complex and technical, they are based upon the principles which have been consistently upheld by the courts, the Congress, and the agencies.

The following discussion will cite the sections of the Guidelines which embody these principles.

II. Adverse Impact

The fundamental principle underlying the guidelines is that employer policies or practices which have an adverse impact on employment opportunities of any race, sex, or ethnic group are illegal under title VII and the Executive order unless justified by business necessity.⁵ A selection procedure which has no adverse impact generally does not violate title VII or the Executive order.⁶ This means that an employer may usually avoid the application of the guidelines by use of procedures which have no adverse impact.⁷ If adverse impact exists, it must be justified on grounds of business necessity. Normally, this means by validation which demonstrates the relation between the selection procedure and performance on the job.

The guidelines adopt a "rule of thumb" as a practical means of determining adverse impact for use in enforcement proceedings. This rule is known as the "4/5ths" or "60 percent" rule.⁸ It is not a legal definition of discrimination, rather it is a practical device to keep the attention of enforcement agencies on serious discrepancies in hire or promotion rates or other employment decisions. To determine whether a selection procedure violates the "4/5ths rule", an employer compares its hiring rates for different groups.⁹ But this rule of thumb cannot be applied automatically. An employer who has conducted an extensive recruiting campaign may have a larger than normal pool of applicants, and the "4/5ths rule" might unfairly expose it to enforcement proceedings.¹⁰ On the other hand, an employer's reputation may have discouraged or "chilled" applicants of particular groups from applying because they believed application would be futile. The application of the "4/5ths" rule in that situation would allow an employer to evade scrutiny because of its own discrimination.¹¹

III. Is Adverse Impact To Be Measured by the Overall Process?

In recent years some employers have eliminated the overall adverse impact of a selection procedure and employed sufficient numbers of minorities or women to meet this

¹Griggs, note 3, supra; uniform guidelines on employee selection procedures (1978), section 3A. (hereinafter cited by section number only).

²Furnco v. Waters, 96 S.Ct. 2943 (1978).

³Section 6.

⁴Section 4D.

⁵Section 16R (definition of selection rate).

⁶Section 4D (special recruiting programs).

⁷Ibid (user's actions have discouraged applicants).

"4/5ths rule of thumb". However, they might continue use of a component which does have an adverse impact. For example, an employer might insist on a minimum passing score on a written test which is not job related and which has an adverse impact on minorities.¹² However, the employer might compensate for this adverse impact by hiring a sufficient proportion of minorities who do meet its standards, so that its overall hiring is on a par with or higher than the applicant flow. Employers have argued that as long as their "bottom line" shows no overall adverse impact, there is no violation at all, regardless of the operation of a particular component of the process.

Employee representatives have argued that rights under equal employment opportunity laws are individual, and the fact that an employer has hired some minorities does not justify discrimination against other minorities. Therefore, they argue that adverse impact is to be determined by examination of each component of the selection procedure, regardless of the "bottom line." This question has not been answered definitively by the courts. There are decisions pointing in both directions.

These guidelines do not address the underlying question of law. They discuss only the exercise of prosecutorial discretion by the Government agencies themselves.¹³ The agencies have decided that, generally, their resources to combat discrimination should be used against those respondents whose practices have restricted or excluded the opportunities of minorities and women. If an employer is appropriately including all groups in the workforce, it is not sensible to spend Government time and effort on such a case, when there are so many employers whose practices do have adverse effects which should be challenged. For this reason, the guidelines provide that, in considering whether to take enforcement action, the Government will take into account the general posture of the employer concerning equal employment opportunity, including its affirmative action plan and results achieved under the plan.¹⁴ There are some circumstances where the government may intervene even though the "bottom line" has been satisfied. They include the case where a component of a selection procedure restricts promotional opportunities of minorities or women who were discriminatorily assigned to jobs, and where a component, such as a height requirement, has been declared unlawful in other situations.¹⁵

What of the individual who is denied the job because of a particular component in a procedure which otherwise meets the "bottom line" standard? The individual retains the right to proceed through the appropriate agencies, and into Federal court.¹⁶

¹²See, e.g., *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

¹³Section 4C.

¹⁴Section 4E.

¹⁵Section 4C.

¹⁶The processing of individual cases is excluded from the operation of the bottom line concept by the definition of "enforcement action," section 16L. Under section 4C, where adverse impact has existed, the employer must keep records of the effect of each component for 2 years after the adverse effect has dissipated.

IV. Where Adverse Impact Exists: The Basic Options

Once an employer has established that there is adverse impact, what steps are required by the guidelines? As previously noted, the employer can modify or eliminate the procedure which produces the adverse impact, thus taking the selection procedure from the coverage of these guidelines. If the employer does not do that, then it must justify the use of the procedure on grounds of "business necessity."¹⁷ This normally means that it must show a clear relation between performance on the selection procedure and performance on the job. In the language of industrial psychology, the employer must validate the selection procedure. Thus the bulk of the guidelines consist of the Government's interpretation of standards for validation.

V. Validation: Consideration of Alternatives

The concept of validation as used in personnel psychology involves the establishment of the relationship between a test instrument or other selection procedure and performance on the job. Federal equal employment opportunity law has added a requirement to the process of validation. In conducting a validation study, the employer should consider available alternatives which will achieve its legitimate business purpose with lesser adverse impact.¹⁸ The employer cannot concentrate solely on establishing the validity of the instrument or procedure which it has been using in the past.

This same principle of using the alternative with lesser adverse impact is applicable to the manner in which an employer uses a valid selection procedure.¹⁹ The guidelines assume that there are at least three ways in which an employer can use scores on a selection procedure: (1) To screen out of consideration those who are not likely to be able to perform the job successfully; (2) to group applicants in accordance with the likelihood of their successful performance on the job, and (3) to rank applicants, selecting those with the highest scores for employment.²⁰

The setting of a "cutoff score" to determine who will be screened out may have an adverse impact. If so, an employer is required to justify the initial cutoff score by reference to its need for a trustworthy and efficient work force.²¹ Similarly, use of results for grouping or for rank ordering is likely to have a greater adverse effect than use of scores solely to screen out unqualified candidates. If the employer chooses to use a rank order method, the evidence of validity must be sufficient to justify that method of use.²²

¹⁷A few practices may be used without validation even if they have adverse impact. See, e.g., *McDonnell Douglas v. Green*, 411 U.S. 792 (1973) and section 6B.

¹⁸*Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1975); *Robinson v. Lorillard Corp.*, 444 F. 2d 791 (4th Cir. 1971).

¹⁹Sections 3B; 5C.

²⁰Ibid.

²¹See sections 3B; 5H. See also sections 14B(6) (criterion-related validity); 14C(9) (content validity); 14D(1) (construct validity).

²²Sections 5C, 14B(6); 14C(9); 14D(1).

VI. Testing for Higher Level Jobs

Normally, employers test for the job for which people are hired. However, there are situations where the first job is temporary or transient, and the workers who remain are promoted to work which involves more complex activities. The guidelines restrict testing for higher level jobs to users who promote a majority of the employees who remain with them to the higher level job within a reasonable period of time.²³

VII. How Is Validation To Be Conducted

Validation has become highly technical and complex, and yet is constantly changing as a set of concepts in industrial psychology. What follows here is a simple introduction to a highly complex field. There are three concepts which can be used to validate a selection procedure. These concepts reflect different approaches to investigating the job relatedness of selection procedures and may be interrelated in practice. They are (1) criterion-related validity,²⁴ (2) content validity,²⁵ and (3) construct validity.²⁶ In criterion-related validity, a selection procedure is justified by a statistical relationship between scores on the test or other selection procedure and measures of job performance. In content validity, a selection procedure is justified by showing that it representatively samples significant parts of the job, such as a typing test for a typist. Construct validity involves identifying the psychological trait (the construct) which underlies successful performance on the job and then devising a selection procedure to measure the presence and degree of the construct. An example would be a test of "leadership ability."

The guidelines contain technical standards and documentation requirements for the application of each of the three approaches.²⁷ One of the problems which the guidelines attempt to meet is the "borderline" between "content validity" and "construct validity." The extreme cases are easy to understand. A secretary, for example, may have to type. Many jobs require the separation of important matters which must be handled immediately from those which can be handled routinely. For the typing function, a typing test is appropriate. It is justifiable on the basis of content validity because it is a sample of an important or critical part of the job. The second function can be viewed as involving a capability to exercise selective judgment in light of the surrounding circumstances, a mental process which is difficult to sample.

In addressing this situation, the guidelines attempt to make it practical to validate the typing test by a content strategy,²⁸ but do not

²³Section 5I.

²⁴Sections 5B, (General Standards); 14B (Technical Standards); 15B (Documentation); 16F (Definition).

²⁵Sections 5B (General Standards); 14C (Technical Standards); 15C (Documentation); 16D (Definition).

²⁶Sections 5B (General Standards); 14D (Technical Standards); 15D (Documentation); 16E (Definition).

²⁷Technical standards are in section 14; documentation requirements are in section 15.

²⁸Section 14C.

allow the validation of a test measuring a construct such as "judgment" by a content validity strategy.

The bulk of the guidelines deals with questions such as those discussed in the above paragraphs. Not all such questions can be answered simply, nor can all problems be addressed in the single document. Once the guidelines are issued, they will have to be interpreted in light of changing factual, legal, and professional circumstances.

VIII. Simplification of Reporting and Recordkeeping Requirements

The reporting and recordkeeping provisions which appeared in the December 30 draft which was published for comment have been carefully reviewed in light of comments received and President Carter's direction to limit paperwork burdens on those regulated by Government to the minimum necessary for effective regulation. As a result of this review, two major changes have been made in the documentation requirements of the guidelines:

(1) A new section 15A(1) provides a simplified recordkeeping option for employers with fewer than 100 employees;

(2) Determinations of the adverse impact of selection procedures need not be made for groups which constitute less than 2 percent of the relevant labor force.

Also, the draft has been changed to make clear that users can assess adverse impact on an annual basis rather than on a continuing basis.

Analysis of comments. The uniform guidelines published today are based upon the proposition that the Federal Government should speak to the public and to those whom it regulates with one voice on this important subject; and that the Federal Government ought to impose upon itself obligations for equal employment opportunity which are at least as demanding as those it seeks to impose on others. These guidelines state a uniform Federal position on this subject, and are intended to protect the rights created by title VII of the Civil Rights Act of 1964, as amended, Executive Order 11246, as amended, and other provisions of Federal law. The uniform guidelines are also intended to represent "professionally acceptable methods" of the psychological profession for demonstrating whether a selection procedure validly predicts or measures performance for a particular job. *Albemarle Paper Co. v. Moody*, 422 U.S. 405, 425. They are also intended to be consistent with the decisions of the Supreme Court and authoritative decisions of other appellate courts.

Although the development of these guidelines preceded the issuance by President Jimmy Carter of Executive Order 12044 designed to improve the regulatory process, the spirit of his Executive order was followed in their development. Initial agreement among the Federal agencies was reached early in the fall of 1977, and the months from October 1977 until today have been spent in extensive consultation with civil rights groups whose clientele are protected by these guidelines; employers, labor unions, and State and local governments whose employment practices are affected by these guidelines; State and

¹Section 703(h), 42 U.S.C. 2000e(2)(h).

²See 35 U.S.L.W. 2137 (1966).

³401 U.S. 424 (1971).

⁴See, e.g., *Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1975).

local government antidiscrimination agencies who share with the Federal Government enforcement responsibility for discriminatory practices; and appropriate members of the general public. For example, an earlier draft of these guidelines was circulated informally for comment on October 23, 1977, pursuant to OMB Circular A-85. Many comments were received from representatives of State and local governments, psychologists, private employers, and civil rights groups. Those comments were taken into account in the draft of these guidelines which was published for comment December 30, 1977, 42 FR 66542.

More than 200 organizations and individuals submitted written comments on the December 30, 1977, draft. These comments were from representatives of private industry, public employers, labor organizations, civil rights groups, the American Psychological Association and components thereof, and many individual employers, psychologists, and personnel specialists. On March 3, 1978, notice was given of a public hearing and meeting to be held on April 10, 1978, 43 FR 2131. After preliminary review of the comments, the agencies identified four issues of particular interest, and invited testimony particularly on those issues, 43 FR 11812 (March 21, 1978). In the same notice the agencies published questions and answers on four issues of concern to the commenters. The questions and answers were designed to clarify the intent of the December 30, 1977, draft, so as to provide a sharper focus for the testimony at the hearing.

At a full day of testimony on April 10, 1978, representatives of private industry, State and local governments, labor organizations, and civil rights groups, as well as psychologists, personnel specialists, and others testified at the public hearing and meeting. The written comments, testimony, and views expressed in subsequent informal consultations have been carefully considered by the four agencies. We set forth below a summary of the comments, and the major issues raised in the comments and testimony, and attempt to explain how we have resolved those issues.

The statement submitted by the American Psychological Association (A.P.A.) stated that "these guidelines represent a major step forward and with careful interpretation can provide a sound basis for concerned professional work." Most of the A.P.A. comments were directed to clarification and interpretation of the present language of the proposal. However, the A.P.A. recommended substantive change in the construct validity section and in the definition of work behavior.

Similarly, the Division of Industrial and Organizational Psychology (division 14) of the A.P.A. described the technical standards of the guidelines as "superior" in terms of congruence with professional standards to "most previous orders and guidelines but numerous troublesome aspects remain." Division 14 had substantial concerns with a number of the provisions of the general principles of the draft.

Civil rights groups generally found the uniform guidelines far superior to the FEA guidelines, and many urged their adoption, with modifications concerning ranking and

documentation. Others raised concerns about the "bottom line" concept and other provisions of the guidelines.

The Ad Hoc Group on Employee Selection Procedures representing many employers in private industry supported the concept of uniform guidelines, but had a number of problems with particular provisions, some of which are described below. The American Society for Personnel Administration (ASPA) and the International Personnel Management Association, which represents State and local governments, generally took the same position as the ad hoc group. Major industrial unions found that the draft guidelines were superior to the FEA guidelines, but they perceived them to be inferior to the EEOC guidelines. They challenged particularly the bottom line concept and the construct validity section.

The building trade unions urged an exclusion of apprenticeship programs from coverage of the guidelines. The American Council on Education found them inappropriate for employment decisions concerning faculty at institutions of higher education. Other particular concerns were articulated by organizations representing the handicapped, licensing and certifying agencies, and college placement offices.

General Principles

1. *Relationship between validation and elimination of adverse impact, and affirmative action.* Federal equal employment opportunity law generally does not require evidence of validity for a selection procedure if there is no adverse impact; e.g., *Griggs v. Duke Power Co.*, 401 U.S. 424. Therefore, a user has the choice of complying either by providing evidence of validity (or otherwise justifying use in accord with Federal law), or by eliminating the adverse impact. These options have always been present under Federal law, 29 CFR 1607.3; 41 CFR 60-3.3(a); and the Federal Executive Agency Guidelines, 41 FR 51734 (November 23, 1976). The December 30 draft guidelines, however, clarified the nature of the two options open to users.

Psychologists expressed concern that the December 30 draft of section 6A encouraged the use of invalid procedures as long as there is no adverse impact. Employers added the concern that the section might encourage the use of illegal procedures not having an adverse impact against the groups who have historically suffered discrimination (minorities, women), even if they have an adverse impact on a different group (whites, males).

Section 6A was not so intended, and we have revised it to clarify the fact that illegal acts purporting to be affirmative action are not the goal of the agencies or of the guidelines; and that any employee selection procedure must be lawful and should be as job related as possible. The delineation of examples of alternative procedures was eliminated to avoid the implication that particular procedures are either prescribed or are necessarily appropriate. The basic thrust of section 6A, that elimination of adverse impact is an alternative to validation, is retained.

The inclusion of excerpts from the 1976 Equal Employment Opportunity Coordinating

Council Policy Statement on Affirmative Action in section 13B of the December 30 draft was criticized as not belonging in a set of guidelines for the validation of selection procedures. Section 13 has been revised. The general statement of policy in support of voluntary affirmative action, and the reaffirmation of the policy statement have been retained, but this statement itself is now found in the appendix to the guidelines.

2. *The "bottom line" (section 4C).* The guidelines provide that when the overall selection process does not have an adverse impact the Government will usually not examine the individual components of that process for adverse impact or evidence of validity. The concept is based upon the view that the Federal Government should not generally concern itself with individual components of a selection process, if the overall effect of that process is nonexclusionary. Many commenters criticized the ambiguity caused by the word "generally" in the December 30 draft of section 4C which provided, "the Federal enforcement agencies . . . generally will not take enforcement action based upon adverse impact of any component" of a process that does not have an overall adverse impact. Employer groups stated the position that the "bottom line" should be a rule prohibiting enforcement action by Federal agencies with respect to all or any part of a selection process where the bottom line does not show adverse impact. Civil rights and some labor union representatives expressed the opposing concerns that the concept may be too restrictive, that it may be interpreted as a matter of law, and that it might allow certain discriminatory conditions to go unremedied.

The guidelines have been revised to clarify the intent that the bottom line concept is based upon administrative and prosecutorial discretion. The Federal agencies cannot accept the recommendation that they never inquire into or take enforcement action with respect to any component procedure unless the whole process of which it is a part has an adverse impact. The Federal enforcement agencies believe that enforcement action may be warranted in unusual circumstances, such as those involving other discriminatory practices, or particular selection procedures which have no validity and have a clear adverse impact on a national basis. Other unusual circumstances may warrant a high level agency decision to proceed with enforcement actions although the "bottom line" has been satisfied. At the same time the agencies adhere to the bottom line concept of allocating resources primarily to those users whose overall selection processes have an adverse impact. See overview, above, part III.

3. *Investigation of alternative selection procedures and alternative methods of use (section 3B).* The December 30 draft included an obligation on the user, when conducting a validity study, to investigate alternative procedures and uses, in order to determine whether there are other procedures which are substantially equally valid, but which have less adverse impact. The American Psychological Association stated:

"We would concur with the drafters of the guidelines that it is appropriate in the

determination of a selection strategy to consider carefully a variety of possible procedures and to think carefully about the question of adverse impact with respect to each of these procedures. Nevertheless, we feel it appropriate to note that a rigid enforcement of these sections, particularly for smaller employers, would impose a substantial and expensive burden on these employers."

Since a reasonable consideration of alternatives is consistent with the underlying principle of minimizing adverse impact consistent with business needs, the provision is retained.

Private employer representatives challenged earlier drafts of these guidelines as being inconsistent with the decision of the Supreme Court in *Albemarle Paper Co. v. Moody*, 422 U.S. 405. No such inconsistency was intended. Accordingly, the first sentence of section 3B was revised to paraphrase the opinion in the *Albemarle* decision, so as to make it clear that section 3B is in accord with the principles of the *Albemarle* decision.

Section 3B was further revised to clarify the intent of the guidelines that the obligation to investigate alternative procedures is a part of conducting a validity study, so that alternative procedures should be evaluated in light of validity studies meeting professional standards, and that section 3B does not impose an obligation to search for alternatives if the user is not required to conduct a validity study.

Just as, under section 3B of the guidelines, a user should investigate alternative selection procedures as a part of choosing and validating a procedure, so should the user investigate alternative uses of the selection device chosen to find the use most appropriate to his needs. The validity study should address the question of what method of use (screening, grouping, or rank ordering) is appropriate for a procedure based on the kind and strength of the validity evidence shown, and the degree of adverse impact of the different uses.

4. *Establishment of cutoff scores and rank ordering.* Some commenters from civil rights groups believed that the December 30 draft guidelines did not provide sufficient guidance as to when it was permissible to use a selection procedure on a ranking basis rather than on a pass-fail basis. They also objected to section 5G in terms of setting cutoff scores. Other comments noted a lack of clarity as to how the determination of a cutoff score or the use of a procedure for ranking candidates relates to adverse impact.

As we have noted, users are not required to validate procedures which do not have an adverse impact. However, if one way of using a procedure (e.g., for ranking) results in greater adverse impact than another way (e.g., pass/fail), the procedure must be validated for that use. Similarly, cutoff scores which result in adverse impact should be justified. If the use of a validated procedure for ranking results in greater adverse impact than its use as a screening device, the evidence of validity and utility must be sufficient to warrant use of the procedures as a ranking device.

A new section 5G has been added to clarify these concepts. Section 5H (formerly section

5G) addresses the choice of a cutoff score when a procedure is to be used for ranking.

5. *Scope: Requests for exemptions for certain classes of users.* Some employer groups and labor organizations (e.g., academic institutions, large public employers, apprenticeship councils) argued that they should be exempted from all or some of the provisions of these guidelines because of their special needs. The intent of Congress as expressed in Federal equal employment opportunity law is to apply the same standards to all users, public and private.

These guidelines apply the same principles and standards to all employers. On the other hand, the nature of the procedures which will actually meet those principles and standards may be different for different employers, and the guidelines recognize that fact.

Accordingly, the guidelines are applicable to all employers and other users who are covered by Federal equal employment opportunity law.

Organizations of handicapped persons objected to excluding from the scope of these guidelines the enforcement of laws prohibiting discrimination on the basis of handicap, in particular the Rehabilitation Act of 1973, sections 501, 503, and 504. While this issue has not been addressed in the guidelines, nothing precludes the adoption of the principles set forth in these guidelines for other appropriate situations.

Licensing and certification boards raised the question of the applicability of the guidelines to their licensing and certification functions. The guidelines make it clear that licensing and certification are covered "to the extent" that licensing and certification may be covered by Federal equal employment opportunity law.

Voluntary certification boards, where certification is not required by law, are not users as defined in section 16 with respect to their certifying functions and therefore are not subject to these guidelines. If an employer relies upon such certification in making employment decisions, the employer is the user and must be prepared to justify, under Federal law, that reliance as it would any other selection procedure.

6. *The "Four-Fifths Rule of Thumb" (section 4D).* Some representatives of employers and some professionals suggest that the basic test for adverse impact should be a test of statistical significance, rather than the four-fifths rule. Some civil rights groups, on the other hand, still regard the four-fifths rule as permitting some unlawful discrimination.

The Federal agencies believe that neither of these positions is correct. The great majority of employers do not hire, promote, or assign enough employees for most jobs to warrant primary reliance upon statistical significance. Many decisions in day-to-day life are made on the basis of information which does not have the justification of a test of statistical significance. Courts have found adverse impact without a showing of statistical significance. *Griggs v. Duke Power Co.*, supra; *Vulcan Society of New York v. CSC of N.Y.*, 490 F. 2d 387, 393 (2d Cir. 1973); *Kirkland v. New York St. Dept. of Corr. Serv.*, 520 F. 2d 420, 425 (2d Cir. 1975).

Accordingly, the undersigned believe that while the four-fifths rule does not define

discrimination and does not apply in all cases, it is appropriate as a rule of thumb in identifying adverse impact.

Technical Standards

7. *Criterion-related validity (section 14B).* This section of the guidelines found general support among the commenters from the psychological profession and, except for the provisions concerning test fairness (sometimes mistakenly equated with differential prediction or differential validity), generated relatively little comment.

The provisions of the guidelines concerning criterion-related validity studies call for studies of fairness of selection procedures where technically feasible.

Section 14B(8). Some psychologists and employer groups objected that the concept of test fairness or unfairness has been discredited by professionals and pointed out that the term is commonly misused. We recognize that there is serious debate on the question of test fairness; however, it is accepted professionally that fairness should be examined where feasible. The A.P.A. standards for educational and psychological tests, for example, direct users to explore the question of fairness on finding a difference in group performances (section E9, pp. 43-44). Similarly the concept of test fairness is one which is closely related to the basic thrust of Federal equal employment opportunity law; and that concept was endorsed by the Supreme Court in *Albemarle Paper Co. v. Moody*, 422 U.S. 405.

Accordingly, we have retained in the guidelines the obligation upon users to investigate test fairness where it is technically feasible to do so.

8. *Content validity.* The Division of Industrial and Organizational Psychology of A.P.A. correctly perceived that the provisions of the draft guidelines concerning content validity, with their emphasis on observable work behaviors or work products, were "greatly concerned with minimizing the inferential leap between test and performance." That division expressed the view that the draft guidelines neglected situations where a knowledge, skill or ability is necessary to an outcome but where the work behavior cannot be replicated in a test. They recommended that the section be revised.

We believe that the emphasis on observable work behaviors or observable work products is appropriate; and that in order to show content validity, the gap between the test and performance on the job should be a small one. We recognize, however, that content validity may be appropriate to support a test which measures a knowledge, skill, or ability which is a necessary prerequisite to the performance of the job, even though the test might not be close enough to the work behavior to be considered a work sample, and the guidelines have been revised appropriately. On the other hand, tests of mental processes which are not directly observable and which may be difficult to determine on the basis of observable work behaviors or work products should not be supported by content validity.

Thus, the Principles for the Validation and Use of Personnel Selection procedures (Division of Industrial and Organizational

Psychology, American Psychological Association, 1975, p. 10), discuss the use of content validity to support tests of "specific items of knowledge, or specific job skills," but call attention to the inappropriateness of attempting to justify tests for traits or constructs on a content validity basis.

9. Construct validity (section 14D).

Business groups and professionals expressed concern that the construct validity requirements in the December 30 draft were confusing and technically inaccurate. As section 14D indicates, construct validity is a relatively new procedure in the field of personnel selection and there is not yet substantial guidance in the professional literature as to its use in the area of employment practices. The provisions on construct validity have been revised to meet the concerns expressed by the A.P.A. The construct validity section as revised clarifies what is required by the Federal enforcement agencies at this stage in the development of construct validity. The guidelines leave open the possibility that different evidence of construct validity may be accepted in the future, as new methodologies develop and become incorporated in professional standards and other professional literature.

10. Documentation (section 15).

Commenters stated that the documentation section did not conform to the technical requirements of the guidelines or was otherwise inadequate. Section 15 has been clarified and two significant changes have been made to minimize the recordkeeping burden. (See overview, part VIII.)

11. Definitions (section 16). The definition of work behavior in the December 30, 1977 draft was criticized by the A.P.A. and others as being too vague to provide adequate guidance to those using the guidelines who must identify work behavior as a part of any validation technique. Other comments criticized the absence or inadequacies of other definitions, especially "adverse impact." Substantial revisions of and additions to this section were therefore made.

Uniform Guidelines on Employee Selection Procedures (1978)

Note.—These guidelines are issued jointly by four agencies. Separate official adoptions follow the guidelines in this part IV as follows: Civil Service Commission, Department of Justice, Equal Employment Opportunity Commission, Department of Labor.

For official citation see section 18 of these guidelines.

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- (7) Relationship to Job Performance
- (8) Alternative Procedures Investigated
- (9) Uses and Applications
- (10) Accuracy and Completeness
- (11) Source Data
- (12) Contact Person

E. Evidence of Validity from Other Studies

- (1) Evidence from Criterion-Related Validity Studies
- (a) Job Information
- (b) Relevance of Criteria
- (c) Other Variables
- (d) Use of the Selection Procedure
- (e) Bibliography
- (2) Evidence from Content Validity Studies
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- F. Evidence of Validity from Cooperative Studies
- G. Selection for Higher Level Jobs
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Definitions

16. Definitions

Appendix

17. Policy Statement on Affirmative Action (see Section 13B)
18. Citations

General Principles

Section 1. *Statement of purpose.*—A. *Need for uniformity—Issuing agencies.* The Federal government's need for a uniform set of principles on the question of the use of tests and other selection procedures has long been recognized. The Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Labor, and the Department of Justice jointly have adopted these uniform guidelines to meet that need, and to apply the same principles to the Federal Government as are applied to other employers.

B. *Purpose of guidelines.* These guidelines incorporate a single set of principles which are designed to assist employers, labor organizations, employment agencies, and licensing and certification boards to comply with requirements of Federal law prohibiting employment practices which discriminate on grounds of race, color, religion, sex, and national origin. They are designed to provide a framework for determining the proper use of tests and other selection procedures. These guidelines do not require a user to conduct validity studies of selection procedures where no adverse impact results. However, all users are encouraged to use selection

procedures which are valid, especially users operating under merit principles.

C. *Relation to prior guidelines.* These guidelines are based upon and supersede previously issued guidelines on employee selection procedures. These guidelines have been built upon court decisions, the previously issued guidelines of the agencies, and the practical experience of the agencies, as well as the standards of the psychological profession. These guidelines are intended to be consistent with existing law.

Sec. 2. *Scope.*—A. *Application of guidelines.* These guidelines will be applied by the Equal Employment Opportunity Commission in the enforcement of title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (hereinafter "Title VII"); by the Department of Labor, and the contract compliance agencies until the transfer of authority contemplated by the President's Reorganization Plan No. 1 of 1978, in the administration and enforcement of Executive Order 11246, as amended by Executive Order 11375 (hereinafter "Executive Order 11246"); by the Civil Service Commission and other Federal agencies subject to section 717 of Title VII; by the Civil Service Commission in exercising its responsibilities toward State and local governments under section 208(b)(1) of the Intergovernmental Personnel Act; by the Department of Justice in exercising its responsibilities under Federal law; by the Office of Revenue Sharing of the Department of the Treasury under the State and Local Fiscal Assistance Act of 1972, as amended; and by any other Federal agency which adopts them.

B. *Employment decisions.* These guidelines apply to tests and other selection procedures which are used as a basis for any employment decision. Employment decisions include but are not limited to hiring, promotion, demotion, membership (for example, in a labor organization), referral, retention, and licensing and certification, to the extent that licensing and certification may be covered by Federal equal employment opportunity law. Other selection decisions, such as selection for training or transfer, may also be considered employment decisions if they lead to any of the decisions listed above.

C. *Selection procedures.* These guidelines apply only to selection procedures which are used as a basis for making employment decisions. For example, the use of recruiting procedures designed to attract members of a particular race, sex, or ethnic group, which were previously denied employment opportunities or which are currently underutilized, may be necessary to bring an employer into compliance with Federal law, and is frequently an essential element of any effective affirmative action program; but recruitment practices are not considered by these guidelines to be selection procedures. Similarly, these guidelines do not pertain to the question of the lawfulness of a seniority system within the meaning of section 703(h), Executive Order 11246 or other provisions of Federal law or regulation, except to the extent that such systems utilize selection procedures to determine qualifications or abilities to perform the job. Nothing in these

guidelines is intended or should be interpreted as discouraging the use of a selection procedure for the purpose of determining qualifications or for the purpose of selection on the basis of relative qualifications, if the selection procedure had been validated in accord with these guidelines for each such purpose for which it is to be used.

D. *Limitations.* These guidelines apply only to persons subject to Title VII, Executive Order 11246, or other equal employment opportunity requirements of Federal law. These guidelines do not apply to responsibilities under the Age Discrimination in Employment Act of 1967, as amended, not to discriminate on the basis of age, or under sections 501, 503, and 504 of the Rehabilitation Act of 1973, not to discriminate on the basis of handicap.

E. *Indian preference not affected.* These guidelines do not restrict any obligation imposed or right granted by Federal law to users to extend a preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation.

Sec. 3. *Discrimination defined: Relationship between use of selection procedures and discrimination.*—A. *Procedure having adverse impact constitutes discrimination unless justified.* The use of any selection procedure which has an adverse impact on the hiring, promotion, or other employment or membership opportunities of members of any race, sex, or ethnic group will be considered to be discriminatory and inconsistent with these guidelines, unless the procedure has been validated in accordance with these guidelines, or the provisions of section 6 below are satisfied.

B. *Consideration of suitable alternative selection procedures.* Where two or more selection procedures are available which serve the user's legitimate interest in efficient and trustworthy workmanship, and which are substantially equally valid for a given purpose, the user should use the procedure which has been demonstrated to have the lesser adverse impact. Accordingly, whenever a validity study is called for by these guidelines, the user should include, as a part of the validity study, an investigation of suitable alternative selection procedures and suitable alternative methods of using the selection procedure which have as little adverse impact as possible, to determine the appropriateness of using or validating them in accord with these guidelines. If a user has made a reasonable effort to become aware of such alternative procedures and validity has been demonstrated in accord with these guidelines, the use of the test or other selection procedure may continue until such time as it should reasonably be reviewed for currency. Whenever the user is shown an alternative selection procedure with evidence of less adverse impact and substantial evidence of validity for the same job in similar circumstances, the user should investigate it to determine the appropriateness of using or validating it in accord with these guidelines. This subsection is not intended to preclude the combination

of procedures into a significantly more valid procedure, if the use of such a combination has been shown to be in compliance with the guidelines.

Sec. 4. Information on impact.—A. Records concerning impact. Each user should maintain and have available for inspection records or other information which will disclose the impact which its tests and other selection procedures have upon employment opportunities of persons by identifiable race, sex, or ethnic group as set forth in subparagraph B below in order to determine compliance with these guidelines. Where there are large numbers of applicants and procedures are administered frequently, such information may be retained on a sample basis, provided that the sample is appropriate in terms of the applicant population and adequate in size.

B. Applicable race, sex, and ethnic groups for recordkeeping. The records called for by this section are to be maintained by sex, and the following races and ethnic groups: Blacks (Negroes), American Indians (including Alaskan Natives), Asians (including Pacific Islanders), Hispanic (including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin or culture regardless of race), whites (Caucasians) other than Hispanic, and totals. The race, sex, and ethnic classifications called for by this section are consistent with the Equal Employment Opportunity Standard Form 100, Employer Information Report EEO-1 series of reports. The user should adopt safeguards to insure that the records required by this paragraph are used for appropriate purposes such as determining adverse impact, or (where required) for developing and monitoring affirmative action programs, and that such records are not used improperly. See sections 4E and 17(4), below.

C. Evaluation of selection rates. The "bottom line." If the information called for by sections 4A and B above shows that the total selection process for a job has an adverse impact, the individual components of the selection process should be evaluated for adverse impact. If this information shows that the total selection process does not have an adverse impact, the Federal enforcement agencies, in the exercise of their administrative and prosecutorial discretion, in usual circumstances, will not expect a user to evaluate the individual components for adverse impact, or to validate such individual components, and will not take enforcement action based upon adverse impact of any component of that process, including the separate parts of a multipart selection procedure or any separate procedure that is used as an alternative method of selection. However, in the following circumstances the Federal enforcement agencies will expect a user to evaluate the individual components for adverse impact and may, where appropriate, take enforcement action with respect to the individual components: (1) where the selection procedure is a significant factor in the continuation of patterns of assignments of incumbent employees caused by prior discriminatory employment practices, (2) where the weight of court decisions or administrative interpretations hold that a specific procedure (such as height

or weight requirements or no-arrest records) is not job related in the same or similar circumstances. In unusual circumstances, other than those listed in (1) and (2) above, the Federal enforcement agencies may request a user to evaluate the individual components for adverse impact and may, where appropriate, take enforcement action with respect to the individual component.

D. Adverse impact and the "four-fifths rule." A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact. Smaller differences in selection rate may nevertheless constitute adverse impact, where they are significant in both statistical and practical terms or where a user's actions have discouraged applicants disproportionately on grounds of race, sex, or ethnic group. Greater differences in selection rate may not constitute adverse impact where the differences are based on small numbers and are not statistically significant, or where special recruiting or other programs cause the pool of minority or female candidates to be atypical of the normal pool of applicants from that group. Where the user's evidence concerning the impact of a selection procedure indicates adverse impact but is based upon numbers which are too small to be reliable, evidence concerning the impact of the procedure over a longer period of time and/or evidence concerning the impact which the selection procedure had when used in the same manner in similar circumstances elsewhere may be considered in determining adverse impact. Where the user has not maintained data on adverse impact as required by the documentation section of applicable guidelines, the Federal enforcement agencies may draw an inference of adverse impact of the selection process from the failure of the user to maintain such data, if the user has an underutilization of a group in the job category, as compared to the group's representation in the relevant labor market or, in the case of jobs filled from within, the applicable work force.

E. Consideration of user's equal employment opportunity posture. In carrying out their obligations, the Federal enforcement agencies will consider the general posture of the user with respect to equal employment opportunity for the job or group of jobs in question. Where a user has adopted an affirmative action program, the Federal enforcement agencies will consider the provisions of that program, including the goals and timetables which the user has adopted and the progress which the user has made in carrying out that program and in meeting the goals and timetables. While such affirmative action programs may in design and execution be race, color, sex, or ethnic conscious, selection procedures under such programs should be based upon the ability or relative ability to do the work.

Sec. 5. General standards for validity studies.—A. Acceptable types of validity studies. For the purposes of satisfying these

guidelines, users may rely upon criterion-related validity studies, content validity studies or construct validity studies, in accordance with the standards set forth in the technical standards of these guidelines, section 14 below. New strategies for showing the validity of selection procedures will be evaluated as they become accepted by the psychological profession.

B. Criterion-related, content, and construct validity. Evidence of the validity of a test or other selection procedure by a criterion-related validity study should consist of empirical data demonstrating that the selection procedure is predictive of or significantly correlated with important elements of job performance. See section 14B below. Evidence of the validity of a test or other selection procedure by a content validity study should consist of data showing that the content of the selection procedure is representative of important aspects of performance on the job for which the candidates are to be evaluated. See section 14C below. Evidence of the validity of a test or other selection procedure through a construct validity study should consist of data showing that the procedure measures the degree to which candidates have identifiable characteristics which have been determined to be important in successful performance in the job for which the candidates are to be evaluated. See section 14D below.

C. Guidelines are consistent with professional standards. The provisions of these guidelines relating to validation of selection procedures are intended to be consistent with generally accepted professional standards for evaluating standardized tests and other selection procedures, such as those described in the Standards for Educational and Psychological Tests prepared by a joint committee of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education (American Psychological Association, Washington, D.C., 1974) (hereinafter "A.P.A. Standards") and standard textbooks and journals in the field of personnel selection.

D. Need for documentation of validity. For any selection procedure which is part of a selection process which has an adverse impact and which selection procedure has an adverse impact, each user should maintain and have available such documentation as is described in section 15 below.

E. Accuracy and standardization. Validity studies should be carried out under conditions which assure insofar as possible the adequacy and accuracy of the research and the report. Selection procedures should be administered and scored under standardized conditions.

F. Caution against selection on basis of knowledge, skills, or ability learned in brief orientation period. In general, users should avoid making employment decisions on the basis of measures of knowledge, skills, or abilities which are normally learned in a brief orientation period, and which have an adverse impact.

G. Method of use of selection procedures. The evidence of both the validity and utility

of a selection procedure should support the method the user chooses for operational use of the procedure, if that method of use has a greater adverse impact than another method of use. Evidence which may be sufficient to support the use of a selection procedure on a pass/fail (screening) basis may be insufficient to support the use of the same procedure on a ranking basis under these guidelines. Thus, if a user decides to use a selection procedure on a ranking basis, and that method of use has a greater adverse impact than use on an appropriate pass/fail basis (see section 5H below), the user should have sufficient evidence of validity and utility to support the use on a ranking basis. See sections 3B, 14B (5) and (6), and 14C (8) and (9).

H. Cutoff scores. Where cutoff scores are used, they should normally be set so as to be reasonable and consistent with normal expectations of acceptable proficiency within the work force. Where applicants are ranked on the basis of properly validated selection procedures and those applicants scoring below a higher cutoff score than appropriate in light of such expectations have little or no chance of being selected for employment, the higher cutoff score may be appropriate, but the degree of adverse impact should be considered.

I. Use of selection procedures for higher level jobs. If job progression structures are so established that employees will probably, within a reasonable period of time and in a majority of cases, progress to a higher level, it may be considered that the applicants are being evaluated for a job or jobs at the higher level. However, where job progression is not so nearly automatic, or the time span is such that higher level jobs or employees' potential may be expected to change in significant ways, it should be considered that applicants are being evaluated for a job at or near the entry level. A "reasonable period of time" will vary for different jobs and employment situations but will seldom be more than 5 years. Use of selection procedures to evaluate applicants for a higher level job would not be appropriate:

(1) If the majority of those remaining employed do not progress to the higher level job;

(2) If there is a reason to doubt that the higher level job will continue to require essentially similar skills during the progression period; or

(3) If the selection procedures measure knowledge, skills, or abilities required for advancement which would be expected to develop principally from the training or experience on the job.

J. Interim use of selection procedures. Users may continue the use of a selection procedure which is not at the moment fully supported by the required evidence of validity, provided: (1) The user has available substantial evidence of validity, and (2) the user has in progress, when technically feasible, a study which is designed to produce the additional evidence required by these guidelines within a reasonable time. If such a study is not technically feasible, see section 6B. If the study does not demonstrate validity, this provision of these guidelines for interim use shall not constitute a defense in

any action, nor shall it relieve the user of any obligations arising under Federal law.

K. Review of validity studies for currency. Whenever validity has been shown in accord with these guidelines for the use of a particular selection procedure for a job or group of jobs, additional studies need not be performed until such time as the validity study is subject to review as provided in section 3B above. There are no absolutes in the area of determining the currency of a validity study. All circumstances concerning the study, including the validation strategy used, and changes in the relevant labor market and the job should be considered in the determination of when a validity study is outdated.

Sec. 6. Use of selection procedures which have not been validated.—A. Use of alternate selection procedures to eliminate adverse impact. A user may choose to utilize alternative selection procedures in order to eliminate adverse impact or as part of an affirmative action program. See section 13 below. Such alternative procedures should eliminate the adverse impact in the total selection process, should be lawful and should be as job related as possible.

B. Where validity studies cannot or need not be performed. There are circumstances in which a user cannot or need not utilize the validation techniques contemplated by these guidelines. In such circumstances, the user should utilize selection procedures which are as job related as possible and which will minimize or eliminate adverse impact, as set forth below.

(1) **Where informal or unscored procedures are used.** When an informal or unscored selection procedure which has an adverse impact is utilized, the user should eliminate the adverse impact, or modify the procedure to one which is a formal, scored or quantified measure or combination of measures and then validate the procedure in accord with these guidelines, or otherwise justify continued use of the procedure in accord with Federal law.

(2) **Where formal and scored procedures are used.** When a formal and scored selection procedure is used which has an adverse impact, the validation techniques contemplated by these guidelines usually should be followed if technically feasible. Where the user cannot or need not follow the validation techniques anticipated by these guidelines, the user should either modify the procedure to eliminate adverse impact or otherwise justify continued use of the procedure in accord with Federal law.

Sec. 7. Use of other validity studies.—A. Validity studies not conducted by the user. Users may, under certain circumstances, support the use of selection procedures by validity studies conducted by other users or conducted by test publishers or distributors and described in test manuals. While publishers of selection procedures have a professional obligation to provide evidence of validity which meets generally accepted professional standards (see section 5C above), users are cautioned that they are responsible for compliance with these guidelines. Accordingly, users seeking to obtain selection procedures from publishers and distributors should be careful to

determine that, in the event the user becomes subject to the validity requirements of these guidelines, the necessary information to support validity has been determined and will be made available to the user.

B. Use of criterion-related validity evidence from other sources. Criterion-related validity studies conducted by one test user, or described in test manuals and the professional literature, will be considered acceptable for use by another user when the following requirements are met:

(1) **Validity evidence.** Evidence from the available studies meeting the standards of section 14B below clearly demonstrates that the selection procedure is valid;

(2) **Job similarity.** The incumbents in the user's job and the incumbents in the job or group of jobs on which the validity study was conducted perform substantially the same major work behaviors, as shown by appropriate job analyses both on the job or group of jobs on which the validity study was performed and on the job for which the selection procedure is to be used; and

(3) **Fairness evidence.** The studies include a study of test fairness for each race, sex, and ethnic group which constitutes a significant factor in the borrowing user's relevant labor market for the job or jobs in question. If the studies under consideration satisfy (1) and (2) above but do not contain an investigation of test fairness, and it is not technically feasible for the borrowing user to conduct an internal study of test fairness, the borrowing user may utilize the study until studies conducted elsewhere meeting the requirements of these guidelines show test unfairness, or until such time as it becomes technically feasible to conduct an internal study of test fairness and the results of that study can be acted upon. Users obtaining selection procedures from publishers should consider, as one factor in the decision to purchase a particular selection procedure, the availability of evidence concerning test fairness.

C. Validity evidence from multiunit study. If validity evidence from a study covering more than one unit within an organization satisfies the requirements of section 14B below, evidence of validity specific to each unit will not be required unless there are variables which are likely to affect validity significantly.

D. Other significant variables. If there are variables in the other studies which are likely to affect validity significantly, the user may not rely upon such studies, but will be expected either to conduct an internal validity study or to comply with section 6 above.

Sec. 8. Cooperative studies.—A. Encouragement of cooperative studies. The agencies issuing these guidelines encourage employers, labor organizations, and employment agencies to cooperate in research, development, search for lawful alternatives, and validity studies in order to achieve procedures which are consistent with these guidelines.

B. Standards for use of cooperative studies. If validity evidence from a cooperative study satisfies the requirements of section 14 below, evidence of validity specific to each user will not be required unless there are variables in the user's situation which are likely to affect validity significantly.

Sec. 9. *No assumption of validity.*—A. *Unacceptable substitutes for evidence of validity.* Under no circumstances will the general reputation of a test or other selection procedures, its author or its publisher, or casual reports of its validity be accepted in lieu of evidence of validity. Specifically ruled out are: assumptions of validity based on a procedure's name or descriptive labels; all forms of promotional literature; data bearing on the frequency of a procedure's usage; testimonial statements and credentials of sellers, users, or consultants; and other nonempirical or anecdotal accounts of selection practices or selection outcomes.

B. *Encouragement of professional supervision.* Professional supervision of selection activities is encouraged but is not a substitute for documented evidence of validity. The enforcement agencies will take into account the fact that a thorough job analysis was conducted and that careful development and use of a selection procedure in accordance with professional standards enhance the probability that the selection procedure is valid for the job.

Sec. 10. *Employment agencies and employment services.*—A. *Where selection procedures are devised by agency.* An employment agency, including private employment agencies and State employment agencies, which agrees to a request by an employer or labor organization to devise and utilize a selection procedure should follow the standards in these guidelines for determining adverse impact. If adverse impact exists the agency should comply with these guidelines. An employment agency is not relieved of its obligation herein because the user did not request such validation or has requested the use of some lesser standard of validation than is provided in these guidelines. The use of an employment agency does not relieve an employer or labor organization or other user of its responsibilities under Federal law to provide equal employment opportunity or its obligations as a user under these guidelines.

B. *Where selection procedures are devised elsewhere.* Where an employment agency or service is requested to administer a selection procedure which has been devised elsewhere and to make referrals pursuant to the results, the employment agency or service should maintain and have available evidence of the impact of the selection and referral procedures which it administers. If adverse impact results the agency or service should comply with these guidelines. If the agency or service seeks to comply with these guidelines by reliance upon validity studies or other data in the possession of the employer, it should obtain and have available such information.

Sec. 11. *Disparate treatment.* The principles of disparate or unequal treatment must be distinguished from the concepts of validation. A selection procedure—even though validated against job performance in accordance with these guidelines—cannot be imposed upon members of a race, sex, or ethnic group where other employees, applicants, or members have not been subjected to that standard. Disparate treatment occurs where members of a race, sex, or ethnic group have been denied the

same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, the persons who were in the class of persons discriminated against during the period the user followed the discriminatory practices should be allowed the opportunity to qualify under less stringent selection procedures previously followed, unless the user demonstrates that the increased standards are required by business necessity. This section does not prohibit a user who has not previously followed merit standards from adopting merit standards which are in compliance with these guidelines; nor does it preclude a user who has previously used invalid or unvalidated selection procedures from developing and using procedures which are in accord with these guidelines.

Sec. 12. *Retesting of applicants.* Users should provide a reasonable opportunity for retesting and reconsideration. Where examinations are administered periodically with public notice, such reasonable opportunity exists, unless persons who have previously been tested are precluded from retesting. The user may however take reasonable steps to preserve the security of its procedures.

Sec. 13. *Affirmative action.*—A. *Affirmative action obligations.* The use of selection procedures which have been validated pursuant to these guidelines does not relieve users of any obligations they may have to undertake affirmative action to assure equal employment opportunity. Nothing in these guidelines is intended to preclude the use of lawful selection procedures which assist in remedying the effects of prior discriminatory practices, or the achievement of affirmative action objectives.

B. *Encouragement of voluntary affirmative action programs.* These guidelines are also intended to encourage the adoption and implementation of voluntary affirmative action programs by users who have no obligation under Federal law to adopt them; but are not intended to impose any new obligations in that regard. The agencies issuing and endorsing these guidelines endorse for all private employers and reaffirm for all governmental employers the Equal Employment Opportunity Coordinating Council's "Policy Statement on Affirmative Action Programs for State and Local Government Agencies" (41 FR 38614, September 13, 1976). That policy statement is attached hereto as appendix, section 17.

Technical Standards

Sec. 14. *Technical standards for validity studies.* The following minimum standards, as applicable, should be met in conducting a validity study. Nothing in these guidelines is intended to preclude the development and use of other professionally acceptable techniques with respect to validation of selection procedures. Where it is not

technically feasible for a user to conduct a validity study, the user has the obligation otherwise to comply with these guidelines. See sections 6 and 7 above.

A. *Validity studies should be based on review of information about the job.* Any validity study should be based upon a review of information about the job for which the selection procedure is to be used. The review should include a job analysis except as provided in section 14B(3) below with respect to criterion-related validity. Any method of job analysis may be used if it provides the information required for the specific validation strategy used.

B. *Technical standards for criterion-related validity studies.*—(1) *Technical feasibility.* Users choosing to validate a selection procedure by a criterion-related validity strategy should determine whether it is technically feasible (as defined in section 16) to conduct such a study in the particular employment context. The determination of the number of persons necessary to permit the conduct of a meaningful criterion-related study should be made by the user on the basis of all relevant information concerning the selection procedure, the potential sample and the employment situation. Where appropriate, jobs with substantially the same major work behaviors may be grouped together for validity studies, in order to obtain an adequate sample. These guidelines do not require a user to hire or promote persons for the purpose of making it possible to conduct a criterion-related study.

(2) *Analysis of the job.* There should be a review of job information to determine measures of work behavior(s) or performance that are relevant to the job or group of jobs in question. These measures or criteria are relevant to the extent that they represent critical or important job duties, work behaviors or work outcomes as developed from the review of job information. The possibility of bias should be considered both in selection of the criterion measures and their application. In view of the possibility of bias in subjective evaluations, supervisory rating techniques and instructions to raters should be carefully developed. All criterion measures and the methods for gathering data need to be examined for freedom from factors which would unfairly alter scores of members of any group. The relevance of criteria and their freedom from bias are of particular concern when there are significant differences in measures of job performance for different groups.

(3) *Criterion measures.* Proper safeguards should be taken to insure that scores on selection procedures do not enter into any judgments of employee adequacy that are to be used as criterion measures. Whatever criteria are used should represent important or critical work behavior(s) or work outcomes. Certain criteria may be used without a full job analysis if the user can show the importance of the criteria to the particular employment context. These criteria include but are not limited to production rate, error rate, tardiness, absenteeism, and length of service. A standardized rating of overall work performance may be used where a study of the job shows that it is an appropriate criterion. Where performance in

training is used as a criterion, success in training should be properly measured and the relevance of the training should be shown either through a comparison of the content of the training program with the critical or important work behavior(s) of the job(s), or through a demonstration of the relationship between measures of performance in training and measures of job performance. Measures of relative success in training include but are not limited to instructor evaluations, performance samples, or tests. Criterion measures consisting of paper and pencil tests will be closely reviewed for job relevance.

(4) *Representativeness of the sample.* Whether the study is predictive or concurrent, the sample subjects should insofar as feasible be representative of the candidates normally available in the relevant labor market for the job or group of jobs in question, and should insofar as feasible include the races, sexes, and ethnic groups normally available in the relevant job market. In determining the representativeness of the sample in a concurrent validity study, the user should take into account the extent to which the specific knowledge or skills which are the primary focus of the test are those which employees learn on the job.

Where samples are combined or compared, attention should be given to see that such samples are comparable in terms of the actual job they perform, the length of time on the job where time on the job is likely to affect performance, and other relevant factors likely to affect validity differences; or that these factors are included in the design of the study and their effects identified.

(5) *Statistical relationships.* The degree of relationship between selection procedure scores and criterion measures should be examined and computed, using professionally acceptable statistical procedures. Generally, a selection procedure is considered related to the criterion, for the purposes of these guidelines, when the relationship between performance on the procedure and performance on the criterion measure is statistically significant at the 0.05 level of significance, which means that it is sufficiently high as to have a probability of no more than one (1) in twenty (20) to have occurred by chance. Absence of a statistically significant relationship between a selection procedure and job performance should not necessarily discourage other investigations of the validity of that selection procedure.

(6) *Operational use of selection procedures.* Users should evaluate each selection procedure to assure that it is appropriate for operational use, including establishment of cutoff scores or rank ordering. Generally, if other factors remain the same, the greater the magnitude of the relationship (e.g., correlation coefficient) between performance on a selection procedure and one or more criteria of performance on the job, and the greater the importance and number of aspects of job performance covered by the criteria, the more likely it is that the procedure will be appropriate for use. Reliance upon a selection procedure which is significantly related to a criterion measure, but which is based upon a study involving a large number of subjects

and has a low correlation coefficient will be subject to close review if it has a large adverse impact. Sole reliance upon a single selection instrument which is related to only one of many job duties or aspects of job performance will also be subject to close review. The appropriateness of a selection procedure is best evaluated in each particular situation and there are no minimum correlation coefficients applicable to all employment situations. In determining whether a selection procedure is appropriate for operational use the following considerations should also be taken into account: The degree of adverse impact of the procedure, the availability of other selection procedures of greater or substantially equal validity.

(7) *Overstatement of validity findings.* Users should avoid reliance upon techniques which tend to overestimate validity findings as a result of capitalization on chance unless an appropriate safeguard is taken. Reliance upon a few selection procedures or criteria of successful job performance when many selection procedures or criteria of performance have been studied, or the use of optimal statistical weights for selection procedures computed in one sample, are techniques which tend to inflate validity estimates as a result of chance. Use of a large sample is one safeguard. cross-validation is another.

(8) *Fairness.* This section generally calls for studies of unfairness where technically feasible. The concept of fairness or unfairness of selection procedures is a developing concept. In addition, fairness studies generally require substantial numbers of employees in the job or group of jobs being studied. For these reasons, the Federal enforcement agencies recognize that the obligation to conduct studies of fairness imposed by the guidelines generally will be upon users or groups of users with a large number of persons in a job class, or test developers; and that small users utilizing their own selection procedures will generally not be obligated to conduct such studies because it will be technically infeasible for them to do so.

(a) *Unfairness defined.* When members of one race, sex, or ethnic group characteristically obtain lower scores on a selection procedure than members of another group, and the differences in scores are not reflected in differences in a measure of job performance, use of the selection procedure may unfairly deny opportunities to members of the group that obtains the lower scores.

(b) *Investigation of fairness.* Where a selection procedure results in an adverse impact on a race, sex, or ethnic group identified in accordance with the classifications set forth in section 4 above and that group is a significant factor in the relevant labor market, the user generally should investigate the possible existence of unfairness for that group if it is technically feasible to do so. The greater the severity of the adverse impact on a group, the greater the need to investigate the possible existence of unfairness. Where the weight of evidence from other studies shows that the selection procedure predicts fairly for the group in question and for the same or similar jobs,

such evidence may be relied on in connection with the selection procedure at issue.

(c) *General considerations in fairness investigations.* Users conducting a study of fairness should review the A.P.A. Standards regarding investigation of possible bias in testing. An investigation of fairness of a selection procedure depends on both evidence of validity and the manner in which the selection procedure is to be used in a particular employment context. Fairness of a selection procedure cannot necessarily be specified in advance without investigating these factors. Investigation of fairness of a selection procedure in samples where the range of scores on selection procedures or criterion measures is severely restricted for any subgroup sample (as compared to other subgroup samples) may produce misleading evidence of unfairness. That factor should accordingly be taken into account in conducting such studies and before reliance is placed on the results.

(d) *When unfairness is shown.* If unfairness is demonstrated through a showing that members of a particular group perform better or poorer on the job than their scores on the selection procedure would indicate through comparison with how members of other groups perform, the user may either revise or replace the selection instrument in accordance with these guidelines, or may continue to use the selection instrument operationally with appropriate revisions in its use to assure compatibility between the probability of successful job performance and the probability of being selected.

(e) *Technical feasibility of fairness studies.* In addition to the general conditions needed for technical feasibility for the conduct of a criterion-related study (see section 16, below) an investigation of fairness requires the following:

(i) An adequate sample of persons in each group available for the study to achieve findings of statistical significance. Guidelines do not require a user to hire or promote persons on the basis of group classifications for the purpose of making it possible to conduct a study of fairness; but the user has the obligation otherwise to comply with these guidelines.

(ii) The samples for each group should be comparable in terms of the actual job they perform, length of time on the job where time on the job is likely to affect performance, and other relevant factors likely to affect validity differences; or such factors should be included in the design of the study and their effects identified.

(f) *Continued use of selection procedures when fairness studies not feasible.* If a study of fairness should otherwise be performed, but is not technically feasible, a selection procedure may be used which has otherwise met the validity standards of these guidelines, unless the technical infeasibility resulted from discriminatory employment practices which are demonstrated by facts other than past failure to conform with requirements for validation of selection procedures. However, when it becomes technically feasible for the user to perform a study of fairness and such a study is otherwise called for, the user should conduct the study of fairness.

C. Technical standards for content validity studies.—(1) *Appropriateness of content validity studies.* Users choosing to validate a selection procedure by a content validity strategy should determine whether it is appropriate to conduct such a study in the particular employment context. A selection procedure can be supported by a content validity strategy to the extent that it is a representative sample of the content of the job. Selection procedures which purport to measure knowledges, skills, or abilities may in certain circumstances be justified by content validity, although they may not be representative samples, if the knowledge, skill, or ability measured by the selection procedure can be operationally defined as provided in section 14C(4) below, and if that knowledge, skill, or ability is a necessary prerequisite to successful job performance.

A selection procedure based upon inferences about mental processes cannot be supported solely or primarily on the basis of content validity. Thus, a content strategy is not appropriate for demonstrating the validity of selection procedures which purport to measure traits or constructs, such as intelligence, aptitude, personality, commonsense, judgment, leadership, and spatial ability. Content validity is also not an appropriate strategy when the selection procedure involves knowledges, skills, or abilities which an employee will be expected to learn on the job.

(2) *Job analysis for content validity.* There should be a job analysis which includes an analysis of the important work behavior(s) required for successful performance and their relative importance and, if the behavior results in work product(s), an analysis of the work product(s). Any job analysis should focus on the work behavior(s) and the tasks associated with them. If work behavior(s) are not observable, the job analysis should identify and analyze those aspects of the behavior(s) that can be observed and the observed work products. The work behavior(s) selected for measurement should be critical work behavior(s) and/or important work behavior(s) constituting most of the job.

(3) *Development of selection procedures.* A selection procedure designed to measure the work behavior may be developed specifically from the job and job analysis in question, or may have been previously developed by the user, or by other users or by a test publisher.

(4) *Standards for demonstrating content validity.* To demonstrate the content validity of a selection procedure, a user should show that the behavior(s) demonstrated in the selection procedure are a representative sample of the behavior(s) of the job in question or that the selection procedure provides a representative sample of the work product of the job. In the case of a selection procedure measuring a knowledge, skill, or ability, the knowledge, skill, or ability being measured should be operationally defined. In the case of a selection procedure measuring a knowledge, the knowledge being measured should be operationally defined as that body of learned information which is used in and is a necessary prerequisite for observable aspects of work behavior of the job. In the case of skills or abilities, the skill or ability being measured should be operationally

defined in terms of observable aspects of work behavior of the job. For any selection procedure measuring a knowledge, skill, or ability the user should show that (a) the selection procedure measures and is a representative sample of that knowledge, skill, or ability; and (b) that knowledge, skill, or ability is used in and is a necessary prerequisite to performance of critical or important work behavior(s). In addition, to be content valid, a selection procedure measuring a skill or ability should either closely approximate an observable work behavior, or its product should closely approximate an observable work product. If a test purports to sample a work behavior or to provide a sample of a work product, the manner and setting of the selection procedure and its level and complexity should closely approximate the work situation. The closer the content and the context of the selection procedure are to work samples or work behaviors, the stronger is the basis for showing content validity. As the content of the selection procedure less resembles a work behavior, or the setting and manner of the administration of the selection procedure less resemble the work situation, or the result less resembles a work product, the less likely the selection procedure is to be content valid, and the greater the need for other evidence of validity.

(5) *Reliability.* The reliability of selection procedures justified on the basis of content validity should be a matter of concern to the user. Whenever it is feasible, appropriate statistical estimates should be made of the reliability of the selection procedure.

(6) *Prior training or experience.* A requirement for or evaluation of specific prior training or experience based on content validity, including a specification of level or amount of training or experience, should be justified on the basis of the relationship between the content of the training or experience and the content of the job for which the training or experience is to be required or evaluated. The critical consideration is the resemblance between the specific behaviors, products, knowledges, skills, or abilities in the experience or training and the specific behaviors, products, knowledges, skills, or abilities required on the job, whether or not there is close resemblance between the experience or training as a whole and the job as a whole.

(7) *Content validity of training success.* Where a measure of success in a training program is used as a selection procedure and the content of a training program is justified on the basis of content validity, the use should be justified on the relationship between the content of the training program and the content of the job.

(8) *Operational use.* A selection procedure which is supported on the basis of content validity may be used for a job if it represents a critical work behavior (i.e., a behavior which is necessary for performance of the job) or work behaviors which constitute most of the important parts of the job.

(9) *Ranking based on content validity studies.* If a user can show, by a job analysis or otherwise, that a higher score on a content valid selection procedure is likely to result in better job performance, the results may be

used to rank persons who score above minimum levels. Where a selection procedure supported solely or primarily by content validity is used to rank job candidates, the selection procedure should measure those aspects of performance which differentiate among levels of job performance.

D. Technical standards for construct validity studies.—(1) *Appropriateness of construct validity studies.* Construct validity is a more complex strategy than either criterion-related or content validity. Construct validation is a relatively new and developing procedure in the employment field, and there is at present a lack of substantial literature extending the concept to employment practices. The user should be aware that the effort to obtain sufficient empirical support for construct validity is both an extensive and arduous effort involving a series of research studies, which include criterion related validity studies and which may include content validity studies. Users choosing to justify use of a selection procedure by this strategy should therefore take particular care to assure that the validity study meets the standards set forth below.

(2) *Job analysis for construct validity studies.* There should be a job analysis. This job analysis should show the work behavior(s) required for successful performance of the job, or the groups of jobs being studied, the critical or important work behavior(s) in the job or group of jobs being studied, and an identification of the construct(s) believed to underlie successful performance of these critical or important work behaviors in the job or jobs in question. Each construct should be named and defined, so as to distinguish it from other constructs. If a group of jobs is being studied the jobs should have in common one or more critical or important work behaviors at a comparable level of complexity.

(3) *Relationship to the job.* A selection procedure should then be identified or developed which measures the construct identified in accord with subparagraph (2) above. The user should show by empirical evidence that the selection procedure is validly related to the construct and that the construct is validly related to the performance of critical or important work behavior(s). The relationship between the construct as measured by the selection procedure and the related work behavior(s) should be supported by empirical evidence from one or more criterion-related studies involving the job or jobs in question which satisfy the provisions of section 14B above.

(4) *Use of construct validity study without new criterion-related evidence.*—(a) *Standards for use.* Until such time as professional literature provides more guidance on the use of construct validity in employment situations, the Federal agencies will accept a claim of construct validity without a criterion-related study which satisfies section 14B above only when the selection procedure has been used elsewhere in a situation in which a criterion-related study has been conducted and the use of a criterion-related validity study in this context meets the standards for transportability of criterion-related validity studies as set forth above in section 7. However, if a study

pertains to a number of jobs having common critical or important work behaviors at a comparable level of complexity, and the evidence satisfies subparagraphs 14B (2) and (3) above for those jobs with criterion-related validity evidence for those jobs, the selection procedure may be used for all the jobs to which the study pertains. If construct validity is to be generalized to other jobs or groups of jobs not in the group studied, the Federal enforcement agencies will expect at a minimum additional empirical research evidence meeting the standards of subparagraphs section 14B (2) and (3) above for the additional jobs or groups of jobs.

(b) *Determination of common work behaviors.* In determining whether two or more jobs have one or more work behavior(s) in common, the user should compare the observed work behavior(s) in each of the jobs and should compare the observed work product(s) in each of the jobs. If neither the observed work behavior(s) in each of the jobs nor the observed work product(s) in each of the jobs are the same, the Federal enforcement agencies will presume that the work behavior(s) in each job are different. If the work behaviors are not observable, then evidence of similarity of work products and any other relevant research evidence will be considered in determining whether the work behavior(s) in the two jobs are the same.

Documentation of Impact and Validity Evidence

Sec. 15. Documentation of impact and validity evidence.—A. *Required information.* Users of selection procedures other than those users complying with section 15A(1) below should maintain and have available for each job information on adverse impact of the selection process for that job and, where it is determined a selection process has an adverse impact, evidence of validity as set forth below.

(1) *Simplified recordkeeping for users with less than 100 employees.* In order to minimize recordkeeping burdens on employers who employ one hundred (100) or fewer employees, and other users not required to file EEO-1, et seq., reports, such users may satisfy the requirements of this section 15 if they maintain and have available records showing, for each year:

(a) The number of persons hired, promoted, and terminated for each job, by sex, and where appropriate by race and national origin;

(b) The number of applicants for hire and promotion by sex and where appropriate by race and national origin; and

(c) The selection procedures utilized (either standardized or not standardized).

These records should be maintained for each race or national origin group (see section 4 above) constituting more than two percent (2%) of the labor force in the relevant labor area. However, it is not necessary to maintain records by race and/or national origin (see § 4 above) if one race or national origin group in the relevant labor area constitutes more than ninety-eight percent (98%) of the labor force in the area. If the user has reason to believe that a selection procedure has an adverse impact, the user should maintain any available evidence of

validity for that procedure (see sections 7A and 8).

(2) *Information on impact.*—(a) *Collection of information on impact.* Users of selection procedures other than those complying with section 15A(1) above should maintain and have available for each job records or other information showing whether the total selection process for that job has an adverse impact on any of the groups for which records are called for by sections 4B above. Adverse impact determinations should be made at least annually for each such group which constitutes at least 2 percent of the labor force in the relevant labor area or 2 percent of the applicable workforce. Where a total selection process for a job has an adverse impact, the user should maintain and have available records or other information showing which components have an adverse impact. Where the total selection process for a job does not have an adverse impact, information need not be maintained for individual components except in circumstances set forth in subsection 15A(2)(b) below. If the determination of adverse impact is made using a procedure other than the "four-fifths rule," as defined in the first sentence of section 4D above, a justification, consistent with section 4D above, for the procedure used to determine adverse impact should be available.

(b) *When adverse impact has been eliminated in the total selection process.* Whenever the total selection process for a particular job has had an adverse impact, as defined in section 4 above, in any year, but no longer has an adverse impact, the user should maintain and have available the information on individual components of the selection process required in the preceding paragraph for the period in which there was adverse impact. In addition, the user should continue to collect such information for at least two (2) years after the adverse impact has been eliminated.

(c) *When data insufficient to determine impact.* Where there has been an insufficient number of selections to determine whether there is an adverse impact of the total selection process for a particular job, the user should continue to collect, maintain and have available the information on individual components of the selection process required in section 15(A)(2)(a) above until the information is sufficient to determine that the overall selection process does not have an adverse impact as defined in section 4 above, or until the job has changed substantially.

(3) *Documentation of validity evidence.*—(a) *Types of evidence.* Where a total selection process has an adverse impact (see section 4 above) the user should maintain and have available for each component of that process which has an adverse impact, one or more of the following types of documentation evidence:

(i) Documentation evidence showing criterion-related validity of the selection procedure (see section 15B, below).

(ii) Documentation evidence showing content validity of the selection procedure (see section 15C, below).

(iii) Documentation evidence showing construct validity of the selection procedure (see section 15D, below).

(iv) Documentation evidence from other studies showing validity of the selection procedure in the user's facility (see section 15E, below).

(v) Documentation evidence showing why a validity study cannot or need not be performed and why continued use of the procedure is consistent with Federal law.

(b) *Form of report.* This evidence should be compiled in a reasonably complete and organized manner to permit direct evaluation of the validity of the selection procedure. Previously written employer or consultant reports of validity, or reports describing validity studies completed before the issuance of these guidelines are acceptable if they are complete in regard to the documentation requirements contained in this section, or if they satisfied requirements of guidelines which were in effect when the validity study was completed. If they are not complete, the required additional documentation should be appended. If necessary information is not available the report of the validity study may still be used as documentation, but its adequacy will be evaluated in terms of compliance with the requirements of these guidelines.

(c) *Completeness.* In the event that evidence of validity is reviewed by an enforcement agency, the validation reports completed after the effective date of these guidelines are expected to contain the information set forth below. Evidence denoted by use of the word "Essential" is considered critical. If information denoted "essential" is not included, the report will be considered incomplete unless the user affirmatively demonstrates either its unavailability due to circumstances beyond the user's control or special circumstances of the user's study which make the information irrelevant. Evidence not so denoted is desirable but its absence will not be a basis for considering a report incomplete. The user should maintain and have available the information called for under the heading "Source Data" in sections 15B(11) and 15D(11). While it is a necessary part of the study, it need not be submitted with the report. All statistical results should be organized and presented in tabular or graphic form to the extent feasible.

B. *Criterion-related validity studies.* Reports of criterion-related validity for a selection procedure should include the following information:

(1) *User(s), location(s), and date(s) of study.* Dates and location(s) of the job analysis or review of job information, the date(s) and location(s) of the administration of the selection procedures and collection of criterion data, and the time between collection of data on selection procedures and criterion measures should be provided (Essential). If the study was conducted at several locations, the address of each location, including city and State, should be shown.

(2) *Problem and setting.* An explicit definition of the purpose(s) of the study and the circumstances in which the study was conducted should be provided. A description of existing selection procedures and cutoff scores, if any, should be provided.

(3) *Job analysis or review of job information.* A description of the procedure used to

analyze the job or group of jobs, or to review the job information should be provided (Essential). Where a review of job information results in criteria which may be used without a full job analysis (see section 14B(3)), the basis for the selection of these criteria should be reported (Essential). Where a job analysis is required a complete description of the work behavior(s) or work outcome(s), and measures of their criticality or importance should be provided (Essential). The report should describe the basis on which the behavior(s) or outcome(s) were determined to be critical or important, such as the proportion of time spent on the respective behaviors, their level of difficulty, their frequency of performance, the consequences of error, or other appropriate factors (Essential). Where two or more jobs are grouped for a validity study, the information called for in this subsection should be provided for each of the jobs, and the justification for the grouping (see section 14B(1)) should be provided (Essential).

(4) *Job titles and codes.* It is desirable to provide the user's job title(s) for the job(s) in question and the corresponding job title(s) and code(s) from U.S. Employment Service's Dictionary of Occupational Titles.

(5) *Criterion measures.* The bases for the selection of the criterion measures should be provided, together with references to the evidence considered in making the selection of criterion measures (essential). A full description of all criteria on which data were collected and means by which they were observed, recorded, evaluated, and quantified, should be provided (essential). If rating techniques are used as criterion measures, the appraisal form(s) and instructions to the rater(s) should be included as part of the validation evidence, or should be explicitly described and available (essential). All steps taken to insure that criterion measures are free from factors which would unfairly alter the scores of members of any group should be described (essential).

(6) *Sample description.* A description of how the research sample was identified and selected should be included (essential). The race, sex, and ethnic composition of the sample, including those groups set forth in section 4A above, should be described (essential). This description should include the size of each subgroup (essential). A description of how the research sample compares with the relevant labor market or work force, the method by which the relevant labor market or work force was defined, and a discussion of the likely effects on validity of differences between the sample and the relevant labor market or work force, are also desirable. Descriptions of educational levels, length of service, and age are also desirable.

(7) *Description of selection procedures.* Any measure, combination of measures, or procedure studied should be completely and explicitly described or attached (essential). If commercially available selection procedures are studied, they should be described by title, form, and publisher (essential). Reports of reliability estimates and how they were established are desirable.

(8) *Techniques and results.* Methods used in analyzing data should be described

(essential). Measures of central tendency (e.g., means) and measures of dispersion (e.g., standard deviations and ranges) for all selection procedures and all criteria should be reported for each race, sex, and ethnic group which constitutes a significant factor in the relevant labor market (essential). The magnitude and direction of all relationships between selection procedures and criterion measures investigated should be reported for each relevant race, sex, and ethnic group and for the total group (essential). Where groups are too small to obtain reliable evidence of the magnitude of the relationship, need not be reported separately. Statements regarding the statistical significance of results should be made (essential). Any statistical adjustments, such as for less than perfect reliability or for restriction of score range in the selection procedure or criterion should be described and explained; and uncorrected correlation coefficients should also be shown (essential). Where the statistical technique categorizes continuous data, such as biserial correlation and the phi coefficient, the categories and the bases on which they were determined should be described and explained (essential). Studies of test fairness should be included where called for by the requirements of section 14B(8) (essential). These studies should include the rationale by which a selection procedure was determined to be fair to the group(s) in question. Where test fairness or unfairness has been demonstrated on the basis of other studies, a bibliography of the relevant studies should be included (essential). If the bibliography includes unpublished studies, copies of these studies, or adequate abstracts or summaries, should be attached (essential). Where revisions have been made in a selection procedure to assure comparability between successful job performance and the probability of being selected, the studies underlying such revisions should be included (essential). All statistical results should be organized and presented by relevant race, sex, and ethnic group (essential).

(9) *Alternative procedures investigated.* The selection procedures investigated and available evidence of their impact should be identified (essential). The scope, method, and findings of the investigation, and the conclusions reached in light of the findings, should be fully described (essential).

(10) *Uses and applications.* The methods considered for use of the selection procedure (e.g., as a screening device with a cutoff score, for grouping or ranking, or combined with other procedures in a battery) and available evidence of their impact should be described (essential). This description should include the rationale for choosing the method for operational use, and the evidence of the validity and utility of the procedure as it is to be used (essential). The purpose for which the procedure is to be used (e.g., hiring, transfer, promotion) should be described (essential). If weights are assigned to different parts of the selection procedure, these weights and the validity of the weighted composite should be reported (essential). If the selection procedure is used with a cutoff score, the user should describe the way in which normal expectations of proficiency within the work force were

determined and the way in which the cutoff score was determined (essential).

(11) *Source data.* Each user should maintain records showing all pertinent information about individual sample members and raters where they are used, in studies involving the validation of selection procedures. These records should be made available upon request of a compliance agency. In the case of individual sample members these data should include scores on the selection procedure(s), scores on criterion measures, age, sex, race, or ethnic group status, and experience on the specific job on which the validation study was conducted, and may also include such things as education, training, and prior job experience, but should not include names and social security numbers. Records should be maintained which show the ratings given to each sample member by each rater.

(12) *Contact person.* The name, mailing address, and telephone number of the person who may be contacted for further information about the validity study should be provided (essential).

(13) *Accuracy and completeness.* The report should describe the steps taken to assure the accuracy and completeness of the collection, analysis, and report of data and results.

C. *Content validity studies.* Reports of content validity for a selection procedure should include the following information:

(1) *User(s), location(s) and date(s) of study.* Dates and location(s) of the job analysis should be shown (essential).

(2) *Problem and setting.* An explicit definition of the purpose(s) of the study and the circumstances in which the study was conducted should be provided. A description of existing selection procedures and cutoff scores, if any, should be provided.

(3) *Job analysis—Content of the job.* A description of the method used to analyze the job should be provided (essential). The work behavior(s), the associated tasks, and, if the behavior results in a work product, the work products should be completely described (essential). Measures of criticality and/or importance of the work behavior(s) and the method of determining these measures should be provided (essential). Where the job analysis also identified the knowledges, skills, and abilities used in work behavior(s), an operational definition for each knowledge in terms of a body of learned information and for each skill and ability in terms of observable behaviors and outcomes, and the relationship between each knowledge, skill, or ability and each work behavior, as well as the method used to determine this relationship, should be provided (essential). The work situation should be described, including the setting in which work behavior(s) are performed, and where appropriate, the manner in which knowledges, skills, or abilities are used, and the complexity and difficulty of the knowledge, skill, or ability as used in the work behavior(s).

(4) *Selection procedure and its content.* Selection procedures, including those constructed by or for the user, specific training requirements, composites of selection procedures, and any other

procedure supported by content validity, should be completely and explicitly described or attached (essential). If commercially available selection procedures are used, they should be described by title, form, and publisher (essential). The behaviors measured or sampled by the selection procedure should be explicitly described (essential). Where the selection procedure purports to measure a knowledge, skill, or ability, evidence that the selection procedure measures and is a representative sample of the knowledge, skill, or ability should be provided (essential).

(5) *Relationship between the selection procedure and the job.* The evidence demonstrating that the selection procedure is a representative work sample, a representative sample of the work behavior(s), or a representative sample of a knowledge, skill, or ability as used as a part of a work behavior and necessary for that behavior should be provided (essential). The user should identify the work behavior(s) which each item or part of the selection procedure is intended to sample or measure (essential). Where the selection procedure purports to sample a work behavior or to provide a sample of a work product, a comparison should be provided of the manner, setting, and the level of complexity of the selection procedure with those of the work situation (essential). If any steps were taken to reduce adverse impact on a race, sex, or ethnic group in the content of the procedure or in its administration, these steps should be described. Establishment of time limits, if any, and how these limits are related to the speed with which duties must be performed on the job, should be explained. Measures of central tendency (e.g., means) and measures of dispersion (e.g., standard deviations) and estimates of reliability should be reported for all selection procedures if available. Such reports should be made for relevant race, sex, and ethnic subgroups, at least on a statistically reliable sample basis.

(6) *Alternative procedures investigated.* The alternative selection procedures investigated and available evidence of their impact should be identified (essential). The scope, method, and findings of the investigation, and the conclusions reached in light of the findings, should be fully described (essential).

(7) *Uses and applications.* The methods considered for use of the selection procedure (e.g., as a screening device with a cutoff score, for grouping or ranking, or combined with other procedures in a battery) and available evidence of their impact should be described (essential). This description should include the rationale for choosing the method for operational use, and the evidence of the validity and utility of the procedure as it is to be used (essential). The purpose for which the procedure is to be used (e.g., hiring, transfer, promotion) should be described (essential). If the selection procedure is used with a cutoff score, the user should describe the way in which normal expectations of proficiency within the work force were determined and the way in which the cutoff score was determined (essential). In addition, if the selection procedure is to be used for ranking, the user should specify the evidence

showing that a higher score on the selection procedure is likely to result in better job performance.

(8) *Contact person.* The name, mailing address, and telephone number of the person who may be contacted for further information about the validity study should be provided (essential).

(9) *Accuracy and completeness.* The report should describe the steps taken to assure the accuracy and completeness of the collection, analysis, and report of data and results.

D. *Construct validity studies.* Reports of construct validity for a selection procedure should include the following information:

(1) *User(s), location(s), and date(s) of study.* Date(s) and location(s) of the job analysis and the gathering of other evidence called for by these guidelines should be provided (essential).

(2) *Problem and setting.* An explicit definition of the purpose(s) of the study and the circumstances in which the study was conducted should be provided. A description of existing selection procedures and cutoff scores, if any, should be provided.

(3) *Construct definition.* A clear definition of the construct(s) which are believed to underlie successful performance of the critical or important work behavior(s) should be provided (essential). This definition should include the levels of construct performance relevant to the job(s) for which the selection procedure is to be used (essential). There should be a summary of the position of the construct in the psychological literature, or in the absence of such a position, a description of the way in which the definition and measurement of the construct was developed and the psychological theory underlying it (essential).

Any quantitative data which identify or define the job constructs, such as factor analyses, should be provided (essential).

(4) *Job analysis.* A description of the method used to analyze the job should be provided (essential). A complete description of the work behavior(s) and, to the extent appropriate, work outcomes and measures of their criticality and/or importance should be provided (essential). The report should also describe the basis on which the behavior(s) or outcomes were determined to be important, such as their level of difficulty, their frequency of performance, the consequences of error or other appropriate factors (essential). Where jobs are grouped or compared for the purposes of generalizing validity evidence, the work behavior(s) and work product(s) for each of the jobs should be described, and conclusions concerning the similarity of the jobs in terms of observable work behaviors or work products should be made (essential).

(5) *Job titles and codes.* It is desirable to provide the selection procedure user's job title(s) for the job(s) in question and the corresponding job title(s) and code(s) from the United States Employment Service's dictionary of occupational titles.

(6) *Selection procedure.* The selection procedure used as a measure of the construct should be completely and explicitly described or attached (essential). If commercially available selection procedures are used, they should be identified by title,

form and publisher (essential). The research evidence of the relationship between the selection procedure and the construct, such as factor structure, should be included (essential). Measures of central tendency, variability and reliability of the selection procedure should be provided (essential). Whenever feasible, these measures should be provided separately for each relevant race, sex and ethnic group.

(7) *Relationship to job performance.* The criterion-related study(ies) and other empirical evidence of the relationship between the construct measured by the selection procedure and the related work behavior(s) for the job or jobs in question should be provided (essential). Documentation of the criterion-related study(ies) should satisfy the provisions of section 15B above or section 15E(1) below, except for studies conducted prior to the effective date of these guidelines (essential). Where a study pertains to a group of jobs, and, on the basis of the study, validity is asserted for a job in the group, the observed work behaviors and the observed work products for each of the jobs should be described (essential). Any other evidence used in determining whether the work behavior(s) in each of the jobs is the same should be fully described (essential).

(8) *Alternative procedures investigated.* The alternative selection procedures investigated and available evidence of their impact should be identified (essential). The scope, method, and findings of the investigation, and the conclusions reached in light of the findings should be fully described (essential).

(9) *Uses and applications.* The methods considered for use of the selection procedure (e.g., as a screening device with a cutoff score, for grouping or ranking, or combined with other procedures in a battery) and available evidence of their impact should be described (essential). This description should include the rationale for choosing the method for operational use, and the evidence of the validity and utility of the procedure as it is to be used (essential). The purpose for which the procedure is to be used (e.g., hiring, transfer, promotion) should be described (essential). If weights are assigned to different parts of the selection procedure, these weights and the validity of the weighted composite should be reported (essential). If the selection procedure is used with a cutoff score, the user should describe the way in which normal expectations of proficiency within the work force were determined and the way in which the cutoff score was determined (essential).

(10) *Accuracy and completeness.* The report should describe the steps taken to assure the accuracy and completeness of the collection, analysis, and report of data and results.

(11) *Source data.* Each user should maintain records showing all pertinent information relating to its study of construct validity.

(12) *Contact person.* The name, mailing address, and telephone number of the individual who may be contacted for further information about the validity study should be provided (essential).

E. Evidence of validity from other studies. When validity of a selection procedure is supported by studies not done by the user, the evidence from the original study or studies should be compiled in a manner similar to that required in the appropriate section of this section 15 above. In addition, the following evidence should be supplied:

(1) *Evidence from criterion-related validity studies.*—**a. Job information.** A description of the important job behavior(s) of the user's job and the basis on which the behaviors were determined to be important should be provided (essential). A full description of the basis for determining that these important work behaviors are the same as those of the job in the original study (or studies) should be provided (essential).

b. Relevance of criteria. A full description of the basis on which the criteria used in the original studies are determined to be relevant for the user should be provided (essential).

c. Other variables. The similarity of important applicant pool or sample characteristics reported in the original studies to those of the user should be described (essential). A description of the comparison between the race, sex and ethnic composition of the user's relevant labor market and the sample in the original validity studies should be provided (essential).

d. Use of the selection procedure. A full description should be provided showing that the use to be made of the selection procedure is consistent with the findings of the original validity studies (essential).

e. Bibliography. A bibliography of reports of validity of the selection procedure for the job or jobs in question should be provided (essential). Where any of the studies included an investigation of test fairness, the results of this investigation should be provided (essential). Copies of reports published in journals that are not commonly available should be described in detail or attached (essential). Where a user is relying upon unpublished studies, a reasonable effort should be made to obtain these studies. If these unpublished studies are the sole source of validity evidence they should be described in detail or attached (essential). If these studies are not available, the name and address of the source, an adequate abstract or summary of the validity study and data, and a contact person in the source organization should be provided (essential).

(2) *Evidence from content validity studies.* See section 14C(3) and section 15C above.

(3) *Evidence from construct validity studies.* See sections 14D(2) and 15D above.

F. Evidence of validity from cooperative studies. Where a selection procedure has been validated through a cooperative study, evidence that the study satisfies the requirements of sections 7, 8 and 15E should be provided (essential).

G. Selection for higher level job. If a selection procedure is used to evaluate candidates for jobs at a higher level than those for which they will initially be employed, the validity evidence should satisfy the documentation provisions of this section 15 for the higher level job or jobs, and in addition, the user should provide: (1) a description of the job progression structure, formal or informal; (2) the data showing how

many employees progress to the higher level job and the length of time needed to make this progression; and (3) an identification of any anticipated changes in the higher level job. In addition, if the test measures a knowledge, skill or ability, the user should provide evidence that the knowledge, skill or ability is required for the higher level job and the basis for the conclusion that the knowledge, skill or ability is not expected to develop from the training or experience on the job.

H. Interim use of selection procedures. If a selection procedure is being used on an interim basis because the procedure is not fully supported by the required evidence of validity, the user should maintain and have available (1) substantial evidence of validity for the procedure, and (2) a report showing the date on which the study to gather the additional evidence commenced, the estimated completion date of the study, and a description of the data to be collected (essential).

Definitions

Sec. 16. Definitions. The following definitions shall apply throughout these guidelines:

A. Ability. A present competence to perform an observable behavior or a behavior which results in an observable product.

B. Adverse impact. A substantially different rate of selection in hiring, promotion, or other employment decision which works to the disadvantage of members of a race, sex, or ethnic group. See section 4 of these guidelines.

C. Compliance with these guidelines. Use of a selection procedure is in compliance with these guidelines if such use has been validated in accord with these guidelines (as defined below), or if such use does not result in adverse impact on any race, sex, or ethnic group (see section 4, above), or, in unusual circumstances, if use of the procedure is otherwise justified in accord with Federal law. See section 6B, above.

D. Content validity. Demonstrated by data showing that the content of a selection procedure is representative of important aspects of performance on the job. See section 5B and section 14C.

E. Construct validity. Demonstrated by data showing that the selection procedure measures the degree to which candidates have identifiable characteristics which have been determined to be important for successful job performance. See section 5B and section 14D.

F. Criterion-related validity. Demonstrated by empirical data showing that the selection procedure is predictive of or significantly correlated with important elements of work behavior. See sections 5B and 14B.

G. Employer. Any employer subject to the provisions of the Civil Rights Act of 1964, as amended, including State or local governments and any Federal agency subject to the provisions of section 717 of the Civil Rights Act of 1964, as amended, and any Federal contractor or subcontractor or federally assisted construction contractor or subcontractor covered by Executive Order 11246, as amended.

H. Employment agency. Any employment agency subject to the provisions of the Civil Rights Act of 1964, as amended.

I. Enforcement action. For the purposes of section 4 a proceeding by a Federal enforcement agency such as a lawsuit or an administrative proceeding leading to debarment from or withholding, suspension, or termination of Federal Government contracts or the suspension or withholding of Federal Government funds; but not a finding of reasonable cause or a conciliation process or the issuance of right to sue letters under title VII or under Executive Order 11246 where such finding, conciliation, or issuance of notice of right to sue is based upon an individual complaint.

J. Enforcement agency. Any agency of the executive branch of the Federal Government which adopts these guidelines for purposes of the enforcement of the equal employment opportunity laws or which has responsibility for securing compliance with them.

K. Job analysis. A detailed statement of work behaviors and other information relevant to the job.

L. Job description. A general statement of job duties and responsibilities.

M. Knowledge. A body of information applied directly to the performance of a function.

N. Labor organization. Any labor organization subject to the provisions of the Civil Rights Act of 1964, as amended, and any committee subject thereto controlling apprenticeship or other training.

O. Observable. Able to be seen, heard, or otherwise perceived by a person other than the person performing the action.

P. Race, sex, or ethnic group. Any group of persons identifiable on the grounds of race, color, religion, sex, or national origin.

Q. Selection procedure. Any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques from traditional paper and pencil tests, performance tests, training programs, or probationary periods and physical, educational, and work experience requirements through informal or casual interviews and unscored application forms.

R. Selection rate. The proportion of applicants or candidates who are hired, promoted, or otherwise selected.

S. Should. The term "should" as used in these guidelines is intended to connote action which is necessary to achieve compliance with the guidelines, while recognizing that there are circumstances where alternative courses of action are open to users.

T. Skill. A present, observable competence to perform a learned psychomotor act.

U. Technical feasibility. The existence of conditions permitting the conduct of meaningful criterion-related validity studies. These conditions include: (1) An adequate sample of persons available for the study to achieve findings of statistical significance; (2) having or being able to obtain a sufficient range of scores on the selection procedure and job performance measures to produce validity results which can be expected to be representative of the results if the ranges normally expected were utilized; and (3) having or being able to devise unbiased,

reliable and relevant measures of job performance or other criteria of employee adequacy. See section 14B(2). With respect to investigation of possible unfairness, the same considerations are applicable to each group for which the study is made. See section 14B(8).

V. Unfairness of selection procedure. A condition in which members of one race, sex, or ethnic group characteristically obtain lower scores on a selection procedure than members of another group, and the differences are not reflected in differences in measures of job performance. See section 14B(7).

W. User. Any employer, labor organization, employment agency, or licensing or certification board, to the extent it may be covered by Federal equal employment opportunity law, which uses a selection procedure as a basis for any employment decision. Whenever an employer, labor organization, or employment agency is required by law to restrict recruitment for any occupation to those applicants who have met licensing or certification requirements, the licensing or certifying authority to the extent it may be covered by Federal equal employment opportunity law will be considered the user with respect to those licensing or certification requirements. Whenever a State employment agency or service does no more than administer or monitor a procedure as permitted by Department of Labor regulations, and does so without making referrals or taking any other action on the basis of the results, the State employment agency will not be deemed to be a user.

X. Validated in accord with these guidelines or properly validated. A demonstration that one or more validity study or studies meeting the standards of these guidelines has been conducted, including investigation and, where appropriate, use of suitable alternative selection procedures as contemplated by section 3B, and has produced evidence of validity sufficient to warrant use of the procedure for the intended purpose under the standards of these guidelines.

Y. Work behavior. An activity performed to achieve the objectives of the job. Work behaviors involve observable (physical) components and unobservable (mental) components. A work behavior consists of the performance of one or more tasks. Knowledge, skills, and abilities are not behaviors, although they may be applied in work behaviors.

Appendix

17. Policy statement on affirmative action (see section 13B). The Equal Employment Opportunity Coordinating Council was established by act of Congress in 1972, and charged with responsibility for developing and implementing agreements and policies designed, among other things, to eliminate conflict and inconsistency among the agencies of the Federal Government responsible for administering Federal law prohibiting discrimination on grounds of race, color, sex, religion, and national origin. This statement is issued as an initial response to the requests of a number of State and local

officials for clarification of the Government's policies concerning the role of affirmative action in the overall equal employment opportunity program. While the Coordinating Council's adoption of this statement expresses only the views of the signatory agencies concerning this important subject, the principles set forth below should serve as policy guidance for other Federal agencies as well.

(1) Equal employment opportunity is the law of the land. In the public sector of our society this means that all persons, regardless of race, color, religion, sex, or national origin shall have equal access to positions in the public service limited only by their ability to do the job. There is ample evidence in all sectors of our society that such equal access frequently has been denied to members of certain groups because of their sex, racial, or ethnic characteristics. The remedy for such past and present discrimination is twofold.

On the one hand, vigorous enforcement of the laws against discrimination is essential. But equally, and perhaps even more important are affirmative, voluntary efforts on the part of public employers to assure that positions in the public service are genuinely and equally accessible to qualified persons, without regard to their sex, racial, or ethnic characteristics. Without such efforts equal employment opportunity is no more than a wish. The importance of voluntary affirmative action on the part of employers is underscored by title VII of the Civil Rights Act of 1964, Executive Order 11246, and related laws and regulations—all of which emphasize voluntary action to achieve equal employment opportunity.

As with most management objectives, a systematic plan based on sound organizational analysis and problem identification is crucial to the accomplishment of affirmative action objectives. For this reason, the Council urges all State and local governments to develop and implement results oriented affirmative action plans which deal with the problems so identified.

The following paragraphs are intended to assist State and local governments by illustrating the kinds of analyses and activities which may be appropriate for a public employer's voluntary affirmative action plan. This statement does not address remedies imposed after a finding of unlawful discrimination.

(2) Voluntary affirmative action to assure equal employment opportunity is appropriate at any stage of the employment process. The first step in the construction of any affirmative action plan should be an analysis of the employer's work force to determine whether percentages of sex, race, or ethnic groups in individual job classifications are substantially similar to the percentages of those groups available in the relevant job market who possess the basic job-related qualifications.

When substantial disparities are found through such analyses, each element of the overall selection process should be examined to determine which elements operate to exclude persons on the basis of sex, race, or ethnic group. Such elements include, but are

not limited to, recruitment, testing, ranking, certification, interview, recommendations for selection, hiring, promotion, etc. The examination of each element of the selection process should at a minimum include a determination of its validity in predicting job performance.

(3) When an employer has reason to believe that its selection procedures have the exclusionary effect described in paragraph 2 above, it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex, or ethnic "conscious," include, but are not limited to, the following:

(a) The establishment of a long-term goal, and short-range, interim goals and timetables for the specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant job market;

(b) A recruitment program designed to attract qualified members of the group in question;

(c) A systematic effort to organize work and redesign jobs in ways that provide opportunities for persons lacking "journeyman" level knowledge or skills to enter and, with appropriate training, to progress in a career field;

(d) Revamping selection instruments or procedures which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;

(e) The initiation of measures designed to assure that members of the affected group who are qualified to perform the job are included within the pool of persons from which the selecting official makes the selection;

(f) A systematic effort to provide career advancement training, both classroom and on-the-job, to employees locked into dead end jobs; and

(g) The establishment of a system for regularly monitoring the effectiveness of the particular affirmative action program, and procedures for making timely adjustments in this program where effectiveness is not demonstrated.

(4) The goal of any affirmative action plan should be achievement of genuine equal employment opportunity for all qualified persons. Selection under such plans should be based upon the ability of the applicant(s) to do the work. Such plans should not require the selection of the unqualified, or the unneeded, nor should they require the selection of persons on the basis of race, color, sex, religion, or national origin. Moreover, while the Council believes that this statement should serve to assist State and local employers, as well as Federal agencies, it recognizes that affirmative action cannot be viewed as a standardized program which must be accomplished in the same way at all times in all places.

Accordingly, the Council has not attempted to set forth here either the minimum or maximum voluntary steps that employers may take to deal with their respective situations. Rather, the Council recognizes that under applicable authorities, State and local employers have flexibility to formulate affirmative action plans that are best suited

to their particular situations. In this manner, the Council believes that affirmative action programs will best serve the goal of equal employment opportunity.

Respectfully submitted,
Harold R. Tyler, Jr.,
Deputy Attorney General and Chairman of the Equal Employment Coordinating Council.
Michael H. Moskow,
Under Secretary of Labor.
Ethel Bent Walsh,
Acting Chairman, Equal Employment Opportunity Commission.
Robert E. Hampton,
Chairman, Civil Service Commission.
Arthur E. Flemming,
Chairman, Commission on Civil Rights.

Because of its equal employment opportunity responsibilities under the State and Local Government Fiscal Assistance Act of 1972 (the revenue sharing act), the Department of Treasury was invited to participate in the formulation of this policy statement; and it concurs and joins in the adoption of this policy statement.

Done this 26th day of August 1976.
Richard Albrecht,
General Counsel, Department of the Treasury.

Section 18. Citations. The official title of these guidelines is "Uniform Guidelines on Employee Selection Procedures (1978)". The Uniform Guidelines on Employee Selection Procedures (1978) are intended to establish a uniform Federal position in the area of prohibiting discrimination in employment practices on grounds of race, color, religion, sex, or national origin. These guidelines have been adopted by the Equal Employment Opportunity Commission, the Department of Labor, the Department of Justice, and the Civil Service Commission.

The official citation is:
"Section —, Uniform Guidelines on Employee Selection Procedure (1978); 43 FR — (August 25, 1978)."

The short form citation is:
"Section —, U.G.E.S.P. (1978); 43 FR — (August 25, 1978)."

When the guidelines are cited in connection with the activities of one of the issuing agencies, a specific citation to the regulations of that agency can be added at the end of the above citation. The specific additional citations are as follows:

Equal Employment Opportunity Commission
29 CFR Part 1607
Department of Labor
Office of Federal Contract Compliance Programs
41 CFR Part 60-3
Department of Justice
28 CFR 50.14
Civil Service Commission
5 CFR 300.103(c)

Normally when citing these guidelines, the section number immediately preceding the title of the guidelines will be from these guidelines series 1-18. If a section number from the codification for an individual agency is needed it can also be added at the end of the agency citation. For example, section 6A of these guidelines could be cited for EEOC as follows: "Section 6A, Uniform Guidelines

on Employee Selection Procedures (1978); 43 FR —, (August 25, 1978); 29 CFR Part 1607, section 6A."

Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission.

Alan K. Campbell,
Chairman, Civil Service Commission.

Ray Marshall,
Secretary of Labor.

Griffin B. Bell,
Attorney General.

CIVIL SERVICE COMMISSION

Title 5—Administrative Personnel

CHAPTER 1—CIVIL SERVICE COMMISSION

PART 300—EMPLOYMENT (GENERAL) Uniform Guidelines on Employee Selection Procedures (1978)

The Uniform Guidelines on Employee Selection Procedures (1978) which are printed at the beginning of this part IV in today's Federal Register are adopted by the Civil Service Commission, in conjunction with the Equal Employment Opportunity Commission, Department of Justice, and the Department of Labor to establish uniformity in prohibiting discrimination in employment practices on grounds of race, color, religion, sex, or national origin. Cross reference documents are published at 29 CFR parts 1607 (Equal Employment Opportunity Commission), 28 CFR 50.14 (Department of Justice), and 41 CFR 60-3 (Department of Labor) elsewhere in this issue of the Federal Register.

By virtue of the authority vested in it by sections 3301, 3302, 7151, 7154, and 7301 of title 5 and section 4763(b) of title 42, United States Code, and Executive Order 10577, 3 CFR 1954-58 comp. page 218 and Executive Order 11478, 3 CFR 1959 comp. 133, and section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16), the Civil Service Commission amends title 5, part 300, subpart A, § 300.103(c) of the Code of Federal Regulations to read as follows:

§ 300.103 Basic requirements.

"(c) Equal employment opportunity. An employment practice shall not discriminate on the basis of race, color, religion, sex, age, national origin, partisan political affiliation, or other nonmerit factor. Employee selection procedures shall meet the standards established by the "Uniform Guidelines on Employee Selection Procedures (1978), 43 FR — (August 25, 1978)."

The Civil Service Commission rescinds the Guidelines on Employee Selection Procedures, 41 FR 51752, Federal Personnel Manual part 900, subpart F and adopts the Uniform Guidelines on Employee Selection Procedures (1978), to be issued as identical supplement appendices to supplements 271-1, Development of Qualification Standards; 271-2, Tests and Other Applicant Appraisal Procedures; 335-1, Evaluation of Employees for Promotion and Internal Placement; and 990-1 (Book III), part 900, subpart F, Administration of Standards for a Merit System of Personnel Administration of the Federal Personnel Manual in order to insure the examining, testing standards, and

employment practices are not affected by discrimination on the basis of race, color, religion, sex or national origin.

Effective date: September 25, 1978.

Alan K. Campbell,
Chairman, Civil Service Commission.

DEPARTMENT OF JUSTICE

Title 28—Judicial Administration

CHAPTER 1—DEPARTMENT OF JUSTICE

PART 50—STATEMENTS OF POLICY

Uniform Guidelines on Employee Selection Procedures (1978)

The Uniform Guidelines on Employee Selection Procedures which are provided at the beginning of this part IV in today's Federal Register are adopted by the Department of Justice, in conjunction with the Civil Service Commission, Equal Employment Opportunity Commission, and the Department of Labor to establish a uniform Federal position in the area of prohibiting discrimination in employment practices on grounds of race, color, religion, sex, or national origin. Cross reference documents are published at 5 CFR 300.103(c), (Civil Service Commission) 29 CFR 1607 (Equal Employment Opportunity Commission), and 41 CFR 60-3 (Department of Labor), elsewhere in this issue of the Federal Register.

By virtue of the authority vested in me by 28 U.S.C. 509 and 5 U.S.C. 301, Sec. 50.14 of part 50 of chapter 1 of title 28 of the Code of Federal Regulations is amended by substituting the Uniform Guidelines on Employee Selection Procedures (1978) for part I through part IV.

Effective date: September 25, 1978.

Griffin B. Bell,
Attorney General.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1607—UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

The Uniform Guidelines on Employee Selection Procedures which are printed at the beginning of this part IV in today's Federal Register are adopted by the Equal Employment Opportunity Commission, in conjunction with the Civil Service Commission, Department of Justice, and the Department of Labor to establish a uniform Federal position in the area of prohibiting discrimination in employment practices on grounds of race, color, religion, sex, or national origin. Cross reference documents are published at 5 CFR 300.103(c) (Civil Service Commission), 28 CFR 50.14 (Department of Justice) and 41 CFR 60-3 (Department of Labor), elsewhere in this issue.

By virtue of the authority vested in it by sections 713 and 709 of title VII of the Civil Rights Act of 1964 (78 Stat. 265), as amended

by the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261), (42 U.S.C. 2000e-12 and 2000e-8), the Equal Employment Opportunity Commission hereby revises part 1607 of chapter XIV of title 29 of the Code of Federal Regulations by rescinding the Guidelines on Employee Selection Procedures (see 35 FR 12333, August 1, 1970; and 41 FR 51984, November 24, 1976) and adopting the Uniform Guidelines on Employee Selection Procedures (1978) as a new part 1607.

Effective date: September 25, 1978.

Eleanor Holmes Norton,
Chair.

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Title 41—Public Contracts and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, DEPARTMENT OF LABOR

PART 60-3—UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

The Uniform Guidelines on Employee Selection Procedures which are printed at the beginning of this part IV of today's Federal Register are adopted by the Department of Labor, in conjunction with the Civil Service Commission, Department of Justice, and the Equal Employment Opportunity Commission to establish a uniform Federal position in the area of prohibiting discrimination in employment practices on grounds of race, color, religion, sex, or national origin. Cross reference documents are published at 5 CFR 530.103(c) (Civil Service Commission), 28 CFR 50.14 (Department of Justice) and 29 CFR 1607 (Equal Employment Opportunity Commission), elsewhere in this issue of the Federal Register.

By virtue of the authority of sections 201, 202, 203, 203(a), 205, 206(a), 301, 303(b), and 403(b) of Executive Order 11246, as amended, 30 FR 12319; 32 FR 14303; section 60-1.2 of part 60-1 of 41 CFR chapter 60, and section 715 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), part 60-3 of chapter 60 of title 41 of the Code of Federal Regulations is revised by rescinding the Guidelines on Employee Selection Procedures (see 41 FR 51744, November 23, 1976) and adopting the Uniform Guidelines on Employee Selection Procedures (1978) as a new part 60-3.

Effective date: September 25, 1978.

Ray Marshall,
Secretary of Labor.

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- (2) Problem and Setting

- (3) Job analysis or Review of Job Information
- (4) Job Titles and Codes

- (5) Criterion Measures
- (6) Sample Description

- (7) Description of Selection Procedure
- (8) Techniques and Results

- (9) Alternative Procedures Investigated
- (10) Uses and Applications

- (11) Source Data
- (12) Contact Person

- (13) Accuracy and Completeness
- C. Content Validity Studies

- (1) User(s), Location(s), and Date(s) of Study
- (2) Problem and Setting

- (3) Job Analysis—Content of the Job
- (4) Selection Procedure and Its Content

- (5) Relationship Between Selection Procedure and the Job
- (6) Alternative Procedures Investigated

- (7) Uses and Applications
- (8) Contact Person

- (9) Accuracy and Completeness
- D. Construct Validity Studies

- (1) User(s), Location(s), and Date(s) of Study
- (2) Problem and Setting

- (3) Construct Definition
- (4) Job Analysis
- (5) Job Titles and Codes
- (6) Selection Procedure
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Appendix B

(From the Federal Register of Friday, April 20, 1979.)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1604

Guidelines on Sex Discrimination; Adoption of Final Interpretive Guidelines; Question and Answers

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Amendments to Guidelines on Discrimination Because of Sex, and Addition of Questions and Answers concerning the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978).

SUMMARY: On October 31, 1978, President Carter signed into law the Pregnancy Discrimination Act, Pub. L. 95-555, 92 Stat. 2076, as an amendment to Title VII of the Civil Rights Act of 1964, as amended. The act makes clear that discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII. The amendments to the Equal Employment Opportunity Commission's Guidelines on Discrimination Because of Sex bring the Guidelines into conformity with Pub. L. 95-555. The accompanying questions and answers respond to concerns raised by the public about compliance with the Pregnancy Discrimination Act.

EFFECTIVE DATE: April 20, 1979.

FOR FURTHER INFORMATION CONTACT: Peter C. Robertson, Director, Office of Policy Implementation, Room 4002A, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634-7060.

SUPPLEMENTARY INFORMATION: The Pregnancy Discrimination Act makes clear that Title VII of the Civil Rights Act of 1964, as amended, forbids discrimination on the basis of pregnancy, childbirth and related medical conditions. As reflected in the Committee Reports (Senate Report 95-331, 95th Cong., 1st Session (1977) and House of Representatives Report 95-948, 95th Cong., 2d Session (1978)), Congress believed that the Equal Employment Opportunity Commission (EEOC or the Commission), in its Guidelines on Discrimination Because of Sex (29 CFR Part 1604, published at 39 FR 6836, April 5, 1972) had "rightly implemented the Title VII prohibition of sex discrimination in the 1964 act." H.R. 95-948 at p. 2.

Contrary to the EEOC's Guidelines and rulings by eighteen District Courts and all seven Courts of Appeal which faced the issue, in *General Electric Co. v. Gilbert*, 429 U.S. 125 (1976), the Supreme Court ruled that General Electric's exclusion of pregnancy related disabilities from its comprehensive disability plan did not violate Title VII. The Supreme Court further indicated that it believed that the EEOC Guidelines located at 29 CFR 1604.10(b) incorrectly interpreted the Congressional intent in the statute.

The Pregnancy Discrimination Act reaffirms EEOC's Guidelines with but minor modifications. For that reason, the Commission believed that only slight modifications of its Guidelines were necessary and issued them on an interim basis on March 9, 1979 at 44 FR 13278. Along with these amended Sex Discrimination Guidelines, the Commission published a list of questions and answers concerning the Pregnancy Discrimination Act. These responded to urgent concerns raised by employees, employers, unions and insurers who sought the Commission's guidance in understanding their rights and obligations under the Pregnancy Discrimination Act.

Fringe benefit programs subject to Title VII which existed on October 31, 1978, must be modified in accordance with the Pregnancy Discrimination Act no later than April 29, 1979. It is the Commission's desire, therefore, that all interested parties be made aware of EEOC's view of their rights and obligations in advance of April 29, 1979, so that they may be in compliance by that date. For that reason, the Commission has determined that the amendment to 29 CFR 1604.10 and the questions and answers, which will be appended to 29 CFR Part 1604, are not subject to the requirements of Executive Order 12044. See section 6(b)(6) of Executive Order 12044.

The Commission, however, invited and received comments from the public and affected Federal agencies. The Commission has considered the comments and determined that its Sex Discrimination Guidelines at 29 CFR 1604.10 should be issued in final form as they were published in 44 FR 13278 (March 9, 1979), except that the word "opportunities" has been inserted in Subsection (a) of Section 1604.10 to emphasize that this subsection applies to all employment-related policies or practices, since there was apparent confusion on this point. Also as a result of the comments, the Commission has added several questions and answers which will be of further assistance to those seeking

Commission guidance with respect to their rights and obligations under the Pregnancy Discrimination Act, and has amended two of the originally published questions and answers.

Question 21 was amended by changing the second paragraph of the answer to read "non-spouse dependents" instead of "other dependents", to clarify the intent of the answers. Question 30 (now question 34) has been amended to include women who are contemplating an abortion within the prohibition against discrimination on the basis of abortion.

Questions 29 and 30 were added to address many of the concerns which had been raised with respect to "extended benefits" provisions.

Question 18(A) was added in response to questions and comments which pertain to child care leave.

A majority of the comments questioned the appropriateness of the Commission's answer to Question 21 of the questions and answers at 44 FR 13278. Question 21 asked whether an employer has to make available health insurance coverage for the medical expenses of pregnancy-related conditions of the spouses of male employees and of the non-spouse dependents of all employees.

The Commission concluded that health insurance benefits for the pregnancy-related conditions of the male employee's spouse must be available to the same extent as health insurance benefits are available to the female employee's spouse. The pregnancy-related conditions of non-spouse dependents, however, would not have to be covered under the health insurance program so long as that practice applied to the non-spouse dependents of male and female employees equally.

The Pregnancy Discrimination Act amends Title VII of the Civil Rights Act of 1964, as amended. To the extent that a specific question is not directly answered by a reading of the Pregnancy Discrimination Act, existing principles of Title VII must be applied to resolve that question. The legislative history of the Pregnancy Discrimination Act states explicitly that existing principles of Title VII law would have to be applied to resolve the question of benefits for dependents. (S. Rep. No. 95-331 at 6.)

The Commission, being responsible for interpreting and implementing Title VII, utilized Title VII principles to arrive at the position reached on the dependent question.

The underlying principle of Title VII is that applicants for employment or employees be treated equally without regard to their race, sex, color, religion, or national origin. This equality of treatment encompasses the receiving of fringe benefits made available in connection with employment. Title VII does not require employers to provide the same coverage for the pregnancy-related medical conditions of spouses of male employees as it provides for the pregnancy-related costs of its female employees. However, if an employer makes available to female employees insurance which covers the costs of all of the medical conditions of their spouses, but provides male employees with insurance coverage for only some of the medical

conditions (i.e., all but pregnancy-related expenses) of their spouses, male employees are receiving a less favorable fringe benefit package. This view was explicitly supported in the Senate by Senators Bayh and Cranston, 123 Cong. Rec. S15037, S15058 (daily ed. Sept. 18, 1977), and not specifically opposed.

Absent a state statute to the contrary, it would not be a violation of Title VII if an employer's health insurance policy denied pregnancy benefits for the other dependents of employees (e.g. daughters) so long as the exclusion applied equally to non-spouse dependents of male employees and non-spouse dependents of female employees. Since male and female employees have an equal chance of having pregnant dependent daughters, male and female employees would be equally affected by such an exclusion.

Although costs may increase as a result of providing pregnancy benefits for the spouses of male employees where benefits are made available for the spouses of female employees, the Pregnancy Discrimination Act provides that where costs were apportioned on the date of enactment between employers and employees, any payments or contributions required to comply with the Act may be made by employers and employees in the same proportion, if that apportionment was non-discriminatory.

As a result of the many comments and questions raised on the dependent question, questions 22 and 23 were added to provide additional guidance to interested parties.

With the exception of the addition of questions 18(A), 22, 23, 29, and 30, and the amendments to questions 21 and 30 (now 34), the questions and answers are issued in final form as they were published in 44 FR 13278 (March 9, 1979).

By virtue of the authority vested in it by Section 713 of Title VII of the Civil Rights Act, as amended, 42 U.S.C. 2000-12, 70 Stat. 265, the Equal Employment Opportunity Commission hereby approves as final § 1604.10 and adopts questions and answers concerning the Pregnancy Discrimination Act, Pub. L. 95-555, 92 Stat. 2076 (1978), as an appendix to Part 1604 of Title 29 of the Code of Federal Regulations as set forth below.

Signed at Washington, D.C., this 17th day of April, 1979.

Eleanor H. Norton,

Chair, Equal Employment Opportunity Commission.

1. 29 CFR 1604.10 is amended to read as follows:

§ 1604.10 Employment policies relating to pregnancy and childbirth.

(a) A written or unwritten employment policy or practice which excludes from employment opportunities applicants or employees because of pregnancy, childbirth or related medical conditions is in prima facie violation of Title VII.

(b) Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with

employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth, or related medical conditions on the same terms and conditions as they are applied to other disabilities. Health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion, are not required to be paid by an employer; nothing herein, however, precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

(c) Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such a termination violates the Act if it has a disparate impact on employees of one sex and is not justified by business necessity.

(d)(1) Any fringe benefit program, or fund, or insurance program which is in effect on October 31, 1978, which does not treat women affected by pregnancy, childbirth, or related medical conditions the same as other persons not so affected but similar in their ability or inability to work, must be in compliance with the provisions of § 1604.10(b) by April 29, 1979. In order to come into compliance with the provisions of § 1604.10(b), there can be no reduction of benefits or compensation which were in effect on October 31, 1978, before October 31, 1979 or the expiration of a collective bargaining agreement in effect on October 31, 1978, whichever is later.

(2) Any fringe benefit program implemented after October 31, 1978, must comply with the provisions of § 1604.10(b) upon implementation.

2. The following questions and answers, with an introduction, are added to 29 CFR Part 1604 as an appendix:

Questions and Answers on the Pregnancy Discrimination Act, Pub. L. 95-555, 92 Stat. 2076 (1978)

Introduction

On October 31, 1978, President Carter signed into law the *Pregnancy Discrimination Act* (Pub. L. 95-555). The Act is an amendment to Title VII of the Civil Rights Act of 1964 which prohibits, among other things, discrimination in employment on the basis of sex. The *Pregnancy Discrimination Act* makes it clear that "because of sex" or "on the basis of sex", as used in Title VII, includes "because of or on the basis of pregnancy, childbirth or related medical conditions." Therefore, Title VII prohibits discrimination in employment against women affected by pregnancy or related conditions.

The basic principle of the Act is that women affected by pregnancy and related conditions must be treated the same as other applicants and employees on the basis of their ability or inability to work. A woman is therefore protected against such practices as

being fired, or refused a job or promotion, merely because she is pregnant or has had an abortion. She usually cannot be forced to go on leave as long as she can still work. If other employees who take disability leave are entitled to get their jobs back when they are able to work again, so are women who have been unable to work because of pregnancy.

In the area of fringe benefits, such as disability benefits, sick leave and health insurance, the same principle applies. A woman unable to work for pregnancy-related reasons is entitled to disability benefits or sick leave on the same basis as employees unable to work for other medical reasons. Also, any health insurance provided must cover expenses for pregnancy-related conditions on the same basis as expenses for other medical conditions. However, health insurance for expenses arising from abortion is not required except where the life of the mother would be endangered if the fetus were carried to term, or where medical complications have arisen from an abortion.

Some questions and answers about the *Pregnancy Discrimination Act* follow. Although the questions and answers often use only the term "employer," the Act—and these questions and answers—apply also to unions and other entities covered by Title VII.

1. Q. What is the effective date of the *Pregnancy Discrimination Act*?

A. The Act became effective on October 31, 1978, except that with respect to fringe benefit programs in effect on that date, the Act will take effect 180 days thereafter, that is, April 29, 1979.

To the extent that Title VII already required employers to treat persons affected by pregnancy-related conditions the same as persons affected by other medical conditions, the Act does not change employee rights arising prior to October 31, 1978, or April 29, 1979. Most employment practices relating to pregnancy, childbirth and related conditions—whether concerning fringe benefits or other practices—were already controlled by Title VII prior to this Act. For example, Title VII has always prohibited an employer from firing, or refusing to hire or promote, a woman because of pregnancy or related conditions, and from failing to accord a woman on pregnancy-related leave the same seniority retention and accrual accorded those on other disability leaves.

2. Q. If an employer had a sick leave policy in effect on October 31, 1978, by what date must the employer bring its policy into compliance with the Act?

A. With respect to payment of benefits, an employer has until April 29, 1979, to bring into compliance any fringe benefit or insurance program, including a sick leave policy, which was in effect on October 31, 1978. However, any such policy or program created after October 31, 1978, must be in compliance when created.

With respect to all aspects of sick leave policy other than payment of benefits, such as the terms governing retention and accrual of seniority, credit for vacation, and resumption of former job on return from sick leave, equality of treatment was required by Title VII without the Amendment.

3. Q. Must an employer provide benefits for pregnancy-related conditions to an employee

whose pregnancy begins prior to April 29, 1979, and continues beyond that date?

A. As of April 29, 1979, the effective date of the Act's requirements, an employer must provide the same benefits for pregnancy-related conditions as it provides for other conditions, regardless of when the pregnancy began. Thus, disability benefits must be paid for all absences on or after April 29, 1979, resulting from pregnancy-related temporary disabilities to the same extent as they are paid for absences resulting from other temporary disabilities. For example, if an employee gives birth before April 29, 1979, but is still unable to work on or after that date, she is entitled to the same disability benefits available to other employees. Similarly, medical insurance benefits must be paid for pregnancy-related expenses incurred on or after April 29, 1979.

If an employer requires an employee to be employed for a predetermined period prior to being eligible for insurance coverage, the period prior to April 29, 1979, during which a pregnant employee has been employed must be credited toward the eligibility waiting period on the same basis as for any other employee.

As to any programs instituted for the first time after October 31, 1978, coverage for pregnancy-related conditions must be provided in the same manner as for other medical conditions.

4. Q. Would the answer to the preceding question be the same if the employee became pregnant prior to October 31, 1978?

A. Yes.

5. Q. If, for pregnancy-related reasons, an employee is unable to perform the functions of her job, does the employer have to provide her an alternative job?

A. An employer is required to treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other temporarily disabled employees, whether by providing modified tasks, alternative assignments, disability leaves, leaves without pay, etc. For example, a woman's primary job function may be the operation of a machine, and, incidental to that function, she may carry materials to and from the machine. If other employees temporarily unable to lift are relieved of these functions, pregnant employees also unable to lift must be temporarily relieved of the function.

6. Q. What procedures may an employer use to determine whether to place on leave an employee who is unable to work a pregnant employee who claims she is able to work or deny leave to a pregnant employee who claims that she is disabled from work?

A. An employer may not single out pregnancy-related conditions for special procedures for determining an employee's ability to work. However, an employer may use any procedure used to determine the ability of all employees to work. For example, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements. Similarly, if an employer allows its

employees to obtain doctor's statements from their personal physicians for absences due to other disabilities or return dates from other disabilities it must accept doctor's statements from personal physicians for absences and return dates connected with pregnancy-related disabilities.

7. Q. Can an employer have a rule which prohibits an employee from returning to work for a predetermined length of time after childbirth?

A. No.

8. Q. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, may her employer require her to remain on leave until after her baby is born?

A. No. An employee must be permitted to work at all times during pregnancy when she is able to perform her job.

9. Q. Must an employer hold open the job of an employee who is absent on leave because she is temporarily disabled by pregnancy-related conditions?

A. Unless the employee on leave has informed the employer that she does not intend to return to work, her job must be held open for her return on the same basis as jobs are held open for employees on sick or disability leave for other reasons.

10. Q. May an employer's policy concerning the accrual and crediting of seniority during absences for medical conditions be different for employees affected by pregnancy-related conditions than for other employees?

A. No. An employer's seniority policy must be the same for employees absent for pregnancy-related reasons as for those absent for other medical reasons.

11. Q. For purposes of calculating such matters as vacations and pay increases, may an employer credit time spent on leave for pregnancy-related reasons differently than time spent on leave for other reasons?

A. No. An employer's policy with respect to crediting time for the purpose of calculating such matters as vacations and pay increases cannot treat employees on leave for pregnancy-related reasons less favorably than employees on leave for other reasons. For example, if employees on leave for medical reasons are credited with the time spent on leave when computing entitlement to vacation or pay raises, an employee on leave for pregnancy-related disability is entitled to the same kind of time credit.

12. Q. Must an employer hire a woman who is medically unable, because of a pregnancy-related condition, to perform a necessary function of a job?

A. An employer cannot refuse to hire a woman because of her pregnancy-related condition so long as she is able to perform the major functions necessary to the job. Nor can an employer refuse to hire her because of its preferences against pregnant workers or the preferences of co-workers, clients, or customers.

13. Q. May an employer limit disability benefits for pregnancy-related conditions to married employees?

A. No.

14. Q. If an employer has an all female workforce or job classification, must benefits be provided for pregnancy-related conditions?

A. Yes. If benefits are provided for other conditions, they must also be provided for pregnancy-related conditions.

15. Q. For what length of time must an employee who provides income maintenance benefits for temporary disabilities provide such benefits for pregnancy-related disabilities?

A. Benefits should be provided for as long as the employee is unable to work for medical reasons unless some other limitation is set for all other temporary disabilities, in which case pregnancy-related disabilities should be treated the same as other temporary disabilities.

16. Q. Must an employer who provides benefits for long-term or permanent disabilities provide such benefits for pregnancy-related conditions?

A. Yes. Benefits for long term or permanent disabilities resulting from pregnancy-related conditions must be provided to the same extent that such benefits are provided for other conditions which result in long term or permanent disability.

17. Q. If an employer provides benefits to employees on leave, such as installment purchase disability insurance, payment of premiums for health, life or other insurance, continued payments into pension, saving or profit sharing plans, must the same benefits be provided for those on leave for pregnancy-related conditions?

A. Yes, the employer must provide the same benefits for those on leave for pregnancy-related conditions as for those on leave for other reasons.

18. Q. Can an employee who is absent due to a pregnancy-related disability be required to exhaust vacation benefits before receiving sick leave pay or disability benefits?

A. No. If employees who are absent because of other disabling causes receive sick leave pay or disability benefits without any requirement that they first exhaust vacation benefits, the employer cannot impose this requirement on an employee absent for a pregnancy-related cause.

18(A). Q. Must an employer grant leave to a female employee for childcare purposes after she is medically able to return to work following leave necessitated by pregnancy, childbirth or related medical conditions?

A. While leave for childcare purposes is not covered by the *Pregnancy Discrimination Act*, ordinary Title VII principles would require that leave for childcare purposes be granted on the same basis as leave which is granted to employees for other non-medical reasons. For example, if an employer allows its employees to take leave without pay or accrued annual leave for travel or education which is not job related, the same type of leave must be granted to those who wish to remain on leave for infant care, even though they are medically able to return to work.

19. Q. If state law requires an employer to provide disability insurance for a specified period before and after childbirth, does compliance with the state law fulfill the employer's obligation under the *Pregnancy Discrimination Act*?

A. Not necessarily. It is an employer's obligation to treat employees temporarily disabled by pregnancy in the same manner as employees affected by other temporary

disabilities. Therefore, any restrictions imposed by state law on benefits for pregnancy-related disabilities, but not for other disabilities, do not excuse the employer from treating the individuals in both groups of employees the same. If, for example, a state law requires an employer to pay a maximum of 26 weeks benefits for disabilities other than pregnancy-related ones but only six weeks for pregnancy-related disabilities, the employer must provide benefits for the additional weeks to an employee disabled by pregnancy-related conditions, up to the maximum provided other disabled employees.

20. Q. If a State or local government provides its own employees income maintenance benefits for disabilities, may it provide different benefits for disabilities arising from pregnancy-related conditions than for disabilities arising from other conditions?

A. No. State and local governments, as employers, are subject to the Pregnancy Discrimination Act in the same way as private employers and must bring their employment practices and programs into compliance with the Act, including disability and health insurance programs.

21. Q. Must an employer provide health insurance coverage for the medical expenses of pregnancy-related conditions of the spouses of male employees? Of the dependents of all employees?

A. Where an employer provides no coverage for dependents, the employer is not required to institute such coverage. However, if an employer's insurance program covers the medical expenses of spouses of female employees, then it must equally cover the medical expenses of spouses of male employees, including those arising from pregnancy-related conditions.

But the insurance does not have to cover the pregnancy-related conditions of non-spouse dependents as long as it excludes the pregnancy-related conditions of such non-spouse dependents of male and female employees equally.

22. Q. Must an employer provide the same level of health insurance coverage for the pregnancy-related medical conditions of the spouses of male employees as it provides for its female employees?

A. No. It is not necessary to provide the same level of coverage for the pregnancy-related medical conditions of spouses of male employees as for female employees. However, where the employer provides coverage for the medical conditions of the spouses of its employees, then the level of coverage for pregnancy-related medical conditions of the spouses of male employees must be the same as the level of coverage for all other medical conditions of the spouses of female employees. For example, if the employer covers employees for 100 percent of reasonable and customary expenses sustained for a medical condition, but only covers dependent spouses for 50 percent of reasonable and customary expenses for their medical conditions, the pregnancy-related expenses of the male employee's spouse must be covered at the 50 percent level.

23. Q. May an employer offer optional dependent coverage which excludes

pregnancy-related medical conditions or offers less coverage for pregnancy-related medical conditions where the total premium for the optional coverage is paid by the employee?

A. No. Pregnancy-related medical conditions must be treated the same as other medical conditions under any health or disability insurance or sick leave plan available in connection with employment, regardless of who pays the premiums.

24. Q. Where an employer provides its employees a choice among several health insurance plans, must coverage for pregnancy-related conditions be offered in all of the plans?

A. Yes. Each of the plans must cover pregnancy-related conditions. For example, an employee with a single coverage policy cannot be forced to purchase a more expensive family coverage policy in order to receive coverage for her own pregnancy-related condition.

25. Q. On what basis should an employee be reimbursed for medical expenses arising from pregnancy, childbirth or related conditions?

A. Pregnancy-related expenses should be reimbursed in the same manner as are expenses incurred for other medical conditions. Therefore, whether a plan reimburses the employees on a fixed basis, or a percentage of reasonable and customary charge basis, the same basis should be used for reimbursement of expenses incurred for pregnancy-related conditions. Furthermore, if medical costs for pregnancy-related conditions increase, reevaluation of the reimbursement level should be conducted in the same manner as are cost reevaluations of increases for other medical conditions.

Coverage provided by a health insurance program for other conditions must be provided for pregnancy-related conditions. For example, if a plan provides major medical coverage, pregnancy-related conditions must be so covered. Similarly, if a plan covers the cost of a private room for other conditions, the plan must cover the cost of a private room for pregnancy-related conditions. Finally, where a health insurance plan covers office visits to physicians, prenatal and post-natal visits must be included in such coverage.

26. Q. May an employer limit payment of costs for pregnancy-related medical conditions to a specified dollar amount set forth in an insurance policy, collective bargaining agreement or other statement of benefits to which an employee is entitled?

A. The amounts payable for the costs incurred for pregnancy-related conditions can be limited only to the same extent as are costs for other conditions. Maximum recoverable dollar amounts may be specified for pregnancy-related conditions if such amounts are similarly specified for other conditions, and so long as the specified amounts in all instances cover the same proportion of actual costs. If, in addition to the scheduled amount for other procedures, additional costs are paid for, either directly or indirectly, by the employer, such additional payments must also be paid for pregnancy-related procedures.

27. Q. May an employer impose a different deductible for payment of costs for

pregnancy-related medical conditions than for costs of other medical conditions?

A. No. Neither an additional deductible, an increase in the usual deductible, nor a larger deductible can be imposed for coverage for pregnancy-related medical costs, whether as a condition for inclusion of pregnancy-related costs in the policy or for payment of the costs when incurred. Thus, if pregnancy-related costs are the first incurred under the policy, the employee is required to pay only the same deductible as would otherwise be required had other medical costs been the first incurred. Once this deductible has been paid, no additional deductible can be required for other medical procedures. If the usual deductible has already been paid for other medical procedures, no additional deductible can be required when pregnancy-related costs are later incurred.

28. Q. If a health insurance plan excludes the payment of benefits for any conditions existing at the time the insured's coverage becomes effective (pre-existing condition clause), can benefits be denied for medical costs arising from a pregnancy existing at the time the coverage became effective?

A. Yes. However, such benefits cannot be denied unless the pre-existing condition clause also excludes benefits for other pre-existing conditions in the same way.

29. Q. If an employer's insurance plan provides benefits after the insured's employment has ended (i.e. extended benefits) for costs connected with pregnancy and delivery where conception occurred while the insured was working for the employer, but not for the costs of any other medical condition which began prior to termination of employment, may an employer (a) continue to pay these extended benefits for pregnancy-related medical conditions but not for other medical conditions, or (b) terminate these benefits for pregnancy-related conditions?

A. Where a health insurance plan currently provides extended benefits for other medical conditions on a less favorable basis than for pregnancy-related medical conditions, extended benefits must be provided for other medical conditions on the same basis as for pregnancy-related medical conditions. Therefore, an employer can neither continue to provide less benefits for other medical conditions nor reduce benefits currently paid for pregnancy-related medical conditions.

30. Q. Where an employer's health insurance plan currently requires total disability as a prerequisite for payment of extended benefits for other medical conditions but not for pregnancy-related costs, may the employer now require total disability for payment of benefits for pregnancy-related medical conditions as well?

A. Since extended benefits cannot be reduced in order to come into compliance with the Act, a more stringent prerequisite for payment of extended benefits for pregnancy-related medical conditions, such as a requirement for total disability, cannot be imposed. Thus, in this instance, in order to comply with the Act, the employer must treat other medical conditions as pregnancy-related conditions are treated.

31. Q. Can the added cost of bringing benefit plans into compliance with the Act be

apportioned between the employer and employee?

A. The added cost, if any, can be apportioned between the employer and employee in the same proportion that the cost of the fringe benefit plan was apportioned on October 31, 1978, if that apportionment was nondiscriminatory. If the costs were not apportioned on October 31, 1978, they may not be apportioned in order to come into compliance with the Act. However, in no circumstance may male or female employees be required to pay unequal apportionments on the basis of sex or pregnancy.

32. Q. In order to come into compliance with the Act, may an employer reduce benefits or compensation?

A. In order to come into compliance with the Act, benefits or compensation which an employer was paying on October 31, 1978 cannot be reduced before October 31, 1979 or before the expiration of a collective bargaining agreement in effect on October 31, 1978, whichever is later.

Where an employer has not been in compliance with the Act by the times specified in the Act, and attempts to reduce benefits, or compensation, the employer may be required to remedy its practices in accord with ordinary Title VII remedial principles.

33. Q. Can an employer self-insure benefits for pregnancy-related conditions if it does not self-insure benefits for other medical conditions?

A. Yes, so long as the benefits are the same. In measuring whether benefits are the same, factors other than the dollar coverage paid should be considered. Such factors include the range of choice of physicians and hospitals, and the processing and promptness of payment of claims.

34. Q. Can an employer discharge, refuse to hire or otherwise discriminate against a woman because she has had or is contemplating having an abortion?

A. No. An employer cannot discriminate in its employment practices against a woman who has had or is contemplating having an abortion.

35. Q. Is an employer required to provide fringe benefits for abortions if fringe benefits are provided for other medical conditions?

A. All fringe benefits other than health insurance, such as sick leave, which are provided for other medical conditions, must be provided for abortions. Health insurance, however, need be provided for abortions only where the life of the woman would be endangered if the fetus were carried to term or where medical complications arise from an abortion.

36. Q. If complications arise during the course of an abortion, as for instance excessive hemorrhaging, must an employer's health insurance plan cover the additional cost due to the complications of the abortion?

A. Yes. The plan is required to pay those additional costs attributable to the complications of the abortion. However, the employer is not required to pay for the abortion itself, except where the life of the mother would be endangered if the fetus were carried to term.

37. Q. May an employer elect to provide insurance coverage for abortions?

A. Yes. The Act specifically provides that an employer is not precluded from providing

benefits for abortions whether directly or through a collective bargaining agreement, but if an employer decides to cover the costs of abortion, the employer must do so in the same manner and to the same degree as it covers other medical conditions.

Appendix C

From the Federal Register of Tuesday, June 12, 1979.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

45 CFR Part 90

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: These regulations implement the provisions of the Age Discrimination Act of 1975, as amended (Act). They are general regulations designed to guide the development of agency specific regulations by each Federal agency which administers programs of Federal financial assistance. The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions which permit, under limited circumstances, continued use of age distinctions or factors other than age which may have a disproportionate effect on the basis of age. These regulations discuss what is age discrimination under the Act, the circumstances under which the statutory exceptions may be invoked, the responsibilities of Federal agencies and recipients to enforce the Act, and the procedures for investigation, conciliation, and enforcement. Each Federal agency which administers programs of Federal financial assistance must issue age discrimination regulations which conform to these general regulations.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Bayla F. White, Director Age Discrimination Task Force, Room 711-E, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 243-6284.

SUPPLEMENTARY INFORMATION:

Background

In November 1975, Congress enacted the Age Discrimination Act (42 U.S.C. 6101, *et seq.*) as part of the Amendments to the Older Americans Act (P.L. 94-135). At that time, the express purpose of the Act was to prohibit unreasonable discrimination based on age in programs and activities receiving Federal financial assistance, including the State and Local Fiscal Assistance Act of 1972. The Act also permitted federally assisted programs and activities, and recipients of Federal funds, to continue to use: (1) some age distinctions, and (2) "reasonable factors other than age." The Act applied to persons of all ages.

Prior to the enactment of any regulations, the Act required the Commission on Civil

Rights to conduct a study of age discrimination in federally funded programs and activities. The Commission transmitted its study to the President and the Congress on January 10, 1978. The Commission published the second part of its study in January 1979. The Act also required each affected Federal agency to respond to the Commission's findings and recommendations.

After the receipt of the report of the Commission on Civil Rights and the Federal agency responses to that report, the Congress considered amendments to the Age Discrimination Act of 1975. In October 1978, Congress amended the Act (P.L. 95-478). Congress struck the word "unreasonable" from the statement of purpose clause, so that the purpose of the Act is to prohibit discrimination based on age in programs and activities receiving Federal financial assistance. However, the Congress retained the exceptions to the prohibition against age discrimination. Thus, the Act still permits the use of: (1) some age distinctions, and (2) "reasonable factors other than age." The Act continues to apply to persons of all ages.

According to the language of the Act, the prohibition against age discrimination will become effective when regulations are issued to enforce the Act. The Act requires the Secretary of HEW to publish proposed and then final general regulations. HEW issued proposed general regulations on December 1, 1978. These regulations are the final general regulations required by the Act. They set standards for other Federal agencies to follow in the development of agency specific regulations. The Act also requires each agency which provides Federal financial assistance to issue proposed and then final specific regulations. All agency specific regulations must conform to these general regulations and must be approved by the Secretary of HEW.

Rulemaking History

The Department of Health, Education, and Welfare has been vitally concerned about the need for public participation in the development of these regulations because of the substantial impact the Age Discrimination Act will have on the operation of federally assisted programs.

As the first step of its obligation to issue general regulations, HEW published in the Federal Register (43 FR 8756) a Notice of Intent To Issue Age Discrimination Regulations (NOI) on March 2, 1978. The NOI briefly identified some of the major issues addressed later in the regulatory process. Persons wishing additional information on the age discrimination regulations were asked to write to HEW. Over 600 individuals and organizations responded to the NOI. These names were incorporated into a mailing list for distribution of materials developed during the rulemaking process.

Since these general regulations apply to all Federal departments and agencies which administer programs of Federal financial assistance, HEW created an Interagency Age Discrimination Task Force to coordinate the development of the regulations. The Interagency Task Force consists of at least one representative from every department or agency which ultimately must issue its own

age discrimination regulations, as well as observers, from other interested Federal agencies. The Interagency Task Force met five (5) times during the development of the age discrimination regulations to consider both substantive and procedural matters. Consultations were also held with individual Federal agencies. The Interagency Task Force will continue to function during the development of agency specific regulations.

The Notice of Proposed Rulemaking (NPRM) was published in the *Federal Register* (p. 56426-56446) on December 1, 1978. The NPRM contained a discussion of the major issues and a section-by-section analysis of the proposed regulations as well as the text of the proposed rules. At certain key places in the proposed rules, HEW presented options for public consideration and comment. Publication of the proposed rules inaugurated a 90-day public comment period.

HEW distributed more than 16,000 copies of the proposed rules. Copies were mailed to every member of Congress, every State governor, the head of every Federal agency which provides Federal financial assistance, administrators of federally assisted programs, recipients of Federal funds at the State and local levels, interested individuals and groups. Special efforts were made to distribute copies of the NPRM to groups representing the interests of the elderly and of children and youth.

In January and early February, the Department held public hearings in Washington, D.C., and in each of HEW's 10 Regions in order to obtain public comment on the proposed rules. A total of 170 witnesses made presentations at those hearings. In addition, 246 letters were received containing comments, criticisms and suggestions on nearly every section of the proposed rules. Comments made at the public hearings and in writing have come from individuals, from State and local governmental units, from providers of federally supported services, from public officials at the Federal, State and local levels, and a large number have come from groups representing the interests of the elderly. The comments and verbatim transcripts from the eleven hearings have been analyzed and used in the development of these final regulations. A summary of the comments received and the responses to those comments follow the text of these regulations.

Although the final government-wide regulations have been significantly affected by the comments received, the implementation of the Age Discrimination Act is a continuing process which provides several opportunities for public participation. Each agency providing Federal financial assistance must now issue its own proposed and then final, specific age discrimination regulations. The issuance of proposed agency regulations 90 days after these general regulations are published will provide another opportunity for the public to participate in the shaping of age discrimination policies. The actual impact of the Age Discrimination Act and the problems which recipients of Federal financial assistance may encounter in implementing these general age discrimination regulations

will be examined after 30 months time. Similarly, each agency will examine and publish for comment its own assessment of the effectiveness of its age discrimination regulations after they have been in effect for 30 months.

HEW will amend and revise the government-wide regulations as need and experience dictate.

Overview of the Regulations

The following paragraphs summarize the text of the final regulations. The last section of the preamble contains a discussion of the resolution of certain major issues which were raised in the NPRM and an explanation of key parts of the text of the final regulations.

Subpart A—General

The four sections in Subpart A explain the purpose of the Age Discrimination Act (§ 90.1), the purpose of the general age discrimination regulations (§ 90.2), the programs and activities covered by the Act (§ 90.3) and the meaning of important terms used in the regulations (§ 90.4).

The Age Discrimination Act is designed to prohibit discrimination on the basis of age in programs or activities which receive Federal financial assistance. The Act also contains certain exceptions which permit age distinctions and factors other than age to continue in use under certain circumstances (§ 90.1). The Act applies to persons of all ages.

The Act generally covers all programs and activities which receive Federal financial assistance. However, the Act does not apply to any age distinction "established under authority of any law" which provides benefits or establishes criteria for participation on the basis of age or in age related terms. Thus, age distinctions which are "established under authority of any law" may continue in use. These regulations (§ 90.3) define the phrase "any law" to mean Federal statutes, State statutes or local statutes adopted by elected, general purpose legislative bodies.

The Act also excludes from its coverage most employment practices, except for programs funded under the public service employment titles of the Comprehensive Employment and Training Act (CETA). These regulations do cover any program or activity which is both a program of Federal financial assistance and provides employment such as the College Work Study Program (42 U.S.C. 2751, *et seq.*) and the Work Incentive Program (42 U.S.C. 650, *et seq.*). The Age Discrimination in Employment Act (ADEA) which is administered by the Department of Labor, [Equal Employment Opportunity Commission (EEOC) after July 1, 1979], continues to be the Federal statute that prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in CETA public service employment programs, must look to the ADEA for relief, not to the Age Discrimination Act.

Section 90.4 defines important terms used throughout these regulations.

Subpart B—What Is Age Discrimination?

This subpart sets out the rules against age discrimination and the conditions under which the statutory exceptions apply.

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance (§ 90.12(a)). This general rule is limited by the exceptions which are contained in section 304 of the Act and which are explained in §§ 90.14 and 90.15 of these regulations. The specific prohibited actions, are patterned after the regulations issued under Title VI of the Civil Rights Act of 1964 (45 CFR Part 80). As a general rule, separate or different treatment which denies or limits service from or participation in a program receiving Federal financial assistance will be prohibited by these regulations.

The Act contains several exceptions which limit the general prohibition against age discrimination. Section 304(b)(1) of the Act permits the use of age distinctions which are necessary to the normal operation or to the achievement of a statutory objective. It also permits actions which are based on reasonable factors other than age. The regulations provide definitions for two terms which are essential to an understanding of those exceptions: "normal operation" and "statutory objective" (§ 90.13). "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives. "Statutory objective" is defined to mean any purpose which is explicitly stated in a Federal statute, State statute or local statute or ordinance.

The regulations establish a four part test, all parts of which must be met for an explicit age distinction to satisfy one of the statutory exceptions and to continue in use in a Federally assisted program (§ 90.14). This four part test will be used to scrutinize age distinctions which are imposed in the administration of Federally assisted programs, but which are not explicitly authorized by a Federal, State or local statute.

Recipients of Federal funds are also permitted to take an action otherwise prohibited by the Act, if the action is based on "reasonable factors other than age." In that event, the action may be taken even though it has a disproportionate effect on persons of different ages. However, according to the regulations (§ 90.15), the factor other than age must bear a direct and substantial relationship to the program's normal operation or to the achievement of a statutory objective.

The regulations place on the recipient the burden of proving that an age distinction or a factor other than age qualifies for an exception (§ 90.16).

Subpart C—What Are the Responsibilities of the Federal Agencies?

This subpart contains four sections which explain the responsibilities that Federal agencies have to implement the ADA.

Each agency which extends Federal financial assistance must issue proposed and then final regulations to enforce the Act

(§ 90.31). The agency specific regulations must be consistent with these government-wide regulations and must be approved by the Secretary of HEW. The final agency specific regulation must contain an appendix listing all age distinctions which appear in Federal statutes and regulations which affect the agency's programs of Federal financial assistance. The appendix is the first step of a process set in motion by these regulations to inform the public of those age distinctions used in Federal Program administration. The appendix will not constitute agency approval or disapproval of the age distinctions contained in its regulations.

As a second step in this public information process, each Federal agency must review the age distinctions it imposes on its recipients by regulation or by administrative action to determine whether these age distinctions are permissible under the Act (§ 90.32). This review must be completed within 12 months after publication of the agency final regulations and must be published for public comment in the *Federal Register*. The report must indicate which age distinctions meet the requirements of the Act and will be continued and which will be eliminated. The report must identify age distinctions not in regulations which meet the requirements of the Act and which will subsequently be incorporated into regulations. Beginning with the effective date of an agency's specific regulations, no new age distinction may be imposed, unless it is adopted by regulation using the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553). Beginning one year from the publication of an agency's specific regulations, no existing age distinction may be continued unless it has already been adopted by regulation or is adopted by regulation using the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553).

The next two sections of the regulations (§§ 90.33 and 90.34) reflect HEW's goal of reducing administrative burden on recipients while still ensuring compliance with the Act. To avoid or minimize conflicting actions by different Federal agencies which deal with the same recipient, the Secretary of HEW may designate "lead agencies" to coordinate compliance and enforcement activities in those instances where two or more agencies provide assistance to the same recipient (§ 90.33). Interagency cooperation may extend to all compliance and enforcement activities except for the actual termination of funds and the notification to Congress of that termination.

The Act requires each agency to report annually to the Congress, through HEW, on its compliance and enforcement activities. The final regulations adopt a targeted approach to data collection and analysis, which will maximize the opportunity to measure and analyze actual progress in complying with the Act and, at the same time, minimize the burden of unnecessary data collection on recipients (§ 90.34).

The targeted approach to data collection builds on the analysis of existing data about compliance, such as complaint data and information from compliance reviews. The regulations also provide for agencies to collect data which are directly relevant to

particular patterns or practices of discrimination revealed by complaints, compliance reviews or other compliance activities. This targeted approach gives each agency the authority to tailor its own data collection to the characteristics of its programs, rather than establishing specific reporting requirements for every federally assisted program.

Subpart D—Investigation, Conciliation and Enforcement Procedures

This subpart of the regulations is divided into 10 sections dealing with various aspects of the compliance and enforcement process.

Each agency is required to establish procedures for compliance, investigation, conciliation and enforcement (§ 90.41). A recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act and must take necessary steps to eliminate any violations. An agency has responsibility to attempt to secure recipient compliance with the Act by voluntary means. An agency must enforce the Act when a recipient fails to eliminate violations of the Act (§ 90.42).

Each agency is required to provide written notice to each recipient of the recipient's obligations under the Act, to provide technical assistance to recipients where necessary and to make available educational materials explaining the rights and obligations of beneficiaries and recipients (§ 90.43(a)).

Moreover, each Federal agency must direct its recipients which employ the equivalent of 15 or more persons on a full-time basis to prepare a written self-evaluation (§ 90.43(b)). A recipient's self-evaluation will focus on age distinctions which are imposed directly by the recipient and not on any factors other than age. Each recipient must justify the continued use of any distinction as sanctioned under these regulations. A recipient must take corrective and remedial action whenever the self-evaluation indicates a violation of the Act. The recipient self-evaluation must be completed 18 months after the effective date of agency regulations. The self-evaluation must be available to the agency or the public for a period of three years following its completion.

Every agency must establish a procedure for processing complaints of age discrimination (§ 90.43(c)). The complaint handling procedure must include an initial screening by the Federal agency and notice to complainants and recipients of their rights and obligations in the complaint process. All complaints which fall within the coverage of the Act will be referred to a mediation process which will be managed by a single agency designated by the Secretary of HEW. That agency is the Federal Mediation and Conciliation Service (FMCS).

Complainants and recipients are required to participate in the effort to reach a mutually satisfactory mediated settlement of the complaint, although they need not meet with the mediator at the same time. The mediation process may last no more than 60 days from the date the agency first receives the complaint. The mediator will have the authority to terminate the mediation at any time before the end of the 60-day period if the

process appears to have broken down. The terms of settlement that are satisfactory to both parties will be reduced to writing and sent to the Federal agency which referred the complaint. The Federal agency will take no further action on a complaint which has been successfully mediated.

If mediation does not succeed, or if a mediated settlement is violated, Federal agencies will engage in informal fact finding and then, if necessary, proceed to formal investigation of the complaint. The formal investigation may result in an administrative hearing before an administrative law judge. A Federal agency may terminate a recipient's Federal funds if the administrative law judge finds that the recipient has violated the Act.

The regulations of each Federal agency must provide that the agency may conduct compliance reviews, preaward reviews and use other similar procedures to determine compliance with the Act. These procedures are not dependent on the filing of a complaint of age discrimination (§ 90.44).

To help determine whether a recipient is in compliance with the Act, each Federal agency may require its recipients to make their records reasonably accessible to the agency and to furnish information to the agency (§ 90.45). Recipients are prohibited from acts of retaliation or intimidation against individuals who file age discrimination complaints or who cooperate in any aspect of the enforcement process (§ 90.46).

After a hearing before an administrative law judge, a Federal agency may terminate Federal funds to a recipient found to have violated the Act or regulations implementing the Act. Termination must be limited to the particular recipient which has violated the Act and to the program where the violation has been found. An agency may delay granting new Federal funds to a recipient when termination proceedings have been initiated (§ 90.47).

When Federal funds are terminated, the agency may pay those funds to another qualified recipient which can demonstrate the ability to achieve the goals of the Federal program's authorizing statute and to comply with the Age Discrimination Act (§ 90.48). If a Federal agency or an administrative law judge, finds that a recipient has engaged in age discrimination, the recipient must take remedial action as the agency requires. Even in the absence of a finding of discrimination, recipients may voluntarily take affirmative action to encourage the participation of persons in age groups where participation has been limited in the past. The regulations permit a recipient to provide special benefits to children or the elderly provided that the benefits do not result in the exclusion of persons who are eligible to participate in the recipients' program (§ 90.49).

The Act authorizes a private right of action, when an individual has exhausted administrative remedies. The regulations implement that provision (§ 90.50). Administrative remedies are exhausted when either 180 days have elapsed from the filing of the complaint and the agency has made no finding or the agency issues a finding in favor of the recipient. The complainant may then file a suit in a U.S. district court. The

complainant must indicate at the time the suit is filed, if attorney's fees will be demanded in the event that the complainant is successful. No action can be brought if the same alleged violation by the same defendant is the subject of a pending action in any U.S. court. Complainants who wish to file an action must give 30 days notice to the Attorney General, the Secretary of HEW, the head of the granting agency and the recipient.

Subpart E—Future Review of Age Discrimination Regulations

HEW must review the effectiveness of these general age discrimination regulations 30 months after the regulations take effect (§ 90.61). In addition, each agency must review the effectiveness of its own regulations 30 months after they become effective (§ 90.62). These reviews must be published in the Federal Register with an opportunity for public comment.

Critical Issues

Comments were submitted on many sections of the proposed regulations and on many different issues raised in the NPRM. These comments and the responses to them are set forth in the appendix which follows the text of the regulations. Some of the comments concerned critical policy issues with respect to the implementation of the Act. These critical issues are discussed in the following paragraphs.

1. *What Ages Does the Act Cover?* Section 303 of the Act prohibits discrimination on the basis of age in federally funded programs or activities. Although the legislative history indicates Congressional concern for the problems of the elderly in particular, the Congress made it clear in its Conference Committee report that the Act is intended to apply to persons of all ages.

When the Act was originally passed in 1975, Congress directed the United States Commission on Civil Rights to conduct a study of age discrimination in federally funded programs, and required each affected Federal agency to respond to the Commission's study. After reviewing the Commission's report and Federal agency responses to it, Congress considered amendments to the Act. Nowhere in the amendment process was there any discussion of limiting or changing the coverage of the Act. It continues to extend protection to persons of all ages.

Various advocacy groups for older persons have suggested that HEW construe these general implementing regulations to protect only the elderly or to provide greater protection for older persons than for other age groups. This construction is not legally supportable in view of the legislative history and the plain language of the Act.

However, the Congress has consistently made clear its support for the concerns of older persons. It is therefore unlikely that Congress intended the Act to call into question the generally accepted special benefits which are provided to older persons in programs that are otherwise available to a wider age range of the population. Public comment on the regulations was almost unanimously supportive of these benefits, which often take the form of special

discounts. Similarly, no one has suggested that similar benefits for children should be questioned under the Act.

HEW supports the continuation of special benefits for children and older persons. Therefore, these regulations permit special benefits for the elderly persons and for children that are extended by recipients so long as they do not result in the exclusion from the program of otherwise eligible persons. (§ 90.49(c)).

2. *Does the Act Require Proportional Allocation of Services and Funds by Age?* Commenters also asked whether the Act requires proportional allocation by age of the services and the benefits of federally assisted programs. Some believe that certain groups, especially the elderly, do not get their "fair share" of funds in certain programs or that certain program participation rates among age groups like the elderly are disproportionately low.

These final regulations do not require proportional program participation by age or the proportional allocation of funds by age. Discrimination has not been defined in this way in other non-discrimination regulations. However, disproportionate allocation of funds or program participation may be one of the elements which triggers an examination of whether age discrimination exists in the federally funded program or activity. If further inquiry is necessary, the recipient may show that the disparity in rates of participation, fund allocation, or services has nondiscriminatory causes. Comments on the NPRM suggested that there may be nondiscriminatory reasons which adequately explain the disproportionately low participation of the elderly in some programs.

3. *What Programs or Activities are "Established Under Authority of Any Law"?* The Age Discrimination Act exempts from coverage age distinctions contained in a program or activity "established under authority of any law" which provides benefits on the basis of age or in age related terms. Congress did not expressly indicate anywhere in the legislative history of the Act what it meant by the term "any law." The regulations must, nevertheless, define the phrase "established under authority of any law" in order to determine which age distinctions are exempted by this provision of the Act.

The NPRM presented four options for interpreting the phrase "any law" and asked for comments on those or any other reasonable interpretations. The NPRM cited two overriding issues to be considered in determining the meaning of "any law" (a) whether to include age distinctions contained in regulations; and (b) whether to include age distinctions enacted by State and local legislative bodies.

The narrowest option interpreted "any law" to mean only Federal statutes. The broadest option interpreted "any law" to include Federal, State and local statutes and Federal, State and local regulations. Supporters of defining "any law" to mean only Federal statutes argued that any other interpretation seriously weakens the Act. Congress could not have intended to give discretion to State or local legislative bodies to exempt any age distinction from the

coverage of the Act. To do so would be an abdication of Federal responsibility which defeats the purpose of the Act.

Those who argued that "any law" should mean Federal and State statutes argued that the Act should permit the States to use age in exercising their traditional power in such areas as defining the age of majority, controlling access to a driver's license, and regulating compulsory school attendance. On the other hand, extending this exemption to local statutes and ordinances would permit thousands of local jurisdictions to introduce age distinctions into the administration of Federal programs which would fatally weaken the Act.

Supporters of defining "any law" to mean Federal, State and local statutes and ordinances argued that there is no clear basis for limiting the interpretation of "any law" to Federal statutes. Congress rejected an amendment to the Act in 1978 which would have defined "any law" to mean Federal statutes. Furthermore, there is no basis for excluding local statutes and ordinances if State statutes are included in the definition. They argued that no case has been made that age discrimination occurs as a result of age distinctions in State and local statutes and ordinances and that beneficial age distinctions are enacted by State and local legislative bodies.

Defining "any law" to include all regulations had relatively little support. Some suggested defining "any law" to mean Federal statutes and regulations. Supporters of including regulations in the definition argued that regulations have the force and effect of law and should be included in the "any law" exemption. This position has been rejected on the grounds that it would permit administrators of federally funded programs to impose age distinctions which are not authorized by a legislative body. In addition, HEW does not believe that the language "established under authority of any law" necessarily includes regulations having the force and effect of law.

The final regulations define "any law" to mean Federal, State and local statutes and ordinances. The language of the statute, and the general lack of legislative history to justify any narrower interpretation of that language support the conclusion that Federal and State statutes, and statutes or ordinances enacted by general purpose, elected local governments should be exempt from coverage of the Act. This is particularly appropriate in the absence of any clear indication that age discrimination occurs as a result of State and local statutes. This definition of "any law" recognizes the authority of State and general purpose, elected local governments to enact statutes which condition benefits or participation on the basis of age.

Examples: "Established Under Authority of Any Law"

1. *Federal statutes.* The Adult Education Act (20 U.S.C. 1201-1213) is statutorily designed to provide services or instruction below college level for adults. The Act defines adults as individuals who have attained the age of 16. This limitation on participation in adult education programs is

not covered by the Act. The Runaway Youth Program (42 U.S.C. 5701) authorized under the Juvenile Justice & Delinquency Prevention Act, awards grants for the development and/or strengthening of local facilities to address the immediate needs of runaway youth in a manner which is outside of the law enforcement and juvenile justice systems. The terms "runaway youth," "juveniles," and "young people" are used in the statute without further definition. Reasonable definitions of these terms would not be covered by the Act.

2. *State statutes.* Statutes setting age limitations on obtaining a driver's license or fixing age limits for compulsory school attendance are not covered by the Act.

3. *Local statutes or ordinances.* Age limitations on consuming alcoholic beverages or possessing firearms are not covered by the Act as long as these are adopted by an elected general purpose legislative body.

Note.—Any age distinction not exempted from coverage by the "any law" provision, may still qualify for an exception under another provision of the Act or these regulations.

4. *What are the Rules Against Age Discrimination?* Many commenters asked for clarification of the rules against age discrimination contained in § 90.12 of the regulations. Section 90.12 sets forth a general rule against age discrimination which is based on Section 303 of the Act, and then presents specific rules against age discrimination. These rules are limited by the exceptions contained in the Act and these regulations.

The general rule in § 90.12 reflects the language of the Act: except as provided in the Act and these regulations, "... no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance." It means that, unless sanctioned by one of the exceptions, recipients of Federal financial assistance may not, either directly or indirectly, do anything to exclude persons from their programs or activities on the basis of age. Nor may recipients do anything not sanctioned by one of the exceptions to deny or limit persons in their efforts to participate in federally funded programs or activities on the basis of their age. For example, a medical school may not exclude persons from admission solely because of their age.

The prohibition against age discrimination does not include an absolute prohibition against separate or different treatment on the basis of age. As a general rule, separate or different treatment which denies or limits services from, or participation in, a program receiving Federal financial assistance would be prohibited by these regulations. On the other hand, these regulations do not automatically invalidate the provision of services through separate or different treatment on the basis of age. Separate or different treatment necessary to normal operations or to the achievement of a statutory objective would qualify for an exception under these regulations.

Section 90.49 of these regulations contains language which affects the rules against

discrimination in two important ways: a recipient may voluntarily act to overcome the effects of conditions which, in the past, have limited participation in a federally assisted program on the basis of age; and, a recipient may provide special benefits for children or the elderly if, by so doing, the recipient does not exclude others who are eligible from participating in the federally assisted program. As mentioned earlier, HEW does not believe that Congress meant to disturb the practices of recipients which provide special benefits to children or the elderly. For example, reduced fares for children and for senior citizens on public transportation or on railways or airlines would qualify as a special benefit under § 90.49 of these regulations. The definition of who qualifies as "children" or "elderly" for purposes of receiving a special benefit will be left to the reasonable discretion of the recipients who voluntarily provide the benefit.

5. *What are the Statutory Exceptions to the Rules Against Age Discrimination?* a. *Definitions of Statutory Objective and Normal Operation.* Many commenters questioned the meaning, clarity, and interpretation of the statutory exceptions to the prohibition against age discrimination contained in the proposed rules §§ 90.14 and 90.15.

Two phrases, "normal operations" and "statutory objective" are used in these regulations in interpreting the Act's exceptions for explicit age distinctions (§ 90.14) and for the use of factors other than age (§ 90.15). Critical to an understanding of these statutory exceptions is the definition of "statutory objective" and the definition of "normal operation."

The NPRM stated that statutory objective would mean either: (1) any purpose of a program or activity expressly stated in a statute, or (2) any purpose of a program or activity expressly stated in a statute or reasonably inferred from its provisions or legislative history. Because legislative history is a broad concept and because statutory objectives will be used to justify the use of administratively imposed age distinctions or factors other than age which have a disproportionate effect, HEW believes that the term "statutory objective" should be construed to mean only expressly stated objectives.

The NPRM was silent about whether the term "statutory objective" referred to Federal statutes, or State statutes, or local statutes, or all statutes. HEW believes the definition of "any law" in § 90.3 and the definition of "statutory objective" in § 90.13 should be parallel. Therefore, the final regulations define "statutory objective" to mean "any purpose of a program or activity expressly stated in any Federal statute, State statute or local statute or ordinance adopted by an elected, general purpose legislative body."

The final regulations have not changed the definition of "normal operation." "Normal operation" continues to mean "the operation of a program or activity without significant changes that would impair its ability to meet its objectives." This definition of "normal operation" means that a recipient of Federal funds may not use the statutory exceptions to justify refusing to make changes in program

operation because those changes disturb administrative routine or are inconvenient.

b. *The four-part test for determining when an explicit age distinction is necessary to normal program operations or necessary to achieve a statutory objective.* Section 90.14 establishes a four-part test for explicit age distinctions which are claimed to be necessary to the normal operation of a program or activity, or to the achievement of a statutory objective of a program or activity.

The NPRM provided that an action reasonably takes age into account as a factor necessary to the normal operation or the achievement of a statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics (e.g., maturity);

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are difficult, costly, or otherwise impractical to measure directly.

The final regulations retain the four-part test, with some changes. The word "and" has been added after parts (a) and (b) to clarify the intent that an age distinction must meet all four parts in order to qualify for an exception. The reference to "maturity" has been deleted as an example of a characteristic for which age may be an approximation, because commenters felt that the term was too vague and did not illustrate what was meant in the test. The first part of the test in § 90.14 refers to a situation in which a program uses an age distinction as an indicator of some other characteristic, such as susceptibility to disease.

The third change occurs in part (d) of the test. The final regulations no longer contain a reference to cost or difficulty; however, part (d) now requires that the characteristics for which age is an approximation must be impractical to measure directly on an individual basis.

Thus, to qualify for an exception under § 90.14, all four of the following conditions must be met: (a) the age distinction in question must be used as an indicator or measure of some other (non-age) characteristic; (b) the other characteristic must be necessary for "normal operation" or for the achievement of a "statutory objective"; (c) the other characteristic must be capable of being reasonably approximated by age; and (d) the other characteristic must be impractical to measure directly on an individual basis.

The test set out in § 90.14 is designed to require careful scrutiny of age distinctions in programs receiving Federal financial assistance. It is not intended to serve as a basis for permitting continued use of age distinctions for the sake of administrative convenience if this results in denial or limitation of services on the basis of age.

HEW encourages recipients to apply age distinctions flexibly; that is, to permit a person, upon a proper showing of the

necessary characteristic to participate in the activity or program even though he or she would otherwise be barred by the age distinction. Other things being equal, an age distinction is more likely to qualify under one of the statutory exceptions if it does not automatically bar all those who do not meet the age requirements.

Examples: "Necessary to the Normal Operation of the Program"

1. A youth organization receiving Federal financial assistance imposes a maximum age limitation on membership. The organization claims that it has as an objective, the training, education and character development of youth. The use of a maximum age limit is *necessary* to the normal operation of the recipient's program because:

(a) Age is used as a measure of the need for training, education, and character building experiences preparing for the assumption of adult responsibility; and

(b) The need for the service must be measured in order for the youth organization's objective to be met; and

(c) Age is highly related to the need for this service and is thus a reasonable measure of it; and

(d) It is not practical to measure this need on an individual basis (i.e., while some persons over the age limit might benefit from the service and some persons under the age limit might not need it, there is no practical way to identify them on an individual basis).

2. A medical school receiving Federal financial assistance generally does not admit anyone over 35 years of age, even though this results in turning away highly qualified applicants over 35.

The school claims that it has an objective, the teaching of qualified medical students who, upon graduation, will practice as long as possible. The school believes that this objective requires it to select younger applicants over older ones.

The use of such an age distinction is *not necessary* to the normal operation of the recipient's program because it does not meet the requirement of § 90.14(b).

Age of the applicant may be a reasonable measure of a non-age characteristic (longevity of practice). This characteristic may be impractical to measure directly on an individual basis. Nevertheless, achieving a high average longevity of practice for its graduates cannot be considered a program objective for a medical school within the meaning of the Act. The "normal operation" exception is not intended to permit a recipient to use broad notions of efficiency or cost-benefit analysis to justify exclusion from a program on the basis of age. The basic objectives of the medical school involve training competent and qualified medical school graduates. These objectives are not impaired if the average length its graduates practice medicine is lowered by a fraction of a year (or even more) by the admission of qualified applicants over 35 years of age.

*The examples illustrate general situations in which the regulations are applied to hypothetical recipients.

Examples: "Necessary to the Achievement of a Statutory Objective"

1. Applications for grants for disease control programs under the Public Health Service Act can only be approved if they "(B) contain assurances satisfactory to the Secretary that . . . the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by the applicant who are most susceptible to the disease or conditions . . . of appropriate preventive behavior and measures (including immunization) and (ii) to facilitate their access to such measures and procedures." (42 U.S.C. 247b).

Under the test of § 90.14, it is *necessary* to the achievement of this explicit statutory objective to give priority in immunization to age categories most at risk to the disease in question because:

(a) Age is being used as a measure of susceptibility to a disease; and

(b) Susceptibility to disease must be measured for the statutory objective to be met; and

(c) Age is a reasonable measure of susceptibility to the particular disease; and

(d) Susceptibility to the disease is impractical to measure directly on an individual basis.

2. The purpose of the Adult Education Act (20 U.S.C. 1201 *et seq.*) is to provide education that will "enable all adults to continue their education . . . and . . . enable them to become more employable, productive, and responsible citizens." (20 U.S.C. 1201.) The Act defines an adult as "any individual who has attained the age of 16." (20 U.S.C. 1201(a).)

A recipient limits participation in its adult education program to adults under 35 on the grounds that this is necessary to achieve the explicit Adult Education Act objective of increasing employability, productivity, and responsibility.

It is *not necessary* to the achievement of this statutory objective to limit participation to those under 35. This age limitation fails at least two elements of the four-part test set out in § 90.14. Employability, productivity and responsibility need not be measured in order to meet the statutory objective of making adults more employable, productive or responsible because the objective is comparative rather than absolute. The statute only requires an effort to improve these characteristics in an individual, not to maximize the degree of improvement.

These characteristics have no demonstrable correlation with age and cannot be reasonably measured by the use of age (§ 90.14(c)).

Whether or not these characteristics can practically be measured directly on an individual basis need not be considered, since the characteristics do not have to be measured in order to meet the statutory objective.

c. *Use of Reasonable Factors Other than Age.* Section 90.15 of the NPRM set out four options to characterize the relationship

*The examples illustrate general situations in which the regulations are applied to hypothetical recipients.

between a factor other than age that may have a discriminatory effect and the normal operation of a program or the achievement of a statutory objective. Those four options were rational, direct, substantial, and necessary. Commenters disagreed about what relationship a factor other than age should bear to the normal operation or the statutory objective of a program or activity.

The final regulations require that a factor other than age bear a direct and substantial relationship to the normal operation of the statutory objective of a program or activity. The "rational" option, which was equated in the NPRM with the rational basis test used under the equal protection clause of the Fourteenth Amendment, has been rejected on the grounds that many serious discriminatory effects created by factors other than age would be likely to survive a rational basis level of scrutiny.

The "necessary" option has been rejected because it requires a test which is not sufficiently flexible to deal with the variety of factors other than age and the variation in facts and circumstances that contribute to whether those factors other than age are "reasonable."

The regulations adopt the "direct and substantial" standard because it provides the appropriate flexibility and, at the same time, avoids the weaknesses inherent in the "rational" standard. Use of the "direct and substantial" standard means that use of factors other than age must be carefully examined in light of the individual facts and circumstances surrounding their use. This examination will determine whether use of the factor other than age is a sufficiently effective method of achieving a worthwhile program purpose to justify limiting or denying services or participation to adversely affected persons.

Examples: "Reasonable Factors Other Than Age"

1. A federally assisted training program uses a physical fitness test as a factor for selecting participants to train for a certain job. The job involves frequent heavy lifting and other demands for physical strength and stamina. Even though older persons might fail the test more frequently than younger persons, the physical fitness test measures a characteristic that is *directly and substantially* related to the job for which persons are being trained and is, therefore, permissible under the Act.

2. The same program referred to in (1) above uses the same physical fitness test to select participants for a training program for clerical work. It claims that persons who pass the test are likely to do better work than those who are unable to pass the test. Even if this were true, the relationship between the requirements of the test and the requirements of the type of job for which training is being offered is *not direct and substantial*. It is so tenuous and limited that it will not justify the test's age discriminatory effect. In this situation, use of the test would violate the Act.

*The examples illustrate general situations in which the regulations are applied to hypothetical recipients.

6. *Cost/Benefit Analysis.* The NPRM raised the issue of whether cost-benefit considerations can justify the use of age distinctions or factors other than age. A majority of commenters expressed support for the NPRM position that a cost-benefit consideration by itself cannot be the sole justification for an exception under § 90.14 and § 90.15. Others, however, opposed any use of cost-benefit analysis in the administration of federally assisted programs.

The use of an explicit age distinction in the operation of a federally assisted program will have to be justified as necessary to the normal operation of the program or to the achievement of a statutory objective. That is, the explicit age distinction will have to meet the four part test of § 90.14 and cannot be disqualified or justified because it reflects a cost-benefit consideration. Use of a factor other than age will have to meet the test established in § 90.15 and cannot be disqualified or justified because it reflects a cost-benefit consideration. The scrutiny afforded age distinctions and factors other than age under these regulations should have the effect of screening out discriminatory cost-benefit considerations.

7. *Relationship Between General and Age-Targeted Programs.* Another major issue in the NPRM concerned similar services provided by both general and age-targeted programs. The question was whether the existence of an age-targeted program in any way relieved a general program of its obligation to serve the age group eligible for the age-targeted program.

Many commenters expressed the view that the general program was not relieved in any way of its obligation to serve everyone regardless of age. They reasoned that: the age targeted program was intended to supplement service for the eligible population, not to replace the services provided by the general program; an age-targeted program recognizes the special or additional needs of an age group, so that any restriction on the availability of services in a general program based solely on the existence of an age-targeted program would be discriminatory; administrators should not be given discretion to limit participation on the basis of age in a general program which Congress created to serve all ages.

Some commenters did say, however, that there are occasions when a general program should be permitted to deny services to an age group which is served elsewhere. They reasoned that the general programs can then focus on those in need who are not being served elsewhere; services offered in a general program should be based on the needs of the community as a whole and should take into account what is offered elsewhere; to require a general program to spread its limited resources to all age groups, regardless of the availability of similar services, would weaken the quality of the services provided. There was no support for the view that the general program's obligation was unconditionally lessened by the existence of the age targeted program.

The final regulations continue the policy expressed in the NPRM that, for a general program, any deviation from a policy of

serving all eligible persons regardless of age that results in a denial or limitation of service on the basis of age is only permissible if it meets one of the statutory exceptions under § 90.14 or § 90.15.

A general program can focus its services by referring persons to existing age targeted programs only if those actions do not result in the denial of services to the individual or in the provision of lesser or different services. However, HEW is persuaded that there are situations when referral to an age targeted program does not result in a denial or limitation of services. For example, a program which serves all ages may be aware of an age targeted program which, because of its specialization, offers better services to that age group. A general program may have a waiting list of applicants while a similar age targeted program has space available. In situations like these, a general program could refer an applicant to the age targeted program provided that it had sufficiently well established relationship with the age targeted program to assure that the person referred actually received the service sought.

8. *Mediation of Age Discrimination Complaints.* The NPRM proposed that complaints of age discrimination be subject to mediation after initial screening by the Federal agency. The NPRM also proposed that participation in mediation be mandatory for both complainant and recipient and that administration of the mediation process be centralized in one government agency, the Federal Mediation and Conciliation Service (FMCS). These provisions of the NPRM have been kept in the final regulations.

While most commenters supported the proposed use of mediation, some commenters questioned the appropriateness of requiring mediation as the first step in resolving an age discrimination complaint. They argued that mediation promotes inappropriate bargaining over civil rights, that mediation may jeopardize the rights of complainants, that not every complaint is suitable for mediation, that mediation introduces a new and different step in the complaint resolution process which will be unnecessarily confusing to complainants and recipients.

HEW continues to believe that the mediation process is an important innovation in resolution of age discrimination complaints. Mediation is an effort to provide faster and more creative resolution of complaints through informal methods of dispute resolution. Attempts to reach a mediated settlement of the complaint must be completed in the first 60 days after the complaint is received. While mediation does represent a new step in the complaint resolution process, the experience in resolving complaints under other civil rights statutes has been that the 60 days set aside for mediation will not significantly delay the enforcement process.

Experience with mediation in other areas indicates that even the most intransigent parties can arrive at a mutually satisfactory resolution of their dispute. Consequently, HEW believes it is desirable to require that mediation be attempted in all complaints. Mediation does not necessarily mean that the two parties to the dispute must meet face to face; each may meet separately with the

mediator. Since the mediated settlement must be satisfactory to both parties, neither the complainant nor the recipient is compelled to settle the complaint. Since the cost of the mediator will be paid by the Federal government, the financial burden on complainants and recipients will be minimal. HEW believes that the ADA offers a unique opportunity to try this innovative approach to the resolution of disputes.

These regulations require that the management of the mediation process be centralized in one agency, designated by the Secretary of HEW. The FMCS will be that agency. Commenters critical of this decision questioned the wisdom of introducing a new agency into the civil rights enforcement process. Some suggested that each agency should manage its own mediation process, to permit the use of staff who would be more familiar with the program and problems of the Federal agency receiving the complaint.

HEW believes that the benefits to be realized by centralizing the management of the mediation process are substantial and that the FMCS is the appropriate agency for the job. The use of a single agency to manage the mediation process assures that uniform standards will be used in the recruitment and training of mediators, that the training will be centralized, that consistent procedures will be followed in the mediation, and that there can be a comprehensive and coherent evaluation of the process as part of the 30 month review of the effectiveness of these regulations. While the use of the FMCS does introduce a new agency into civil rights enforcement, one of the key elements in mediation is that both sides have confidence that the mediator is an independent third party. HEW believes that mediation of age discrimination complaints has a better chance to succeed if the mediator is not part of the staff of a Federal agency responsible for enforcing the Age Discrimination Act. The FMCS, which has an established reputation for mediating disputes, will draw on some of its experienced staff and will recruit and train a cadre of community based mediators who will work on age discrimination complaints.

After 30 months, HEW will evaluate the mediation process in accordance with § 90.61 of these regulations. The process will be used, revised or restructured as indicated by the results of that review.

The Department of Health, Education, and Welfare adds Part 90 to Title 45 of the Code of Federal Regulations as set forth below:

Dated: June 5, 1979.

Joseph A. Califano Jr.,
Secretary, Department of Health, Education,
and Welfare.

The Department of Health, Education, and Welfare adds Part 90 to Title 45 of the Code of Federal Regulations as set forth below:

PART 90—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

90.1 What is the purpose of the Age Discrimination Act of 1975?

- 90.2 What is the purpose of these regulations?
- 90.3 What programs and activities does the Age Discrimination Act of 1975 cover?
- 90.4 How are the terms in the regulations defined?

Subpart B—What is Age Discrimination?
(Standards for Determining Discriminatory Practices)

- 90.11 Purpose of this Subpart.
- 90.12 Rules against age discrimination.
- 90.13 Definitions of "normal operation" and "statutory objective."
- 90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.
- 90.15 Exceptions to the rules against age discrimination. Reasonable factors other than age.
- 90.16 Burden of proof.

Subpart C—What are the Responsibilities of the Federal Agencies?

- 90.31 Issuance of regulations.
- 90.32 Review of agency policies and administrative practices.
- 90.33 Interagency cooperation.
- 90.34 Agency reports.

Subpart D—Investigation, Conciliation and Enforcement Procedures

- 90.41 What is the purpose of this Subpart?
- 90.42 What responsibilities do recipients and agencies have generally to ensure compliance with the Act?
- 90.43 What specific responsibilities do agencies and recipients have to ensure compliance with the Act?
- 90.44 Compliance reviews.
- 90.45 Information requirements.
- 90.46 Prohibition against intimidation or retaliation.
- 90.47 What further provisions must an agency make in order to enforce its regulations after an investigation indicates that a violation of the Act has been committed?
- 90.48 Alternate funds disbursement procedure.
- 90.49 Remedial and affirmative action by recipients.
- 90.50 Exhaustion of administrative remedies.

Subpart E—Future Review of Age Discrimination Regulations

- 90.61 Review of general regulations.
- 90.62 Review of agency regulations.

Authority: Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.

Subpart A—General

§ 90.1 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations.

§ 90.2 What is the purpose of these regulations?

(a) The purpose of these regulations is to state general, government-wide rules for the implementation of the Age Discrimination Act of 1975, as amended, and to guide each agency in the preparation of agency-specific age discrimination regulations.

(b) These regulations apply to each Federal agency which provides Federal financial assistance to any program or activity.

§ 90.3 What programs and activities does the Age Discrimination Act of 1975 cover?

(a) The Age Discrimination Act of 1975 applies to any program or activity receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.).

(b) The Age Discrimination Act of 1975 does not apply to:

- (1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:
 - (i) Provides any benefits or assistance to persons based on age; or
 - (ii) Establishes criteria for participation in age-related terms; or
 - (iii) Describes intended beneficiaries or target groups in age-related terms.
- (2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (CETA), (29 U.S.C. 801 et seq.).

(c) The Age Discrimination Act of 1975 does not apply to:

- (1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:
 - (i) Provides any benefits or assistance to persons based on age; or
 - (ii) Establishes criteria for participation in age-related terms; or
 - (iii) Describes intended beneficiaries or target groups in age-related terms.
- (2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (CETA), (29 U.S.C. 801 et seq.).

§ 90.4 How are the terms in these regulations defined?

As used in these regulations, the term: "Act" means the Age Discrimination Act of 1975, as amended, (Title III of Public Law 94-135).

"Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

"Agency" means a Federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

- (a) Funds;
- (b) Services of Federal personnel; or
- (c) Real and personal property or any interest in or use of property, including:

(1) Transfers or leases of property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

"Secretary" means the Secretary of the Department of Health, Education, and Welfare.

"United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—What is Age Discrimination?

Standards for Determining Discriminatory Practices

§ 90.11 Purpose of this subpart.

The purpose of this subpart is to set forth the prohibitions against age discrimination and the exceptions to those prohibitions.

§ 90.12 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in sections 90.14, and 90.15 of these regulations.

(a) *General rule:* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) *Specific rules:* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

- (1) excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or
- (2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 90.13 Definitions of "normal operation" and "statutory objective."

For purposes of sections 90.14, and 90.15, the terms "normal operation" and "statutory objective" shall have the following meanings:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly

stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by section 90.12, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

§ 90.15 Exceptions to the rules against age discrimination. Reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by section 90.12 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 90.16 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in sections 90.14 and 90.15 is on the recipient of Federal financial assistance.

Appendix D

PART 1606—GUIDELINES ON DISCRIMINATION BECAUSE OF NATIONAL ORIGIN

§ 1606.1 Guidelines on discrimination because of national origin.

(a) The Commission is aware of the widespread practices of discrimination on the basis of national origin, and intends to apply to the full force of law to eliminate such discrimination. The bona fide occupational qualification exception as it pertains to national origin cases shall be strictly construed.

(b) Title VII is intended to eliminate covert as well as the overt practices of discrimination, and the Commission will, therefore, examine with particular concern cases where persons within the jurisdiction of the Commission have been denied equal employment opportunity for reasons which are grounded in national origin

considerations. Examples of cases of this character which have come to the attention of the Commission include: The use of tests in the English language where the individual tested came from circumstances where English was not that person's first language or mother tongue, and where English language skill is not a requirement of the work to be performed; denial of equal opportunity to persons married to or associated with persons of a specific national origin; denial of equal opportunity because of membership in lawful organizations identified with or seeking to promote the interests of national groups; denial of equal opportunity because of attendance at schools or churches commonly utilized by persons of a given national origin; denial of equal opportunity because their name or that of their spouse reflects a certain national origin, and denial of equal opportunity to persons who as a class of persons tend to fall outside national norms for height and weight where such height and weight specifications are not necessary for the performance of the work involved.

(c) Title VII of the Civil Rights Act of 1964 protects all individuals, both citizen and noncitizens, domiciled or residing in the United States, against discrimination on the basis of race, color, religion, sex, or national origin.

(d) Where discrimination on the basis of citizenship against a lawfully immigrated alien residing in the United States has the purpose or effect of discriminating against persons of a particular national origin, such person may not be discriminated against on the basis of citizenship, except that it is not an unlawful employment practice for an employer pursuant to section 703(g), to refuse to employ any person who does not fulfill the requirements imposed in the interests of national security pursuant to any statute of the United States or any Executive Order of the President respecting the particular position or the particular premises in question.

(e) In addition, some states have enacted laws prohibiting the employment of noncitizens. Where such laws have the purpose or effect of discriminating on the basis of national origin, they are in conflict with and are, therefore, superseded by title VII of the Civil Rights Act of 1964, as amended.

(Sec. 713(a), 76 Stat. 265; 42 U.S.C. 2000e-12)

Appendix E

(From the Federal Register of Friday, September 14, 1979.)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1605

Proposed Guidelines on Discrimination Because of Religion

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed Guidelines.

SUMMARY: The Equal Employment Opportunity Commission is proposing a revision of its Guidelines on Discrimination

Because of Religion. We are taking this action in response to the public confusion concerning the duty of employers and labor organizations to provide reasonable accommodation for the religious practices of employees or prospective employees. If adopted, these Guidelines will clarify this duty and thereby prevent an employee or prospective employee from being discriminated against and unnecessarily penalized because of his or her religious practices.

DATES: Comments must be received on or before December 13, 1979.

ADDRESSES: Address all comments to: Marie D. Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Frederick D. Dorsey, Director, Office of Policy Implementation, Room 4002, EEOC, 2401 E Street NW., Washington, D.C. 20506, (202) 634-7069.

SUPPLEMENTARY INFORMATION: Section 701(j) of Title VII of the Civil Rights Act of 1964, as amended creates an obligation to provide reasonable accommodation for the religious practices of an employee or prospective employee, unless to do so would create an undue hardship. In 1977, the Supreme Court rendered its decision in *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977). The Court's interpretation of an undue hardship led to much confusion in the employment sector. It left employers, employees and labor organizations unclear as to the extent of the statutory duty under Title VII to provide reasonable accommodation for the religious practices of an employee or prospective employee. The Commission held public informational hearings on this issue in April and May of 1978 in New York City, Los Angeles and Milwaukee. To allow interested persons an opportunity to participate in all stages of its rulemaking process and in compliance with Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978), the Commission published its intent to review its current *Guidelines on Discrimination Because of Religion* (44 FR 6200, January 31, 1979). The purpose of this review was to determine if any changes in the Guidelines were needed based on the information obtained from the Commission's informational hearings.

After this information was studied, the Commission considered several alternatives among which were: (1) The Commission could seek new legislation; (2) the Commission could publish the transcript of the hearings and then employers could develop solutions from the information obtained at the hearings; (3) the Commission could rely on its existing Guidelines; (4) the Commission could revise its Guidelines or; (5) the Commission could revise its Guidelines and publish the transcript of the hearings.

The last alternative was selected because the hearings established that many people desired clarification of the Guidelines and that many employers had developed alternative employment practices for accommodating the religious practices of employees and prospective employees which

could be of use generally. A transcript of the hearings will be available for purchase after October 15, 1979.

One issue repeatedly raised during the hearings concerned the use of pre-selection inquiries into an applicant's availability to work during an employer's scheduled hours. Many employers—especially employers who operate on shifts or 7 days a week—ask applicants if they are available to work all of the scheduled working hours even though the applicant would only be working some of those hours. The employer then often excludes any applicants who are not available at all the specified times. This procedure prevents many applicants, who are not available at all times because of their religious practices, from being employed even before the employer determines whether or not it could accommodate the applicant without an undue hardship to its business. The Commission has developed one solution to this problem (at footnote 10) which would enable the employer to determine the majority of hours when all the applicants would be available, while deferring until after the position is offered determination of the times when individuals cannot be available because of religious practices. The Commission asks the public to comment on this solution and to suggest other alternatives.

These Guidelines are a significant regulation under Executive Order 12044. Their purpose is to clarify the Commission's current *Guidelines on Discrimination Because of Religion*. There are no regulatory burdens or recordkeeping requirements necessary for compliance with the Guidelines. The Commission has determined that they would not have a major economic impact on the economy and that a regulatory analysis is not necessary.

In compliance with Executive Order 12067 (43 FR 28967, July 5, 1978), the Commission has consulted during the drafting stage with representatives of the Department of Justice, Department of Labor, Department of Treasury and the Office of Personnel Management. As a result of this coordination and cooperation, the Commission and the above agencies have developed these proposed Guidelines. At the end of the 90 day comment period, the Commission will continue to consult with these agencies on issues raised through the public comment process. The Commission and these agencies will then issue final Guidelines. Each agency may decide if additional provisions are necessary under its specific statutory authority.

Signed at Washington this 11th day of September 1979.

For the Commission,
Eleanor Holmes Norton,
Chair.

Accordingly, it is proposed to amend 29 CFR Chapter XIV by revising Part 1605 to read as follows:

PART 1605—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION

Sec.

1605.1 "Religious" nature of a practice or belief.

1605.2 Reasonable accommodation without undue hardship as required by section 701(j) of Title VII of the Civil Rights Act of 1964.

Appendix A to § 1605.2 Background information.

Authority: Sec. 713(a), 78 Stat. 265; 42 U.S.C. 2009e-12.

§ 1605.1 "Religious" nature of a practice or belief.

In most cases whether or not a practice or belief is religious is not at issue. However, in those cases in which the issue does exist, the Commission will define religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views. This standard was developed in *United States v. Seeger*, 380 U.S. 163 (1965) and *Welsh v. United States*, 398 U.S. 333 (1970). The Commission has consistently applied this standard in its decisions.² The fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee.

§ 1605.2 Reasonable accommodation without undue hardship as required by section 701(j) of Title VII of the Civil Rights Act of 1964.³

(a) *Purpose of This Section.* This section clarifies the obligation imposed by Title VII of the Civil Rights Act of 1964, as amended, (sections 701(j), 703 and 717) to accommodate the religious practices of employees and prospective employees. This section does not address other obligations under Title VII not to discriminate on grounds of religion, nor other provisions of Title VII.⁴ The legal principles which have been developed with respect to other aspects of discrimination prohibited by Title VII on the bases of race, color, sex, and national origin also apply to religious discrimination in all circumstances other than where an accommodation is required.

(b) *Duty to Accommodate.* (1) Section 701(j) makes it an unlawful employment practice under § 703(a)(1) for an employer to fail to reasonably accommodate the religious practices and beliefs of an employee or prospective employee, unless the employer

¹ The word "practice" as used in these guidelines means "observance and practice, as well as belief," as stated in section 701(j), 42 U.S.C. 2000e(j).

² See CD 78-104 (1976), CCH ¶ 6500; CD 71-2620 (1971), CCH ¶ 6283; CD 71-779 (1970), CCH ¶ 6180.

³ Section 701(j), 42 U.S.C. 2000e(j) states: "The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business."

⁴ This section is not intended to limit any additional obligations to accommodate religious practices which may exist pursuant to constitutional, statutory or executive order provisions such as E.O. 11246; neither is it intended to provide guidance for statutes which require accommodation on bases other than religion such as § 503 of the Rehabilitation Act of 1973.

demonstrates that accommodation would result in undue hardship on the conduct of its business.⁵ Section 701(j) in conjunction with § 703(c), imposes an obligation on a labor organization to reasonably accommodate the religious practices and beliefs of an employee or prospective employee, unless the labor organization demonstrates that accommodation would result in undue hardship.⁶

(2) After an employee or prospective employee notifies the employer or labor organization of his or her need for a religious accommodation, the employer or labor organization has an obligation to explore all possible methods of reasonable accommodation. A refusal to accommodate is justified only when an employer or labor organization can demonstrate that an undue hardship would in fact result from each alternative. A mere assumption that many more people, with the same beliefs as the person being accommodated, may also need accommodation is not evidence of undue hardship.

(c) *Alternatives for Accommodating Religious Practices.* (1) Employees and prospective employees most frequently request an accommodation because their religious practices conflict with their work schedules. The following subsections are some means of accommodating the conflict between work schedules and religious practices which the Commission believes that employers and labor organizations must explore as part of the obligation to accommodate. These are not intended to be all-inclusive. There are often other alternatives which would reasonably accommodate an individual's religious practices when they conflict with a work schedule. There are also employment practices besides work scheduling which may conflict with religious practices and cause an individual to request an accommodation. See, for example, the Commission's finding number (3) from its Hearings on Religious Discrimination, in Appendix A to § 1605.2. The principles expressed in these guidelines apply as well to such requests for accommodation.

(2) Some alternatives for accommodating an individual's religious practices could, to various degrees, disadvantage the individual in terms of wages, desirability of position, or career opportunities. The obligation to provide equal employment opportunity to the extent possible, irrespective of religious beliefs, requires that employers and labor organizations adopt the alternative which least disadvantages the individual requiring the accommodation.

⁵ See *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 74 (1977).

⁶ Section 1605.2 is primarily directed to obligations of employers or labor organizations, which are the entities covered by Title VII that will most often be required to make an accommodation. However, the principles of § 1605.2 also apply when an accommodation can be required of other entities covered by Title VII, such as an employment agency (§ 703(b)) or a joint labor-management committee controlling apprenticeship or other training or retraining (§ 703(d)). See, for example, § 1605.2(c)(1) "Scheduling of Tests or Other Selection Procedures."

(i) *Voluntary Substitutes.* Reasonable accommodation without undue hardship is possible where a satisfactory voluntary substitute is available. In a number of cases, the securing of a substitute has been left entirely up to the individual seeking the accommodation. The Commission believes that the obligation to accommodate requires that employers and labor organizations do everything possible to facilitate the securing of a satisfactory voluntary substitute. Some means of doing this which would not involve substantial cost are: to publicize policies regarding accommodation and substitution; to promote an atmosphere in which such substitutions are favorably regarded; to provide a central file, bulletin board or other means for matching voluntary substitutes with positions for which substitutes are needed.

(ii) *Flexible Scheduling.* One means of providing reasonable accommodation for the religious practices of employees or prospective employees which employers and labor organizations must explore is the creation of a flexible work schedule. The following list is an example of areas in which flexibility might be introduced: Flexible arrival and departure times; floating or optional holidays; flexible work breaks; use of lunch time in exchange for early departure; staggered work hours; and permitting an employee to make up time lost due to the observance of religious practices.⁷

(iii) *Lateral Transfer and Change of Job Assignments.* When an employee cannot be accommodated either as to his or her entire job or an assignment within the job, employers and labor organizations must consider whether or not it is possible to change the job assignment to give the employee a lateral transfer.

(iv) *Payment of Dues to a Labor Organization.* Some collective bargaining agreements include a provision that each employee must join the labor organization or pay the labor organization a sum equivalent to dues. When an employee's religious practices do not permit compliance with such a provision, the labor organization must accommodate the employee by permitting him or her to donate a sum equivalent to dues to a charitable organization other than one associated with the employee's religion.⁸

(d) *Undue Hardship—(1) Cost.* In the *Hardison* decision, the Court indicated that it would be an undue hardship on an employer if it is forced to bear "more than a *de minimis* cost" in order to accommodate an employee's need to be absent from his or her scheduled duty hours. 432 U.S. at 84. Interpretation of "more than a *de minimis* cost" has to be made on a case by case basis with due regard given to the identifiable cost in relation to the size and operating cost of the employer, and the number of individuals who will in fact need a particular accommodation. In general, the Commission

⁷ On September 29, 1978, Congress enacted such a provision for the accommodation of Federal employees' religious practices. See Public Law 95-390, 5 U.S.C. 5550a "Compensatory Time Off for Religious Observances."

⁸ *Int'l Ass'n of Machinist and Aerospace Workers v. Anderson*, F. 2d 397 (9th Cir. 1978); cert denied —U.S.—, 47 L.W. 3738 (June 5, 1979).

interprets this phrase as it was used in the *Hardison* decision to mean that costs similar to the regular payment of premium wages of substitutes, which was at issue in *Hardison*, would constitute undue hardship. However, the infrequent payment of premium wages for a substitute or the payment of premium wages while a more permanent accommodation is being sought are costs which an employer can be required to bear as a means of providing a reasonable accommodation. In most circumstances an employer can also be required to pay administrative costs necessary for providing the accommodation, such as those costs involved in rearranging schedules and recording substitutions for payroll purposes.

(2) *Seniority Rights.* the *Hardison* decision also indicated that it would be undue hardship to require a variance from a seniority system in order to accommodate an employee's religious practices when doing so would deny another employee his or her shift preference guaranteed by that system. 432 U.S. at 80. The Commission believes that arrangements for voluntary substitutes (see paragraph (c)(1) of this section do not interfere with legitimate expectations founded on a seniority system.

(e) *Selection Practices.—(1) Scheduling of Tests or Other Selection Procedures*

When a test or other selection procedure is scheduled at a time when an employee or prospective employee cannot attend because of his or her religious practices, the user of the test should be aware that the principles enunciated in these guidelines apply and that it has an obligation to accommodate such employee or prospective employee unless undue hardship would result.

(2) *Inquiries Which Determine An Applicant's Availability to Work During An Employer's Scheduled Working Hours.* (i) The duty to accommodate pertains to prospective employees as well as current employees. Consequently, an employer may not permit an applicant's need for a religious accommodation to affect in any way its decision whether to hire the applicant unless it can demonstrate that it cannot reasonably accommodate the applicant's religious practices without undue hardship. When an employer inquires into an applicant's availability to work during its scheduled working hours prior to making a decision whether to hire the applicant, there is a danger that the employer will deny the position to an applicant requiring an accommodation in order to avoid having to make any effort to accommodate the applicant, even though an accommodation without undue hardship is possible. There is also a danger that many selecting officials will not be able to objectively evaluate an applicant when they know the applicant will require an accommodation, especially when the official is selecting from among similarly qualified applicants. When the need for an accommodation affects a decision to reject an applicant, the applicant will usually be unaware of this fact; even if the applicant suspects that the rejection was based on the need for a religious accommodation, the applicant will find it difficult to prove. Awareness of employer attitudes toward accommodation, and of the difficulty of

challenging a rejection because of a need for an accommodation, discourages applicants from applying to employers who make pre-selection inquiries into availability.⁹

(ii) Therefore, because pre-selection inquiries concerning availability have the effect of excluding persons of certain religious beliefs, an employer must justify such inquiries by business necessity. Employers who believe they have a legitimate interest in knowing the availability of their applicants prior to selection must consider procedures which would serve this interest without excluding persons whose religious practices need accommodation.¹⁰

(iii) The Commission will consider there to be *prima facie* evidence that the need for an accommodation influenced a decision to reject an applicant when: (A) Prior to selection the employer elicits information which would determine an applicant's need for a religious accommodation; (B) this procedure is not justified by business necessity; and (C) the employer rejects a qualified applicant after the employer has determined the applicant's need for an accommodation. The burden is then on the employer to demonstrate that factors other than the need for an accommodation were the reason for rejecting the qualified applicant, or that a reasonable accommodation without undue hardship was not possible.

Appendix A to § 1605.2—Background Information

In 1966, the Commission adopted guidelines on religious discrimination which stated that an employer had an obligation to accommodate the religious practices of its employees or prospective employees unless to do so would create a "serious inconvenience to the conduct of the business". 29 CFR 1605.1(a)(2), 31 FR 8370 (1966).

In 1967 the Commission revised these guidelines to state that an employer had an obligation to reasonably accommodate the religious practices of its employees or prospective employees, unless the employer could prove that to do so would create an "undue hardship". 29 CFR 1605.1(b)(c), 32 FR 10298.

In 1972, Congress amended Title VII to incorporate the obligation to accommodate expressed in the Commission's 1967 Guidelines by adding section 701(j).

In 1977, the United States Supreme Court issued its decision in the case of *Trans World*

⁹ Evidence of these problems was submitted through oral and written testimony at the Commission's Hearings on Religious Discrimination.

¹⁰ An example of such a procedure is for the employer to initially ask a question such as: "Apart from absences for religious observances will you be available for work at the following times?" Then, after a position is offered, the employer can inquire into the need for a religious accommodation and determine, according to the principles of these Guidelines, whether an accommodation is possible. This type of inquiry would provide an employer with information concerning the overwhelming majority of times when applicants will be available, while deferring until after a position is offered the identification of those times when the usually small number of applicants needing accommodation will not be available.

Airlines, Inc. v. Hardison, 432 U.S. 63 (1977). *Hardison* was brought under Section 703(a)(1) because it involved facts occurring before the enactment of Section 701(j). The Court applied the Commission's 1967 Guidelines, but indicated that the result would be the same under section 701(j). It stated that Trans World Airlines had made reasonable efforts to accommodate the religious needs of its employee, Hardison. The Court held that to require Trans World Airlines to make further attempts at accommodations—by unilaterally violating a seniority provision of the collective bargaining agreement, paying premium wages on a regular basis to another employee to replace Hardison, or creating a serious shortage of necessary employees in another department in order to replace Hardison—would create an undue hardship on the conduct of Trans World Airlines' business, and would therefore, exceed the duty to accommodate Hardison.

In 1978, the Commission conducted public hearings on religious discrimination in New York City, Milwaukee, and Los Angeles in order to respond to the concerns raised by *Hardison*. Approximately 150 witnesses testified or submitted written statements.¹¹ The witnesses included employers, employees, representatives of religious and labor organizations and representatives of Federal, State and local governments.

The Commission found from the hearings that:

- (1) There is widespread confusion concerning the extent of accommodation under the *Hardison* decision.
- (2) The religious practices of some individuals and some groups of individuals are not being accommodated.
- (3) Some of those practices which are not being accommodated are:
 - Observance of a Sabbath or religious holidays;
 - Need for prayer break during working hours;
 - Practice of following certain dietary requirements;
 - Practice of not working during a mourning period for a deceased relative;
 - Prohibition against medical examinations;
 - Prohibition against membership in labor and other organizations; and
 - Practices concerning dress and other personal grooming habits.
- (4) Many of the employers who testified had developed alternative employment practices which accommodate the religious practices of employees and prospective employees and which meet the employer's business needs.
- (5) Little evidence was submitted by employers which showed actual attempts to accommodate religious practices with resultant unfavorable consequences to the employer's business. Employers appeared to

¹¹ The transcript of the Commission's Hearings on Religious Discrimination can be examined by the public at: The Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

This transcript will be published by the Government Printing Office and available for purchase on approximately October 15, 1979.

have substantial anticipatory concerns but no, or very little, actual experience with the problems they theorized would emerge by providing reasonable accommodation for religious practices.

Based on these findings, the Commission is revising its Guidelines to clarify the obligation imposed by Section 701(j) to accommodate the religious practices of employees and prospective employees.

Appendix F

(From the Federal Register of Friday, January 19, 1979.)

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1608—AFFIRMATIVE ACTION APPROPRIATE UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

Adoption of Interpretative Guidelines

AGENCY: Equal Employment Opportunity Commission.

ACTION: Adoption of final Guidelines on Affirmative Action appropriate under Title VII of the Civil Rights Act of 1964, as amended.

SUMMARY: The Equal Employment Opportunity Commission wishes to encourage voluntary action to eliminate employment discrimination, and hereby publishes its final Guidelines on Affirmative Action. Proposed Guidelines were published on December 28, 1977 (42 FR 64,826) for public comment. The Commission has now analyzed those comments and taken them into consideration in preparing its final Guidelines. The Preamble, below, describes the Commission's purpose for issuing these Guidelines and explains how the issues raised by the comments have been addressed. These Guidelines clarify the kinds of voluntary actions that are appropriate under Federal law. They describe the action the Commission will take when the procedures outlined herein have been followed. By elucidating the standards for voluntary action in these Guidelines, the Commission encourages affirmative action without resort to litigation.

EFFECTIVE DATE: February 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, Room 4002A, 2401 E Street, N.W., Washington, D.C. 20506, (202) 254-7669, 634-7060.

SUPPLEMENTARY INFORMATION:

An Overview of the Guidelines on Affirmative Action

The Equal Employment Opportunity Commission ("EEOC", "the Commission") enforces Title VII of the Civil Rights Act of 1964, as amended, ("Title VII," "the Act"), which makes it illegal to discriminate in employment on the basis of race, color, religion, sex, or national origin. The Act requires the Commission to investigate complaints and attempt to correct violations it discovers, informally and through

conciliation, or, if necessary, through court action. The Act also authorizes private individuals to bring lawsuits if their complaints are not resolved to their satisfaction or within the statutory time period.

Since the enactment of Title VII of the Civil Rights Act of 1964, many employers, labor organizations, and other persons subject to the Act have altered employment systems to implement the purposes of Title VII by improving employment opportunities for previously excluded groups. Because of what Congress has called the "complex and pervasive" nature of systemic discrimination against minorities and women (see H.R. Rep. No. 92-238, 92nd Cong., 2nd Sess. 8 (1972)), these voluntary efforts often involve significant changes in employment relationships. Some of these actions have been challenged under Title VII, as conflicting with statutory language requiring that employment decisions not be based on race, color, religion, sex, or national origin considerations. Accordingly, the Commission believes it is important to announce the legal principles which govern voluntary affirmative action under Title VII and other employment discrimination laws, so that persons subject to the Act have appropriate guidance. These Guidelines constitute the Commission's interpretation of Title VII, harmonizing the need to eliminate and prevent discrimination and to correct the effects of prior discrimination with the need to protect all individuals from discrimination on the basis of race, color, religion, sex, or national origin.

Requests for guidance have been received by the Commission from persons subject to Title VII concerning the relationship between affirmative action and so-called "reverse discrimination." There is no separate concept under Title VII of "reverse discrimination." Discrimination against all individuals because of race, color, religion, sex, or national origin is illegal under Title VII. *McDonald v. Santa Fe Trail Transportation Co.*, 427 U.S. 273 (1976).

To clarify the relationship between affirmative action and a countervailing claim of discrimination, a new section 1608.1 of these Guidelines sets forth the historical and legislative foundation for the Commission's interpretation of Title VII. Section 1608.1(b) explains that Congress enacted Title VII in order to overcome the effects of past and present employment practices which are part of a larger pattern of restriction, exclusion, discrimination, segregation and inferior treatment of minorities and women in many areas of life. Congress sought to accomplish this objective by establishing a national policy against discrimination in employment and encouraging voluntary affirmative action to eliminate barriers to equal employment opportunity. It is the Commission's interpretation that appropriate voluntary affirmative action, or affirmative action pursuant to an administrative or judicial requirement, does not constitute unlawful discrimination in violation of the Act.

It is essential to the effective implementation of Title VII that those who take appropriate voluntary affirmative action receive adequate protection against claims that their efforts constitute discrimination.

The term affirmative action means those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity. Section 1608.3 of these Guidelines identifies circumstances in which voluntary affirmative action is permissible under Title VII. When such circumstances exist, and a plan or program otherwise complies with these Guidelines, the Commission will find that there is no reasonable cause to believe that the affirmative action plan or program violates Title VII. See § 1608.10(a). In addition, § 1608.10(b) provides that where the plan or program is in writing and was adopted in good faith, in conformity with, and in reliance upon these Guidelines, the Commission will provide the protection authorized under section 713(b)(1) of Title VII to the employer, labor organization, or other person taking the action. See *EEOC v. AT&T*, 419 F. Supp. 1022, 1055, n. 34 (E.D.Pa. 1976), *aff'd*, 556 F.2d 167 (3rd Cir. 1977), *cert. denied*, 98 S.Ct. 3145 (1978).

On December 28, 1977, at 42 FR 64826 the Commission published proposed "Guidelines on Remedial and/or Affirmative Action" in the Federal Register and invited comments from the public. Comments were received from almost 500 individuals and organizations. The paragraphs below summarize the major issues raised by the comments and indicate the way in which the final Guidelines address the concerns raised by the comments.

On December 11, 1978, the Commission voted to approve the Guidelines in final form. Pursuant to Executive Order 12067, the Guidelines were then distributed to all Federal agencies for their review. Comments received in this process are also reflected in the discussion below.

I. Change of Guidelines' Title

The proposed Guidelines were titled "Proposed Guidelines on Affirmative and/or Remedial Action" and the phrase "remedial and/or affirmative action" was utilized throughout the document. A number of comments questioned the difference, if any, between remedial action and affirmative action. The term "remedial" has been dropped because of the possible erroneous implication that a violation of the law was required before affirmative action could be taken.

II. The Commission Will Process Complaints Alleging Discrimination Against Any Aggrieved Person

Many of the comments interpreted the Guidelines as indicating a Commission position that whites or males are entitled to less protection against discrimination than minorities or females, and that the Commission would either ignore complaints filed by whites or males, or process them in a different manner from those filed by females and minorities. The Commission maintains its position, articulated prior to *McDonald v. Santa Fe Trail Transportation Co.*, 427 U.S. 273 (1976), that discrimination on the basis of race, color, religion, sex, or national origin, is prohibited under Title VII, regardless of the individual or class against whom such discrimination is directed. See, e.g.,

Commission Decision No. 74-31, 7 FEP Cases 1326, 1328, CCH EEOC Decisions, ¶6404, (1973). The Commission will follow the same procedures in processing complaints filed by all individuals, regardless of their race, color, religion, sex, or national origin.

To avoid any ambiguity on these issues, language in the proposed Guidelines suggesting that complaints filed by whites and males would be "dismissed" under certain circumstances has been amended. Proposed paragraph V stated that the Commission would "issue a notice of dismissal of the charge" when an affirmative action program conformed to the Guidelines' requirements. The word "dismissal" is a term of art used by the Commission in its procedural regulations to refer to all determinations other than "reasonable cause." Because its use was misconstrued in many comments, final sections have been amended by substituting the phrase "a determination of no reasonable cause" where such a finding is justified by the facts of the case.

III. Consideration of Race, Color, Religion, Sex, and National Origin in Employment Decisions

Some commentators objected to the draft Guidelines because of their belief that Title VII requires that all employment decisions be made without consideration of race, color, religion, sex, or national origin, regardless of the circumstances. This conclusion does not comport with United States Supreme Court decisions interpreting Title VII, nor with the recent decision in *Regents of the University of California v. Bakke*, 98 S. Ct. 2733 (1978) (discussed infra). In the Title VII cases, the Supreme Court has called upon employers " * * * to self-examine and to self-evaluate their employment practices and to endeavor to eliminate, so far as possible, the last vestiges of an unfortunate and ignominious page in this country's history." *Albemarle Paper Co. v. Moody*, 422 U.S. 405, 418 (1975). See also, *Griggs v. Duke Power Co.*, 401 U.S. 421 (1971).

Thus, the Supreme Court recognizes that persons subject to Title VII will consider race, sex and national origin in their analyses and evaluations. In addition, the Court has emphasized the concept of conciliation and voluntary action rather than litigation as the primary method of enforcing Title VII. See *Occidental Life Insurance Co. of California v. EEOC*, 432 U.S. 355 (1977). Voluntary action necessarily implies latitude to make a reasonable judgement as to whether action should be taken and the nature of such action.

At the same time, the Commission recognizes that considerations of race, color, religion, sex, and national origin are not permissible in other contexts. For example, in *McDonald v. Santa Fe Trail Transportation Co.*, 427 U.S. 273 (1976), the Court held that the antidiscrimination principle of Title VII could be invoked by white employees as well as minority employees. No question of affirmative action was involved. The Court held that disparate treatment violated Title VII, but specifically stated that its decision did not address any issues relating to affirmative action programs. *McDonald*,

supra, at 280, n. 8. For the reasons set forth in § 1608.1, the Commission considers that these Guidelines are consistent with the statute, the Congressional intent behind it, and the decisions of the Supreme Court.

IV. Two Different Justifications of Voluntary Action: The Relationship Between Title VII and Executive Order No. 11246, As Amended

A number of comments indicated uncertainty as to the relationship in the proposed Guidelines between the references to Title VII and the references to the Executive Order. These commentators apparently understood the Guidelines to mean that affirmative action required by Executive Order No. 11246, as amended, and its implementing regulations would be lawful under Title VII *only* where the contractor has a reasonable basis for concluding that such action is necessary under Title VII. The structure of the Guidelines has been changed to clarify the Commission's original interpretation that action taken pursuant to, and in conformity with the Executive order, as amended, and its implementing regulations, does not violate Title VII.

The legislative history of the Equal Employment Opportunity Act of 1972 shows that Congress repeatedly rejected limitations on affirmative action under the Executive Order, including the goals and timetables approach that had become by that time a central feature of the implementation of the Order. See, e.g., 118 Cong. Rec. 1385-1386 (1972) (remarks of Sen. Saxbe); 118 Cong. Rec. 1664-1665 (1972) (remarks of Sen. Javits); 118 Cong. Rec. 1678 (1972) (rejecting amendment offered by Sens. Allen and Ervin that would have prohibited requirements for certain types of affirmative action, including the goals approach, under the Executive Order); 118 Cong. Rec. 4918 (1972) (rejecting amendment offered by Sen. Ervin that would have applied section 703(j) of Title VII to the Executive Order).

The Commission concludes that Congress intended to permit the continuation of the Executive Order program which required affirmative action by government contractors. The Congress which acted to allow the Executive Order program to continue would not, in the same measure, invalidate it under Title VII. The statute should be construed to avoid such a contradictory conclusion, especially where such a conclusion would undermine the expressed Congressional purpose of opening employment opportunities to minorities and women who had in the past been denied such opportunities.

In the Equal Employment Opportunity Act of 1972, Congress recognized the contractor's right to rely on affirmative action plans that had been approved under the Executive Order. See section 718 of Title VII. Furthermore, Congress in section 715 established the Equal Employment Opportunity Coordinating Council (composed of the Secretary of Labor, the Chair of the EEOC, the Attorney General, the Chair of the U.S. Civil Service Commission, the Chair of the U.S. Commission on Civil Rights, or their respective delegates) "to minimize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among * * * branches of the Federal

Government responsible for the implementation and enforcement of equal opportunity legislation, orders, and policies." 42 U.S.C. 2000e-14. This coordination responsibility now rests in the Commission by virtue of 5 U.S.C. 901 et seq., as applied by Reorganization Plan No. 1 (1978), which was implemented by Executive Order 12067 (43 FR 28,967, July 30, 1978). In order to achieve the objectives of section 715 and Executive Order No. 12067, the Commission concludes that it must recognize compliance with the requirements of Executive Order No. 11246, as amended, and its implementing regulations, as a defense to a charge that the affirmative action compliance program is discriminatory. The Commission concludes that adherence to an affirmative action compliance program approved by an appropriate official of the Department of Labor or its authorized agencies is lawful under Title VII. This interpretation thus insures that government contractors will not be subject to inconsistent standards by the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs.

Thus, the Commission recognizes that affirmative action by government contractors may be lawful under Title VII for either of two distinct reasons: (a) Such efforts constitute reasonable action to implement the legislative purposes of Title VII, or (b) the action was taken pursuant to, and in conformity with Executive Order No. 11246, as amended, and its implementing regulations. The Guidelines have been revised to reflect these two independent justifications for affirmative action under Title VII. A separate § 1608.5 governs affirmative action under Executive Order No. 11246, as amended.

The three step analytical process required under § 1608.4, when action is being justified under Title VII, is not necessary under § 1608.5, when action is being justified as undertaken pursuant to an approved program under Executive Order No. 11246, as amended. The circumstances in which such affirmative action is required under the Executive Order and the nature of such affirmative action are established by the Department of Labor.

V. Appropriate Steps for Taking Voluntary Action

A number of comments suggested that the Guidelines did not clearly define the steps the Commission believes are appropriate in taking voluntary affirmative action. A new § 1608.4 has been added to explain the three step process applicable to action justified under Title VII: reasonable self analysis, reasonable basis for concluding that action is appropriate, and reasonable action to correct that situation. The process set forth in § 1608.4 should be utilized to determine whether the circumstances set forth in § 1608.3 are present. Section 1608.5 covers action pursuant to Executive Order No. 11246, as amended.

VI. Reasonable Self Analysis

Some commentators requested further elaboration on the meaning of the term "self analysis." Section 1608.4(a) has been

amended to make it clear that there is no single mandatory method of conducting the self analysis, and to refer to the methodology used by government contractors under Revised Order 4 as a model which employers and others may use in conducting a self analysis. Whatever method is used, the primary objective must be to determine whether the employment practices operate as barriers to equal employment opportunity.

Some commentators suggested that the Guidelines may be subject to abuse unless the self analysis is required to be in writing. The Commission believes that the protection from Title VII liability which may be available under section 713(b)(1) should only be recognized where the affirmative action plan or program has been carefully and consciously developed. Accordingly, the section 713(b)(1) defense will be recognized by the Commission only where the analysis and the affirmative action plan or program are in writing and are adopted in good faith, in conformity with, and in reliance upon these Guidelines. See §§ 1608.4(d) and 1608.10.

However, a respondent who has undertaken the analysis, self-evaluation, and development of an affirmative action plan of the type described in the Guidelines, but has not reduced the analysis and plan to writing, may assert these facts as a defense to a charge of discrimination. The analysis and plan need not be in writing because the Commission does not generally require that employer defenses be based on written documents. However, employers are encouraged to have written documentation since such written evidence would make it easier to establish that an analysis was conducted and that a plan or program exists. See § 1608.4(d)(2).

In response to comments which expressed concern that adoption of a plan or program might constitute an admission of discrimination, § 1608.4(d)(1) makes it clear that it is not necessary to state in writing the conclusion that a Title VII violation exists.

VII. The Guidelines Do Not Approve Inadequate Remedies

A number of commentators were concerned that violators of the Act could use the Guidelines and the section 713(b)(1) defense to shield themselves from liability for the underlying discrimination inadequately addressed by an affirmative action plan or program. The Guidelines do not lend themselves to this interpretation.

The proposed Guidelines stated in paragraph VII that the Guidelines were not intended to provide standards for determining whether voluntary action had fully remedied discrimination. The analysis and plan contemplated by these Guidelines will not establish whether discrimination existed before the plan was adopted. Furthermore, the plan cannot determine whether discrimination might take place subsequent to its adoption. In addition, the judgment as to whether affirmative action is sufficient to eliminate discrimination is a complex one which may take into account circumstances that may not have been included in the analysis which underlies the affirmative action plan. For these reasons the

existence of the plan cannot provide the basis for determining whether discrimination existed, or whether the plan itself provided an adequate remedy for such discrimination. Therefore, the Guidelines state that they do not apply to a determination of the adequacy of an affirmative action plan to eliminate discrimination against previously excluded groups. Furthermore, the section 713(b)(1) defense is not involved in a determination of the adequacy of such a plan or program. Section 1608.11(a) is intended to make it clear that employers, labor organizations, or other persons who take affirmative action may still be liable under Title VII if the plan or program does not adequately remedy illegal discrimination.

VIII. No Admission of Discrimination Required

Another group of comments stated that, because the Guidelines do not require an admission or finding of discrimination, the Commission may thereby approve affirmative action which might constitute unlawful discrimination prohibited by Title VII. This interpretation is incorrect.

The proposed Guidelines stated in paragraph II that the lawfulness of affirmative action was not "dependent upon an admission, or a finding, or evidence sufficient to prove" that the person taking such action had actually violated Title VII. After careful analysis and consideration, the Commission is of the opinion that the statement, as amended, appearing in § 1608.4(b), represents an appropriate interpretation of Federal law and policy for the reasons set forth in § 1608.1(c).

These Guidelines provide a sufficient basis to determine whether affirmative action is appropriate. Persons subject to the Act should not, by taking reasonable affirmative action, be exposed to liability under the very Act they are seeking to implement. Similarly, the law should not force the employer or other person to speculate whether an arguable defense to a Title VII charge would be recognized by a court before taking affirmative action. Section 1608.4(b) makes it clear that this reasonable basis exists without regard to arguable defenses to a Title VII action.

IX. The Scope of Appropriate Voluntary Action

Several comments raised questions concerning the appropriate scope of voluntary affirmative action intended by the Guidelines. Some perceive the Commission's use of the words "ratios and other numerical remedies" in proposed Paragraph IV, in addition to the words "goals and timetables", as indicating that the Commission was endorsing "absolute quotas" or "fixed quotas" without regard to qualifications or the circumstances in which they were used. The words "ratios and other numerical remedies" have been omitted from these Guidelines in order to avoid ambiguity and to make it clear that any numerical objective is subject to the availability of sufficient applicants who are qualified by proper, validated standards.

Affirmative Action under these Guidelines must be reasonable and must be related to

the problems disclosed by the self-analysis. A new § 1608.4(c) has been added to make this clear. Affirmative action under these Guidelines may include interim goals or targets. Such interim goals or targets for previously excluded groups may be higher than the percentage of their availability in the workforce so that the long term goal may be met in a reasonable period of time. In order to achieve such interim goals or targets, an employer may consider race, sex, and/or national origin in making selections from among qualified or qualifiable applicants. Courts have ordered actions of this kind in litigated cases and in consent decrees. *Carter v. Gallagher*, 452 F.2d 315 (8th Cir. 1972), *en banc*, cert. denied (93 S. Ct. 3145 (1978)); *U.S. v. Allegheny-Ludlum Industries, Inc.*, 517 F.2d 826 (5th Cir. 1975), cert. denied, 425 U.S. 944 (1976).

X. Relevance of Certain Court Cases

A number of comments indicated that there were court decisions rendering inappropriate the approach taken by the Commission in these Guidelines. Because the proposed Guidelines were issued for comment prior to the decision of the United States Supreme Court in the case of *Regents of University of California v. Bakke*, 98 S. Ct. 2733 (1978), a number of commentators suggested that either the Guidelines were inappropriate in light of the decision of the California Supreme Court in that case, or that the Commission should wait until the U.S. Supreme Court had issued its opinion. As recommended, the Commission awaited the action of the Supreme Court in that case before promulgating these Guidelines. The Commission has reviewed these Guidelines in light of the opinions of the Justices of the Supreme Court in *Bakke*. The Commission concludes that these Guidelines are consistent with the action of the Supreme Court in that case.

In the *Bakke* case the university did not assert reliance on any detailed guidance and procedures for crafting an affirmative action plan. These Guidelines seek to provide such guidance and thereby to establish an appropriate legal foundation for voluntary action under Title VII.

Perhaps the case most frequently cited by the commentators as conflicting with the principles articulated in the proposed Guidelines was a split decision in *Weber v. Kaiser Aluminum Corp.*, 563 F.2d 216 (5th Cir. 1977), cert. granted, — U.S. —, *Weber*, however, was decided prior to *Bakke*, and therefore did not take into account the opinions in that case. In addition, it is fundamentally unfair to expose those subject to Executive Order No. 11246 to risks of liability under Title VII when they act in compliance with government requirements or when they act voluntarily and appropriately to achieve statutory objectives. Furthermore, the clarification provided by these Guidelines is necessary because the *Weber* decision may be interpreted to unduly interfere with the range of affirmative action which Congress intended to permit under Title VII.¹

¹The Commission has taken the position that the decision of the Court of Appeals is incorrect and that the affirmative action program there was

The Commission has examined all the decisions brought to its attention in the comments and other recent decisions of the United States Supreme Court and concludes that none of these decisions affect its interpretation of the circumstances in which affirmative action is lawful under Title VII. By virtue of the authority vested in it by section 713 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12, 78 Stat. 265, and after due consideration of all comments received, the Equal Employment Opportunity Commission hereby issues as new Part 1608 of Title 29 of the Code of Federal Regulations its "Guidelines on Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964, as Amended" as set forth below.

Signed at Washington, D.C., this 16th day of January 1979.

For the Commission.

Eleanor Holmes Norton,
Chair.

Sec.

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Authority: Sec. 713 of title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12, 78 Stat. 265.

§ 1608.1 Statement of purpose.

(a) *Need for Guidelines.* Since the passage of Title VII in 1964, many employers, labor organizations, and other persons subject to Title VII have changed their employment practices and systems to improve employment opportunities for minorities and women, and this must continue. These changes have been undertaken either on the initiative of the employer, labor organization, or other person subject to Title VII, or as a result of conciliation efforts under Title VII, action under Executive Order No. 11246, as amended, or under other Federal, state, or local laws, or litigation. Many decisions taken pursuant to affirmative action plans or programs have been race, sex, or national origin conscious in order to achieve the Congressional purpose of providing equal

lawful. The Solicitor General has taken the same position, and the Supreme Court has now granted petitions for a writ of certiorari.

employment opportunity. Occasionally, these actions have been challenged as inconsistent with Title VII, because they took into account race, sex, or national origin. This is the so-called "reverse discrimination" claim. In such a situation, both the affirmative action undertaken to improve the conditions of minorities and women, and the objection to that action, are based upon the principles of Title VII. Any uncertainty as to the meaning and application of Title VII in such situations threatens the accomplishment of the clear Congressional intent to encourage voluntary affirmative action. The Commission believes that by the enactment of Title VII Congress did not intend to expose those who comply with the Act to charges that they are violating the very statute they are seeking to implement. Such a result would immobilize or reduce the efforts of many who would otherwise take action to improve the opportunities of minorities and women without litigation, thus frustrating the Congressional intent to encourage voluntary action and increasing the prospect of Title VII litigation. The Commission believes that it is now necessary to clarify and harmonize the principles of Title VII in order to achieve these Congressional objectives and protect those employers, labor organizations, and other persons who comply with the principles of Title VII.

(b) *Purposes of Title VII.* Congress enacted Title VII in order to improve the economic and social conditions of minorities and women by providing equality of opportunity in the work place. These conditions were part of a larger pattern of restriction, exclusion, discrimination, segregation, and inferior treatment of minorities and women in many areas of life.² The Legislative Histories of Title VII, the Equal Pay Act, and the Equal Employment Opportunity Act of 1972 contain extensive analyses of the higher unemployment rate, the lesser occupational status, and the consequent lower income levels of minorities and women.³ The purpose of Executive Order No. 11246, as amended, is similar to the purpose of Title VII. In response to these economic and social conditions, Congress, by passage of Title VII, established a national policy against

²Congress has also addressed these conditions in other laws, including the Equal Pay Act of 1963, Pub. L. 88-38, 77 Stat. 56 (1963), as amended; the other Titles of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 (1964), as amended; the Voting Rights Act of 1965, Pub. L. 89-110, 79 Stat. 437 (1965), as amended; the Fair Housing Act of 1968, Pub. L. 90-284, Title VII, 82 Stat. 73, 81 (1968), as amended; the Educational Opportunity Act (Title IX), Pub. L. 92-318, 86 Stat. 373 (1972), as amended; and the Equal Employment Opportunity Act of 1972, Pub. L. 92-261, 86 Stat. 103 (1972), as amended.

³Equal Pay Act of 1963: S. Rep. No. 178, 80th Cong., 1st Sess., 1-2 (1963). Civil Rights Act of 1964: H.R. Rep. No. 914, pt. 2, 80th Cong., 1st Sess. (1971). Equal Employment Opportunity Act of 1972: H.R. Rep. No. 92-238, 92d Cong., 1st Sess. (1971); S. Rep. No. 92-415, 92d Cong., 1st Sess. (1971). See also, Equal Employment Opportunity Commission, *Equal Employment Opportunity Report—1975, Job Patterns for Women in Private Industry* (1977); Equal Employment Opportunity Commission, *Minorities and Women in State and Local Government—1975* (1977); United States Commission on Civil Rights, *Social Indicators of Equality for Minorities and Women* (1978).

discrimination in employment on grounds of race, color, religion, sex, and national origin. In addition, Congress strongly encouraged employers, labor organizations, and other persons subject to Title VII (hereinafter referred to as "persons," see section 701(a) of the Act) to act on a voluntary basis to modify employment practices and systems which constituted barriers to equal employment opportunity, without awaiting litigation or formal government action. Conference, conciliation, and persuasion were the primary processes adopted by Congress in 1964, and reaffirmed in 1972, to achieve these objectives, with enforcement action through the courts or agencies as a supporting procedure where voluntary action did not take place and conciliation failed. See § 706 of Title VII.

(c) *Interpretation in furtherance of legislative purpose.* The principle of nondiscrimination in employment because of race, color, religion, sex, or national origin, and the principle that each person subject to Title VII should take voluntary action to correct the effects of past discrimination and to prevent present and future discrimination without awaiting litigation, are mutually consistent and interdependent methods of addressing social and economic conditions which precipitated the enactment of Title VII. Voluntary affirmative action to improve opportunities for minorities and women must be encouraged and protected in order to carry out the Congressional intent embodied in Title VII. Affirmative action under these principles means those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity. Such voluntary affirmative action cannot be measured by the standard of whether it would have been required had there been litigation, for this standard would undermine the legislative purpose of first encouraging voluntary action without litigation. Rather, persons subject to Title VII must be allowed flexibility in modifying employment systems and practices to comport with the purposes of Title VII. Correspondingly, Title VII must be construed to permit such voluntary action, and those taking such action should be afforded the protection against Title VII liability which the Commission is authorized to provide under section 713(b)(1).

(d) *Guidelines interpret Title VII and authorize use of Section 713(b)(1).* These Guidelines describe the circumstances in which persons subject to Title VII may take or agree upon action to improve employment opportunities of minorities and women, and describe the kinds of actions they may take which are consistent with Title VII. These Guidelines constitute the Commission's interpretation of Title VII and will be applied in the processing of claims of discrimination which involve voluntary affirmative action

* Affirmative action often improves opportunities for all members of the workforce, as where affirmative action includes the posting of notices of job vacancies. Similarly, the integration of previously segregated jobs means that all workers will be provided opportunities to enter jobs previously restricted. See, e.g., *EEOC v. AT&T*, 419 F. Supp. 1022 (E.D. Pa. 1976), *aff'd*, 556 F.2d 167 (3rd Cir. 1977), *cert. denied*, 98 S.Ct. 3145 (1978).

plans and programs. In addition, these Guidelines state the circumstances under which the Commission will recognize that a person subject to Title VII is entitled to assert that actions were taken "in good faith, in conformity with, and in reliance upon a written interpretation or opinion of the Commission," including reliance upon the Interpretation and opinion contained in these Guidelines, and thereby invoke the protection of section 713(b)(1) of Title VII.

(e) *Review of existing plans recommended.* Only affirmative action plans or programs adopted in good faith, in conformity with, and in reliance upon these Guidelines can receive the full protection of these Guidelines, including the section 713(b)(1) defense. See § 1608.10. Therefore, persons subject to Title VII who have existing affirmative action plans, programs, or agreements are encouraged to review them in light of these Guidelines, to modify them to the extent necessary to comply with these Guidelines, and to readopt or reaffirm them.

§ 1608.2 Written Interpretation and opinion.

These Guidelines constitute "a written interpretation and opinion" of the Equal Employment Opportunity Commission as that term is used in section 713(b)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(b)(1), and section 1601.33 of the Procedural Regulations of the Equal Employment Opportunity Commission (29 CFR 1601.30; 42 FR 55,394 (October 14, 1977)). Section 713(b)(1) provides:

In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission * * *. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that * * * after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect * * *.

The applicability of these Guidelines is subject to the limitations on use set forth in § 1608.11.

§ 1608.3 Circumstances under which voluntary affirmative action is appropriate.

(a) *Adverse effect.* Title VII prohibits practices, procedures, or policies which have an adverse impact unless they are justified by business necessity. In addition, Title VII proscribes practices which "tend to deprive" persons of equal employment opportunities. Employers, labor organizations and other persons subject to Title VII may take affirmative action based on an analysis which reveals facts constituting actual or potential adverse impact, if such adverse impact is likely to result from existing or contemplated practices.

(b) *Effects of prior discriminatory practices.* Employers, labor organizations, or other persons subject to Title VII may also take affirmative action to correct the effects

of prior discriminatory practices. The effects of prior discriminatory practices can be initially identified by a comparison between the employer's work force, or a part thereof, and an appropriate segment of the labor force.

(c) *Limited labor pool.* Because of historic restrictions by employers, labor organizations, and others, there are circumstances in which the available pool, particularly of qualified minorities and women, for employment or promotional opportunities is artificially limited.

Employers, labor organizations, and other persons subject to Title VII may, and are encouraged to take affirmative action in such circumstances, including, but not limited to, the following:

(1) Training plans and programs, including on-the-job training, which emphasize providing minorities and women with the opportunity, skill, and experience necessary to perform the functions of skilled trades, crafts, or professions;

(2) Extensive and focused recruiting activity;

(3) Elimination of the adverse impact caused by unvalidated selection criteria (see sections 3 and 6, Uniform Guidelines on Employee Selection Procedures (1978), 43 FR 30,290; 38,297; 38,299 (August 25, 1978));

(4) Modification through collective bargaining where a labor organization represents employees, or unilaterally where one does not, of promotion and layoff procedures.

§ 1608.4 Establishing affirmative action plans.

An affirmative action plan or program under this section shall contain three elements: a reasonable self analysis; a reasonable basis for concluding action is appropriate; and reasonable action.

(a) *Reasonable self analysis.* The objective of a self analysis is to determine whether employment practices do, or tend to, exclude, disadvantage, restrict, or result in adverse impact or disparate treatment of previously excluded or restricted groups or leave uncorrected the effects of prior discrimination, and if so, to attempt to determine why. There is no mandatory method of conducting a self analysis. The employer may utilize techniques used in order to comply with Executive Order No. 11246, as amended, and its implementing regulations, including 41 CFR Part 60-2 (known as Revised Order 4), or related orders issued by the Office of Federal Contract Compliance Programs or its authorized agencies, or may use an analysis similar to that required under other Federal, state, or local laws or regulations prohibiting employment discrimination. In conducting a self analysis, the employer, labor organization, or other person subject to Title VII should be concerned with the effect on its employment practices of circumstances which may be the result of discrimination by other persons or institutions. See *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

(b) *Reasonable basis.* If the self analysis shows that one or more employment practices: (1) Have or tend to have an adverse effect on employment opportunities

of members of previously excluded groups, or groups whose employment or promotional opportunities have been artificially limited,

(2) leave uncorrected the effects of prior discrimination, or (3) result in disparate treatment, the person making the self analysis has a reasonable basis for concluding that action is appropriate. It is not necessary that the self analysis establish a violation of Title VII. This reasonable basis exists without any admission or formal finding that the person has violated Title VII, and without regard to whether there exists arguable defenses to a Title VII action.

(c) *Reasonable action.* The action taken pursuant to an affirmative action plan or program must be reasonable in relation to the problems disclosed by the self analysis. Such reasonable action may include goals and timetables or other appropriate employment

tools which recognize the race, sex, or national origin of applicants or employees. It may include the adoption of practices which will eliminate the actual or potential adverse impact, disparate treatment, or effect or past discrimination by providing opportunities for members of groups which have been excluded, regardless of whether the persons benefited were themselves the victims of prior policies or procedures which produced the adverse impact or disparate treatment or which perpetuated past discrimination.

(1) *Illustrations of appropriate affirmative action.* Affirmative action plans or programs may include, but are not limited to, those described in the Equal Employment Opportunity Coordinating Council "Policy Statement on Affirmative Action Programs for State and Local Government Agencies," 41 FR 38,614 (September 13, 1976), reaffirmed and extended to all persons subject to Federal equal employment opportunity laws and orders, in the Uniform Guidelines on Employee Selection Procedures (1978) 43 FR 38,290; 38,300 (Aug. 25, 1978). That statement reads, in relevant part:

When an employer has reason to believe that its selection procedures have * * * exclusionary effect * * *, it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex or ethnic 'conscious,' include, but are not limited to, the following:

The establishment of a long term goal and short range, interim goals and timetables for the specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant job market;

A recruitment program designed to attract qualified members of the group in question;

A systematic effort to organize work and re-design jobs in ways that provide opportunities for persons lacking 'journeyman' level knowledge or skills to enter and, with appropriate training, to progress in a career field;

Revamping selection instruments or procedures which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;

The initiation of measures designed to assure that members of the affected group who are qualified to perform the job are included within the pool of persons from

which the selecting official makes the selection;

A systematic effort to provide career advancement training, both classroom and on-the-job, to employees locked into dead end jobs; and

The establishment of a system for regularly monitoring the effectiveness of the particular affirmative action program, and procedures for making timely adjustments in this program where effectiveness is not demonstrated.

(2) *Standards of reasonable action.* In considering the reasonableness of a particular affirmative action plan or program, the Commission will generally apply the following standards:

(i) The plan should be tailored to solve the problems which were identified in the self analysis, see § 1608.4(a), supra, and to ensure that employment systems operate fairly in the future, while avoiding unnecessary restrictions on opportunities for the workforce as a whole. The race, sex, and national origin conscious provisions of the plan or program should be maintained only so long as is necessary to achieve these objectives.

(ii) Goals and timetables should be reasonably related to such considerations as the effects of past discrimination, the need for prompt elimination of adverse impact or disparate treatment, the availability of basically qualified or qualifiable applicants, and the number of employment opportunities expected to be available.

(d) *Written or unwritten plans or programs—(1) Written plans required for 713(b)(1) Protection.* The protection of section 713(b) of Title VII will be accorded by the Commission to a person subject to Title VII only if the self analysis and the affirmative action plan are dated and in writing, and the plan otherwise meets the requirements of Section 713(b)(1). The Commission will not require that there be any written statement concluding that a Title VII violation exists.

(2) *Reasonable cause determinations.* Where an affirmative action plan or program is alleged to violate Title VII, or is asserted as a defense to a charge of discrimination, the Commission will investigate the charge in accordance with its usual procedures and pursuant to the standards set forth in these Guidelines, whether or not the analysis and plan are in writing. However, the absence of a written self analysis and a written affirmative action plan or program may make it more difficult to provide credible evidence that the analysis was conducted, and that action was taken pursuant to a plan or program based on the analysis. Therefore, the Commission recommends that such analyses and plans be in writing.

§ 1608.5 Affirmative action compliance programs under Executive Order No. 11246, as amended.

Under Title VII, affirmative action compliance programs adopted pursuant to Executive Order No. 11246, as amended, and its implementing regulations, including 41 CFR Part 60-2 (Revised Order 4), will be considered by the Commission in light of the similar purposes of Title VII and the Executive Order, and the Commission's

responsibility under Executive Order No. 12067 to avoid potential conflict among Federal equal employment opportunity programs. Accordingly, the Commission will process Title VII complaints involving such affirmative action compliance programs under this section.

(a) *Procedures for review of Affirmative Action Compliance Programs.* If adherence to an affirmative action compliance program adopted pursuant to Executive Order No. 11246, as amended, and its implementing regulations, is the basis of a complaint filed under Title VII, or is alleged to be the justification for an action which is challenged under Title VII, the Commission will investigate to determine:

(1) Whether the affirmative action compliance program was adopted by a person subject to the Order and pursuant to the Order, and (2) whether adherence to the program was the basis of the complaint or the justification.

(1) *Programs previously approved.* If the Commission makes the determination described in paragraph (a) of this section and also finds that the affirmative action program has been approved by an appropriate official of the Department of Labor or its authorized agencies, or is part of a conciliation or settlement agreement or an order of an administrative agency, whether entered by consent or after contested proceedings brought to enforce Executive Order No. 11246, as amended, the Commission will issue a determination of no reasonable cause.

(2) *Program not previously approved.* If the Commission makes the determination described in paragraph (a), of this section but the program has not been approved by an appropriate official of the Department of Labor or its authorized agencies, the Commission will: (i) Follow the procedure in § 1608.10(a) and review the program, or (ii) refer the plan to the Department of Labor for a determination of whether it is to be approved under Executive Order No. 11246, as amended, and its implementing regulations. If, the Commission finds that the program does conform to these Guidelines, or the Department of Labor approves the affirmative action compliance program, the Commission will issue a determination of no reasonable cause under § 1608.10(a).

(b) *Reliance on these guidelines.* In addition, if the affirmative action compliance program has been adopted in good faith reliance on these Guidelines, the provisions of section 713(b)(1) of Title VII and of § 1608.10(b), below, may be asserted by the contractor.

§ 1608.6 Affirmative action plans which are part of Commission conciliation or settlement agreements.

(a) *Procedures for review of plans.* If adherence to a conciliation or settlement agreement executed under Title VII and approved by a responsible official of the EEOC is the basis of a complaint filed under Title VII, or is alleged to be the justification for an action challenged under Title VII, the Commission will investigate to determine: (1) Whether the conciliation agreement or settlement agreement was approved by a responsible official of the EEOC, and (2)

whether adherence to the agreement was the basis for the complaint or justification. If the Commission so finds, it will make a determination of no reasonable cause under § 1608.10(a) and will advise the respondent of its right under section 713(b)(1) of Title VII to rely on the conciliation agreement.

(b) *Reliance on these guidelines.* In addition, if the affirmative action plan or program has been adopted in good faith reliance on these Guidelines, the provisions of section 713(b)(1) of Title VII and of § 1608.10(b), below, may be asserted by the respondent.

§ 1608.7 Affirmative action plans or programs under State or local law.

Affirmative action plans or programs executed by agreement with state or local government agencies, or by order of state or local government agencies, whether entered by consent or after contested proceedings, under statutes or ordinances described in Title VII, will be reviewed by the Commission in light of the similar purposes of Title VII and such statutes and ordinances. Accordingly, the Commission will process Title VII complaints involving such affirmative action plans or programs under this section.

(a) *Procedures for review of plans or programs.* If adherence to an affirmative action plan or program executed pursuant to a state statute or local ordinance described in Title VII is the basis of a complaint filed under Title VII or is alleged to be the justification for an action which is challenged under Title VII, the Commission will investigate to determine: (1) Whether the affirmative action plan or program was executed by an employer, labor organization, or person subject to the statute or ordinance, (2) whether the agreement was approved by an appropriate official of the state or local government, and (3) whether adherence to the plan or program was the basis of the complaint or justification.

(1) *Previously Approved Plans or Programs.* If the Commission finds the facts described in paragraph (a) of this section, the Commission will, in accordance with the "substantial weight" provisions of section 706 of the Act, find no reasonable cause where appropriate.

(2) *Plans or Programs not previously approved.* If the plan or program has not been approved by an appropriate official of the state or local government, the Commission will follow the procedure of § 1608.10 of these Guidelines. If the Commission finds that the plan or program does conform to these Guidelines, the Commission will make a determination of no reasonable cause as set forth in § 1608.10(a).

(b) *Reliance on these guidelines.* In addition, if the affirmative action plan or program has been adopted in good faith reliance on these Guidelines, the provisions of section 713(b)(1) and § 1608.10(b), below, may be asserted by the respondent.

§ 1608.8 Adherence to court order.

Parties are entitled to rely on orders of courts of competent jurisdiction. If adherence to an Order of a United States District Court or other court of competent jurisdiction,

whether entered by consent or after contested litigation, in a case brought to enforce a Federal, state, or local equal employment opportunity law or regulation, is the basis of a complaint filed under Title VII or is alleged to be the justification for an action which is challenged under Title VII, the Commission will investigate to determine: (a) Whether such an Order exists and (b) whether adherence to the affirmative action plan which is part of the Order was the basis of the complaint or justification. If the Commission so finds, it will issue a determination of no reasonable cause. The Commission interprets Title VII to mean that actions taken pursuant to the direction of a Court Order cannot give rise to liability under Title VII.

§ 1608.9 Reliance on directions of other government agencies.

When a charge challenges an affirmative action plan or program, or when such a plan or program is raised as justification for an employment decision, and when the plan or program was developed pursuant to the requirements of a Federal or state law or regulation which in part seeks to ensure equal employment opportunity, the Commission will process the charge in accordance with § 1608.10(a). Other agencies with equal employment opportunity responsibilities may apply the principles of these Guidelines in the exercise of their authority.

§ 1608.10 Standard of review.

(a) *Affirmative action plans or programs not specifically relying on these guidelines.* If, during the investigation of a charge of discrimination filed with the Commission, a respondent asserts that the action complained of was taken pursuant to an in accordance with a plan or program of the type described in these Guidelines, the Commission will determine whether the assertion is true, and if so, whether such a plan or program conforms to the requirements of these guidelines. If the Commission so finds, it will issue a determination of no reasonable cause and, where appropriate, will state that the determination constitutes a written interpretation or opinion of the Commission under section 713(b)(1). This interpretation may be relied upon by the respondent and asserted as a defense in the event that new charges involving similar facts and circumstances are thereafter filed against the respondent, which are based on actions taken pursuant to the affirmative action plan or program. If the Commission does not so find, it will proceed with the investigation in the usual manner.

(b) *Reliance on these guidelines.* If a respondent asserts that the action taken was pursuant to and in accordance with a plan or program which was adopted or implemented in good faith, in conformity with, and in reliance upon these Guidelines, and the self analysis and plan are in writing, the Commission will determine whether such assertion is true. If the Commission so finds, it will so state in the determination of no reasonable cause and will advise the respondent that:

(1) The Commission has found that the respondent is entitled to the protection of section 713(b)(1) of Title VII; and

(2) That the determination is itself an additional written interpretation or opinion of the Commission pursuant to section 713(b)(1).

§ 1608.11 Limitations on the application of these guidelines.

(a) *No determination of adequacy of plan or program.* These Guidelines are applicable only with respect to the circumstances described in § 1608.1(d), above. They do not apply to, and the section 713(b)(1) defense is not available for the purpose of, determining the adequacy of an affirmative action plan or program to eliminate discrimination. Whether an employer who takes such affirmative action has done enough to remedy such discrimination will remain a question of fact in each case.

(b) *Guidelines inapplicable in absence of affirmative action.* Where an affirmative action plan or program does not exist, or where the plan or program is not the basis of the action complained of, these Guidelines are inapplicable.

(c) *Currency of plan or program.* Under section 713(b)(1), persons may rely on the plan or program only during the time when it is current. Currency is related to such factors as progress in correcting the conditions disclosed by the self analysis. The currency of the plan or program is a question of fact to be determined on a case by case basis. Programs developed under Executive Order No. 11246, as amended, will be deemed current in accordance with Department of Labor regulations at 41 CFR Chapter 60, or successor orders or regulations.

§ 1608.12 Equal employment opportunity plans adopted pursuant to section 717 of Title VII.

If adherence to an Equal Employment Opportunity Plan, adopted pursuant to Section 717 of Title VII, and approved by an appropriate official of the U.S. Civil Service Commission, is the basis of a complaint filed under Title VII, or is alleged to be the justification for an action under Title VII, these Guidelines will apply in a manner similar to that set forth in § 1608.5. The Commission will issue regulations setting forth the procedure for processing such complaints.

PART 1601—PROCEDURAL REGULATIONS

Issuance of Interpretation and Opinion

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Commission is today publishing in final form a set of Guidelines on Affirmative Action (44 FR 4422), to encourage voluntary action to eliminate employment discrimination. Section 1601.33 of the Commission's regulations is being amended to reflect a new method, contemplated by these Guidelines, by which the Commission may issue an "interpretation of opinion" of the Commission within the meaning of

Section 713 of Title VII of the Civil Rights Act of 1964, as amended.

EFFECTIVE DATE: February 20, 1979.

FOR FURTHER INFORMATION CONTACT: Peter C. Robertson, Director, Office of Policy Implementation, 2401 E Street, NW., Room 4002A, Washington, D.C. 20506 (202) 254-7639.

SUPPLEMENTARY INFORMATION: The Commission's new Guidelines on Affirmative Action contemplate that in instances where a charge of discrimination has been filed and the Commission finds that the treatment complained of occurred as a result of affirmative action procedures consistent with its Guidelines on Affirmative Action, the Commission will issue a determination of no reasonable cause. This determination may contain language stating that it is "a written interpretation or opinion of the Commission" within the meaning of Section 713(b)(1) of Title VII of the Civil Rights Act of 1964, as amended. The respondent in such a case may rely upon this determination as a defense to any subsequent complaints of discrimination which involve similar facts and circumstances, if the subsequent actions complained of were also taken by the respondent under its affirmative action procedures.

Such language will also appear in no-cause determinations whenever the Commission finds that the action complained of occurred pursuant to an affirmative action plan adopted in good faith compliance with, and reliance upon, the Commission's Guidelines on affirmative action.

The Commission's procedural regulations are accordingly revised to include this specific type of no-cause finding as a type of "written interpretation or opinion of the Commission."

Signed at Washington, D.C. this 16th day of January 1979.

For the Commission,

Eleanor Holmes Norton,
Chair.

Therefore, 29 CFR 1601.33 is amended to read as follows:

§ 1601.33 Issuance of interpretation or opinion.

Only the following may be relied upon as a "written interpretation or opinion of the Commission" within the meaning of Section 713 of Title VII:

(a) A letter entitled "opinion letter" and signed by the General Counsel on behalf of the Commission, or

(b) Matter published and specifically designated as such in the *Federal Register*, including the Commission's Guidelines on Affirmative Action, or

(c) A Commission determination of no reasonable cause, issued under the circumstances described in § 1608.10 (a) or (b) of the Commission's Guidelines on Affirmative Action 29 CFR Part 1608, when such determination contains a statement that it is a "written interpretation or opinion of the Commission."

Subpart F—Fiscal Procedures and Auditing

§ 51.100 Definitions.

Unless the context requires otherwise, as used in this subpart, the term:

(a) "Compliance audit" means the review of the documentation concerning a recipient government's expenditure of entitlement funds to determine that those funds have been expended in compliance with the provisions of the Act and regulations.

(b) "Financial audit" means examination of the financial statements concerning all funds of a recipient government in accordance with generally accepted auditing standards.

(c) "Generally accepted auditing standards" means those auditing standards pronounced by the American Institute of Certified Public Accountants and incorporated in its *Statements on Auditing Standards*, or those in the financial and compliance element of the *Standards for Audit of Governmental Organizations, Programs, Activities & Functions*, issued in 1972 by the Comptroller General of the United States.

(d) "Independent audit" means an audit conducted by independent public accountants, or by independent qualified accountants or examiners from a State or local agency. An independent public accountant or independent qualified accountant or examiner is one who has no personal interest directly or indirectly in the financial affairs of the government being audited, or in the financial affairs of any of the officers of the government being audited.

(1) In those states in which an audit is required by State law to be made of the State government by a State office or official, such audit shall be considered to meet the requirements of an independent audit provided the principal officer of the State audit agency is not responsible for the maintenance of the accounting records being audited and does not report to the officer responsible for maintenance of such accounting records, and is:

(i) Elected by the citizens of the State;

(ii) Elected or appointed by and reports to the State legislature or a committee thereof; or

(iii) Appointed by the Governor and confirmed by and reports to the legislature or a committee thereof.

(2) In those States in which an audit is made of local governments (or certain categories of local government) by a State office or official, such audit shall be considered to meet the requirements of an independent audit.

(3) Audits of local recipient governments made by a permanent

(internal) auditing office or officer employed on a full-time basis shall be considered to meet the requirements of an independent audit provided the principal officer of the audit agency is not responsible for the maintenance of the official accounting records being audited and does not report to the officer responsible for maintenance of official accounting records, and is:

(i) Elected by the citizens of the local recipient governments;

(ii) Reports to the governing body of the local recipient government or a committee thereof; or

(iii) Appointed by the chief executive officer of the local recipient government and reports to the governing body of the local recipient government or a committee thereof.

(4) Audits other than those specified in paragraphs (d)(1), (2) and (3) of this section shall not be considered to be independent audits.

(e) "Independent public accountant" means independent certified public accountants, and licensed public accountants licensed on or before December 31, 1970, certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

§ 51.101 Procedures applicable to the use of funds.

A recipient government which receives entitlement funds under the Act shall: (a) Establish a trust fund and deposit all entitlement funds received and all interest earned thereon in that trust fund. The trust fund may be established on the books and records as a separate set of accounts, or a separate bank account may be established. If the trust fund is established as a separate set of accounts, the fund comprising these accounts shall be classified as a special revenue fund and accounted for accordingly.

(b) Use, obligate, or appropriate entitlement funds within 24 months from the end of the entitlement period to which the entitlement payment is applicable. The use, obligation or appropriation of entitlement funds shall be consistent with State or local law requiring a legislative enactment in ordinance or resolution form. Any interest earned on such funds while in the trust fund shall be used, obligated, or appropriated within 24 months from the end of the entitlement period during which the interest was received or credited. An extension of time in which to act on the funds, or interest accrued, shall be obtained by application to the Director. The application will set forth the facts and circumstances supporting the need for more time and the amount

of additional time requested. The Director may grant such extensions of time which appear necessary or appropriate.

(c) Provide for the expenditure of entitlement funds in accordance with the laws and procedures applicable to the expenditure of its own revenues so long as those laws and procedures do not conflict with Federal law.

(d) Maintain its fiscal accounts in a manner sufficient to: (1) Permit the reports required by the Director to be prepared, and

(2) Permit the tracing of entitlement funds to a level of expenditure adequate to establish that the funds have not been used in violation of the restrictions and prohibitions of this part. Tracing requires that vouchers in support of expenditures funded by the Act shall be identified. Identification can be made in any one of three ways as follows:

(i) Maintain a separate set of fund accounts;

(ii) Maintain a separate bank account; or

(iii) Keep a memorandum record of the voucher numbers and amounts for the expenditures funded by entitlements received under the Act.

The accounting for entitlement funds shall, at a minimum, employ the same fiscal accounting and internal audit procedures as are used with respect to the revenues derived from the recipient government's own sources.

(e) Provide to the Director and to the Comptroller General of the United States, on reasonable notice, access to and the right to examine such books, documents, papers or records as the Director may reasonably require for the purpose of reviewing compliance with the Act and the regulations of this part or, in the case of the Comptroller General, as the Comptroller General may reasonably require for the purpose of reviewing compliance and operations under the Act.

§ 51.102 Auditing and evaluation.

(a) *In general.* Each recipient government which expects to receive entitlement funds for entitlement periods beginning on or after January 1, 1977, shall have an independent audit of its financial statements conducted for the purpose of determining compliance with the provisions of the Act, in accordance with generally accepted auditing standards, not less often than once every three years. Such audit may be separately performed as a financial audit and a compliance audit.

(b) *Election by recipient government.* A recipient government may elect to have the requirements of paragraph (a) of this section not applicable to that

government upon filing notice to the Director that the audits are conducted in compliance with State or local law and meet the following requirements:

(1) The financial statements of the recipient governments are audited by independent public accountants as defined in section 51.100(e) of this subpart, or by independent auditors as defined in paragraph (b) of this section; and

(2) The audits of the recipient government are conducted in accordance with generally accepted auditing standards;

(3) The audits of the recipient government will be conducted not less often than every three years; and

(4) A compliance audit, as well as a financial audit, is conducted.

(c) *Inapplicability of audit requirement.* The requirement of paragraph (a) of this section shall not apply where the recipient government's entitlement for any of its fiscal years is less than \$25,000. State or local law which requires an audit of such government's financial statements must be complied with in accordance with § 51.101(c) of this subpart, and will constitute compliance with paragraph (a). Such an audit conducted under State or local law need not be submitted to the ORS, but shall be made available upon request by the Director.

(d) *Series of audits.* A series of independent audits may be used as an alternative to the provisions of paragraph (a) if they are conducted in accordance with generally accepted auditing standards, over a period not to exceed three fiscal years, and cover, in the aggregate, all of the accounts of a recipient government. When doing a series of audits a recipient government may perform the compliance audit for any one of the three fiscal years.

§ 51.103 Waiver of audit requirement where financial accounts are unauditable.

The Director may, upon written application of the chief executive officer of the recipient government, waive the provisions of § 51.102 of this subpart for any fiscal period, if in the course of determining compliance with § 51.102, the independent auditor renders an opinion that the financial accounts of such recipient government are not auditable, and the chief executive officer of such recipient government assures the Director that the accounts are not auditable and clearly set forth the arrangements which have been made or taken toward making such financial accounts auditable. The Director shall satisfy herself by investigation or inquiry that the recipient government is achieving

substantial progress toward making its financial accounts auditable. A recipient government, which fails to apply to the Director for the waiver based upon the unauditability of its financial accounts shall not be entitled to use the waiver provisions of this section.

§ 51.104 Audits of secondary recipients.

A recipient government shall be responsible for an audit of the entitlement funds transferred to any secondary recipient, where the aggregate of the entitlement funds transferred to such secondary recipient during the fiscal year is \$25,000 or more. Such audit shall be conducted pursuant to § 51.102 of this subpart and the *Audit Guide and Standards for Revenue Sharing Recipient* currently applicable published by the Office of Revenue Sharing and available to each recipient government.

§ 51.105 Reliance upon audits under other Federal laws.

The Director may rely upon audits of the financial statements of recipient governments conducted in accordance with other Federal laws, for any fiscal period, provided that such audits substantially satisfy the requirements for audits contained in § 51.102(a) of this part.

§ 51.106 Audit opinions.

(a) *In general.* Opinions made with respect to audits must be rendered as a part of the audit report and shall be in accordance with the opinion in general use for attesting to financial statements, as defined in paragraph 51.100(c). Examples of opinions are set out in the appendix of the *Audit Guide and Standards for Revenue Sharing Recipients* published by the Office of Revenue Sharing and available to each recipient government.

(b) *Nature of opinions.* Audit opinions may be unqualified, qualified, adverse, or a disclaimer of an opinion (provided the accounts are auditable). Audit opinions may be expressed on cash basis statements.

(c) *Expression of unqualified opinions.* The expression of an unqualified opinion shall include the statement that the financial statements are in accordance with generally accepted accounting principles. Generally accepted accounting principles are defined as those pronouncements of the National Committee on Governmental Accounting as set forth in its publication *Governmental Accounting, Auditing and Financial Reporting* published in 1968, or any subsequent revisions thereof.

§ 51.107 Scope of audits.

(a) *In general.* The scope of each audit required under § 51.102(a) of this part shall include all of the financial statements for each separate fund which is defined as a self-balancing group of accounts which the recipient government is required to maintain pursuant to State or local law (as determined by the State Attorney General or the legal counsel of a unit of local government). The audit shall be of the financial and compliance type described in *The Standards for Audit of Governmental Organization, Programs, Activities & Functions* as issued in 1972 by the Comptroller General of the United States, or the financial types prescribed by the American Institute of Certified Public Accountants and incorporated in its *Statements on Auditing Standards* and as described further in the *Audit Guide and Standards for Revenue Sharing Recipients*, currently applicable, and published by the Office of Revenue Sharing. The audit for compliance shall pertain only to entitlement funds of the recipient government received under the Act.

(b) *Verification of fiscal data reported to the Bureau of the Census.* The scope of the audit shall include also a verification of the recipient government's fiscal data as reported by it to the Bureau of the Census.

(c) *Financial statement.* For purposes of this subpart financial statements are those statements which:

(1) Reflect the financial transactions for all funds for a specific period of time, and

(2) Present the financial position as of the end of that fiscal period.

§ 51.108 Retention of audit workpapers.

Audit workpapers and related audit reports shall be retained for three years after the issuance of the audit report, and shall be available upon request to the Director and the Comptroller General or to their representatives.

§ 51.109 Requirement to submit audit reports.

The Director may require the chief executive officer of a recipient government to submit a copy of its audit reports at such times as she may request.

Subpart G—Proceedings for Reduction in Entitlement, Withholding, Suspension, or Repayment of Funds

§ 51.200 Scope of subpart.

The regulations of this subpart govern the procedure and practice requirements involving adjudications where the Act requires reasonable notice and

opportunity for a hearing. The adjudications covered in this subpart include administrative hearings concerning violations of all provisions of this part and unless otherwise specified, the procedures described herein apply to all types of hearings.

§ 51.201 Liberal construction.

The regulations in this subpart shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Rules of Civil Procedure for the District Courts of the United States, where applicable, shall be a guide in any situation not provided for or controlled by this subpart, but shall be liberally construed or relaxed when necessary.

§ 51.202 Reasonable notice and opportunity for hearing.

Whenever the Director has reason to believe that a recipient government has failed to comply with any section of the Act or of the provisions of this part, and that repayment, withholding, or reduction in the amount of an entitlement of a recipient government is required for a violation of the provisions of subparts B, D and F, or suspension or termination of the entitlement payments for violations of subpart E, the Director shall give reasonable notice and opportunity of hearing to such government as required by the pertinent procedural provisions of subparts A, E, or G prior to the invocation of any sanction under the Act.

§ 51.203 Opportunity for compliance.

(a) *In general.* Except in proceedings involving willfulness or those in which the public interest requires otherwise, an administrative hearing under this part will not be instituted until such facts or conduct which may warrant such action have been called to the attention of the chief executive officer of the recipient government in writing and he has been accorded an opportunity to demonstrate or achieve compliance with the requirements of the Act and the regulations of this part.

(b) *Opportunity for compliance, other than under subpart E.* The opportunity for compliance will be given in accordance with the procedural provisions of § 51.3 for violations of subparts B, D, and F. If the recipient government fails to meet the requirements of the Act and regulations within such reasonable time as specified by the Director in Subpart A, as administrative hearing may be initiated by the Director.

(c) *Opportunity for compliance under subpart E.* For violations of the provisions of subpart E, entitlement

funds will be immediately suspended after notification of a determination of noncompliance pursuant to § 51.65, unless a recipient government specifically and timely requests an administrative hearing pursuant to § 51.65. If the recipient government is a unit of local government, a copy of the finding and determination letters shall be transmitted by the Director to the Governor of the State in which the unit of local government is located.

§ 51.204 Institution of administrative hearing.

(a) *Institution of an administrative hearing other than under subpart E.* An administrative hearing to require repayment of funds to the Director, or to withhold funds from subsequent entitlement payments, or to reduce the entitlement of a recipient government for violations of the provisions of subparts B, D, or F, shall be instituted by the Director by a complaint which names the recipient government as the respondent.

(b) *Institution of an administrative hearing under subpart E.* An administrative hearing under subpart E of this part shall be instituted at the request of the recipient government, pursuant to § 51.65 of subpart E within 30 days of receipt of that request by the Director. After the Director receives the request for a hearing she shall file a complaint which names the recipient government as the respondent.

51.205 Complaint for administrative hearing.

Administrative complaints shall include the following: (a) *Charges.* A complaint shall give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against it.

(b) *Demand for answer.* Notification shall be given in the complaint as to the place and time within the recipient government shall file its answer, which time shall be not less than 30 days from the date of service of the complaint. Where the hearing concerns provisions under subpart E the answer shall be required to be filed within 10 days of the date of service of the complaint. The complaint shall also contain notice that a decision by default will be rendered against the recipient government in the event it fails to file its answer as required.

§ 51.206 Service of complaint and other papers.

(a) *Service of complaint.* The complaint or a true copy thereof may be

served upon the recipient government by first-class mail or by certified mail, return receipt requested; or it may be served in any other manner which has been agreed to by the respondent. Where the service is by certified mail, the return Postal Service receipt duly signed on behalf of the respondent shall be proof of service. Where the hearing concerns the provisions of subpart E, the complaint shall be served upon the recipient government within seven days of receipt of the request for a hearing from the recipient government.

(b) *Service of papers other than complaint.* Any paper other than the complaint may be served upon a party or upon its attorney of record by first-class mail. Such mailing shall constitute complete service.

(c) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with an administrative hearing under this subpart, and the place of filing is not specified in this subpart or by rule or order of the administrative law judge, the paper shall be filed with the Director, Office of Revenue Sharing, Treasury Department, Washington, D.C. 20226. All papers shall be filed in duplicate.

(d) *Motions and requests.* Motions and requests may be filed with the designated administrative law judge, except that an application to extend the time for filing an answer shall be filed with the Director, Office of Revenue Sharing, pursuant to § 51.207(a).

§ 51.207 Answer; referral to administrative law judge.

(a) *Filing.* The recipient government's answer shall be filed in writing within the time specified in the complaint, unless on application the time is extended by the Director. The recipient government's answer shall be filed in duplicate with the Director, Office of Revenue Sharing.

(b) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that the recipient government shall not deny a material allegation in the complaint which it knows to be true, nor shall a recipient government state that it is without sufficient information to form a belief when in fact it possesses such information. The recipient government may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegation in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in

respect of such allegation need be adduced at a hearing.

(d) *Failure to file answer.* Failure to file an answer within the time prescribed in the complaint, except as the time for answer is extended under paragraph (a) of this section, may constitute an admission of the allegations of the complaint and a waiver of hearing, and the administrative law judge may make his findings and decision by default without a hearing or further procedure.

(e) *Reply to answer.* No reply to the recipient government's answer shall be required, and new matter in the answer shall be deemed to be denied, but the Director may file a reply in her discretion and shall file one if the administrative law judge so requests.

(f) *Referral to administrative law judge.* Upon receipt of the answer by the Director, or upon filing a reply if one is deemed necessary, or upon failure of the recipient government to file an answer within the time prescribed in the complaint or as extended under paragraph (a) of this section, the complaint (and answer, if one is filed) shall be referred to the administrative law judge who shall then proceed to set a time and place for hearing and shall serve notice thereof upon the parties at least 15 days in advance of the hearing date.

§ 51.208 Proof; variance; amendment of pleadings.

In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the administrative law judge may order or authorize amendment of the pleading to conform to the evidence; *provided that*, the party that would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegation of the pleading as amended. The administrative law judge shall make findings on any issue presented by the pleadings as so amended.

§ 51.209 Representation.

A recipient government may appear in person through its chief executive officer or it may be represented by counsel or other duly authorized representative. The Director shall be represented by the General Counsel of the Treasury, or a person or persons designated by the General Counsel.

§ 51.210 Administrative law judge; powers.

(a) *Appointment.* An administrative law judge, appointed as provided by section 11 of the Administrative Procedure Act (5 U.S.C. 3105), shall

conduct proceedings upon complaints filed under this subpart.

(b) *Powers of administrative law judge.* Among other powers provided by law, the administrative law judge shall have authority, in connection with any proceeding under this subpart, to do the following things:

(1) Administer oaths and affirmations;

(2) Make ruling upon motions and requests. Prior to the close of the hearing no appeal shall be made from any such ruling except, at the discretion of the administrative law judge, in extraordinary circumstances;

(3) Determine the time and place of hearing and regulate its course and conduct. In determining the place of hearing the administrative law judge may take into consideration the requests and convenience of the respondent or its counsel;

(4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(6) Take or authorize the taking of depositions;

(7) Receive and consider oral or written arguments on facts or law;

(8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(9) Perform the acts and take the measures necessary or appropriate to promote the efficient conduct of any proceeding; and

(10) Make initial findings and decision.

§ 51.211 Administrative hearings.

(a) *Administrative hearing for violations other than subpart E.* The administrative law judge shall preside at the hearing on a complaint. Testimony of witnesses shall be given under oath or affirmation, the hearing shall be stenographically recorded and transcribed. Hearings will be conducted pursuant to section 7 of the Administrative Procedure Act (5 U.S.C. 556).

(b) *Administrative hearing under subpart E.* A hearing requested by a recipient government under subpart E pursuant to section 51.65 shall commence 30 days after receipt of such request by the Director and shall be before an administrative law judge. Testimony shall be given under oath or affirmation and shall consist of two proceedings as follows:

(1) The first proceeding shall be in the nature of a summary hearing conducted in accordance with the provisions of this

subpart, similar to a judicial hearing on a preliminary injunction. All parties shall have an opportunity to present their respective positions. The administrative law judge shall issue a preliminary finding as to whether the recipient government is likely to prevail, which finding shall be based upon the record developed through this proceeding, and shall be issued within 30 days after commencement of the summary hearing.

(2) The second proceeding, if necessary, shall be a full hearing on the merits conducted in accordance with the provisions of this subpart and shall result in the initial decision of the administrative law judge. The initial decision of the administrative law judge shall be based upon the complete record of all the evidence developed throughout the hearing.

(c) *Failure to appear.* If a recipient government fails to appear at a hearing, after due notice thereof has been served upon it or upon its counsel of record, it shall be deemed to have waived the right to a hearing and the administrative law judge may make her findings and decision against the respondent by default.

(d) *Waiver of hearing.* A recipient government may waive the hearing by informing the administrative law judge, in writing, on or before the date set for hearing, that it desires to waive a hearing. In such event the administrative law judge may make her findings and decision based upon the pleadings before her, together with such documentary evidence properly submitted. The decision shall plainly show that the respondent waived hearing.

§ 51.212 Stipulations.

The administrative law judge shall, prior to or at the beginning of a hearing, require the parties to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of facts concerning which there is no substantial dispute. The administrative law judge shall take similar action, where it appears appropriate, throughout the hearing and shall call and conduct any conferences which she deems advisable with a view to the simplification, clarification, and disposition of any of the issues involved.

§ 51.213 Evidence.

(a) *In general.* Any evidence which would be admissible under the rules of evidence governing proceedings in matters not involving trial by jury in the Courts of the United States, shall be admissible and controlling as far as

possible; *provided that* the administrative law judge may relax such rules in any hearing when in her judgment such relaxation would not impair the rights of either party and would more speedily conclude the hearing, or would better serve the ends of justice. Evidence which is irrelevant, immaterial or unduly repetitious shall be excluded by the administrative law judge.

(b) *Depositions.* The deposition of any witness may be taken pursuant to § 51.214 and the deposition may be admitted.

(c) *Proof of documents.* Official documents, records, and papers of a respondent shall be admissible as evidence without the production of the original, provided that such documents, records and papers are evidenced as the original by a copy attested or identified by the chief executive officer of the respondent or the custodian of the document, and contain the seal of the respondent.

(d) *Exhibits.* If any document, record, paper, or other tangible or material thing is introduced in evidence as an exhibit, the administrative law judge may authorize the withdrawal of the exhibit subject to any conditions he deems proper. An original document, paper or record need not be introduced, and a copy duly certified (pursuant to paragraph (c) of this section) shall be deemed sufficient.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as permitted by the administrative law judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the right of either party to the proceeding.

§ 51.214 Depositions.

(a) *In general.* Depositions for use at a hearing may, with the written approval of the administrative law judge, be taken by either the Director or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 15 days written notice to the other party, before any officer duly authorized to administer an oath for general purposes, except in proceedings under subpart E in which case depositions may be taken upon not less than 10 days written notice. Such written notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of written notice may be waived by the parties in writing, or may be modified by the

administrative law judge. Depositions may be taken from the persons and at times and places mutually agreed to by the parties.

(b) *Written interrogatories.* When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogatories shall be mailed by first class mail or delivered to the opposing party at least 7 calendar days before the date on which such interrogatories or cross interrogatories are scheduled to be answered, unless the parties mutually agree or the administrative law judge rules otherwise. A party upon whose behalf a deposition is taken must file it with the administrative law judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose request the deposition is taken.

§ 51.215 Stenographic record; oath of reporter; transcript.

(a) *In general.* A stenographic record shall be made of the testimony and proceedings, including stipulations and admissions of fact in all proceedings. A transcript of the proceedings and evidence at a hearing shall be made in all cases.

(b) *Oath of reporter.* The reporter making the stenographic record shall subscribe an oath before the administrative law judge, to be filed in the record of the case, that she will truly and correctly report the oral testimony and proceedings at such hearing and accurately transcribe the same to the best of her ability.

(c) *Transcript.* In cases where the hearing is stenographically reported by a Government contract reporter copies of the transcript may be obtained from the reporter at rates not to exceed the maximum rates fixed by contract between the Government and the reporter. Where the hearing is stenographically reported by a regular employee of the Department of the Treasury, a copy thereof will be supplied to the respondent or its counsel at actual cost of duplication. Copies of exhibits introduced at the hearing or at the taking of deposition will be supplied to the parties upon the payment of a reasonable fee (31 U.S.C. 483(a)).

§ 51.216 Proposed findings and conclusions.

Except in cases where a recipient government has failed to answer the complaint, has failed to appear at the hearing, or has waived the hearing, the

administrative law judge shall, prior to making her preliminary finding under § 51.217 for hearings under subpart E, or her initial decision, give the parties a reasonable opportunity to submit proposed findings and conclusions and any supporting reasons.

§ 51.217 Preliminary finding (for hearings under subpart E).

(a) *Suspension of funding or termination of payment by administrative law judge.* (1) Within 30 days after the commencement of a summary hearing under § 51.211(b)(1) the administrative law judge conducting the hearing shall, on the record of evidence then before her, issue a preliminary finding as to whether the recipient government has failed to comply with the provisions of this part. If the preliminary finding of the administrative law judge is to the effect that the recipient government is not likely to prevail on the issues to which the hearing pertained, the Director shall immediately suspend the further payment of entitlement funds to the recipient government.

(2) Such suspension shall remain in effect until a compliance agreement is entered into by the recipient government and the Director. A preliminary finding by the administrative law judge is not appealable by the recipient government. After the completion of the full hearing on the merits the administrative law judge will make findings and a decision based upon the complete record of the evidence. If the administrative law judge issues a decision that the recipient government has failed to comply with the provisions of this part then the recipient government must enter into a compliance agreement with the Director before the 31st day after the decision. If no compliance agreement is entered into, the Director shall, upon the initial decision and order of the administrative law judge, indefinitely suspend the payment of entitlement funds to the recipient government, continue the suspension invoked under paragraph (a)(1) of this section, or terminate the payment of entitlement funds if ordered to terminate by the administrative law judge.

(b) *Resumption of funding; finding of compliance by administrative law judge.* A determination by the administrative law judge that the recipient government has complied with the provisions of this part, will terminate a suspension of entitlement funds invoked by the Director pursuant to paragraph (a) of this section. In such case the Director shall, as promptly as feasible, pay over to the recipient government all entitlement funds the

payment of which were temporarily suspended.

§ 51.218 Initial decision of the administrative law judge.

(a) *In general.* As soon as practicable after the conclusion of a full hearing on the merits under § 51.211(b)(2) and the receipt of any proposed findings and conclusions timely submitted by the parties, but in no event later than 30 days after the conclusion of the hearing, the administrative law judge shall, in accordance with 5 U.S.C. section 557, make his initial decision in the case. The initial decision shall include a statement of the findings of fact and the conclusions reached upon all the material issues of fact, law or discretion presented on the record, as well as the reasons or basis for them. The decision shall not however order any particular remedy for the noncompliance but shall only state whether the recipient government has failed to comply with the provisions of the statute. The nature of the remedy shall be within the discretion of the Director, based upon the findings of fact and conclusions of law of the administrative law judge. The initial decision shall further provide for one of the following orders:

(1) With respect to proceedings under subpart E, that the payment of all future entitlement funds to the recipient government shall be suspended, terminated, or resumed, including all payments previously suspended;

(2) With respect to proceedings other than under subpart E—

(A) That the respondent pay over to the Director an amount equal to the amount of entitlement funds determined to be expended in violation of the Act and the provision of this part;

(B) That the Director withhold from subsequent entitlement payments to the respondent an amount equal to the amount of entitlement funds determined to be expended in violation of the Act and the provisions of this part;

(C) That the entitlement of a recipient government be reduced and the amount of such reduction to be withheld from subsequent entitlement payments.

(3) That the proceedings be dismissed.

(b) *Order of suspension of funding.* An order of suspension of entitlement funds means that such funds will not be paid to the recipient government but will continue to accumulate in the State and Local Government Fiscal Assistance Trust Fund until such time as compliance is achieved by the recipient government.

(c) *Order of termination of funding.* An order to terminate the payment of entitlement funds means that the funds will be returned to the general fund of

the Treasury and will not thereafter be available for entitlement payments unless the decision resulting in the termination of funding is reversed by an appellate tribunal.

§ 51.219 Certification and transmittal of record and decision.

After reaching his initial decision, the administrative law judge shall certify the complete record before him and shall immediately forward the certified record, together with a certified copy of his initial decision, to the Director. The administrative law judge shall serve also a copy of the initial decision by certified mail to the chief executive officer of the recipient government or to its attorney of record.

§ 51.220 What constitutes the record.

The transcript of testimony, pleadings and exhibits, all papers and requests filed in the proceeding, together with all findings, decisions and orders, shall constitute the exclusive record in the matter.

§ 51.221 Procedure on review of decision of administrative law judge.

(a) *Appeal to the Secretary.* (1) *By the recipient government.* In all proceedings, within 30 days from the date of the initial decision and order of the administrative law judge, the recipient government may appeal to the Secretary and file its exceptions to the initial decision and reasons for the exceptions. The recipient government shall transmit a copy of its appeal and reasons therefor to the Director of the Office of Revenue Sharing, who may, within 30 days from receipt of the recipient government's appeal, file a reply brief in opposition to the appeal. A copy of the reply brief, if one is filed, shall be transmitted to the recipient government or its counsel of record. Upon the filing of an appeal and a reply brief, if any, the Secretary shall make the final agency decision on the record of the administrative law judge.

(2) *By the Director of the Office of Revenue Sharing.* In all proceedings, the Director may, on her own motion, within 45 days after the initial decision, serve on the recipient government by certified mail a notice that the decision will be appealed to the Secretary. Within 30 days from such notice, the Director or her counsel will file with the Secretary her exceptions to the initial decision and her supporting reasons therefor. A copy of the exceptions shall be transmitted to the recipient government or its counsel of record, who, within 30 days after receipt thereof, may file a reply brief thereto with the Secretary and submit a copy to the Director of the Office of Revenue Sharing or her counsel. Upon

the filing of a reply brief, if any, the Secretary will make the final agency decision on the record of the administrative law judge.

(b) *Review by Secretary.* In all proceedings in the absence of appeal by either party, the Secretary may at her own discretion review the initial decision of the administrative law judge. Within 45 days of the initial decision, the Secretary shall serve on the recipient government by certified mail, a notice that she will review the decision. As part of the review the Secretary may request briefs from each party within 30 days of the date of such notice. Upon filing of the briefs the Secretary shall make the final agency decision on the record of the administrative law judge.

(c) *Decision of the Secretary.* On appeal or review of the initial decision of the administrative law judge, the Secretary shall make the final agency decision after review of the record or such portions thereof as may be cited by the parties to permit limiting of the issues. The Secretary may affirm, modify, or revoke the findings and initial decision of the administrative law judge. A copy of the Secretary's decision shall be transmitted immediately to the chief executive officer of the recipient government or its counsel of record.

§ 51.222 Effect of absence of appeal or review of initial decision of administrative law judge.

In the absence of either exceptions by the recipient government or a notice of appeal by the Director or review by the Secretary (where appropriate) within the time periods set forth in paragraphs (a), (b) or (c) of § 51.221, the initial decision of the administrative law judge shall become the final decision of the department.

§ 51.223 Effect of order of repayment, withholding of funds or suspension of funds.

(a) *Order of repayment.* For violations of provisions other than subpart E, if the final order of the administrative law judge or the Secretary against the recipient government is for repayment of funds to the United States pursuant to the Director shall give the recipient government 60 days within which to take corrective action. If the recipient fails to take corrective action within 60 days from receipt of such notice, the amount as determined by the order shall be repaid upon request of the Director. To the extent that the recipient government fails to repay, the Director shall withhold from subsequent entitlement payments to the recipient

government an amount equal to the amount not repaid.

(b) *Order of withholding.* For violations of provisions other than subpart E, if the final order of the administrative law judge or the Secretary against the recipient government is for the withholding of future entitlement payments, the amounts as ordered shall be withheld by the Director after notice of the chief executive officer of the recipient government. The notice shall state that if the recipient government fails to take corrective action within 60 days after receipt of the notice, further entitlement payments will be withheld until the Director is satisfied that appropriate corrective action has been taken and there is full compliance with the Act and regulations of this part. In every case in which the recipient government is a unit of local government, a copy of the final order and notice shall be submitted to the Governor of the State in which the recipient government is located.

(c) *Order of suspension.* For violations of the provisions of subpart E, if the final order against the recipient government is for suspension of entitlement funds, (or continued suspension of funds suspended after a preliminary finding of the administrative law judge) the entitlement payment to the recipient government shall be suspended by the Director until the recipient government enters into a compliance agreement which satisfies the Director that appropriate corrective action has been taken and there is full compliance with the provisions of subpart E.

(d) *Order of termination.* For violations of the provisions of subpart E, if the order of the administrative law judge against the recipient government is for termination of entitlement funds, the entitlement payment to the recipient government shall be terminated by the Director. The recipient government may resume participation in the program in the future if it enters into a compliance agreement which satisfies the Director that appropriate corrective action has been taken and there is full compliance with the provisions of subpart E. Entitlement funds terminated shall be returned to the general fund of the Department and will not be available to the recipient government unless the order of termination is reversed by an appellate tribunal.

§ 51.224 Publicity of proceedings.

(a) *In general.* A proceeding conducted under this subpart shall be open to the public and to elements of the news media provided that, in the judgment of the administrative law

judge, the presence of the media does not detract from the decorum and dignity of the proceeding.

(b) *Availability of record.* The record established in any proceeding conducted under this subpart shall be made available to inspection by the public as provided for in accordance with regulations of the Department of the Treasury pursuant to 31 CFR Part 1.

(c) *Decisions of the administrative law judge.* The statement of findings and the initial decision of the administrative law judge in any proceedings, whether or not on appeal or review, shall be indexed and maintained by the Director and made available for inspection by the public at the public documents room of the Department. If practicable, the statement of findings and the decisions of the administrative law judge shall be published periodically by the Department and offered for sale through the Superintendent of Documents.

§ 51.225 Judicial review.

(a) *In general.* Actions taken as a result of administrative hearings pursuant to this subpart shall be subject to judicial review pursuant to section 143 of Subtitle C of the Act.

(b) *Appeal by the respondent.* A respondent may appeal the initial decision of the administrative law judge which has become final, or a final order of the Secretary pursuant to §§ 51.221(c) or 51.222, to the U.S. Court of Appeals, as provided by law.

(c) *Cross-appeal by the Director.* In the event a recipient government appeals, the Director may cross-appeal any issues decided adversely to the ORS by the administrative law judge. Issues decided adversely to the ORS by the Secretary may not be appealed.

(d) *The record.* The Secretary, upon prior notification of the filing of the petition for review, shall have prepared in triplicate, a complete transcript of the record of the proceeding, and shall certify to the correctness of the record. The original record shall then be filed with the Court of Appeals which has jurisdiction.

[FR Doc 79-30611 Filed 12-28-79; 8:45 am]

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Test Report Federal Register

Monday
December 31, 1979

Part IV

Department of the Interior

Office of Surface Mining Reclamation and
Enforcement

Interim and Permanent Regulatory
Program

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 741, 761 and 769

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Final rule.

SUMMARY: This notice amends 30 CFR 701.11 and 741.11 by postponing the effective date for operator compliance with the permanent program on Federal lands until the date of approval of a State program or implementation of a Federal program for a State, and amends 30 CFR 701.1(b)(3) and Parts 761 and 769 to preserve the current applicability of those regulations on Federal lands.

EFFECTIVE DATE: January 30, 1980.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-4225.

SUPPLEMENTARY INFORMATION: A proposal to postpone the effective date for operator compliance with the permanent regulatory program on Federal lands was initiated by a petition from the State of Montana (subsequently joined by five additional western States) alleging that the requirements of 30 CFR 741.11(a) conflicted with Section 523(c) of the Surface Mining Control and Reclamation Act of 1977. Based on their argument, the petitioners recommended that the effective date for operator compliance with permanent Federal lands performance standards be extended for all operations in States with approved modified cooperative agreements pursuant to Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) until after State program approval or implementation of a Federal program for a State (44 FR 56272).

In response to the petitioners, OSM published a notice on September 28, 1979, (44 FR 56272-56275) proposing to amend the schedule for operator compliance with the permanent program until approval of a State program or implementation of a Federal program for a State. In contrast to the Montana petition, however, the new schedule proposed by OSM would have applied in all States and only to existing surface coal mining operations on Federal lands.

Plans for new mines or major extensions of existing mines on Federal lands would still have had to comply with the March 13, 1979, regulations.

On October 11, 1979, the Department published a notice (44 FR 58873) which temporarily suspended, pending decision and publication of a final rule, the requirement that existing surface coal mining and reclamation operations on Federal lands comply with the permanent performance standards of Subchapter K on and after October 12, 1979.

Comments received from the western States and the coal industry indicated opposition to the September 28 revised rule and strong support for the Montana petition language. Several environmental groups, on the other hand, supported the proposed revision, if clarified in some particulars, while others opposed any change whatsoever. After evaluating the comments received and considering the issues raised, the Secretary has decided to adopt revised language which would postpone operator compliance with the permanent program on Federal lands for all operations in all States until approval of a State program or implementation of a Federal program for a State. An analysis and discussion of the major issues and concerns raised by the commenters follows.

Several comments from State and industry representatives expressed the belief that the proposed amendment was inconsistent with section 523(c) of the Act, which provides that "States with cooperative agreements existing on the date of enactment of this Act, may elect to continue regulation on Federal lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 502 of this Act." They felt it preempted the existing modified State/Federal cooperative agreements by requiring the administration and enforcement of two separate standards for mining operations within a State.

Commenters asserted that the basic purpose of the cooperative agreement is to prevent duality of administration and enforcement of mining and reclamation requirements by providing for State regulation of surface coal mining and reclamation operations on Federal lands within a State. They asserted OSM's proposed amendment violated this fundamental purpose by requiring one set of standards for new mining operations and major extensions and a second set of standards for existing mines. These commenters felt imposing

two sets of standards would not permit a smooth transition from the interim program to the permanent regulatory program; it would likely create complex and confusing on-the-ground administrative problems for both the operator and for the regulatory authorities. This dual regulatory scheme, contend several commenters, would be inconsistent with the language of section 523(a) that States have an opportunity to develop State programs, the requirements of which must be reflected in the Federal lands program. Such opportunity, asserted the commenters, is important if local diversity in terrain, climate, biologic, chemical, and other physical conditions is to be considered fully in adopting a regulatory program.

One commenter felt OSM's argument that the revised rule would provide evenhanded treatment for operators of existing mines and a single timetable was not supported by facts or common sense. If these arguments are to be valid, asserted the commenter, all mines—not just existing ones—would follow the same schedule.

Suggesting that OSM had gone further than authorized by section 523, one commenter asserted that the Act expressly forbids the Secretary from delegating his authority on Federal lands, except under the narrow provisions of a cooperative agreement. Further, the Federal lands program may have more stringent requirements than those required by a State (section 523 (a) and (b)). Thus, contended the commenter, the Act makes no provision for the de facto deferral of the permanent program for existing mines proposed by OSM in the revised rule, that of prolonging less stringent requirements of the initial program in order to achieve "evenhanded" treatment. (The Secretary reasoned in the Preamble to the proposed rules, 44 FR 56273, that the proposal would provide for evenhanded treatment for operators of existing mines.) The commenter based his argument on Senate Report No. 95-128, 95th Congress, 1st session p. 95 (1977) which states that:

While the Secretary could, for example, impose more stringent reclamation requirements on Federal lands than were required on non-Federal lands in the State, he could not permit less stringent requirements.

Also, pointed out this commenter, the Senate Report indicates that the Federal lands program would apply even if a State did not have a State program.

The Federal Lands Program . . . must, at a minimum, incorporate all of the Act's requirements and where the Federal lands are in a State with an approved State

program, the requirements imposed by the States.

S. Rep. No. 95-128, 95th Cong., 1st Session p. 95 (1977)

The commenter asserted that both the Senate and House versions of the Act included a period of time when the Federal lands program would be covered by the Federal program (sic) but not by an approved State program, which nullifies the Secretary's rationale that Congress anticipated the States would have an opportunity to have a program approved.

Continuing this reasoning, the commenter noted that sections 511(a)(2) and 511(a)(3) of the Act prohibit approval of permit revisions unless the regulatory authority makes a positive finding that the revised reclamation plan meets the requirements of the Act and the State or Federal program. An extension to the area covered by the permit, except in incidental boundary revisions, must be made by application for another permit. Thus, asserts the commenter, OSM does not have the discretion to distinguish between "major" and "minor" extensions in requiring an applicant to seek a new permit when the plan is revised. Further, asserts the commenter, the application to be approved must comply with the Federal lands program if no State program is in effect.

In conclusion, the commenter indicated that nothing suggests that the Federal lands program must await State program approval. Rather, the Federal lands program would be amended to incorporate any special provisions of the approved State program. Thus, according to the commenter, no legal basis exists for the petitioners' argument that Congress intended States to have an opportunity to develop and have approved State programs prior to implementation of a permanent Federal lands program.

Another commenter indicated that, if adopted, the proposed revision should apply only in States where surface mining operations on Federal lands are being regulated by a State regulatory authority under a modified cooperative agreement approved pursuant to section 523(c) of the Act. The commenter asserted that the amendment should only apply to those States that have in good faith complied with the Act as evidenced by approval of a modified cooperative agreement. The commenter further contended that in States without cooperative agreements no legal mechanisms will be available to protect the land, air, and water quality on Federal lands.

Many comments on the proposed rule concerned the use of terms and phrases, such as "major or minor extension," "approvable," "not approvable," "sufficiently close to decision," "approved mining plans," and "existing mine plans." The comments were that without clarification, definition or deletion these undefined and non-specific terms and phrases will cause considerable confusion and conflict between the operators and the regulatory authority.

Several comments were received relative to the potential for increased adverse impact to the environment. One commenter indicated that restricting the permanent Federal lands programs to new mines and major additions would result in considerable environmental harm because the commenter felt that interim regulations contain less protective measures than the permanent program.

Other commenters alleged that the proposed rule, if adopted, might increase environmental harm, because the permanent Federal lands program for new and expanded mines would not contain requirements that reflect local variations on areas subject to mining activity; i.e., regulations developed under the State window concept would not be considered in evaluating mine plans relative to local conditions, thus subjecting these areas to possible greater environmental degradation.

As indicated by one commenter, many of the Federal lands in the East involve National Forest lands underlain by private coal. Citing several examples, the commenter pointed out that there is, apparently, considerable confusion concerning the jurisdictional responsibility and authority for the administration and regulation of mining operations on these lands. This confusion, asserts the commenter, should be resolved through clarifying language in the Preamble to the final rule.

Finally, several commenters supported the proposed amendment, but did not believe it should result in postponing the designation program, including the petition process to designate or terminate designations of Federal lands unsuitable for all or certain types of surface coal mining operations.

The divergent comments received on the proposed rulemaking confirm the ambiguous nature of the language in section 523 of the Act. The ambiguity arises in paragraphs (a) and (c) of the section and concerns the timing and scope of the Federal lands program. This section's language raise questions as to whether initial and permanent Federal

lands programs are authorized, analogous to the non-Federal lands statutory scheme, and the relationship between the Federal lands program and cooperative agreements with States authorizing joint State-Federal regulation of surface mining operations on Federal lands.

Because of the section's ambiguous language, the Secretary explains his interpretation of the section here, hoping that the explanation will aid those who commented and other interested members of the public to understand the basis for the regulations promulgated in this notice.

Section 523 begins by stating that "the Secretary shall promulgate and implement a Federal lands program" within one year of enactment of the Act. The Act, however, provides only limited guidance concerning the composition of a "Federal lands program." That term is defined in section 701(5). The definition, however, merely refers back to section 523 defining the term to mean a program established by the Secretary pursuant to that section.

Some guidance is found in section 523(a). The Federal lands program is required to be one which (1) at a minimum, incorporates all of the requirements of the Act, (2) takes into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands and (3) includes, at a minimum, the requirements of an approved State program, where Federal lands in a State with an approved State program are involved.

In attempting to structure a rational Federal lands program these factors need to be applied in the context of other pertinent, general, guiding principles found elsewhere in the Act. For example, States are acknowledged as the leading sources of knowledge on how diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations should be reflected in regulations for surface coal mining operations. Sections 101(f) and 201(c)(g). Surface mining and reclamation standards among the coal producing States are to be reasonably uniform so that competition in interstate commerce among sellers of coal produced in different States will not be used to undermine the ability of the several States to improve and maintain adequate standards. Section 101(g). Cooperation between the States and the Secretary is necessary to prevent or mitigate adverse environmental effects of surface coal mining operations. Sections 101(k), 102(g), 201(c)(9).

In light of these several factors and guiding principles, the Secretary has used his broad legislative delegation of rulemaking authority, section 201(c)(2), to carry out the purposes of the Act to promulgate and implement a rational Federal lands program. This program reflects a reasonable reconciliation of the ambiguous statutory provisions and careful consideration of the administrative problems associated with regulation of surface coal mining operations that occur on Federal lands in many States and on Federal and private lands within a given State.

The Federal lands program must incorporate all the requirements of the Act, Section 523. The Secretary interprets this to mean that operators must comply initially with the set of performance standards specified in section 502(c), analogous to the situation for operators on non-Federal lands. Congress intended a phased implementation of performance standards with the most important being applied first. S. Rep. No. 95-128, 95th Cong., 1st Sess. 70 (1977). "This appears to the committee to be a practical mechanism for assuring compliance without raising the possibility of unwarranted hardship on the operator." *Id.* The Secretary has not found, nor did commenters cite any legislative history to the contrary suggesting that the unwarranted hardship Congress wanted to avoid imposing on operators on private lands, they, nevertheless, wanted to impose on operators on Federal lands.

Language in Section 523(c) gives support to the Secretary's interpretation of Section 523(a) that an initial Federal lands program is justified by the congressional mandate to include in the Federal lands program all the requirements of the Act. Congress required that existing cooperative agreements be modified to comply fully with the initial regulatory procedures set forth in section 502 of the Act if a State wished to continue its regulatory role on Federal lands under cooperative agreements which predated the Act. Congress did not require the existing cooperative agreements to be modified to comply with the permanent program.

The rationale for this is clear: to require the cooperative agreements to comply with the permanent program would have required such compliance in advance of the schedule for States to implement the permanent program under State programs incorporating laws and regulations corresponding to the permanent statutory requirements under SMCRA, Sections 503 and 504. But to read the requirement to modify

cooperative agreements to comply with the initial program as suggesting that States with existing cooperative agreements, and operators who were fortunate to be operating on Federal lands within such States, were to be given a special variance from an otherwise clear requirement to regulate Federal lands under the permanent program is unwarranted. The Statute establishes no such clear requirement to regulate Federal lands under a permanent program in advance of State or Federal program implementation. As has been shown, the Secretary has reasonably interpreted Section 523(a) to authorize an initial program to be followed by a permanent program. Where a statute authorizes explicit variances, Section 515 (c) and (e), implied variances are not likely to be construed. *TVA v. Hill*, 437 U.S. 153 (1978).

The Secretary implemented the initial Federal lands program on August 22, 1978, when he promulgated amendments to 30 CFR Part 211 to incorporate the initial Federal lands program (43 FR 37181). When he did this, he satisfied his statutory obligation to promulgate and implement a Federal lands program within one year of the Act's enactment, Section 523(a). The Federal lands program was implemented on a phased schedule one year and 25 days following the August 3, 1977, enactment of SMCRA.

Although the initial phase of the Federal lands program had begun, its permanent phase had yet to be promulgated. On March 13, 1979, the Secretary promulgated the permanent phase, 30 CFR Chapter VII, Subchapter D, 44 FR 15332-15341. It reflected his then current interpretation of his authority and responsibility under Section 523. See, Preamble to Subchapter D, 44 FR 14972-14989 (March 13, 1979).

As explained in the preamble to the proposed rulemaking to amend 30 CFR 701.11 and 741.11, the Secretary's interpretation was questioned by Montana in the form of a petition to amend 30 CFR 741.11 (44 FR 56272, September 28, 1979).

The Secretary has reconsidered his interpretation of his responsibility and authority under Section 523 in the light of the rationale presented in that petition and comments received on the proposed amendments. The basis for his interpretation of Section 523 as reflected in the amendments to 30 CFR 701.11 and 741.11 adopted in this notice, is as follows: Nothing in Section 523 explicitly dictates when the second phase of the Federal lands program is to be implemented. (As has been explained,

the one year requirement for implementation of the Federal lands program was satisfied when the program was implemented on a phased-in schedule, on August 22, 1978.) However, the provision that the Federal lands program incorporate all the requirements of the Act suggests with good reason that the permanent phase should coincide with permanent program implementation in the States. The schedule for this is dictated by Sections 503 and 504.

The Federal lands program is to reflect the diverse physical, climatological, and other unique characteristics of the Federal lands. Section 523(a). As explained above, Congress felt the States to be best qualified to judge how such characteristics should be reflected in the regulatory scheme. The States will make these judgments for non-Federal lands in their State program applications through the so-called "State window" mechanism in 30 CFR 731.13, through the use of various other provisions in the regulations, or by imposing more stringent standards than those chosen by the Secretary. As these local characteristics are unlikely to disappear abruptly at the boundary lines between Federal and non-Federal land within a State, the Secretary believes waiting for State judgment on these conditions before applying the permanent Federal lands program will benefit the regulated industry and regulatory authorities by eliminating the administrative and planning problems associated with another stage of regulation amendments applicable to operations on Federal lands.

In addition to this deference to State judgment which Congress seems to have intended, Sections 101(f), 2012(c)(9). Congress states in Section 523(a) that "the Federal lands program shall, at a minimum, include the requirements of the approved State program." In so doing, Congress has provided the explicit mechanism by which State judgment on local conditions will be reflected in the Federal lands program. To avoid a subsequent amendment to the Federal lands program in each State upon adoption of a State program, and the administrative and implementation burdens it would impose upon the regulators and regulated companies, the Secretary believes this requirement of Section 523(a) provides added justification for implementing the second phase of the Federal lands program concurrently with State program implementation in all Federal lands States.

Other practical administrative and implementation considerations provide a reasoned basis for the Secretary interpreting his authority under Section 523 in this manner. Were the Secretary to implement a permanent Federal lands program in advance of State program implementation, operators with mines on commingled Federal and private lands would be subject to two different regulatory schemes, the permanent program on the Federal lands and the initial program on the private lands.

This would be so regardless of whether a cooperative agreement existed with a particular State. Congress did not want operators subject to two regulatory schemes.¹ Although this is evidenced by statements made in the context of discussing cooperative agreements, the rationale is equally applicable to non-cooperative agreement situations. Were the initial and permanent programs in effect at the same time for different portions of the same mine, different permit, bonding and performance standards would apply to different portions of one operation. This would create some confusion in terms of the permit information required for the different portions, burdens on the applicant to demonstrate the feasibility of reclamation, the rights of the public to participate in the review and approval process for the different portions and standards against which inspection and enforcement actions would be measured. In order to eliminate such confusion and to provide a clear, understandable regulatory program through which coal may be produced and the environment protected, the Secretary believes all surface coal mining operations, whether on Federal or private lands or both, should proceed under a uniform regulatory schedule.

The Montana petition urged postponement of the Federal lands program only for cooperative agreement States. Some commenters supported this approach. The Secretary has not accepted this approach because it perpetuates the confusion created by a dual regulatory scheme. This kind of approach would also not resolve the congressional concern that competitive imbalances not be created by operators in some States being subject to a less stringent or comprehensive regulatory program than in other States. Section 101(g). Thus, were the permanent phase of the Federal lands program to coincide with State program implementation in only the States with modified cooperative agreements, operators on Federal lands in those States would be

¹ S. Rep. No. 95-128, 95th Cong., 1st Sess. 95 (1977).

subject to a less comprehensive regulatory program than would be operators on Federal lands in non-cooperative agreement States. In non-cooperative agreement States under the proposed amendment, operators of new mines or major extensions of existing mines would have been subject to the more comprehensive permanent phase of the Federal lands program. Arguably they would be at a competitive disadvantage because of the more costly permitting requirements and more comprehensive set of environmental performance standards. The only way to minimize the potential for inequity across State lines is to have the permanent phase of the Federal lands program coincide with State program implementation in all States as individual programs are approved or rejected. Thus, the regulations adopted in this notice do not distinguish between cooperative and non-cooperative agreement States.

The Secretary believes the comment suggesting that Federal lands in non-cooperative agreement States will not receive adequate protection reflects a misunderstanding of the effect of cooperative agreements. During the extended initial program pursuant to these rules, surface coal mining and reclamation operations on Federal lands in non-cooperative agreement States will be administered by OSM pursuant to authority in the Mineral Leasing Act, as amended, SMCRA, 30 CFR Part 211, and the terms and conditions of a lease or license. This will provide the same level of environmental protection for Federal lands as in cooperative agreement States. The only difference will be that the program will be administered exclusively by OSM, rather than jointly with a State.

Also, the Secretary does not believe that postponing the permanent Federal lands program will cause any significant adverse affect on Federal lands. A high-level of environmental protection will be maintained because all of the most important permanent program performance standards are also requirements of the initial regulatory program, as specified in Section 502(c) of SMCRA. A high degree of protection for Federal lands is also provided by the terms and conditions of the Federal coal lease and regulations in 30 CFR Part 211, adopted pursuant to the Mineral Leasing Act of 1920, as amended and SMCRA. Additionally, in States with cooperative agreements applicable State laws and regulations particularly those more stringent than Federal requirements will also remain in effect and will ensure protection of Federal lands.

In adopting a final rule, the Secretary has refrained from using undefined and non-specific terms and phrases, which concerned several commenters. This should alleviate much of the confusion and conflict which could have arisen between the operators and the regulatory authority.

With regard to the jurisdictional responsibility for the administration and regulation of surface coal mining operations involving Federal surface—private coal, the Secretary recognizes the ambiguity of the existing regulations. Efforts are currently underway which will clarify State and Federal roles in the administration and regulation of surface coal mining operations on lands involving Federal surface/private coal and private surface/unleased Federal coal.

The Secretary would also like to clarify that applications for approval of new mine plans or expanded operations submitted pursuant to 30 CFR 741.11(a)(2), as published March 13, 1979 (44 FR 15333) or pursuant to amended 30 CFR 741.11, as noted in this document, will be reviewed using the initial regulatory requirements of 30 CFR Part 211. Upon approval of a State program or implementation of a Federal program for a State, the operator would be required to submit a complete application for a permit in accordance with 30 CFR 741.11(a), as amended. This includes the submission of a mine plan which meets all the requirements of the permanent Federal lands program.

The Secretary reached this decision based on the argument that the permanent Federal lands program cannot be fully implemented until after approval or disapproval of a State program. Therefore, the Secretary concluded that no rational basis exists for continuing to review and approve mine plans submitted pursuant to 30 CFR 741.11(a)(2), as adopted on March 13, 1979. Such approvals would not be based upon the permanent Federal lands program as now interpreted by the Secretary through regulations adopted in this notice because State program conditions are not now reflected in the Federal lands regulations. The Secretary believes the permanent program requirements under the Act, as well as those to be incorporated in the Federal lands program from State programs, should be adopted at one time. This will eliminate one more sequence of amendments which would create new procedural and substantive obligations for operators and the regulatory authority.

As previously noted, several commenters, while supporting the proposed amendments, wanted

assurances that the petition process for designations would not be postponed. The Secretary at no time intended to postpone the applicability of the designation program to Federal lands. He believes a basis exists for not postponing the designation program and believes a few clarifying amendments are needed to ensure its continued applicability.

The so-called congressional designations were applicable by their terms following the date of enactment of the Act. "After the enactment of this Act and subject to valid existing rights, no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted— . . ." Section 522(e) (Emphasis added). Regulations establishing procedures for processing applications to mine in which these congressional designations are at issue, were promulgated on March 13, 1979. 30 CFR Part 761, 44 FR 15341. They properly referred to permits or permit applications because after the effective date of those regulations permits, not mine plans, would have been the document authorizing surface coal mining operations on Federal lands. Mine plans, which fill this function under the initial Federal lands program would no longer have been the controlling document.

Because the Federal lands permanent program permit requirements are being delayed by this rulemaking, certain clarifying amendments are being made to 30 CFR 701.1(b)(3) and Part 761. These are necessary to make clear that the congressional designations and petition process apply to *mine plan* applications filed under the initial Federal lands program in 30 CFR Part 211 as well as the permanent program *permit* procedures when implemented. Had the proposed amendments been adopted as final, such changes would not have been necessary because new mines would have remained subject to the permanent program permit requirements.

The congressional designations apply to operations on all Federal lands as defined in Section 701(4) of the Act. This includes Federal surface lands above private coal and private surface lands above Federal coal. Thus, notwithstanding any apparent limitation concerning the scope of the initial Federal lands program as stated in 30 CFR 211.1(a), the congressional designations do apply coal mine approvals on Federal surface above privately held coal.

For the same reasons noted above for the needed clarifications to 30 CFR 701.1(b)(3) and Part 761, the applicability of the petition process to Federal lands

pursuant to 30 CFR Part 769 also needs clarification through limited amendments adopted in this document. Under the reasoning applied above, which relied upon the phrase "incorporate all of the requirements of this Act" in Section 523(a) as the basis for postponing the permanent phase of the Federal lands program, an argument could be made that the petition process to designate Federal lands should be delayed also. This is because the Section 522(c) petition process on non-Federal lands does not become applicable until a State program is approved. As a prerequisite to assuming primary regulatory authority jurisdiction under a State program, a State must establish a planning process enabling objective decisions concerning designations. (Section 522(a).)

Following this reasoning to its conclusion, one could argue that reliance upon the quoted language from section 523(a) to postpone implementation of the permit and performance standards requirements on Federal lands compels postponement of the designation petition process by analogy to the State program-petition process relationship. Blind application of that logic to this circumstance would call for ignoring certain important distinctions. The reasons for delaying the petition process for non-Federal lands until approval of State programs were to provide time for the States to develop an adequate planning process and have that process subject to public review during the State program approval process. However, that rationale is not applicable in the context of Federal lands. Under Section 522(b), the Secretary has begun an independent review of the Federal lands to determine whether any such lands are unsuitable for all or certain types of surface coal mining operations, utilizing among others the criteria in Section 522(a) (2) or (3). Secondly, in contrast to most States, Federal surface managing agencies already have established planning processes for making land use determinations on Federal lands, including lands unsuitable for coal mining under the Surface Mining Act and other statutory authorities. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*); and other authorities cited at 43 CFR 3400.0-3, 44 FR 42609, July 19, 1979; 43 CFR Subpart 3461, 44 FR 42638, July 19, 1979; 43 CFR Part 1600, 44 FR 46386, August 7, 1979. The environmental impact and importance of this planning and designation process are analyzed in the Final Environmental Impact Statement for the Federal Coal Management

Program, April 1979, at p. 3-31 through 3-52. Given that these planning mechanisms exist, the Secretary is fully prepared to respond to any Federal lands petitions which might be filed. Therefore, the absence of an adequate planning process is not a basis for delaying the petition process on Federal lands.

A further distinction is found in the statutory scheme which justifies implementing the petition process on Federal lands at this time while postponing application of the permanent program permitting and performance standards. Section 523 speaks in terms of incorporating State program requirements in Federal lands programs, as has been discussed. In addition, as has been shown, if implementation of the permitting and performance standards is not postponed, dual regulatory schemes would exist for conmined mines. On the other hand, Sections 523 (a) and (c) specifically provide that the Secretary is to retain responsibility for the designation process on Federal lands. Therefore, whereas language of Section 523 provides a basis for postponing the implementation of the permitting and performance standards in order to incorporate elements of State programs, the same section gives no basis for postponing the designation program on Federal lands.

The Secretary also believes that early implementation of the unsuitability designation regulations on Federal lands is desirable because early action will help clarify which Federal lands might be available for subsequent leasing and mining. In particular, this could help operators save time and money in both short and long-range coal development planning.

For these reasons the Secretary feels compelled to adopt limited and clarifying amendments to 30 CFR 701.1(b)(3) and Parts 761 and 769 to show that postponement of the permit and performance standards on Federal lands does not postpone the Federal lands designation program. The regulations which have been in effect since April 12, 1979, 44 FR 15312, established procedures for applying the congressional designations of section 522(e) and implemented the petition process of section 522(c). The clarifying amendments do no more than preserve the status quo with respect to the designation program on Federal lands. OSM's amendments affect Parts 701, 741, 761 and 769 as follows:

1. 30 CFR 701.1 Scope, is an introductory section outlining the general applicability of certain regulations to the permanent regulatory

program. Paragraph 30 CFR 701.1(b)(3) of this section is revised to conform to amendments to 30 CFR 701.11, 30 CFR 741.11 and 30 CFR Parts 761 and 769. The effect of the amendment merely maintains the status quo, whereby Federal lands are subject to the congressional designations and the petition process for designating Federal lands unsuitable for all or certain types of surface coal mining operations and for terminating previous designations as of the effective date of the permanent regulations (April 12, 1979).

2. 30 CFR 701.11 Applicability, is a general statement of applicability of the performance standards and mirrors the existing requirements of § 741.11. This section is, therefore, revised to reflect accurately the amendment to the latter Section which postpones operator compliance with the permanent Federal lands program until approval of a State program or implementation of a Federal program for a State. Paragraph (b) has been amended to conform with amendments to 30 CFR 741.11. Existing paragraph (c) has been deleted because under the amended rules, all operations will be on the same schedule. Operations described in this paragraph are now covered in paragraph (b). Existing paragraphs (d) and (e) are renumbered (c) and (d), respectively, and are amended to conform with the amendments to 30 CFR 741.11. Existing paragraph (f) is renumbered (e).

3. 30 CFR 741.11 has been restructured and rewritten. As amended, paragraph 741.11(a) incorporates the provisions of existing § 741.11(c)(1) and (c)(2). The effect of this change is to eliminate the requirement that operators having an approved mining plan under 30 CFR 211 comply with the permanent performance standards in Subchapter K on and after October 12, 1979. This change also eliminates the requirement that applications for approved new or expanded mining operations, submitted after April 12, 1979, comply with the requirements of 30 CFR 741.13, 30 CFR 742, and 30 CFR 744 as of that date. All operations on Federal lands will be subject to the initial program requirements until approval of a State program or implementation of a Federal program for a State. Paragraph 741.11(b) of the existing rules remains unchanged. Paragraph (c), as previously indicated, is restructured and renumbered (a). Paragraph 741.11(d) is renumbered (c), and the reference to "Paragraph (c)" is revised to read "(a)". Finally, existing Paragraph (e) is redesignated (d).

4. 30 CFR 761.1 Scope, is revised to clarify terminology; the term "authorized" is substituted for

"permitted". 30 CFR 761.4 (a)(1) and (a)(2) are amended to reflect that mine plan applications filed under the initial program are also subject to the provisions of Section 522(e) of the Act. Clarifying language has been added to 30 CFR 761.5(a)(2)(ii). 30 CFR 761.12(a), (b)(2), (c), (e), (f)(1), and (f)(2) have also been revised to conform with the amendments to 30 CFR 761.4.

5. 30 CFR 769.7(b) and (c) include clarifying language and a new paragraph 30 CFR 769.7(d) is added to conform with the limited and clarifying amendments to 30 CFR Part 761. Similarly, 30 CFR 769.14(i) and 769.17(d) are amended to provide continuity with amendments to 30 CFR Part 761.

Public Meetings

In response to specific requests, representatives of the Office and Departmental officials met twice with State and industry representatives on the substance of the proposed revision between October 2, 1979 and October 18, 1979. Summaries of each of these meetings have been prepared and are on file in the Administrative Record Office, Room 135, South Interior Building, 1951 Constitution Avenue, Washington, D.C. 20240 and the Office of Surface Mining, Region V, Post Office Building, 1832 Stout Street, Denver, Colorado 80205. Issues raised at these meetings were fully considered in developing the final rule.

Public Hearings

A public hearing was held October 18, 1979, at 9 a.m., Room 269 of the Old Post Office Building, Denver, Colorado, to receive oral and written comments on the proposed revision. Transcripts of the testimony presented were placed in the administrative record and were reviewed and analyzed along with other written comments. Copies of the hearings transcripts are available for public inspection in the Administrative Record Office, Room 135, South Interior Building, 1951 Constitution Avenue, Washington, D.C. 20240 and the Office of Surface Mining, Region V, Post Office Building, 1832 Stout Street, Denver, Colorado 80205.

OTHER INFORMATION: Pursuant to 43 CFR Part 14, the Assistant Secretary, Energy and Minerals has determined that the amendments to 30 CFR 701.11, 741.11, 761 and 769 are not a significant action and, therefore, do not require a regulatory analysis. The revised rule will not have a major and national or regionwide impact on State or local governments. The initial regulation procedures of Section 502 of the Act, 30 CFR 211 and existing State laws will remain in effect and will provide a level

of protection for the public health and safety and the environment comparable to that on non-Federal lands. Additionally, the amended rule will not impose any new recordkeeping or reporting requirements on the States or industry. No new information will be required.

Also, the amended rule does not constitute a major Federal action for which an environmental impact statement is required by Section 102(2)(C) of the National Environmental Policy Act of 1969. The amended rule is part of the implementation of the Federal lands program which has a special exemption under Section 702(d) of the Act which specifies that ". . . implementation of the Federal lands program . . . shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332)."

Finally, the amended rule is not a significant action, because it will not have a major impact on other programs of the Department, other Federal agencies or the allocation of Federal funds nor would it have a substantial effect on the entire economy or on an individual region, industry, or level of government. Postponing the compliance date will not affect the Department's coal management program leasing schedule nor will it involve a reallocation of agency funding. The amended schedule will not increase the cost to State governments, and because of more uniform application and administration of program requirements, the new rule will permit a smoother transition from the initial regulatory program to the permanent program, thus, reducing costs of administering the program. Coal mine operators may also benefit from reduced cost of operations because of the less comprehensive regulatory program. Such benefits, however, are thought to be of minor consequence and will be temporary in nature.

The principal author of this notice, in consultation with the Solicitors Office, is John R. Carlson, Division of State and Federal Programs, Office of Surface Mining.

Dated: December 21, 1979.

Joan M. Davenport,
Assistant Secretary, Energy and Minerals.

1. Accordingly, 30 CFR 701.1(b)(3) is revised to read as follows:

§ 701.1 Scope.

(b)(3) Subchapter F on criteria for designating lands unsuitable for surface coal mining operations and the process for designating these lands or

withdrawing the designation by the regulatory authority; provided that, Part 761 is applicable during the initial regulatory program under Subchapter B of this Chapter and 30 CFR Part 211 and that Part 769 and other Parts incorporated therein are applicable to the initial Federal lands program under 30 CFR Part 211.

2. 30 CFR § 701.11 is amended by revising paragraph (b), deleting paragraph (c), redesignating and revising paragraphs (d) and (e) as paragraphs (c) and (d), respectively, and redesignating paragraph (f) as paragraph (e). As amended, § 701.11 reads as follows:

§ 701.11 Applicability.

(b) Any person who conducts surface coal mining and reclamation operations on Federal lands on and after 8 months from the date of approval of a State program or implementation of a Federal program for the State in which the Federal lands are located shall have a permit issued pursuant to 30 CFR Part 741. However, under conditions specified in 30 CFR Part 741.11(c), a person may continue such operations under a previously approved mine plan pursuant to 30 CFR Part 211 after 8 months after the date of approval of a State program or implementation of a Federal program.

(c) The requirements of Subchapter K of this Chapter shall be effective and shall apply to each surface coal mining and reclamation operation which is required to obtain a permit under the Act, on the earliest date upon which the Act and this Chapter require a permit to be obtained, except as provided in paragraph (d) of this section.

(d)(1) Each structure used in connection with or to facilitate a coal exploration or surface coal mining and reclamation operation shall comply with the performance standards and the design requirements of Subchapter K of this chapter, except that—

(i) An existing structure which meets the performance standards of Subchapter K of this chapter but does not meet the design requirements of Subchapter K of this chapter may be exempted from meeting those design requirements by the regulatory authority. The regulatory authority may grant this exemption only as part of the permit application process after obtaining the information required by 30 CFR 780.12 or 784.12 and after making the findings required in 30 CFR 786.21;

(ii) If the performance standard of Subchapter B of this chapter is at least as stringent as the comparable

performance standard of Subchapter K of this chapter, an existing structure which meets the performance standards of Subchapter B of this chapter may be exempted by the regulatory authority from meeting the design requirements of Subchapter K of this chapter. The regulatory authority may grant this exemption only as part of the permit application process after obtaining the information required by 30 CFR 780.12 or 784.12 and after making the findings required in 30 CFR 786.21;

(iii) An existing structure which meets a performance standard of Subchapter B of this chapter which is less stringent than the comparable performance standards of Subchapter K of this chapter or which does not meet a performance standard of Subchapter K of this chapter, for which there was no equivalent performance standards in Subchapter B of this chapter, shall be modified or reconstructed to meet the performance and design standard of Subchapter K of this chapter pursuant to a compliance plan approved by the regulatory authority only as part of the permit application as required in 30 CFR 780.12 or 784.12 and according to the findings required by 30 CFR 786.21;

(iv) An existing structure which does not meet the performance standards of Subchapter B of this chapter and which the applicant proposes to use in connection with or to facilitate the coal exploration or surface coal mining and reclamation operation shall be modified or reconstructed to meet the performance and design standards of Subchapter K prior to issuance of the permit.

(2) The exemptions provided in paragraph (d)(1)(i) and (d)(1)(ii) shall not apply to:

(i) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments; and

(ii) The requirements to restore to the approximate original contour of the land.

3. 30 CFR § 741.11 is amended by revising paragraph (a), deleting paragraph (c), redesignating and revising paragraph (d) as paragraph (c), and redesignating paragraph (e) as paragraph (d). As amended, § 741.11 reads as follows:

§ 741.11 General obligations.

(a) Not later than two months after the effective date of a State program or a Federal program for a State and regardless of litigation contesting the promulgation of this Subchapter each person who conducts or expects to conduct surface coal mining and

reclamation operations on Federal lands after the expiration of eight months from such effective date shall file a complete application for a permit for those operations, and except as provided in paragraph (c) of this section, on and after eight months from the effective date of a State program or a Federal program for a State, no person shall conduct surface coal mining and reclamation operations on Federal lands, unless that person has first obtained a valid permit issued by the Regulatory Authority under the Act and this part.

(c) A person who conducts surface coal mining and reclamation operations, under a mining plan approved by the Secretary in accordance with the Act and 30 CFR Part 211, may conduct those operations beyond the eight month period prescribed in paragraph (a) of this section, if all of the following conditions are present:

(1) Timely and complete application for a permit to conduct those operations under this part has been made to the Regional Director in accordance with the provisions of the Act and this part;

(2) The Director has not yet rendered a final decision with respect to the permit application pursuant to 30 CFR 741.21(a)(4) and

(3) Those operations are conducted in compliance with all terms and conditions of the approved mining plan and the requirements of the Act, 30 CFR Part 211, State laws and regulations applicable through an approved cooperative agreement, and the requirements of the applicable lease or license.

(d) Upon issuance of a new permit under this Part, the permittee shall conduct surface coal mining and reclamation operations in accordance with all requirements of the permit, and lease or license, this part and all other applicable State and Federal regulations.

4. 30 CFR 761.1 is revised to read as follows:

§ 761.1 Scope.

This Part establishes the procedures and standards to be followed in determining whether a proposed surface coal mining and reclamation operation can be authorized in light of the prohibitions and limitations in Section 522(e) of the Act for those types of operations on certain Federal, public and private lands.

5. 30 CFR § 761.4 (a)(1) and (a)(2) introductory text is revised to read as follows:

§ 761.4 Responsibility.

(a) The Secretary shall—(1) Determine whether any application for a mine plan under the initial Federal lands program or permit under the permanent Federal lands program for surface coal mining and reclamation operations on Federal lands must be denied, limited or conditional because operations on those lands are prohibited or limited by Section 522(e) of the Act (30 U.S.C. 1272(e)) and this Part;

(2) Determine, based upon a showing by an applicant, whether a mine plan applicant or an applicant for a permit covering Federal lands either—

6. 30 CFR 761.5(a)(2)(ii) is revised to read as follows:

§ 761.5 Definitions.

(a)(2)(ii) Can demonstrate to the regulatory authority that the coal is both needed for, and immediately adjacent to, an on-going surface coal mining operation for which all mine plan approvals and permits were obtained prior to August 3, 1977;

7. 30 CFR § 761.12 is amended by revising paragraphs (a), (b)(2), (c), (e), (f)(1) introductory text, and (f)(2) to read as follows:

§ 761.12 Procedures.

(a) Upon receipt of a complete mine plan application pursuant to 30 CFR Part 211 or a complete application for a surface coal mining and reclamation operation permit, the regulatory authority shall review the application to determine whether surface coal mining operations are limited or prohibited under § 761.11 on the lands which would be disturbed by the proposed operations.

(b)(2) If the regulatory authority is unable to determine whether the proposed operation is located within the boundaries of any of the lands in § 761.11(a) or closer than the limits provided in § 761.11 (f) and (g), the regulatory authority shall transmit a copy of the relevant portions of the mine plan or the permit application to the appropriate Federal, State or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it must respond within 30 days of receipt of the request.

(c) Where the proposed operation would include Federal lands within the boundaries of any national forest, and the applicant seeks a determination that

mining is permissible under § 761.11(b) of this Part, the applicant shall submit a mine plan or a permit application to the Regional Director for processing under 30 CFR Part 211 or 30 CFR Subchapter D respectively. Before acting on the mine plan or permit application, the Director shall insure that the Secretary's determination has been received and the findings required by Section 522(e)(2) of the Act (30 U.S.C. 1272(e)(2)) have been made.

(e) Where the proposed surface coal mining operations would be conducted within 300 feet measured horizontally of any occupied dwelling, the mine plan or permit applicant shall submit with the application a written waiver from the owner of the dwelling, consenting to such operations within a closer distance of the dwelling as specified in the waiver. The waiver must be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver.

(f)(1) Where the proposed surface coal mining operation may adversely affect any public park or any places included on, or eligible for listing on, the National Register of Historic Places, the regulatory authority shall transmit to the Federal, State or local agencies with jurisdiction over a statutory or regulatory responsibility for the park or historic place a copy of the completed mine plan or permit application containing the following:

(f)(2) A mine plan approval or permit for the operation shall not be issued unless jointly approved by all affected agencies.

8. 30 CFR § 769.7 is amended by revising paragraphs (b) and (c) and adding a new paragraph (d) to read as follows:

§ 769.7 Regulatory policy.

(b) Once an area of Federal lands is designated as unsuitable for all or certain types of surface coal mining operations, the authorized officer shall condition any mine plan, permit or lease in a manner so as to limit or prohibit surface coal mining operations on the designated area.

(c) Review of applications for permits on Federal lands under the permanent Federal lands program is subject to the provisions of 30 CFR Part 741 and 786.19(d)–(e).

(d) Review of mine plan applications for Federal lands under the initial Federal lands program is subject to the provisions of 30 CFR Part 211.

9. 30 CFR 769.14(i) is revised to read as follows:

§ 769.14 Procedures: Initial processing, recordkeeping, and notification requirements.

(i) Any petitions received after the close of the public comment period on the notice of availability of a mine plan under 30 CFR 211.5(b) or on a permit application relating to the same mine plan area shall not prevent the Assistant Secretary, Energy and Minerals, from approving a mine plan or the Director from issuing a decision on a permit application. The Regional Director may return any petitions received thereafter to the petitioner with a statement why the Regional Director cannot consider the petition. For the purposes of this Section, close of the public comment period for the purposes of permanent program permits shall mean at the close of any informal conference held under 30 CFR 786.14 or, if no conference is requested, at the close of the period for filing written comments and objections under 30 CFR 786.12–13.

10. 30 CFR 769.17(d) is revised to read as follows:

§ 769.17 Procedures: Hearing requirements.

(d) If any petition relates to an area of Federal lands which is the subject of a pending surface coal mining and reclamation operations mine plan or permit application, the Regional Director may, with consent of all petitioners and intervenors, coordinate the hearing on the petition required under paragraph (a) of this section with any hearing on the mine plan or informal conference held in accordance with Section 513(b) of the Act and 30 CFR 741.18 on the permit application. Nothing in this Paragraph shall relieve a mine plan applicant or an applicant for a permit from the burden of establishing that his or her application is in compliance with the requirements of the Federal lands program.

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30 CFR Parts 715, 717, 816 and 817

Surface Coal Mining and Reclamation Operations; Interim and Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of suspension and withdrawal of certain rules in 30 CFR Chapter VII, Subchapters B and K; and statement of policy regarding effect on State programs and enforcement during initial and permanent program.

SUMMARY: This notice suspends the current OSM rainfall exemption regulations from numerical effluent suspended solids limits and also suspends or withdraws portions of the sedimentation pond design criteria in both the initial and permanent surface coal mining and reclamation operations regulatory programs. This suspension will remain in effect pending further rulemaking to consider modification of the affected rules. In the interim, all surface coal mining and reclamation operations will still be subject to the applicable effluent limits and requirements to control all drainage through one or more properly designed sedimentation ponds. However, OSM will authorize the award of exemptions from the total suspended solids effluent limits by using the appropriate elements of USEPA's revised precipitation event exemption regulations, 40 CFR 434.22(c), 434.25(c), 434.32(b), 434.35(b), 434.42(b), 434.45(b), as amended.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Jose R. del Rio, Civil Engineer, Division of Technical Services, Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343-4022.

SUPPLEMENTAL INFORMATION: On March 13, 1979, OSM issued permanent program regulations which included sediment control performance standards in Subchapter K (30 CFR 816.42, 816.46 and 817.42, 817.46). Limitations on the total suspended solids (TSS) content of effluent discharged by surface coal mining and reclamation operations from disturbed areas are given at 30 CFR 816.42(a)(7) and 817.42(a)(7). The limitations of 70 mg/1 maximum allowable and 35 mg/1 average of daily values for 30 consecutive discharge days were essentially the same as those established by EPA under the Clean Water Act, 33 U.S.C. 1251, *et seq.*, for the coal mining point-source category, 40 CFR 434.22, 434.25, 434.32, 434.35, 434.42 and 434.45. To attain the TSS effluent standards, the OSM regulations required that operators utilize all necessary sediment control measures (e.g., 30 CFR 816.41, 816.45), including passing all runoff through sedimentation ponds. See, e.g. 30 CFR 816.42(a)(1) and 817.42(a)(1). The rules also set forth design criteria for these ponds

governing, *inter alia*, (1) minimum sediment storage volume, 30 CFR 816.46(b) and 817.46(b); (2) minimum runoff detention time, 30 CFR 816.46(c) and 817.46(c); (3) minimum discharge rate for dewatering devices, 30 CFR 816.46(d) and 817.46(d); and (4) minimum sediment removal frequency, 30 CFR 816.46(h) and 817.46(h). The regulations also contained an exemption from the TSS effluent limits during certain precipitation events:

§§ 816.42 and 817.42—(b) A discharge from the disturbed areas is not subject to the effluent limitations of this Section, if—

(1) The discharge is demonstrated by the discharge to have resulted from a precipitation event equal to or larger than a 10-year 24-hour precipitation event; and

(2) The discharge is from facilities designed, constructed, and maintained in accordance with the requirements of this Part.

An operator was eligible for this exemption only if his or her pond met OSM criteria and the discharge from the pond was caused by an actual 10-year 24-hour precipitation event. The same requirements for the surface effects of underground mining are found in §§ 817.42 and 817.46. To test the utility of OSM's pond design criteria for meeting TSS effluent limits, OSM and EPA commissioned two studies which were completed this summer: Skelly and Loy "Evaluation of Performance Capability of Surface Mine Sediment Basins" and D'Appolonia's "Evaluation of Sedimentation Pond Design Relative to Capacity and Effluent Discharge." Notice of the availability of these documents was published by EPA in the Federal Register on August 4, 1979, 44 FR 47595.

On September 21, 1979, the Joint National Coal Association/American Mining Congress Committee on Surface Mining Regulations (NCA/AMC) petitioned OSM to immediately suspend the TSS effluent limits and sedimentation pond design criteria, and to reconsider those regulations in light of the studies. On October 18, 1979, OSM published notice of receipt of the petition and solicited comments on whether it should be granted. 44 FR 60226.

As a result of information in the record as a whole, including the data contained in the recent studies and the comments on NCA/AMC's petition, OSM has decided, first, to grant the petition in part by suspending today certain rules of its permanent program rules, pending further modification through rulemaking. As a related matter, OSM is also today suspending or withdrawing the corresponding rules of

the initial regulatory program, 30 CFR 715.17 and 717.17.

Summary and Basis for Suspension

A. Interrelationship of EPA and OSM Rules. In developing regulations for effluents from coal mining operations, OSM has always been aware that there were certain circumstances under which it was unlikely, if not impossible, for operators to comply with the TSS effluent limits. Under both the initial program (30 CFR 715.17(a)(1) and 717.17(a)(1)) and the permanent program (30 CFR 816.42(b) and 817.42(b)), an operator has been excused from meeting effluent limits for discharges from the disturbed area resulting from a 10-year 24-year precipitation event. However, the Skelly and Loy study indicated that even using OSM design criteria, ponds could not meet the TSS effluent limits during the precipitation events which were modeled. OSM has previously noted (44 FR 60226):

That the matters covered in the (NCA/AMC) petition are related to the U.S. Environmental Protection Agency (EPA) regulations (40 CFR 434) covering the coal industry under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act, 33 U.S.C. 1251 *et seq.* On April 26, 1977, EPA promulgated final regulations establishing effluent limitation guidelines based on best practicable control technology currently available (BPT) for existing sources in the coal mining point source category 42 FR 21380. On January 12, 1979, EPA promulgated standards of performance for new sources (NSPS) within the coal mining category based on the best available demonstrated control technology. 44 FR 2586. Both sets of EPA regulations on numerical effluent limitations for discharges of total suspended solids are similar to those promulgated by OSM at 30 CFR 816.42(a)(7) and 817.42(a)(7).

After having previously revised its catastrophic rainfall exemption for the BPT regulations to conform to the corresponding provision in its NSPS regulations, EPA revised the exemption provision for both the BPT and NSPS rules on July 6, 1979. 44 FR 39391-39392. At that time EPA solicited public comment on what type of final revised rainfall exemption should be adopted at 40 CFR 434. Following the publication of the Skelly and Loy and D'Appolonia reports described above, EPA supplemented its request for comments to include consideration of those reports. 44 FR 47595 (August 14, 1979). On September 25, 1979, EPA extended this public comment period from a deadline of October 3, 1979, to October 19, 1979. 44 FR 55223.

Comments received by OSM on the NCA/AMC petition and by EPA on its proceedings were reviewed by a joint agency working group in order to coordinate agency action on this common issue.

EPA has advised OSM that its final rule on the rainfall exemption applicable to the coal industry will be published in the Federal Register in the immediate future. The original EPA exemption is found in 40 CFR Part 434, 434.22(c), 434.25(c), 434.32(b), 434.35(b), 434.42(b), 434.45(b), and will be revised to read as follows:

Any overflow, increase in volume of a discharge or discharge from a by-pass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this subsection have been met.

In the preamble to the final rule, EPA will also indicate that it is continuing to gather information on the entire TSS issue and anticipates proposing further amendments to its effluent limitation regulations in the spring of 1980. OSM will continue to coordinate its rulemaking actions closely with EPA on this issue and intends to propose amendments to its own rules at or about the same time as EPA.

B. The Total Suspended Solids Effluent Limitations. The primary reason for the suspension of the existing OSM rainfall exemptions is recognition of the fact that the record does not contain substantial data correlating total suspended solids effluent quality with particular rainfall levels. Therefore, OSM is unable to fairly determine what suspended solids concentrations result on the national scale from the use of conventional physical sediment removal technologies during major precipitation events when a sediment pond's required containment capacity (i.e., run off from a 10-year 24 hour storm) is exceeded. Moreover, the record does not disclose what TSS concentration will occur during these types of storm events, if chemical treatment is used in lieu of, or in addition to physical sediment removal.

The effectiveness of both physical and chemical treatment in this regard will be better known in the near future when the results of EPA's current data-collection efforts are known. At that time, the data deficiencies discussed above should be cured. Then, specific rainfall-level TSS effluent limits can be established, premised on best available physical and/or chemical sediment removal technologies.

Finally, OSM notes that substantial criticism of the model utilized in the Skelly and Loy studies was raised by commenters, some of whom claimed that it under predicted suspended solids discharges and others arguing that it was too conservative. OSM agrees that the model probably did not perfectly predict actual mine performances, particularly since the study did not include detailed validation sampling of sediment size distributions and effluent values during high-intensity rainfalls. However, the model does show that, in the absence of such sampling, it is questionable that the 35/70 mg/1 values can be used during substantial rainfalls. Moreover, the model results did not in any way disprove the conclusion reached long ago that the numerical effluent limits can be achieved during base flows.

As OSM understands NCA/AMC's petition, its primary objection to 30 CFR 816.42(a)(7) and 817.42(a)(7) was that the effluent limitations established therein for TSS solids could not be achieved during substantial precipitation events by the use of conventional physical sediment removal technologies. NCA/AMC contended that, primarily because of the conclusion of the Skelly and Loy report, those effluent limitations could not be achieved during substantial precipitation events with the use of sediment control measures required by 30 CFR 816.46 and 817.46. OSM received a range of comments on this aspect of the NCA/AMC's petition.

Some commenters said that the TSS limits could not be met at any time. OSM disagrees. During "base flows," that is when flows from the disturbed area are not the direct result of a substantial precipitation event, the weight of the available data shows that the TSS effluent limits can be achieved. See preamble to 30 CFR 816.42 at 44 FR 15151-15156. Moreover, the Skelly and Loy report itself showed that these limits could be met during base flows, a matter also confirmed by the original EPA "Development Document", supporting EPA's effluent limit regulations. As a related matter, OSM has rejected comments which objected to the establishment of generic TSS effluent limitations, rather than on a case-by-case basis according to the water quality of particular receiving streams. The effluent limitations are the expression of measuring the use of "best available control technology" under Sections 515(b)(10)(B) and (b)(24) of the Surface Mining and Control Act (SMCRA) and similar technology requirements under the Clean Water Act. Uniform effluent limits are needed

to ensure a national minimum level of uniformity in furtherance of congressional policy. See Sections 101(g) and 102(g) of SMCRA.

Other commenters supported NCA/AMC's petition on the basis of the Skelly and Loy Report's conclusions that the TSS effluent limitation could not be met during substantial rainfalls. After careful analysis of all the relevant data, OSM has decided that this material tends to establish that these effluent limitations may not be achievable with the use of conventional physical sediment removal measures only when flows are in direct response to a substantial rainfall or snowmelt. As a result, OSM has decided to suspend its existing precipitation event exemption at 30 CFR 816.42(b) and 817.42(b).

In place of those rules, OSM instead will authorize the granting of exemptions for sediment discharges from the disturbances according to the elements of the corresponding exemption allowable under EPA's rules, 40 CFR 434.22(c), 434.32(b), and 434.42(b). We note that EPA intends to issue a final amended rainfall exemption rule in the near future. OSM will, of course, utilize the elements of the revised EPA rule until a change to the OSM rules can be made by further rulemaking. We note that the corresponding rainfall exemption under our initial program rules (30 CFR 715.17(a)(1) and 717.17(a)(1)) will be similarly suspended and the relevant elements of EPA's revised rainfall exemption used in lieu thereof.

However, the application of the rainfall exemption by OSM will differ from that of EPA. The OSM TSS effluent limitations apply to all "disturbed areas" as that term is defined in 30 CFR 701.5 and 816.42, and apply throughout the reclamation phase of mining as that term is defined in 30 CFR 701.5, whereas the EPA TSS effluent limitations apply only to the active mining area or to mixed discharges from the active and reclamation areas. Therefore, OSM will allow for rainfall exemption to all "disturbed areas" throughout the life of a surface coal mining and reclamation operation (i.e., until bond release) by use of the elements of EPA's revised exemption.

C. Sedimentation Pond Design Criteria. The NCA/AMC petition also requested immediate suspension and reconsideration of OSM sedimentation pond design criteria in light of information contained in the Skelly and Loy study. OSM design criteria for ponds in Section 816.46 and 817.46 require, among other factors (1) minimum sediment storage capacity, (2) minimum detention time, (3) minimum

standards for dewatering devices, (4) prohibitions on short-circuiting, (5) minimum emergency spillway requirements, (6) minimum sediment removal frequency, and (7) various pond embankment design standards. These design criteria for ponds were formulated on the expectation that they would result in operators meeting the TSS effluent limitations of §§ 816.42(a)(7) and 817.42(a)(7).

Commenters supporting the petition urged OSM to suspend its design criteria. It was argued that the record showed that OSM designed ponds could not meet effluent limitations during substantial precipitation events; that OSM ponds could not remove fine sediment particles during precipitation events even with maximum detention time; and that OSM ponds were too large and too costly. Because of the data contained in the studies and the comments, OSM has decided to suspend certain of its specific design criteria pending further rulemaking. The methods for determining minimum sediment storage volume and detention time will be suspended, but the general requirements that ponds provide a minimum sediment storage volume (§§ 816.46(b) and 817.46(b)) and that ponds hold the volume of water resulting from a 10-year 24-hour precipitation event (§§ 816.46(c) and 817.46(c)), will be retained. OSM believes that the portions of §§ 816.46(b)-(e) and 817.46(b)-(e) which are not being suspended are, in any event, equivalent to the technology required under the revised EPA rainfall exemptions.

In addition, OSM will suspend dewatering device requirements and sediment removal requirements which are tied to the specific sediment storage volume and theoretical detention time. General requirements that ponds have a dewatering device (§§ 816.46(d) and 817.46(d)) and that sediment be removed from ponds (§§ 816.46(h) and 817.46(h)) will be retained.

Some commenters objected that the use of a 10-year 24-hour event as the inflow standard around which pond performance is built was arbitrary. The use of the 10-year 24-hour event is required in order that OSM's rule be consistent with EPA's requirements. See 40 CFR 434.22(b), as amended. Additional discussion of this issue is found in 42 FR 46932 and 44 FR 15164.

In summary, OSM has decided to suspend certain specific design criteria relating to sediment storage capacity and detention time, and to initiate rulemaking on these questions. However, ponds still must be sufficient to handle a 10-year 24-hour event, and

they are still subject to all other design criteria. Moreover, they must be safe and, therefore, will be required to meet the non-suspended portions of §§ 816.46 and 817.46.

OSM notes that the same commenters renewed objections made in prior rulemakings that no design criteria should exist for sediment pond. OSM did not accept those suggestions. National design criteria are necessary to implement §§ 515(b)(11)(B) and 515(b)(24) of the Act, to ensure a minimum level of national uniformity in the control of sediment. See §§ 101(g) and 102(a)-(d) of SMCRA.

Finally, we note that the reasons for suspension of certain portions of 30 CFR 816.45 and 817.46 justify corresponding changes to the equivalent requirements of the initial program rules, 30 CFR 715.17(e) and 717.17(e). The initial rules were revised and published on May 25, 1979, 44 FR 30610-30634, but have not yet been made effective as a result of the order of Judge Flannery on May 3, 1978. See, *In Re: Surface Mining Regulation Litigation*, 452 F. Supp. 321, (D.D.C. 1978). Therefore, OSM will withdraw the relevant provision of §§ 715.17(e) and 717.17(e). All other portions of §§ 715.17(e) and 717.17(e) will continue to stand for approval.

Statement of Policy Regarding Enforcement by OSM and Effects on State Programs

Enforcement

In the interim program OSM will continue to enforce the requirement that (1) all water from the disturbed area pass through a sediment pond or ponds, (2) all discharges from such ponds meet the effluent limitations, and (3) all other hydrologic protection requirements of 30 CFR 715.17 and 717.17, other than subsection (e), be complied with.

After the suspension, in the interim program OSM will enforce the effluent limitations including those for total suspended solids (TSS) contained in 30 CFR 715.17(a) and 717.17(a). For the purpose of granting rainfall exemptions in TSS discharges, OSM will utilize the applicable elements of EPA's revised rainfall exemption which is set forth above in the Supplemental Information and which will be published shortly by EPA.

The suspension of OSM's statement of the exemption and the adoption of the applicable elements of EPA's exemption will make the enforcement of the TSS limit more complex, but will achieve the same degree of environmental protection as the current interim regulations provide. When a violation of the TSS limits is observed and

documented, the burden remains on the mine operator to demonstrate that the discharge is exempted. In order to show this the mine operator must show, first, that he or she has designed, constructed, and maintained the facility to contain or treat the volume of water which would run off into the pond during a 10-year 24-hour or greater precipitation event. Second, the mine operator must show that there has been an actual overflow, increase in volume of a discharge, or discharge from a by-pass system caused by a precipitation event. In order to do this, the operator may be required to produce concrete evidence such as photographs, hydrographs, weir measurements, baseflow data, etc., to show that the overflow, increase in volume, or bypass was caused by a precipitation event. Conclusory, self-serving statements will not suffice to justify an exemption. Moreover, since the operator must show that the discharge was caused directly by a precipitation event, pumping from the pond by the operator would not qualify for an exemption.

Field determination of whether an operator qualifies for an exemption will be left to the judgment of the inspector. Until such time as OSM adopts more specific design criteria for determining the adequate size of sediment ponds, OSM will utilize the major technical publications in the field to interpret the phrase "designed, constructed, and maintained to contain or treat the volume of water which would fall . . . during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume) . . ." on a case-by-case basis. These works include those cited in the Preamble to the Permanent Regulations at 44 FR 15142 to 15148 (March 13, 1979), especially those numbered 50, 53, 61, 62, 72, 141, 143, 144, 145, and 146. Notices of violations or cessation orders as appropriate will be written for effluent limitations violations, unless the inspector determines that the exemption applies. Appeal of an inspector's action will, of course, be available to operators and citizens through the administrative review process.

It is important to note what this rainfall exemption does not do. First, it has no effect on the requirement of 30 CFR 715.17(a) and 717.17(a) that all drainage from the disturbed area, including disturbed areas that have been graded, seeded, and planted, must pass through a sediment pond or ponds. Thus, there is no change in the OSM requirement of treatment through the reclamation process. Second, the use of the applicable elements of EPA's

exemption does not apply to any applicable limitation other than TSS. Third, the exemption does not relieve the mine operator of either treating water from the undisturbed area above the mining area that mixes with water from the disturbed area or diverting that water from the undisturbed area around and away from the pond. If an operator does not divert, his or her pond must be designed, constructed and maintained to hold or treat the entire volume of runoff that reaches the pond in the prescribed precipitation event in order to qualify for the exemption.

There are portions of 30 CFR 715.17(e) and 717.17(e) promulgated on May 25, 1979, and presently pending before the District Court for approval that are not here suspended. Those portions would require that sedimentation ponds have a minimum sediment storage capacity specified by the regulatory authority and that the sediment be removed from those ponds at a frequency specified by the regulatory authority. They would also impose certain safety criteria on ponds. OSM will press the District Court for approval of those remaining portions of 30 CFR 715.17(e) and 717.17(e). When approved, OSM will also enforce those requirements.

Effect on State Programs

OSM is concerned that the submission and approval of State programs proceed expeditiously without imposing an undue burden on the States and associated parties that may be affected by those areas where the suspension is proposed. This general guidance is offered to assist the States in preparing their programs for submission. OSM believes that effluent limitations, the rainfall exemption, and pond safety and size criteria will ordinarily be dealt with by a State in regulation rather than statute. Therefore, this suspension should pose no difficulty in preparation of State statutes, provided State statutes will allow the adoption of the necessary regulations.

The State program as a whole—statute and regulations together—must meet the following minimum criteria with respect to sediment control and sediment ponds. First, the program must provide that all discharge from the disturbed area will pass through a pond or ponds. Second, the applicable effluent limitations must be met. Third, the safety construction requirements must be met. Fourth, all other provisions of hydrologic balance requirements of the Act and regulations must be met. OSM anticipates that any pond that meets these standards is likely to qualify as an existing structure under 30 CFR 701.11(e) of the permanent program regulation

and therefore will be exempted from reconstruction in the permanent program.

OSM will provide States an opportunity to amend or modify State programs or State program proposals should the Federal regulations dealing with pond size not be amended in sufficient time for States to include corresponding regulations in their State programs in their initial submission. Authorities for such adjustments include the provisions for modifications of proposals during the initial stage of program review in accordance with 30 CFR 732.11; for conditional approval under 30 CFR 732.13; or program amendment under 30 CFR 732.17.

Dated: December 21, 1979.

Joan Davenport,
Assistant Secretary, Energy and Minerals.

Notice of Suspended Regulations

Legal Authority.

Sections 101, 102, 201, 501, 503, 504, 505, 506, 507, 508, 509, 510, 515, 516, 517, 523, and 701, Surface Mining Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1201, 1202, 1211, 1251-1260, 1265-1267, 1273, 1291.

Portions of the following regulations are hereby suspended or revoked, as listed below:

§ 715.17(a)(1) [Amended]

A. The following language is suspended insofar as it applies to TSS discharges:

(1) Any overflow or other discharge or surface water from the disturbed area within the permit area demonstrated by the permittee to result from a precipitation event larger than 10-year, 24-hour frequency event will not be subject to the effluent limitations of paragraph (a).

§ 715.17(e)(2) [Amended]

B. The following language is revoked: ". . . equal to—

(i) The accumulated sediment volume from the drainage area to the pond for a minimum of 3 years, sediment storage volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and the sediment delivery ratio converted to sediment volume, using either the sediment density or other empirical methods derived from regional sediment pond studies if approved by the regulatory authority; or

(ii) 0.1 acre-foot for each acre of disturbed area within the upstream drainage or a greater amount if required by the regulatory authority based upon sediment yield to the pond. The regulatory authority may approve a sediment storage volume of not less

than 0.035 acre-foot for each acre of disturbed area within the upstream drainage area, if the person who conducts the surface mining activities demonstrates that sediment removed by other sediment control measures is equal to the reduction in sediment storage volume."

§ 715.17(e)(3) [Amended]

C. The following language is revoked: ". . . Theoretical detention time is defined as the average time that the design flow is detained in the pond; and is further defined as the time difference between the centroid of the inflow hydrograph and the centroid of the outflow hydrograph for the design event. Runoff diverted under sections 715.17(c) and 715.17(d), away from the disturbed drainage areas and not passed through the sedimentation pond need not be considered in sedimentation pond design. In determining the runoff volume, the characteristics of the mine site, reclamation procedures, and onsite sediment control, practices shall be considered. Sedimentation ponds shall provide a theoretical detention time of not less than twenty-four hours, or any higher amount required by the regulatory authority, except as provided under subparagraphs (i), (ii), or (iii) of this paragraph.

(i) The regulatory authority may approve a theoretical detention time of not less than 10 hours, when the person who conducts the surface mining activities demonstrates that—

(A) The improvement in sediment removal efficiency is equivalent to the reduction in detention time as a result of pond design. Improvements in pond design may include but are not limited to pond configuration, in-flow and out-flow facility locations, baffles to decrease in-flow velocity and short-circuiting, and surface areas; and

(B) The pond effluent is shown to achieve and maintain applicable effluent limitations.

(ii) The regulatory authority may approve a theoretical detention time of not less than 10 hours when the person who conducts the surface mining activities demonstrates that the size distribution or the specific gravity of the suspended matter is such that applicable and maintained.

(iii) The regulatory authority may approve a theoretical detention time of less than 24 hours to any level of detention time, when the person who conducts the surface mining activities demonstrates to the regulatory authority that the chemical treatment process to be used—

(A) Will achieve and maintain the effluent limitations; and

(B) Is harmless to fish, wildlife, and related environmental values.

(iv) The calculated theoretical detention time and all supporting documentation and drawings used to establish the required detention times under the subparagraph (3)(i)-(iii) of this Section shall be included in the permit application.

§ 717.15(e)(4) [Amended]

D. The following language is revoked: "... and shall have a discharge rate to achieve and maintain the required theoretical detention time.

§ 717.15(e)(5) [Amended]

E. The following language is revoked:

"... when the volume of sediment accumulates to 60 percent of the design sediment storage volume. With the approval of the regulatory authority, additional permanent storage may be provided for sediment and/or water above that required for the design sediment storage. Upon the approval of the regulatory authority for those cases where additional permanent storage is provided above that required for sediment under Paragraph (2) of this Section, sediment removal may be delayed until the remaining volume of permanent storage has decreased to 40 percent of the total sediment storage volume provided the theoretical detention time is maintained."

§ 717.17(a)(3)(i) [Amended]

F. The following language is suspended insofar as it applies to TSS discharges:

(i) Any overflow or other discharge of surface water from the disturbed area within the permit area demonstrated by the permittee to result from a precipitation event larger than the 10-year 24-hour frequency event will not be subject to the effluent limitations of paragraph (a).

§ 717.17(e)(2) [Amended]

C. The following language is revoked: "... equal to—

(i) The accumulated sediment volume from the drainage area to the pond for a minimum of 3 years or the life of the pond, whichever is greater. Sediment storage volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and the sediment delivery ratio converted to sediment volume. Conversions shall use either the sediment density or other empirical methods derived from regional sediment pond studies may be used if approved by the regulatory authority; or

(ii) 0.1 acre-foot for each acre of disturbed area within the upstream drainage area or a greater amount if

required by the regulatory authority based upon sediment yield to the pond.

The regulatory authority may approve sediment storage volume of not less than 0.0035 acre-foot for each acre of disturbed area within the upstream drainage area, if the person who conducts the underground mining activities has demonstrated that sediment removed by other sediment control measures is equal to the reduction in sediment storage volume; and

(iii) The accumulated sediment volume necessary to retain sediment for 1 year in any discharge from the underground mine passing through the pond."

§ 717.17(e)(3) [Amended]

H. The following language is revoked:

"... Theoretical detention time is defined as the average time that the design flow is detained in the pond; and is further defined as the time difference between the centroid of the inflow hydrograph and the centroid of the outflow hydrograph for the design event. Runoff diverted under Section 717.17(c) and 717.17(d) away from the disturbed drainage areas and not passed through the sedimentation pond, need not be considered in a sedimentation pond design. In determining the runoff volume, the characteristics of the mine site, reclamation procedures, and onsite sediment control practices shall be considered. Sedimentation ponds shall provide a theoretical detention time of not less than twenty-four hours, or any higher amount required by the regulatory authority, except as provided under Paragraphs (i), (ii), or (iii) of this Subsection.

(i) The regulatory authority may approve a theoretical detention time of not less than 10 hours, when the person who conducts the underground mining activities demonstrates that—

(A) The improvement in sediment removal efficiency is equivalent to the reduction in detention time as a result of pond design. Improvements in pond design may include but are not limited to pond configuration, in-flow and out-flow facility locations, baffles to decrease in-flow velocity and short-circuiting, and surface areas; and

(B) The pond effluent is shown to achieve and maintain applicable effluent limitations.

(ii) The regulatory authority may approve a theoretical detention time of not less than 10 hours when the person who conducts the underground mining activities demonstrates that the size distribution or the specific gravity of the suspended matter is such that

applicable effluent limitations are achieved and maintained.

(iii) The regulatory authority may approve a theoretical detention time of less than 24 hours to any level of detention time, when the person who conducts the underground mining activities demonstrates to the regulatory authority that the chemical treatment process to be used—

(A) Will achieve and maintain the effluent limitations;

(B) Is harmless to fish, wildlife, and related environmental values;

(iv) The calculated theoretical detention time and all supporting documentation and drawings used to establish the required detention times under Subparagraphs (3)(iii) of this Section shall be included in the permit application."

§ 717.17(e)(4) [Amended]

I. The following language is revoked:

"... and shall have a discharge rate to achieve and maintain the required theoretical detention time."

§ 717.17(e)(5) [Amended]

J. The following language is revoked:

"... when the volume of sediment accumulates to 60 percent of the design sediment storage volume. With the approval of the regulatory authority additional permanent storage may be provided for sediment and/or water above that required for the design sediment storage. Upon the approval of the regulatory authority for those cases where additional permanent storage is provided above that required for sediment under Paragraph (2) of this Section, sediment removal may be delayed until the remaining volume of permanent storage has decreased to 40 percent of the total sediment storage volume provided the theoretical detention time is maintained."

Portions of the following regulations are suspended, as explained below:

§ 816.42(b) [Amended]

A. The following portion of 30 CFR 816.42(b) is suspended insofar as it applies to TSS discharges:

"(1) The discharge is demonstrated by the discharger to have resulted for the precipitation event equal to or larger than a 10-year 24-hour precipitation event; and

(2) The discharge is from facilities designed, constructed, and maintained in accordance with the requirements of this Part."

§ 816.46(b), (c), (d) and (h) [Amended]

B. 30 CFR 816.46(b)

"... equal to—

"(1) The accumulated sediment volume from the drainage area to the pond for a minimum of 3 years. Sediment storage volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and the sediment volume, using either the sediment density or other empirical methods derived from regional sediment pond studies if approved by the regulatory authority; or

(2) 0.1 acre-foot for each acre of disturbed area within the upstream drainage area or a greater amount if required by the regulatory authority based upon sediment yield to the pond. The regulatory authority may approve a sediment storage volume of not less than 0.035 acre-foot for each acre of disturbed area within the upstream drainage, if the person who conducts the surface mining activities demonstrates that sediment removed by other sediment control measures is equal to the reduction in sediment storage volume."

C. 30 CFR 816.46(c)

"... Theoretical detention time is defined as the average time that the design flow is detained in the pond; and is further defined as the time difference between the centroid of the inflow hydrograph and the centroid of the outflow hydrograph for the design event. Runoff diverted under Sections 816.43 and 816.44, away from the disturbed drainage areas and not passed through the sedimentation pond need not be considered in sedimentation pond design. In determining the runoff volume, the characteristics of the mine site, reclamation procedures, and onsite sediment control practices shall be considered. Sedimentation ponds shall provide a theoretical detention time of not less than twenty-four hours, or any higher amount required by the regulatory authority, except as provided under subparagraphs (1), (2), or (3) of this paragraph.

(1) The regulatory authority may approve a theoretical detention time of not less than 10 hours, when the person who conducts the surface mining activities demonstrates that—

(i) The improvement in sediment removal efficiency is equivalent to the reduction in detention time as a result of pond design. Improvements in pond design may include but are not limited to pond configuration, in-flow and out-flow facility locations, baffles to decrease in-flow velocity and short-circuiting, and surface areas; and

(ii) The pond effluent is shown to achieve and maintain applicable effluent limitations.

(2) The regulatory authority may approve a theoretical detention time of not less than 10 hours when the person who conducts the surface mining activities demonstrates that the size distribution or the specific gravity of the suspended matter is such that applicable effluent limitations are achieved and maintained.

(3) The regulatory authority may approve a theoretical detention time of less than 24 hours to any level of detention time, when the person who conducts the surface mining activities demonstrates to the regulatory authority that the chemical treatment process to be used—

(i) Will achieve and maintain the effluent limitations; and

(ii) Is harmless to fish, wildlife, and related environmental values.

(4) The calculated theoretical detention time and all supporting documentation and drawings used to establish the required detention times under subparagraphs (c) (1)-(3) of this Section shall be included in the permit application."

D. 30 CFR 816.46(d)

"... and shall have a discharge rate to achieve and maintain the required theoretical detention time.

E. 30 CFR 816.46(h)

"... when the volume of sediment accumulates to 60 percent of the design sediment storage volume. With the approval of the regulatory authority additional permanent storage may be provided for sediment and/or water above that required for the design sediment storage. Upon the approval of the regulatory authority for those cases where additional permanent storage is provided above that required for sediment under Paragraph (b) of this Section, sediment removal may be delayed until the remaining volume of permanent storage has decreased to 40 percent of the total sediment storage volume provided the theoretical detention time is maintained."

§ 817.42(b) [Amended]

F. The following portion of 30 CFR 817.42(b) is suspended insofar as it applies to TSS discharges:

"(1) The discharge is demonstrated by the discharger to have resulted from a precipitation event equal to or larger than a 10-year, 24-hour precipitation event; and

(2) The discharge is from facilities designed, constructed, and maintained in accordance with the applicable requirements of this Part."

§ 817.46 (b) and (c) [Amended]

G. 30 CFR 817.46(b)

"... equal to—

(1) The accumulated sediment volume from the drainage area to the pond for a minimum of 3 years of the life of the pond whichever is greater. Sediment storage volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and the sediment delivery ratio converted to sediment volume. Conversions shall use either the sediment density or other empirical methods derived from regional sediment pond studies may be used if approved by the regulatory authority; or

(2) 0.1 acre-foot for each acre of disturbed area within the upstream drainage area or a greater amount if required by the regulatory authority based upon sediment yield to the pond. The regulatory authority may approve a sediment storage volume of not less than 0.035 acre foot for each acre of disturbed area within the upstream drainage area, if the person who conducts the underground mining activities has demonstrated that sediment removed by other sediment control measures is equal to the reduction in sediment storage volume; and

(3) The accumulated sediment volume necessary to retain sediment for 1 year in any discharge from the underground mine passing through the pond."

H. 30 CFR 817.46(c)

"... from a 10-year, 24-hour precipitation event (design event), plus the average inflow from the underground mine. Theoretical detention time is defined as the average time that the design flow is detained in the pond; and is further defined as the time difference between the centroid of the inflow hydrograph and the centroid of the outflow hydrograph for the design event. Runoff diverted under sections 817.43 and 817.44 away from the disturbed drainage areas and not passed through the sedimentation pond, need not be considered in sedimentation pond design. In determining the runoff volume, the characteristics of the mine site, reclamation procedures, and onsite sediment control practices shall be considered. Sedimentation ponds shall provide a theoretical detention time of not less than twenty-four hours, or any higher amount required by the regulatory authority, except as provided under Paragraphs (1), (2) or (3) of this Subsection.

(1) The regulatory authority may approve a theoretical detention time of not less than 10 hours, when the person who conducts the underground mining activities demonstrates that—

(i) The improvement in sediment removal efficiency is equivalent to the

reduction in detention time as a result of pond design. Improvements in pond design may include but are not limited to pond configuration, in-flow and out-flow facility locations, baffles to decrease in-flow velocity and short-circuiting, and surface areas; and

(ii) The pond effluent is shown to achieve and maintain applicable effluent limitations.

(2) The regulatory authority may approve a theoretical detention time of not less than 10 hours when the person who conducts the underground mining activities demonstrates that the size distribution or the specific gravity of the suspended matter is such that applicable effluent limitations are achieved and maintained.

(3) The regulatory authority may approve a theoretical detention time of less than 24 hours to any level of detention time, when the person who conducts the underground mining activities demonstrates to the regulatory authority that the chemical treatment process to be used—

(i) Will achieve and maintain the effluent limitations; and

(ii) Is harmless to fish, wildlife, and related environmental values.

(4) The calculated theoretical detention time and all supporting documentation and drawings used to establish the required detention times under Subparagraphs (c) (1)–(3) of this Section shall be included in the permit application."

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30 CFR Parts 783, 785, 816, 817, and 823

Surface Mining and Reclamation Operations; Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of suspension.

SUMMARY: Notice is given that the Secretary intends to publish interpretations of certain rules and that others are suspended pending the outcome of rulemaking to consider modifications of those rules. Rules affected deal with negative determinations for prime farmlands, geologic descriptions of strata beneath surface operations and facilities associated with underground mines, alternative postmining land use determinations for underground mines, the permanent program prime farmland grandfather clause, the most bulk

density criteria for prime farmland soil compaction, underdrain requirements for coal processing waste banks, ground water monitoring of recharge capacity for underground mines, and reference area requirements for certain underground mines.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Paul L. Reeves, Deputy Director, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240; (202) 343-4222.

SUPPLEMENTARY INFORMATION: On March 13, 1979, OSM published its permanent program regulations (44 FR 14901 *et seq.*) implementing Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), P.L. 95-87, 30 U.S.C. 1251-1279. As a result of issues raised during litigation on the permanent program regulations (*In re Permanent Surface Mining Regulation Litigation*, Civil Action No. 79-1144, Consolidated (D.D.C. filed May 1979)), OSM has recognized the need to propose changes to certain sections of those regulations and publish interpretations of others. A prior notice was published in the Federal Register suspending the effectiveness of certain regulations at issue in the "first round" of this litigation. 44 FR 67942 (November 27, 1979). The present notice suspends certain regulations at issue in the "second round" pending completion of rulemaking to consider their amendment and gives notice of intent to publish interpretations of other rules at issue in this litigation. Notices proposing revisions to or stating interpretations of the rules will be published in the Federal Register in the foreseeable future.

STATEMENT OF POLICY REGARDING STATE PROGRAMS: OSM is concerned that the submission and approval of State regulatory programs proceed expeditiously without imposing an undue burden on the States and associated parties that may be affected by those areas where rules are being suspended and new regulations will be proposed. This general guidance is offered to assist States in preparing their programs for submission. Where the suspended regulations have explicit underpinnings in SMCRA, States must still include corresponding statutory provisions in their program applications. For instance, although the Secretary is suspending his rule (30 CFR 785.17(a)) implementing the grandfather clause exemption from certain prime farmland requirements of the permanent program, State statutes must, nevertheless, contain a statutory provision corresponding to the statutory grandfather clause in Section 510(d)(2)

of the SMCRA, 30 U.S.C. 1260(d)(2). Where a regulation has been suspended, the State program can have any regulatory provision or no regulatory provision at all, so long as the State program is in accordance with the requirements of the Act and is not inconsistent with regulations which were not suspended. OSM will provide States an opportunity to amend or modify State programs or State program proposals should the Federal regulations which are being suspended not be amended in sufficient time for States to include corresponding regulations in their initial State program submission.

Authorities for such adjustments include the provisions for modifications of proposals during the initial stage of program review in accordance with 30 CFR 732.11; for conditional approval under 30 CFR 732.13; or program amendment under 30 CFR 732.17.

NOTICE OF FUTURE ACTIONS: 30 CFR 779.27(b)(4) and 783.27(b)(4). The Secretary intends to publish his interpretation of the phrase "other factors" in these sections as being limited solely to those factors contained in the Secretary of Agriculture's regulations for identification of prime farmland (7 CFR 657.5(a)(2)). Section 779.27(b)(4) and 783.27(b)(4) merely provide for a determination that lands within a proposed permit area clearly do not meet the USDA technical criteria for prime farmland as set forth at 7 CFR 657.5(a)(2). At no time did OSM intend that the reference to "other factors" extend to matters not expressly covered by § 657.5(a)(2).

30 CFR 783.22, 784.15, and 817.133. The Secretary intends to publish his interpretation of these regulations to allow an operator to apply through the permit revision or renewal procedures of 30 CFR 788.12-788.15 for regulatory authority approval of an alternative postmining land use toward the end of the life of an underground mine rather than obtaining such approval in the original permit, if the original permit demonstrates that the land will be returned to its premining land use capability as required by 30 CFR 817.133(a).

30 CFR 817.116. The Secretary will propose an amendment to this regulation comparable to that in 30 U.S.C. 816.116(d) for surface mines, to add a provision that, for underground mine permit areas of 40 acres or less in locations with an average annual precipitation of more than 26 inches, certain specified performance standards may be used as an alternative to reference areas to measure revegetation success. The existing regulation remains in effect.

JUSTIFICATION FOR IMMEDIATE EFFECTIVE DATE OF SUSPENSION. Pending the outcome of the upcoming rulemakings, certain of the rules must be suspended immediately so as not to prejudice the interests of the plaintiffs in the lawsuit. In addition, maintaining regulations in effect which OSM has determined should be proposed for amendment would be unfair to the States which have submitted or are preparing State program applications for filing by March 3, 1980. As these regulations have no direct impact upon existing or new coal mining operations at this time, their temporary suspension will have little adverse effect upon achieving the Act's purposes pending completion of the rulemaking process.

Dated: December 21, 1979.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

In consideration of the foregoing the following regulations are suspended:

1. 30 CFR 783.14(a)(1). The regulation is suspended insofar as it requires a geologic description of the strata down to and including the strata immediately below any coal seam for areas to be affected only by "surface operations and facilities," where no removal of overburden down to the level of the coal seam will occur. For purposes of this suspension test borings and core samplings do not constitute removal of the overburden down to the coal seam. However, geologic descriptions will continue to be required for areas where overburden is being removed to the level of the coal seam and for certain specified "surface operations and facilities" where required by other regulatory requirements. See 30 CFR 783.25, 784.16(e) and 784.24(b).

Authority: 30 U.S.C. 515(b), 516, and 510.

2. 30 CFR 785.17(a). The prime farmland grandfather clause is suspended. The Secretary will rely on Section 510(d)(2), SMCRA, to interpret this exemption for the purposes of the permanent program pending the outcome of further rulemaking. The Secretary's grandfather regulation under the initial program (30 CFR 716.7(a)(2)) remain in effect.

Authority: 30 U.S.C. 510(d)(2).

3. 30 CFR 785.17(b)(3) and 823.14(c). These regulations are suspended insofar as they establish the "moist bulk density" standard for prime farmland soil compaction. Until a standard for soil compaction is proposed and adopted, the Office will implement the permanent program prime farmland standards by requiring that prime farmland permit applications

demonstrate and operators mine so that excessive compaction is avoided in replacement of the soil, under Section 508(a)(4)–(5), 510(d)(1) and 515(b)(7) SMCRA. Avoiding excessive compaction is critical to the successful reclamation of prime farmland. See 44 FR 15086.

Authority: 30 U.S.C. 510 (b) and (d), 515(b)(7).

4. 30 CFR 816.83(a) and 817.83(a).

These regulations are suspended to the extent that they would preclude an exemption from the underdrain requirement for coal processing waste banks where an operator demonstrated that an alternative to the subdrainage system required in this regulation would ensure structural integrity of the wastebank and protection of ground or surface water quality.

Authority: 30 U.S.C. 515(b)(13), 516(b)(5).

5. 30 CFR 817.52(a)(1). The following language is suspended: "on the recharge capacity of reclaimed lands and . . ."

As stated in the preamble to the proposed rules, underground mining should not affect the structural integrity of water bearing formations and thus no special precautions are necessary to protect recharge capacity. (43 FR 41780, September 18, 1978). For this reason the Secretary determined that a performance standard equivalent to 30 CFR 816.51 was unnecessary. With no performance standard concerning recharge capacity for underground mines in the regulations, a monitoring requirement becomes unnecessary.

Authority: 30 U.S.C. 515(b)(10) and 516(b)(9).

[FR Doc. 79-39799 Filed 12-28-79; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 715, 717, 816, and 817

Surface Coal Mining and Reclamation Operations Interim and Permanent Regulatory Programs Sediment Control Performance Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of intent to commence rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement issues a notice of intent to commence rulemaking to establish effluent limitations for total suspended solids discharges from surface coal mining and reclamation operations during rainfall events and to establish revised sedimentation pond design criteria. OSM has granted, in part, a petition to amend portions of 30 CFR Chapter VII, Subchapter K, Sediment Control Performance Standards for Surface Coal Mining and Reclamation Operations, and seeks public comment on what amendments, if any, can be made to the Sections of the regulations that have been suspended pursuant to the notice in this issue of the Federal Register.

DATES: Comments must be received by January 30, 1980, at the office listed below under "Address," by no later than 5:00 p.m.

Representatives of OSM will be available to meet with interested persons upon request between December 31, 1979 and January 30, 1980.

ADDRESS: Written comments must be mailed or hand-delivered to Office of Surface Mining, U.S. Department of the Interior, Room 135, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240.

Summaries of meetings with representatives of OSM will be prepared and made available for public review in Room 135 of the Interior South Building. Comments received will also be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Jose R. del Rio, Civil Engineer, Division of Technical Services, Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240; (202) 343-4022.

SUPPLEMENTARY INFORMATION: A petition of September 21, 1979, to amend OSM's sediment control performance standards regulations was submitted to

OSM by the Joint National Coal Association/American Mining Congress (NCA/AMC) Committee on Surface Mining Regulations. The petition was published in the Federal Register (44 FR 60226-60228) on October 8, 1979, for public consideration and comment, with the request that comments specifically address three issues:

1. Whether the EPA and OSM effluent limits for total suspended solids should be revised, and, if so, what alternatives should be considered.

2. Whether OSM's design criteria for sediment ponds should be revised and, if so, what alternatives should be considered.

3. Whether there are relevant differences in the requirements of the Clean Water Act and Surface Mining Control and Reclamation Act that justify the establishment of different regulations for sediment control between EPA and OSM.

As a result of the comments received, and testimony presented at a public hearing on October 30, 1979, OSM has decided to grant the petition, in part, by suspending the permanent program TSS effluent limit rainfall exemption (30 CFR 816.42(b); 817.42(b)), and certain sediment pond design criteria (30 CFR 816.46(b)-(d), (f), 817.42(b)-(d), (f)). Corresponding provisions of the OSM initial regulatory program are also being suspended or withdrawn. See 30 CFR 715.17(a)(1), (e), 717.17(a)(1), (e). As a result of this action, amendments of the affected regulations will be considered to set effluent limitations during rainfall events and to further define minimum size and other criteria for sedimentation ponds. The following portions of the initial and permanent regulatory programs may be revised as a result of the rulemaking process being initiated:

Part 715—General Performance Standards (Initial Regulatory Program)

§ 715.17(a) Water quality standards and effluent limitations.

§ 715.17(e) Sediment control measures. (Note: Section 715.17(e) was revised on May 25, 1979, 44 FR 30631-30632, pursuant to a decision by the D.C. District Court *In re: Surface Mining Regulation Litigation*, 452 F. Supp. 321 (D.D.C. 1978). These revised rules were to become effective upon approval by the Court. Approval has not been received and, thus, this Section is not now in effect.)

Part 717—Underground Mining General Performance Standards (Initial Regulatory Program)

§ 717.17(a) Water quality standards and effluent limitations.

§ 717.17(e) Sediment control measures. (This paragraph is also not in effect for the same reason as § 714.17(e).)

Part 816—Permanent Program Performance Standards—Surface Mining Activities

§ 816.42 Hydrologic balance: Water quality standards and effluent limitations.

§ 816.46 Hydrologic balance: Sedimentation ponds.

Part 817—Permanent Program Performance Standards—Underground Mining Activities

§ 817.42 Hydrologic balance: Water quality standards and effluent limitations.

§ 817.46 Hydrologic balance: Sedimentation ponds. OSM does not intend to modify the sedimentation and pond design criteria which relate to the safety of the structure in §§ 715.17(a), 715.17(a)(2), 715.17(b)-(f), 715.17(e)(1), 715.17(c)(5)-(e)(7), 715.17(e)(9)-(e)(22), 717.17(a), 717.17(a)(2), 717.17(b)-(f), 717.17(e)(1), 717.17(e)(5)-(e)(7), 717.17(e)(9)-(e)(22), 816.42(a), 816.42(c), 816.46(a), 816.46(c)-(g), 816.46(i)-(u), or 817.42(a), 817.42(c), 817.46(a), 817.46(c)-(g), and 817.46(i)-(u). OSM is obligated by the Surface Mining Control and Reclamation Act to assure that structures and facilities used in conjunction with surface coal mining and reclamation operations do not create a danger to the public health and safety. Neither comments received during the review of the petition nor other information presented to OSM warrant modification of these criteria.

Alternatives.—Some of the alternatives that will be considered are as follows:

1. OSM would re-adopt its present regulations, including the rainfall exemption under §§ 715.17(a)(1), 717.17(a)(1), 816.42(b), 817.42(b) and the sedimentation pond design criteria under §§ 715.17(e), 717.17(e), 816.46, and 817.46.

2. OSM would re-adopt a modified rainfall exemption under §§ 715.17(a)(1), 717.17(a)(1), 816.42(b), and 817.42(b), either expanding or contracting the rainfall frequency-level for award of an exemption, but would re-adopt §§ 715.17(e), 717.17(e), 816.46, and 817.46.

3. Sections 715.17(c)(1), 717.17(c)(1), 816.42(b), and 817.42(b) (rainfall exemption) would be modified to reflect

the conclusions by Skelly and Loy. The subsections of §§ 715.17(e), 717.17(e), 816.46, and 817.46 (sedimentation pond standards) dealing with pond size and sediment trapping efficiency may be considered for change consistent with those conclusions.

4. Sections 715.17(a)(1), 717.17(a)(1), 816.42(b), and 817.42(b) would be revised to exempt any discharge from meeting the discharge limits for TSS during any precipitation event if the facility is designed, constructed, and maintained according to OSM specifications. Under §§ 715.17(e), 717.17(e), 816.46, and 817.46, all design standards having to do with the size of the ponds would be considered for change for steep slope mining only.

5. Sections 715.17(a)(1), 717.17(a)(1), 816.42(b), and 817.42(b) would be retained as they existed prior to the recent suspension/withdrawal. All sections of §§ 715.17(e), 717.17(e), 816.46, and 817.46 dealing with the size of the pond and the efficiency of the structure would be deleted. The requirement to install a pond would remain, but sizing to meet effluent limitations would be left to the operator and/or the regulatory authority.

6. OSM would retain all Sections of the regulations on sedimentation ponds as they existed prior to the recent suspension/withdrawal, except for §§ 715.17(a)(1), 717.17(a)(1), 816.42(b), and 817.42(b). These sections would be deleted and replaced by new regulations incorporating rainfall-level TSS effluent limitations promulgated by EPA under 40 CFR 434.22, 434.25, 434.32, 434.35, 434.42, and 434.45.

OSM requests that commenters specifically address these alternatives and any others that they may wish to propose. The following factors, as well as others, will be considered by OSM in determining minimum pond size requirements which may be proposed:

1. Detention time calculations.
2. Sediment yield, especially during rainfall, and associated environmental harm.
3. Pond design criteria to avoid short circuiting.
4. Minimum flow criteria for a 10-year 24-hour precipitation event.
5. Type and design of dewatering devices.
6. Advantages and disadvantages of a wet versus a dry pond.
7. Regional and/or topographic constraints and differences.

After considering comments submitted and review of other pertinent data, OSM intends to publish proposed amendments to Subchapter K in the Federal Register about March 1, 1980. A period for public comment will follow

that publication. AVAILABILITY OF COPIES: Copies of 30 CFR Subchapter K and the NCA/AMC petition and additional information on the sedimentation pond regulations are available and may be obtained at the following offices:

OSM Headquarters, U.S. Department of the Interior, South Building, Room 135, 1951 Constitution Avenue, NW., Washington, D.C., 20240; (202) 343-4728.

OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard East, Charleston, W. Va., 25301; (304) 342-8125.

OSM Region II, 530 Gay Street SW., Suite 500, Knoxville, Tenn. 37901; (615) 637-8060.

OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46204; (317) 269-2609.

OSM Region IV, 818 Grant Avenue, Scarritt Building, 5th Floor, Kansas City, Mo. 64106; (913) 753-2193.

OSM Region V, Brooks Towers, 1020 15th Street, Denver, Colo., 80202; (303) 837-5511.

Dated: December 21, 1979

Joan Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 79-39800 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Amendment to Notice of Public Hearing and Public Comment Period on the Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Amendment to Notice of Hearing and Comment Period for Initial Decision on Permanent Program Submission.

SUMMARY: OSM is amending its procedures for the public comment period on the proposed Wyoming regulatory program announced on December 11, 1979 (44 FR No. 239, pages 71798-9). That announcement did not provide the thirty-day notice of hearing required in 30 CFR Part 732.12 (44 FR 15326-15327, March 13, 1979). Consequently, OSM has determined that it will extend the public comment period until January 11, 1980, and if any party asks in writing prior to January 7, 1980, or verbally at the public hearing on January 7, 1980, the Regional Director will afford the public an additional public hearing at a time and place to be announced.

ADDRESSES: Written objections should be sent to Mr. Donald A. Crane, Regional Director, Office of Surface Mining, Department of the Interior, Brooks Towers, Room 5010, 1020-15th Street, Denver, Colorado 80202, or may be hand delivered to the Regional Director.

The public hearing will be held at the Hitching Post Motel, located at Interstate 25 in Cheyenne, Wyoming, beginning at 9:00 a.m.

SUPPLEMENTARY INFORMATION: The notice of public hearing and comment period on the proposed Wyoming regulatory program was not published more than thirty days in advance of the hearing as required by regulation. Publication occurred on December 11, 1979 (44 FR 71798-9) for the hearing to be held on January 7, 1980. As a consequence, the public may not be afforded sufficient time to provide comments. OSM proposes to remedy this insufficiency by extending the public comment period until January 11, 1980, and by holding an additional public hearing if requested to do so. This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface

Mining Control and Reclamation Act of 1977.

Dated: December 21, 1979.

Carl C. Close

Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 79-39801 Filed 12-28-79; 8:45 am]

BILLING CODE 4310-05-M

Monday
December 31, 1979

Part V

Federal Reserve
System

Privacy Act of 1974; Systems of
Records; Annual Publication

FEDERAL RESERVE SYSTEM

Privacy Act of 1974

Systems of Records—Annual Publication

This document fulfills the requirements of the Privacy Act of 1974 (5 U.S.C. § 552a(e)(4)) for federal agencies to publish notice annually of systems of records they maintain. A complete compilation of systems of records maintained by the Board of Governors of the Federal Reserve System was published on September 22, 1977 (42 FR 43142) and a notice of incorporation by reference of the 1977 systems of records, which had continued in effect unchanged, was published on September 14, 1978. (43 FR 41164).

One new system of records has been added since that time: BGFRS-18, FRB—Changes in Bank Control Records. Notice of this new system of records was published on February 8, 1979 (44 FR 8017).

This document includes a complete publication of notices published on September 22, 1977, September 14, 1978 and February 8, 1979. Only minor technical changes have been made, reflecting changes in equipment used to store records or in system managers' titles or addresses.

For further information, contact Mary Ellen A. Brown, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, Constitution Avenue at 20th Street, N.W., Washington, D.C. 20510; (202) 452-3638.

Board of Governors of the Federal Reserve System, December 20, 1979.

Theodore E. Allison,
Secretary of the Board.

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BGFRS—1

System name: FRB—Recruiting and Placement Records

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Persons who have applied for employment with or are employed by the Federal Reserve Board.

Categories of records in the system: These records may contain information relating to the education, training, employment history and earnings, appraisal of past performance, convictions for offenses against the law; results of tests, appraisal of potential, honors, awards of fellowships; military service; veteran status, school transcripts, work samples; birth date; social security number; shipping authorizations; travel vouchers, offer letters and correspondence, reference checks, and home address of persons who have applied for Board employment or are employed by the Federal Reserve Board.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

a. To refer applicants for purposes of consideration for placement in positions for which an applicant has applied and is qualified. This includes various government organizations.

b. To refer current Board employees for consideration for reassignment and promotion within the Board.

c. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research of other personnel management functions.

d. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether federal, state or local, charged with the responsibility of investigating or prosecuting such violation or with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

e. To request information from a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

f. To provide information or disclose to a Federal Agency, or any other employer or prospective employer in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tapes, punched cards, microfilm, cards, lists, forms, and in folders.

Retrievability: Records are indexed by name, combination of birth date, social security account number, and applicable identification number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal:

a. Files of eligibles retained for a minimum of one year after date of determination that no suitable position exists currently.

b. Index cards. Destroyed when no longer needed.

c. Cancelled and ineligible applications. Same as "a" above.

d. Inquiries and replies regarding availability for appointment.

System manager(s) and address:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Individuals should provide name, date of birth, Social Security Number, identification number (if known), approximate date of record, and type of position with which concerned to the System Manager, address above.

Record access procedures: Individuals should provide name, date of birth, Social Security Number, identification number (if known), approximate date of record, and type of position with which concerned to the System Manager, address above.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplies, except reports from a medical personnel on physical qualifications, and statements supplied by references.

Systems exempted from certain provisions of the act: Pursuant to subsections (k)(2) and (k)(5) of the Privacy Act and the Board's regulation relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where: (1) such portions represent investigatory material compiled for law enforcement purposes, or (2) such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—2

System name: FRB Personnel Background Investigation Reports

System location:

Board of Governors

Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Current and former applicants for employment by the Board of Governors; Federal Reserve System employees considered for access to classified information or restricted areas; and/or security determinations as contractors, employees of contractors, experts, instructors, and consultants to the Board. Individuals who are neither applicants nor employees of the Board but are or were involved in Board programs under a cooperative assignment or similar agreement; individuals who are neither applicants nor employees of the Board but are or were involved in matters related to the operation of the Board.

Categories of records in the system: These records may contain investigative information regarding an individual's character, financial responsibility, conduct, behavior; arrests and convictions for any violations against the law; reports of interviews with former supervisors, co-workers, associates, educators, etc.; reports about the qualifications of an individual for a specific position; reports of inquiries with law enforcement agencies; former employers; educational institutions attended; and other information developed from the above.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records may be disclosed to and used as follows:

a. To assist in determining the suitability for access to classified information.

b. To designated officers and employees of other agencies and departments of the Federal Government, and the District of Columbia Government, having an interest in the individual for employment purposes, in connection with performance of a service to the Federal Government, under a contract or other agreement, including a security clearance or access determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government.

c. To the intelligence agencies of the Department of Defense, National Security Agency, Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence activities.

d. To any source from which information is requested by the Board in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation and to identify the type of information requested.

e. In the event of an indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; such referral shall also include, and be deemed to authorize any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing.

f. As a data source for management information for production of descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders and index cards in steel file cabinets with manipulation proof combination lock.

Retrievability: Records are indexed by name in alphabetical order.

Safeguards: Access to and use of these records are limited to those persons whose official duties require access and who have appropriate security clearance.

Retention and disposal: The indexing cards are retained indefinitely, while the reports of investigation are returned to the originating agency after separation of employment.

System manager(s) and address:

Chief of Security
Division of Support Services
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: An individual may inquire as to whether or not the system contains a record pertaining to him or to her by addressing a written request to:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

The request should include the full name and date and place of birth of the individual, and any available information regarding the type of record involved, and the category of individual under which the inquirer feels he or she fits.

Record access procedures: In response to a written request by an individual to determine whether or not the system contains a record pertaining to him or to her, the Director will set forth the procedure for gaining access to the record. If the individual desires to contest the contents of a record, he or she may do so by writing to the:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Record source categories: Information contained in the system is obtained from the following:

1. Applications and other personnel and security forms furnished by the individual.
2. Investigative material furnished by other Federal agencies. Notices of personnel actions furnished by other Federal agencies.
3. By personal investigation or written inquiry from sources such as:

Employers
Schools
References
Neighbors
Associates
Police Departments
Courts
Credit Bureau
Medical Records
Probation Officials
Prison Officials

4. Newspapers, magazines, periodicals, and other publications.
5. Published hearings of Congressional Committees.

Systems exempted from certain provisions of the act: Pursuant to subsections (k)(2) and (k)(5) of the Privacy Act and the Board's regulation relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where: (1) such portions represent investigatory material compiled for law enforcement purposes, or (2) such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—3

System name: FRB—Medical Records

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: 1. Applicants who have been medically examined for Board employment.

2. Applicants for disability retirement under the Civil Service Retirement Law or Federal Reserve System Retirement Plan.
3. Current and former Federal Reserve Board employees.

Categories of records in the system: 1. Information relating to an individual's medical qualifications to hold a position with the Board.

2. Medical information relating to an individual's capability (physical and mental) to satisfactorily perform the duties of the position he or she holds or held.
3. Information relating to an employee's participation in an occupational health services program.

4. Information relating to pre-employment or periodic medical examinations to assure that the incumbent is qualified (physically and mentally) to satisfactorily perform the duties of the position.
5. Information attesting to an annuitant's state of health as required for "insurable interest" survivor annuity elections.
6. Information relating to handicaps.

7. Information relating to employee participation in the Federal Civilian Employee Alcoholism and Drug Abuse Programs.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Information in these records is used to:

- determine veteran disability status
 - support applications for Disability Retirement
 - support "insurable interest" survivor annuity elections
 - determine suitability for employment or continued employment
 - assist in medical counseling
2. Information in these records may be provided to officials of other Federal agencies responsible for Federal benefit programs administered by:
- Office of Workmen Compensation Programs
 - Retired Military Pay Centers
 - Veterans Administration
 - Social Security Administration
 - Specific private contractors engaged in providing benefits under Federal contracts.

- Civil Service Commission.
- Information in these records is used:

a. to refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, state, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

b. to request information from a Federal, state or local agency maintaining civil, criminal or other relevant enforcement or other pertinent information, such as a license, if necessary to obtain relevant information to the Board's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a grant or other benefit.

c. to provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. as a data source for management information for production of descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in folders.

Retrievability: Records are indexed by name, social security number, identification number, date of birth and/or claim number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Records are stored in lockable metal containers.

Retention and disposal:

- Medical certificates and other medical records of examination used to determine an employee's fitness for a job 6 years after separation
- Miscellaneous medical records, correspondence dispensary records and similar papers, 6 months after separation
- Applicant's medical records, 6 years after separation
- Disability retirement medical files, 6 years after separation

System manager(s) and address:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name of office or division in which currently or formerly employed, and annuity account number, if any has been assigned, to the System Manager, address above.

Record access procedures: Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name of office or division in which currently

or formerly employed, and annuity account number, if any has been assigned, to the System Manager, address above.

Record source categories:

- The individual to whom the record pertains.
- Personal physicians.
- Medical institutions.
- Official records of other Federal agencies.
- Federal Reserve Board Official Personnel Records.
- Federal Reserve System Personnel Management Records Systems.

Systems exempted from certain provisions of the act: None; however, see special procedures provided at 12 CFR 261a.6.

BGFRS—4

System name: FRB—General Personnel Records

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Current and former employees of and consultants to the Federal Reserve Board and the surviving spouses, and children of former Board employees, if any.

Categories of records in the system: This system of records consists of a variety of documents relating to personnel actions of the Board and its determinations made about an individual for, and during the course of his employment by the Board. These records may contain information about employees and former employees relating to employment, placement, personnel actions, performance considerations and evaluations; training and development activities and plans, background investigations; reference checks; salary history and other personnel matters. It also includes minority group designator; records relating to benefits and designation of beneficiary; emergency contact, documentation supporting personnel actions or decisions made about an individual; awards; employee parking and other information relating to the status of the individual either while considered for employment or while employed by the Board.

Authority for maintenance of the system: Sections 10 and 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used:

a. For purposes of review in connection with appointments, transfers, promotions, reassignments, training and development needs, adverse actions, disciplinary actions, and determination of qualifications of an individual, and in assisting the individual in locating other employment.

b. For purposes of making a decision when a Board employee or former Board employee is questioning the validity of a specific document in the individual's record.

c. By the courts to render a decision.

d. To provide information to a prospective employer of a current or former Board employee.

e. To provide data for the automated Personnel records.

f. To provide information to a Federal agency, or any other employer or prospective employer, in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

g. To request information from a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information or other pertinent information to a Board decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of contract, or the issuance of a grant or other benefit.

h. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

i. As a data source of management information for production of statistical and analytical studies and reports in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of

Information Act or to locate specific individuals for personnel research or other personnel management functions.

j. Determine eligibility for coverage, benefits due, and payment of benefits under the various benefits programs available to the Board and its staff.

k. Transfer information necessary to support a claim for benefits under the various benefit programs in operation at the Federal Reserve Board.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, disc, punched cards, index cards and microfilm.

Retrievability: Records are indexed by any combination of name, date of birth, Social Security Number, or identification number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require it.

Retention and disposal: The General Personnel Record is retained until five years after death of an individual achieves age 75 where he or she does not separate employment by retirement.

System manager(s) and address: For current and former Federal Reserve Board employees:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Inquiries, including name, date of birth, and Social Security Number should be addressed to the System Manager, address above.

Record access procedures: Current and former Federal Reserve Board employees who wish to gain access to or contest their records should contact the System Manager, address above. Former Board employees should direct such a request in writing, including their name, date of birth, and Social Security Number.

Record source categories: Information in this system of records comes from the individual to whom it applies or is derived from the information the individual supplied, except information provided by Board officials. Information is also obtained from the following sources for administration of the benefits portion of the system:

- CSC Personnel Management Records System
- Personnel records of other Government agencies
- Personnel Records of Federal Reserve Banks

Systems exempted from certain provisions of the act: Pursuant to subsections (k)(2) and (k)(5) of the Privacy Act and the Board's regulation relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where: (1) such portions represent investigatory material compiled for law enforcement purposes, or (2) such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—5

System name: FRB—EEO Discrimination Complaint File

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Applicants for Board employment, current and former Board employees, and annuitants who file a complaint of discrimination or appeal a determination made by an official of the Board relating to equal employment opportunities.

Categories of records in the system: This system of records contains information or documents relating to a complaint, the decision or determination made by the Board affecting an individual under the Board's EEO regulations and procedures. The records consist of the initial complaint or appeal letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, instructions to the Board and/or individual about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in the records may be used:

a. To respond to a request from a Member of Congress regarding the status of an appeal, complaint or grievance.

b. To provide information to the public on the decision of an appeal, complaint, or grievance required by the Freedom of Information Act.

c. To respond to a Court subpoena and or to refer to a District court in connection with a civil suit.

d. To adjudicate an appeal, complaint, or grievance.

e. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

f. To refer, where there is an indication of a violation or potential violation of law, whether civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

g. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders, binders, and index cards.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: The records are maintained indefinitely.

System manager(s) and address:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Individuals who have filed appeals or grievances are aware of that fact and have been provided a copy of the records. They may, however, contact the System Manager, address above. Individuals should provide their name, date of birth, and the approximate date of employment or application, and the kind of action taken by the Board when making inquiries about records.

Record access procedures: Individuals who have appealed or filed a grievance about a decision or determination made by the Board or about conditions existing in the Board already have been provided a copy of the records. However, to gain access or contest the records in this system, individuals should contact the System Manager, address above. Individuals should provide their name, date of birth, approximate date of employment or application, and the kind of action taken by the Board when requesting access to, or contest of records.

Record source categories:

- Individual to whom the record pertains
- Board employees
- Affidavits or statements from employee
- Testimonies of witnesses
- Official document relating to the appeal, grievance, or complaints
- Correspondence from specific organization or persons

Systems exempted from certain provisions of the act: Pursuant to subsection (k)(2) of the Privacy Act and the Board's regulations relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled for law enforcement purposes.

BGFRS—6

System name: FRB—Adverse Information and Action, Disciplinary, Outside Business Activity and Financial Responsibility Records.

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Current and former Board employees, (including special employees) and annuitants who are involved in an Adverse Action; Board officials providing annual financial responsibility statements; employees who suffer a withholding of a Progress Step Increase; employees who file an Outside Business Activity application; and those employees who have creditors contacting the Board relative to credit problems.

Categories of records in the system: This system of records may contain information or documents relating to a determination made by the Board affecting an individual. The records consist of the letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, and related correspondence, opinions and recommendations. Also, copies of Financial Responsibility Statements and Outside Business Interest applications filed by the employee; and letters from creditors.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in the records may be used:

a. To respond to a request from a Member of Congress regarding the status of an appeal, complaint or grievance.

b. To provide information to the public on the decision of an appeal, complaint, or grievance required by the Freedom of Information Act.

c. To respond to a court subpoena and/or to refer to a District court in connection with a civil suit.

d. To adjudicate an appeal, complaint, or grievance.

e. As a data source for management information in support of production of descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel management functions.

f. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

g. To request information from a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to a Board decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a grant or other benefit.

h. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

i. To identify or determine conflict of interest situations or potential conflict of interest.

j. To advise an employee of potential problems.

k. To administer various aspects of established personnel management programs.

Storage: These records are maintained in file folders, binders, index cards, magnetic tape and disk.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: The records are maintained indefinitely after cessation of employment unless deemed unnecessary, and thus destroyed.

System manager(s) and address:

Director of Personnel
Board of Governors
Federal Reserve System

20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Individuals should provide name, date of birth, Social Security Number, identification number (if known), approximate date of record, and type of situation with which concerned to the System Manager, address above.

Record access procedures: Individuals should provide name, date of birth, Social Security Number, identification number (if known), approximate date of record, and type of situation with which concerned to the System Manager, address above.

Record source categories:

a. Individual to whom the record pertains

b. Board officials

c. Affidavits or statements from employees

d. Testimonies of witnesses

e. Official documents relating to an action, appeal, grievance, or complaints.

f. Correspondence from specific organizations or persons.

Systems exempted from certain provisions of the act: None.

BGFRS—7**System name:** FRB—Payroll**System location:**

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Past and present employees and members of the Board.

Categories of records in the system: Varied payroll records including payment vouchers, comprehensive listing of employees, requests for deductions, tax forms, W-2 forms, overtime requests, leave data, workmen's compensation data.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used in the preparation of Board payroll, as input to several management reports and, from time to time, input to other contributing programs and as input to Board studies, analyses, and reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On tape, disk, punched cards, index cards, folders and document files.

Retrievability: Filed by name, social security number, and employee number.

Safeguards: Access is restricted to authorized personnel only. Records are stored in cabinets and a safe. Access to computer records.

Retention and disposal: Various: minimum of one year from date of annual audit; maximum of indefinite.

System manager(s) and address:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Current and former employees who wish to gain access or contest their records should contact System Manager, address above. Individuals should provide name, date of birth, social security number, and identification number (if known).

Record access procedures: Current and former employees who wish to gain access or contest their records should contact System Manager, address above. Individuals should provide name, date of birth, social security number, identification number (if known).

Record source categories: Internal personnel forms, Federal, state, and local tax forms, employee authorizations and directive forms, insurance forms, leave and overtime reports, Federal and state garnishment forms.

Systems exempted from certain provisions of the act: None.

BGFRS—8**System name:** FRB—Leave Records**System location:**

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Present employees, former employees for a period of three years following their separation from the Board.

Categories of records in the system: Contains timekeeper records, leave cards, payroll notifications, supporting memorandum, periodic leave statements, and creditable service documentation.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. sec 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and payment of leave, for production of statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions and manpower studies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punched card, tape, disk, index card, folder, and print out.

Retrievability: Filed by date, but may be filed by name or identifying number.

Safeguards: Stored in locked metal file cabinets, other records stored in secured limited access computer facilities.

Retention and disposal: Detailed information destroyed after two years. Summary data is a part of permanent official personnel file.

System manager(s) and address:

Division of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Former Board employees should direct such a request in writing, including their name, date of birth, and Social Security number.

Record access procedures: Individuals wishing to gain access or contest their records should contact the System Manager, address above. Former Board employees should direct such a request in writing, including their name, date of birth, and Social Security Number.

Record source categories: Records, files and forms of the Board, information provided by the employee and previous Federal Government employers.

Systems exempted from certain provisions of the act: None.

BGFRS—9**System name:** FRB—Consultant File**System location:**

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Individuals providing consulting services to the Board in accordance with a formal agreement.

Categories of records in the system: Documents, letters, memorandum of understanding relating to agreement, rates of pay, payment, records, vouchers, invoices, and selection; negotiation, implementation, scope and performance of work. Additional information may be found on reemployed annuitants in the FRB-General Personnel Records.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses include, but are not restricted to, selection, monitoring, evaluation and control, audit and analysis, routine management activity, and statistical use without individual identification; verification and confirmation; and referral when used as a basis for prospective employment by other than the Board; to provide information or disclose to a Federal agency, or any other employer or prospective employer, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folder, punched card, tape, disk and index card.

Retrievability: File by name, and cross index by voucher number and date, or identifying number.

Safeguards: Stored in secured area.

Retention and disposal: Indefinite.

System manager(s) and address:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Individuals who have filed appeals or grievances are aware of that fact and have been provided a copy of the records. They may, however, contact the System Manager, address above. Individuals should provide their name, date of birth, and the approximate date of employment or application, and the kind of action taken by the Board when making inquiries about records.

Record access procedures: Individuals who have appealed or filed a grievance about a decision or determination made by the Board or about conditions existing in the Board already have been provided a copy of the records. However, to gain access or contest the records in this system, individuals should contact the System Manager, address above. Individuals should provide their name, date of birth, approximate date of employment or application, and the kind of action taken by the Board when requesting access to, or contest of records.

Record source categories: Information in this system of records is obtained from the individual to whom it applies or is derived from information supplied by the individual, except information provided by Board staff, and for reemployed annuitants where the inactive General Personnel File is activated.

Systems exempted from certain provisions of the act: Pursuant to subsections (k)(2) and (k)(5) of the Privacy Act and the Board's regulation relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where: (1) such portions represent investigatory material compiled for law enforcement purposes, or (2) such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—10**System name:** FRB—General File on Board Members**System location:**

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Past and present members of the Board of Governors.

Categories of records in the system: Biographies of past and present members of the Board, oaths of office, and miscellaneous correspondence relating to such Governors.

Authority for maintenance of the system: Section 10 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for background information to determine qualifications for appointment, reappointments, for compiling information for news releases and other publications, and for recording correspondence concerning the Governors.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Locked in Supreme power file. Access limited to Board staff on a restricted basis.

Retention and disposal: Indefinite.

System manager(s) and address:

Secretary of the Board
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Same as System Manager, address above.

Record access procedures: Same as System Manager, address above.

Record source categories: Generated by individuals (12 CFR 261a) incoming correspondence and staff response thereto.

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Systems exempted from certain provisions of the act: Pursuant to subsection (k)(5) of the Privacy Act and the Board's regulations relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—11

System name: FRB—Official General Files

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Correspondents with the Board and System Personnel.

Categories of records in the system: Incoming and outgoing correspondence concerning Board business. Records relating to System Personnel in official capacities such as instructors, consultants, and Board representatives to various committees, conferences, etc.

Authority for maintenance of the system: Sections 10 and 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for reference purposes in preparing responses to inquiries from the public and used in recording official duties of System Personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Locked in Supreme power file. Access limited to Board staff on a restricted basis.

Retention and disposal: Indefinite.

System manager(s) and address:

Secretary of the Board
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: System Manager, address above.

Record access procedures: System Manager, address above.

Record source categories: Generated by individuals incoming correspondence and staff response thereto.

Systems exempted from certain provisions of the act: Pursuant to subsection (k)(5) of the Privacy Act and the Board's regulations relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—12

System name: FRB—Biographical File of Federal Reserve Personnel

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Current and former Federal Reserve System officers, and their staff.

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal Reserve System. These records contain information about an individual relating to birth date; education; veteran status; tenure; handicap; past and present salaries, grades, and position titles; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; photograph, awards; and other information relating to the status of the individual.

Authority for maintenance of the system: Sections 4, 11 and 22 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

a. By Federal Reserve System officials for purposes of review in connection with appointments, transfers, promotion, reassignments, adverse actions, disciplinary actions, and determination of qualifications of an individual.

b. By the Board of Governors for purposes of making a decision when a listed employee or former listed employee is questioning the validity of a specific document in the individual's record.

c. By the courts to render a decision when the Board has refused to release to current or former System employee a record under the Freedom of Information Act.

d. To publish name and title data for the Directory of officers of Federal Reserve Banks.

e. To provide reports to Congress, agencies, and the public on characteristics of the System work force.

f. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

g. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, punched cards and disk.

Retrievability: Records are indexed by combination of name or identification number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Director of Personnel
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Inquiries, including name, date of birth, and Social Security Numbers should be addressed to the System Manager, address above.

Record access procedures: Current and former System employees who wish to gain access to and contest their records, should direct such a request in writing, including their name, date of birth, and Social Security Number to the System Manager, address above.

Record source categories: Information in this system of records comes from either the individual to whom it applies, extracted from documents he supplied, or data provided by Federal Reserve System officials and employees.

Systems exempted from certain provisions of the act: None.

BGFRS—13

System name: FRB—General File of Examiners and Assistant Examiners at Federal Reserve Banks.

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Past and present examiners and assistant examiners at Federal Reserve Banks.

Categories of records in the system: Brief biographies of past and present examiners and assistant examiners, oaths of office, and miscellaneous correspondence.

Authority for maintenance of the system: Section 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as background information for determining qualifications for appointment, reappoint-

BGFRS—15

System name: FRB—General Files of Federal Reserve Agents, Alternates and Representatives at Federal Reserve Banks.

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Past and present Federal Reserve Agents, Alternates and Representatives at Federal Reserve Banks.

Categories of records in the system: Biographies of past and present examiners, oath of office and miscellaneous correspondence relating to such persons.

Authority for maintenance of the system: Sections 20 and 21 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as background information for determining qualifications for appointment, reappointment, etc.; for completing information for news releases and other correspondence; and recording correspondence concerning such persons.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Locked in Supreme power file. Access limited to Board staff on a restricted basis.

Retention and disposal: Indefinite.

System manager(s) and address:

Secretary of the Board
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Same as System Manager, address above.

Record access procedures: Same as System Manager, address above.

Record source categories: Generated by individual's incoming correspondence and staff response thereto.

Systems exempted from certain provisions of the act: Pursuant to subsection (k)(5) of the Privacy Act and the Board's regulations relating thereto (12 CFR 261a), certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—16

System name: FRB—Regulation G Reports

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Individuals other than banks, brokers and dealers who extend credit in specified amounts secured by margin securities.

Categories of records in the system: Reports filed by persons registered pursuant to Regulation G.

Authority for maintenance of the system: Sections 7, 17, and 23 of the Securities Exchange Act of 1934 and Regulation G (12 CFR 207).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Aid the Federal Reserve System in securing compliance with Regulation G, assist registrants regarding interpretation, and where this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

ment, etc.; for compiling information for news releases and other publications, and recording correspondence concerning such persons.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Locked in Supreme power file. Access limited to Board staff on a restricted basis.

Retention and disposal: Indefinite.

System manager(s) and address:

Secretary of the Board
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: System Manager, as indicated above.

Record access procedures: Same as "notification" above.

Record source categories: Individuals themselves, references such as "Who's Who" and miscellaneous correspondence from system personnel and others.

Systems exempted from certain provisions of the act: Pursuant to subsection (k)(5) of the Privacy Act and the Board's regulations relating thereto, certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

BGFRS—14

System name: FRB—General File of Federal Reserve Bank and Branch Directors.

System location:

Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Categories of individuals covered by the system: Past and present Federal Reserve Bank and Branch Directors.

Categories of records in the system: Biographies of past and present Federal Reserve Bank and Branch Directors, oaths of office, resignations, and miscellaneous correspondence.

Authority for maintenance of the system: Sections 3, 4 and 11 of the Federal Reserve Act (12 U.S.C. Sec. 221 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as background information for determining qualifications for appointment, reappointment, etc.; for compiling information for news releases and other publications, and recording correspondence concerning such persons.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Locked in Supreme power file. Access limited to Board staff on a restricted basis.

Retention and disposal: Indefinite.

System manager(s) and address:

Secretary of the Board
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Notification procedure: Same as System Manager, address above.

Record access procedures: Same as System Manager, address above.

Record source categories: Generated by individual's incoming correspondence and staff response thereto.

Systems exempted from certain provisions of the act: Pursuant to subsection (k)(5) of the Privacy Act and the Board's regulations relating thereto, certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Board employment to the extent that disclosure of such portions would reveal the identity of a source who furnished information under a promise of confidentiality.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper forms and files.

Retrievability: Indexed by name.

Safeguards: Retained in locked metal file cabinets. Access to Board staff on restricted basis.

Retention and disposal: Indefinite.

System manager(s) and address:

Director, Division of Banking Supervision and Regulation
Board of Governors
Federal Reserve System
Washington, D.C. 20551

Notification procedure:

Secretary of the Board
Board of Governors
Federal Reserve System
20th and Constitution, N.W.
Washington, D.C. 20551

Record access procedures: Same as System Manager address above.

Record source categories: Reports and forms filed by individuals to whom records pertain.

Systems exempted from certain provisions of the act: Pursuant to subsection (k)(2) of the Privacy Act and the Board's regulations relating thereto (12 CFR 261a) certain portions of this system of records may be exempted from certain provisions of the Act where such portions represent investigatory material compiled for law enforcement purposes.

BGFRS-17

System name: FRB-Municipal Securities Principal and Municipal Securities Representative Records.

System location: Board of Governors of the Federal Reserve System, 20th and Constitution Avenue NW., Washington, D.C. 20551. Records stored in computerized files are maintained off Board premises at the National Association of Securities Dealers, 1735 K Street NW., Washington, D.C. 20036.

Categories of individuals covered by the system: Persons who are or seek to be municipal securities principals or municipal securities representatives associated with a municipal securities dealer which is a State member bank of the Federal Reserve System or a subsidiary or a department or division thereof.

Categories of records in the system: These records may contain identifying information as well as educational, employment, and disciplinary information, and, where applicable, information regarding termination of employment of individuals covered by the system. Identifying information includes name, address, date and place of birth, and may include social security account number.

Authority for maintenance of the system: Sections 15B, 17, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. Secs. 78o-4(c)(5), 78q, and 78w) and section 11(a) of the Federal Reserve Act (12 U.S.C. Sec. 248(a)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

a. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate governmental authority, whether Federal, State, local, or foreign, or self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)).

b. To refer, in the event of litigation, whether civil, criminal, or regulatory in nature, to the appropriate court, magistrate, or administrative law judge.

c. To assist in any proceeding in which the Federal securities or banking laws are in issue or in which the Federal Reserve Board or a past or present member of its staff is a party or otherwise involved in an official capacity.

d. To disclose to a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to a Federal Reserve Board inquiry concerning a person who is or seeks to be associated with a municipal securities dealer described in Categories of individuals covered by the system as a municipal securities principal or municipal securities representative.

e. To respond to a request from a Federal, State, local, or foreign governmental authority or a self-regulatory organization for information in connection with the issuance of a license or other benefit to the extent that such information is relevant and necessary.

f. To disclose to a Congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and on computer discs.

Retrievability: Records are indexed by name.

Safeguards: File folders are stored in lockable metal cabinets and computer discs are accessed only by authorized personnel.

Retention and disposal: Records may be maintained indefinitely.

System manager(s) and address: Secretary of the Board, Board of Governors

Federal Reserve System
20th and Constitution, NW.,
Washington, D.C. 20551

Notification procedure: Inquiries, including name and date and place of birth, should be addressed to the System Manager, address above. Inquiries may be required to include a notarized statement attesting to identity.

Record access procedures: Same as Notification above.

Contesting record procedures: Same as Notification above.

Record source categories: Individuals on whom the records are maintained as well as municipal securities dealers described in Categories of individuals covered by the system and Federal, State, local, and foreign governmental authorities, and self-regulatory organizations, which regulate the securities industry.

Systems exempted from certain provisions of the act: None.

BGFRS-18

System name: FRB-Changes in Bank Control Records.

System location: Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, D.C. 20551.

Categories of individuals covered by the system: Individuals who acquire or propose to acquire control of a bank holding company or insured bank.

Categories of records in the system: Contains the name of the individual purchaser of shares of stock, details of the transaction, personal financial and biographical statements, and information regarding the individual's business associations. Identifying information includes name and address and may include date of birth and social security number.

Authority for maintenance of the system: Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The name of the affected bank or bank holding company, the seller and purchaser, the number of shares involved, and other material details of the transaction may be distributed for publication and incorporated in public orders and notices issued by the Board in the discharge of its statutory responsibilities. As required by law, certain of the records will be made available to Federal and State banking authorities and the Board will seek to insure that the receipt of information by those authorities is subject to appropriate safeguards. In the event that the system of records indicates a violation or potential violation of law, the relevant records in the system of records may be referred to the appropriate Federal or State agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the relevant statute, rule, regulation or order. In the event of civil, criminal, or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court or counsel for purposes of discovery and the development of the proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Locked in Diebold power file. Access limited to Board staff on a restricted basis.

Retention and disposal: Indefinite.

System manager(s) and address: Secretary of the Board, Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, D.C. 20551.

Notification procedure: Inquiries should be addressed to the System Manager, address above. Inquiries may be required to include notarized statement attesting to identity.

Record access procedures: Same as Notification above.

Contesting record procedures: Same as Notification above.

Record source categories: Principally generated by the individuals to whom the records pertain, supplemented by information from financial institutions and Federal and State banking authorities.

Systems exempted from certain provisions of the act: None.

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BILLING CODE 6210-01-M

Monday
December 31, 1979

Part VI

Environmental Protection Agency

Health and Safety Data Reporting;
Submission of Lists and Copies of
Health and Safety Studies

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OTS-084003; FRL 1359-6]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of opportunity for comment.

SUMMARY: This rule would require submission of health and safety studies on specifically listed chemicals by chemical manufacturers, processors, distributors, and others in possession of such studies. These chemicals have either been recommended by the Interagency Testing Committee for testing under section 4 of the Toxic Substances Control Act (TSCA) or separately selected by the Environmental Protection Agency for evaluation. The Administrator will use these studies to assess the health and environmental effects of the chemicals and the need for and character of testing rules to be promulgated under section 4(a) of TSCA. In order to obtain health and safety studies on additional chemicals in the future, the Administrator will amend this rule from time to time by adding to the list of chemicals subject to the rule.

DATES: Comments must be received on or before February 29, 1980.

ADDRESS: Written comments should bear the document control number OTS-084003 and should be submitted to the Document Control Officer, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. All written comments filed pursuant to this notice will be available for public inspection at the OTS reading room at the above address from 9:00 a.m. to 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. John B. Ritch, Industry Assistance Office (TS-799), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 800-424-9065 toll free; in Washington, D.C., please call 554-1404.

SUPPLEMENTAL INFORMATION:

Authority and General Purpose

Section 8(d) of TSCA (15 U.S.C. 2607(d)) authorizes the Administrator to promulgate rules under which the Administrator shall require submission of lists and copies of health and safety

studies on chemical substances or mixtures.

Persons who may be required to submit lists of studies are persons who manufacture, process, or distribute in commerce the substances or mixtures or who propose to do so. The studies to be listed are those conducted at any time by or for such persons, or known to such persons, or reasonably ascertainable by such persons.

These same persons may be required to submit copies of studies listed by or otherwise known by them. Moreover, any person who possesses a study that is on a submitted list or that is otherwise known to him may be required to submit that study. Section 8(f) of TSCA (15 U.S.C. 2607(f)) states that for purposes of section 8, the terms "manufacture" and "process" mean manufacture or process for commercial purposes; therefore, manufacturers and processors who are potentially subject to the requirement to submit lists under section 8(d) are those who manufacture or process chemical substances and mixtures for commercial purposes.

This notice proposes a rule under the authority of section 8(d). The proposed rule sets forth requirements and procedures for submission of lists of health and safety studies by manufacturers, processors, and distributors in commerce of chemical substances and mixtures, and for submission of copies of final reports by persons in possession of studies. The lists and copies of health and safety studies would be submitted on chemicals specifically listed in 40 CFR 716.13 of the proposed rule. The Agency intends to collect information on additional chemicals in the future by adding to the chemicals listed in this rule. The collected studies will be used by EPA in evaluating health and environmental effects of chemicals as well as in determining whether the chemicals should be included in testing rules issued under section 4 of TSCA.

The Interagency Testing Committee (ITC), established under section 4(e) of TSCA (15 U.S.C. 2603(e)), recommends chemical substances, categories of substances, and mixtures for priority consideration by EPA in the issuance of testing rules under section 4(a) of TSCA (15 U.S.C. 2603(a)). Section 4(e) directs the ITC to revise the list every six months as it is determined to be necessary. The Agency is developing this rule to obtain health and safety studies relating to each group of substances and mixtures selected by the ITC as well as other chemicals separately selected by EPA for evaluation of health and environmental effects. As EPA develops testing rules

under section 4, it expects to propose additions to the list of chemicals subject to this section 8(d) rule. The purpose of the additions will be to assist EPA to obtain any existing information which could provide guidance as to the kinds of testing needed or which could make further testing unnecessary. This section 8(d) rule will also be applied to gather information which will be used by the Agency in its other regulatory functions.

Background

On July 18, 1978, EPA promulgated a rule similar to the one proposed in this notice (43 FR 30984). That rule required persons who manufacture, process, or distribute in commerce the chemicals on the first ITC priority list to submit lists and copies of health and safety studies on those chemicals. The rule was corrected in two minor respects shortly after its promulgation (43 FR 36249, 43 FR 41205).

On September 12, 1978, the Manufacturing Chemists Association (MCA) filed a petition requesting EPA to amend or repeal the July 18 rule. With minor exceptions, EPA rejected the petition. The issues raised by MCA and EPA's responses to those issues are set forth at 43 FR 56724.

On September 15, 1978, Dow Chemical Company (Dow) filed a petition for review of the rule in the United States Court of Appeals for the Third Circuit. *Dow Chemical Company v. United States Environmental Protection Agency*, No. 78-2203. Dow's petition challenged two provisions of that rule on the following grounds relating to the scope of the Agency's statutory authority. First, Dow asserted that EPA does not have the authority to obtain studies on chemicals manufactured or processed for research and development purposes since it was claimed such chemicals are not manufactured or processed for commercial purposes. Second, Dow asserted that EPA does not have the authority under section 8(d) to obtain copies of studies on a chemical from companies that do not manufacture, process or distribute that chemical. These issues were also raised by MCA in its petition.

In addition, Dow asserted that EPA did not provide adequate notice and fair opportunity to comment with respect to provisions in the July 18 rule that required persons subject to the rule to submit studies on acute effects of chemicals and that required companies to submit studies on chemicals they do not manufacture, process, or distribute.

Dow's challenge of EPA's interpretation of its statutory authority was denied on August 24, 1979. The court ruled that (i) chemicals

manufactured or processed for research and development are manufactured or processed for commercial purposes and (ii) that the EPA has the authority under 8(d)(2) to require persons to submit copies of studies on chemicals that they do not manufacture, process, or distribute. However, we are soliciting comments on whether we should exercise the full extent of our authority on these and other provisions of the proposed rule.

During the proceedings in the Dow lawsuit, the following became apparent. Reporting under the rule was substantially completed by October 16, 1978. Dow did not request a judicial stay of the rule but submitted a substantial number of studies and presumably complied with the rule. It appeared that EPA had received almost all the important information it would receive under the subject rule. In addition, EPA was in the process of developing another rule under section 8(d) for the purpose of obtaining health and safety studies on other chemicals recommended by the ITC, and Dow and others would have adequate opportunity to again raise all of the issues when that next section 8(d) rule was proposed. Also, EPA decided that Dow had raised substantial questions on whether adequate notice and comment were provided with respect to some provisions of the July 18 rule, although EPA entertained no doubt that the provisions of the rule were within the Agency's statutory authority. All of the above considerations led EPA to revoke the July 18 rule.

In the notice of revocation (44 FR 6099), EPA stated its opinion that it had the authority to obtain studies from persons who manufacture or process chemicals for research and development and to obtain copies of studies on substances from persons in possession of such studies whether or not they manufacture, process, or distribute the substances. However, EPA stated that it would accept comments on the issue of whether under any given section 8(d) rule it should exercise the full extent of its authority.

The notice also stated that since EPA had already received substantial information under the July 18 rule, it had determined that it would best use its resources by revoking that rule and considering all issues at a later date in a rule covering both the chemicals subject to the July 18 rule and additional chemicals recommended by the ITC and other chemicals separately selected by EPA. In this way, all of the controversy could be addressed in the context of a rule with future effect rather than a rule

which had already been complied with and would soon be superseded in any event.

This present proposed rule requires reporting of lists and copies of studies on all chemicals included in the July 18 rule, as well as additional chemicals recommended by the ITC and other chemicals separately selected by EPA. While EPA is proposing a rule that would exercise authority substantially similar to that exercised in the July 18 rule, the agency specifically requests comment on whether it should exercise such authority as a matter of policy. Any comment the agency receives on this matter will receive serious consideration before any final decision is made.

Chemical Substances Subject to the Rule

40 CFR 716.13 of the proposed rule contains, and will be expanded in the future to contain, all chemical substances selected by the ITC (see 42 FR 55026, 43 FR 16684, 43 FR 50630, 44 FR 31866) as well as other chemicals separately selected by EPA. The list of chemicals and categories of chemicals in 40 CFR 716.13 includes chemicals other than those so far recommended for testing by the ITC. Of these, several are among substances for which the ITC has estimated exposures and potential for adverse effects as part of its selection process. EPA considered these exposure and effects rankings in choosing these chemicals for further investigation. Asbestos, chlorinated dioxins, and chemicals associated with production of chlorinated dioxins are also included. Asbestos and chlorinated dioxins are known to adversely affect health. To assess the scope of potential adverse effects on health and the environment of each listed chemical, the Agency is proposing to gather existing unpublished studies by means of this rule.

General Requirements of the Rule

This proposed rule would require manufacturers, processors, distributors, and others possessing studies to submit health and safety data relating to the chemical substances and mixtures listed in 40 CFR 716.13 of the rule. The rule proposes two types of submission requirements—the requirement to submit copies of final reports of health and safety studies (with an appropriate index-list) and the requirement to submit lists of certain additional health and safety studies.

The requirement to submit copies of studies would be applied in two ways. First, when the rule goes into effect, all manufacturers, processors, and distributors of chemical substances or mixtures would be required to submit copies of any final reports they possess

of unpublished studies on any chemical substance or mixture listed in 40 CFR 716.13 of the rule. Second, EPA may request copies from persons other than manufacturers, processors, and distributors when such person is identified as possessing a study that is listed by someone else in accordance with 40 CFR 716.16 of the rule. Such persons would be required to submit studies only upon written request by the EPA.

This copy submission requirement applies to any manufacturer, processor, or distributor whether or not a company has ever manufactured, processed, or distributed the chemical that is the subject of the study or has ever proposed to do so.

Section 8(d)(2) of TSCA Permits EPA to require any person to submit a copy of any study in his possession. However, EPA believes that the two requirements described above will be effective, and, therefore it may not be necessary to require submission of copies of final reports of studies from everyone possessing them. Persons in research laboratories of universities and other institutions for instance are likely to publish their findings; hence, little would be gained in including them in the proposed requirement. Moreover, such persons who possess unpublished studies would be covered by the requirement to submit them in response to a letter if the studies are listed in accordance with 40 CFR 716.16.

Although EPA is presently proposing to require submission of copies from any chemical manufacturer, processor, or distributor, EPA is considering whether to further limit the copy submission requirement for those persons. One alternative under consideration would require the manufacturer, processor, or distributor of any one chemical listed in 40 CFR 716.13 to submit copies of studies it possesses on any listed chemical. Another alternative under consideration would require any person who manufactured, processed, or distributed a listed chemical(s) or proposed to do so since January 1, 1950, to submit copies of studies on that chemical(s). The January 1, 1950, date was chosen because the experimental methods after this date generally utilize more advanced analytical techniques, such as, gas and column chromatography, high pressure liquid chromatography, and radio tracer techniques.

EPA desires specific comments on these alternatives and on any others it might use to obtain copies of health and safety studies.

The requirement to list studies would be applied to current manufacturers,

processors, and distributors of chemicals which are the subject of the studies and those who propose to manufacture, process, or distribute the chemicals. The persons subject to this requirement are only responsible for listing studies on the chemicals which they manufacture, process, or distribute. These persons must submit lists of ongoing studies conducted by or for them and studies known to them but not in their possession. This means for example that a company would have to include on its list studies referenced in memoranda in its files, thereby necessitating a more extensive file search than that required by a company submitting studies in its possession. EPA believes this is consistent with the intent of Congress to place a greater burden to submit information concerning a particular chemical on the manufacturer, processor, or distributor of that chemical. Such persons should naturally bear greater responsibility for submitting information related to any threat to the public that may occur from their particular chemical.

Specific Definitions

Section 8(d) applies in part to persons who manufacture, process, or distribute in commerce chemical substances and mixtures and to persons who propose to do so. TSCA sections 3(7) and 3(10) define "manufacture" and "process". Section 8(f) states that, for purposes of section 8, "manufacture" and "process" mean manufacture and process "for commercial purposes". The terms "manufacture for commercial purposes" and "process for commercial purposes" are specifically defined in the proposed rule.

The term "manufacture" is defined in section 3(7) of TSCA to include manufacture, importation, and production. The term "process" is defined in section 3(10) of TSCA to mean preparation of a chemical substance or mixture for distribution in commerce in the same or different form or physical state from that in which it was received, or as part of an article containing the chemical substance or mixture. Thus, a paint formulator placing a solvent in the product intended for distribution in commerce is a processor (of the solvent) as defined in TSCA.

EPA interprets the term "manufacture or process for commercial purposes" to refer to such activities conducted, in whole or in part, for the purpose of obtaining a commercial advantage for the manufacturer or processor. This may be distinguished from strictly charitable or purely academic activities. TSCA places the responsibility for gathering

information in support of chemical regulation on those persons who will derive the commercial benefits from those chemicals.

Chemicals manufactured for product research and development would fall within the scope of this rule because these chemicals are produced for the potential commercial benefit of the manufacturer.

Health and safety studies of chemicals at the research and development stage may be of substantial benefit to EPA in evaluating chemical hazards. In the case of chemicals that have yet to be marketed, such studies enable EPA to evaluate the potential hazards of chemicals and take action to prevent harm before a chemical becomes firmly entrenched in the marketplace and becomes difficult to remove because of the economic and social dislocations that would occur. Also, a company may perform research and development on a chemical that it does not market, but is marketed by another company. Such a chemical may be marketed in substantial quantities and there may be considerable human and environmental exposure. In addition, tests performed at the research and development stage may provide the best available information on the effects of related chemicals. Again, such related chemicals may already be in the marketplace but no significant health and safety studies may ever have been conducted on them. Even at the research and development stage, chemicals may be produced in large quantities that could result in significant exposure. Furthermore, a company performing research and development may perform a study that shows a new chemical is too toxic to market and decide not to market it. If EPA cannot find out about the study, the Agency may permit marketing of the chemical in substantial quantities by another company. EPA also has an interest in obtaining information necessary to protect laboratory workers who are involved in research and development.

Chemicals that occur as byproducts or impurities from the manufacturing or processing of other chemicals are also considered to be manufactured or processed "for commercial purposes" even though they may have no commercial purpose separate from the substance, mixture, or article to which they are incidental. See Inventory Reporting Regulations 40 CFR 710, 4(d); 42 FR 64577 (1977). The legislative history of TSCA indicates that a broad interpretation of the term "commercial purpose" was intended. Specifically addressing the definition of "for

commercial purposes," the House Committee stated:

By use of the term "for commercial purposes," the Committee does not intend to restrict coverage to substances manufactured or processed "for sale." Any commercial purpose such as use as a chemical intermediate in a manufacturing process, is sufficient to bring the manufacture or processing of a substance within the ambit of [the Act]. H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 30 (1976)

Chemical intermediates which never leave the manufacturing plant and which are not manufactured "for sale" or even "for distribution in commerce" nevertheless are manufactured for commercial purposes. Likewise, byproducts or impurities not manufactured "for sale" are considered by EPA to be manufactured for commercial purposes.

When a company manufactures a particular chemical substance or mixture for commercial purposes, other chemicals may be produced concurrently. These other chemicals may be byproducts that are separated from the principal commercial products and sold, used, or discarded, or they may remain in the manufactured chemical as impurities. These byproduct chemicals that are developed for sale or use as commercial products, of course, are manufactured for commercial purposes. EPA interprets TSCA to mean that the discarded byproducts and the impurities, although they may have no commercial purpose separate from the chemical product with which they are associated, are also manufactured or processed for "commercial purposes." The Agency notes further that a byproduct discarded by one manufacturer may be developed for sale by another. In either case the byproduct is manufactured for commercial purposes.

EPA does not believe that one manufacturer should be able to avoid listing a study on the byproduct simply because the byproduct is discarded, since EPA believes that many substances which occur as byproducts or impurities may be more hazardous than the chemical substance or mixture with which they are associated. If the Agency is to carry out the purpose of the Act, it must obtain studies on these materials. An example of this situation is the case of chlorinated dioxins, highly toxic chemicals which appear as impurities or byproducts from the manufacture of certain halogenated phenols, such as, 2,4,5-trichlorophenol and pentachlorophenol. The chlorinated dioxins that occur as impurities are typically carried along in the processing of the products in which they are found.

Chlorinated dioxins, accordingly, are covered by this rule as chemicals manufactured or processed "for commercial purposes."

"Propose to manufacture, process, or distribute" is defined in this rule to mean that a person has made a management decision to commit financial resources toward the manufacture, processing, or distribution of a chemical substance or mixture. Thus, a person who purchases small amounts of a chemical substance for research and development would have to report any health and safety studies when management proposes to process or manufacture the substance for commercial purposes.

"Health and safety study" is defined in this rule as it is defined in section 3(6) of TSCA. However, examples have been added to the definition of "health and safety study" for illustrative purposes. Examples are of types of studies which are included in the definition of health and safety study. Studies of the following effects are included: carcinogenicity, mutagenicity, pharmacological effects, cumulative or synergistic effects, and any other effect regardless of severity. Environmental studies include chemical fate, persistence, and chemical-physical constants, as well as ecological effects. Other kinds of studies, such as monitoring studies, both workplace and environmental, are included. Although this is not an exclusive list, it illustrates the types of studies that should be submitted.

This proposed rule applies to health and safety studies of any effect for the listed substances. The Agency proposes to acquire and evaluate studies of any health and environmental effects associated with chemicals both for the development of section 4 testing rules and to fulfill other purposes of TSCA. It is important to know the full range of possible toxic effects of a substance in evaluating and predicting its biological activities. Chemical fate and persistence studies will help in predicting environmental contamination. Studies of acute effects will help in assessing the potential of chemicals to cause adverse effects in the environment, as well as indicating the possibility of other health effects. Acute effects studies designed to measure potential ecological effects are especially valuable since there is comparatively less information in this field than in others. Also, the submission of acute effects studies will be used to determine the need for and character of acute-effects testing rules.

"Copies of Health and Safety Studies" as defined in this rule means copies of final reports from the principal

investigators of health and safety studies. This is intended to circumvent endless review of studies by persons other than the principal investigators of the studies. A health and safety study is final when a report is available from the principal investigator, not when it is available after management review. Management, of course, has an independent responsibility and right to review a study after it is submitted to EPA.

The term "known to" when applied to a health and safety study means to have direct or indirect knowledge of the existence of the study. For example, a company may directly know that a study exists because the company has the study in its possession or because another person has given the company a written report about it. A company has possession of a study when the study is contained in the official files of that company or in the files of any employee. Similarly, a company may indirectly know that underlying data are in the possession of a testing laboratory because the laboratory performed the study for the company or may indirectly know of a study because it is referenced in a memorandum in the files of an employee.

Reporting Schedule

Persons would be required to submit lists and copies of studies on or before 60 days from the effective date of promulgation of the list of chemical substances and mixtures in 40 CFR 716.13. This proposed rule does, however, include a provision for extending the submission deadline by 20 days. Extensions will only be granted because of extraordinarily long file searches.

Persons would have a continuing duty to submit lists of any studies initiated within five years after the date the chemical substance or mixture was added to the list in 40 CFR 716.13. Copies of final reports of studies listed as ongoing, or studies initiated within the five year reporting period, would have to be submitted within 30 days of the date they are obtained by persons required to report.

Sunset Provision

Requirements to report information under this rule would expire on a date within five years after the chemical to which the information pertains is added to the list in 40 CFR 716.13. If EPA determines that reporting should be continued, a notice to that effect will be published for comment.

Proposed Method for Adding ITC Chemicals to the Rule

The Agency is proposing adding the following provision to 40 CFR 716.13 of the proposed rule: "Upon publication in the FEDERAL REGISTER of the list of chemicals recommended for testing by the ITC, those chemicals become immediately subject to the provisions of this rule." The Agency is soliciting comments on this proposed provision.

Confidentiality

The Agency has interpreted section 8(d) to permit broad access to information. However, EPA is very much aware of the need to maintain the confidentiality of any legitimate trade secrets. Accordingly, every effort will be made under EPA's procedures to preserve confidential commercial information.

A person submitting a health and safety study under 40 CFR 716.15, 716.16, or 716.17 may claim all or part of the study confidential. However, the Agency is authorized by section 14(b) of TSCA to withhold health and safety data from disclosure only to the extent that disclosure would reveal (1) processing information and (2) percent composition of mixtures. Other information contained in the study, the disclosure of which would clearly be an unwarranted invasion of personal privacy (such as individual medical records), will be considered confidential as provided in title 5, United States Code, section 552(b)(6). The provisions of section 14(b) apply only to health and safety data concerning chemical substances or mixtures that (1) have been offered for commercial distribution or which are in the inventory of chemical substances under section 8(b) of TSCA or (2) for which testing is required under section 4 of TSCA or for which notification is required under section 5 of TSCA (See 44 FR 17673).

Any claims of confidentiality must be made at the time of submission, as provided in 40 CFR 2.203(a)(2) and in the manner specified in 40 CFR 716.21 of this proposed regulation. This rule contains a provision to require submission of two copies of studies containing confidential material—one copy indicating what data are claimed as confidential and one copy without the confidential information. EPA will presumptively consider failure to submit two copies as a waiver of the confidentiality claim. However, EPA will notify respondents who claim parts of studies confidential that they did not submit the required two copies. This provision affords persons the opportunity to correct errors and thus

prevent data claimed as confidential from being placed in the public file. To ensure proper handling of confidential material, submissions must be addressed to the Document Control Officer of the Office of Toxic Substances.

Economic Impact

EPA estimates that the total cost to industry of submitting lists and copies of health and safety studies on the listed chemicals at approximately \$411,000.

The major cost of compliance with the section 8(d) requirements will be the cost of a file search to determine what health and safety studies are in the possession of the firm. It is assumed that during the file search for studies, the files will also be searched for references to studies that are not in the firm's possession. This cost will, of course, vary directly with the size of the firm, due to the assumption that larger firms have more files at more locations which must be accessed. Once the studies are located, the remaining compliance costs involve copying and processing the studies, making lists of studies which are in progress or not in the possession of the respondent, and reviewing the studies for confidential information. Each of these costs is outlined below.

File search.....	\$111,120
Title and protocol listing.....	13,890
Photocopying (materials).....	11,748
Photocopying (labor).....	39,160
Managerial review.....	294,960

Total cost to industry..... 410,878

If we assume a $\pm 30\%$ margin or error in these estimates, the range of probable cost could vary from \$288,000 to \$534,000.

Spread over the entire chemical industry, such a cost is extremely minor. Furthermore, if the studies submitted allow EPA to forego even one section 4 testing rule on a subject chemical, the cost avoided thereby would exceed the total cost of the section 8(d) rule.

Public Meetings

During the 60-day comment period, EPA personnel responsible for developing this proposal will be available to meet with interested persons from companies, trade associations, organized labor, and citizen organizations to discuss the proposal. EPA will provide facilities and make other necessary arrangements for such meetings. The Agency will make transcripts or summaries of the meetings for inclusion in the official public record.

Persons should call EPA's Industry Assistance Office at the number listed under "For Further Information Contact"

above to request time for such a meeting or more information on them.

Most meetings will be held at EPA in Washington, D.C. However, in line with EPA's desire to facilitate input from smaller companies and local organizations, the Agency would hold a meeting outside of Washington in a locale central to a group requesting such a meeting where there is demonstrated interest in and need for it.

While the meetings will be open to the public, participation will be limited to those requesting the session and EPA personnel designated for the session.

Public Record

EPA has established a public record (docket number OTS-084003) for this proposed rulemaking document, which along with a complete index is available for inspection in the OTS Reading room 9:00 a.m. to 5:00 p.m. on working days (401 M Street, SW, Washington, DC, 20460). This record includes basic information considered by the Agency in developing this Proposed Rule. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) Health and Safety Study Reporting Regulations, July 18, 1978, Public Record, Docket No. 084001.

(2) Manufacturing Chemists Association—Petition under section 21 of TSCA, September 12, 1978.

(3) Denial of Citizens' Petition, 43 FR 56724-56727.

(4) The entire docket in *Dow Chemical Company v. United States Environmental Protection Agency, et. al.* Docket No. 78-2203 (3rd Cir.).

(5) Revocation of Rule, 44 FR 6099.

(6) Reports Impact Analysis of This Proposed Rulemaking Document.

EPA anticipates adding to the rulemaking record the following types of information:

(1) All comments on this proposed rule.

(2) All relevant support documents and studies.

(3) Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record).

(4) Minutes, summaries, or transcripts of any public meetings held to develop this rule.

(5) Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation, as

prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and such designation. The final rule will also permit persons to point out any errors or omissions in the record.

Note.—EPA has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order No. 12044.

Dated: December 18, 1979.

Douglas M. Costle,
Administrator.

It is proposed that Title 40, Chapter I, be amended by adding the new Part 716 to read as follows:

PART 716—HEALTH AND SAFETY DATA REPORTING

Sec.	
716.11	Scope and compliance.
716.12	Definitions.
716.13	Substances to which this Part applies.
716.14	[Reserved]
716.15	Requirement to submit copies of studies.
716.16	Requirement to submit lists of studies.
716.17	Persons in possession of listed studies.
716.18	Information not subject to mandatory reporting.
716.19	Schedule for submission of studies.
716.20	Sunset provision.
716.21	Confidentiality claims.

Authority: Secs. 8(d) and 14(c), Pub. L. 94-469, 90 Stat. 2029 (15 U.S.C. 2607(d)) and 90 Stat. 2035 (15 U.S.C. 2613(c)).

§ 716.11 Scope and compliance.

(a) This Part sets forth rules to require submission of lists and copies of health and safety studies on chemical substances and mixtures selected for priority consideration for testing rules under section 4(a) of the Toxic Substances Control Act (TSCA) and on other chemical substances and mixtures for which EPA requires health and safety information in fulfilling the purposes of TSCA.

(b) Section 15(3) of the GSCA makes it unlawful for any person to fail or refuse to timely submit information required under this Part. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Under section 17, the district courts of the United States have jurisdiction to restrain any violation of section 15.

§ 716.12 Definitions.

The definitions set forth in section 3 of TSCA apply to this Part. In addition, the following definitions are provided for the purposes of this Part:

(a) "EPA" means the United States Environmental Protection Agency.

(b) "Copies of Health and Safety Studies" means copies of final reports from the principal investigator(s).

(c) "Health and safety study" means any study of an effect of a chemical substance or mixture on health on the environment or on both, including underlying data and epidemiological studies, studies of occupational or environmental exposure to a chemical substance or mixture, toxicological, clinical, and ecological or other environmental studies of a chemical substance or mixture, and any test performed under TSCA.

(1) Examples are:

(i) Long- and short-term tests of mutagenicity; carcinogenicity; or teratogenicity; data on behavioral disorders; dermatotoxicity; pharmacological effects; mammalian absorption; distribution; metabolism and excretion; cumulative, additive, and synergistic effects; and acute, subchronic, and chronic effects.

(ii) Tests for ecological or other environmental effects on invertebrates, fish, or other animals, and plants, including: acute toxicity tests, chronic toxicity tests, critical life safe tests, behavioral tests, algal growth tests, seed germination tests, plant growth or damage tests, microbial function tests, bioconcentration or bioaccumulation tests, and model ecosystem (microcosm) studies.

(iii) Assessments of the human and environmental impacts of a particular chemical substance, including surveys, tests and studies of: biological, photochemical, and chemical degradation; air, water and soil transport; biomagnification and bioconcentration; and chemical and physical constants (e.g., boiling point, vapor pressure, evaporation rates from soil and water, octanol-water partition coefficient, and water solubility).

(iv) Studies measuring or estimating concentrations of a particular chemical(s) anywhere in the environment, including the workplace.

(v) Studies measuring or estimating human or environmental exposure to a particular chemical(s) anywhere in the environment, including the workplace.

(vi) Industrial hygiene surveys; and

(vii) For purposes of this Part, individual files and medical records, lab notebooks, data points, daily monitoring records, etc. are considered to be underlying data.

(2) A health and safety study on a mixture containing a particular chemical substance is a health and safety study on the chemical substance to the extent

the study reflects the effect(s) of the substance.

(d) "Importer" means any person who imports a chemical substance, including a chemical substance as a part of a mixture or article, into the Customs Territory of the United States and includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his behalf (as defined in 19 CFR 1.11). Importer also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR 144.

For the purpose of this definition, the Customs Territory of the United States, consists of the 50 States, Puerto Rico, and the District of Columbia.

(e) "Known to" means that a person has direct or indirect knowledge of the existence of certain information. Direct knowledge means that a person has a study in his possession or knows of the study because he has been given a written report. Indirect knowledge means that a person knows of a study on the basis of written evidence in his files. This may occur when a testing laboratory has in its possession the underlying data for a study performed for the person subject to this rule or when a study is referenced in a memorandum in the files of the person or any employee of the person.

(f) "Manufacture" and "Process" means manufacture or process for commercial purposes.

(g)(1) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture,

(i) For commercial distribution, including for test marketing, and

(ii) For use by the manufacturer, including use for product research and development, or as an intermediate.

(2) "Manufacture for commercial purposes" also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture. Such

byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(h) "Person" includes any individual, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal Government.

(i) "Possession" means that a person who is not a natural person has "possession" of a study when the study is contained in the official files of that person or in the files of any employee of that person.

(j) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(k) "Propose to manufacture, process, or distribute" means that a person has made a management decision to commit financial resources toward the manufacture, processing, or distribution of a chemical substance or mixture.

(l) "Protocol" means a detailed description of the study and conduct to be followed.

(m) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 et. seq.

§ 716.13 Substances to which this Part applies.

The requirements of this Part apply to the chemical substances and mixtures listed below.

(a) As of (the date the final regulations are published in the Federal Register) the requirements of this Part apply to the following:

	CAS Numbers (examples for groups)
Acetonitrile.....	75-05-8.
Acrylamide.....	79-06-1.
Acrylic acid and 2-methylacrylic acid and their esters.....	79-10-7 etc.
Acrylonitrile.....	107-13-1.
Alkyl epoxides—including all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.....	75-21-8, 75-56-9, 106-88-7, 564-00-1, etc.
Alkyl phthalates—all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid).....	117-81-7, 26761-40-0, etc.

	CAS Numbers (examples for groups)		CAS Numbers (examples for groups)		CAS Numbers (examples for groups)
Aniline and chloro-, bromo-, and/or nitro-anilines.	142-04-1, 95-51-2, 108-42-9, 106-47-8, 95-76-1, 634-93-5, 106-40-1, 88-74-4, 99-09-2, 100-01-6, 97-02-9, 121-87-9, 89-63-4, 99-30-9, 3531-19-9, 827-94-1, 1817-73-8, 99-29-6.	Chrome Leather Dark Green S Conc.		Cartasol Blue 2GF	
		Direct Green WS		Direct Sky Blue A Supra Conc.	
		Elcomine Green WT		125%	
		Orcomeine Dark Green WS		Intrabond Liquid Sky Blue M	
		Direct Green 5.....	4335-09-5.	Paper Sky Blue S Liquid 35	
		Amidine Green 2BN		Potamine Sky Blue M Liquid	
		Amidine Green M Special		Direct Blue 22.....	2586-57-4.
		Direct Brilliant Green CBM Ex.		Atlantic Direct Blue RW 100%	
		Conc.		Direct Blue RW Conc. 200%	
		Direct Green BX		Direct Blue 76.....	16143-79-6.
		Direct Green MT 150%		Amafast Blue RW 16BLL	
		Elcomine Green MT 150%		Atlantic Resin Fast Blue 16BLL	
		Orcomeine Green BX		Conc.	
		Direct Green 8.....	5422-17-3.	Atlantic Resin Fast Blue LLGG	
		Amidine Green GX		Diazol Light Blue 7JL U.C.	
		Direct Orange 1.....	6507-81-9.	Fastusol Brilliant Blue L2GU	
		Orcolitefast Orange GLZ		Resin Fast Blue 16BLL	
		Direct Orange 8.....	2429-79-0.	Superitefast Brilliant Blue 16BLL	
		Direct Fast Orange R		Direct Blue 77.....	6441-88-9.
		Direct Paper Orange R Conc.		Pyrazol Fast Blue ZGLN	
		Direct Orange R		Direct Blue 80:	
		Elcomine Orange RP Conc.		Atlantic Resin Fast Blue RLX	
		Paper Orange R		Atlantic Resin Fast Blue 2RLL	
		Synodirect Orange Y 100%		Elcolast Blue 2RL	
		Direct Red 1.....	2429-84-7.	Fastusol Blue LRRU	
		Amidine Fast Red F New		Intralite Blue 2RLL	
		Congo Red F		Pergasol Blue 4RAL	
		Direct Fast Red F		Pyrazol Fast Blue RUL	
		Elcolast Red FD		Resin Fast Blue 7RLL	
		Orcomeine Red F		Sinus Supra Blue 2RL	
		Direct Red 28.....	573-58-0.	Solophenyl Blue ZRL	
		Congo Red		Superitefast Blue RL	
		Direct Congo Red 4B		Superitefast Blue RLE	
		Elcomine Congo Red		Intralite Blue NBL	
		Orcomeine Congo Red		Solophenyl Blue RBL	
		Synodirect Red 4B 100%		Direct Blue 90:	
		Direct Red 37.....	3530-19-6.	Pyrazol Fast Blue FGL	
		Amidine Fast Scarlet BN Conc.		Direct Blue 98.....	6656-03-7.
		Direct Fast Scarlet B		Atlantic Resin Fast Blue LLU	
		Elcomine Scarlet B		Atlantic Resin Fast Blue LLU	
		Orcomeine Scarlet B		200%	
		Direct Violet 1.....	2586-60-9.	Atlantic Resin Fast Blue LLUG	
		Amidine Violet N		Diazol Blue 3JLNA	
		Elcomine Violet 3R Conc.		Direct Fast Navy BRN	
		Direct Violet 22.....	6425-67-1.	Fastusol Blue LR	
		Elcomine Violet BW 200		Intralite Brilliant Blue L	
		Acid Red 85.....	3567-65-5.	Pyrazol Fast Blue LUL	
		Intrazone Fast Red GRG		Resin Fast Navy WRA	
		Milling Red 2J		Sirius Supra Blue BRL	
		Milling Scarlet G		Direct Blue 100:	
		Nylon Fast Scarlet PG		Resin Fast Blue 3GLL	
		Supernylite Scarlet G		Superitefast GL	
				Direct Blue 151.....	6449-35-0.
				Diazol Fast Blue MP, MP Conc.	
				Direct Blue R 100%, R, Conc.	
				Elcolast Diazo Blue B Conc.	
				Direct Blue 156:	
				Cuprophanyl Navy Blue BL	
				Intramet Navy Blue RL	
				Direct Blue 160:	
				Cuprolast Light Navy RL	
				Cuprofix Navy C-GR	
				Cuprophanyl Navy Blue RL	
				Intramet Navy Blue R11 Conc.	
				200%	
				Direct Blue 191:	
				Resin Fast Blue 8GLN	
				Superitefast Blue 8GLN	
				Direct Blue 218.....	10401-50-0
				Amafast Blue 3GAV Conc.	
				Amafast Bond Blue 10GLP Conc.,	
				10 GLPLiq.	
				Bond Blue B	
				Carta Blue VP	
				Elcolast Bond Blue	
				Fastusol Blue 9GLP Liq.	
				Paper Blue 3 GAP	
				Pergasol Blue 8GLP Liq.	
				Pontamine Bond Blue B Liq.	
				Pontamine Fast Blue 7GLN	
				Pyrazol Fast Sky Blue 7GUL	
				Resin Fast Blue 3GAV	
				Sirius Supra Blue 5G	
				Solophenyl Blue 8GL, 6GLP Liq.	
				Superitefast Blue WB	
				Superitefast Blue 8GUL	
				Superitefast Blue 3GLST	
				Direct Blue 216/224:	
				Intrabond Liquid Blue 8GLL	
				Intralite Blue 8GLL	
				Direct Blue 224:	
				Atlantic Resin Fast Blue 7GUL	
				Direct Blue 269 (o-anisidine):	
				Potamine Blue AB Liq.	
				Direct Brown 200:	

	CAS Numbers (examples for groups)		CAS Numbers (examples for groups)		CAS Numbers (examples for groups)
Limcrease Dark Brown 3LB		Neutrazoc Yellow 2G, 2G Pdr.		Amacid Milling Red PRS	
Direct Yellow 68:		Azoic Yellow Composition 2:		Amacid Milling Red RST	
Cuprophanyl Yellow RL Extra		Atlantic Printing Yellow 2G Pdr.		Milling Red RS 125%	
Intramet Yellow RL		Azogen Yellow GG Soln.		Orco Milling Red RS 125%	
Direct Violet 93:		Azogen Yellow GN		Acid Red 111.....	6358-57-2.
Cuprophanyl Violet 3RL		Neutrazoc Yellow 2G, 2G Pdr.		Coomassie Scarlet B	
Azolic Blue Composition 2:		Azoic Yellow Composition 3:		Levanol Fast Scarlet FGN	
Atlantic Printing Blue D-BC		Neutrazoc Golden Yellow R, R		Nylomine Scarlet C-3G	
Atlantic Printing Blue D Pdr.		Pdr.		Telon Fast Red GN	
Neutrazoc Blue AS Pdr.		Azoic Orange Composition 3:		M-Tolidine:	
Neutrazoc Blue D		Atlantic Printing Orange R, R		Atanyl Scarlet FD	
Azolic Blue Composition 3:		Pdr., R Dbl. Soln.		O-Dianisidine/O-Tolidine:	
Atlantic Printing Blue-GB		Direct Blue 14.....	72-57-1.	Direct Blue 3BX Conc.	
Neutrazoc Blue GB Pdr.		Carta Blue 3B			
Neutrazoc Blue GN Pdr.		Chrome Leather Blue 3B		PIGMENTS DERIVED FROM DIANISIDINE	
Azolic Black Composition 4:		Diphenyl Blue 3B Conc.		Orange 16.....	6505-28-8.
Atlantic Printing Black 3G Pdr.		Direct Blue 3B Conc.		Blue 25.....	10127-03-4
Direct Azoc Diazo Component 48.....	20282-70-6.	Paper Blue 1			
Atlantic Stable Blue B Pdr.		Pergasol Blue 3B Conc.		PIGMENTS DERIVED FROM DICHLOROBENZIDINE	
Azone Fast Blue B Salt		Direct Blue 25.....	2150-54-1.	Orange 13.....	3520-72-7.
Fast Blue D-ND Salt		Diazol Pure Blue BRA		Orange 34.....	15703-73-4.
Fast Blue B Salt		Diphenyl Brilliant Blue 5B		Yellow 12.....	6359-85-6.
Fast Blue B-ND Salt		Direct Brilliant Blue BC		Yellow 13.....	5102-83-0.
Stable Blue B Base		Direct New Blue 5B, 5B Conc.		Yellow 14.....	5468-75-7.
Azolic Coupling Component 3.....	91-92-9.	Pergasol Brilliant Blue 5B		Yellow 83.....	5567-15-7.
Naphthol AS-BR		Pyazol New Blue		Chloroend anhydride.....	115-27-5.
Naphthol AS-BR 20% Soln.		Direct Blue 26.....	7082-31-7.	Chlorinated benzenes, mono- and	
Naphthol AS-BR, AS-BR Soln.		Direct Chrome Blue Black B Ex.		di.....	541-73-1, 106-46-7.
Other Dyes Derived From O-Dianisidine:		Conc.		Chlorinated benzenes, tri-, tetra-,	87-61-6, 120-82-1,
Atlantic Printing Black 2b Pdr.		Direct Orange 6.....	6637-89-3.	penta- and Hexa.....	103-70-3, 634-66-2,
Atlantic Printing Black FOR Pdr.		Amidine Orange GG			95-94-3, 608-93-5,
Neutrazoc Black 2B Pdr.		Direct Fast Orange Y 125%			634-90-2.
Neutrazoc Black FOR Pdr.		Direct Red.....	992-59-6.	Chlorinated naphthalenes—	90-13-1, 1321-65-9,
Neutrazoc Black GF 167% Pdr.		Amanil Purpurine 4B Conc.		chlorinated derivatives of	1321-64-8, etc.
Neutrazoc Black JN Pdr.		Benzopurpurine 4B Ex. Conc., 4B		naphthalene (empirical formula	
Padazoc Black GLL Pdr.		Special		C ₁₀ H ₆ Cl ₂ , where x + y = 8).	
Padazoc Black RLL Pdr.		Cotton Red 4BS Supra			75-45-6.
Padazoc Black 2G 150% Pdr.		Diphenyl Red 4BS Supra		Chlorodifluoromethane.....	108-43-0, 95-57-8,
Atlantic Resin Fast Blue ARL BFL		Direct Purpure 4B		Chlorophenols—meta-, ortho-, and	106-48-9.
Atlantic Resin Fast Blue BLA		Elcomine Benzopurpurine		para-chlorophenol.....	
Atlantic Resin Fast Blue BLC		Paper Red 4BS Conc.		Chlorinated paraffins—chlorinated	
Atlantic Resin Fast Blue BRN		Pergasol Red 4BS Conc.		paraffin oils and chlorinated	
Atlantic Resin Fast Blue 8BGL		Direct Red 39.....	6358-29-8.	paraffin waxes, with chlorine	
Atlantic Resin Fast Blue 3GLL		Amidine Scarlet 3B		content of 35 percent through 70	
Atlantic Resin Fast Blue 5GLL		Carta Red 3B		percent by weight.	
Atlantic Resin Fast Blue 8GLN		Direct Fast Red 3B		Chloromethane (methyl chloride).....	74-87-3.
Atlantic Resin Fast Blue LB GL		Elcomine Scarlet 3B		2-Chloro-1,3-butadiene	126-99-8.
Atlantic Resin Fast Blue 6GKS		Orcomeine Scarlet 3B		(chloroprene).	
Atlantic Resin Fast Blue 8GUM		Pyrazol Red 3B		Cresols—ortho, meta, and para-	95-48-7, 108-39-4,
Atlantic Resin Fast Blue 9GLR		Direct Brown 230:		cresol.....	106-44-5.
Atlantic Resin Fast Blue UGLL		Direct Fast Brown BR-NB Conc.		Cyclohexanone.....	108-94-1.
Atlantic Resin Fast Blue FFBL		Direct Fast Brown BRLT		1,2-Dichloroethane.....	75-34-3.
Padazoc Blue GP Pdr.		Direct Yellow 95:		Dichloromethane, (methylene	75-09-2.
Padazoc Denim Indigo Blue G		Cuprophanyl Yellow 3GL		chloride).	
Pdr.		Other Dyes derived from O-Tolidine:		1,2-Dichloropropane.....	78-87-5.
Padazoc Navy Blue WS EX Pdr.		Diphenyl Green BBN		Ethylbenzene.....	100-41-4.
Pontamine Blue WE Liq.		Pyrazol Dark Green 3B		Glycidol and its derivatives.....	556-52-5, 106-90-1,
Padazoc Brilliant Indigo 3B Pdr.		Direct Fast Brown BCW-NB			106-91-2, 106-92-8,
Padazoc Denim Indigo Pdr.		Direct Fast Brown BP-NB Conc.			2426-08-6, 2186-24-5,
Atlantic Printing Brown GGN Pdr.		Direct Brown GG-NB			5, 122-60-1, 1675-54-3, etc.
Atlantic Printing Brown BR Pdr.		Direct Brown US-NB		Halogenated alkyl epoxides—	106-89-8, 3132-64-7,
Neutrazoc Brown Br Pdr.		Padazoc Yellow G Pdr.		halogenated noncyclic aliphatic	etc.
Padazoc Farmer Brown Pdr.		Padazoc Golden Yellow RLL Pdr.		hydrocarbons with one or more	
Atlantic Resin Fast Grey LVL		Padazoc Orange GR Pdr.		epoxy functional groups.	
Superitefast Grey LVL		Pentrating Black AM-NB		Hexachloro-1,3-butadiene.....	87-59-2.
Superitefast Rubine WLKS		Sandolan Red N-3B		Hexachlorocyclopentadiene.....	77-47-4.
				Hydroquinone.....	123-31-9.
				Iodomethane (methyl iodide).....	74-88-4.
				Isophorone.....	78-59-1.
				Mesityl oxide.....	181-79-7.
				4,4'-Methylenedianiline.....	101-77-9.
				Methyl ethyl ketone.....	78-93-3.
				Methyl isobutyl ketone.....	110-91-8.
				Morpholine.....	110-91-8.
				Nitrobenzene.....	90-95-3.
				Nitrosodiphenylamine.....	102-71-6.
				2-Nitropropane.....	79-46-9.
				Organotin Compounds—compounds	54848-33-6, 25169-24-4,
				of tin containing at least one	5, 77-58-7, 56-35-9,
				carbon-tin bond. Examples	16091-18-2, etc.
				include, but are not limited to:	
				mono-, di-, and trialkyl tin halides,	
				carboxylates, ethers, etc.; mono-,	
				di-, and triaryl tin halides,	
				carboxylates, etc.; mixed alkyl	
				aryl compounds; aralkyl	
				derivatives; heterocyclic	
				derivatives; tetraalkyl, tetraaryl	
				and analogous tetrasubstituted tin	
				derivatives.	
				Pentachlorophenol.....	87-86-5.
				p-Phenylenediamine.....	106-50-3.
				Polychlorinated dibenzofurans.	
				Polychlorinated dibenzo p-dioxins.	
				Polychlorinated biphenyls—	61736-33-8, 12642-23-8,
				polychlorinated ortho-, meta-, and	8, 11126-42-4, etc.
				para-terphenyls.	

	CAS Numbers (examples for groups)
Quinone	106-51-4
Toluene	108-88-3
Toluene, alpha-chloro	100-44-7
1,1,1-Trichloroethane (methyl chloroform)	71-55-6
2,4,5-Trichlorophenol	95-95-4
Vinylbenzene (styrene)	100-42-5
Vinyl fluoride	75-02-5
Vinylidene fluoride	75-38-7
Xylenes—ortho-, meta-, and para- xylene	95-47-6, 108-38-3, 106-42-3
716.44 (Reserved)	

§ 716.15 Requirement to submit copies of studies.

(a)(1) Except as provided in section 716.18, any person who manufactures, processes, or distributes in commerce a chemical substance or mixture must send to EPA copies of any health and safety studies in his possession for each of the chemical substances or mixtures listed in section 716.13.

(i) That were conducted or initiated by or for him, or

(ii) That were conducted or initiated by a person who is not subject to reporting under this section.

(2) Underlying data, such as, medical or health records and daily monitoring records supporting exposure monitoring or epidemiological studies, do not have to be submitted unless requested (see paragraph (c) of this section).

(b) The studies must be accompanied by a cover letter containing the name, title, address, and telephone number of the submitting official, the name and address of the company on whose behalf the submission is made, and an index-list of submitted health and safety studies grouped by chemical substance or mixture and alphabetized by the last name of the senior author. The index-list must also contain the Chemical Abstracts Service (CAS) Registry Number, if known, of each chemical substance studied, including the CAS Registry Number of each intentional component of a mixture.

(c) Persons who submit studies may subsequently be required to submit all or part of any underlying data. In such cases, a letter will be sent to the person by certified mail from the designee of the Assistant Administrator for Toxic Substances, specifying the data to be submitted. Submissions must be postmarked within 30 days¹ of receipt of the letter, unless the letter specifies a longer period.

(d) Copies of health and safety studies and the accompanying index-lists and cover letter must be submitted (preferably by certified mail) to: Document Control Officer, Chemical Information Division, Office of Toxic Substances (TS-793), Environmental

Protection Agency, Washington, DC 20460, Attention: 8(d) submission.

§ 716.16 Requirement to submit lists of studies.

(a) All persons who presently manufacture, process, or distribute or propose to manufacture, process, or distribute one or more of the chemical substances or mixtures listed in section 716.13 of this Part, except as provided in section 716.18, must send the following to EPA for each of the chemical substances or mixtures listed in section 716.13 which they manufacture, process, or distribute or propose to manufacture, process, or distribute:

(1) A descriptive list of ongoing health and safety studies conducted by or for them, including the purpose of the study, type of data collected, and progress and anticipated date of completion. The list of health and safety studies shall include but not be limited to:

(i) Any health or medical records systems maintained by them on employees exposed or potentially exposed to a particular chemical(s).

(ii) Any studies or record systems, conducted or maintained by or for them, measuring or estimating concentrations of a particular chemical(s) anywhere in the environment, including the workplace.

(iii) Any studies or record systems, conducted or maintained by or for them, measuring or estimating human or environmental exposure to a particular chemical(s) anywhere in the environment, including the workplace;

(2) A copy of the protocol for each listed ongoing study.

(3) A list of health and safety studies, conducted by or for them, submitted to any Federal agency with no claims of confidentiality. The list should include the author, study title, name of the agency to which the study was sent, and any other identifying information with respect to the study.

(4) A list of any unpublished chemical and physical constants known to them.

(5) A list containing the study title and the identity and address of any person known to them to possess unpublished studies.

(b) Submissions under paragraph (a) of this section must be grouped by chemical, including CAS Number if known, and must be accompanied by a cover letter containing the name, job title, address and telephone number of the submitting official, and the name and address of the manufacturing, processing, or distributing establishment on whose behalf the submission is made.

(c) Persons who list studies may subsequently be required to submit all

or part of any reports, including preliminary reports or underlying data. In such cases, a letter will be sent by certifying mail from the designee of the Assistant Administrator for Toxic Substances, specifying the data to be submitted. Submissions must be postmarked within 30 days of receipt of the letter, unless the letter specifies a longer period.

(d) The list of health and safety studies should be submitted (preferably by certified mail) to: Document Control Officer, Chemical Information Division, Office of Toxic Substances (TS-793), Environmental Protection Agency, Washington, DC 20460, Attention: 8(d) submission.

§ 716.17 Persons in possession of listed studies.

(a) Except as provided in section 716.18, any person who possesses a study that is listed by a person submitting a list according to the requirements of section 716.16 must, if requested by the designee of the Assistant Administrator for Toxic Substances, submit a copy of the study to EPA.

(b) In requiring any person to submit a copy of a study under paragraph (a) of this section, EPA shall notify the person in writing of the requirement.

(1) Such written notification shall include:

(i) A copy of this Part.

(ii) A description of the requested study.

(iii) The name, address, and telephone number of the person to whom the study is to be submitted.

(iv) The date by which the study must be submitted. However, such date shall be no sooner than 30 days after the person's receipt of the notification.

(2) The written notification shall be sent by certified mail.

§ 716.18 Information not subject to mandatory reporting.

Persons subject to this Part may, but are not required to, submit:

(a) Copies or lists of studies or data (such as physical/chemical constants) which have been published in the scientific literature; or

(b) Copies of any studies submitted to any Federal agency with no claims of confidentiality; or

(c) Copies of any studies conducted or initiated by or for another person who is subject to this Part; or

(d) Copies or lists of studies of mixtures containing a very small amount of one or more chemical substances listed in § 716.13, when the study clearly cannot reflect effects of the chemical substance(s).

§ 716.19 Schedule for submission of studies.

(a) Except as provided in paragraphs (b) and (c) of this section, submissions under §§ 716.15 and 716.16 shall be postmarked on or before 60 days after the effective date of the listing of a chemical in section 716.13.

(b) Persons subject to the requirements of section 716.16 must inform EPA of any study initiated within five years after the date the chemical substance or mixture was added to the list in section 716.13. Copies of final reports of studies listed as ongoing under section 716.16(a)(1), or studies initiated within the five-year reporting period, must be submitted within 30 days of the date they are obtained by persons required to report.

(c) Respondents who cannot meet the deadline for submissions required by this Part because of extraordinarily long file searches may apply for an extension of 20 days. Requests for extensions should be addressed to: Deputy Assistant Administrator for Program Integration and Information, Office of Toxic Substances (TS-793), Environmental Protection Agency, Washington, DC 20460.

§ 716.20 Sunset provision.

The reporting requirement on a chemical substance or mixture will terminate within 5 years after that chemical substance or mixture is added to the list in § 716.13. The termination date for the reporting requirement on a chemical substance or mixture will be the annual sunset date (May 1 or November 1) that falls within 5 years after reporting begins (e.g., a reporting requirement taking effect on January 1, 1980 would expire not later than November 1, 1984).

§ 716.21 Confidentiality claims.

(a) Any person submitting a document under this Part may assert a business confidentiality claim covering all or part of the submitted material. Any information covered by a claim will be disclosed by EPA only as provided in procedures set forth at 40 CFR Part 2, as amended on September 8, 1978, 43 FR 39997.

(b) If no claim accompanies a document at the time it is submitted to EPA, the document will be placed in an open file available to the public without further notice to the respondent.

(c)(1) Section 14(b) of TSCA states that EPA may not withhold from disclosure, on the grounds that they are confidential business information, health and safety studies of any substance that has been offered for commercial distribution or for which

testing is required under TSCA section 4 or for which notice is required under TSCA section 5, except to the extent that disclosure of data from such studies would reveal:

(i) Processes used in the manufacturing or processing of a chemical substance or mixture, or

(ii) The portion of a mixture comprised by any of the chemical substances in the mixture.

(2) Any respondent who wishes to assert a claim that part of a study should be withheld from disclosure because disclosure would reveal a confidential process or quantitative mixture composition should explicitly explain the basis of the claim and clearly demarcate the material subject to the claim. Information in a study such as company name or address, financial statistics, or product codes used by a company, which is irrelevant to any health or environmental effect of a chemical, may be claimed confidential and not subject to the disclosure requirements of section 14(b) of TSCA.

(d) To assert a claim of confidentiality for data contained in a submitted document, the respondent must submit two copies of the document.

(1) One copy must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "confidential", "proprietary", or "trade secret".

(2) If some data are claimed as confidential, the respondent must submit a second copy. The second copy must be complete, except that all information claimed as confidential in the first copy must be deleted.

(3) The first copy will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(4) Failure to furnish a second copy when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent will be given 20 days from the date of receipt of notification to submit the required second copy. Failure to submit the second copy will cause EPA to place the first copy in the public file.

[FR Doc. 79-39802 Filed 12-28-79; 8:45 am]

BILLING CODE 6560-01-M

¹ The term "days" in this Part refers to calendar days unless otherwise stated.

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Test Report Federal Project

Monday
December 31, 1979

Part VII

Office of
Management and
Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals totalling \$28.7 million and three revisions to previously transmitted deferrals increasing the amount deferred by \$34.5 million. These items affect programs in the Departments of Defense and Treasury, the National Consumer Cooperative Bank, the National Commission on Social Security, and the District of Columbia.

The details of the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
December 26, 1979.
BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Department of Defense - Civil:	
	Wildlife Conservation, Military Reservations	
D80-10A	Wildlife conservation, all services.....	709
	Department of the Treasury:	
	Office of the Secretary	
D80-38	Investment in national consumer cooperative bank.....	12,550
	Office of Revenue Sharing	
D80-22A	State and local government fiscal assistance fund.....	113,793
	Other Independent Agencies:	
	District of Columbia	
D80-39	Loans for capital outlay.....	8,130
	National Consumer Cooperative Bank	
D80-40	Self-help development fund.....	8,000
	National Commission on Social Security	
D80-29A	Salaries and expenses.....	395
	Total, deferrals.....	143,577

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Third special message:		
New items.....	---	28,680
Change to amounts previously submitted.....	---	34,504
Effect of third special message.....	---	63,184
Previous special messages.....	114	1,529,153
Total amount proposed in special messages.....	114	1,592,337 ^{1/}

^{1/} This amount represents budget authority except for \$2,735 thousand in a general revenue sharing deferral of outlays only (D80-23)

D80-10A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D80-10 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral of Department of Defense wildlife conservation funds increases the amount previously reported as deferred from \$595,166 to \$708,951. This increase of \$113,785 is attributable to an adjustment in unobligated balances brought forward on October 1, 1979. The adjustment was necessary because the actual amount of unobligated balances brought forward was \$123,785 higher than had been originally estimated. The remaining \$10,000 has been made available for obligation.

Deferral No: D80-10A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Defense - Civil	New budget authority (16 U.S.C. 670 f (a)) \$ 967,000
Bureau	Other budgetary resources 718,951 *
Appropriation title & symbol	Total budgetary resources 1,685,951 *
See coverage section below	Amount to be deferred: Part of year \$ Entire year 708,951 *
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

* Coverage: 1/

Wildlife Conservation, etc., Military Reservations, Army, 21X5095, 21-1500-0-1-303 \$535,836
 Wildlife Conservation, etc., Military Reservations, Navy, 17X5095, 17-1501-0-1-303 127,522
 Wildlife Conservation, etc., Military Reservations, Air Force, 57X5095, 57-1502-0-1-303 45,593
 \$708,951

Justification:

These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations, pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law--to carry out a program of natural resource conservation.

Since apportionments have been made for all known program requirements, prudent financial management requires the deferral of the balance of the funds, which could not be used effectively during the current year even if made available for obligation. These funds are being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665). Full apportionment is not requested by the Services because (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified.

Estimated Effects:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ These accounts were the subject of a similar deferral during fiscal year 1979.

* Revised from previous report.

Deferral No: D80-38

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Treasury	New budget authority (P.L. 96-103) \$ 49,050,000
Bureau Office of the Secretary	Other budgetary resources 1,000,000
Appropriation title & symbol	Total budgetary resources 50,050,000
Investment in National Consumer Cooperative Bank	Amount to be deferred: Part of year \$ Entire year 12,550,000
209/01866 1/ 200/11866	
OMB identification code: 20-1866-0-1-376	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1981 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

These funds were provided by the Department of Housing and Urban Development - Independent Agencies Appropriation Act (P.L. 96-103) for capitalization of the National Consumer Cooperative Bank in FY 1980. Because the bank is beginning operations later than expected, funds totalling \$12,550,000 will not be needed for the planned loan program in FY 1980. These funds are deferred for use in FY 1981.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ None of these funds is deferred.

D80-22A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-22 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision of a deferral for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the amount previously reported as deferred from \$79,547,717 to \$113,792,911. This increase of \$34,245,194 results from withholding from obligation one-half of one percent of the amounts appropriated to the trust fund by the Department of Housing and Urban Development and Independent Agencies Appropriation Act, 1980 (P.L. 96-103).

Deferral No: B60-22ADEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L. 96-103) \$ 6,854,924,000*
Bureau Office of Revenue Sharing	Other budgetary resources 79,543,660*
Appropriation title & symbol	Total budgetary resources 6,934,467,660*
State and Local Government Fiscal Assistance Trust Fund 20X8111 1/	Amount to be deferred: Part of year \$ 2,500,000 Entire year 111,292,911*
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☒ Yes ☐ No	☒ Other P.L. 92-512, P.L. 94-438(Sec. 6)
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:*

The Secretary of the Treasury must hold in reserve an amount to meet additional valid claims to prior entitlement periods from State and local governments for general revenue sharing payments. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,170 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation: 1) one percent of the amounts appropriated for each entitlement period through FY 1975; and 2) one-half of one percent of the \$4,988 million appropriated for general revenue sharing in the Economic Stimulus Appropriations Act, 1977 (P.L. 95-29), and the HUD-Independent Agencies Appropriation Acts of 1978 and 1980 (P.L. 95-119 and P.L. 96-103, respectively).

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount of \$113.8 million retained in the Trust Fund will be further reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

Estimated Effect:

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

Outlay Effect:

This deferral has the effect of shifting \$111.3 million in estimated outlays into FY 1981 (\$56 million) and FY 1982 (\$55.3 million).

1/ This account is currently the subject of another deferral and was the subject of a similar deferral during FY 1979.

* Revised from previous report.

Deferral No: D90-40
DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency National Consumer Cooperative Bank	New budget authority (P.L. 96-103) \$ 17,000,000
Bureau	Other budgetary resources 1,000,000
Appropriation title & symbol	Total budgetary resources 18,000,000
SAIF-Help Development Fund 209-00201-1/ 209-10201	Amount to be deferred: Part of year \$ Entire year 8,000,000
OMB identification code: 20-00201-0-1-35	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year 9/30/80-1/ and 9/30/81 (expiration date) ☐ No-year	

Justification:

These funds were provided by the Department of Housing and Urban Development - Independent Agencies Appropriation Act, 1980 (P.L. 96-103) for capitalization of the Self-Help Development Bank. The Bank is beginning operations later than expected; none of the funds from the Self-Help Development Bank have been obligated as of September 30, 1979. The deferral of \$8 million to fiscal year 1981 reflects this later-than-expected start.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ None of these funds is deferred.

Deferral No: 101-37
DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency District of Columbia	New budget authority (P.L. 96-103) \$ 125,000,000
Bureau	Other budgetary resources 29,402,500
Appropriation title & symbol	Total budgetary resources 153,402,500
Loans to the District of Columbia for Capital Outlay 20X0117	Amount to be deferred: Part of year \$ Entire year 3,119,700
OMB identification code: 20-0117-0-1-852	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year (expiration date) ☐ No-year	

Justification:

Public Law 96-93, the District of Columbia Appropriation Act, 1980, provided \$125.0 million, without fiscal year limitation, for the District's capital development program. In addition, \$28.4 million is available to the program from prior years. Under current plans, an estimated \$14.3 million will be obligated in FY 1980. The remaining \$81 million is deferred for use in FY 1981.

This deferral is consistent with the congressional intent to provide no-year funding for this program and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlays Effect:

This deferral action has no effect on outlays.

D80-29A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-29 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the National Commission on Social Security increases the amount previously reported as deferred from \$250,000 to \$395,073. This increase of \$145,073 is attributable to an adjustment in unobligated balances brought forward on October 1, 1979. The adjustment was necessary because the actual amount of unobligated balances brought forward was \$145,073 higher than had been originally estimated.

Deferral No: D80-29A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency National Commission on Social Security	New budget authority \$
Bureau	(P.L.)
Appropriation title & symbol	Other budgetary resources 2,088,073 *
Salaries and Expenses 1/	Total budgetary resources 2,088,073 *
489/1600 48X1600	Amount to be deferred:
	Part of year \$
	Entire year 395,073 *
OMB identification code:	Legal authority (in addition to sec. 1013):
48-1600-0-1-601	☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund:	Type of budget authority:
☐ Annual	☒ Appropriation
☒ Multiple-year September 30, 1981 (expiration date)	☐ Contract authority
☒ No-year	☐ Other

Justification: *

The National Commission on Social Security, a temporary commission, was established by P.L. 95-216 to study, investigate, and review the cash benefits and health insurance programs authorized by Titles II and XVIII of the Social Security Act. Initially, \$500,000 was provided in P.L. 95-480 for initial costs, with an additional \$2.0 million provided in the Supplemental Appropriations Act, 1979 (P.L. 96-38), for continued operations.

Funds totalling \$395,073 are deferred to assure prudent financial management. None of these funds could be used effectively or efficiently during FY 1980.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665), and is in accord with congressional intent to provide funding for the full two-year life of the Commission.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979

* Revised from previous report.

[FR Doc. 79-39838 Filed 12-28-79; 8:45 am]

BILLING CODE 3110-01-C

Monday
December 31, 1979

Part VIII

Department of
Housing and Urban
Development

Office of Assistant Secretary for
Housing—Federal Housing Commissioner

Section 202 Loans For Housing For the
Elderly or Handicapped; Announcement
of Fund Availability Fiscal Year 1980

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**
**Office of Assistant Secretary for
Housing—Federal Housing
Commissioner**
[Docket No. N-79-968]
**Section 202 Loans for Housing for the
Elderly or Handicapped;
Announcement of Fund Availability
Fiscal Year 1980**
AGENCY: Office of the Assistant
Secretary for Housing—Federal Housing
Commissioner, Department of Housing
and Urban Development (HUD).

ACTION: Notice.

SUMMARY: HUD is announcing the availability of Fiscal Year 1980 loan authority under the Section 202 Housing for the Elderly or Handicapped Direct Loan Program. The loan authority will be used to provide direct Federal loans for a maximum term of 40 years under Section 202 of the Housing Act of 1959, as amended, to assist private nonprofit corporations and consumer cooperatives in the development of new or substantially rehabilitated housing and related facilities to serve the elderly or handicapped.

FOR FURTHER INFORMATION CONTACT:
The HUD Field Office for your jurisdiction.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Title 24, Code of Federal Regulations, Part 885, as amended on March 1, 1978 (43 FR 8491), that the Department of Housing and Urban Development will be accepting Applications for Fund Reservations from eligible Borrowers (see Section 885.5 for the definition of "Borrower" and other terms used herein) for the provision of direct loans for the construction or substantial rehabilitation of Housing and Related Facilities (as defined) for dwelling use by Elderly or Handicapped Families (as defined) under the provisions of Section 202 of the Housing Act of 1959, as amended.

The Assistant Secretary for Housing is assigning Section 202 loan fund authority for Fiscal Year 1980 to the HUD Field Offices identified below in conformance with the provisions of Section 213(d) of the Housing and Community Development Act of 1974, as amended, as provided at 24 CFR Part 891, Subpart D.

While the precise number of units to be funded depends upon actual approvable applications received, the following distribution plan shows the approximate numbers of units and loan authority available for new applications in each Field Office jurisdiction for Fiscal Year 1980.

BILLING CODE 4210-01-M
Fiscal Year 1980 Section 202
Distribution Plan By HUD Field Office
Jurisdiction

	Estimated	
	Number of	Estimated
	Units	Loan Authority*
Boston Regional Office:		
Boston	410	\$17,620,000
Manchester (Bangor, Burlington)	175	7,229,000
Providence	80	3,207,000
Hartford	210	9,067,000
Total	875	\$37,123,000
New York Regional Office:		
Buffalo (Albany)	500	\$17,947,000
Caribbean	540	16,341,000
Newark (Camden)	600	24,452,000
New York	1190	58,463,000
Total	2830	\$117,203,000

Fiscal Year 1980 Section 202

Distribution Plan By HUD Field Office

Jurisdiction

	Estimated	
	Number of	Estimated
	Units	Loan Authority*
Philadelphia Regional Office:		
Baltimore	145	\$ 5,407,000
Philadelphia (Wilmington)	690	25,245,000
Pittsburgh	360	14,246,000
Charleston	145	5,737,000
Richmond	240	7,631,000
Washington, D.C.	<u>105</u>	<u>4,482,000</u>
Total	1685	\$62,748,000
Atlanta Regional Office:		
Atlanta	340	\$11,057,000
Birmingham	330	10,373,000
Columbia	175	5,308,000
Greensboro	455	11,953,000
Jackson	195	6,305,000
Jacksonville (Coral Gables, Tampa)	885	31,147,000
Knoxville	145	4,301,000
Nashville (Memphis)	190	6,453,000
Louisville	<u>285</u>	<u>9,398,000</u>
Total	3000	\$96,295,000

Fiscal Year 1980 Section 202

Distribution Plan By HUD Field Office

Jurisdiction

	Estimated	
	Number of	Estimated
	Units	Loan Authority*
Chicago Regional Office:		
Chicago (Springfield)	890	\$36,991,000
Columbus (Cincinnati)	255	9,746,000
Cleveland	255	9,605,000
Detroit	370	15,315,000
Grand Rapids	220	7,984,000
Indianapolis	395	14,747,000
Milwaukee	390	13,418,000
Minn.-St. Paul	<u>500</u>	<u>19,766,000</u>
Total	3275	\$127,572,000
Dallas Regional Office:		
Dallas (Albuquerque, Fort Worth, Lubbock)	660	\$19,351,000
Little Rock	240	7,666,000
New Orleans (Shreveport)	280	10,908,000
Oklahoma City (Tulsa)	240	7,051,000
Houston	295	9,033,000
San Antonio	<u>270</u>	<u>8,111,000</u>
Total	1985	\$62,120,000

Fiscal Year 1980 Section 202

Distribution Plan By HUD Field Office

Jurisdiction

	Estimated Number of Units	Estimated Loan Authority*
Kansas City Regional Office:		
Kansas City (Topeka)	375	\$13,426,000
Omaha	150	4,885,000
Des Moines	290	9,722,000
St. Louis	<u>210</u>	<u>8,778,000</u>
Total	1025	\$36,811,000
Denver Regional Office:		
Denver (Helena, Fargo, Sioux Falls, Salt Lake City, Casper)	<u>335</u>	<u>\$12,542,000</u>
Total	335	\$12,542,000
San Francisco Regional Office:		
Honolulu	20	\$ 999,000
Los Angeles (Phoenix, San Diego, Santa Ana)	1335	56,831,000
San Francisco (Fresno, Reno, Las Vegas)	640	28,195,000
Sacramento	<u>140</u>	<u>5,652,000</u>
Total	2135	\$91,677,000

Fiscal Year 1980 Section 202

Distribution Plan By HUD Field Office

Jurisdiction

	Estimated Number of Units	Estimated Loan Authority*
Seattle Regional Office:		
Portland (Boise)	255	\$ 9,676,000
Seattle (Spokane)	<u>235</u>	<u>10,233,000</u>
Total	490	\$19,909,000

*Pursuant to Section 213(d) of the Housing and Community Development Act of 1974, as amended, the estimated loan authority is subject to further breakdown into "metropolitan" and "nonmetropolitan" areas.

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Fiscal Year 1980 Section 202

Distribution Plan By HUD Field Office

Jurisdiction

	Estimated Number of Units	Estimated Loan Authority*
Kansas City Regional Office:		
Kansas City (Topeka)	375	\$13,426,000
Omaha	150	4,885,000
Des Moines	290	9,722,000
St. Louis	210	8,778,000
Total	1025	\$36,811,000
Denver Regional Office:		
Denver (Helena, Fargo, Sioux Falls, Salt Lake City, Casper)	335	\$12,542,000
Total	335	\$12,542,000
San Francisco Regional Office:		
Honolulu	20	\$ 999,000
Los Angeles (Phoenix, San Diego, Santa Ana)	1335	56,831,000
San Francisco (Fresno, Reno, Las Vegas)	640	28,195,000
Sacramento	140	5,652,000
Total	2135	\$91,677,000

Fiscal Year 1980 Section 202

Distribution Plan By HUD Field Office

Jurisdiction

	Estimated Number of Units	Estimated Loan Authority*
Seattle Regional Office:		
Portland (Boise)	255	\$ 9,676,000
Seattle (Spokane)	235	10,233,000
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*Pursuant to Section 213(d) of the Housing and Community Development Act of 1974, as amended, the estimated loan authority is subject to further breakdown into "metropolitan" and "nonmetropolitan" areas.

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The distribution plan set forth above is provided as a guide for prospective Borrowers. It indicates the estimated loan authority that can be expected to be made available for applications for units in each HUD Field Office jurisdiction. However, these unit and loan estimates are subject to change upon Regional and/or Field Office determinations. Such changes may be necessary in order to assure that there is enough loan authority in each Field Office to support feasible size housing projects. Each HUD Field Office receiving Fiscal Year 1980 loan authority will prepare and publish a single Invitation for Applications for Section 202 Fund Reservation (Invitation) for its jurisdiction which indicates the amount of such authority and the maximum number of units this amount is expected to assist. The Invitation will designate those allocation areas where Section 202 projects are consistent with the Field Office allocation plan.

Limitations on Fund Availability in Certain Areas

Prospective Borrowers interested in applying should be aware of the requirements governing the allocation of loan authority as set forth in Section 885.200 of the Regulations. In determining the number of units for housing for the elderly or handicapped to be provided to a specific allocation area, each Field Office will allocate the Section 202 "fair share" assignment consistent with the housing allocation plan. Because of previous years' program selections, in many allocation areas a greater proportion of newly constructed housing for the elderly has been provided than would otherwise have occurred, and as a result it may not be possible to approve Section 202 applications in such areas. The Field Office Invitation will clearly indicate the allocation areas designated for priority evaluation of Section 202 applications. Pursuant to § 885.205c (2) and (3) of the Regulations, Borrowers may submit applications in areas not so designated by the Field Office Invitations under the following conditions:

(a) Applications for projects in any allocation area which are designated wholly for the nonelderly disabled or handicapped will be accepted and evaluated;

¹ To the maximum extent practicable, the number of units in the allocation plan shall be proportionate by housing type and household type to the approved Annual Housing Action Programs (which reflect the locality increments to achieve 3-year HAP goals), housing needs for non-HAP localities and goals for AHOPs approved pursuant to Section 891, Subpart E.

(b) All other applications from the designated allocation areas will be evaluated concurrently with those described in (a) above and applications for projects not designated in the Invitation will be considered for approval only if insufficient number of approvable applications are received for projects in the designated allocation areas and if the proposal is consistent with the HAP, or in the case of areas not having HAPs is consistent with the Field Office's determination of housing needs.

As mentioned above, interested Section 202 Borrowers will be notified of the designated allocation areas by an Invitation prepared and advertised by the HUD Field Office. Because of the exceptions set forth above, any eligible Borrower may apply for areas outside the designated allocation areas established by the Field Office. As it is anticipated that demand from acceptable Borrowers from designated allocation areas may be in excess of available loan authority, prospective applicants from other areas should recognize that their prospects for selection might be very limited.

Schedule for Section 202 Invitations, Workshops, and Application Deadline

All Applications for Section 202 Fund Reservations by eligible Borrowers must be filed with the appropriate HUD Field Office and must contain all exhibits and additional information as required by Section 885.210 of the Regulations. HUD Field Offices will publish an Invitation in newspapers of general circulation and in minority newspapers where available serving the Field Office jurisdiction once a week for two consecutive weeks commencing no earlier than December 17, 1979, but no later than January 15, 1980. Field Offices will accept applications anytime after publication of the Invitation, but no applications will be accepted after the regular closing time of the appropriate Field Office on Monday, March 31, 1980, unless said final date for submission of applications is extended by the Assistant Secretary for Housing by publication of an extension notice in the Federal Register.

Borrowers interested in applying for a Fund Reservation under Section 202 are encouraged to provide the appropriate Field Office with the name, address and telephone number of the Sponsor and/or Borrower organization(s), to advise the Field Office whether they wish to attend the workshop described in the following paragraph, and to secure the program handbook and Application Package. Minority organizations are also encouraged to participate in this program as Sponsors and/or Borrowers.

Workshops will be conducted by Field Offices during the months of January and February 1980 to explain the regulations and instructions governing the Section 202 and Section 106(b) Seed Money loan programs, to distribute Application Packages, and to discuss the application procedures and required exhibits. More detailed information covering the time and place of the particular workshops will be indicated in the Field Office Invitation. Arrangements will be made by the Field Office, if necessary, to assure that any interested handicapped persons are able to attend and participate in the workshop. Such persons should contact the Field Office, so that appropriate arrangements can be made.

Additional Information

Pursuant to Section 885.205(a)(4) this is to serve further notice that:

(1) Religious bodies may serve as sponsors of Section 202 projects, but the Borrower corporation must be a separate legal entity in order to comply with Constitutional requirements for separation of Church and State. No religious purpose may be included in the Articles of Incorporation or By-laws, etc., of the Borrower corporation.

(2) The Sponsor must have a current exemption ruling from the Internal Revenue Service, and where the Sponsor and Borrower are not the same, the Borrower corporation must have applied for an exemption ruling from the Internal Revenue Service prior to the deadline date for filing applications (i.e., March 31, 1980).

(3) Applications may be submitted only by eligible Borrowers. The Borrower must be an eligible corporation as defined in Section 885.5 of the Section 202 Regulations and must have been legally incorporated at the time its application is filed with the appropriate HUD Field Office.

(4) The Department is in the process of issuing a proposed rule to amend the definition of Borrower contained in Section 885.5 to implement the requirements of Section 202(d)(3) of the Housing Act of 1959, as amended by the Housing and Community Development Amendments of 1978 that there be significant representation of the views of the community in which the project is located in the composition of the Borrower's governing board. Under the proposed regulation, this requirement shall be deemed to have been met if at least thirty percent (30%) of the members of the Board of Directors reside in the community in which the project is to be located and may not be representatives of any national organization serving as the sponsor of

the project. Although this amendment will not become effective until a final rule is published in the Federal Register, interested applicants may want to keep this in mind when establishing their Borrower corporations.

(5) No single Borrower may submit an application or applications in any HUD Region in excess of that necessary to finance the construction or substantial rehabilitation of three hundred (300) units of Housing and Related Facilities.

(6) HUD will make contract authority under Section 8 of the United States Housing Act of 1937, as amended, available for successful Borrowers.

(7) Section 202 Fund Reservations will be distributed among successful Borrowers in accordance with the requirements of Section 885.220 (Review of Application for Fund Reservation) and on the basis of all of the information furnished by the Borrowers as set forth in the Application Package and pursuant to Section 885.225 (Approval of Applications) of the Regulations.

(8) Applicants which submitted applications which were not funded due to insufficient Fiscal Year 1979 Section 202 loan authority will have to reapply under this year's Field Office Invitations.

(3) The Assistant Secretary for Housing has established one-half of 1 percent (0.5%), not to exceed \$10,000 of the total HUD-approved Section 202 mortgage amount, to be the minimum capital investment for Section 202 Borrowers. This requirement applies to all Section 202 Borrowers receiving HUD Field Office approval of an application for a Section 202 fund reservation (under the provisions of Section 885.400 et seq.). Said minimum capital investment shall apply to all Section 202 projects receiving fund reservations in Fiscal Year 1980 and shall remain in effect unless altered by the Assistant Secretary for Housing by publishing in the Federal Register a revision to the minimum capital investment requirement. Section 106(b) funds, pursuant to Part 271, may not be used to satisfy the minimum capital investment requirement.

Borrowers are invited to submit applications for Section 202 fund reservations in accordance with this Announcement and Part 885. Additional information regarding the Section 202 program may be found in Part 885.

Authority: (Section 202, Housing Act of 1959 (12 U.S.C. 1701q), as amended; Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., on December 21, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal
Housing Commissioner.

[FR Doc. 79-39959 Filed 12-28-79; 11:24 am]

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Reader Aids

Federal Register
Vol. 44, No. 251
Monday, December 31, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of

the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- CONSUMER PRODUCT SAFETY COMMISSION**
70380 12-5-79 / Safety standard for walk-behind power lawn mowers; certification
- FEDERAL COMMUNICATIONS COMMISSION**
67655 11-27-79 / FM broadcast station in East Wenatchee, Wash.; channel assigned
67656 11-27-79 / FM broadcast station in North Platte, Nebr.; channel assigned
67668 11-27-79 / FM broadcast stations in Stevens Point, Wis.; channel assigned
67664 11-27-79 / FM broadcast station in Tahoe City, Calif.; assignment of channel
67657 11-27-79 / Television broadcast station in Kalamazoo, Mich.; channel assigned
67664 11-27-79 / Television broadcast station in Oklahoma City, Okla.; channel assignment
67665 11-27-79 / Television broadcast station in High Point, N.C.; channel assigned
- FEDERAL DEPOSIT INSURANCE CORPORATION**
67627 11-27-79 / Securities of insured State nonmember banks; proxy statements, reports and other matters
- FEDERAL RESERVE SYSTEM**
67961 11-28-79 / Amendments to Regulation F, Securities of State Member Banks
67973 11-28-79 / Regulation O; reporting requirements for member banks and correspondent banks
- FEDERAL TRADE COMMISSION**
64402 11-7-79 / Trade regulation rules; Labeling and advertising of home insulation
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Health Care Financing Administration—

- 56333 10-1-79 / Medical Assistance Program; Penalty for failure to make a satisfactory showing of an effective institutional utilization control program
- 68466 11-29-79 / Medicare Program; beneficiary liability for certain nonreimbursable services or items
- INTERIOR DEPARTMENT**
Fish and Wildlife Service—
69205 11-30-79 / Virginia and Ozark big-eared bats, listing as endangered species and critical habitat determination
- PANAMA CANAL COMMISSION**
75306 12-19-79 / Revised rules for Panama Canal under 1977 treaty
- PERSONNEL MANAGEMENT OFFICE**
68799 11-30-79 / Alternative work schedules experiments
- PERSONNEL MANAGEMENT OFFICE**
68802 11-30-79 / Federal employees health benefits program; opportunities to register to enroll and change enrollment
- SECURITIES AND EXCHANGE COMMISSION**
68456 11-29-79 / Proxy rules; technical amendments
70133 12-6-79 / Rules, registration and annual report form for foreign private issuers
68764 11-29-79 / Shareholder communications and participation in corporate electoral and governance process
- TRANSPORTATION DEPARTMENT**
Coast Guard—
68468 11-29-79 / Documentation of vessels
Federal Aviation Administration—
68728, 11-29-79 / Airworthiness and performance standards for aircraft wheels, wheel brake assemblies and tires
68745
Federal Highway Administration—
50041 8-27-79 / Federal motor carrier safety; inspection, repair, and maintenance requirements; extension of effective date [Originally published at 44 FR 38523, July 2, 1979]
- TREASURY DEPARTMENT**
Internal Revenue Service—

- 75137 12-19-79 / Employment taxes with respect to employees of related corporations

Rules Going Into Effect Tuesday, January 1, 1980

- AGRICULTURE DEPARTMENT**
Agricultural Marketing Service—
71401 12-11-79 / Papayas Grown in Hawaii; expenses and rate of assessment
Food and Nutrition Service—
72570 12-14-79 / Certification of eligible households; Food Stamp program; Thrifty food plan amounts; Guam and the Virgin Islands
64057 11-6-79 / Standard deductions and thrifty food plan updates
- ENERGY DEPARTMENT**
Economic Regulatory Administration—
70118 12-6-79 / Mandatory petroleum allocation and price regulations; butane and natural gasoline deregulation
66186 11-19-79 / Mandatory petroleum price regulations; phased deregulation of upper tier crude oil
60538 10-19-79 / Petroleum allocation regulations; revision for propane and other natural gas liquids
Federal Energy Regulatory Commission—
71821 12-12-79 / Electric Utility Reporting on Measures to implement conservation of natural resources
67644 11-27-79 / Regulations governing applications for license for major projects—existing dams
- FEDERAL COMMUNICATIONS COMMISSION**
18501 3-28-79 / Implementing a provision for the carriage of radio-telephone installations on compulsorily fitted radiotelegraph vessels and continued carriage of double sideband equipment on voluntarily fitted vessels
29072 5-18-79 / Maritime mobile service radiotelephone frequency 2182 KHz; single sideband emission A3J
66625 11-21-79 / Telephone network; connection of terminal equipment; exceptions for natural defense and security
- FEDERAL DEPOSIT INSURANCE CORPORATION**
43260 7-24-79 / Recordkeeping and confirmation requirements for securities transactions
- FEDERAL HOME LOAN BANK BOARD**
36012 6-20-79 / Branching of Federal savings and loan associations; lifting of 100-mile limitation;
36012 6-20-79 / Policy on branching
- FEDERAL RESERVE SYSTEM**
43256 7-24-79 / Recordkeeping and confirmation requirements for certain securities transactions effected by State member banks
- FEDERAL TRADE COMMISSION**
60796 12-26-78 / Proprietary and home study schools
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Health Care Financing Administration—
67381 11-26-79 / Medicare program provisions for payment for inpatient services of foreign hospitals
- INTERSTATE COMMERCE COMMISSION**
65987 11-16-79 / Practices of motor common carriers of passengers—Checked baggage liability provisions
70478 12-7-79 / Revision to quarterly report Form QFR, and elimination of filing requirement for certain carriers
- OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**
70106 12-5-79 / Rules of procedure; final action
- SECURITIES AND EXCHANGE COMMISSION**
8247 1-9-79 / Uniform system of accounts for mutual and subsidiary service companies
- STATE DEPARTMENT**
61957 10-29-79 / Appointment of foreign service officers
- TRANSPORTATION DEPARTMENT**
Coast Guard—

- 66500 11-19-79 / Inert gas and deck foam systems
66528 11-19-79 / Tank vessels of 10,000 gross tons or more; improved steering gear requirements
66502 11-19-79 / Tank vessels of 20,000 DWT or more carrying oil in bulk; design, equipment, operating, and personnel standards
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61937 10-29-79 / Identification and registration marking and aircraft registration; eligibility for aircraft registration
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36448 8-17-79 / Vehicle identification numbers; extension of applicability for passenger cars
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70721 12-10-79 / Shipping descriptive and hazard class designations for detonators and detonating primers
20433 4-5-79 / Tank car specifications
- TREASURY DEPARTMENT**
Comptroller of the Currency—
63064 11-2-79 / Fair housing home loan data system
43252 7-24-79 / Recordkeeping and confirmation requirements for certain transactions effected by national banks
Fiscal Service—
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75058 12-18-79 / U.S. Savings Bonds; regulations governing agencies for issuance
72826 12-14-79 / Offering of U.S.
72832 Savings bonds, series EE and HH

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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(Revised as of July 1, 1979)

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